

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

FINAL STAFF REPORT FOR PROPOSED AMENDMENTS TO:

**REGULATION XXX - TITLE V PERMITS:
RULE 3000 - GENERAL
RULE 3001 - APPLICABILITY
RULE 3002 - REQUIREMENTS
RULE 3003 - APPLICATIONS
RULE 3004 - PERMIT TYPES AND CONTENT
RULE 3005 - PERMIT REVISIONS
RULE 3006 - PUBLIC PARTICIPATION**

AND

RULE 212 - STANDARDS FOR APPROVING PERMITS

Revised October 17, 1997

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LIST OF ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
AOC	Alternative operating condition
AOS	Alternative operating scenario
AQMD	South Coast Air Quality Management District
BACT	Best Available Control Technology
CARB	California Air Resources Board
CCR	California Code of Regulations
CEMS	Continuous emissions monitoring system
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CO	Carbon monoxide
EFB	Emission fee billing
EPA	United States Environmental Protection Agency
HAP	Hazardous air pollutant
ICT	Intercredit Trading Program
Lb	Pound
MACT	Maximum Achievable Control Technology
MDAB	Mojave Desert Air Basin
NESHAP	National Emission Standard for Hazardous Air Pollutants
NOx	Oxides of nitrogen
NSPS	New Source Performance Standard
NSR	New Source Review
NTC	Non-tradeable credit
OCS	Outer Continental Shelf
ODC	Ozone-Depleting Compound
P/C	Permit to Construct
PM-10	Particulate matter with aerodynamic diameter smaller than or equal to or less than 10 microns
P/O	Permit to Operate
PSD	Prevention of Significant Deterioration
RACT	Reasonably Available Control Technology
RECLAIM	Regional Clean Air Incentives Market
RTC	RECLAIM trading credit
SB	Senate Bill
SEDAB	Southeast Desert Air Basin
SIP	State Implementation Plan
SOCAB	South Coast Air Basin
SOx	Oxides of sulfur
SSAB	Salton Sea Air Basin
TGD	Technical Guidance Document
tpy	Tons per year
TSP	Total suspended particulate
USC	United States Code
VOC	Volatile organic compound

Note to Readers: This revised staff report has changes from the September 26, 1997 staff report included with the October 1997 Board package. To make those changes easier to identify, the revisions are shown in strikeout and underline format.

OVERVIEW OF THE AMENDMENTS

REASONS FOR THE AMENDMENTS

The primary purposes behind the proposed amendments to Regulation XXX - Title V Permits, are to:

- reorganize and simplify the applicability criteria for Phase One and Phase Two of the Title V program by creating tables listing emissions threshold levels;
- exempt facilities from Phase One of Title V if permanent changes have resulted in reduced emissions;
- require previously exempted facilities to obtain Title V permits when reported annual emissions exceed applicability thresholds and permit condition limits;
- allow facilities to demonstrate a reduction in potential to emit by doing either a facility modification or accepting an enforceable facility permit condition;
- change the sequential review of Title V permits by the public, affected States and EPA into a concurrent review process to reduce overall permit processing time;
- defer the requirement for a Title V permit for new and modified facilities until Phase Two of Title V, provided that the actual emissions do not exceed the Phase One thresholds;
- clarify applicability requirements and update references to the Code of Federal Regulations (CFR) for certain Title V facilities required to be in Title V;
- make amendments required by EPA to gain full approval of South Coast Air Quality Management District's (AQMD) Title V program;
- allow Title V facilities to use existing AQMD permitting procedures for facility modifications prior to issuance of their first Title V permits;
- clarify that the Executive Officer can issue a Title V permit to a non-compliant facility under certain circumstances;
- clarify that non-compliance is a violation of the federal Clean Air Act under certain circumstances;
- establish a procedure for de minimis significant permit revisions that is separate from minor permit revisions;
- exclude all emission increases that are subject to New Source Review from the minor permit revision process, as is required by federal law;

- revise the minor permit revision process to eliminate the requirements for the facility to complete public notification forms and to prepare a draft permit and instead, have AQMD prepare the proposed permit;
- clarify the administrative permit revision process so that AQMD staff can issue a final Permit to Operate (P/O), with limited changes to permit conditions, for equipment that was previously issued a Title V Permit to Construct (P/C),
- remove the requirement that the applicant include a proposed public notice with the permit application;
- increase the amount of time that a person may request a public hearing for a proposed permit from 10 days to 15 days after publication of the public notice;
- clarify existing rule language to explain that AQMD staff will hold a public hearing only if a valid request is received and notice a proposed permit hearing at least 30 days prior to the scheduled hearing date;
- give the Executive Officer the option to combine permit hearings for multiple facilities, provided that the facilities involved do not object;
- make the provisions of the regulation regarding portable equipment consistent with federal and State law;
- require all Title V permits to contain a permit condition that describes the criteria for reopening a permit, as required by Title V; and,
- ~~clarify that all Title V permits will contain a listing of all equipment, including portable equipment, that are subject to any source-specific regulatory requirements.~~

In addition, staff has proposed other changes to improve clarity, and remove redundancies and inconsistencies throughout the rules.

The purpose of the amendments to Rule 212 is to make the public notice requirements consistent with state law and to eliminate duplicative or unnecessary noticing.

DISCUSSION OF THE PROPOSED AMENDMENTS

RULE 3000 - GENERAL

Definition of "Administrative Permit Revision"

The AQMD's Title V program was designed to integrate preconstruction review P/C into the Title V operating permit program. Under an integrated approach, the AQMD will issue P/Cs using Title V requirements and procedures. Then, after a project is completed, the staff engineer will evaluate the equipment for compliance with the conditions in the P/C, remove any requirements that are no longer applicable, and update the Title

V permit to reflect the change from P/C to P/O by moving the equipment description and applicable conditions from Section H to Section D of the Title V permit.

If the P/C is issued using Title V procedures, EPA allows it to be incorporated into the Title V operating permit as an administrative permit revision. Subparagraph (b)(1)(D) is being revised to more concisely indicate this, and to reflect AQMD's integrated approach. It allows AQMD to issue the P/O as an administrative permit revision provided that the P/C was issued using full Title V procedures. The only changes that can be made when converting a P/C to a P/O under the Title V program are to remove terms or conditions that are no longer applicable or to make other changes that satisfy the criteria in definition. If there are changes in emissions, equipment, conditions or operational parameters, the evaluation of these changes would be subject to other permit revision procedures. Upon completion of the secondary evaluation, another round of EPA review and, depending on the revision procedures used, public notification would be required.

Although the previous rule language could be interpreted incorrectly to imply that AQMD staff will be issuing separate preconstruction review permits apart from the Title V process, the new language corrects this.

New subparagraph (b)(1)(G) has been added to allow a Title V facility to use the administrative revision process to move equipment within a facility, provided that an evaluation of regulatory requirements is not required, and that there is no change to existing permit conditions.

Definition of "Affected Source"

An explanation that "40 CFR Part 70" means Title 40, Part 70 of the Code of Federal Regulations has been added.

Definition of "Compliance Documents"

The definition of "compliance documents" has been updated to include "schedules of compliance, approved variances, alternative operating conditions (AOCs), orders for abatement and all monitoring and compliance reports required by the Title V permit" since these additional documents are also used to assess a facility's compliance status. The reference to Section 503 (e) of the federal Clean Air Act is removed because it is unnecessary and the definition is more clear without it. The term "Act" in the reference to Section 114 (c) has been clarified to mean the federal Clean Air Act.

Definition of "De Minimis Significant Permit Revision"

An explanation of what "VOC," "PM-10," and "EPA" mean has been added. The term "Lb" in Table 1 has been replaced with "Pounds." In

response to EPA's interim approval notice and consistent with 40 CFR Part 70, references to additional requirements found in the definition of "Minor Permit Revision" have been added. These require certain types of permit revisions to go through the significant revision process.

Definitions of "Draft Permit" and "Proposed Permit"

The definition of "draft permit" is proposed for elimination, and the definition of "proposed permit" is proposed for amendment, to accommodate other proposed amendments in Rules 3003 and 3005 that make affected State and EPA review of a Title V permit concurrent with public review, rather than sequential to it.

Proposed permit will mean the permit that AQMD issues for any required review by affected States, EPA, or the public.

Definition of "Facility"

A clarification that "40 CFR Section 55.2" is referring to Part 55 of the CFR has been added.

Definition of "Fugitive Emissions"

The fugitive emissions at a facility are an important factor in determining a facility's applicability to the Title V program. A definition for "fugitive emissions" has been added, consistent with EPA's definition in 40 CFR Part 70, Section 70.2.

Definition of "Hazardous Air Pollutant (HAP)"

The definition of a HAP in this rule includes any pollutant that is listed in Section 112 (b) of the federal Clean Air Act. Even though the initial list of HAPs was originally established by Congress, EPA maintains and periodically revises the list. EPA has removed caprolactum and hydrogen sulfide from the HAPs listing, thus making the rule reference to Section 112 (b) inaccurate. Therefore, the rule language has been amended to refer to the list maintained by EPA instead of referring directly to the text in the federal Clean Air Act.

Definition of "Minor Permit Revision"

The definition has been expanded to explain what "case-by-case evaluation" means. It applies to only two situations:

- The federal Clean Air Act requires states to apply "reasonably available control technology" (RACT) to existing sources. Some states have done this on a facility-by-facility basis and made it part of their State Implementation Plan (SIP). AQMD has, in the past, adopted RACT rules for entire source categories rather than use this case-by-case process.
- 40 CFR Part 63, Subpart B requires that a case-by-case determination of maximum achievable control technology (MACT)

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be made for new or modified sources for which a National Emission Standard for Hazardous Air Pollutants (NESHAP) has not yet been adopted

As required by EPA's proposed interim approval notice and by 40 CFR Part 70, this definition has also been modified to restrict the following types of permit revisions from qualifying as minor permit revisions:

- An installation of a new permit unit subject to a federal NESHAP pursuant to 40 CFR Part 61 or Part 63 or a federal New Source Performance Standard (NSPS) pursuant to 40 CFR Part 60.
- A modification or reconstruction of an existing permit unit subject to a new or additional NSPS requirement pursuant to 40 CFR Part 60 or NESHAP requirement pursuant to 40 CFR Part 61 or Part 63

Clause (b)(12)(A)(v) does not allow as a minor permit revision any emission increase above a Regional Clean Air Incentives Market (RECLAIM) facility's starting allocation plus non-tradable allocations. The clause is being revised to include higher RECLAIM allocation amounts that have previously undergone a significant permit revision process pursuant to subparagraph (b)(28)(D).

40 CFR Part 70, Section 70.7 (e)(2)(i)(A)(5) restricts facility modifications subject to Title I of the federal Clean Air Act from utilizing minor permit revision procedures. This means that any emission increase that is subject to Regulation XIII - New Source Review (NSR) cannot qualify as a minor permit revision. Clause (b)(12)(A)(vi) has been modified to reflect this requirement. Modifications that result in emission increases may still qualify as a de minimis significant permit revision.

Also, for clarity, the definition has been reworded so that a permit change can qualify for a minor permit revision only if the proposed change meets all of the criteria in subparagraph (b)(12)(A) or if it meets subparagraph (b)(12)(B).

Definitions of "Mojave Desert Air Basin," "Salton Sea Air Basin" and "South Coast Air Basin"

The current version of Rule 3001 refers to specific emissions thresholds for the South Coast Air Basin (SOCAB), the Southeast Desert Air Basin (SEDAB), and the Coachella Valley. Rule 3000 does not contain a definition of these regions' boundaries. On May 30, 1996, the California Air Resources Board (CARB) renamed these regions in Title 17 of the California Code of Regulations (CCR).

Specifically, Section 60109 of the CCR was amended for SEDAB such that the boundaries have changed and this area was renamed the Mojave Desert

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Air Basin (MDAB). Section 60104 of the CCR was amended to change the boundaries for SOCAB. A new basin was also added, pursuant to Section 60114 of the CCR, called the Salton Sea Air Basin (SSAB) that now includes the Coachella Valley. To make Regulation XXX consistent with the state law, definitions for these three air basins have been added to this rule by reference.

Definition of "Monitoring"

Monitoring requirements are an important factor in determining a facility's compliance with the Title V program. Since there are several types of monitoring that can be used to make a compliance determination, a definition for "monitoring" has been added to mean emissions testing, continuous emissions monitoring, material testing, and instrumental and non-instrumental monitoring of process conditions.

Definition of "Potential to Emit"

A facility's potential to emit is the basis for determining a source's applicability to Title V in Phase Two pursuant to Rule 3001. The proposed amendments to the definition of "reported emissions" identify certain types of emissions that shall not be considered for determining whether a facility should obtain a Title V permit during Phase One (see the discussion on the proposed changes of "Reported Emissions"). To assure that the same criteria for determining applicable types of emissions is consistently applied to all facilities in each implementation phase of the Title V program, the definition of potential to emit has been modified to exclude the same types of emissions that are proposed to be excluded in the definition of reported emissions.

Definition of "Renewal"

This definition has been clarified to reflect that a permit renewal is required on or prior to the expiration date of the permit regardless of whether any new requirements or updates are needed. As required by EPA in order to obtain full approval, language has been added to emphasize this point.

The current definition of renewal also contains a statement that prevents a concurrent submittal of a permit revision with a permit renewal application. This restriction is not a requirement in 40 CFR Part 70, and so is proposed for deletion. A Title V facility applying for a permit renewal and also requesting a permit revision, will be able to submit applications for both at the same time. However, in addition to the information and fees that are required for a permit renewal application, the permit revision request will need to contain Forms 500-A1 and 500-A2, the appropriate 400-E-series forms and the applicable fees. This is because permit revisions may have different deadlines than permit renewals, such that they may have to be processed separately.

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Definition of "Reported Emissions"

Reported emissions are the basis for determining a source's applicability to Title V in Phase One, pursuant to Rule 3001. The proposed amendments reorganize the definition and do the following: 1) add a requirement that the reported emissions must be validated by the Executive Officer; 2) replace the term "criteria pollutants" with oxides of nitrogen (NOx), oxides of sulfur (SOx), carbon monoxide (CO), VOC, and PM-10; 3) eliminate the undefined term "major stationary source;" 4) incorporate exclusions from paragraphs (d)(3), (d)(4), and (d)(5) of Rule 3001 for mobile source emissions and emissions from portable equipment that occur off-site into the definition; and 5) exclude emissions from non-road engines consistent with EPA policy, and statewide registered military tactical support equipment, consistent with state law.

Definition of "Responsible Official"

This definition has been clarified to allow a duly authorized representative responsible for the overall operational control at a Title V facility to be a responsible official.

Definition of "Significant Permit Revision"

The Significant Emission Threshold Level in Table 2 of this definition is the same as the emission threshold levels in Table 1 of the definition of "De Minimis Significant Permit Revision." For simplicity, Table 2 has been deleted and replaced with a reference to Table 1. For consistency with the other definitions for various permit revisions, this definition has been expanded to include the following activities as qualifying for a significant permit revision:

- Any revision that requires or changes a case-by-case evaluation of RACT pursuant to Title I of the federal Clean Air Act, or MACT pursuant to 40 CFR Part 63, Subpart B.
- Any revision that results in a violation of regulatory requirements or that establishes or changes a permit condition that a facility assumes to avoid an applicable requirement.
- Any installation of a new permit unit subject to a NESHAP requirement pursuant to 40 CFR Part 61 or Part 63 or NSPS requirement pursuant to 40 CFR Part 60.
- Any modification or reconstruction of an existing permit unit subject to a new or additional NSPS requirement pursuant to 40 CFR Part 60 or NESHAP requirement pursuant to 40 CFR Part 61 or Part 63.

Definition of "Temporary Source"

This rule is currently missing a definition for a temporary source, despite the provisions in subdivision (d) of Rule 3004 explaining the contents of, and procedures associated with having a temporary source permit. For

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consistency purposes, this rule has been updated to include a new definition. What AQMD has in the past called portable equipment, is now referred to as a "temporary source," as it is in Title V.

Definition of "Title V Facility"

This definition has been simplified to explain that a Title V facility is one that meets any criteria in Rule 3001. The reference to exemptions from Title V permit requirements is unnecessary and has been removed.

General Clean-Up

The phrase "Executive Officer or designee" is used throughout this rule. The words "or designee" are part of the definition of "Executive Officer" in Rule 102 - Definition of Terms, and do not need to be repeated. Therefore, every occurrence of "or designee" has been deleted from this rule. In addition, to be consistent with the definition in Rule 102, every occurrence of the term "PM₁₀" has been replaced with "PM-10."

RULE 3001 - APPLICABILITY

Current Requirements

For the first three years of program implementation (Phase One), the current rule language automatically brings any facility into the Title V program if in 1992 or any year thereafter, the facility has reported emissions that exceed 80 percent of the potential to emit Title V applicability thresholds listed in 40 CFR Part 70, Section 70.2. If the facility's emissions were high enough in 1992 and then the emissions dropped below the Title V applicability thresholds in 1993, 1994 and 1995, the facility would still be required to apply for a Title V permit. AQMD staff has identified 1275 facilities that have reported emissions at levels meeting or exceeding the Title V thresholds either in 1992 or 1993.

RECLAIM facilities are subject to Title V if they have a NOx and/or SOx starting allocation plus non-tradable credits (NTCs) that exceed 10 tpy or 100 tpy, respectively. There are 203 RECLAIM facilities that have been identified as subject to Title V primarily because of their initial allocations plus NTCs. These facilities are required to apply for a Title V permit even if their reported emissions in recent years have been below the 8 tpy for NOx and 80 tpy for SOx levels.

Subdivision (c) of this rule has other criteria for entering the Title V program that is geared toward any new or modified facility that has not previously obtained a Title V permit. To determine whether or not this type of facility should obtain a Title V permit, each application to install or modify equipment must undergo an evaluation to calculate the facility's overall potential to emit. For the first three years of the program, this

procedure is not based on reported emissions, and is therefore contrary to how other facilities are determined to be subject to Title V.

Proposed Amendments

The purpose of these proposed rule amendments is to assure that the same applicability criteria is consistently applied to all facilities in each implementation phase of the Title V program. The proposed rule language is the result of comments received from several working group and public consultation meetings and discussions with EPA staff. Specifically, numerous comments were received containing the complaint that the clause "that in 1992 or later" inadvertently required sources that no longer meet the Title V thresholds to apply for a Title V permit. These commenters felt that this was unrealistic and inconsistent with the intent of the Title V program to target larger sources. Likewise, comments were received from RECLAIM facilities requesting that their applicability determinations conducted during the first three years of the program should be based solely on the most recent reported emissions. RECLAIM facilities maintain that they are treated unfairly in this rule by being subject to a more stringent applicability threshold than are non-RECLAIM facilities. Furthermore, there is a universal concern that facilities with "regular" non-Title V applications for new equipment or modifications during the first three years of program implementation, will be prematurely brought into Phase One of the Title V program because of the required facility-wide potential to emit calculation.

To address all of the above issues, staff has proposed to change the Title V applicability for Phase One of the program to be based on actual reported emissions, rather than RECLAIM allocations or potential to emit for RECLAIM facilities and for new or modified facilities.

