

VENTURA COUNTY AIR POLLUTION CONTROL DISTRICT

RULE 33.9 - PART 70 PERMITS - COMPLIANCE PROVISIONS

(Adopted 10/12/93, Revised 4/10/01)

A. Permit Required and Application Shield

No stationary source required to obtain a Part 70 permit shall operate after the time it is required to submit a timely and complete permit application except in compliance with its Part 70 permit or under one of the following conditions.

1. When a timely and complete Part 70 permit application has been submitted, the stationary source may continue to operate until the Part 70 permit is either issued or denied. This provision does not allow the stationary source to operate in violation of any other applicable requirements. (Reference: 40 CFR 70.7(b))

When a timely and complete application for reissuance of a Part 70 permit has been submitted, the stationary source shall continue to comply with its existing Part 70 permit until the Part 70 permit is reissued or denied. (Reference: 40 CFR 70.4(b)(10))

When a timely and complete application for a significant Part 70 permit modification, a minor Part 70 permit modification or a non-federal minor change has been submitted, the changes addressed in the application may be implemented. If the changes addressed in an application are implemented upon submission of the application to the District, the stationary source shall operate in compliance with all applicable conditions on its Part 70 permit, including any proposed permit conditions and all applicable conditions on its Authority to Construct for the changes addressed in the modification, until the Part 70 permit is revised or the modification is denied. During this time period, the source shall not be required to comply with the existing Part 70 permit conditions that it is seeking to modify. However, if the source fails to comply with any proposed permit conditions or any applicable conditions on its Authority to Construct during this time period the existing permit conditions may be enforced against the source. (Reference: 40 CFR 70.7(e)(2)(v))

The protection granted by this subsection for a significant Part 70 permit modification shall not be applicable unless the modification was subject to Section 112(g), or Part C or D of Title I of the federal Clean Air Act and the existing Part 70 permit for the stationary source does not prohibit the modification. If either of these conditions is not met, the modified portion of the stationary source shall not be operated until the modified Part 70 permit is issued. (Reference: 40 CFR 70.5(a)(1)(ii))

The protection granted by this subsection shall cease if, subsequent to the District's determination that an application is complete, the applicant fails to

submit by the deadline specified in writing by the District any additional information identified as being needed to process the application. (Reference: 40 CFR 70.7(b))

2. After the 30 day notice period required by Rule 33.4.D, a permittee may operate in violation of the Part 70 permit condition which was the subject of the notification if no written objection has been received from the District. (Reference: 40 CFR 70.4(b)(12))

B. Compliance Certification

All permittees and applicants must submit certification of compliance with all applicable requirements and all Part 70 permit conditions. A compliance certification shall be submitted with any Part 70 permit application and annually, on the anniversary date of the Part 70 permit, or on a more frequent schedule if required by an applicable requirement or permit condition.

Compliance certification shall identify each applicable requirement or condition of the Part 70 permit, the compliance status of the stationary source, whether the compliance was continuous or intermittent since the last certification, and the method(s) used to determine compliance. In addition, the certification shall indicate the stationary source's compliance status with any applicable enhanced monitoring and compliance certification requirement of the federal Clean Air Act. (Reference: 40 CFR 70.5(c)(9), 40 CFR 70.6(c)(5))

A copy of each compliance certification shall be submitted to EPA Region IX.

C. Document Certification

Any Part 70 permit application and any document, including reports, schedule of compliance progress reports and compliance certifications, required by a Part 70 permit shall be certified by a responsible official. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. (Reference: 40 CFR 70.5(d))

D. Emergency Provision

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

1. The permittee can document with properly signed, contemporaneous operating logs that an emergency occurred and can identify the cause(s) of the emergency.
2. The permittee can document that the source was being properly operated at the time the emergency occurred.

3. The permittee can demonstrate that all reasonable steps were taken to minimize emissions in excess of Part 70 permit conditions or other Part 70 permit requirements.
4. The permittee submitted a description of the emergency and all mitigating and corrective actions taken to the District within 2 working days of the emergency.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. (Reference: 40 CFR 70.6(g))

E. Part 70 Permit Shield

1. Compliance with all of the conditions of a Part 70 permit shall be deemed compliance with any applicable requirements as of the date of issuance of the Part 70 permit, provided one of the following conditions is satisfied:
 - a. Such applicable requirements are included and specifically identified in the Part 70 permit, or
 - b. The District determines in writing that other applicable requirements specifically identified are not applicable to the stationary source and the Part 70 permit includes such determination.

(Reference: 40 CFR 70.6(f)(1))

2. The provisions of subsection F.1 of this Rule shall not alter or affect any of the following:
 - a. Minor Part 70 permit modifications.
 - b. Non-federal minor changes.
 - c. Contravening of express Part 70 permit conditions.
 - d. The provisions of Section 303 of the federal Clean Air Act.
 - e. The liability of an owner or operator of a stationary source for any violation of applicable requirements prior to or at the time of issuance of the Part 70 permit.
 - f. The applicable requirements of Title IV of the federal Clean Air Act and the regulations promulgated thereunder.
 - g. The ability of EPA or the District to implement the provisions of Section 114 of the federal Clean Air Act and the regulations promulgated thereunder.

(Reference: 40 CFR 70.4(b)(12), 70.4(b)(14), 70.6(f)(2), 70.7(e)(2)(iv))