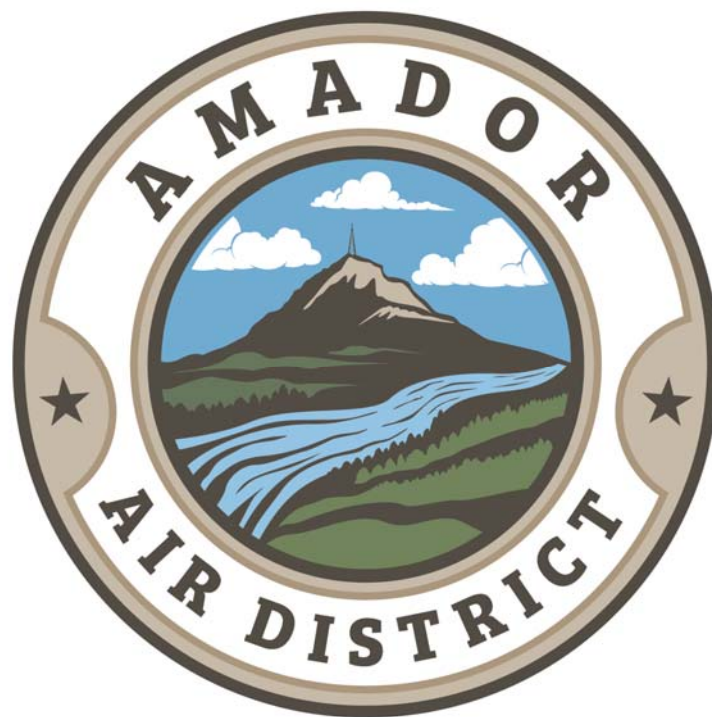


# **RULES and REGULATIONS**



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# **REGULATION**

## **I**

### **GENERAL PROVISIONS**

**Rule 101**

**Title** - These Rules and Regulations shall be known as the Rules and Regulations of the Amador County Air District.



**Rule 102**     **Definitions** - Except as otherwise specifically provided in these Rules, and except where the context otherwise indicates, words used in these Rules are used in exactly the same sense as the same words are used in the Health and Safety Code of the State of California.

**Agricultural Burning** (a) Any open outdoor fire used in agricultural operations necessary for the growing of crops or raising of fowl or animals, or in forest management or range improvement; or used in the improvement of land for wildlife and game habitat, or in disease or pest prevention, (b) Any open outdoor fire used in the operation or maintenance of a system for the delivery of water for purposes specified in subdivision (a) of this definition. Rule 307 shall not apply to such burning.

**Agricultural Operation** The growing and harvesting of crops, or raising of fowl or animals for the primary purpose of making a profit, or providing a livelihood, or the conduction of agricultural research or instruction by an educational institution.

**Agricultural Wastes** Are (a) unwanted or unsalable materials produced wholly from agricultural operations and (b) materials not produced from agricultural operations, but which are intimately related to the growing or harvesting of crops and which are used in the field, such as fertilizer and pesticide sacks or containers where the sacks or containers are emptied in the field. This does not include, however, such items as shop wastes, demolition materials, garbage, oil filters, tires, pallets, and the like.

**Air Contaminant or Pollutant** Any discharge, release, or other propagation into the atmosphere directly, or indirectly, caused by man and includes, but is not limited to, smoke, dust, charred paper, soot, grime, carbon, noxious acids, fumes, gases, odors, or particulate matter, or any combination thereof.

**Air Pollution Control Officer** The Air Pollution Control Officer of the Air District of Amador County.

**Allowable Emissions** The emission rate calculated using the maximum design capacity of the source unless the source is subject to Permit to Operate conditions which limit the operating rate or hours of operation, or both, which is the most stringent of applicable emission limitations contained in these Rules and Regulations or the emission rate, if any, specified as a Permit to Operate condition.

**Alteration** Any addition to, enlargement of, replacement of, or any major modification or change of the design, capacity, process, or arrangement, or any increase in the connected loading of equipment or control apparatus, which will significantly increase or affect the kind or amount of air contaminants emitted.

**Approved Ignition Devices** Means those instruments or materials that will ignite open fires without the production of black smoke by the ignition device, this would include such items as liquid petroleum gas (LPG), butane, propane, or diesel oil burners, flares, or other similar material as approved by the Air Pollution Control Officer. This does not include tires, tar, tar paper, oil, and other similar materials.

**A.R.B.** The California Air Resources Board, or any person authorized to act on its behalf.

**Atmosphere** The air that envelops or surrounds the earth. Where air pollutants are emitted into a building not designed specifically as a piece of air pollution control equipment, such emissions into the building shall be considered to be an emission into the atmosphere.

**Attainment Pollutant** A criteria pollutant in an Air District or sub-District zone designated by the Environmental Protection Agency as an attainment area or unclassified area for such pollutant.

**Baseline Concentration** The ambient concentration level reflecting actual air quality as monitored or modeled as of (1) January 1, 1981, minus any contribution from major stationary facilities and major modifications on which construction commenced on or after January 5, 1975, or attainment pollutants; and (2) the date an application for an Authority to Construct is deemed complete by the Air Pollution Control Officer for nonattainment pollutants.

**Best Available Control Technology** An emission limitation, based on the maximum degree of reduction for a criteria pollutant or precursor which would be emitted from any source or modification which the Air Pollution Control Officer, on a case-by-case basis, taking into account energy, environmental and economic impacts, and other costs, determines is achievable for such source or modification through application of production processes or available control methods, systems, and techniques, for such pollutant. In no case shall application of best available control technology result in emissions of any pollutant or precursor which would exceed the emissions allowed by 40 CFR Part 60 and 61. If the Air Pollution Control Officer determines that technological or economic limitations on the application of measurement technology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design equipment, work practice or operations standard, or combination thereof. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results.

**Board** The Amador County Air Pollution Control Board.

**Breakdown Condition** An unforeseeable failure or malfunction of (1) any air pollution control equipment or related operating equipment which causes a violation of any emission limitation or restriction prescribed by these Rules and Regulations, or by State law, or (2) any in-stack continuous monitoring equipment, where such failure or malfunction:

- A. Is not the result of neglect or disregard of any air pollution control law or rule or regulation; and
- B. Is not intentional or the result of negligence; and

- C. Is not the result of improper maintenance; and
- D. Does not constitute a nuisance; and
- E. Is not a recurrent breakdown of the same equipment.

**Brush Treated** The material has been felled, crushed or uprooted with mechanical equipment, or has been desiccated with herbicides.

**Combustible or Flammable Waste** Means any garbage, rubbish, trash, rags, paper, boxes, crates, excelsior, ashes, offal, carcass of a dead animal, petroleum product waste or any other combustible or flammable refuse material.

**Combustion Contaminant** Any particulate matter discharged into the atmosphere from the burning of any material which contains carbon in either the free or combined state.

**Condensed Fumes (Condensables)** Particulate matter generated by the condensation of vapors evolved after the volatilization from the molten liquid state, generated by sublimation, distillation, calcination, or chemical reaction, when these processes create airborne particles.

**Criteria Pollutant** An air pollutant regulated by a national ambient air quality standard contained within 40 CFR Part 50.

**Designated Agency** Any agency designated by the ARB and Amador County Air District as having authority to issue Agricultural Burn Permits.

**District** Is the Air District of Amador County.

**Dust** Minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, sweeping, or other similar processes.

**Emission** The act of releasing or discharging air contaminants into the ambient air from any source.

**Emission Data** Are measured or calculated concentrations or weights of air contaminants emitted into the ambient air. Production data used to calculate emission data are not emission data.

**Emission Point** The place, located in a horizontal plane and vertical elevation, at which and emission enters the atmosphere.

Exempt Compounds

1. Carbon monoxide
2. Carbon dioxide
3. Carbonic acid
4. Metallic carbides or carbonates

5. Ammonium carbonate
6. Methane
7. Ethane
8. Methylene chloride (dichloromethane)
9. 1,1,1-trichloroethane (methyl chloroform) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)
10. 1,1,1 trichlorofluoromethane (CFC-11)
11. Dichlorodifluoromethane (CFC-12)
12. Chlorodifluoromethane (HCFC-22)
13. Trifluoromethane (HFC-23)
14. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114)
15. Chloropentafluoroethane (CFC-115) 204.17 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123) 4.18 1,1,1,2-tetrafluoroethane (HFC-134a)
16. 1,1-dichloro 1-fluoroethane (HCFC-141b)
17. 1-chloro 1,1-difluoroethane (HCFC-142b)
18. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124) 204.22 pentafluoroethane (HFC-125)
19. 1,1,2,2-tetrafluoroethane (HFC-134)
20. 1,1,1-trifluoroethane (HFC-143a)
21. 1,1-difluoroethane (HFC-152a) 204.26 perchlorobenzotrifluoride (PCBTF) 204.27 cyclic, branched, or linear completely methylated siloxanes
22. Acetone
23. Perchloroethylene (tetrachloroethylene)
24. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)
25. 3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)
26. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee)
27. difluoromethane (HFC-32) 204.34 ethylfluoride (HFC-161)
28. 1,1,1,3,3,3-hexafluoropropane (HFC-236fa)
29. 1,1,2,2,3-pentafluoropropane (HFC-245ca)
30. 1,1,2,3,3-pentafluoropropane (HFC-245ea)
31. 1,1,1,2,3-pentafluoropropane (HFC-245eb)
32. 1,1,1,3,3-pentafluoropropane (HFC-245fa)
33. 1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
34. 1,1,1,3,3-pentafluorobutane (HFC-365mfc)
35. Chlorofluoromethane (HCFC-31)
36. 1 chloro-1-fluoroethane (HCFC-151a)
37. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
38. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub> or HFE-7100)
39. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF<sub>3</sub>)<sub>2</sub>CF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub>)
40. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C<sub>4</sub>F<sub>9</sub>OC<sub>2</sub>H<sub>5</sub> or HFE-7200)
41. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF<sub>3</sub>)<sub>2</sub>CF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub>)
42. Methyl acetate
43. 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C<sub>3</sub>F<sub>7</sub>OCH<sub>3</sub> or HFE-7000)
44. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500) Methyl formate (HCOOCH<sub>3</sub>)
45. 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300)
46. Propylene carbonate

47. Dimethyl carbonate
48. Perfluorocarbon compounds which fall into these classes: a. cyclic, branched, or linear, completely fluorinated alkanes; b. cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; c. cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and d. sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

**Facility** Any source or collection of source of air contaminants which are located on one or more contiguous or adjacent properties within the District and which is owned, operated, or under shared entitlement to be used by the same person. Items of air contaminant emitting equipment shall be considered aggregated into the same facility and items of non-air contaminant emitting equipment shall be considered associated only if:

- A. The operation of each item of equipment is dependent upon, or affects the process or, the others; and
- B. The operation of all such items of equipment involves a common raw material or product.

**Federal Land Manager** The Secretary of the United States Department with authority over applicable federal lands, his authorized representative, or the President of the United States.

**Flue** Any duct or passage for air, gases, or the like, such as a stack or chimney.

**Forest Management Burning** Means the use of open fires, as part of a forest management practice, to remove forest debris. Forest management practice include timber operations, silvicultural practices, or forest protection practices.

**Fossil Fuel-Fired Generator** Means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer. "Fossil fuel" means natural gas, petroleum, coal, and any form of solid, liquid, or gaseous fuel derived from such materials.

**Fugitive Dust** Solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, as a direct result of operation of a facility.

**Hearing Board** The appellate review board of any county or regional Air District as provided for in the Health and Safety Code of the State of California.

**Incineration** An operation in which combustion is carried on for the principal purpose, or with the principal result of, oxidizing a waste material to reduce its bulk or facilitate its removal.

**Incinerator** Means any furnace or other closed fire chamber used to dispose of combustible waste by burning and from which the products of combustion are directed through a flue or chimney.

**Installation** The placement, assemblage, or construction of equipment or control apparatus at the premises where the equipment or control apparatus will be used, including all preparatory work at such premises.