If a new or modified RECLAIM facility subsequently reports emissions exceeding any of the Phase One emission thresholds, the facility would be required by Rule 3003 to apply for a Title V permit within 180 days, as would any existing facility reporting that level of emissions for the first time. Otherwise, a new or modified RECLAIM facility with a potential to emit that exceeds the Phase Two levels will have to apply for a Title V permit by three and one half years after the effective date, as will other existing facilities subject to Phase Two, in accordance with Rule 3003.

Staff also proposes to make the following changes to Rule 3001:

- replace the subdivision (a) language explaining the emission threshold criteria with a simple table that is easier to read;
- substitute a reference to the CFR in subdivision (b) with a table of Phase Two emission threshold levels;
- use the new air basin names described previously;

- explain in paragraph (b)(2) how RECLAIM allocations and RTCs are treated regarding "potential to emit", and delete similar language in subdivision (c);
- eliminate paragraph (c)(4) that would add facilities to Title V because of a lower HAP threshold set by EPA. Old paragraph (c)(9) [new paragraph (c)(6)] accomplishes the same thing;
- consolidate the references to Section 111 and 112 of the federal Clean Air Act into one paragraph, (c)(5), and replace them with references to the CFR. The previous paragraphs (c)(7) and (c)(8) appeared to require non-major facilities subject to either Section 112, NESHAP or Section 111, NSPS. However, EPA has deferred many non-major sources from applying for Title V permits until December, 2000;
- add new paragraph (c)(7) to require regarding facilities that were previously exempted from Title V, pursuant to paragraph (d)(2), by accepting an emission cap or other enforceable permit condition. If their emissions, under normal operating conditions, that later exceed the Title V potential-to-emit applicability thresholds and an emission limit in a permit condition, then the facility would be required to submit an initial application for a Title V permit. Excess emissions under abnormal conditions, such as during the breakdown of control equipment, would not be counted because the emissions are temporary and do not change a facility's potential to emit, which is based on equipment design under normal operation, permit conditions and rule requirements;
- move all language in subdivision (d) that exempts certain types of emissions into the definition of "reported emissions" and, by reference, into the definition of "potential to emit" in subdivision (b) of Rule 3000;
- clarify paragraph (d)(2) to explain that a reduction in potential to emit can be demonstrated by a facility modification or by accepting an enforceable facility permit condition and that EPA approval is no longer required for such actions; and,
- add new subdivision (e) to explain the requirements and procedures for requesting exclusions from Phase One of the Title V program. This will give facilities that are identified on the Title V list the opportunity to opt-out of Phase One based on a reduction in reported emissions due to a permanent change at the facility.

In order for EPA to support the proposed changes made to the Phase One criteria, AQMD staff is required to demonstrate that Phase One Title V permits will be issued to at least 60 percent of all Title V facilities, and that at least 80 percent of the pollutants emitted from all Title V facilities will be covered by the Phase One Title V permits.

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Based on the proposed rule amendments, AQMD staff estimates that only 938 facilities, will be required to apply for a Phase One Title V permit, compared to 1275 identified previously. This represents a reduction of anticipated incoming Phase One Title V facilities of 26 percent. Despite this reduction, staff can demonstrate to EPA that 62 percent of all Title V facilities will be permitted in Phase One. Further, the total emissions from these 938 facilities continue to represent at least 80 percent of the overall Title V emissions. Appendix A: Title V 60 % - 80 % Demonstration contains a more detailed analysis.

General Clean-Up

As previously described, every occurrence of "or designee" has been deleted from this rule and every occurrence of the term "PM₁₀" has been replaced with "PM-10."

RULE 3002 - REQUIREMENTS

Requirement for a Title V Permit

The current subdivision (a) of Rule 3002 requires Title V facilities to get a Title V permit for any construction or modification at the facility, any time after their initial Title V application is due. This could require a Title V facility to apply for a Title V permit revision even before it has an initial Title V permit. To avoid this awkwardness, subdivision (a) has been restructured and expanded to list each exception to this requirement so that paragraph (a)(1) exempts the operation of Rule 219 - Equipment Not Requiring a Written Permit Pursuant to Regulation II, equipment; paragraph (a)(2) exempts Title V facilities operating under the protection of an application shield; and paragraph (a)(3) is proposed to allow existing facilities to apply for changes at their facility using the traditional, non-Title V application and permitting procedures, before they receive their initial Title V permit.

Application Shield

To better explain when an application shield is in effect, paragraph (b)(2) has been enhanced to refer to the application requirements in Rule 3003.

Emergency Provisions

The emergency provisions in paragraph (g)(1) have been clarified to explain that the operating logs must provide evidence to demonstrate compliance with the emergency provisions in subdivision (g) of this rule. This amendment is required by EPA for full program approval.

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Duty to Comply

Paragraph (c)(1) has been clarified to explain that a Title V facility should be constructed, as well as operated, in compliance with all terms, requirements, and conditions. Paragraph (c)(2) has been clarified to explain that only non-compliance with *federally enforceable* permit terms, requirements or conditions is a violation of the federal Clean Air Act.

General Clean-Up

Old subparagraph (a)(1)(B) and paragraph (a)(2) will be deleted because they are redundant to paragraph (c)(1) of Rule 3002 and paragraph (i)(1) of Rule 3003, respectively.

As previously described, every occurrence of "or designee" has been deleted from this rule.

RULE 3003 - APPLICATIONS

Application Requirements for Initial Title V Permits

Subdivision (a) has been amended and reorganized to clarify the timeline requirements for facilities applying for or amending their initial Title V permit applications during either Phase One or Phase Two of the program. These timelines are not new to the rule but they do vary depending upon which Rule 3001 applicability criteria is met and whether or not the facility has been identified by the AQMD as a Title V facility.

References to the format of the application and the Technical Guidance Document (TGD) in old paragraph (a)(2) are deleted because the discussion about application content is covered in subdivision (b).

"Major source" in amended paragraph (a)(7) is not defined in Rule 3000, but it is defined in the CFR. Therefore, a reference to the definition in 40 CFR Part 70, Section 70.2 is added.

Incorporation of Non-Title V Permits

Amended paragraph (a)(4) allows a facility to supplement their initial permit application to incorporate any non-Title V permits issued (see the previous section that discusses the amendments to Rule 3002) at least 30 days prior to the scheduled issuance of their proposed Title V permit. This would give AQMD staff adequate time to include the new or modified equipment in the proposed initial permit.

If the non-Title V permit is issued too late to be put into the proposed initial permit, amended paragraph (a)(5) would require the Title V facility to file for a Title V permit revision within 90 days of the issuance of the Title V permit.

Application Content

The reference to the CFR in subdivision (b) has been removed because it is not necessary for an applicant to refer to the CFR to determine what must be in a Title V permit application. AQMD has prepared Title V application forms and instructions that specify the necessary information. Since these materials are subject to EPA approval, paragraph (b)(1) has been clarified to reflect this procedure. Language originally stated in paragraph (c)(5) has been moved to subdivision (b) to explain that permit revision applications do not necessarily require all of the same information as required in initial permit and permit renewal applications.

Action on Applications

Paragraph (i)(1) of the current rule incorrectly says that the Executive Officer must deny a Title V permit if the facility is not in compliance with a regulatory requirement. As a result of modifications to the California Health and Safety Code, Section 42301, the Executive Officer may issue the Title V permit if the non-compliance is covered by an approved variance pursuant to Regulation V - Procedure Before the Hearing Board, an AOC pursuant to Rule 518.2 - Federal Alternative Operating Conditions, or an order for abatement that has the effect of a variance pursuant to Regulation VIII - Orders For Abatement. Title V also requires a non-compliant facility operator to submit an acceptable compliance plan with the application. The proposed amended paragraph (i)(1) will be consistent with state law and Title V.

Currently, subparagraph (i)(2)(A) requires the Executive Officer to issue a permit or deny a permit application for an initial permit, except for Phase One applications, within 18 months of receiving a complete application. However, paragraph (i)(3) contains shorter timelines for processing an initial permit application if it contains an application for a P/C. In the case of an initial permit application, these shorter timelines are truly meant for new facilities. This is because a new facility, unlike an existing facility, is at a disadvantage for not having existing local P/Os under while awaiting for an initial permit. To differentiate between new and existing facilities applying for an initial permit during Phase Two of the program, paragraph (i)(3) has been clarified to say that the permit processing timeline requirements apply to new facilities.

Timeline for Processing Grouped Minor Permit Revision Applications

Paragraph (i)(2) of Rule 3003 is where most application processing timelines can be found. Yet, the 180-day timeline for processing grouped minor permit revision applications is absent from this part and is located instead, in old paragraph (c)(4) of Rule 3005. However, the existing language in Rule 3005 does not state exactly when the 180-day clock begins.

The group processing timeline is unique from other application timelines, not so much because of the quantity of time allowed for processing, but mainly because it concerns the processing of multiple applications. That is, unlike the other revision tracks, the review of each application in the group is dependent upon the others before AQMD staff can either issue a permit or deny the applications within the time allowed.

To maintain all of the application processing timelines in one place, the group processing timing requirement has been incorporated into new subparagraph (i)(2)(D) of Rule 3003. In addition, AQMD staff is proposing that the 180-day clock begin after the AQMD receives the first complete application in the group. Furthermore, to make the rule language consistent with the procedures for "regular" minor permit revision applications as found in subparagraph (i)(2)(C), the language "or 15 days after EPA review, whichever is later" has been added.

Timeline for Processing De Minimis Significant Permit Revision Applications

The current application processing time limit in subdivision (i) of this rule is the same for minor and de minimis significant permit revisions. De minimis significant permit revisions are allowed certain levels of emission increases, which require more AQMD review than a minor permit revision. For instance, de minimis significant permit revisions could involve the alteration of existing equipment or permit conditions that increase facility emissions and necessitate a determination of best available control technology (BACT), air quality impacts, and emission offsets. As a result, more processing time is required for this type of evaluation. A time limit of 180 days from the date the application is deemed complete, or 15 days after EPA review, whichever is later, is proposed in subparagraph (i)(2)(E) for this process.

Procedures for Permit Renewal Applications

The language, originally located in paragraph (g)(2) of Rule 3004, that discusses the federal enforcement procedures used when taking action on permit renewal applications has been more appropriately placed in paragraph (i)(5) of this rule.

EPA Review and Objection

In an effort to streamline the timeline for EPA review procedures, paragraph (i)(7) and subdivision (j) of this rule have been amended to allow concurrent public, affected State, and EPA review of proposed Title V permits. To ensure that EPA has the opportunity to review any comments that are received during the public and the affected States review, procedural language has been added to paragraph (j)(4) that requires the AQMD to forward any comments received, and any refusals to accept all recommendations made, including the reasons, to the EPA at least 10 days

prior to the end of EPA's 45-day review period. In addition, new language has been added to subparagraphs (i)(4)(E) and (j)(1)(C) that clarifies that the EPA will also receive all information regarding any revisions that are made to a proposed permit in response to public or affected State comments

At best, consolidating the review processes could potentially shrink the overall review timeline from 75 days to 45 days. EPA supports this streamlining effort provided that there is a mechanism in place to account for any comments received and responses made by the public and any affected States during the first 30 days of review. At EPA's request, subdivision (k) has been changed to allow EPA to take an additional 45 days to make a final determination if EPA provides a written request to delay the permit issuance on the basis that more time is necessary to review public or affected State comments. However, EPA has committed to expedite the time needed this additional review whenever feasible. Also, the reference to 40 CFR Part 70 in subdivision (k) has been further clarified to mean Section 70.8 (c).

To be consistent with 40 CFR Part 70 and subdivision (k) of this rule, language referring to revising a permit to meet timely objections made by EPA in subparagraph (i)(4)(E) has been deleted because it implied that the permit could be revised and issued without resubmitting the revised permit to EPA for review.

Paragraph (k)(3) has been amended to reflect AQMD's intent to negotiate with EPA over any disagreements with their objection to a permit, prior to denying or revising the permit.

Subparagraph (j)(1)(B) was amended to clarify that proposed permits for administrative permit revisions are not required to undergo EPA review.

Review by Affected States

Subparagraph (i)(4)(C) and paragraph (m)(1) were amended to clarify that applications for administrative permit revisions are not required to undergo an affected State review. Also, consistent with 40 CFR Part 70, Section 70.8, only notices of proposed permits will be sent to affected States.

Instead of referring to the review timelines established in Rule 3006, paragraph (m)(2) will say that an affected State has 30 days upon receipt of the notice to provide written comments.

Paragraph (m)(3) has been amended to reflect the concurrent review process by simply referring to paragraph (j)(4).

Public Petitions to EPA

Paragraph (l)(1) of this rule has been clarified by citing Section 70.8 (d) of 40 CFR Part 70 as reference guidelines in the event that the public may petition the EPA to make an objection to a proposed permit. Also, paragraph (l)(3) was clarified to say that a public petition, objecting to a permit that was issued after EPA's 45-day review and prior to EPA receiving the objection, will not undermine the effectiveness of the permit in question or its requirements.

Prohibition of Default Issuance

Subdivision (n) of this rule has been clarified to explain that Title V permits cannot be issued without undergoing EPA and affected State review, with the exception of administrative permit revisions. Similarly, additional clarification was added to explain that Title V permits cannot be issued without the opportunity for public review, with the exception of administrative, minor, and de minimis significant permit revisions.

General Clean-Up

Currently, there are several places in this rule where the terms "draft permit" and "proposed permit" are used. These terms were needed when the public and EPA review processes were not concurrent. This rule has been corrected to be consistent with the deleted definition of "draft permit" and the revised definition of "proposed permit."

Language in old paragraphs (a)(4), (a)(5) and (a)(6) has been deleted because it is redundant to subdivision (a) of Rule 3002.

As previously described, every occurrence of "or designee" has been deleted from this rule.

RULE 3004 - PERMIT TYPES AND CONTENT

Monitoring and Recordkeeping

As per EPA's request, subparagraph (a)(4)(C) has been corrected to say that the periodic monitoring or recordkeeping should be representative of the source's compliance *with the terms of the permit*, instead of *for the term of the permit*, as was erroneously stated in the original version of this rule. Also, the sentence, "Recordkeeping provisions may be..." has been added, consistent with 40 CFR Part 70, Section 70.6 (a)(3)(B).

Certification by a Responsible Official

Subparagraphs (a)(4)(F) and (a)(10)(A) of this rule specify that the permit must state that a responsible official is required to certify specific documents, including compliance documents as necessary. The language

pertaining to the responsible official certifications in these two paragraphs has been deleted and consolidated into new paragraph (a)(12).

Standard Permit Conditions

An exception from operating in compliance with all regulatory requirements if the permit holder has had an AOC imposed pursuant to Rule 518.2 has been added to the standard permit condition required by subparagraph (a)(7)(A). Also, for consistency with 40 CFR Part 70, Section 70.7 (f)(1), the requirement for all Title V permits to contain a permit condition that describes the criteria for reopening a permit has been added as new subparagraph (a)(7)(I).

Terms and Conditions for Emissions Trading

To enhance a Title V permit's enforceability concerning emissions trading and to meet an EPA requirement for interim approval, additional compliance requirements in accordance with 40 CFR Part 70, Section 70.6 (a)(10) have been proposed in paragraph (a)(9). At this time only the AQMD's RECLAIM program and the Acid Rain program under Title IV of the federal Clean Air Act allow any emission trading without a case-by-case review.

Compliance Schedules

40 CFR Part 70 requires Title V permits to include a compliance schedule if the facility is not in compliance with an applicable requirement. Subparagraph (a)(10)(C) is being amended to reflect the fact that in the AQMD, facilities will have the option to get an AOC (only an AOC can protect a facility from EPA enforcement of a federally enforceable requirement), variance or order for abatement if they are not in compliance. The Title V permit will require compliance with any outstanding AOCs, variances or abatement orders that are in effect at the time the Title V permit is issued. These documents often include a compliance schedule.

Compliance Certifications

The contents of permit terms and conditions for compliance certifications in subparagraph (a)(10)(E) have been clarified to include emission limitations, standards and work practices. Also, the requirement that the compliance status must cover the duration of the reporting period has been added.

Equipment Listing

The obvious requirement that all equipment subject to any source-specific regulatory requirement shall be listed in the Title V permit was erroneously omitted from previous versions of the rule and has been added as new paragraph (a)(13).

Permit Content for RECLAIM Facilities

To be consistent with 40 CFR Part 70, Section 70.6 (a)(8), paragraph (b)(3) of this rule has been clarified to mean that a permit revision is not required for emissions trading that is allowed by Regulation XX - RECLAIM.

Permit Shield

The reference to 40 CFR Part 70 in subdivision (c) is unnecessary and has been deleted. All requirements regarding permit shields are already found incorporated into this subdivision.

Subparagraphs (c)(1)(A) and (c)(1)(B) have been combined and linked with an "or" to be consistent with the permit shield requirements in 40 CFR Part 70, Section 70.6 (f)(1)(i). Consequently, subparagraph (c)(1)(C) has been renumbered as subparagraph (c)(1)(B).

Temporary Source Permits

Subdivision (d) of this rule has been updated to clarify the criteria and required permit conditions for a temporary source permit, and change the maximum operation, at one location or facility from 90 days in a calendar year to 12 consecutive months, consistent with NSR. Also, in response to CARB comment, paragraph (d)(1) has been clarified that state-registered portable equipment, in addition to affected sources under the acid rain program, are not eligible for temporary source permits.

General Permits

As requested by EPA, language was added to subdivision (c) of this rule to explain the enforcement provisions and application procedures for equipment that no longer qualifies for coverage under a general permit pursuant to the requirements established in 40 CFR Part 70, Section 70.6 (d)(1).

Permit Expiration and Renewal

The original version of this rule had three separate subdivisions, (f), (h) and (i), that discussed the circumstances regarding the expiration of a permit and the requirements pertaining to renewing a permit prior to permit expiration. These subdivisions have interrelated requirements and are subsets of one another. Therefore, subdivisions (h) and (i) have been deleted from this rule and the requirements were merged and condensed into subdivision (f).

Equipment Omitted From a Title V Permit

Rule 219 Equipment

Equipment that are exempt from a written permit by Rule 219, but are subject to a source-specific regulatory requirement, are not allowed by

EPA to be excluded from the Title V permit. Therefore, old paragraph (h)(3), renumbered to paragraph (h)(1), has been rewritten accordingly. Examples of this include: a) small cold-solvent degreasing tanks subject to Rule 1122 - Solvent Degreasers, or Rule 1171 - Solvent Cleaning Operations; and, b) air conditioning units with a capacity of 50 pounds or more of refrigerant subject to federal regulations regarding ozone-depleting compounds (ODCs).

Although this equipment must be on the Title V permit, EPA allows the equipment to be treated generically rather than specifically. It is AQMD's intent to include this equipment generically in the Title V permit, along with other Rule 219 equipment. Rule 301 - Permit Fees, will not apply to Rule 219-exempt equipment, and no P/C will be required to install Rule 219-exempt equipment. The permit will be updated when the permit is renewed.

