(Adopted October 8, 1993)(Amended August 11, 1995)
(Amended November 14, 1997)
PAR 3002D
November 5, 2010

PROPOSED AMENDED RULE 3002 REQUIREMENTS

(a) Requirement for Title V Permit

(1) A person shall not construct, modify, relocate, or operate a Title V facility, or equipment located at a Title V facility, without first obtaining a Title V permit or permit revision that allows such construction, modification, relocation or operation, except for:

(~~1~~A) Equipment exempted from permitting requirements pursuant to Rule 219 - Equipment Not Requiring a Written Permit Pursuant to Regulation II;

(~~2~~B) Operation of equipment or a facility pursuant to the application shield provisions of subdivision (b) of this rule; and,

(~~3~~C) Construction, modification, relocation and operation of equipment or a facility authorized by a non-Title V permit issued by the Executive Officer. The Executive Officer may issue a non-Title V permit to existing Phase One or Phase Two facilities that apply for a non-Title V permit prior to the issuance of their initial Title V permit.

(2) On and after January 2, 2011, applicable requirements for greenhouse gases shall be included in Title V permits for any facility that is otherwise required, after that date, to obtain a new, renewed, or revised Title V permit pursuant to paragraph (a)(1) of this rule.

(3) On and after July 1, 2011, any facility with a potential to emit ≥ 100,000 tpy CO_2e, on a CO_2e basis (Global Warming Potential applied) and a Potential to Emit GHGs > 100 tpy GHGs on a mass basis (no Global Warming Potential applied) shall apply for a Title V permit within 180 days after July 1, 2011, unless a Title V permit has already been applied for, and all GHG requirements that are applicable requirements (as defined in Rule 3000 (b)(4)) shall be included in the permit.

(4) On and after July 1, 2011, any new or modified facility with a Potential to Emit increase of > 100,000 tpy CO_2e shall be subject to the requirements specified in paragraph (a)(1) of this rule.

(b) Application Shield

Notwithstanding subdivision (a) of this rule, it is not a violation of this rule to operate a Title V facility or equipment located at a Title V facility without a Title V permit, provided that:

(1) A timely and complete application for initial Title V permit issuance or Title V permit renewal for such facility or equipment has been filed with the Executive Officer; and,

(2) The Executive Officer has not taken final action on the application.

For the purpose of an application shield, a timely and complete application is one that has been submitted in accordance with subdivisions (a) and (c) of Rule 3003. The application shield shall not apply if the permit applicant has failed to submit information required pursuant to subdivision (d) of this rule.

(c) Duty to Comply

(1) A person shall construct and operate a Title V facility and all equipment located at a Title V facility in compliance with all terms, requirements, and conditions specified in the Title V permit at all times.

(2) Any non-compliance with a Title V facility permit term, requirement, or condition is a violation of Regulation XXX and is a violation of the federal Clean Air Act if the permit term, requirement or condition is federally enforceable. Each day during any portion of which a violation occurs is a separate offense. Any non-compliance shall be grounds for:

(A) enforcement action (under the California Health & Safety Code and the federal Clean Air Act);

(B) permit termination;

(C) permit revocation and reissuance;

(D) permit revision; and

(E) denial of a permit renewal or revision application.

(3) It shall not be a defense for a person in any of the actions listed in paragraph (c)(2) of this rule that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit, except as provided for in subdivision (g) of Rule 3002.

(4) A permit may be revised, revoked, reopened and reissued, or terminated for cause as provided in Rule 3004 - Permit Types and Content, and Rule 3005 - Permit Revisions. The filing of a request by the holder of a Title V

permit, for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated non-compliance does not stay any permit condition.

(d) Duty to Provide Timely Information

An applicant for, or holder of, a Title V permit shall furnish to the Executive Officer within a reasonable time, as specified by the Executive Officer in writing, any information that the Executive Officer requests in writing to process a permit application or to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the permit.

(e) Duty to Provide Records

A holder of a Title V permit shall furnish to the Executive Officer within a reasonable time, as specified by the Executive Officer in writing, copies of records that are required, by the permit, to be kept. Copies of information claimed to be confidential shall be submitted in a form segregated from other information, conspicuously marked "confidential" on each page, with a concise identification of the basis for the claim.

(f) Duty to Pay Fees

(1) The applicant for, or holder of, a Title V permit shall pay all required fees as specified in Regulation III - Permit Fees.

(2) Failure to pay fees in compliance with paragraph (f)(1) of this rule shall be grounds for permit expiration or revocation of the subject permit(s).

(g) Emergency Provisions

An emergency shall constitute an affirmative defense to an action brought for non-compliance with a technology-based limitation if all of the following conditions are met:

(1) Properly signed, contemporaneous operating logs or other credible evidence that demonstrates compliance with this subdivision are kept at the facility;

(2) The owner/operator of a Title V facility demonstrates that an emergency occurred and that the permit holder can identify the cause(s) of the emergency;

(3) During the period of the emergency, the facility permit holder took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit;

(4) The owner/operator of a Title V facility submitted a written notice of the emergency to the District within two working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken;

(5) The permitted facility was being operated properly (i.e., operated and maintained in accordance with the manufacturer's specifications, and in compliance with all regulatory requirements or a compliance plan) before the emergency; and

(6) The facility complies with the breakdown provision of Rule 430 - Breakdown Provisions, or subdivision (i) of Rule 2004 - Requirements, whichever is applicable.

In any enforcement proceeding, the facility permit holder seeking to establish the occurrence of an emergency shall have the burden of proof.