**Institutional Facility** Means any hospital, boarding home, school, or like facility.

**Lowest Achievable Emission Rate** For any source, the most stringent of:

- A. The most effective emission limitation which the Environmental Protection Agency certified is contained in the implementation plan of any state approved under the Clean Air Act for such class or category of source, unless the owner or operator of the proposed source demonstrates to the satisfaction of the Air Pollution Control Officer that such limitation is not achievable; or
- B. The most effective emissions control technique which has been achieved in practice, for such category or class of source; or
- C. Any other emission control technique found, after public hearing, by the Air Pollution Control Officer to be technologically feasible and cost effective for such class or category of sources or for a specific source.

In no event shall the application of lowest achievable emission rate allow for emissions in excess of those allowable under 40 CFR Part 60.

**Major Facility** Any facility which actually emits or has the potential to emit, when operating at maximum design capacity, 100 tons per year or 1000 pounds per day, or more, of a criteria pollutant or precursor.

**Major Modification** Any modification of a facility which increases the actual emission or potential to emit a criteria pollutant or precursor by 100 tons per year or 1000 pounds per day or more. Emission increases shall include all accumulated increases in actual emissions or potential to emit at the facility since January 1, 1981, or since the date of issuance of the most recent Authority to Construct for initial construction or major modification of the facility.

**Modification** Any physical change in, change in method of operation of, or addition to an existing stationary source, except that routine maintenance or repair shall not be considered to be a physical change. A change in the method of operation, unless previously limited by a Permit to Operate condition, shall not include:

- A. An increase in the production rate, if such increase does not exceed the operating design capacity of the source.
- B. An increase in the hours of operation.
- C. A change in ownership of a source.

**Multiple Chamber Incinerator** Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three

or more refractory-lined combustion furnaces in series, physically separated by refractory walls, inter-connected by gas passage ports or ducts employing adequate design parameters necessary for maximum combustion of the material to be burned.

**No-Burn Day** Means any day on which agricultural burning is prohibited by the ARB, the Air Pollution Control Officer or the fire agency with appropriate jurisdiction.

**Nonattainment Pollutant** A criteria pollutant in an Air District or sub-district zone designated by the Environmental Protection Agency as a nonattainment area for that pollutant.

**Open Out-Door Fire** As used in this regulation means: Combustion of any combustible material of any type, outdoors in the open air, where the product of combustion is not directed through a flue.

**Operation** Any physical action resulting in a change in the location, form or physical properties of a material, or any chemical action resulting in a change in the chemical composition or the chemical properties of a material.

**Orchard or Citrus Heaters** Any article, machine, equipment, or other contrivance, burning any type of fuel or material capable of emitting air contaminants, used or capable of being used for the purpose of giving protection from frost damage.

**Owner or Operator** Means any person who owns, operates, controls or supervises an affected facility, or a stationary source of which an affected facility is a part.

**Particulate Matter** Is any material except uncombined water, which can exist in a finely divided form as a liquid or solid at standard conditions.

**Permissive Burn Day** Means any day on which agricultural burning is not prohibited by the ARB.

**Person** Any person, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, operator, user or owner, any government agency or public district, or employee thereof.

**Potential to Emit** The maximum physical and operational design capacity to emit a pollutant. Limitations on the physical or operational design capacity, including emissions control devices and limitations on hours of operation, may be considered only if such limitations are incorporated into the applicable Authority to Construct and Permit to Operate as a permit condition and are enforceable as a practical matter and, for all major stationary sources, federally enforceable. The potential to emit shall include both directly emitted and fugitive emissions

PM10 Particulate matter with an aerodynamic diameter smaller than or equal to a nominal 10 microns as measured by an applicable reference test method or methods

found in Article 2, Subchapter 8, Title 17, California Code of Regulations (commencing with Section 94100). Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included.

PM2.5 Particulate matter with an aerodynamic diameter smaller than or equal to a nominal 2.5 microns as measured by an applicable reference test method or methods found in Article 2, Subchapter 8, Title 17, California Code of Regulations (commencing with Section 94100). Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included.

**ppm** Parts per million by volume expressed on a dry gas basis.

**Precursor** A directly emitted pollutant that, when released into the atmosphere, forms or causes to be formed or contributes to the formation of a secondary pollutant which is a criteria pollutant. The following precursor-pollutant transformations shall be included in the determination of secondary pollutant concentrations: non-methane hydrocarbons - ozone; nitrogen oxides - nitrogen dioxide; sulfur oxides - sulfur dioxide.

**Process Weight Per Hour** The total weight, including contained moisture, of all materials introduced into any specific process, which process may cause discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. (The process weight per hour will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.)

**Public Record** Means any record made available to the public by law containing information relating to the conduct of the public's business that is prepared, owned, used, or retained by the District, except "trade secrets" as defined in Rule 514.C, Regulation V.

**Range Improvement Burning** Means the use of open fires to remove vegetation for a wildlife, game, or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.

**Record** Means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, drums, and other documents.

**Residential Rubbish** Rubbish originating from a single or two family dwelling on its premises, limited to the following material: wood, paper, cloth, cardboard, tree trimmings, leaves, lawn clippings, and dry plants.

Regulation IX - Nonvehicular Airborne Toxic Control Measures Any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise



separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide 80% of the heat input to be considered a resource recovery facility.

Regulation IX - Nonvehicular Airborne Toxic Control Measures Emissions within the District from (1) all cargo carriers, excluding motor vehicles as defined in the Vehicle Code, which load or unload at a facility, and (2) all off-site support facilities which would be constructed as a result of construction or modification of a facility.

Regulation IX - Nonvehicular Airborne Toxic Control Measures As used in these Rules and Regulations, unless some other code is specifically mentioned, all section references are to the Health and Safety Code as such code reads on January 1, 1976.

**Silvicultural Practices** Means the establishment, development, care, and reproduction of stands of timber.

**Solid Waste Dump** Means any accumulation for the purpose of disposal of any solid waste.

**Source** Any machine, equipment, apparatus, device, process, or combination thereof, which emits, or may emit air contaminants to the atmosphere through a common duct or vent to a single emission point.

**Source Operation** The last operation preceding the emission of an air contaminant, which operation (a) results in the separation of the air contaminants from the process materials, or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel, and (b) is not an air pollutant abatement operation.

**Standard Conditions** As used in these regulations, "Standard Conditions" are a gas temperature of 60 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute. Results of all analysis and tests shall be calculated and reported at this gas temperature and pressure.

**Standard Cubic Foot of Gas** The amount of gas that would occupy a volume of one (1) cubic foot, if free of water vapor, at standard conditions.

**Tahoe Basin** Means that area, within the State of California, as defined by the California Nevada Interstate Compact, Article 11, Paragraph C, as contained in Section 5976 of the State Water Code.

**Temporary Source** Any source or activity causing emissions which operates within a single Air District for less than two (2) years in any ten (10) year period, including, but not limited to, pilot plants, portable facilities and construction activities.

**Timber Operations** Means cutting or removal of timber or other forest vegetation.

**Total Reduced Sulfur (TRS)** Total reduced sulfur contained in hydrogen sulfide,

mercaptans, dimethyl sulfide, dimethyl disulfide or other organic compounds, all expressed as hydrogen sulfide. Sulfur dioxide, sulfur trioxide, or sulfuric acid are not to be included in the determination of TRS.

**Volatile Organic Compounds (VOCs)** Any compound containing at least one atom of carbon, excluding any exempt compound.

Rule 103      Enforcement

These Rules and Regulations shall be enforced by the Air Pollution Control Officer under authority of Section 40001, 40702, 40752, and all officers empowered by Section 40120.

Rule 105

Civil Action

Any violation of any provision of these Rules and Regulations or of any order of the Air District Hearing Board may be enjoined in a civil action brought in the name of the people of the State of California except that the plaintiff shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss.

Rule 106

Validity. If any Regulation, Rule, subdivision, sentence, clause, or phrase of these Rules and Regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of these Rules and Regulations. The Amador County Air District Board of Directors hereby declares that it would have adopted these Rules and Regulations and every Regulation, Rule, subdivision, sentence, clause, and phrase thereof irrespective of the fact that any one or more Regulations, Rules, subdivisions, sentences, clauses, or phrases be declared unconstitutional or invalid.

Rule 107      Effective Date. These Rules and Regulations shall take effect on September 15, 1979.

# **REGULATION**

## **II**

# **PROHIBITIONS**

Rule 201 District-Wide Coverage. Prohibitions as set forth in this Regulation, shall apply in all portions of the Amador County Air District unless otherwise stated.



Rule 202

Visible Emissions. A person shall not discharge into the atmosphere from any single source of emission whatsoever any air contaminant for a period or periods aggregating more than three (3) minutes in any one (1) hour which is:

- A. As dark or darker in shade as that designated as No. 1 on the Ringlemann Chart, as published by the United States Bureau of Mines, or
- B. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (A) of this section.

Rule 203      Exceptions. The provisions of Rule 202 do not apply to:

- A. Smoke from fires set or permitted by any public fire officer, if such fire is set by or permission given in the performance of the official duty of such officer, and such fire in the opinion of such officer is necessary:
  - 1. for the purpose of the prevention of a fire hazard (or health hazard as determined by the Health Officer) which cannot be abated by any other means, or
  - 2. the instruction of public employees and/or volunteer firemen in the methods of fighting fires.
- B. Smoke from fires set pursuant to permit on property used for industrial purposes for the purpose of instruction of employees in methods of fighting fires.
- C. Open outdoor fires used for recreational purposes or for cooking of food for human consumption.
- D. The use of an experimental device, system, or method to study or research open burning authorized by Section 41707 and 41805 (b) of the Health and Safety Code and these Rules and Regulations.
- E. Agricultural operations necessary for the growing of crops, or raising of fowl or animals.
- F. Use of any aircraft to distribute seed, fertilizer, insecticides, or other agriculture aids over lands devoted to the growing of crops, or the raising of fowl or animals.
- G. The use of other equipment in agricultural operations necessary for the growing of crops, or the raising of fowl or animals.
- H. Orchard or citrus heaters that are on the approved list published by the State Air Resources Board.
- I. The governing board of the district may by Rule provide for the issuance by the Air Pollution Control Officer of permits for open burning. The provisions of Rule 202 do not apply to smoke from fires set pursuant to such permit.
- J. Smoke emissions from tepee burners operating in compliance with Section 4438 of the Public Resources Code during the disposal of forestry and agricultural residues with supplemental fossil fuels, and burners used to produce energy and fired with such fuels, when such emissions result from startup or shutdown of the combustion process or from the malfunction of emissions of control equipment. This subdivision shall not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period. This subdivision shall not apply to emissions which result from the failure to operate and maintain in good working order any emission control equipment.

Rule 204

Wet Plumes. Where the presence of uncombined water is the only reason for the failure of an emission to meet the limitation of Rule 202 that Rule shall not apply. The burden of proof which establishes the application of this Rule shall be upon the person seeking to come within its provisions.

Rule 205      Nuisance. A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which can cause injury, detriment, nuisance, or annoyance to any considerable number of persons, or to the public, or which endanger the comfort, repose, health or safety of any such persons, or the public, or which cause to have a natural tendency to cause injury or damage to business or property.

Exception: The provisions of Rule 205 do not apply to odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals.

Rule 206

Incinerator Burning. Except for the burning of residential rubbish, as defined in Rule 102, a person shall not burn any combustible or flammable waste in any incinerator within the boundaries of the Amador County Air District except in a multiple-chamber incinerator as defined in Rule 102 or in equipment found by the Air Pollution Control Officer to be equally effective for the purpose of air pollution control.

Pathological Incineration. A person shall not burn any pathological waste in any incinerator within the boundaries of the Amador County Air District unless all gases, vapors, and gas-entrained effluents from such an incinerator are:

- A. Incinerated at temperatures of not less than 1,500 degrees Fahrenheit for a period of not less than 0.5 seconds in an incinerator distributing direct flame to pathological waste on a solid grate, or
- B. Processed in such a manner determined by the Air Pollution Control Officer to be equally, or more, effective for the purpose of air pollution control than (A) above.

For the purpose of this Rule, "Pathological Waste" is defined as including, but not limited to, human or animal tissue, or natural constituents thereof, being combusted for reasons of waste reduction, disease control or burial preparation.

Rule 207

Particulate Matter. A person shall not release or discharge into the atmosphere from any source or single processing unit, exclusive of sources emitting combustion contaminants only, particulate matter emissions in excess of 0.1 grains per cubic foot of dry exhaust gas at standard conditions.