Research Equipment

The limitation of one year or less in old paragraph (h)(4) (or new paragraph (h)(2)) has been deleted because research operations permitted under Rule 441 - Research Operations, must be of limited duration, but may be allowed for more than one year. Also, since the term "major source" is not defined in Rule 3000, a reference to the applicability criteria pursuant to Rule 3001 has been added instead.

Non-Road Engines

Non-road engines that were manufactured on or after November 15, 1990, were given an exemption from Title V permitting requirements in 40 CFR Part 89, Section 89.2 and will be omitted from the Title V permit as proposed in amended paragraph (h)(3).

Military Tactical Support Equipment

Military tactical support equipment registered to operate under a statewide registration program for portable equipment are precluded by Sections 2450 through 2463, Statewide Portable Equipment Registration Program, Title 13 of the California Code of Regulations from having to obtain any AQMD permit, and are specifically exempted from Title V. Therefore, this type of equipment will be omitted from an AQMD Title V permit as proposed in amended paragraph (h)(4). CARB adopted this program at a public hearing on March 27, 1997.

Portable Equipment

The exemption in paragraph (h)(1) for portable equipment has been deleted because EPA commented that portable equipment operating at a stationary facility cannot be so broadly exempted from a Title V permit, with the exception of non-road engines and statewide registered equipment (see previous discussions on Non-Road Engines and Military Tactical Support

Equipment). Similarly, paragraph (h)(2) has been deleted because the language does not accurately reflect how portable equipment are treated pursuant to the RECLAIM program. In place of these deleted paragraphs, new paragraph (h)(5) incorporates guidance jointly developed by EPA and CARB for portable equipment operating at a stationary Title V facility.

The paragraph allows portable equipment, that has either an AQMD permit or state-issued permit or registration to operate throughout the District, to remain off of the Title V permit of the stationary facility it visits, provided that one of the following requirements are met:

- (1) ~~The equipment is contractor-operated or rental equipment and its operations at the stationary facility aren't routine and predictable;~~
- (12) ~~The equipment has a Title V, temporary source permit; or~~
- (23) ~~The equipment has either an AQMD permit or state-issued permit or registration and is subject only to generic regulatory requirements (such as Rule 401 - Visible Emissions) and not to any source-specific regulations (such as Rule 1140 - Abrasive Blasting). However, the stationary facility's Title V permit must specifically state that the generic requirements apply to portable equipment; or~~
- (3) The equipment has an AQMD permit or registration and the operation of the portable equipment does not conflict with the terms and conditions of the Title V permit and does not occur outside one 365-day period, or window during the term of the Title V permit. The time period may not be extended for portable equipment that is replaced with other portable equipment that performs the same function.

In the first case [Rule 3004 (h)(5)(A)], the portable equipment operator will have a full-fledged Title V permit that allows operation throughout AQMD. The portable equipment operator will be responsible for meeting all Title V permit obligations, such as monitoring, reporting and annual certification.

The second case [Rule 3004 (h)(5)(B)] applies only to any portable equipment not subject to a source-specific regulatory requirement. However, few portable equipment will meet this criterion.

The third case [Rule 3004 (h)(5)(C)] is based on 40 CFR Part 70, Section 70.5 (a)(1)(ii) which allows operation of equipment for one year outside of the Title V permit before an application for a permit revision is required. This section is applicable to equipment that has been permitted and undergone a Regulation XIII - New Source Review (NSR) evaluation by AQMD. EPA stated that state-registered portable equipment does not qualify for this because AQMD is precluded by state law from issuing a

permit subject to NSR to state-registered equipment. The subparagraph allows operation by portable equipment with a valid AQMD District permit or registration within one one-year period or window during the 5-year term of the Title V permit, provided the portable equipment is not required to have a Title V permit itself. (If the portable equipment has a Title V temporary source permit, subparagraph (h)(5)(A) applies.) During the one-year window, the Title V facility operator would not be subject to any Title V requirements. The one-year time limit can not be circumvented by replacing a portable equipment unit with another unit with the same function.

The proposed amendments do not include a CARB proposal that state-registered portable equipment could be considered as an attachment to a stationary facility's Title V permit, because EPA has not yet agreed to this

EPA's White Paper No. 1 gives states authority to treat short-term activities at a stationary source generically, without emissions unit specificity and AQMD intends to follow this approach in preparing Title V permits for stationary facilities where portable equipment subject to Title V operate. AQMD will work with EPA and CARB on the details of how this will be accomplished. Since it is already authorized by the white paper, it does not require rule language in Regulation XXX to implement.

General Clean-Up

Paragraph (g)(2) has been deleted from this rule and moved to subdivision (i) of Rule 3003 where actions on permit renewal applications are more appropriately discussed.

As previously described, every occurrence of "or designee" has been deleted from this rule. Also, to account for changes made to this rule, some references to paragraphs have been renumbered.

RULE 3005 - PERMIT REVISIONS

Reorganization

For the sake of brevity, clarity and consistency, the rule has been reorganized so that the common elements of each type of permit revision described are addressed in new subdivision (a) - General Requirements. Requirements found in other Regulation XXX rules are referenced rather than repeated. As a result, several elements in the discussions for Administrative Permit Revisions (now renumbered as subdivision [b]), Minor Permit Revisions (now renumbered as subdivision [c]), and Group Processing Procedures for Multiple Minor Permit Revisions (now renumbered as subdivision [d]), are now redundant or no longer accurate and have been deleted.

General Requirements

The requirements for administrative, minor (including group processing procedures), de minimis significant, and significant permit revisions all share four common elements: Procedures, Ability of Facilities to Make Changes, Application Shield, and Permit Shield. These requirements were deleted from the individual permit revision descriptions, condensed and moved into new subdivision (a).

Administrative Permit Revisions

The subdivision for administrative permit revisions has been renumbered from (a) to (b). In addition, paragraph (b)(2) has been modified to match the format of the other permit revision subdivisions in the rule such that an administrative permit revision application shall include a description of the change and a certification by a responsible official.

Minor Permit Revisions and Group Processing Procedures

The subdivision for minor permit revisions has been renumbered from (b) to (c) and the subdivision for group processing multiple minor permit revisions has been renumbered from subdivision (c) to (d).

Since separate procedures have been proposed for de minimis significant permit revisions, the reference to the definition of de minimis significant permit revision has been deleted from subdivision (c).

To be consistent with the proposed deletion of the definition of "draft" permit in Rule 3000 and with the changes to Rules 3003 and 3005 regarding a concurrent EPA, public and affected State review process, the reference to a draft permit is no longer necessary and has been deleted from subdivisions (c) and (d).

The requirement in old paragraph (b)(3) to notify EPA and affected States within five days of receipt of a minor permit revision application has been deleted. This is because AQMD's minor revision process requires the notification of EPA and affected States to occur *after* the preparation of the facility's proposed Title V permit revision. For the same reason, old paragraph (c)(3), which required notification of EPA and affected States of group minor permit revisions during the first week of each calendar quarter or within five days of receipt of a minor permit revision application that exceeded the group emission thresholds, has been deleted. Applications will still be sent to EPA in accordance with Rule 3003 (j)(1)(A).

Instead of grouping minor permit revisions each calendar quarter, the proposed subparagraph (d)(1)(C) will allow grouping of applications submitted within any 90 day period.

EPA commented that without a requirement for timely submittal of the proposed minor or group minor permit revision to EPA for their 45-day review, the 90-day and 180-day deadlines for issuing the permit revisions could not be met. Therefore, staff has added requirements in subparagraph (c)(2)(B) and paragraph (d)(3) for AQMD to submit the proposed permits to EPA 45 days before the deadlines.

Consider a group processing example to illustrate how the proposed changes to Rule 3003 will help assure that AQMD meets the 180-day deadline to issue a permit. Assume a facility submits the first of ten applications that qualify for group processing on January 1. It is subsequently deemed complete without requiring additional information. The facility would then have until April 1 (90 days later) to submit all ten, complete applications. The 180-day clock would start on January 1, and AQMD staff would have until May 16 (135 days later) to submit the proposed permit to EPA for a 45-day review, and until June 30 (180 days later) to issue the permit for the group revision. Even if the last of the ten, complete applications is submitted on the ninetieth day, April 1, there will still be 45 days to complete the review of the entire group and submit the proposed permit to EPA. This is the same amount of time allowed for reviewing one "regular" minor permit revision application. However, if any of the applications are not deemed complete, they will be separated out of the group and processed individually under the appropriate revision track.

For both minor and group minor processing, the requirement that the Executive Officer deny the permit if it is determined that the application should be reviewed under another revision procedure has been deleted. Instead, AQMD will process the application under the appropriate revision procedure. This is reflected in amended clause (c)(2)(B)(i) and subparagraph (d)(3)(B).

Per EPA's request, the group processing thresholds described in new subparagraph (d)(2)(B) have been clarified.

De Minimis Significant Permit Revisions

Subdivision (e) has been added to address the applicability of and procedures for de minimis significant permit revision applications. The procedures are nearly the same as for minor permit revisions. Also, similar to the timelines allowed for staff to take action of grouped minor permit revision requests, subparagraph (e)(2)(B) of Rule 3005 proposes to allow staff 135 days from when an application is deemed complete, to send the permit to EPA for review or determine that the application does not meet the criteria for a de minimis significant permit revision and should be processed under another revision track. The timeline of 135 days is proposed for this determination to assure that the EPA will continue to

have 45 days to review the application and that the total review time will not exceed the 180 days as proposed in Rule 3003 (i)(2)(E).

Reopening for Cause

This subdivision has been renumbered from (e) to (g). The original language in paragraph (e)(2) of this rule discusses two elements that pertain to the permit reopening process. One portion of this paragraph discusses the authority of the AQMD to revoke and terminate a permit. This is a separate requirement and it has been moved into paragraph (g)(3). The remaining portion of the original paragraph (e)(2) explaining how the reopening procedures will ultimately affect the permit has been renumbered to paragraph (g)(2) and reworded slightly for clarity.

Reopening for Cause by EPA

This subdivision has been renumbered from (f) to (h). This subdivision has been revised to make the procedures for reopening permits for cause by EPA more clear, and consistent with 40 CFR Part 70, Section 70.7 (g). Also, since 40 CFR Part 70 does not state when the Executive Officer should act if EPA agrees with the proposed permit action, new language has been added to this part that will give the Executive Officer 15 days to act after EPA agreement, or the end of the 90-day review period, whichever occurs first. Furthermore, additional clarification has been added to the resolution process if EPA objects to a proposed permit.

Operational Flexibility

This subdivision has been renumbered from (g) to (i). EPA has commented that the operational flexibility provisions under what is now paragraph (i)(1) are slightly inconsistent with the language in Section 70.4 (b)(12) of 40 CFR Part 70. Subparagraphs (i)(1)(A) and (i)(1)(B) require the facility to submit a notice to the EPA and the AQMD indicating when a change under the operational flexibility provisions will occur. A requirement stating that the facility and the AQMD are also required to attach the notice to the current version of the permit is missing from this paragraph. New language to this effect has been added in subparagraph (i)(1)(D) to include this requirement.

Also, the current rule language in this paragraph states that changes that constitute modifications under Title I of the federal Clean Air Act do not qualify for operational flexibility. Subdivision (k) of this rule also has the same restriction. However, neither subdivision explains what a Title I modification really is. Subparagraph (i)(1)(C) restricts some, but not all, actions that are Title I modifications from operational flexibility. Therefore, the references to Title I modifications have been deleted from both the operational flexibility subdivision (i) and subdivision (k). In their place, additional restrictions have been added to subparagraph (i)(1)(C) to describe all actions that are Title I modifications. They include actions

subject to AQMD's Regulation XVII - Prevention of Significant Deterioration (PSD), NSPS standards as described in 40 CFR Part 60, and NESHAP standards as described in 40 CFR Part 61 and Part 63.

Also, paragraph (k)(1) states that a Title V facility shall not make a change that is subject to the Acid Rain program under Title IV of the federal Clean Air Act without revising the permit. To maintain all of the restrictions to limiting changes without permit revisions in one place, paragraph (k)(1) has been deleted and moved under subparagraph (i)(1)(C).

Prohibitions on Changes Not Specifically Allowed by Permit

This subdivision has been renumbered from (i) to (k). Paragraphs (k)(1) and (k)(3) have been deleted (see previous discussion for Operational Flexibility above) and paragraph (k)(2) has been merged with the subdivision's introductory text. The words "administrative permit revision" have been removed because facilities are not prohibited from making those changes.

General Clean-Up

As previously described, every occurrence of "or designee" has been deleted from this rule. To remove redundant language and combine like requirements, the responsible official certification requirements in old subparagraph (d)(2)(E) have been merged into renumbered subparagraph (d)(2)(A).

RULE 3006 - PUBLIC PARTICIPATION

Application Content

Subparagraph (a)(1)(C) requires the applicant to prepare and submit a proposed public notice at the time of filing a Title V application. Consistent with Proposed Amended Rules 3003 and 3005, it is now AQMD's intent to prepare each public notice. Therefore, this requirement has been deleted.

Public Notice Contact Person and Public Hearing Request Procedures

Currently, the rule language in subparagraph (a)(1)(F) allows any person, after receiving notification that the AQMD proposes to issue a Title V permit to a facility, to request a public hearing within 10 days of the notice publication date. AQMD staff proposes to increase this amount of time to 15 days so that a person can have more time to read the notice, initial application, and proposed permit, and then complete and submit a public hearing request as appropriate.

To make a public hearing request, the individual must directly notify the Title V facility involved. However, the current rule language does not

require the identification of a specific individual in the public notice as the intended recipient of this type of Title V correspondence. To assure that the appropriate individual at a Title V facility will be directly notified, subparagraphs (a)(1)(B) and (a)(1)(F) now specify that the facility's contact person be identified in the public notice, and notified by the individual requesting the public hearing.

Subparagraphs (a)(1)(D) and (a)(1)(G) have been revised slightly to clarify that the Executive Officer will notice a proposed permit hearing at least 30 days prior to the scheduled hearing date. Also, subparagraph (a)(1)(G) has been revised to say that AQMD staff will hold a public hearing only if a valid request is received in accordance with the public hearing request procedures in subparagraph (a)(1)(F).

Also, for permit hearings for multiple facilities that share common issues, new subparagraph (a)(1)(H) has been added to allow the Executive Officer to combine permit hearings, provided that the affected facilities do not object.

"Draft Permit" vs. "Proposed Permit"

Currently, there are several places in this rule where the terms "draft permit" and "proposed permit" are used. This rule has been corrected to be consistent with the elimination of the term "draft permit" from Rule 3000 and its replacement with the term "proposed permit," and the corresponding procedures establishing a concurrent public, affected State, and EPA review of the proposed permit in Rules 3003 and 3005.

General Clean-Up

Subdivision (b) of this rule has been clarified to exempt de minimis significant permit revisions from public participation procedures. Subparagraph (a)(1)(F) has been clarified that a public request for a public hearing must contain all the listed information. As previously described, every occurrence of "or designee" has been deleted from this rule.

RULE 212 - STANDARDS FOR APPROVING PERMITS

Current Requirements

Rule 212 establishes criteria for the approval of permits by the AQMD. The amendments to this rule incorporate the changes to the California Health and Safety Code, Section 42301.6 and streamline and coordinate noticing requirements, particularly those associated with Regulation XXX.

Rule 212 currently includes procedures for notification of persons within a defined proximity of a "significant project," who may be affected by the

PROPOSED AMENDED REGULATION XXX AND RULE 212

proposed construction or modification. The definition of "significant projects" represents a combination of AQMD policy and state law.

As currently defined, a significant project is:

- a new or modified permit unit that emits air contaminants and located within 1000 feet of a school;
- has emission increases exceeding Regulation XIII's old Community Bank thresholds previously established in the May 3, 1991 version of Rule 1309.1 - (NSR) Community Bank and Priority Reserve, or,
- one that emits carcinogenic air contaminants at levels which may expose an individual to a lifetime cancer risk greater than, or equal to, one in a million (1×10^{-6})

The first criterion above is a state-mandated requirement, whereas the latter two reflect AQMD policy decisions, and California Environmental Quality Act (CEQA) requirements

The rule currently requires a public notification to be distributed within a radius of 750 feet of a new or modified source emitting an air contaminant that is located within 1000 feet of a school. For a new or modified source with emission increases exceeding the old Community Bank thresholds, the notice must be distributed to persons within 1/4-mile radius.

The rule also includes the requirement criteria and notification procedures for sources that will undergo construction or modifications resulting in an emissions increase exceeding the old Community Bank thresholds and that are:

- subject to NSR;
- subject to Regulation XX; or,
- Outer Continental Shelf (OCS) facilities located within 25 miles of the state's seaward boundary.

Proposed Amendments

The proposed amendments to Rule 212 reflect the new changes to the law that requires the radius of public notice distribution to be increased from 750 feet to 1000 feet. This will result in an average increase of 78 percent more people receiving notifications since the distribution radius has increased from 750 feet to 1000 feet.

In addition, due to the comments received, the rule language was modified to require the notices to be distributed to the legal guardians as well as to the parents of children.

The proposed amendments will eliminate the redundant requirement to mail notices to persons located within 1/4-mile radius of a new or modified source with emission increases exceeding the levels specified in subdivision

PROPOSED AMENDED REGULATION XXX AND RULE 212

(g). This is because facilities are already subject to notification requirements pursuant to procedures specified under 40 CFR Part 51, Section 51.161 (b) and 40 CFR Part 124, Section 124.10. In addition, they may also be subject to Title V notification. This amendment will only change the method of noticing.

In the proposed amendments, public notification is required for facilities emitting toxic air contaminants resulting in an increased cancer risk of greater than or equal to:

- ten in a million (10×10^{-6}) for single permitted source facilities; or,
- one in a million (1×10^{-6}) for facilities with more than one permitted source, unless the applicant demonstrates to the satisfaction of the Executive Officer that the total facility-wide cancer risk is below 10×10^{-6} .

These proposed changes are the result of reconciling the requirements in AQMD's permitting program, the state's AB2588 program, and CEQA with the current notification procedures in Rule 212. In addition, the proposed changes will reduce the number of facilities affected by noticing requirements. Specifically, these changes will:

- reduce the noticing requirements for small sources with a single permit (i.e., gas stations and small auto body shops) because the significant level for carcinogenic compounds is defined as 10×10^{-6} for the entire facility;
- reduce the unnecessary regulatory burden and permitting delays for small sources; and,
- require noticing for large facilities unless they have minimized their facility's toxic emissions and demonstrated that the facility-wide cancer risk is below 10×10^{-6} .

The Executive Officer shall use Rule 1401 - New Source Review of Carcinogenic Air Contaminants, screening analysis procedures to determine if the cancer risk is below 10×10^{-6} for facilities with a single permitted source and 1×10^{-6} for facilities with multiple permitted sources. However, a facility with more than one permitted source has an option to demonstrate that the total facility-wide cancer risk is below 10×10^{-6} by using the risk assessment procedures and toxic substances specified in Rule 1402 - Control of Toxic Air Contaminants from Existing Sources.

