

requirements of 40 CFR part 70, sections 70.2 and 70.3 for applicability; sections 70.4, 70.5, and 70.6 for permit content, including operational flexibility; section 70.7 for public participation and permit modifications; section 70.5 for criteria that define insignificant activities and complete application forms; and section 70.11 for enforcement authority. Although the regulations substantially meet part 70 requirements, there are a few deficiencies in the program that are outlined under section II.B.1. below as interim approval issues and further described in the TSD.

3. Permit Fee Demonstration

Section 502(b)(3) of the Act requires that each permitting authority collect fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V operating permits program. Each title V program submittal must contain either a detailed demonstration of fee adequacy or a demonstration that aggregate fees collected from title V sources meet or exceed \$25 per ton per year (adjusted annually based on the Consumer Price Index ("CPI"), relative to 1989 CPI). The \$25 per ton amount is presumed, for program approval, to be sufficient to cover all reasonable program costs and is thus referred to as the "presumptive minimum" (40 CFR 70.9(b)(2)(i)).

Mariposa does not currently have any title V sources. The District has adopted a fee rule that would charge the presumptive minimum to any title V source that locates in the District, or to any source to which title V becomes applicable.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and Commitments for Section 112 Implementation

Mariposa has demonstrated in its title V program submittal adequate legal authority to implement and enforce all section 112 requirements through the title V permit. This legal authority is contained in the State of California enabling legislation and in regulatory provisions defining federal "applicable requirements" and requiring each permit to incorporate conditions that assure compliance with all applicable requirements. EPA has determined that this legal authority is sufficient to allow Mariposa to issue permits that assure compliance with all section 112 requirements. For further discussion, please refer to the TSD accompanying this action and the April 13, 1993 guidance memorandum entitled, "Title V Program Approval Criteria for Section

112 Activities," signed by John Seitz and located in the docket.

b. Authority for Title IV Implementation

Mariposa has no title V sources at this time, and therefore has no Phase I or Phase II acid rain sources. The District has not submitted a complete acid rain program, due to its lack of sources. If, in the future, title V sources locate in the District, or if title V should become applicable to any existing sources, Mariposa will need to provide the same commitment that EPA is requiring of other Districts that do not have a complete acid rain program. This commitment will be to expeditiously adopt the appropriate regulatory authority, if and when it becomes necessary to issue a title IV permit to any new or existing source in the District that becomes subject to, or wants to opt into, the acid rain program.

B. Proposed Interim Approval and Implications

1. Title V Operating Permits Program

The EPA is promulgating direct final interim approval to the operating permits program submitted by the California Air Resources Board, on behalf of the Mariposa Air Pollution Control District, on March 8, 1995. Areas in which Mariposa's program is deficient and requires corrective action prior to full approval are as follows:

(1) Provide a demonstration that activities that are exempt from part 70 permitting are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, the District may restrict the exemptions to activities that are not likely to be subject to an applicable requirement and emit less than District-established emission levels. The District should establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements.

(2) Revise the exemption list in Rule 402 (Exemptions to Rule 401) to remove the general exemption for agricultural production sources or to restrict the exemptions to non-title V sources.

(3) Revise the application content requirements in Rule 1006 so that any compliance schedule required by the rule for a source not in compliance must resemble and be at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the hearing board to which the source is subject as required by § 70.5 (c)(4)(iii)(C) rather

than simply a schedule of compliance approved by the District's hearing board.

(4) Revise the application content requirements in Rule 1006 to clarify that all reports and other documents submitted in the permit application must be certified by the responsible official as required by § 70.5 (d) and to provide the full text of the responsible official's certification in § 70.5 (d).

(5) Provide in Rule 1004 a permit application deadline for sources that become subject to the District's part 70 rule after the rule's effectiveness date for reasons other than commencing operation. This deadline cannot be any later than 12 months after the source becomes subject to the rule as required by § 70.5 (a)(1).

(6) Revise the permit issuance procedures in Rule 1005 to provide for notifying the EPA and affected States in writing of any refusal by the District to accept all recommendations for the proposed permit that the Affected State submitted during the public/Affected State review period as required by § 70.8 (b)(2).

(7) Incorporate in Rule 1005 provisions citing the right of the public to petition EPA under § 70.8 (d) after the expiration of the EPA's 45-day review period and prohibiting the District from issuing a permit, if it has not already done so, until the EPA's objections in response to the petition are resolved as required by § 70.8 (d).

(8) Revise Rule 1005 to provide for public notice of permitting actions by other means if necessary to assure adequate notice to the affected public as required by § 70.7 (h)(1).

(9) Revise the permit content requirements in Rule 1006 to clarify that all reports and other documents required by the permit must be certified by a responsible official as required by § 70.6 (c)(1) and to provide the full text of the responsible official's certification in § 70.5 (d).

(10) Revise the permit content requirements in Rule 1006 to require that any compliance schedule for a source not in compliance must resemble and be at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the hearing board to which the source is subject as required by §§ 70.6 (c)(3) and 70.5 (c)(8)(iii)(C).

(11) Revise the permit content requirements in Rule 1006 to require the submission of compliance certifications more frequently than annually if a more frequent period is specified in the applicable requirement or by the District as required by § 70.6 (c)(5)(i).