Rule 207.1 Asphalt Concrete Plants. Any asphalt concrete plant constructed or modified after the date of adoption of these Rules shall not emit particulate matter in excess of 0.04 gr./dscf (grains per cubic foot of dry exhaust gas at standard conditions).

Rule 208      Orchard or Citrus Heaters.

- A. No person shall use any orchard or citrus heater unless it has been approved by the ARB or does not produce more than one (1) gram per minute of unconsumed solid carbonaceous material.
- B. All orchard heaters shall be maintained in reasonably clean condition, good repair and working order. Whenever orchard heaters are burning they must be adequately attended and supervised to maintain the condition, adjustment, and proper operation of the orchard heaters.
- C. It shall be unlawful for any person, for the purpose of frost protection, to burn any rubber, rubber tires, or other substance containing rubber, or to burn oil or other combustible substances in drums, pails, or other containers except orchard heaters.



Rule 209 Fossil Fuel-Steam Generator Facility. A person shall not build, erect, install, or expand any fossil fuel fired steam generating facility unless the discharge into the atmosphere of contaminants will not and does not exceed any one or more of the following rates:

- A. 200 pounds per hour of sulfur compounds, calculated as sulfur dioxide (SO<sub>2</sub>);
- B. 140 pounds per hour of nitrogen oxides, calculated as nitrogen dioxide (NO<sub>2</sub>);
- C. 10 pounds per hour of combustion contaminants as defined in Rule 102, and derived from the fuel.

SIP Rule 19 Fuel Burning Equipment. A person shall not build, erect, install or expand any nonmobile fuel burning equipment unit unless the discharge into the atmosphere of contaminants will not and does not exceed any one or more of the following rates:

- a. 200 pounds per hour of sulfur compounds, calculated as sulfur dioxide (SO<sub>2</sub>);
- b. 140 pounds per hour of nitrogen oxides, calculated as nitrogen dioxide (NO<sub>2</sub>);
- c. 10 pounds per hour of combustion contaminants as defined in Rule 102, and derived from the fuel.

For the purpose of this Rule, “Fuel Burning Equipment” means any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. A fuel burning unit shall be comprised of the minimum number of fuel burning equipment, the simultaneous operations of which are required for the production of useful heat or power.

Fuel burning equipment serving primarily as air pollution control equipment by using a combustion process to destroy air contaminants shall be exempt from the provisions of this Rule.

Nothing in this Rule shall be construed as preventing the maintenance or preventing the alteration or modification of an existing fuel burning equipment unit which will reduce its mass rate of air contaminant emissions.

Rule 210      Specific Contaminants.

- A.      Sulfur Compounds. A person shall not release or discharge in to the atmosphere from any source of emission whatsoever, sulfur compounds, calculated as sulfur dioxide (SO<sub>2</sub>), in excess of 2000 parts per million by volume (0.2%) of exhaust gas.
- B.      Combustion Contaminants. A person shall not release or discharge into the atmosphere from the following sources or units thereof, combustion contaminants calculated at 12 percent carbon dioxide (CO<sub>2</sub>) in excess of:
1.      Wood Fired Boilers and Incinerators: 0.2 grains per cubic foot of dry exhaust gas at standard conditions.
  2.      All Other Sources: 0.1 grains per cubic foot of dry exhaust gas at standard conditions.
- C.      Particulate matter emitted from a source or combination of sources in which exhaust gases are used to dry, calcine, pyrolyze, sinter or otherwise thermally condition, exclusive of combusting any process material, shall be excluded from calculation as combustion contaminants.

Rule 211      Process Weight Per Hour. A person shall not release or discharge into the atmosphere from any source operation solid particulate matter in excess of that allowed in the table in Rule 212.

A.      The provisions of this Rule shall not apply to:

1.      Portland cement kilns, except that no owner or operator shall release or discharge into the atmosphere from any portland cement kiln particulate matter at a rate in excess or 0.30 pounds per ton of dry kiln feed, exclusive of fuel charged.
2.      Portland cement clinker coolers, except that no owner or operator shall release or discharge into the atmosphere from any portland cement clinker cooler particulate matter at a rate in excess of 0.10 pounds per ton of dry kiln feed, exclusive of fuel charged.
3.      Sewage sludge incinerators, except that no owner or operator shall release or discharge into the atmosphere from any sewage sludge incinerator particulate matter at a rate in excess of 1.30 pounds per ton of dry sludge input as determined in CFR 40, Part 60.154.
4.      Rotary lime kilns, except that no owner or operator of such source constructed or modified after May 3, 1977, shall release or discharge into the atmosphere from such rotary lime kiln particulate matter at a rate in excess or 0.30 pounds per ton of limestone feed, exclusive of fuel charged.
5.      Lime hydrators, except that no owner or operator of such source constructed or modified after May 3, 1977, shall release or discharge into the atmosphere from such lime hydrator particulate matter in excess of 0.15 pounds per ton of lime feed.
6.      Combustion equipment which derives at least 80% of its fuel input heat content from wood or wood associated waste, except that such equipment shall comply with all other Rules in this Regulation.
7.      Processing equipment used in conjunction with combustion sources, other than those types provided for in other subsections of this Rule, used to dry, calcine, pyrolyze, sinter or otherwise thermally condition any process material, except that such equipment shall comply with all other Rules in this Regulation.

B.      Performance tests undertaken to determine compliance of sources with Part A., Sections 1. through 5., of this Rule shall comply with the provisions of CFR 40, Part 60, Appendix A only.

ALLOWABLE RATE OF EMISSION BASED ON  
PROCESS WEIGHT RATE

Process Weight Rate	Emission Rate
Lbs/Hr.	Lbs/Hr.
50.....	0.4
100.....	0.6
500.....	1.5
1,000.....	2.3
5,000.....	6.3
10,000.....	9.7
20,000.....	15.0
60,000.....	29.6
80,000.....	31.2
120,000.....	33.3
160,000.....	34.9
200,000.....	36.2
400,000.....	40.4
1,000,000.....	46.8

Interpolation of the data for the process weight rates up to 60,000 lbs/hr. shall be accomplished by the use of the following equation:

$$E=3.59 p^{0.62} \quad P \text{ is less than or equal to } 30 \text{ tons/hr.}$$

and interpolation or extrapolation of the data for process weights in excess of 60,000 lbs/hr. shall be accomplished by use of the equation:

$$E=17.31 p^{0.16} \quad P \text{ is greater than } 30 \text{ tons/hr.}$$

Where: E=Emission in pounds per hour.  
P=Process weight in tons per hour.

Rule 213

Storage of Petroleum Products.

- A.
1. Except as provided in subdivision (2), no person shall install or maintain any stationary gasoline tank with a capacity of 250 gallons or more which is not equipped for loading through a permanent submerged fill pipe, unless such tank is a pressure tank, or is equipped with a vapor recovery system, or with a floating roof, or unless such tank is equipped with other apparatus of equal efficiency which has been approved by the Air Pollution Control Officer.
  2. Subdivision (1) shall not apply to any stationary tanks installed prior to December 31, 1970.
  3. Subdivision (1) shall not apply to any stationary tank which is used primarily for the fuelling of implements of husbandry, as such vehicles are defined in Division 16 (commencing with Section 36000) of the Vehicle Code.
  4. For the purpose of this Rule, "gasoline" means any petroleum distillate having a Reid vapor pressure of four pounds or greater.
  5. For the purpose of this Rule, "submerged fill pipe means any fill pipe which has its discharge opening entirely submerged when the liquid level is six inches above the bottom of the tank. "Submerged fill pipe," when applied to a tank which is loaded from the side, means any fill pipe which has its discharge opening entirely submerged when the liquid level is 18 inches above the bottom of the tank.
  6. A "pressure tank" is a tank which maintains a working pressure sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere.
  7. A "vapor recovery system" consists of a vapor gathering system capable of collecting the hydrocarbon vapors and gases so as to prevent their emission to the atmosphere, with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place.
  8. A "floating roof" consists of a pontoon-type or double-deck-type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. This control equipment shall not be used if the gasoline or petroleum distillate has a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
- B. A person shall not place, store or hold in any stationary tank, reservoir or other container of more than 40,000 gallons capacity, any gasoline or any petroleum distillate having a

vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank, or equipped with a vapor recovery system, or a floating roof as described in subsection (A) of this Rule, or other equipment of equal efficiency, provided such equipment is approved by the Air Pollution Control Officer.

Rule 214      Reduction of Animal Matter. A person shall not operate or use any article, machine, equipment or other contrivance for the reduction of animal matter unless all gases, vapors and gas-entrained effluents from such an article, machine, equipment or other contrivance are:

- A.      Incinerated at temperatures of not less than 1,200 degrees Fahrenheit for a period of not less than 0.3 seconds, or
- B.      Processed in such a manner determined by the Air Pollution Control Officer to be equally, or more, effective for the purpose of air pollution control than (A) above.

A person incinerating or processing gases, vapors, or gas-entrained effluents pursuant to this Rule shall provide, properly install and maintain in calibration, in good working order, and in operation, devices as specified in the Authority to Construct or Permit to Operate or as specified by the Air Pollution Control Officer, for indicating temperature, pressure, or other operating conditions.

For the purpose of this Rule "reduction" is defined as any heated process, including rendering, cooking, drying, dehydration, digesting, evaporating and protein concentrating.

The provisions of this Rule shall not apply to any article, machine, equipment, or other contrivance used exclusively for the processing of food for human consumption.

Rule 215      Abrasive Blasting. By reference Title 17, Subchapter 6, of the California Administrative Code shall apply.



Rule 216      Compliance Tests. Except as otherwise provided in these Rules and Regulations, performance tests undertaken to determine compliance of sources with Regulation II shall comply with the provisions of CFR 40, Part 60, Appendix A except that Method 5 shall be modified to include the impinger train that includes condensables

Rule 217

## Rule 218      Fugitive Dust Emissions

### A. Purpose

The purpose of this rule is to prevent and control fugitive dust emissions to the atmosphere by using good housekeeping and/or work practices.

### B. Applicability

This rule shall apply to any person engaged in activities such as:

Dismantling or demolition of buildings.

Public or private construction, grading and/or clearing of land.

Mining and related activities.

Processing, handling, storing and/or transporting solid bulk materials.

Operation of machines or equipment.

Operation and/or use of paved and unpaved roads or parking facilities.

Solid waste disposal operations.

Agricultural operations.

Other activities not specifically listed in this rule but are determined by the APCO to be subject to this rule due to the generation of fugitive dust.

### C. Definitions

Fugitive dust is defined in Rule 102 as solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, as a direct result of operation of a facility. Fugitive dust for the purposes of this rule is also defined as the particulate matter entrained into the air which is caused from man-made and natural activities which is emitted into the air without first passing through a stack or duct designed to control flow, including, but not limited to, emissions caused by movement of soil, vehicles, equipment, and wind blown dust.

Person is defined in Rule 102 as any person, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, operator, user or owner, any government agency or public district, or employee thereof.

Solid bulk material for the purposes of this rule is defined as any material which emits dust when stored or handled and is generally unpackaged. Examples include but are not limited to sand, gravel, rock, clay, dirt, wood fiber, wood waste, and ash.

### D. General Requirements

No person may cause, allow or permit fugitive dust emissions without first implementing good housekeeping and/or work practices that reduce and control the emissions to the atmosphere below 20% opacity or equivalent Ringlemann, as stated in Rule 202, Visible Emissions. Good housekeeping and/or work practices include but are not limited to the following:

Application of water and/or approved chemicals to control emissions in the demolition of existing buildings or structures, construction operations, solid waste disposal operations, the grading of roads and/or the clearing of land.

Application of asphalt, water and/or approved chemicals to road surfaces.

Application of water and/or suitable chemicals to material stockpiles and other surfaces that may generate fugitive dust emissions.

Paving and/or re-paving roads.

Maintenance of roadways in a clean condition by washing with water or sweeping promptly.

Covering or wetting material stockpiles and open-bodied trucks, trailers, or other vehicles transporting materials that may generate fugitive dust emissions when in motion.

Installation and use of paved entry aprons or other effective cleaning techniques to remove dirt

accumulating on a vehicle's wheels on haul or access roads to prevent tracking onto paved roadways.

For process equipment, the installation and use of hoods, fans, and filters to enclose, collect, and clean the emissions prior to venting.