In order to better reflect the nature of Rule 212, staff proposes that the title of the rule be changed to Standards for Approving Permits and Issuing Public Notice. Further, the phrase "Sections 41700, 41701, or 44300 (et sec.)" in subdivision (a) does not completely represent all the necessary requirements under Section 42301 of the California Health and Safety Code and instead, was replaced with the phrase "provisions of Division 26."

For clarification purposes, a reference to Rule 1401 risk assessment procedures was added to subparagraph (c)(2)(B) to determine the cancer risk of toxic substances listed in Table I of Rule 1401.

Based on the comments received during the consultation meeting on October 8, 1997, staff proposes that the phrase "significant project" be replaced with "project requiring notification." This change will remove potential confusion created due to the different definitions for significant project under Rule 212 and CEQA. Also for clarification purposes, "This paragraph" in the last sentence of paragraph (c)(2), was replaced with "Paragraph (c)(2)."

Previous Amendments

Rule 212 was originally adopted on January 9, 1976 to give the authority to the Air Pollution Officer to deny a P/C or P/O for sources emitting air contaminants in violation of Section 41700 or 41701 of the California Health and Safety Code. Since then, the rule has been amended nine times. The following is a summary of the rule's amendment history:

July 6, 1984: Rule 212 was amended to:

- Incorporate provisions of Section 39050.5 of the California Health and Safety Code. This amendment gave the authority to the Executive Officer or designee to issue a special conditional P/C for resource recovery projects.
- Require the AQMD to provide 30 days public notice of the intent to issue a P/C for resource recovery projects.

May 17, 1985: Rule 212 was amended to:

- Eliminate the public notification requirement for resource recovery projects.

May 1, 1987: Rule 212 was amended to:

- Include the NSR requirement of publishing a notice before a P/C was granted to a NSR project.
- Include the notification requirements for significant projects or one which had the potential to emit toxics.
- Define significant projects as:
 - All new plants subject to NSR;
 - Modifications to certain existing facilities subject to NSR (resource recovery, cogeneration, sewage plants, electric power plants, or refineries); and,
 - All plants emitting toxic or potentially toxic air contaminants.

(Potentially toxic air contaminants are defined as substances currently under review by CARB for possible identification as a toxic under the tanner process pursuant to AB1807 or any other material determined by the Executive Officer to be potentially toxic.)

- Require the public notice to be distributed to each address in a 2-mile radius instead of publishing a notice in a local newspaper.

July 10, 1987: Rule 212 was amended to:

- Include a significant threshold level for toxic and potentially toxic air contaminants for notification purposes.
- Specify the toxic significant threshold level as any toxic air contaminants which result in a cancer risk of greater than or equal to 1×10^{-6} .
- Define toxic and potentially toxic air contaminants as substances identified or currently under review by CARB for possible identification as toxic air contaminants, or those categorized by the EPA as carcinogens. These definitions were modified in March 1989 and September 1991 amendments.

March 3, 1989: Rule 212 was amended to:

- Include changes to the California Health and Safety Code, Section 42301.6. The changes include notification requirement to the parents of children in any school within 1/4-mile of the source and to each address within a radius of 750 feet from the outer property line of the source.
- Define significant projects as all new or modified sources that emit air contaminants and are located within 1000 feet from the outer boundary of school; all new plants subject to NSR; modifications to certain existing facilities subject to NSR (resource recovery, cogeneration, sewage plants, electric power plants or refineries); and all plants emitting toxic which executive officer has made a determination that a person may be exposed to an individual cancer risk greater than or equal to 1×10^{-6} .

June 28, 1990: Rule 212 was amended to:

- Include the amendments to NSR in order to meet the state law requirements in the California Clean Air Act (that all emissions are mitigated from newly permitted equipment) and 1989 AQMP (that all emissions are offset from new or modified sources).
- Include the NSR Community Bank threshold limits for public notice.
- Remove the conditional P/C provisions given to resource recovery projects.

PROPOSED AMENDED REGULATION XXX AND RULE 212

September 6, 1991: Rule 212 was amended to:

- Include the exemption from notification for all new and modified sources located within 1000 feet from a school with no increase in emissions pursuant to State of California Senate Bill (SB) 274.
- Include the list of carcinogenic compounds regulated by Rule 1401.
- Add the new area of notification for the sources subject to Rule 1401. This gives the AQMD the authority to choose other appropriate radius.
- Include procedures to file written requests.

August 12, 1994: Rule 212 was amended to:

- Include the federal notification requirements for OCS facilities.

December 7, 1995: Rule 212 was amended to:

- Add federal notification requirements for facilities subject to NSR and RECLAIM.
- Clarify the rule language.

General Clean-Up

The phrase "Executive Officer or designee" is used throughout this rule. The words "or designee" are part of the definition of "Executive Officer" in Rule 102 and do not need to be repeated. Therefore, every occurrence of "or designee" has been deleted from this rule.

EMISSION IMPACT

The proposed amendments to Regulation XXX and Rule 212 have no impact on emission limits, and no direct impact on air quality. However, one purpose of Regulation XXX is to improve compliance of major sources with their permit conditions. To the extent that the regulation succeeds in this regard, air quality will benefit. The primary impact of the proposed Regulation XXX amendments is to allow sources of actual emissions that had made permanent reductions subsequent to 1992 to qualify for an exemption during the first three years of the program. Sources must continue to comply with all other applicable rules. Therefore, staff expects no significant emission impact.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

AQMD staff has reviewed the proposed amendments to Rule 212 and Regulation XXX, pursuant to State CEQA Guidelines Section 15002 (k)(1) and AQMD CEQA Implementation Guideline Section 1.2 (k)(1), and has determined with certainty that the proposed project is exempt from

PROPOSED AMENDED REGULATION XXX AND RULE 212

the requirements of CEQA pursuant to State CEQA Guidelines Section 15061 (b)(3) and AQMD Implementation Guideline Section 5.1 (b)(3). The proposed project does not cause any potential significant impacts to air quality or any other environmental area. A Notice of Exemption has been prepared pursuant to State CEQA Guidelines Section 15062 and will be filed with the county clerks immediately following the adoption of the proposed amendments.

SOCIOECONOMIC ANALYSIS

The purpose of the proposed amendments to Regulation XXX is to improve the clarity, increase flexibility and enhance enforceability of the Title V permit rules. The proposed amendments to Rule 212 would make the public notice requirements consistent with state law and would eliminate duplicative or unnecessary noticing.

The proposed amendments to Regulation XXX and Rule 212 are administrative in nature and do not impose any additional requirements on affected sources. As such, the amendments to Regulation XXX and Rule 212 will not result in any adverse socioeconomic impacts.

On October 14, 1994, the Governing Board adopted a resolution that requires staff to address whether rules being proposed for adoption or amendment are being considered in order of cost-effectiveness. The 1997 AQMP ranks, in order of cost-effectiveness, all of the proposed control measures for which costs were quantified. The amendments to Regulation XXX and Rule 212 are not part of the 1997 AQMP, but to respond to issues raised by the public and affected sources. Consideration in order of cost-effectiveness is, therefore, not applicable.

California Health and Safety Code Section 40920.6 requires an incremental cost-effectiveness analysis for other potential control options which would achieve the emission reduction objective in the proposed regulations. No emission reductions are attributed to the amendments to Regulation XXX and Rule 212. Therefore, incremental cost-effectiveness analysis is not applicable for the proposed amendments.

DRAFT FINDINGS UNDER THE CALIFORNIA HEALTH AND SAFETY CODE

Before adopting, amending or repealing a rule, the California Health and Safety Code requires AQMD to adopt written findings of necessity, authority, clarity,

consistency, non-duplication, and reference, as defined in Health and Safety Code Section 40727. The draft findings are as follows:

Necessity - The Governing Board of the AQMD has determined that a need exists to amend Rule 3000 - General, Rule 3001 - Applicability, Rule 3002 - Requirements, Rule 3003 - Applications, Rule 3004 - Permit Types and Content, Rule 3005 - Permit Revisions, Rule 3006 - Public Participation, and Rule 212 - Standards for Approving Permits, to clarify rule requirements, improve application and permitting procedures for Title V facilities, address EPA conditions for full approval of AQMD's Title V program, make Rule 212 consistent with state law, and avoid unnecessary or duplicative noticing.

Authority - The AQMD Governing Board obtains its authority to adopt, amend or repeal rules and regulations from Health and Safety Code Sections 39620, 40000, 40001, 40440, 40441, 40463, 40702, 40725 through 40728.5, 42300, and 42301.

Clarity - The AQMD Governing Board has determined that the proposed amendments to Rule 3000 - General, Rule 3001 - Applicability, Rule 3002 - Requirements, Rule 3003 - Applications, Rule 3004 - Permit Types and Content, Rule 3005 - Permit Revisions, Rule 3006 - Public Participation, and Rule 212 - Standards for Approving Permits, are written or displayed so that their meaning can be easily understood by persons directly affected by it.

Consistency - The AQMD Governing Board has determined that proposed amendments to Rule 3000 - General, Rule 3001 - Applicability, Rule 3002 - Requirements, Rule 3003 - Applications, Rule 3004 - Permit Types and Content, Rule 3005 - Permit Revisions, Rule 3006 - Public Participation, and Rule 212 - Standards for Approving Permits, are in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, federal or state regulations.

Non-Duplication - The AQMD Governing Board has determined the proposed amendments to Rule 3000 - General, Rule 3001 - Applicability, Rule 3002 - Requirements, Rule 3003 - Applications, Rule 3004 - Permit Types and Content, Rule 3005 - Permit Revisions, Rule 3006 - Public Participation, and Rule 212 - Standards for Approving Permits, do not impose the same requirements as any existing state or federal regulation, except to the extent necessary to implement federal regulations under Title V of the federal Clean Air Act and 40 CFR Part 70, and the proposed rules are necessary and proper to execute the powers and duties granted to, and imposed upon, AQMD.

Reference - In adopting these amended rules, the AQMD Governing Board references the following statutes which AQMD hereby implements, interprets or makes specific: federal Clean Air Act Sections 501-507 (Title 42 USC Sections 7410, 7502, 7503, 7661-7661f); 40 CFR Part 70 (Operating Permit Program);

Health and Safety Code Sections 39002, 40001 (rules to achieve ambient air quality standards), 42300 and 42301 (permit system).

EPA COMMENTS AND RESPONSES

Proposed Amended Regulation XXX

1. **Comment:** The definition of "potential to emit" in Rule 3000 (b)(16) should only refer to "federally enforceable" permit conditions and not to ones that are "legally and practically enforceable by the District" because this will be the subject of future EPA rulemaking and may have to be changed.

Response: The proposed amendment has been removed. However, to be consistent with EPA's guidance memo dated August 27, 1996 (John Seitz), "Extension of January 25, 1995 Potential to Emit Transition Policy," the AQMD will interpret this definition to allow limitations that are not federally enforceable, but are legally and practically enforceable by AQMD, to also be considered in determining the potential to emit. The AQMD will follow this policy which is in effect until July 31, 1998 or until further EPA rulemaking, whichever is sooner. AQMD will amend Regulation XXX in accordance with and upon adoption of future revisions to 40 CFR Part 70 or other relevant regulations.

2. **Comment:** The proposed amendments in Rule 3001 (e)(2) that provide for exclusions from Phase Two of program implementation based on a facility-wide cap do not satisfy the requirements of EPA's model synthetic minor rule.

Response: Staff has withdrawn the proposal.

3. **Comment:** The proposed language in Rule 3002 (a)(4) would allow, pursuant to Rule 202 - Temporary Permit to Operate, (c), a Title V facility to operate under an unwritten, temporary, permit to operate after altering or installing equipment without first obtaining a P/C. This is not consistent with 40 CFR Part 70, Sections 70.5 (a)(1)(ii) and 70.7 (b), which require a Title V facility to operate in compliance with its Title V permit and to obtain a permit revision prior to commencing operation of new or modified equipment (when preconstruction review is integrated with Title V).

Response: Staff has withdrawn the proposal.

4. **Comment:** The proposed language in Rule 3004 (h)(1) incorrectly exempts temporary sources (portable equipment) that operate at a Title V facility from being on the Title V permit. Nothing in 40 CFR Part 70 excuses temporary sources from having a Title V permit.

PROPOSED AMENDED REGULATION XXX AND RULE 212

Response: Staff has deleted paragraph (h)(1) and proposed new paragraph (h)(5) to address portable equipment.

- 5. Comment: The exemption for research operations in Rule 3004 (h)(4)(B) should be limited to those that "do not contribute to the product produced or service rendered in greater than a de minimis manner," consistent with the proposed amendments to 40 CFR Part 70.

Response: The current rule and proposed amendments are consistent with EPA's White Paper No. 1. It is not appropriate to require AQMD to amend its Title V regulation in advance of EPA adopting the same amendments. However, if and when EPA does adopt such regulations, Regulation XXX will be amended accordingly.

- 6. Comment: The proposed amendments to paragraphs (c)(3) and (d)(3) of Rule 3005 should maintain the requirement for the AQMD to send the application to EPA within five business days of receipt, in order to assure that minor permit revisions are processed expeditiously within the allotted 90 days. Otherwise, there should be a mechanism that assures the AQMD will submit the proposed permit to EPA in sufficient time to meet the 90-day overall permit processing requirement.

Response: To assure that there is sufficient time for a 45-day EPA review prior to the 90-day deadline, the proposed amendments now require the Executive Officer to submit the proposed minor permit revision to EPA within 45 days of the deemed complete date. Similarly, the Executive Officer is required to submit all of the grouped minor applications within 135 days of receipt of the first complete application in the group. Both timelines take into account the 45 days allotted for EPA review, such that the overall processing time allowed for minor and group minor procedures, respectively, is consistent with the 90- and 180-day limits in paragraph (i)(2) of Rule 3003.

CARB COMMENTS AND RESPONSES

Proposed Amended Rule 3004

- 1. According to California Health and Safety Code (H&SC) Section 41753 (a)(1), the AQMD is preempted from issuing a Temporary Source Permit, or any other permit, to portable equipment registered under the State Portable Equipment Registration Program. To avoid conflict with state law, AQMD should revise paragraph (d)(1) to: "Except in the case of an affected source under the acid rain program or portable equipment registered by the State, an applicant..."

PROPOSED AMENDED REGULATION XXX AND RULE 212

Response: Staff agrees and instead, has added similar clarifying language to paragraph (d)(1).

- 2. Comment: Proposed subparagraph (h)(5)(A) of Rule 3004 provides that contractor-owned portable equipment should not be identified in a facility's Title V permit unless the operation of such equipment at the facility is "routine and predictable." This provision is based on the document "Draft Title V Permitting Obligations for Portable Equipment Operating at a Title V Source" released by the CARB and EPA (Region IX) on May 22, 1997. Subsequent to the document's release, EPA (Region IX) commented that the phrase "routine and predictable" should be deleted from the guidance. Considering this objection, CARB cannot recommend that the phrase be used as a basis for excluding sources from a Title V permit at this time. Instead, CARB recommends that the AQMD follow the guidance provided in EPA's White Paper No. 1 for short-term activities when considering exclusions for certain portable equipment.

Response: Staff has deleted the previously proposed subparagraph (h)(5)(A) that was based on "routine and predictable" operations of contractor-operated or rental equipment.

PUBLIC COMMENTS AND RESPONSES

Proposed Amended Regulation XXX

General

- 1. Comment: When will a facility be able to apply for a federal AOC pursuant to Rule 518.2?
Response: Rule 505 - Lack of Permit, prohibits the Hearing Board from accepting a petition for a variance or AOC until a P/O is granted or denied. Similarly, all Title V facilities will be eligible to request an AOC beginning when their final Title V permits is issued.
2. Comment: Any Title V facility should be able to obtain an AOC and protection from federal enforcement pursuant to Rule 518.2 prior to issuance of a Title V permit.
Response: See response to comment 1.
3. Comment: The AQMD should publish an updated list of rules that are pending approval into the SIP.

Response: On a quarterly basis, EPA currently provides AQMD with a "SIP Action Log" containing a list of all rules that have had final action (approval or disapproval) taken to date. If rule pending SIP action becomes approved or disapproved, the compliance certification Form 500-C1 is updated to reflect the change in SIP status.

Proposed Amended Rule 3000

1. **Comment:** Based on the definition of "major source" in 40 CFR Part 70, Section 70.2, other states allow the splitting-up of a facility into separate facilities based on different, two-digit standard industrial classification (SIC) codes. The definition of "facility" in Rule 3000 (b)(9) should be changed to reflect this approach.

Response: The recommendation to change the Title V definition of facility would make the definition conflict with the AQMD's definition of a facility in both Regulation XX and Regulation XIII. Since the AQMD's preconstruction review for both RECLAIM and non-RECLAIM facilities are integrated with Title V, the definition of facilities must remain consistent between these programs.

2. **Comment:** Rules 3000 (b)(5), 3003 (i)(1), and 3004 (a)(10)(C), all need to be corrected to consistently use the term "order for abatement."

Response: Staff is in agreement with this recommendation and has made the necessary changes.

3. **Comment:** The way Rule 3000 (b)(12)(viii) is written, it seems to preclude any modification at a facility that is already subject to a NSPS or NESHAP from utilizing the minor or de minimis significant permit revision track. This could be problematic, since most activities at a refinery are subject to existing NSPS and MACT requirements for refineries. Therefore, this provision virtually makes several common changes at a refinery ineligible for the minor and de minimis significant permit revision tracks.

Considering all of the modifications that occur at a refinery, this provision will create a permitting backlog and impede a refinery's ability to receive expedited permit revisions for relatively minor changes. Furthermore, excessive project delays will place refineries and other facilities in this district subject to the proposed language at a competitive disadvantage to facilities in other areas of the nation. The AQMD should reconsider making this proposed amendment at this time and, instead, wait until the revised 40 CFR Part 70 is promulgated by EPA.

Response: Based on the criteria for minor permit revisions in 40 CFR Part 70, Section 70.7 (e)(2)(i)(A)(4), EPA requires this provision to be added. However, this subparagraph has been clarified to require only installations of new equipment

and modifications or reconstructions of existing equipment subject to new or additional NSPS or NESHAP requirements to be put through the significant permit revision process

4. **Comment:** Rule 3000 should contain language that would allow the AQMD to issue more than one Title V permit to a military installation if it meets the criteria provided in the August 2, 1996 EPA guidance document regarding major source determinations

Response: Although the definition of "facility" in Rule 3000 does not specifically state how a military installation would be treated, the AQMD has the discretion, as provided for in the above-mentioned EPA guidance document, to split up a military installation into separate Title V facilities and issue multiple Title V permits. Upon written request, AQMD staff will follow EPA's guidance and determine whether the military installation is eligible to be divided. If the criteria is met and the separation will not cause a conflict with other AQMD rules (such as Regulation XIII), multiple Title V permits will be issued accordingly. The rule does not need to be amended to accomplish this.

5. **Comment:** A temporary source should not be considered as a "facility" as proposed in Rule 3000 (b)(30), especially since the temporary source emissions are excluded from a facility's total reported emissions as proposed in Rule 3000 (b)(25).

Response: For the purpose of this definition, a facility may consist of a single piece of portable equipment or several pieces of portable equipment that must operate together, such as a portable concrete batch plant. Some portable equipment or facilities operate independently and will be considered individually for determining applicability to Title V. Some portable equipment or facilities are owned by a Title V facility and operated on a temporary basis at various locations.

While Rule 3000 (b)(25) does exclude "off-site" emissions from temporary sources when determining the Title V applicability of a stationary facility, it does not exclude emissions from temporary sources that occur at the stationary facility. Both 40 CFR Part 70 and Regulation XXX require that the emissions from all equipment that operate together at the same location be considered for applicability to Title V, regardless of whether the equipment is portable or not.

6. **Comment:** The definition of temporary source in paragraph (b)(30) of Rule 3000 is inconsistent with the Statewide Portable Equipment Registration Program and AQMD's Regulation XIII in that a temporary source is a source operating at a location within a facility.

Response: The definition is consistent with 40 CFR Part 70. What EPA calls a "source," the AQMD calls a "facility." The temporary source may consist of several permit units operating together.

7. **Comment:** Emissions from sources opened to the atmosphere (e.g., open channels at wastewater treatment plants) should be added to the definition of "fugitive emissions" in Rule 3000 (b)(10).

Response: EPA's definition of "fugitive emissions" in 40 CFR Part 70 is generic, and includes no specific examples. Whether emissions are fugitive or not must be determined on a case-by-case basis.

8. **Comment:** The definition of "minor permit revision" as proposed in Rule 3000 is too restrictive and should be restored to its original language except that subparagraph (b)(12)(vi) should be deleted or modified to allow applications with insignificant increases in HAPs to use the minor permit revision track.

Response: The minor permit revision track is meant for relatively simple permit revisions and, except for RECLAIM facilities, is for applications that do not have an increase in emissions, including HAPs. Since all increases in HAPs must also undergo a Rule 1401 evaluation for toxics, the procedures for evaluating a revision with an increase in HAPs is beyond the scope of what constitutes a minor permit revision. Instead, the application would be evaluated as a de minimis significant or significant permit revision depending on the quantity of the HAPs increase. Also, see response to comment 3.

9. **Comment:** The definition of "proposed permit" as described in Rule 3000 (b)(18) needs to be clarified that the public and affected States do not review all types of proposed permits.

Response: Rules 3006 (b) and 3003 (m)(1) already describe the types of permit revisions that are exempt from public participation and affected State review, respectively. Staff has modified the Rule 3000 (b)(18) definition to substitute "or" for "and" (as was previously proposed in an earlier version of the rule) to clarify it.

10. **Comment:** The statement in the definition of "renewal" in Rule 3000 (b)(24) that prevents a concurrent submittal of a permit revision with a permit renewal application isn't a requirement in 40 CFR Part 70 and should therefore be removed.

Response: Staff agrees with this recommendation and has deleted this part. In fact, it is the AQMD's intent to require one application at the time a Title V facility is applying for a permit renewal and also requests a permit revision. However, permit revisions have different deadlines for the Executive Officer to act than do permit renewals, so they may have to be processed separately. If a request for a permit revision is submitted after the filing of a permit renewal application, a separate application is required.

11. **Comment:** Rule 3000 (b)(3) needs to explain whether or not tribal lands are included in the definition of "affected State."

Response: Practically speaking, for the AQMD, the definition of "affected State" means Arizona and Nevada. EPA has proposed to revise this definition in 40 CFR Part 70 to include tribal lands. However, EPA's proposal has not been promulgated and as a result, the definition in Rule 3000 is the most correct and current version.

12. **Comment:** The term "status" in Rule 3000 (b)(1)(D) needs to be defined.

Response: In accordance with comment 28, subparagraph (b)(1)(D) has been reworded and as a result the term "status" that was originally in this part has been deleted from this rule.

13. **Comment:** There is some confusion regarding AQMD's list of Rule 219-exempt equipment and EPA's list of "trivial activities" published in the TGD, and how they affect making a Title V applicability determination. The definition of "reported emissions" in Rule 3000 (b)(24) or the list of exemptions in Rule 3004 (h) needs to clarify how applicability determinations are to be made for equipment that are on both lists.

Response: Rule 301 requires facilities to report all emissions, including those from Rule 219-exempt equipment. However, in the rare event that any emissions were reported from equipment listed by EPA as a trivial activity (this list can be found in the TGD), they are not counted towards a Title V applicability determination. This situation is more appropriately described in the TGD than in the rule.

14. **Comment:** The definition of "compliance documents" in Rule 3000 (b)(5) should include the submittal of deviation reports, Rule 430 - Breakdown Provisions, and Rule 2004 - (RECLAIM) Requirements, breakdown reports, and Rule 218 - Stack Monitoring, reports.

Response: The AQMD agrees with this recommendation and has changed this definition to require "compliance reports" which can include deviation and breakdown reports.

15. **Comment:** Limiting the minor permit revision process to no increase in HAP emissions means that almost all emission increases will be excluded from this process because of trace HAP emission increases that will inadvertently accompany the non-HAP emission increase.

Response: The minor permit revision track excludes any increase in HAPs because such a change would require a risk analysis calculation which could result in a more in-depth and lengthy evaluation process. If the proposed increase in

HAPs is no more than 30 pounds per day (cumulative over the 5-year life of the permit), the de minimis significant track could be utilized. The de minimis track has the same permit review process by EPA and affected States as minor permit revisions. The only difference is AQMD will have more time (180 days versus 90 days) to complete the evaluation and review processes.

16. **Comment:** Title V does not allow any Title I modification (including a modification subject to NSR) to go through the minor permit revision process, so how can any permit revision resulting in an emission increase use the minor track?

Response: Staff agrees that 40 CFR Part 70 does not allow a Title I modification to be processed as a minor permit revision. Therefore, the definition of minor permit revision has been amended. However, because AQMD requires all emission increases to go through NSR, EPA is not requiring that all modifications subject to AQMD's NSR to go through the significant revision track. Permit revisions with emission increases below certain cumulative emission thresholds may still qualify as a de minimis significant permit revision, which has the same review process as a minor permit revision, but allows more processing time.

17. **Comment:** A permit revision to change a RECLAIM concentration limit that does not trigger RECLAIM NSR should be eligible for an administrative permit revision.

Response: AQMD staff does not believe that a change in a RECLAIM concentration limit matches the simplistic nature of what constitutes an administrative revision.

18. **Comment:** Permit revisions to incorporate changes that have already been subject to public and EPA review (such as credit approvals in trading programs) should be processed as administrative or minor permit revisions.

Response: That is the case for most RECLAIM trading credit (RTC) transactions where all monitoring, reporting and recordkeeping requirements are clearly specified by the regulation, the transfer is a routine, and AQMD approval is not required.

While EPA and the public may review a new program (regulation) when the rule is adopted, they will continue to be entitled by 40 CFR Part 70 to review how the program is implemented for a specific facility if AQMD pre-approval is required, and the approval results in significant changes to the permit.

19. **Comment:** The proposed language in Rule 3000 (b)(12)(viii) for minor permit revisions needs to be revised to exclude only revisions that trigger either NSPS or NESHAP requirements. Otherwise, no change at a facility that is subject to NSPS

or NESHAP requirements could qualify for processing under the minor permit revision track.

Response: Staff has further clarified this part of the definition to say that installations of new equipment subject to NSPS or NESHAP requirements cannot qualify for minor permit revision processing. Also, staff proposed language in new subparagraph (b)(12)(ix) that prevents only modifications or reconstructions of existing equipment subject to new or additional NSPS or NESHAP requirements from being processed as a minor permit revision. Also, see response to comment 3.

20. **Comment:** To be consistent with 40 CFR Part 70, a definition of periodic monitoring should be added to Rule 3000. Furthermore, the rules should be clarified to say that recordkeeping can be considered sufficient to satisfy periodic monitoring requirements.

Response: Staff has added a definition of "monitoring," instead of "periodic monitoring," to Rule 3000 to include emission testing, continuous emissions monitoring, material testing, and instrumental and non-instrumental monitoring of process conditions. Staff has also added a statement to Rule 3004 (a)(4)(C) that allows recordkeeping to satisfy periodic monitoring requirements, as allowed by 40 CFR Part 70.

21. **Comment:** In addition to device numbers, equipment in existing RECLAIM permits have been assigned process and system numbers. This numbering system prevents equipment that would otherwise be eligible to be moved elsewhere within the facility from moving until after the permit is revised. Under Title V, these types of permit revisions should be handled under the administrative revision track.

Response: Staff agrees with this recommendation, provided that there is no change to permit conditions and that such move does not require an evaluation of regulatory requirements, such as Rule 1401. Proposed language has been added to the administrative permit revision definition under Rule 3000 (b)(1)(G).

22. **Comment:** The definitions of de minimis significant permit revision and RECLAIM pollutant in Rule 3000 seem to indirectly define non-RECLAIM pollutants as VOCs and PM-10 only.

Response: Actually, non-RECLAIM pollutants can be any of the following: hazardous air pollutant (HAP), VOC, NOx, SOx, CO, and PM-10. However, NOx and SOx are non-RECLAIM pollutants, only if emitted from a facility that is not subject to the RECLAIM program for either pollutant.

23. **Comment:** The definition of emergency in Rule 3000 needs to be modified to include situations that may be caused by improperly designed or otherwise faulty equipment of another facility under different ownership. For example, a failure of

a utility company's power lines may cause a wastewater treatment facility to operate its power generators in violation of the Title V permit and the facility operator may not be able to take immediate corrective action to restore normal operations

Response: The definition of emergency already covers this situation

24. **Comment:** Paragraph (b)(12) of Rule 3000 for minor permit revisions is organized in a way that seems to require all minor permit revision requests to involve the incorporation of an existing general permit. Since not all minor permit revisions will involve general permits, this part should be clarified by adding an "or" between subparagraphs (b)(12)(A) and (B).

Response: Staff agrees and has corrected the language accordingly.

25. **Comment:** The inclusion of fugitive HAP emissions in the definition of reported emissions in Rule 3000 for the determination of Title V applicability goes beyond what is required by 40 CFR Part 70.

Response: The definition of "major source" in 40 CFR Part 70, Section 70.2 requires fugitive HAP emissions to be considered for Title V applicability determinations.

26. **Comment:** Several modifications with individually small increases in emissions, each qualifying for the de minimis significant permit revision track but that collectively are large enough to trigger the significant permit revision track, should be processed as a de minimis significant permit revision up until the emission threshold is exceeded.

Response: Regulation XXX allows for this.

27. **Comment:** The proposed changes to the definition of reported emissions in Rule 3000 seem to say by default, that all other emissions from portable equipment and engines permitted under NSR would be included in a calculation to determine Title V applicability. If this is correct, this definition needs to be clarified.

Response: Reported emissions from a stationary facility should include emissions occurring at the facility from portable equipment and engines not specifically excluded by the definition. Also, see response to comment 5.

28. **Comment:** The staff report for Regulation XXX and the TGD need to explain that generic permit conditions at the P/C stage may change to more equipment-specific information at the P/O stage as part of an administrative clean-up procedure.

Response: Rule 3000 (b)(1)(D) has been amended to allow the use of administrative permit revision procedures to issue a final P/O that is different from the P/C, only if conditions that are no longer applicable are removed, or if the changes meet the other criteria in the administrative permit revision definition.

29. **Comment:** Once a RECLAIM facility increases its starting allocation plus non-tradeables by acquiring and incorporating RTCs to offset emissions from new or modified equipment, there should be a mechanism for "re-setting" the applicability threshold to avoid the significant revision track for a new emission increase.

Response: Staff agrees and has proposed changes to clause (b)(12)(A)(v) that will allow emission increases below the new threshold to undergo a minor, instead of a significant, permit revision.

30. **Comment:** The definition of temporary source should be clarified to consider a temporary source as a facility only if its emissions alone exceed levels established in Table 1 or Table 2 of Rule 3001.

Response: There is no need or benefit to have the definition for temporary source be dependent upon emissions.

31. **Comment:** The definition of monitoring, in addition to Rule 3004, should say that recordkeeping may suffice as monitoring.

Response: Staff does not believe recordkeeping meets the definition of monitoring. However, recordkeeping can meet the periodic monitoring requirement in Rule 3004.

32. **Comment:** The definition of "potential to emit," which requires limitations to be federally enforceable, is not consistent with EPA policy guidance memoranda.

Response: See EPA comment 1.

33. **Comment:** The word "another" in subparagraph (b)(12)(B) needs to be clarified. Does this mean that a minor permit revision requires the issuance of another general permit?

Response: The word "another" in this definition refers to the issuance of another Title V permit that is issued after a request is made to add a separately issued general permit into a new or existing Title V permit.

34. **Comment:** Since not all process units need to be monitored continuously, the definition of "monitoring" needs to specifically include periodic monitoring also.

Response: See response to comment 20.

35. **Comment:** The addition of new restrictions to the definition of "significant permit revision," specifically subparagraph (b)(28)(F), will make almost all changes at a facility significant and should be deleted.

Response: Case-by-case evaluations of RACT are required to be a significant permit revision process, but this criterion wasn't originally stated in the definition. Instead, the definitions of minor and de minimis significant permit revisions contained this restriction, implying that a RACT evaluation had to be processed as a significant permit revision. Subparagraph (b)(28)(F) was added to the definition of significant permit revision to make it consistent with the EPA-required changes made to the definition of minor permit revision in paragraph (b)(12). Also, see the discussion in Rule 3000 of the staff report for the changes to the definition of minor permit revisions.

36. **Comment:** Clause (b)(12)(A)(vi) should be deleted from the definition of minor permit revision so that applications with an insignificant increase of HAPs at a facility that has used up the 30 lbs/day limit over a five-year period can avoid a significant permit revision.

Response: See response to comment 15.

37. **Comment:** The phrase "essentially unchanged" in subparagraph (b)(1)(D) needs to be clarified.

Response: The previously proposed phrase "essentially unchanged" has been replaced with "no change" and new clauses (b)(1)(D)(i-ii) to allow administrative changes and the removal of P/C conditions that are no longer applicable when updating a P/C to a P/O.

38. **Comment:** The definition of "potential to emit" should exclude the same types of emissions that are excluded in the definition of "reported emissions."

Response: Staff agrees and has revised the definition of "potential to emit" accordingly.

Proposed Amended Rule 3001

1. **Comment:** Regulation XXX should include rule language to address the concept of Plantwide Applicability Limits (PAL).

Response: The PAL concept has not been included in Regulation XXX because it is not exclusive to Title V facilities. Instead, the PAL approach may be implemented as part of the Regulation XIII reform package. If adopted, Title V facilities will be eligible to apply to revise their Title V permits to obtain a PAL according to the guidelines in Regulation XIII.

2. **Comment:** Some facilities have made recent changes to reduce emissions but emission fee billing (EFB) reports do not yet reflect these reductions. In order for these facilities to avoid Title V permitting requirements, the exclusion provisions in Rule 3001 should be clarified to allow interim emissions data (i.e., reports submitted prior to the deadline for submitting annual EFB reports) to be used as evidence to support exclusion requests of this nature. Furthermore, if these facilities do not receive exclusion in time to avoid the initial application filing deadlines, these facilities should be able to qualify for a facility-wide emissions cap that would limit both permitted and unpermitted activities.

Response: Facilities can apply for a local permit to limit their facility-wide potential to emit below applicability thresholds, provided that the facility accepts enforceable permit conditions to ensure that emissions remain below the permitted limit.

3. **Comment:** A temporary source should only be considered a facility-if-its emissions meet or exceed the thresholds in Table 1 or 2 of Rule 3001.

Response: See response to comment 5 for Proposed Amended Rule 3000.

4. **Comment:** The requirement in Rule 3001 (c)(2) for a potential to emit calculation to be performed over an entire facility, for every modification proposed at what once would have been a non-Title V facility, is onerous and needs to be changed. During the first three years (Phase One) of the Title V program, all modifications of this nature should have applicability determinations based on actual emissions only.

Response: Both Rule 3001 (c)(2) and Rule 3002 (a)(3)(C) allow a facility to construct modifications and operate with non-Title V permits for up to three years after the effective date (Phase One). Then, after three years, a facility is required to apply for a Title V permit. Conducting potential to emit calculations at the time modifications are proposed will be helpful to both the facility and to AQMD staff to assess whether the facility will later be required to apply for a Title V permit.

5. **Comment:** Does Rule 3001 (e)(1) allow facilities with actual emissions less than the levels in Table 1 of Rule 3001 but with a potential to emit that is greater than the levels in Table 2 to be excluded from Phase One of the Title V program?

Response: Yes. However, in Phase Two, the facility would be required to obtain a Title V permit unless the facility can demonstrate pursuant to Rule 3001 (d)(2) that the facility's potential to emit has been reduced.

6. **Comment:** If a facility applies for an emissions cap, is the facility required to obtain a cap for each pollutant emitted?

PROPOSED AMENDED REGULATION XXX AND RULE 212

Response: No. The facility will only need a cap for those pollutants whose potential to emit would exceed the Title V applicability thresholds in Table 2 of Rule 3001. Until a rule to limit potential to emit is promulgated by EPA, an emission cap on an existing facility can be established through the locally enforceable permit program.

7. **Comment:** Rule 3001 (b)(2) should explain that RTCs held by a source in certificate form are not considered for the purpose of Title V applicability.

Response: Staff agrees and has added such language.

8. **Comment:** A facility should not have to demonstrate that emissions have declined as a result of a permanent change, as required by Rule 3001 (e)(1)(A)(ii), in order to be excluded. This requirement sets up a dual standard because facilities whose emissions were above eight tons in 1992, but below in 1993, 1994 and 1995, would not have to demonstrate a permanent change. Also, facilities should be excluded if they correct over-reported emissions.

Response: Contrary to the comment, a facility that reported emissions exceeding any of the Phase One thresholds only in 1992 must also demonstrate that emissions were later reduced by a permanent change in order to gain exclusion. Regarding the second point, AQMD has and will continue to allow over-reported emissions to be corrected, without requiring a demonstration that a permanent change occurred.

9. **Comment:** To prevent relatively low emitting facilities from being required to obtain Title V permits, the AQMD should continue to work with EPA to limit Title V applicability during Phase Two of the program to actual emissions, instead of potential to emit.

Response: EPA does not believe they are authorized by law to extend Phase One beyond the first three years of the program. However, AQMD staff will continue to pursue this issue with EPA.

10. **Comment:** Because of Rule 3001 (b)(2), RECLAIM facilities are currently precluded from assuming a cap to get out of the Title V program. There should be a mechanism for a RECLAIM facility to assume a cap that would prevent the acquisition of RTCs in excess of the Phase Two potential to emit thresholds.

Response: See responses to comments 2 and 6.

11. **Comment:** If the AQMD intends to base Phase One applicability for existing, new and modified facilities on actual emissions, then Rule 3001 (c)(1) and (c)(2) need to be corrected to reflect this intent.

PROPOSED AMENDED REGULATION XXX AND RULE 212

Response: Staff agrees with this recommendation and has proposed additional language to paragraphs (c)(1) and (c)(2) of Rule 3001 to use potential to emit to determine Title V applicability only for new or modified facilities that have applications for P/CS and P/Os deemed complete after March 31, 2000.