Ceasing operations until fugitive emissions can be reduced and controlled.

Using vegetation and other barriers to contain and to reduce fugitive emissions.

Using vegetation for windbreaks.

Instituting good housekeeping practices by regularly removing piles of material that have accumulated in work areas and/or are generated from equipment overflow.

Maintaining reasonable vehicle speeds while driving on unpaved roads in order to minimize fugitive dust emissions.

Other precautions not specifically listed in this rule but have been approved in writing by the APCO prior to implementation.

#### Administrative Requirements

Non-compliance with this rule shall be determined by any one or more of the following procedures:

A visible emission evaluation conducted and documented by District staff that exceeds 20% opacity or equivalent Ringlemann as stated in Rule 202, Visible Emissions.

An inspection by District staff that confirms a nuisance as determined by Rule 205, Nuisance.

Other procedures deemed appropriate by the APCO.

If the APCO determines that a person is not in compliance with this rule, the APCO will notify the person and provide the person a timeframe in which the person must achieve compliance. Failure to comply within the timeframe specified by the APCO will lead to the issuance of a notice of violation and assessment of penalties in accordance with the District's Mutual Settlement Policy or Division 26 of the Health and Safety Code.

# **REGULATION**

## **III**

# **OPEN BURNING**

Rule 300      General

- 300.1.    Prohibition. Except as otherwise provided in this Regulation, no person shall use open outdoor fires for the purpose of disposal or burning of petroleum wastes, demolition debris, tires, tar, trees, wood waste, plastics, or other combustible or flammable solid or liquid waste; or for metal salvage or burning of motor vehicle bodies. (Section 41800)
- 300.2.    Definitions.
- i)    APCD. The Air District of Amador County.
  - ii)   APCO. The Air Pollution Control Officer of Amador County, or designated representative.
  - iii)   Approved Ignition Devices. Those instruments or materials that will ignite open fires without the production of black smoke, including such items as liquid petroleum gas (L.P.G.), butane, propane, or diesel oil burners, flares, or other similar material as approved by the APCO. Tires, tar, tar paper, waste oil, and other similar materials are not approved.
  - iv)   ARB. The California State Air Resources Board, or any person authorized to act on its behalf.
  - v)    CCR. The California Code of Regulations.
  - vi)   Designated Agency. Any agency authorized by the APCD or ARB as having authority to issue air pollution permits. The U.S. Forest Service, the California Department of Forestry, and the incorporated cities are so designated within their respective areas of jurisdiction within Amador County APCD.
  - vii)   Person. Any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, operator, user or owner, any government agency or public district, or any officer or employee thereof.
  - viii) Prescribed Burning. The planned application of fire to vegetation on lands selected in advance of such application, where any of the purposes of the burning are specified in the definition of agricultural burning as set forth in Section 39011.
  - ix)   Section. As used in these Rules and Regulations, unless some other code is specifically mentioned, all section references are to the California Health and Safety Code.

Rule 301      Compliance

- 301.1. Enforcement. This Regulation shall be enforced by the APCO under the authority of Sections 40001, 40702, 40752, and all officers empowered by Section 40120.
- 301.2. District-wide Coverage. Rules and prohibitions as set forth in this Regulation shall apply in all portions of the Amador County APCD unless otherwise stated.
- 301.3. Penalty. A violation of the provisions of this Regulation, or of Section 41852 or 41800 is a misdemeanor punishable by imprisonment in the County Jail not exceeding twelve (12) months or by fine not exceeding twenty-five thousand dollars (\$25,000.00) or both, and the cost of putting out the fire. Every day during any portion of which such violation occurs constitutes a separate offense. (Sections 42400, 42400.1, 42400.2, 42400.5, 42401, 42402, 42402.1, 42402.2, and 42403)

Rule 302      Air Pollution Permit

302.1. Requirements.

- i. No person required to comply with the provisions of this Rule shall knowingly set or permit open outdoor fires unless that person has been issued a valid permit by the APCO or a designated agency. (Section 41852)
- ii. A permit shall not be issued unless information is provided as required by the APCO or designated agency, including:
  - (1) Name and address of applicant.
  - (2) Location of proposed burn.
  - (3) Acreage or estimated tonnage, and type of material to be burned.
  - (4) Any other information the APCO or designated agency may deem pertinent.
- iii. Each permit issued shall bear a statement of warning containing the following words or words of like or similar import: "THIS PERMIT IS VALID ONLY ON THOSE DAYS DURING WHICH AGRICULTURAL BURNING IS NOT PROHIBITED BY THE STATE AIR RESOURCES BOARD OR THE AIR DISTRICT PURSUANT TO SECTION 41855 OF THE HEALTH AND SAFETY CODE." (Section 41854)
- iv. The designated agency shall forward the permit information received from all applicants to the APCO upon request.
- v. Air pollution permits issued by the APCO shall require payment of a fee at the time the application is received. A permit will be valid for a period of one year from the date it is issued for a fee of \$20 or two years for a fee of \$40.

302.2. Additional Permits. The Air Pollution Control Officer may exempt persons burning small piles of vegetation for Residential Maintenance or Recreational Activity as described elsewhere in this Regulation from Rule 302.1 requirements. The District will not require an Air Pollution Permit for such fires or charge a fee for them. Nothing in this Regulation exempts persons from obtaining any permits that may be required by other agencies.



Rule 303      Burn or No-Burn Day

303.1. Prohibition. No person required to comply with the provisions of this Rule shall knowingly permit open outdoor fires on days when such burning is prohibited by the ARB, the APCO, or the fire agency with appropriate jurisdiction.

303.2. Notice

- ii. A notice as to whether the following day is a permissive Burn day, or No-Burn day, or whether the decision will be announced the following day, is provided by the ARB by 3:00 PM daily for each of the air basins. If the decision is made the following day, it is announced by 7:45 AM. Such notices shall be based on the Meteorological Criteria for Regulating Agricultural Burning, CCR, Article 3, Sections 80180 through 80320 of the Agricultural Burning Guidelines.
- iii. Agricultural burning is prohibited on No-Burn days, except as specified in CCR Section 80102, CCR Section 80120, subdivisions (d) and (e), and as may be permitted by a provision in an implementation plan adopted pursuant to CCR Section 89150(c)(5). In authorizing such burning, the APCO shall limit the amount of acreage which can be burned in any one day and only authorize burning when downwind metropolitan areas are forecasted by the ARB to achieve the ambient air quality standards.
- iv. Upon request from a permittee through a designated agency, seven days in advance of a specific range improvement burn, forest management burn, or wildland vegetation management burn, at any elevation below 6,000 feet mean sea level, a permissive Burn or No-Burn notice will be issued by the ARB up to 48 hours prior to the date scheduled for the burn. Without further request, a daily notice will continue to be issued until a permissive Burn notice is issued.
- v. Notwithstanding subdivision (c) of CCR Section 80110, the ARB may cancel permissive Burn notices that have been issued more than 24 hours in advance if the cancellation is necessary to maintain suitable air quality.
- vi. A permissive Burn or No-Burn advisory outlook will be available up to 72 hour in advance of burns specified in subdivision (c) of CCR Section 80110.
- vii. A permissive Burn day notice from the ARB or APCD does not override decisions prohibiting burning by fire agencies with appropriate jurisdiction.

303.3. Exception. The APCO may issue a special permit to authorize the use of open outdoor fires on No-Burn days as designated by the ARB or APCD when denial of such a permit would threaten imminent and substantial economic loss, and when downwind metropolitan areas are forecasted by the ARB to achieve the ambient air quality standards.

Rule 304      Burning Management

304.1. Prohibition. No person required to comply with the provisions of this Rule shall knowingly permit open outdoor fires that do not meet the following requirements.

304.2. Requirements

- viii.      Material to be burned shall be in a condition to facilitate combustion and minimize the amount of smoke emitted during combustion.
- ix.        Except for large trees (diameter of six or more inches), only the amount that can reasonably be expected to completely burn within the following twenty-four hours shall be ignited in any one day.
- x.         All outdoor fires shall be ignited only with approved ignition devices as defined in Rule 300.2.C.
- xi.        Material to be burned shall be ignited as rapidly as practicable within applicable fire control restrictions.
- xii.      The APCO shall regulate burning or require mitigation when the meteorological conditions could otherwise cause smoke to create or contribute to a violation of a state or federal ambient air quality standard or cause a public nuisance.
- xiii.     No material shall be burned unless it is free of tires, rubbish, tar paper, plastic, and demolition debris, is reasonably free of dirt, soil, and moisture, and piled material shall be loosely stacked in a manner to insure combustion.
- xiv.      The APCO shall regulate the total acreage or tonnage that may be burned each day within the APCD.

Rule 305      Minimum Drying Time

- 305.1. Prohibition. No person required to comply with this Rule shall knowingly permit open outdoor fires that do not meet the following requirements.
- 305.2. Requirements. To lower the moisture content of the material being burned, the elapsed time between cutting and burning shall be:
- xv.      A minimum of three days for green straw and stubble.
  - xvi.     Sufficient time for agricultural waste such as orchard prunings, small branches, vegetable tops, and seed screenings to assure rapid and complete combustion with a minimum of smoke.
  - xvii.    A minimum of six weeks for trees, stumps, and large branches greater than six inches in diameter.
  - xviii.   For prescribed burning, the drying time shall be specified by the designated agency.
  - xix.     For range improvement burning, the brush shall be felled, crushed or uprooted with mechanical equipment, or desiccated with herbicides, or dead at least six months prior to the burn if economically and technically feasible.
- 305.3. Exception. The APCO may, by special permit, authorize shorter drying times if the denial of such a permit would threaten imminent and substantial economic loss.

Rule 306      Burn Plan

- 306.1. Prohibition. No person required to comply with the provisions of this Rule shall knowingly permit open outdoor fires that do not meet the following requirements.
- 306.2. Requirements. The following information shall be provided to the APCO for review and approval at least twenty (20) days in advance of the proposed burn:
- xx.      Location and specific objectives of the proposed burn.
  - xxi.     Acreage or tonnage, type, and arrangement of vegetation to be burned.
  - xxii.    Directions and distance to nearby sensitive receptor areas.
  - xxiii.   Fuel condition, and combustion and meteorological prescription elements developed for the project.
  - xxiv.    Projected schedule and duration of project ignition, combustion, and burndown.
  - xxv.     Specifications for monitoring and verifying critical project parameters.
  - xxvi.    Specification for disseminating project information.
  - xxvii.   Other information as requested or required by the APCO or other agencies.

Rule 307      Agricultural Burning

307.1. Definitions

- xxviii. Agricultural Burning. Any open outdoor fire used in agricultural operations as specified in subdivision B or in the operation or maintenance of a system for the delivery of water for purposes specified in subdivision B. Forest management burning, range improvement burning, or wildland vegetation management burning are allowed under separate Rules (309, 310, and 308, respectively) of this Regulation. (Sections 39011.(a) and 39011.(b))
- xxix. Agricultural Operation. The growing and harvesting of crops, or the raising of fowl or animals for the primary purpose of making a profit, or providing a livelihood, or the conduct of agricultural research or instruction by an educational institution. Agricultural operations include forest management, range improvement, improvement of land for wildlife and game habitat, or disease or pest prevention. (Section 39011.(a))
- xxx. Agricultural Wastes
- (1) (1) Unwanted or unsalable material produced wholly from agricultural operations.
  - (2) (2) Materials not produced wholly from agricultural operations, but which are intimately related to the growing or harvesting of crops and which are used in the fields, such as fertilizer or pesticide sacks or containers where the sacks or containers are emptied in the fields, except as prohibited in this Regulation. This does not include such items as shop wastes, demolition debris, garbage, oil filters, tires, pallets, etc.

307.2. Requirements

- i. Agricultural burning is allowed by complying with the following Rules:
  - (1) Rule 302 Air Pollution Permit
  - (2) Rule 303 Burn or No-Burn Day
  - (3) Rule 304 Burning Management
  - (4) Rule 305 Minimum Drying Time
- ii. Burning conducted by a public agency or through a cooperative agreement or contract involving a public agency, shall comply with Rule 308, instead

of this Rule.