12. **Comment:** The criteria for determining what type of change is "permanent" in Rule 3001 (e)(1)(A)(ii) needs to be explained.

Response: "Permanent" means an equipment modification such as reduced ratings by removing burners, or process changes such as a switch from solvent-based cleaners to aqueous-based cleaners.

13. **Comment:** Facilities should be able to voluntarily accept federally enforceable emission caps pursuant to Regulation XIII to stay out of Title V.

Response: See responses to comments 2 and 6.

14. **Comment:** AQMD should not require in Rule 3001 (e) that a facility demonstrate that actual emissions were reduced by a permanent change at the facility, in order to be excluded from Phase One of the Title V program.

Response: Title V, as it is promulgated in the federal Clean Air Act and 40 CFR Part 70, is based solely on potential to emit, rather than actual emissions. However, EPA is giving AQMD the flexibility to base Phase One on actual emissions. Nevertheless, staff believes that emission reductions should be the result of permanent changes at the facility, not just reduced sales or production. Nearly all exclusion requests have qualified based on the proposed criterion. Also, see responses to comments 8 and 12.

15. **Comment:** Tables 1 and 2 of Rule 3001 should say they apply to only the Riverside County portions of the Salton Sea Air Basin.

Response: Staff agrees and has made the change.

16. **Comment:** One option to get out of the Title V program would be pursuant to Rule 3001 (d)(2) which requires a demonstration that the facility potential to emit has been reduced to levels below those listed in Table 2 of Rule 3001. Would surrendering a permit be considered a reduction in potential to emit?

Response: Yes.

Proposed Amended Rule 3002

1. **Comment:** Because temporary changes due to research operations should not be subject to a Title V permit revision, Rule 3002 (a)(4) (as proposed in the March

18, 1997 version of the rule package) needs to include the following language at the end of the sentence: "or under a research permit, as authorized by Rule 441."

Response: There is already an exclusion of this type in proposed Rule 3004 (h)(2).

2. **Comment:** Non-technology based limitations such as fuel throughput should also be covered by the emergency provisions in Rule 3002 (g). Also, paragraph (g)(1) should include language that requires a facility to retain records for no more than two years.

Response: 40 CFR Part 70 only allows these emergency provisions for technology-based limitations. Consistent with 40 CFR Part 70, Rule 3004(a)(4)(E) requires all records to be kept for five years.

3. **Comment:** Rule 3002 (a) restricts the construction of equipment without first obtaining a Title V permit. However, Title V facilities should be able to initiate the construction of non-emitting structural and utility service hook-up facilities prior to obtaining a P/C. Rule 3000 needs to contain a definition of "construction" to explain this situation.

Response: Current EPA policy, based on 40 CFR Part 51, Section 51.165 (a)(1)(v), does not allow this type of construction to occur without first obtaining a permit for all facilities, not just those affected by Title V. EPA is considering amendments to the law which could change this situation. If EPA promulgates amended regulations, the AQMD could implement it by defining the term "construction" in Rule 102.

4. **Comment:** Rule 3002 (c)(2) says that non-compliance with a permit condition is a violation of the Clean Air Act, but this is only true if the permit term is federally enforceable.

Response: Staff agrees and has amended the paragraph.

Proposed Amended Rule 3003

1. **Comment:** The proposed language in Rule 3003 (a)(4) allows a Title V facility to amend their initial application if a P/C or P/O is issued at least 30 days or more before the proposed permit is issued. In addition, the proposed language in Rule 3002 (a)(3-4) allows a Title V facility to construct, modify, relocate, or operate the P/C or P/O without first obtaining or revising a Title V permit. The proposed language in these rules makes a Title V facility vulnerable to a citizen suit because the facility would be operating the P/C or P/O without a current Title V permit and without an application shield.

Response: Staff believes that the proposed rule language is consistent with EPA's guidance about the procedures for incorporating changes such as new P/Cs and P/Os into a Title V application before final permit issuance. That is, a timely and complete initial application that is submitted to the AQMD and receives an application shield, and is later supplemented with additional information such as an application for a P/C or P/O, the facility's initial application including the supplemental information is still covered by the application shield. For non-Title V permits issued too late to incorporate into the initial application, Rule 3002 (a)(3) allows operation without a Title V permit. This has the same effect as an application shield. A citizen and EPA can only enforce the requirements of Regulation XXX.

2. **Comment:** Rule 3003 (a)(1)(A) should explain what document, if it isn't the TGD, will govern the Title V application format and forms.

Response: Subdivision (b) of Rule 3003 is the more appropriate place to specify application content. Because AQMD has prepared Title V-specific forms for applying for a Title V permit, it is sufficient to just refer to those forms.

3. **Comment:** The language in Rule 3003 (a)(7) needs to be clarified to explain that it applies to Title III major sources only.

Response: Staff agrees and has changed the language to refer to the definition of "major source" in 40 CFR Part 70, Section 70.2.

4. **Comment:** Rule 3003 (n) needs to also explain the applicant's options when the AQMD fails to take action on a Title V application within the designated timeline.

Response: If the applicant filed a timely and complete application for an initial or renewal Title V permit, the facility will be protected by the application shield from enforcement of the requirement to have a permit even if the Executive Officer fails to take action in a timely manner. In addition, under state law the applicant has the right to seek a writ of mandate (Code of Civil Procedure §1085) to compel action on the permit application. Finally, under AQMD rules the applicant has the option to deem the application denied and seek review by the AQMD Hearing Board.

5. **Comment:** New facilities entering the Title V program should be allowed more than 180 days to apply for a Title V permit. In fact, 40 CFR Part 70, Section 70.5 (a)(1) allows 12 months. Rule 3003 should be changed to match the timeline allowed in 40 CFR Part 70.

Response: According to Rule 3002 (a)(3)(B), new facilities are allowed to operate with non-Title V permits during Phase One of the Title V program. During Phase Two, Rule 3003 (a)(2)(A) requires these new facilities to submit a

Title V application within 90 days of the AQMD's notice or by the end of 3 1/2 years after the effective date, whichever occurs first. During Phase Two, there is no deadline for a new facility to apply, but the new facility may not be constructed until the Title V permit is issued, because AQMD's Title V and NSR programs are integrated. The 180-day deadline could apply to an existing facility that reports in Phase One, for the first time, the emission of a pollutant that exceeds one of the levels in Rule 3001, Table 1.

6. **Comment:** Determining fees for a Title V application is complicated and could potentially cause some Title V applications that would otherwise be complete, to be deemed incomplete because of incorrect fees. Therefore, the requirement in Rule 3003 (c)(1) referring to the completeness criteria in the TGD should exclude the reference to fees.

Response: The federal Clean Air Act, EPA's 40 CFR Part 70, and AQMD's Rule 301 all require fees to accompany a Title V permit application. Rule 301 is very specific about the amounts required for certain types of Title V applications. AQMD staff is available to help applicants to determine the proper fee prior to filing the application.

7. **Comment:** Rule 3003 (i)(3)(D) inappropriately allows the AQMD an extra 180 days to process a Title V application that requires an Environmental Impact Report (EIR). This rule should be changed to streamline the amount of time allowed to handle this sort of Title V application.

Response: The timeframe allowing an extra 180 days for processing time is to accommodate the possibility that the AQMD will be the lead agency on a project that requires an EIR. This provision in the rule does not necessarily mean that the AQMD will automatically take the entire 180 days to process such an application.

8. **Comment:** Currently there is no place in Regulation XXX that explicitly states that the public, affected State, and EPA review periods will occur concurrently. The definition of "proposed permit" in Rule 3000, Rule 3003 (j) & (m), and Rule 3006 need to be amended to explain this intent.

Response: The AQMD agrees with this recommendation and has added clarifying language to Rule 3003 (i)(7).

9. **Comment:** If EPA objects to a final Title V permit, Rule 3003 (k)(2) allows 14 days for the AQMD to notify the applicants of the objection. Fourteen days is much too long to complete a simple notification process and instead, should be reduced to five business days.

Response: Because the objection must be resolved between the AQMD and EPA, this time is necessary to evaluate the objection, discuss any discrepancies,

and negotiate a resolution. However, the AQMD will attempt to notify the applicant sooner than the time allowed whenever practicable.

10. **Comment:** Rule 3003 (k)(3) should be amended to reflect AQMD's intention to petition the EPA on behalf of the applicant if an objection appears to be made in error.

Response: This part of the rule has been amended accordingly.

11. **Comment:** Section 505 (b)(2) of the federal Clean Air Act requires EPA to respond to public petitions within 60 days of receipt. Rule 3003 (l)(3) should be amended to reflect this requirement.

Response: Although Title V of the federal Clean Air Act is the basis for Regulation XXX, it is the requirements promulgated by EPA in 40 CFR Part 70 that determine the contents and rule language in Regulation XXX. Since this requirement is not reiterated in 40 CFR Part 70, AQMD does not have the authority to add this requirement to Rule 3003 or to require EPA to act within the 60 day timeframe. Regardless of whether this requirement is reiterated in the rule, EPA is still subject to this particular requirement of the federal Clean Air Act.

12. **Comment:** Over what time frame must the emissions from minor permit revisions be accumulated to show they are less than the allowed 5 tpy, and eligible for group processing?

Response: All permit revision applications with collective emissions totaling less than 5 tpy and submitted to the AQMD within 90 days of receipt of the first complete application in the series can be grouped. Another series of applications comprising a new group, and with an additional 5 tpy of emissions, may be submitted and processed within another 90-day window.

13. **Comment:** Title V facilities should not be prohibited by Rule 3003 (i)(6)(B) from requesting a group change.

Response: 40 CFR Part 70 and Rule 3003 (i)(6) require AQMD to issue 1/3 of the total Phase One Title V permits in each of the first three years. AQMD cannot meet this requirement if facilities are allowed to request group changes.

14. **Comment:** Comments from EPA, affected States, or the public received by AQMD regarding a proposed permit should be provided immediately to the facility.

Response: 40 CFR Part 70 does not require this. However, during the evaluation of comments and resolution of pending issues within the permit, whenever feasible and appropriate, AQMD staff will keep the facility informed of

relevant comments and any additional changes that may need to be made to the proposed permit.

15. **Comment:** The proposed amendments to Regulation XXX need to include language that addresses potential compliance problems (SIP-gap) that all Title V facilities will face when two versions of the same rule are in effect during the term of a Title V permit. This rule change is necessary especially in the event where there is a rule relaxation involved, such that there is one older, federally enforceable version of a rule and one newer, locally enforceable, less stringent version in effect. When a portion of a Title V permit is affected by a rule relaxation, only the unaffected part of the permit should be issued. The permit should also contain a permit shield to protect the facility from having to comply with the more stringent (and federally enforceable) version of the rule. Then, upon SIP-approval of the rule relaxation, the previously delayed portion of the permit can be issued.

Since the EPA's SIP-approval process already has a public review process built-in, the mechanism to add the delayed portion of the permit into the main permit should not be required to undergo another public or EPA review via the significant permit revision track. Otherwise, significant review of changes to Title V permits caused by SIP-approvals will be never-ending to the point of creating an onerous permit revision backlog. (See definition of applicable requirements in Rule 3000 [b][4])

Response: According to EPA's White Paper No. 2, the AQMD is authorized, and intends to, delay the issuance of portions of a Title V permit for any locally-approved rule that is awaiting EPA approval into the SIP. However, the delay is only warranted when the rule is considered a relaxation and the facility proposes in its permit application that the permit should be based on the local rule until EPA approves the relaxation into the SIP.

AQMD has prepared a list of rules that represent relaxations from previous SIP-approved versions. AQMD and EPA have agreed to prepare a plan regarding the timing and review of the pending rules that represent relaxations within one year of the program's effective date. For rules that will be listed in this agreement, the AQMD will then be authorized to delay issuance of the portion of the permit affected by the pending rule until it becomes SIP-approved. However, the portions of the Title V permit which are delayed because of awaiting EPA approval of applicable rules into the SIP will continue to be subject to AQMD permit requirements.

For locally-approved rules that are more or equally stringent as the SIP-approved version, the AQMD will issue the Title V permit with the locally-approved rule. The procedures for handling this type of permitting will be included in the upcoming version of the Technical Guidance Document.

16. **Comment:** The compliance certification language that is referred to in Rule 3003 (c)(7) and Rule 3004 (a)(12) should be no more stringent than what is required by 40 CFR Part 70 and EPA's White Papers. It is unreasonable to expect the responsible official to have personal knowledge of the information in the package and to certify every Title V related document submitted to the AQMD.

Response: The rule language pertaining to the responsible official's compliance certification is no more stringent than 40 CFR Part 70.

17. **Comment:** Title V facilities should be able to receive protection similar to that provided by a federal AOC pursuant to Rule 518.2 under Rule 3003 (i)(1) for sources emitting HAPs that are regulated by Section 112 of the federal Clean Air Act.

Response: Rule 518.2 (c)(2) is very specific about the circumstances under which federal AOCs applies. Both variances and federal AOCs are restricted from protecting facilities from having to comply with federally promulgated requirements such as Section 112 of the federal Clean Air Act.

18. **Comment:** The 180-day application processing timeline for de minimis significant permit revisions is too long, considering that any increase in HAP emissions would trigger the de minimis track.

Response: Of all the procedures and timelines for processing non-Title V applications, the de minimis track is the one that most closely mirrors the AQMD's current permitting schedules. A non-Title V application with any increase in HAPs would automatically fall under the 180-day processing because of necessary calculations to determine compliance for emitting HAPs. Staff's proposal of 180-days is consistent with current evaluation timelines for permit actions that involve the alteration of existing equipment or permit conditions that increase facility emissions and necessitate a determination of BACT, air quality impacts, and emission offsets.

19. **Comment:** Rule 3003 (i)(4) should have additional language that requires the applicant to review the proposed permit prior to any public, affected State, and EPA review.

Response: Although 40 CFR Part 70 and Regulation XXX do not require this, AQMD staff intends to provide proposed permits to facilities for review.

20. **Comment:** For EPA to terminate, revoke, or revise a permit by adding conditions to a P/C pursuant to Rule 3003 (l)(4) after construction has begun is unfair and could be financially catastrophic to a Title V facility. Instead, no permit should be issued until all possible objections are addressed.

Response: Subdivision (l) of Rule 3003 is directly from the requirements in 40 CFR Part 70 and contains strict criteria in order for the public to object to a permit after its issuance. Because of this, staff doesn't anticipate many permit actions of this nature. Instead, staff believes that the public participation procedures for reviewing and commenting on a proposed permit are thorough and should adequately address the public's concerns prior to final permit issuance.

21. **Comment:** The application shield provisions should be extended to amendments made to a Title V application for any addition or modification that would be issued a permit 30 days prior to the issuance of the draft Title V permit, in accordance with Rule 3003 (a)(4).

Response: Non-Title V permits are expressly authorized by proposed amendments in Rule 3002 (a)(3) for facility changes applied for before a facility's initial Title V permit is issued. Therefore, an application shield from the requirements of Rule 3002 (a) is not required for this equipment.

22. **Comment:** Rule 3003 (i)(1) should also require that a facility submit a compliance plan and schedule for any non-compliance in order to be granted a permit.

Response: Staff agrees and has amended the paragraph.

23. **Comment:** As proposed in paragraph (i)(7), the Executive Officer should not commence public notice and review of Title V documents even if there is no request by the public. The public, upon receiving all required notifications and other related information, should, by itself, decide if it is willing to submit review and comments.

Response: Paragraph (i)(7) means that if an application is required to have a public or affected State notice, to shorten the overall review time needed to evaluate the application, the Executive Officer will attempt to coordinate the publishing of the notices for the appropriate review periods near or about the same time. The notice mentioned in this paragraph refers to the notice of intent to issue a Title V permit and not to a notice to hold a public hearing.

24. **Comment:** AQMD staff's interpretation of the rule language proposed in paragraph (n)(2) (see page 13 in the staff report) that "permits cannot be issued without undergoing public review" incorrectly assumes that the public is willing to provide comments and is unsatisfied with the proposed permit.

Response: The staff report has been revised to say that the permits can't be issued without the opportunity for public review.

Proposed Amended Rule 3004

1. **Comment:** The proposed changes to Rule 3004 (h) seem to require certain Rule 219-exempt equipment to be permitted and later subject to permit revision requirements if changes are proposed. If this is the case, then the exemption under Rule 219 is meaningless for Title V facilities. The way this portion of the rule is written, it is unclear as to the AQMD's intent to handle such equipment, and therefore, needs further clarification. If, in fact, it is only necessary to periodically update Rule 219-exempt equipment in a Title V permit, Title V facilities could update their exempt equipment listing in their permits at the time of submitting annual compliance certifications instead of triggering a full-blown permit revision.

Response: In order to obtain full EPA approval, AQMD must include all equipment that has source-specific regulatory requirements, regardless if the equipment is listed in Rule 219. However, Rule 219-exempt equipment will be listed in a separate part of the Title V permit, will only be generically described by equipment category, will not have to have a P/C, and will not be charged permit fees.

RECLAIM facilities are already required to annually update their permits with the most recent exempt equipment listing at the time of filing Annual Permit Emissions Program (APEP) reports. In addition, all Title V facilities will be required to update this listing at the time of filing a permit renewal application. Facilities revising their Title V permits, for other reasons than updating the exempt equipment list, may provide an updated list in the permit revision application. For these reasons, staff does not anticipate a need for non-RECLAIM facilities to annually update their Rule 219 equipment listing.

2. **Comment:** The requirement that all documents required by a Title V permit or Regulation XXX must be certified by a responsible official as proposed in Rule 3004 (a)(12) is too broad and should, instead, be limited to application forms, compliance plans, and annual compliance certifications only.

Response: The following citations in 40 CFR Part 70 support the proposed rule language as it is written: Section 70.5 (c)(9) and (d), Section 70.6 (a)(3)(iii)(A) and (c)(1), and Section 70.7 (e)(2)(ii)(C) and (e)(3)(ii)(C).

3. **Comment:** For equipment that is later determined not to qualify for a general permit after being approved for a general permit as stated in Rule 3004 (e)(8), the AQMD should be required to notify the facility of this determination, and the Title V facility should be allowed to submit a "regular" Title V application in accordance with the timelines in Rule 3003 (a) and (c).

Response: EPA is requiring language in Rule 3004 to make the facility subject to enforcement action for operating without a Title V permit, consistent with 40 CFR Part 70, Section 70.6 (d)(1), if the facility is found to not be eligible for the

general permit. There is no grace period to allow time for submittal of a new Title V application.

4. **Comment:** The requirement for public, affected State and EPA review of a permit renewal as proposed in Rule 3004 (f)(6) should be removed if there are no changes in operations at a Title V facility and no change in applicable requirements.

Response: Regardless of whether or not there are any changes that need to be made to a Title V permit at the time of permit renewal, 40 CFR Part 70, Section 70.7 (a)(ii), (iii) and (v) require public, affected State and EPA review. The proposed language is consistent with these requirements.

5. **Comment:** Because some research operations take more than one year to complete, the phrase "for a duration of one year or less" should be deleted from Rule 3004 (h)(2).

Response: Staff agrees and has deleted the language. Rule 441 requires that the permit duration be limited, but it could be for more than one year.

6. **Comment:** Rule 3004 (a)(5) requires "prompt reporting" of monitoring data. The term "prompt" is too broad, subject to interpretation that could vary between AQMD permitting staff, and should be further defined.

Response: Title V gives the AQMD authority to define "prompt" but it will not be defined in the rule. Instead, an implementation policy will be developed for permitting staff to assure consistent implementation in Title V permits.

7. **Comment:** Rule 3004 (a)(5) contains a requirement to report deviations from permit requirements. The AQMD should develop and include in Volume II of the TGD (Title V application form package) a standard deviation report form. In addition, a deviation report should only be required for breakdowns reported in accordance with Rule 430 or Rule 2004 and emission violations measured by a continuous emissions monitoring system (CEMS) required by Rule 218.

Response: To address upcoming compliance issues after Title V permits have been issued, AQMD staff will be preparing compliance forms, including a deviation report. Also, a deviation is not restricted to a breakdown or an exceedance measured by a CEMS. In fact, a deviation can occur from non-compliance with any requirement on a Title V permit.

8. **Comment:** Rule 3004 (a)(9) should be clarified to explain that emissions trading among facilities is not forbidden.

Response: This portion of the rule neither limits nor allows trading among facilities. Subdivision (b) of Rule 3004 assures that RECLAIM facilities will continue to be able to trade emissions in accordance with Regulation XX.

9. **Comment:** When referring to a temporary source in Rule 3004 (d)(2) and Rule 3000 (b)(29), all uses of the term "site" should be replaced with the term "location."

Response: AQMD staff agrees with this recommendation and has corrected the rule language accordingly.

10. **Comment:** Will solid waste incinerator units subject to Rule 3004 (f)(2) have to file an application and pay fees for the five-year review?

Response: Regulation XXX does not require a solid waste incinerator facility to either submit an application or pay application fees for the five year permit review. The Title V Technical Guidance Document will be updated later to describe the procedures pertaining to this type of review.

11. **Comment:** The provision in Rule 3004 (f)(4) is good and necessary to protect facilities from enforcement action if the AQMD doesn't issue or renew the current Title V permit before it expires.

Response: The AQMD agrees with this comment.

12. **Comment:** The requirement in Rule 3004 (c)(1)(C)(ii) for a facility to provide the "reason that a permit shield is sought" should be clarified. It could result in superfluous or inappropriate responses. Isn't AQMD really after the rationale for each requirement determined not to be applicable?

Response: Knowing the rationale for requesting a permit shield may be helpful to clarify the intent of a facility, but it might not be correct or consistent with the criteria used for determining the approvability of a permit shield request. This is why AQMD staff prefers to have the facility simply provide the reason(s) why it is requesting a permit shield so that the engineer reviewing the request can better understand what the facility's concerns are.

13. **Comment:** Temporary sources (portable equipment) should not be required to be listed on a Title V permit if the portable equipment has either valid AQMD permits or state registrations.

Response: Staff has included limited exemptions in Rule 3004 (h), to the extent allowed by federal and state law. See the explanation of the proposed amendments in the staff report. Also, see EPA comment 4.

14. **Comment:** The previously proposed requirement in Rule 3004 (a)(13) for Title V facility operators to keep records of all temporary sources operating under a non-Title V permit or registration at the host facility will increase the Title V permitting burdens of monitoring, recordkeeping, and certification. There will also be a substantial cost impact incurred to monitor and certify the operations of visiting temporary sources. This language should be deleted. Instead, to alleviate these unnecessary burdens, the AQMD should require the operator of the temporary source to directly submit reports and certifications pertaining to visits made to Title V facilities to the AQMD.

Response: That particular paragraph has been deleted. However, stationary Title V facilities are still obligated to comply with Title V requirements, including recordkeeping, reporting and certification, for portable equipment operating at their facility that are not exempted by paragraph (h)(5) or other provisions of subdivision (h) of Rule 3004.

15. **Comment:** The term "temporary source" is mentioned several times throughout Regulation XXX with each reference contradicting the other. Rule 3004 (d)(2) describes a temporary source as equipment that doesn't operate at any one location or facility for more than 12 consecutive months. Yet, Rule 3004 (h)(1) describes a temporary source as portable equipment and Rule 3000 (b)(29) says the temporary source can be considered its own facility that operates at multiple temporary locations.

Response: All equipment operated together at the same location is defined by EPA's terms "stationary source" and "temporary source." AQMD also uses the term "facility" to refer to both stationary and temporary sources. "Temporary sources" is also used synonymously with "portable equipment."

16. **Comment:** CARB's Statewide Portable Equipment Registration Program and AQMD's Regulation XIII make a distinction between portable equipment and portable engines but Rules 3000 and 3004 (h)(1) do not. Both rules need to be changed to include both portable engines and portable equipment.

Response: Rule 3004 does not need to differentiate between portable engines and other portable equipment. The terms "temporary source" and "portable equipment" include both portable engines and other portable equipment.

17. **Comment:** Subdivision (g) of Rule 3004 is too broad and may be interpreted to say that all Title V permit terms and conditions are federally enforceable. Instead, this part should say, "...all terms and conditions that are specifically designated as federal requirements in a Title V permit..."

Response: To eliminate any potential confusion regarding which portions of the permit are federally enforceable, subdivision (g) of Rule 3004 has been changed to include the phrase, "unless the term or condition is designated as not

federally enforceable." AQMD will identify in the permit which terms and conditions are federally enforceable and which are not.

18. **Comment:** Industry supports the AQMD staff in working with EPA to determine a low-cost procedure to remove portable equipment from the Title V permitting system. However, temporary sources such as portable engines could theoretically exceed the potential to emit applicability threshold for NOx emissions, depending on their hourly operations. Unless an annual operating limit for each engine can be federally enforced, a Title V permit will have to be obtained for each engine. The permitting fees for this type of equipment could be substantial.

Response: If a portable engine has large enough actual emissions to earn its own Title V permit in Phase One, the fee would be \$786.50 for each temporary source permit. However, each source can request a facility-wide emission cap through a locally enforceable permit to remain out of Title V in either Phase One or Phase Two.

19. **Comment:** The requirement under Rule 3004 (d)(3) for the facility to give the AQMD 10 calendar days advance notice of location changes of temporary sources is burdensome, and, in emergencies, cannot be complied with. Therefore, it is imperative to limit the potential to emit of temporary sources so that they can stay out of Title V and avoid having to comply with this noticing requirement.

Response: The 10-day noticing requirement in Rule 3004 (d)(3) is consistent with the requirement in 40 CFR Part 70, Section 70.6 (e)(2). Also, see response to comment 18.

20. **Comment:** Rule 3004 (d)(1) seems to restrict temporary sources operating at acid rain facilities from obtaining a separate temporary source permit.

Response: This provision does not restrict temporary sources with individual permits (either by temporary source permitting or by statewide registration) from visiting and operating at an acid rain facility.

21. **Comment:** Rule 3004 (e)(2)(B) seems to require emission limits to be added to a general permit. However, diesel-fired portable internal combustion engines are not required to have emission limits on their permits. In this example, it is unclear if an emission limit would be added to the permit.

Response: The general permit must include emission limits only if there are regulatory requirements placing emission limits on the equipment.

22. **Comment:** Monitoring, recordkeeping and reporting requirements to ensure compliance with an emissions cap need to be simple and streamlined - especially

PROPOSED AMENDED REGULATION XXX AND RULE 212

for those facilities that wish to assume a cap to avoid Title V permitting requirements.

Response: See responses to comments 2 and 6 for Proposed Amended Rule 3001.

23. **Comment:** The following language should be added to the end of Rule 3004 (a)(7)(A): "or in an AOC imposed pursuant to Rule 518.2"

Response: Staff agrees this is an appropriate amendment.

24. **Comment:** Rule 3004 (h)(3) incorrectly specifies that non-road engines manufactured on or after July 18, 1994 should not be listed on a Title V permit. Instead, the cut-off date needs to be changed to January 1, 1990 in accordance with the changes made to the statewide registration program.

Response: CARB is interpreting the cutoff date to be on or after November 15, 1990. Staff has changed the rule language accordingly.

25. **Comment:** Rule 3004 (h) should be changed to exclude non-major temporary sources from Title V consideration.

Response: See response to comment 13 and EPA comment 4.

26. **Comment:** Rule 3004 (a)(4)(A) doesn't explain how a test method is chosen and whether or not it has to be approved in the SIP in order to comply with the monitoring, reporting and recordkeeping requirements. For clarification, a definition of "test methods" needs to be added to Rule 3000 to allow AQMD's Source Test Manual, test procedures in the NSPS, NESHAP or AQMD Rules and Regulations to satisfy this part.

Response: Regardless of whether a rule is approved into the SIP, Rule 3004 (a)(4)(A) requires that a test method specified in a rule shall be included in the permit. For rules that do not specify a test method, AQMD staff will put an appropriate test method into the permit. AQMD doesn't believe that a definition of test method is necessary.

27. **Comment:** The Title V Ad Hoc Committee has sent a letter to EPA objecting to making a Title V facility responsible for contractor emissions and certifications.

Response: Staff is aware of this ~~and has, but must deferred~~ to EPA for a resolution. Up to this time, EPA has said that Title V facility operators are responsible for portable equipment operated at their facility by a contractor (unless the equipment is exempt for other reasons by Rule 3004 [(h)].)

PROPOSED AMENDED REGULATION XXX AND RULE 212

28. **Comment:** What is the status of the effort to develop criteria for periodic monitoring?

Response: Staff has been is-working on draft criteria and a version was for released to the public for review at by the end of August, 1997. Staff has invited industry to submit recommended criteria and is in the process of producing another draft for release to the public by the end of December, 1997; although none has yet been received

29. **Comment:** Are Group A facilities required to include information regarding portable equipment in their Title V applications due July 28, 1997?

Response: No, but these facilities will be asked to supplement their Title V application with this information at a later date.

30. **Comment:** Is there a difference between the use of the words "...listed on a Title V permit..." in Rule 3004 (h) and "...included in the Title V permit..." in Rule 3004 (i)?

Response: No, but the rule has been revised to use the same terms.

31. **Comment:** Proposed paragraph (i)(3) of Rule 3004 says that portable equipment subject only to generic requirements does not have to be included in the Title V permit, but the generic requirements must say they apply to the portable equipment. Does a facility have to certify to compliance for the portable equipment? Is the equipment subject to periodic monitoring?

Response: The facility would have to certify to compliance with the generic requirements for the portable equipment. Periodic monitoring may or may not be required depending on the nature of the equipment. If it is required, it will be specified in the permit. (The requirement in question has been moved to subparagraph [h][5][BG].)

32. **Comment:** If an engine has a permit or registration that says it is a Part 89 non-road engine, and the Title V facility has a copy of that permit, would the Title V facility need any additional evidence that the engine is a non-road engine?

Response: No additional evidence would be required.

33. **Comment:** Rule 3004 (d)(2) should not limit a temporary source to operating at a stationary facility for 12 months or less. It is not consistent with the definitions in Regulation XIII, Part 89, and Proposed Amended Rule 1110.2 - Emissions from Gaseous- and Liquid-Fueled Internal Combustion Engines.

Response: Paragraphs (a)(7) and (a)(8) of Rule 1304 - (NSR) Exemptions, only allow portable equipment to operate at a facility for up to 12 consecutive

months. Operation for more than 12 consecutive months requires compliance with the same NSR requirements as a stationary facility. Part 89 non-road engines are exempt from Title V.

34. **Comment:** Title V should not apply to ski resorts whose engines are exempted from complying with Rule 1110.2.

Response: The engines require an AQMD permit, are subject to applicable requirements, and may not be excluded from Title V simply because they are not subject to Rule 1110.2.

35. **Comment:** The phrase "routine and predictable" proposed in Rule 3004 (i)(1)(B) used to describe contractor-operated equipment needs to be defined.

Response: The commenter is referring to a previous version of a proposed amendment that was later replaced by a newer version of subparagraph (h)(5)(A) and then removed in accordance with CARB comment 2. Previously proposed subdivision (i) has been replaced with a provision in new paragraph (h)(5)(A) that exempts "non-routine and non-predictable" operations of portable equipment. AQMD is awaiting EPA's and CARB's policy regarding the meaning of "routine and predictable." Once finalized, this policy will be incorporated into the TGD to ensure consistent implementation in AQMD's Title V permits.

36. **Comment:** In Rule 3004 (d)(2) and (d)(5)(C), the term "facility" should not be used to determine if a source is "temporary." The source may operate at different locations at the same stationary facility and still remain temporary.

Response: If a portable major source moves around within a facility, but operates at the same facility for more than 12 consecutive months, it would not be eligible for a temporary source permit. The equipment would have to be issued a Title V permit for that location only, or be included in the Title V permit of the stationary facility. This is consistent with Rule 1304 (a)(7) and (a)(8) NSR provisions.

37. **Comment:** Old paragraph (h)(1) should not be deleted from Rule 3004. AQMD should try to persuade EPA staff to come up with a better way to handle the issue of portable equipment. Further, portable equipment with a permit or registration issued to the same owner as the stationary facility should not necessarily be subject to Title V. Only portable equipment with the same AQMD facility identification number as the stationary Title V facility it visits should be subject to Title V. Otherwise, all portable equipment operating within the county will need a Title V permit even if it doesn't visit a Title V facility.

Response: Portable equipment that aren't major sources and that don't visit a Title V facility will certainly not require a Title V permit. Many other portable equipment will also not require a Title V permit, even if they do visit a Title V

facility. See the staff report for a full explanation. All portable equipment will not require a Title V permit. Also, see EPA comment 4.

38. **Comment:** The latest addition to new paragraph (h)(1) should be excluded or reworded, otherwise many pieces of equipment that are subject to Rule 219 will be required to be included in the Title V permit. For example, motor vehicles, which are excluded from AQMD permitting, are subject to numerous, source-specific regulations, and therefore, may need to be included in the Title V permit.

Response: Most Rule 219-exempt equipment, including motor vehicles, are not subject to source-specific AQMD Rules and Regulations and will not be included in the Title V permit.

39. **Comment:** There exists a conflict between subparagraphs (i)(1)(A) and (i)(1)(B). For example, a contractor or rental yard could provide a facility with a Part 89 non-road engine for "routine and predictable" use. Will this require the Part 89 non-road engine to be added to the permit despite the exemption provided by Part 89?

Response: These previously proposed subparagraphs have been revised and moved to paragraph (h)(5) without the inclusion of the phrase "routine and predictable." Part 89 non-road engines, as described in Rule 3004 (h)(3), will not be listed on a Title V permit regardless of whether or not they are operating in a "routine and predictable" manner. Also, see CARB comment 2.

40. **Comment:** What type of portable equipment would qualify under paragraph (i)(3)? Will Rule 219-exempt gasoline-powered lawnmowers and leaf blowers be listed in the Title V permit along with generic permit conditions and periodic monitoring requirements?

Response: Previously proposed paragraph (i)(3) is now subparagraph (h)(5)(BG). Lawnmowers and leaf blowers used in groundskeeping activities are identified by EPA as trivial activities not subject to Title V. Furthermore, paragraph (h)(1) exempts this equipment from Title V.

41. **Comment:** Rule 3004 (i)(2) requires facilities to maintain copies of state registrations of portable equipment because the registrations will be considered part of the Title V permit. Must facilities annually certify compliance with the requirements in registration permits?

Response: Proposed paragraph (i)(2) has been removed and replaced by language in paragraph (h)(5), until an agreement is reached by EPA. Therefore, Unless the portable equipment is exempted by a provision in Rule 3004 (h), -the facility must certify to compliance with permit terms and conditions. See the discussion of portable equipment in the staff report.

42. **Comment:** Will a Title V permit revision be triggered each time a state-registered piece of equipment is added, removed or modified?

Response: ~~Many portable equipment should be exempt from Title V based on various provisions of Rule 3004 (h). For other portable equipment that operates only temporarily at a Title V facility, AQMD intends to treat it in a generic manner that will not require a permit revision each time portable equipment visits the facility only list general categories of portable equipment in the Title V permit, along with their regulatory requirements, rather than list each item of portable equipment. As long as a stationary facility's Title V permit includes a general category of portable equipment, such as open abrasive blasting, and the portable equipment has a valid AQMD or state permit or registration, it would not matter which or how many abrasive blasting units operate at the Title V facility.~~

43. **Comment:** Does registered equipment need to be included on all stationary facility Title V permits for owners with multiple Title V facilities?

Response: Only facilities where the registered equipment will actually operate ~~at would have to be generically include~~ require the general category of portable equipment to be on their Title V permit ~~(assuming the equipment isn't otherwise exempt by Rule 3004(h)).~~

44. **Comment:** Facilities should not be required to provide "evidence that the engine meets the criteria of paragraph (h)(3)" as required by Rule 3004 (i)(5) for Part 89 non-road engines. The contractor or rental yard should have already provided evidence upon receipt of the permit for these engines.

Response: Although previously proposed paragraph (i)(5) has been deleted from the rule, there is a general obligation for a Title V facility to comply with all regulatory requirements. If a contractor operates an engine at a Title V facility that is not a Part 89, non-road engine, the Title V facility could be responsible liable for operating without a permit and violating other Title V requirements. Accordingly, it would be prudent to ask for a copy of the contractor's permit, or other evidence, and keep a record of it.

Proposed Amended Rule 3005

1. **Comment:** If you are going to define the meaning of a "Title I modification" in Rule 3005 (k)(3), it should match EPA guidance that defines modifications that are considered to be subject to either major or minor NSR requirements. For this district, a Title I modification can be subject to local NSR requirements, pursuant to AQMD's Regulation XIII, as well as the federal requirements for PSD permits.

Response: Title I encompasses a multitude of requirements, specifically, AQMD's NSR program, and federal NSPS, NESHAP, and PSD requirements.

Staff agrees with the commenter that the current rule language needs to specify these individual requirements. However the requirements are now in subparagraph (i)(1)(C) of Rule 3005.

2. **Comment:** To update a Title V permit to reflect changes resulting from the adoption of rule amendments, requires a significant permit revision. To avert the significant permit revision process but still satisfy the public notice at the time of rule adoption, the AQMD should instead publish a list of all affected facilities in the public notice of the amended rule and then use the administrative permit revision process to update the Title V permits.

Response: AQMD staff has begun negotiating with EPA for this type of process. EPA says changes to the permit revision process in the rule are dependent upon EPA's promulgation of amendments to 40 CFR Part 70 expected in 1997. However, based on paragraph (g)(4) of Proposed Amended Rule 3005, some rule changes could be processed without going through the significant revision process. Take, for example, a rule amendment that only delayed a future compliance date from 1999 to 2002. It could qualify for a minor permit revision because it would not fall under any of the exclusions in Rule 3000 (b)(12). On the other hand, a rule amendment that significantly changed monitoring requirements could not qualify for a minor permit revision.

3. **Comment:** Regulation XXX does not address how the proposed Intercredit Trading (ICT) Program will operate under Title V.

Response: The ICT program is not yet a rule. However, Regulation XXX can be reopened later to address ICT requirements if the program is adopted.