307.3. Exceptions

- i. Burning empty sacks or containers which contained pesticides or other toxic substances is exempt from Rule 307.2, provided that the sacks or containers are within the definition of Agricultural Waste, as defined in Rule 307.1.C. (CCR, Title 17, Section 80100. (b))
- ii. Burning for the purpose of residential maintenance on agricultural property is exempt from Rule 307.2, provided that the burning meets all the requirements of Rule 311.5, A through E.

Rule 308      Wildland Vegetation Management Burning

2.

308.1. Wildland Vegetation Management Burning is defined in this Rule as the use of prescribed burning conducted by a public agency or through a cooperative agreement or contract involving a public agency to burn land predominantly covered with chaparral (as defined in CCR, Title 14, Section 1561.1), trees, grass, or standing brush.

3.

308.2. Requirements

- i. This Rule applies to all burning which meets the definition as stated in Rule 308.1, regardless of whether such burning also meets another definition in this Regulation.
- ii. All open outdoor fires shall be ignited only with approved ignition devices as defined in Rule 300.2.C.
- iii. The APCO shall regulate total acreage or tonnage that may be burned each day within the APCD.
- iv. The APCO shall regulate burning or require mitigation when the meteorological conditions could otherwise cause smoke to create or contribute to a violation of a state or federal ambient air quality standard or cause a public nuisance.
- v. Vegetation burned under this Rule shall be free of tires, rubbish, tar paper or demolition debris, and reasonably free of dirt and soil.
- vi. Vegetation shall be in a condition to facilitate combustion and minimize the amount of smoke emitted during combustion.
- vii. Persons engaged in wildland vegetation management burning shall comply with the following Rules:
  - (1) Rule 302 Air Pollution Permit
  - (2) Rule 303 Burn or No-Burn Day
  - (3) Rule 306 Burn Plan



Rule 309      Forest Management Burning

309.1. Forest Management Burning is defined as either the use of prescribed burning or the burning of piled material conducted by a public agency or through a cooperative agreement or contract involving a public agency or by a nongovernmental agency to use open outdoor fires to remove forest debris, or for the practices which include timber operations (cutting or removal of timber or other forest vegetation), silvicultural practices (the establishment, development, care, and reproduction of stands of timber), or for forest protection practices.

309.2. Requirements. Forest management burning is allowed by complying with the following Rules:

- viii.    Rule 302 Air Pollution Permit
- ix.     Rule 303 Burn or No-Burn Day
- x.      Rule 304 Burning Management
- xi.     Rule 305 Minimum Drying Time
- xii.    Rule 306 Burn Plan

Rule 310      Range Improvement Burning

310.1. Range Improvement Burning is defined as the use of open outdoor fires by nongovernmental agencies to remove vegetation for a wildlife, game, or livestock habitat, or for the initial establishment of an agricultural practice on previously uncultivated land.

310.2. Requirements. Range improvement burning is allowed by complying with the following Rules:

- xiii.    Rule 302 Air Pollution Permit
- xiv.    Rule 303 Burn or No-Burn Day
- xv.    Rule 304 Burning Management
- xvi.    Rule 305 Minimum Drying Time

310.3. Additional Permits. No burning shall be conducted for the improvement of land for wildlife or game habitat until the person who desires to conduct the burning files with the APCO a written statement from the Department of Fish and Game that certifies that the burning is desirable and proper for the improvement of land for wildlife or game habitat. If the Department of Fish and Game wishes to conduct the burn itself, the Department shall, on its own behalf, issue and file such statements. (Section 41861)

Rule 311      Miscellaneous Burning

311.1. Land Development Clearing. The APCD finds it more economically desirable to dispose of wood waste from trees, vines, and bushes on property being developed for commercial or residential purposes by burning instead of burial at a sanitary landfill. This material shall be allowed for disposal by burning in compliance with the following Rules:

- i)      Rule 302 Air Pollution Permit
- ii)     Rule 303 Burn or No-Burn Day
- iii)    Rule 304 Burning Management
- iv)     Rule 305 Minimum Drying Time

311.2. Ditch and Road Maintenance. The use of open outdoor fires for right-of-way clearing by a public entity or utility, or for levee, ditch, or reservoir maintenance shall be allowed in compliance with the following Rules:

- i.      Rule 302 Air Pollution Permit
- ii.     Rule 303 Burn or No-Burn Day
- iii.    Rule 304 Burning Management
- iv.     Rule 305 Minimum Drying Time

311.3. Hazard Reduction

- i.      Any public agency authorized to engage in fire protection activities, including but not limited to a fire protection district, city, city and county, or county fire department, the California Department of Forestry, and the United States Forest Service, may use or permit the use of fire to abate a hazard. (Sections 13055 and 41801)
- ii.     The burning shall be done in compliance with the following Rules:
  - (1)     Rule 302 Air Pollution Permit
  - (2)     Rule 303 Burn or No-Burn Day
  - (3)     Rule 304 Burning Management
  - (4)     Rule 305 Minimum Drying Time

- iii. Exception. If a fire officer with jurisdiction determines that a condition exists in which a fire hazard will have an imminent effect on life or property, or where other authorized officials determine that a health hazard exists and that there is no alternative to burning, all other provisions of this Regulation shall be waived.

311.4. Fire Suppression and Training. Nothing in these Rules and Regulations shall be construed as limiting the authority of any public fire official granted under provisions of law to:

- i. Set or permit a fire when such fire is, in his opinion, necessary for the instruction of public employees, and/or volunteer fire fighters, or on property used for industrial purposes, when instructing employees in the methods of fighting fires.
- ii. Set or cause to be set backfires necessary to save life or valuable property pursuant to Section 4426 of the Public Resource Code. (Section 41801)

311.5. Residential Maintenance. Burning shall be allowed under the following conditions:

- i. Burning shall be allowed only on the premises of a one- or two-family dwelling where the material originated.
- ii. The material to be burned shall consist only of natural vegetation and untreated lumber.
- iii. The burning shall be done in compliance with the following Rules:
  - (1) Rule 303 Burn or No-Burn Day
  - (2) Rule 304 Burning Management
  - (3) Rule 305 Minimum Drying Time
- iv. Materials that may not be burned include, but are not limited to, treated wood, construction or demolition debris, plastic, rubber (including tires), tar paper, insulation, petroleum waste, electrical wire, garbage, bottles, or cans.
- v. Only approved ignition devices shall be used as defined in Rule 300.2.C.
- vi. Residential burn piles may not exceed 4' x 4' x 4'.

311.6. Recreational Activity. The use of open outdoor fires in recreational activities shall be allowed under the following conditions:

- i. Material to be burned shall be limited to charcoal, dry firewood, or cooking fuels.
- ii. Only approved ignition devices shall be used as defined in Rule 300.2.C.
- iii. Recreational fires shall not exceed 4' x 4' x 4'.

311.7. Mechanized Burners

- i. Requirements. The APCO may authorize, by permit, open outdoor fires for the purpose of disposing of agricultural wastes, or wood waste from trees, vines, or bushes, or other wood debris free of non-wood materials, in a mechanized burner such that no air contaminant is discharged for a period or periods aggregating more than 30 minutes in any eight hour period which is:
  - (1) As dark or darker in shade as that designated No. 1 on the Ringlemann Chart, as published by the United States Bureau of Mines, or
  - (2) Of such opacity as to obscure an observer's view to a degree equal to or greater in value than does smoke described in Rule 311.7.A.1 above.ii. In authorizing the operation of a mechanized burner, the APCO may make the permit subject to whatever conditions are reasonably necessary to assure conformance with the standards prescribed in this Regulation. (Section 41812)

# **REGULATION**

## **IV**

# **AUTHORITY TO CONSTRUCT REGULATIONS**

**RULE 400– NSR REQUIREMENTS FOR NEW AND MODIFIED MAJOR SOURCES IN  
NONATTAINMENT AREAS (ADOPTED ON AUGUST 20, 2019)**

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# **1 APPLICABILITY PROCEDURES**

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## **1.1 PRECONSTRUCTION REVIEW REQUIREMENTS**

- (a) The preconstruction review requirements of this rule apply to the proposed construction of any new major stationary source or major modification in the District that is major for a nonattainment pollutant, if the stationary source or modification is located anywhere in the designated nonattainment area, except as provided in Section 9 of this rule.
- (b) Sources subject to this rule may also be subject to other District Rules and Regulations. For purposes of the implementation and enforcement of this rule, the provisions and requirements of this rule, including but not limited to the requirements for obtaining an Authority to Construct, application submittal and content, conditional approval, public participation, and granting an Authority to Construct, shall take precedence over any other such provisions and requirements in other District Rules and Regulations. To the extent that other District Rules or Regulations may affect the stringency or applicability of this rule, such other Rules and Regulations shall not apply for purposes of the implementation or enforcement of this rule.

## **1.2 AUTHORITY TO CONSTRUCT REQUIREMENT**

No new major stationary source or major modification to which the requirements of this rule apply shall begin actual construction without first obtaining an Authority to Construct from the reviewing authority, pursuant to this rule.

## **1.3 EMISSION CALCULATION REQUIREMENTS TO DETERMINE NSR APPLICABILITY**

### **1.3.1 New Major Stationary Sources**

The definition of Major Stationary Source as incorporated by reference in Section 2 shall be used to determine if a new or modified stationary source is a new major stationary source.

### **1.3.2 Major Modifications**

The provisions set out in paragraphs (a) through (e) below shall be used to determine if a proposed project will result in a major modification. These provisions shall not be used to determine the quantity of offsets required for a project subject to the requirements of this rule.

- (a) Except as otherwise provided in Section 1.4, a project is a major modification for a nonattainment pollutant if it causes two types of emissions increases: a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

- (b) The procedure for calculating (before beginning actual construction) whether a significant emissions increase will occur depends upon the type of emissions units being added or modified as part of the project, according to paragraphs (c) through (e) of this Section. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source is contained in the definition of *Net Emissions Increase*. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.
- (c) **Actual-to-Projected-Actual Applicability Test for Projects that Only Involve Existing Emissions Units.** A significant emissions increase of a nonattainment pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.
- (d) **Actual-to-Potential Test for Projects that Only Involve Construction of a New Emissions Unit(s).** A significant emissions increase of a nonattainment pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.
- (e) **Hybrid Test for Projects that Involve Multiple Types of Emissions Units.** A significant emissions increase of a nonattainment pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (c) or (d) of this Section, as applicable, with respect to each emissions unit, equals or exceeds the significant amount for that pollutant.

#### 1.4 MAJOR SOURCES WITH PLANT-WIDE APPLICABILITY LIMITATIONS (PAL)

For any major stationary source with a PAL permit for a nonattainment pollutant, the major stationary source shall comply with the requirements in Section 9 of this rule.

#### 1.5 PROJECTS THAT RELY ON A PROJECTED ACTUAL EMISSIONS TEST

Except as otherwise provided in paragraph (g)(iii) of this Section, the provisions of this Section shall apply with respect to any nonattainment pollutant that is emitted from projects at existing emissions units located at a major stationary source, other than a source with a PAL permit, when there is a reasonable possibility, within the meaning of paragraph (g) of this Section, that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in paragraphs (B)(1) through (B)(3) of the definition of *Projected Actual Emissions* to calculate projected actual emissions.

- (a) Before beginning actual construction of the project the owner or operator shall document and maintain a record of the following information:
  - (i) A description of the project;

- (ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and
  - (iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (B)(3) of the definition of *Projected Actual Emissions* and an explanation for why such amount was excluded, and any netting calculations, if applicable.
- (b) If the emissions unit is an existing emissions unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in paragraph (a) of this Section to the APCO. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the APCO concerning compliance with Rule 400 before beginning actual construction. However, such owner or operator may be subject to the requirements of District Regulations IV and V , or other applicable requirements.
- (c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that are emitted by any emissions unit identified in paragraph (a)(ii) of this Section; and calculate and maintain a record of the annual emissions, in tons per year (tpy), on a calendar year basis for a period of five years following resumption of regular operations after the change, or for a period of ten years following resumption of regular operations after the change if the project increases the design capacity or potential to emit that regulated NSR pollutant at such emissions unit.
- (d) If the emissions unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the APCO within sixty days after the end of each calendar year during which records must be generated under paragraph (c) of this Section, setting out the unit's annual emissions during the calendar year that preceded submission of the report.
- (e) If the emissions unit is an existing emissions unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the APCO if the annual emissions, in tpy, from the project identified in paragraph (a)(ii) of this Section exceed the baseline actual emissions by a significant amount for that regulated NSR pollutant, and if such emissions differ from the projected actual emissions (prior to exclusion of the amount of emissions specified under paragraph (B)(3) of the definition of *Projected Actual Emissions*) as documented and maintained pursuant to paragraph (a)(iii) of this Section. Such report shall be submitted to the APCO within sixty days after the end of such year. The report shall contain the following:
- (i) The name, address, and telephone number of the major stationary source;
  - (ii) The annual emissions, as calculated pursuant to paragraph (c) of this Section; and

- (iii) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).
- (f) The owner or operator of the source shall make the information required to be documented and maintained pursuant to this Section available for review upon a request for inspection by the APCO or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).
- (g) A “reasonable possibility” under this Section occurs when the owner or operator calculates the project to result in either:
  - (i) A projected actual emissions increase of at least 50 percent of the amount that is a “significant emissions increase,” as defined in this rule (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or
  - (ii) A projected actual emissions increase that, added to the amount of emissions excluded under paragraph (B)(3) of the definition of *Projected Actual Emissions*, sums to at least 50 percent of the amount that is a “significant emissions increase,” as defined in this rule (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant.
  - (iii) For a project in which a reasonable possibility occurs only within the meaning of paragraph (g)(ii), and not also within the meaning of (g)(i), the provisions of paragraphs (b) through (e) of this Section do not apply to the project.

## **1.6 SECONDARY EMISSIONS**

Secondary emissions shall not be considered in determining whether a stationary source would qualify as a major stationary source. If a stationary source is subject to this rule on the basis of direct emissions from the stationary source, the requirements of Section 4 must also be met for secondary emissions.

## **1.7 STATIONARY SOURCES**

For purposes of this rule, the term stationary source does not refer to the source of emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the Clean Air Act.

## **1.8 ENVIRONMENTAL PROTECTION AGENCY DETERMINATION**

Notwithstanding any other requirements of this rule governing the issuance of an Authority to Construct, the APCO shall not issue an Authority to Construct to a new major stationary source or major modification subject to the requirements of this rule if the federal Environmental Protection Agency has determined that the SIP is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements of Title I, Part D of the Clean Air Act.

## 2 DEFINITIONS

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For the purposes of this rule, the definitions provided in paragraphs (a), (b), (c) and (d) below apply to the terms used in this rule. In the event of any discrepancy between the definitions specified in paragraphs (a), (b), (c), and (d), below, the definition in the paragraph that is listed first below shall control.

(a) The definitions contained in 40 CFR 51.165(a)(1) shall apply, and are hereby incorporated by reference, with the exception of the definition of “Reviewing authority” at 40 CFR 51.165(a)(1)(xxxviii), which has the meaning specified in paragraph (b) below.

(b) The following definitions shall also apply:

“*Air Pollution Control Officer (APCO)*” means the Air Pollution Control Officer of the Amador Air District.

“*Class I area*” means any area listed as Class I in 40 CFR Part 81 Subpart D, including Section 81.405, or an area otherwise specified as Class I in the legislation that creates a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, or a national lakeshore or seashore.

“*Clean Air Act (CAA)*” means the federal Clean Air Act, 42 U.S.C. 7401 *et seq.*, as amended.

“*Complete*” means, in reference to an application, that the application contains all of the information necessary for processing.

“*District*” means the Amador Air District.

“*Emission reduction credit (ERC)*” means reductions of actual emissions from emissions units that are certified by a California air district in accordance with applicable district rules and issued by the air district in the form of ERC certificates.

“*Internal emission reductions*” means emission reductions which have occurred or will occur at the same major stationary source where the proposed emissions increase will occur.

“*Nonattainment pollutant*” means any regulated NSR pollutant for which the District, or portion of the District, has been designated as nonattainment, as codified in 40 CFR 81.305, as well as any precursor of such regulated NSR pollutant specified in 40 CFR 51.165(a)(1)(xxxvii)(C).

“*Permanent*” means an emission reduction which is federally enforceable for the life of a corresponding increase in emissions.

“*Reviewing authority*” means the Air Pollution Control Officer (APCO).

“*Shutdown*” means the cessation of operation of any air pollution control equipment or process equipment for any purpose.

“*Startup*” means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.

“*State Implementation Plan (SIP)*” means the State Implementation Plan approved or promulgated for the State of California under section 110 or 172 of the Clean Air Act.

“*Surplus*” means the amount of emission reductions that are, at the time of generation or use of an emission reduction credit (ERC), not otherwise required by federal, state, or local law, not required by any legal settlement or consent decree, and not relied upon to meet any requirement related to the California State Implementation Plan (SIP). However, emission reductions required by a state statute that provides that the subject emission reductions shall be considered surplus may be considered surplus for purposes of this rule if those reductions meet all other applicable requirements. Examples of federal, state, and local laws, and of SIP-related requirements, include, but are not limited to, the following:

- (i) The federally-approved California SIP;
- (ii) Other adopted state air quality laws and regulations not in the SIP, including but not limited to, any requirement, regulation, or measure that: (1) the District or the State has included on a legally required and publicly available list of measures that are scheduled for adoption by the District or the State in the future; or (2) is the subject of a public notice distributed by the District or the State regarding an intent to adopt such revision;
- (iii) Any other source or source-category specific regulatory or permitting requirement, including, but not limited to Reasonable Available Control Technology (RACT), New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Best Available Control Measures (BACM), Best Available Control Technology (BACT), and Lowest Achievable Emission Rate (LAER); and
- (iv) Any regulation or supporting documentation that is required by the Federal Clean Air Act, but is not contained or referenced in 40 CFR Part 52, including but not limited to: assumptions used in attainment and maintenance demonstrations (including Reasonable Further Progress demonstrations and milestone demonstrations), including any proposed control measure identified as potentially contributing to an enforceable near-term emission reduction commitment; assumptions used in conformity demonstrations; and assumptions used in emissions inventories.

“*Temporary source*” means an emission source such as a pilot plant or a portable facility which will be located outside the nonattainment area after less than a cumulative total of 90 days of operation in any 12 continuous months.

“*Tons per year (tpy)*” means annual emissions in tons.

- (c) The definitions contained in 40 CFR 51.100 shall apply, and are hereby incorporated by reference.
- (d) The definitions contained in 40 CFR 51.301 shall apply, and are hereby incorporated by reference.

### **3 APPLICATION REQUIREMENTS**

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#### **3.1 APPLICATION SUBMITTAL**

The owner or operator of any proposed new major stationary source or major modification required to obtain an Authority to Construct pursuant to this rule shall submit a complete application to obtain an Authority to Construct on forms provided by the APCO and include in the application submittal the information listed in Section 3.2 as well as the demonstrations listed in Sections 3.3-3.6. Designating an application complete for purposes of permit processing does not preclude the APCO from requesting or accepting any additional information.

#### **3.2 APPLICATION CONTENT**

At a minimum, an application for an Authority to Construct shall contain the following information related to the proposed new major stationary source or major modification:

- (a) Identification of the applicant, including contact information.
- (b) Identification of address and location of the new or modified source.
- (c) An identification and description of all emission points, including information regarding all regulated NSR pollutants emitted by all emissions units included in the new source or modification.
- (d) A process description of all activities, including design capacity, which may generate emissions of regulated NSR pollutants in sufficient detail to establish the basis for the applicability of standards and fees.
- (e) A projected schedule for commencing construction and operation for all emissions units included in the new source or modification.
- (f) A projected operating schedule for each emissions unit included in the new source or modification.
- (g) A determination as to whether the new source or modification will result in any secondary emissions.
- (h) The emission rates of all regulated NSR pollutants, including fugitive and secondary emission rates, if applicable. The emission rates must be described in tpy and for such shorter term rates as are necessary to establish compliance using the applicable standard reference test method or other methodology specified (i.e., grams/liter, ppmv or ppmw, lbs/MMBtu).



- (i) The calculations on which the emission rate information is based, including fuel specifications, if applicable and any other assumptions used in determining the emission rates (e.g., HHV, sulfur content of natural gas).
- (j) The calculations, pursuant to Section 1.3, used to determine applicability of this rule, including the emission calculations (increases or decreases) for each project that occurred during the contemporaneous period.
- (k) The calculations, pursuant to Section 4.3 (offset), used to determine the quantity of offsets required for the new source or modification.
- (l) Identification of existing emission reduction credits or identification of internal emission reductions, including related emission calculations and proposed permit modifications required to ensure emission reductions meet the offset integrity criteria of being real, surplus, quantifiable, permanent and federally enforceable or enforceable as a practical matter.
- (m) If applicable, a description of how performance testing will be conducted, including test methods and a general description of testing protocols.

### **3.3 LOWEST ACHIEVABLE EMISSION RATE (LAER)**

The applicant shall submit an analysis demonstrating that LAER has been proposed for each emissions unit included in the new major stationary source or major modification that emits a nonattainment pollutant for which the new stationary source or modification is classified as major.

### **3.4 STATEWIDE COMPLIANCE**

The applicant shall submit a certification that each existing major stationary source owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in the State is in compliance with all applicable emission limitations and standards under the CAA or is in compliance with an expeditious compliance schedule which is federally enforceable.

### **3.5 ANALYSIS OF ALTERNATIVES**

The applicant shall submit an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source that demonstrates the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

### **3.6 SOURCES IMPACTING CLASS I AREAS**

The applicant for a proposed new major source or major modification that may affect visibility of any Mandatory Class I Federal Area shall provide the APCO with an analysis of impairment to visibility that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification, as required by 40 CFR Section 51.307(b)(2).

### 3.7 APPLICATION FEES

The applicant shall pay the applicable fees specified in Regulation VI, FEES.

## 4 EMISSIONS OFFSETS

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### 4.1 OFFSET REQUIREMENTS

- (a) The emission increases of a nonattainment pollutant for which the new stationary source or modification is classified as major, shall be offset with federally enforceable ERCs or with internal emission reductions.
- (b) ERCs from one or more sources may be used, alone or in combination with internal emission reductions, in order to satisfy offset requirements.
- (c) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours may only be credited for offsets if such reductions are surplus, permanent, quantifiable, and federally enforceable; and
- (d) The shutdown or curtailment occurred after the last day of the base year for the attainment plan for the specific pollutant; or
- (e) The projected emissions inventory used to develop the attainment plan explicitly includes the emissions from such previously shutdown or curtailed emissions units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

### 4.2 TIMING

- (a) Internal emission reductions used to satisfy an offset requirement must be federally enforceable prior to the issuance of the Authority to Construct, which relies on the emission reductions.
- (b) Except as provided by paragraph (c) of this Section, the decrease in actual emissions used to generate ERCs or internal emission reductions must occur no later than the commencement of operation of the new or modified major stationary source.
- (c) Where the new emissions unit is a replacement for an emissions unit that is being shut down in order to provide the necessary offsets, the APCO may allow up to one hundred eighty (180) calendar days for shakedown or commissioning of the new emissions unit before the existing emissions unit is required to cease operation.

### 4.3 QUANTITY

The quantity of ERCs or internal emission reductions required to satisfy offset requirements shall be determined in accordance with the following:

- (a) The unit of measure for offsets, ERCs, and internal emission reductions shall be tpy. All calculations and transactions shall use emission rate values rounded to the nearest one one-hundredth (0.01) tpy.

- (b) The quantity of ERCs or internal emission reductions required shall be calculated as the product of the amount of increased emissions, as determined in accordance with paragraph (c) of this Section, and the offset ratio, as determined in accordance with paragraph (d) of this Section.
- (c) The amount of increased emissions shall be determined as follows:
  - (i) When the offset requirement is triggered by the construction of a new major stationary source, the amount of increased emissions shall be the sum of the potential to emit of all emissions units.
  - (ii) When the offset requirement is triggered by a major modification of an existing major stationary source, the amount of increased emissions shall be the sum of the differences between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.
  - (iii) The amount of increased emissions includes fugitive emissions.
- (d) The ratios listed in Table 1 shall be applied based on the area’s designation for each pollutant, as applicable. The offset ratio is expressed as a ratio of emissions increases to emission reductions.