4. **Comment:** To avoid exhausting the amount of emissions allowed under the de minimis significant revision track, a facility proposing a permit revision should be able to opt to use the significant permit revision track instead.

Response: Just because a permit revision meets the criteria to use less stringent procedures, nothing in Regulation XXX would prevent a Title V facility from utilizing another, more stringent revision track.

5. **Comment:** New subparagraph (e)(2)(A) of Rule 3005 incorrectly refers to the minor permit revision process instead of the de minimis significant permit revision procedures. Also, clause (e)(2)(A)(iii) is misnumbered.

Response: Staff agrees; and these corrections have been made.

6. **Comment:** Rule 3005 (g) and (h) should contain a requirement for the AQMD to notify facilities within five business days of a permit reopening.

PROPOSED AMENDED REGULATION XXX AND RULE 212

Response: Consistent with 40 CFR Part 70, Rule 3005 (g)(5) already requires AQMD to notify the facility at least 30 days prior to reopening the permit. Neither 40 CFR Part 70 nor Regulation XXX require a notice to the facility if EPA reopens the permit.

7. **Comment:** With all the restrictions in subdivisions (i) and (k) of Rule 3005, there is little a facility can do under operational flexibility without going through a permit revision.

Response: Staff agrees that the operational flexibility provisions are very limited.

8. **Comment:** The response to Rule 3005, comment 3 states that Regulation XXX can be reopened later to address ICT, but we understand that an alternative operating scenario (AOS) is a mechanism by which ICT could be used now.

Response: An AOS could be used for ICT once the rule and protocols are developed, adopted and approved into the SIP.

9. **Comment:** What permit revision mechanism would be used for an application that needs to contain a demonstration of compliance with new air toxics emissions requirements in Rules 1401 and 1402?

Response: Depending on the amount of toxics involved, the application could follow either the de minimis significant or significant permit revision track.

10. **Comment:** If a facility chooses to use the significant track for an application with an emissions increase that would otherwise qualify as a de minimis significant permit revision, will the emissions increase be attributed to the de minimis track?

Response: No, the emissions will be attributed to the significant track instead. In other words, the facility could still have future applications proposing emission increases to go through the de minimis track.

Proposed Amended Rule 3006

1. **Comment:** Rule 3006 (a)(1)(B)(ii) should be changed to allow the facility's contact person, not the responsible official, to be identified in the public notice. Likewise, Rule 3006 (a)(1)(F) should be changed to require the person requesting a proposed permit hearing to send a copy of the request to the facility's contact person, instead of the responsible official.

Response: Staff is in agreement with these recommendations and has made the requested changes.

PROPOSED AMENDED REGULATION XXX AND RULE 212

2. **Comment:** Rule 3006 (a)(1)(F)(i-vi) lists all of the information that is required in a request for a proposed permit hearing. This part should be clarified to read as follows: "A complete request for a proposed permit hearing shall include all of the following information."

Response: Staff agrees and has added the recommended language.

3. **Comment:** Facilities should be allowed to opt out of a combined permit hearing if they choose.

Response: Staff agrees and has accordingly added subparagraph (a)(1)(H) to Rule 3006.

4. **Comment:** We are concerned that extending the time for the public to request a permit hearing from 10 days to 15 days may delay the permitting process.

Response: The public deserves sufficient time to review a Title V permit and request a permit hearing. Because of the concurrent public and EPA review, the process should be shorter with the proposed amendments.

5. **Comment:** The Title V Ad Hoc Committee strongly believes that the Executive Officer should not have the discretion to schedule a public hearing without a valid public request when in the "...best public interest...".

Response: Staff has withdrawn the previously proposed language in subparagraph (a)(1)(G) pertaining to this discretion.

Proposed Amended Rule 212

1. **Comment:** Facilities subject to public notification under paragraph (c)(2) of Rule 212 should be required to distribute the public notice to each address within 1/4-mile radius from the facility boundary and not from the source.

Response: Even though subdivision (d) of Rule 212 specifies the 1/4-mile distribution radius is to be measured from the source and not from the facility boundary, this subdivision includes language which allows the Executive Officer to require the facility to distribute the public notifications to other areas if he determines there are health impacts from the source. Therefore, no change to the rule is required.

2. **Comment:** California Health and Safety Code, Section 42301.6 requires facilities with a source located within 1,000 feet of a school provide public notification to parents of children in any school located within 1/4-mile from the source and not from the facility boundary. For notifications performed pursuant to

paragraph (c)(1), the word "facility" should be changed to "source" in subdivision (d) of Rule 212.

Response: This section of the rule applies to sources near a school where children are more vulnerable to the health impact from these sources. AQMD's rule is more stringent than the state law since it requires the facilities to distribute public notices to a wider area. Therefore, the distribution radius is to be measured from the facility boundary and not from the source. No change to the rule is necessary.

3. **Comment:** The California Health and Safety Code Section 42301.6 referenced in paragraph (c)(1) of Rule 212 describes a significant project as a "source" or a specific piece of equipment. Meanwhile, subdivision (d) describes the notification requirements for a "facility" or site boundary. Because of the term "facility," large facilities with sources far from the property boundary will be required to provide notification of insignificant impacts. The term "facility" should be replaced with "source" to prevent unnecessary noticing.

Response: See response to comment 2.

4. **Comment:** The proposed language in clauses (c)(2)(A)(i) and (c)(2)(A)(ii) of Rule 212 is unclear as to whether the cancer risk is determined on an individual source or facility-wide basis.

Response: According to clauses (c)(2)(A)(i) and (c)(2)(A)(ii), a facility will be exempt from public notification, if the total facility-wide cancer risk is below 10×10^{-6} or the individual cancer risk is below 1×10^{-6} . For example, for facilities with a single permitted unit (a source under Regulation XX, or equipment under Regulation XXX), the total facility-wide cancer risk is the same as the individual cancer risk. Therefore, the facility has to demonstrate that the total cancer risk of the permit unit, source, or equipment is below 10×10^{-6} to avoid the public notification requirement. For facilities with more than one permitted unit, source, or equipment, the facility has an option to demonstrate that either the increased cancer risk of the individual permit unit is below 1×10^{-6} or the total facility-wide cancer risk (for all sources within the facility) is below 10×10^{-6} in order to be relieved from the public notification requirement.

5. **Comment:** The deletion of the phrase "or designee" throughout the rule places an undue burden on the Executive Officer which could lead to delays or inaction on AQMD permitting activities.

Response: The words "or designee" are part of the definition of "Executive Officer" in Rule 102 and do not need to be repeated. The deletion of every occurrence of "or designee" from this rule in no way shifts the burden solely to the Executive Officer.

6. **Comment:** For facilities subject to both Rule 212 and Rule 3006, language should be added to paragraph (c)(1) of Rule 212 to coordinate the public notification process with the notification required by Title V.

Response: The public notification process, pursuant to Rule 212, does not share common requirements or procedures with Rule 3006. Rule 212 addresses both local and federal notification procedures, while Rule 3006 addresses only federal requirements. For example, the local procedures in Rule 212 require a door to door notification if there is a school located within 1000 feet of a facility's new construction or modification and if a risk analysis determines that there is an increase in emissions of toxic air contaminants that meets the criteria in paragraph (c)(2). Meanwhile, Rule 3006 does not contain any local noticing requirements at all.

Rule 212's federal notification procedures are handled through a newspaper and are applicable to a facility if the criteria in subdivision (g) is met. Again, the criteria for triggering federal notification requirements under Rule 212 is not the same as the federally enforceable criteria for public participation and notification procedures under Regulation XXX. For example, a Title V facility subject to both a door to door notification pursuant to Rule 212 and a notification pursuant to Regulation XXX will be required to conduct both notifications separately. However, if the equipment listed in a Title V permit is subject to federal notification requirements (in a newspaper) pursuant to Rule 212 and Regulation XXX, both notifications may be combined provided that all other public notice requirements are satisfied.

7. **Comment:** The word "and" that originally linked paragraphs (c)(1) and (c)(2) appears to have been deleted. Now, the rule language is not clear as to whether a significant project shall meet either or both requirements in paragraphs (c)(1) and (c)(2).

Response: A project is significant if it meets either requirement in paragraphs (c)(1) and (c)(2). Therefore, the word "or" has been added to the end of paragraph (c)(1).

8. **Comment:** Subdivision (d) requires the applicant to distribute a public notice to each address within 1/4-mile radius of the project. However, for certain facilities, the 1/4-mile radius from the project falls within the boundary of the facility such that no notices would be sent out. Instead, the public notice should be mailed to each address located within 1/4-mile radius from the facility.

Response: See response to comment 1.

9. **Comment:** The rule language in subdivision (d) should be revised to require distribution of notices to parents or legal guardians of children.

Response: AQMD staff agrees with this suggestion and has added the phrase "legal guardians" to subdivision (d).

10. **Comment:** The intent of the phrase "sources under Regulation XX, or equipment under Regulation XXX" in paragraph (c)(2) is unclear.

Response: The purpose of this phrase is to make the distinction that a permit unit is referred to differently in Regulation XX and Regulation XXX. That is, Regulation XX refers to a permit unit as a "source" and Regulation XXX refers to a permit unit as "equipment." Since Rule 212 is meant to apply all permit units, for clarity purposes, the aliases referenced in Regulation XX and Regulation XXX have been included in the rule language.

11. **Comment:** To avoid duplicative noticing, subdivision (h) needs to clearly state that the Executive Officer may combine public notices for the same facility.

Response: According to subdivision (h), the Executive Officer may combine any types of public notices for the same facility to avoid duplication, provided that all public notice requirements are satisfied. This includes public notices required by Rule 212 and Regulation XXX. Therefore, no change to the rule is required.

12. **Comment:** We believe that the proposed amendments to Rule 212 that will require notifications for facilities are overbroad and not consistent with current SCAQMD Rules 1401 and 1402. In our view, notification should only be required for new or modified facilities where there would be an increase greater than 1×10^{-6} . The current proposal would require notification whenever there is an insignificant increase in toxic emissions where the facility-wide health risk is greater than 10×10^{-6} . We do not believe that that is consistent with Rule 1402.

Response: A facility installing or modifying equipment, that has an increase in risk at level less than 1×10^{-6} , is not subject to public notification requirements under Rule 212, even if the facility-wide cancer risk is greater than 10×10^{-6} , unless the equipment is located within 1000 feet of a school. For facilities with multiple permit units, if the risk associated with the new or modified equipment is greater than 1×10^{-6} , Rule 212 requires the facility to conduct public notification, unless the facility exercises an option to avoid public notification by demonstrating that the total facility-wide cancer risk (for all sources within the facility, including the proposed source) is below 10×10^{-6} . Rule 212 is not inconsistent with Rules 1401 or 1402 since Rules 1401 and 1402 address the actual control of toxic emissions and not public notification.

13. **Comment:** The definition for "hazardous air emissions" under Rule 212 (c)(1) contradicts the definition of "HAP" in Rule 3000 (b)(11). Further, the lists of compounds in the California Health and Safety Code are not the same as the carcinogenic compounds identified in Rule 1401. AQMD should use a uniform

approach when defining toxic and HAP compounds throughout all related rules and regulations.

Response: This comment is based on an earlier version of the proposed rule and is no longer applicable.

14. **Comment:** Facilities should have the option to not have their public notices and public hearings combined with other facilities.

Response: Rule 212 only deals with public notices, not public hearings. Meanwhile, Rule 3006 addresses both public notices and public hearings. Unless specific circumstances make it necessary, AQMD does not anticipate combining Rule 212 notices for multiple facilities. However, for a facility that is subject to both Rule 212 and Rule 3006 noticing requirements, one notice can be published.

In addition, Volume II of the Title V Technical Guidance Document mentions that a Rule 3006 public notice can be combined for multiple Title V facilities whenever feasible. In the event that there are multiple facilities that are subject to both Rule 212 and Rule 3006, separate public notices can be issued and facilities can opt out of combined public hearings. Also, see responses to comments 6 and 11. For additional discussion regarding combined public hearings under the Title V program, see response to comment 3 for Proposed Amended Rule 3006.

15. **Comment:** The proposed amendments to Rule 212 (c)(1) do not prescribe any method of determining how the risk from a facility would increase or decrease as a result of modification. Rule 212, subdivision (c) reference specific risk assessment guidelines for facilities under Rule 1402 and limit applicability to increases as determined pursuant to AQMD Rule 1401. We believe that clauses (c)(2)(A)(i) and (c)(2)(A)(ii) should both contain a clearer reference to increases under Rule 1401. We recommend inserting "per Rule 1401," after "Regulation XXX" in the two locations that phrase appears.

Response: Rule 212 requires public notification for all new or modified permit units with an increase of emissions of any air contaminant (there is no de minimis level) located within 1000 feet of school. This section does not require any determination of cancer risk due to an increase of the emissions. Therefore, there is no need to specify any procedures to estimate the cancer risk.

With respect to comment regarding clauses (c)(2)(A)(i) and (c)(2)(A)(ii), after a meeting with the commenter, staff believes that the reference to Rule 1401 is satisfactory.

16. **Comment:** The proposed definition of hazardous air emissions does not identify hazardous air emissions as those substances identified in Section 44321 (a) through (f) of Health and Safety Code which must be included by separate rule making.

Response: AQMD had defined hazardous air emissions to include all those substances identified under Section 42301.6 (h)(1) which includes all substances identified as toxic air contaminants by the Air Resources Board which includes all hazardous air pollutants listed in federal Clean Air Act, all substances listed in Rules 1401 and 1402, and all substances identified in subdivisions (a) through (f) of Health and Safety Code Section 44321 (AB2588 toxic compounds) Since the definition of hazardous air emissions is very broad, any equipment located within 1000 feet of a school with an increase in emissions of any air contaminant will be characterized as hazardous air emissions and therefore subject to notification. This reflects the requirement under the current Rule 212, and as a result, AQMD decided to retain the requirement that notification be given for all permit units near schools emitting air contaminants.

17. **Comment:** Rule 212 is an "omnibus" public notice rule that will apply to NSR, Toxic NSR, RECLAIM, and Title V permitting actions. Given that many permit actions will fall under more than one provision, we believe that subdivision (h) of the rule should allow the permit applicant input into combining public notices. We are requesting the Rule 212, subdivision (h) read: "The Executive Officer should consult with the permit applicant before finalizing the public notice and may combine public notices to avoid duplication provided that all required public notice requirements are satisfied."

Response: It is already AQMD's practice to consult with the applicant prior to finalizing a public notice. Staff does not believe it is appropriate to add this to the rule but instead has included the suggested language in the Board Resolution.

18. **Comment:** Rule 212 requires public notification for all new or modified permit units with an increase of emissions of any air contaminant (there is no de minimis level) located within 1000 feet of school. Rule 212 should have some de minimis level so that the equipment with emissions below this de minimis level will not be required to do public notification.

Response: Notification of the public for equipment located within 1000 feet of school is required by Section 42301.6 of the California Health and Safety Code. The state law does not provide any de minimis level for avoiding notification. The law allows exemption from notification only when there is no increase of emissions which is already in the rule.

19. **Comment:** Rule 212 refers to public notification requirements for significant projects. Significant projects should be referred to projects with significant emission levels or toxic health effects. An equipment with low non toxic emissions located within 1000 feet of school should not be considered a significant project. Change the word significant with something less alarming.

Response: AQMD staff believes that there may be some confusion between the CEQA significance level and the notification level for Rule 212, and as a result has agreed to replace the phrase "significant project" with "project requiring notification."

20. **Comment:** The proposed Rule 212 requires public notifications for new or modified equipment emitting carcinogenic substances at certain toxic threshold levels. There is also a provision in the rule that requires public notification for other toxic substances that pose a potential risk of nuisance. Eliminate this requirement from the rule.

Response: The intention of this requirement was to provide the Executive Officer with some flexibility to deal with toxic substances which are either not listed in Rule 1401 or currently unknown and may pose a potential risk. Examples include respiratory irritants such as caustics, acids, and ammonia.

21. **Comment:** Make the information contained in the public notices simple and understandable. The current notices contain unclear and complex information.

Response: AQMD staff agrees with this suggestion and will work to make the public notices simpler and more understandable.

Appendix A: Title V 60% - 80% Demonstration

In accordance with the requirements of EPA, AQMD staff has prepared this demonstration to show that: 1) at least 60 percent of all potential Title V facilities will be required to obtain Title V permits within the first three years of program implementation (Phase One); and 2) the Phase One facilities emit at least 80 percent of the emissions of all Title V facilities.

This demonstration is an update to the one that was submitted to EPA on May 16, 1996 and is based on the proposed amendments to the Phase One applicability criteria in Rule 3001, and on the 1993 inventory of Emissions Fee Billing reports submitted to the AQMD by facilities emitting four tons per year (tpy) or more.

There are 938 facilities that will be subject to the proposed Phase One, Title V, applicability criteria. The number of facilities subject to Phase Two Title V, based on potential to emit is unknown. However, EPA allows an estimate to be made based on the number of facilities that have actual, reported emissions of 50 percent or more of any of the Phase Two applicability criteria. Using this approach, AQMD estimates that 1522 facilities will eventually be subject to Title V. As shown in Table I, 62 percent of the facilities will require Title V permits in Phase One.

Table II shows the results of the emissions demonstration. Column (a) of Table II below reflects the emissions from the 938 Phase One facilities. Column (b) of Table II below reflects the emissions from the 1,522 facilities eventually subject to Title V. Both of these columns reflect adjustments made in response to corrections submitted by facilities listed on the previous Title V universe of sources and validated by AQMD staff. The adjustments include (on a pollutant-by-pollutant basis):

- Deducting the following from 1993 reported emissions:
 - ⇒ Fugitive emissions in accordance with Proposed Amended Rule 3000, subparagraph (b)(24)(A);
 - ⇒ On-road and off-road mobile equipment emissions in accordance with Proposed Amended Rule 3000, subparagraph (b)(25)(B);
 - ⇒ Off-site emissions from permitted portable equipment in accordance with Proposed Amended Rule 3000, subparagraph (b)(25)(C);
- Substituting 1994-5 emissions for facilities that reduced emissions below Title V thresholds due to a permanent reduction after 1992;
- Eliminating facilities, and their emissions, that are no longer in operation.

Table I: Adjusted 60% Demonstration of Title V Facilities for 1993

(a) Number of Phase One Facilities	(b) Number of Phase One and Phase Two Facilities	(c) Percent of All Facilities in Phase One
938	1522	62

Table II: Adjusted 80% Demonstration of Title V Emissions for 1993

Pollutant	(a) Reported Emissions From Phase One Facilities (tons)	(b) Reported Emissions From All Title V Facilities (tons)	(c) Percent of All Emissions Represented in Phase One (%)
CO	15,005	17,356	86
NOx	30,444	34,497	88
ROG	28,036	34,534	81
SOx	7,695	7,804	99
TSP	4,531	5,243	86

The data in Tables I and II show that the amendments to AQMD's Title V program will continue to include more than 60 percent of all Title V sources in Phase One, and that the emissions from these Phase One facilities exceed 80 percent of the emissions from all Title V facilities.