**Table 1. Federal Offset Ratio Requirements by Area Designation and Pollutant**

<b>Area Designation</b>	<b>Pollutant</b>	<b>Offset Ratio</b>
Marginal Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.1
Moderate Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.15
Serious Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.2

**4.4 EMISSION REDUCTION REQUIREMENTS**

- (a) Internal emission reductions or ERCs used to satisfy an offset requirement shall be:
  - (i) Real, surplus, permanent, quantifiable, and federally enforceable; and
  - (ii) Surplus at the time of issuance of the Authority to Construct containing the offset requirements.
- (b) Permitted sources whose emission reductions are used to satisfy offset requirements must appropriately amend or cancel their Authority to Construct or Permit to Operate to reflect their newly reduced potential to emit, including practicably enforceable conditions to limit their potential to emit.
- (c) Emission reductions must be obtained from the same nonattainment area, however, the APCO may allow emission reductions from another nonattainment area if the following conditions are met:
  - (i) The other area has an equal or higher nonattainment classification than the area in which the source is located; and

- (ii) Emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located.
- (d) The use of ERCs shall not provide:
  - (i) Authority for, or the recognition of, any pre-existing vested right to emit any regulated NSR pollutant;
  - (ii) Authority for, or the recognition of, any rights that would be contrary to applicable law; or
  - (iii) An exemption to a stationary source from any emission limitations established in accordance with federal, state, or county laws, rules, and regulations.

## **5 ADMINISTRATIVE REQUIREMENTS**

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### **5.1 VISIBILITY**

The APCO shall provide written notice and conduct any necessary review and consultation with the Federal Land Manager regarding any proposed major stationary source or major modification that may impact visibility in any Mandatory Class I Federal Area, in accordance with the applicable requirements of 40 CFR 51.307.

### **5.2 AMBIENT AIR QUALITY STANDARDS**

The APCO may require the use of an air quality model to estimate the effects of a new or modified stationary source. The analysis shall estimate the effects of the new or modified stationary source, and verify that the new or modified stationary source will not prevent or interfere with the attainment or maintenance of any ambient air quality standard. In making this determination, the APCO shall take into account the mitigation of emissions through offsets pursuant to this rule, and the impacts of transported pollutants on downwind pollutant concentrations. The APCO may impose, based on an air quality analysis, offset ratios greater than the requirements of paragraph (d) of Section 4.3.

### **5.3 AIR QUALITY MODELS**

All estimates of ambient concentrations required, pursuant to this rule, shall be based on applicable air quality models, databases, and other requirements specified in 40 CFR Part 51, Appendix W (“Guideline on Air Quality Models”). Where an air quality model specified is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis. Written approval from the EPA must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to public notification and the opportunity for public comment given.

### **5.4 STACK HEIGHT PROCEDURES**

The degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good

engineering practice or by any other dispersion technique, except as provided in 40 CFR 51.118(b). For the purposes of this Section, the definitions in 40 CFR 51.100 shall apply.

- (a) Before the Control Officer issues an Authority to Construct under this rule to a source with a stack height that exceeds good engineering practice (GEP) stack height, the Control Officer shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing.
- (b) Any field study or fluid model used to demonstrate GEP stack height and any determination concerning excessive concentration must be approved by the EPA and the Control Officer prior to any emission limit being established.
- (c) The provisions of Section 5.4 do not restrict, in any manner, the actual stack height of any stationary source or facility.

## **6 AUTHORITY TO CONSTRUCT – DECISION**

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### **6.1 PRELIMINARY DECISION**

Following acceptance of an application as complete, the APCO shall perform the evaluations required to determine if the proposed new major stationary source or major modification will comply with all applicable District, state and federal rules, regulations, or statutes, including but not limited to the requirements under Section 3 of this rule, and shall make a preliminary written decision as to whether an Authority to Construct should be approved, conditionally approved, or denied. The decision shall be supported by a succinct written analysis. The decision shall be based on the requirements in force on the date the application is deemed complete, except when a new federal requirement, not yet incorporated into this rule, applies to the new or modified source.

### **6.2 AUTHORITY TO CONSTRUCT – PRELIMINARY DECISION REQUIREMENTS**

- (a) Prior to issuance of a preliminary written decision to issue an Authority to Construct for a new major stationary source or major modification, the APCO shall determine:
  - (i) That each emissions unit(s) that constitutes the new source or modification will not violate any applicable requirement of the District's portion of the California State Implementation Plan (SIP); and
  - (ii) That the emissions from the new or modified stationary source will not interfere with the attainment or maintenance of any applicable national ambient air quality standard; and
  - (iii) That the emission limitation for each emissions unit that constitutes the new source or modification specifies LAER for such units.

If the APCO determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the APCO may instead prescribe a design, operational or

equipment standard. In such cases, the APCO shall make its best estimate as to the emission rate that will be achieved and must specify that rate in the application review documents. Any Authority to Construct issued without an enforceable numerical emission standard must contain enforceable conditions which assure that the design characteristics or equipment will be properly maintained or that the operational conditions will be properly performed to continuously achieve the assumed degree of control. Such conditions shall be enforceable as emission limitations by private parties under section 304 of the CAA. The term “emission limitation” shall also include such design, operational, or equipment standards; and

- (iv) The quantity of ERCs or internal emission reductions required to offset the new source or modification, pursuant to Section 4.3; and
  - (v) That all ERCs or internal emission reductions required for the new source or modification have been identified and have been made federally enforceable or legally and practicably enforceable; and
  - (vi) That the quantity of ERCs or internal emission reductions determined under paragraph (b) of Section 4.3 will be surrendered prior to commencing operation.
- (b) Temporary sources and emissions resulting from the construction phase of a new source are exempt from paragraphs (iv), (v) and (vi) of this Section.

### **6.3 AUTHORITY TO CONSTRUCT CONTENTS**

- (a) An Authority to Construct for a new major stationary source or major modification shall contain terms and conditions:
  - (i) which ensure compliance with all applicable requirements and which are enforceable as a legal and practical matter.
  - (ii) sufficient to ensure that the major stationary source or major modification will achieve LAER in accordance with paragraphs (b) and (c) of this Section.
- (b) A new major stationary source shall achieve LAER for each nonattainment pollutant for which the source is classified as major.
- (c) A major modification shall achieve LAER for each nonattainment pollutant for which the modification would result in a significant net emissions increase. This requirement applies to each proposed emissions unit at which a net emissions increase in the nonattainment pollutant would occur as a result of a physical change, or change in the method of operation of the emissions unit.

### **6.4 AUTHORITY TO CONSTRUCT – FINAL DECISION**

- (a) Prior to making a final decision to issue an Authority to Construct for a new major stationary source or major modification, the APCO shall consider all written comments that are submitted within 30 days of public notification and all comments received at any public hearing(s) in making a final determination on the

approvability of the application and the appropriate Authority to Construct conditions. The District shall make all comments available, including the District's response to the comments, for public inspection in the same locations where the District made preconstruction information relating to the proposed source or modification available.

- (b) The APCO shall deny any application for an Authority to Construct if she/he finds the new source or modification would not comply with the standards and requirements set forth in District, state, or federal rules or regulations.
- (c) The APCO shall make a final decision whether to issue or deny the Authority to Construct after determining that the Authority to Construct will or will not ensure compliance with all applicable emission standards and requirements.
- (d) The APCO shall notify the applicant in writing of the final decision and make such notification available for public inspection at the same location where the District made preconstruction information and public comments relating to the source available.

## **6.5 PERMIT TO OPERATE**

The applicable terms and conditions of an issued Authority to Construct shall be included in any Permit to Operate subsequently issued by the APCO for the same emission units.

## **7 SOURCE OBLIGATIONS**

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### **7.1 ENFORCEMENT**

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this rule, any changes to the application as required by the APCO, or the terms of its Authority to Construct or Permit to Operate, shall be subject to enforcement action.

### **7.2 TERMINATION**

Approval to construct shall terminate if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The APCO may extend the 18-month period once upon a satisfactory showing of good cause why an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

### **7.3 COMPLIANCE**

Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

#### **7.4 RELAXATION IN ENFORCEABLE LIMITATIONS**

At such time that a particular stationary source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the stationary source or modification to emit a pollutant, then the requirements of this rule shall apply to the stationary source or modification as though construction had not yet commenced on the stationary source or modification.

### **8 PUBLIC PARTICIPATION**

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After the APCO has made a preliminary written decision to issue an Authority to Construct for a new major stationary source or major modification, as specified in Sections 6.1 and 6.2, the APCO shall:

- (a) Publish, in at least one newspaper of general circulation in the District, a notice stating the preliminary decision of the APCO, noting how pertinent information can be obtained, including how the public can access the information specified in Section 8(b), and inviting written public comment for a 30-day period following the date of publication. The notice shall include the time and place of any hearing that may be held, including a statement of procedure to request a hearing (unless a hearing has already been scheduled).
- (b) No later than the date the notice of the preliminary written determination is published, make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials the applicant submitted, a copy of the preliminary decision, a copy of the proposed Authority to Construct and a copy or summary of other materials, if any, considered in making the preliminary written decision.
- (c) Send a copy of the notice of public comment to the applicant, EPA Region 9, any persons requesting such notice and any other interested parties such as: any other state or local air pollution control agencies, the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency, and any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the source or modification.
- (d) Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the APCO's judgment such a hearing is warranted. The APCO shall give notice of any public hearing at least 30 days in advance of the hearing.



## 9 PLANT-WIDE APPLICABILITY LIMITS (PAL)

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### 9.1 APPLICABILITY

- (a) The APCO may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in Sections 9.1 through 9.15. The term “PAL” shall mean “actuals PAL” throughout Section 9.
- (b) Any physical change in, or change in the method of operation of, a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of Sections 9.1 through 9.14, and complies with the PAL Permit:
  - (i) Is not a major modification for the PAL pollutant;
  - (ii) Does not have to be approved through the plan’s Nonattainment Major NSR Program; and
  - (iii) Is not subject to the provisions in Section 9.4.
- (c) Except as provided under paragraph (b)(3) of Section 9.1, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

### 9.2 DEFINITIONS

Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 9 of this rule. When a term is not defined in these paragraphs, it shall have the meaning given in Section 2 of this rule or in the CAA.

*“Actuals PAL for a major stationary source”* means a PAL based on the baseline actual emissions of all emissions units at the source that emit, or have the potential to emit, the PAL pollutant.

*“Allowable emissions”* means allowable emissions as defined in Section 2 of this rule, except as this definition is modified according to paragraphs (a) and (b) below:

- (a) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit’s potential to emit.
- (b) An emissions unit’s PTE shall be determined using the definition in Section 2 for this term, except that the words “or enforceable as a practical matter” should be added after “federally enforceable.”

*“Major emissions unit”* means:

- (a) Any emissions unit that emits, or has the potential to emit, 100 tpy or more of the PAL pollutant in an attainment area; or
- (b) Any emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas.

*“Plantwide Applicability Limitation (PAL)”* means an emission limitation, expressed in tpy, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with Sections 9.1 through 9.15 of this rule.

*“PAL effective date”* generally means the date of issuance of the PAL Permit. The PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

*“PAL effective period”* means the period beginning with the PAL effective date and ending ten years later.

*“PAL major modification”* means any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

*“PAL Permit”* means the major NSR permit, the minor NSR permit, or the Title V permit issued by the APCO that establishes a PAL for a major stationary source.

*“PAL pollutant”* means the pollutant for which a PAL is established at a major stationary source.

*“Project”* means a physical change in, or change in the method of operation of, an existing stationary source.

*“Significant emissions unit”* means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in Section 2 of this rule or in the CAA, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

*“Small emissions unit”* means an emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount less than the significant level (as defined in Section 2 of this rule or in the CAA, whichever is lower).

### **9.3 PERMIT APPLICATION REQUIREMENTS**

As part of an application for a Part 70 Operating Permit requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the APCO for approval:

- (a) A list of all emissions units at the source designated as small, significant, or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal, state or county applicable requirements, emission limitations, or work practices apply to each unit;
- (b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction;
- (c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month, as required by paragraph (a) of Section 9.13.

#### **9.4 GENERAL REQUIREMENTS FOR ESTABLISHING PALS**

- (a) The APCO may establish a PAL at a major stationary source, provided that, at a minimum, the requirements in paragraphs (a)(i) through (a)(vii) below are met.
  - (i) The PAL shall impose an annual emission limitation, in tpy, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first twelve months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous twelve consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first eleven months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.
  - (ii) The PAL shall be established in a PAL Permit that meets the public participation requirements in Section 9.5 of this rule.
  - (iii) The PAL Permit shall contain all the requirements of Section 9.7 of this rule.
  - (iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.
  - (v) Each PAL shall regulate emissions of only one pollutant.
  - (vi) Each PAL shall have a PAL effective period of ten years.
  - (vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Sections 9.12 through 9.14 of this rule for each emissions unit under the PAL through the PAL effective period.
- (b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of generating offsets unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

#### **9.5 PUBLIC PARTICIPATION REQUIREMENTS FOR PALS**

PALS for existing major stationary sources shall be established, renewed, or increased through the public participation procedures in Section 9 of this rule.

#### **9.6 SETTING THE 10-YEAR ACTUALS PAL LEVEL**

- (a) Except as provided in paragraph (b) of this Section, the Actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant as defined in Section 2 or under the CAA, whichever is lower. When establishing the actuals PAL level for a PAL

pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The APCO shall specify a reduced PAL level(s) (in tons/yr) in the PAL Permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the APCO is aware of prior to issuance of the permit.

- (b) For newly constructed units (which does not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in paragraph (a) of Section 9.6, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

## **9.7 CONTENTS OF THE PAL PERMIT**

The PAL permit shall contain, at a minimum, the following information:

- (a) The PAL pollutant and the applicable source-wide emission limitation in tpy;
- (b) The effective date and the expiration date of the PAL Permit (PAL effective period).
- (c) Specification in the PAL permit that if a major stationary source owner or operator applies to renew the PAL conditions in accordance with Section 9.10 before the end of the PAL effective period, then the PAL conditions shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL Permit is issued by the APCO.
- (d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions;
- (e) A requirement that, once the PAL Permit expires, the major stationary source is subject to the requirements of Section 9.9;
- (f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month, as required by paragraph (a) of Section 9.13;
- (g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 9.12;
- (h) A requirement to retain the records required under Section 9.13 on-site. Such records may be retained in an electronic format;
- (i) A requirement to submit the reports required under Section 9.14 by the required deadlines; and
- (j) Any other requirements that the APCO deems necessary to implement and enforce the PAL Permit.

## **9.8 PAL EFFECTIVE PERIOD AND REOPENING OF PAL PERMIT**

The PAL shall include the following information:

- (a) PAL Effective Period. The APCO shall specify a PAL effective period of ten years from the date of issuance.
- (b) Reopening of the PAL Permit.
  - (i) During the PAL effective period, the plan shall require the APCO to reopen the PAL Permit to:
    - A. Correct typographical/calculation errors made in setting the PAL, or reflect a more accurate determination of emissions used to establish the PAL.
    - B. Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets.
    - C. Revise the PAL to reflect an increase in the PAL as provided under Section 9.11.
  - (ii) The APCO may reopen the PAL Permit for the following:
    - A. Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.
    - B. Reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the APCO may impose on the major stationary source under District Rules.
    - C. Reduce the PAL if the APCO determines that a reduction is necessary to avoid causing or contributing to a National Ambient Air Quality Standard or PSD increment violation, or to an adverse impact on an air-quality-related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.
  - (iii) Except for the permit reopening in paragraph (b)(i)(A) of Section 9.8 for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of Section 9.5 of this rule.

## **9.9 EXPIRATION OF A PAL**

Any PAL which is not renewed in accordance with the procedures in Section 9.10 shall expire at the end of the PAL effective period, and the requirements in Section 9.9 of this rule shall apply.

- (a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following:
  - (i) Within the time frame specified for PAL renewals in paragraph (b) of Section 9.10, the major stationary source shall submit a proposed allowable emission

limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the APCO ) by distributing the PAL allowable emissions for the affected major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (e) of Section 9.10, such distribution shall be made as if the PAL had been adjusted.

- (ii) The APCO will decide whether and how the PAL allowable emissions will be distributed and issue a revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the APCO determines is appropriate.
- (b) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The APCO may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.
- (c) Until the APCO issues the revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (a)(ii) of Section 9.9, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.
- (d) Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of *Major Modification*.
- (e) The major stationary source owner or operator shall continue to comply with any federal, state or county applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period except as provided in paragraph (b)(iii) of Section 9.1.

#### **9.10 RENEWAL OF A PAL**

- (a) The APCO will follow the procedures specified in Section 9.5 in approving any request to renew a PAL Permit for a major stationary source, and will provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the APCO .
- (b) Application deadline. A major stationary source owner or operator shall submit a timely application to the APCO to request renewal of the PAL Permit. A timely application is one that is submitted at least six months prior to, but not earlier than eighteen months prior to, the date of expiration of the PAL Permit. If the owner or operator of a major stationary source submits a complete application to renew the PAL Permit within this time period, then the PAL Permit shall continue to be effective until the revised permit with the renewed PAL is issued.
- (c) Application Requirements. The application to renew a PAL Permit shall contain the information required in paragraphs (c)(i) through (c)(iv) of Section 9.10 of this rule:

- (i) The information required in paragraphs (a) through (c) of Section 9.3;
  - (ii) A proposed PAL level;
  - (iii) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation); and
  - (iv) Any other information the owner or operator wishes the APCO to consider in determining the appropriate level for renewing the PAL Permit.
- (d) PAL Adjustment. In determining whether and how to adjust the PAL, the APCO will consider the options outlined in paragraphs (d)(i) and (d)(ii) of Section 9.10. However, in no case may any such adjustment fail to comply with paragraph (d)(iii) of Section 9.10.
- (i) If the emissions level calculated in accordance with Section 9.5 is equal to or greater than eighty (80) percent of the PAL level, the APCO may renew the PAL at the same level without considering the factors set forth in paragraph (d)(ii) of Section 9.10; or
  - (ii) The APCO may set the PAL at a level that he determines to be more representative of the source's baseline actual emissions, or that he determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the APCO in his written rationale.
  - (iii) Notwithstanding paragraphs (d)(i) and (d)(ii) of Section 9.10:
    - A. If the potential to emit of the major stationary source is less than the PAL, the APCO shall adjust the PAL to a level no greater than the potential to emit of the source; and
    - B. The APCO shall not approve renewed PAL level higher than the current PAL unless the major stationary source has complied with the provisions of Section 9.11.
- (e) If the compliance date for a federal or state requirement that applies to the PAL source occurs during the PAL effective period, and if the APCO has not already adjusted for such requirement, the PAL shall be adjusted at the time of the affected Part 70 Operating Permit is renewed.

#### **9.11 INCREASING A PAL DURING THE PAL EFFECTIVE PERIOD**

- (a) The APCO may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (a)(i) through (a)(iv) of Section 9.11.
  - (i) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase

in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

- (ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT-equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT-equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.
  - (iii) The owner or operator obtains an Authority to Construct for all emissions unit(s) identified in paragraph (a)(i) of Section 9.11, regardless of the magnitude of the emissions increase resulting from them. These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment Authority to Construct issuance process, even though they have also become subject to the PAL or continue to be subject to the PAL.
  - (iv) The PAL Permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
- (b) The APCO shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls as determined in accordance with paragraph (a)(ii) of Section 9.11), plus the sum of the baseline actual emissions of the small emissions units.
- (c) The PAL Permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 9.5.

## **9.12 MONITORING REQUIREMENTS FOR PALS**

- (a) General requirements.
  - (i) The PAL Permit must include enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL conditions must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.
  - (ii) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in



paragraphs (b)(i) through (b)(iv) of Section 9.12 and must be approved by the APCO .

- (iii) Notwithstanding paragraph (a)(ii) of Section 9.12, the PAL monitoring system may also employ an alternative monitoring approach that meets paragraph (a)(i) of Section 7.12 if approved by the APCO .
  - (iv) Failure to use a monitoring system that meets the requirements of Section 9.12 renders the PAL invalid.
- (b) Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (c) through (i) of Section 9.12:
- (i) Mass balance calculations for activities using coatings or solvents;
  - (ii) CEMS;
  - (iii) CPMS or PEMS; and
  - (iv) Emission factors.
- (c) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coatings or solvents shall meet the following requirements:
- (i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;
  - (ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
  - (iii) Where the vendor of a material or fuel which is used in or at the emissions unit publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the APCO determines there is site-specific data or a site-specific monitoring program to support another content within the range.
- (d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:
- (i) The CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and
  - (ii) The CEMS must sample, analyze, and record data at least every fifteen minutes while the emissions unit is operating.
- (e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

- (i) The CPMS or PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and
  - (ii) Each CPMS or PEMS must sample, analyze, and record data at least every fifteen minutes, or at another, less frequent interval approved by the APCO while the emissions unit is operating.
- (f) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:
- (i) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;
  - (ii) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and
  - (iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of permit issuance unless the APCO determines that testing is not required.
- (g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time whenever there is no monitoring data unless another method for determining emissions during such periods is specified in the PAL Permit.
- (h) Notwithstanding the requirements in paragraphs (c) through (g) of Section 9.12, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the APCO shall, at the time of permit issuance:
- (i) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or
  - (ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.
- (i) Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the APCO . Such testing must occur at least once every five years after issuance of the PAL Permit.

### **9.13 RECORDKEEPING REQUIREMENTS**

- (a) The PAL Permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Section 9 and of the

PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.

- (b) The PAL Permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:
  - (i) A copy of the PAL Permit application and any applications for revisions to the PAL Permit; and
  - (ii) Each annual certification of compliance pursuant to title V and the data relied on in certifying the compliance.

#### **9.14 REPORTING AND NOTIFICATION REQUIREMENTS**

The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the APCO, in accordance with the applicable title V operating permit program. The reports shall meet the requirements in paragraphs (a) through (c) of Section 9.14.

- (a) Semiannual Report. The semiannual report shall be submitted to the APCO within thirty days of the end of each reporting period. This report shall contain the information required in paragraphs (a)(i) through (a)(vii) of Section 9.14:
  - (i) The identification of owner and operator and the permit number;
  - (ii) Total annual emissions (in tpy) based on a 12-month rolling total for each month in the reporting period pursuant to paragraph (a) of Subection 9.13.
  - (iii) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;
  - (iv) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period;
  - (v) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken;
  - (vi) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g) of Section 9.12; and
  - (vii) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

- (b) Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL conditions, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the affected Part 70 Operating Permit. The reports shall contain the following information:
- (i) The identification of owner and operator and the permit number;
  - (ii) The PAL requirement that experienced the deviation or that was exceeded;
  - (iii) Emissions resulting from the deviation or the exceedance; and
  - (iv) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.
- (c) Revalidation Results. The owner or operator shall submit to the APCO the results of any revalidation test or method within three months after completion of such test or method.

#### **9.15 TRANSITION REQUIREMENTS**

The APCO may not issue a PAL permit that does not comply with the requirements in Section 9 after the EPA has approved regulations incorporating these requirements into the District portion of the California SIP.

### **10 INVALIDATION**

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If any provision of this rule or the application of such provision to any person or circumstance is held invalid, the remainder of this rule or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

### **11 EFFECTIVE DATE FOR REFERENCED FEDERAL REGULATIONS**

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All references and citations in this rule to Title 40 of the Code of Federal Regulations (CFR) refer to the referenced federal regulation as in effect on August 20, 2019.

Rule 401      Permit Required. Any person building, altering, or replacing any source of air contaminants shall first obtain an Authority to Construct from the Air Pollution Control Officer. An Authority to Construct shall remain in effect until the Permit to Operate for that source for which the application was filed is either granted or denied or until termination pursuant to other provisions of this Regulation.

Rule 402      Exemptions to Rule 401. An Authority to Construct shall not be required for:

- A.
  - 1. Vehicles as defined by the Vehicle Code of the State of California.
  - 2. Vehicles other than those contained within the provisions of subsection 1. above used to transport passengers or freight.
  - 3. The exemption allowed under this Section shall not be extended to include any article, machine, equipment, or other contrivance mounted on such vehicle contained within the provisions of subsection 1. and 2. above that would otherwise require an Authority to Construct under the provisions of this Regulation.
- B. Equipment utilized exclusively in connection with any structure, which structure is designed for, and used exclusively as a dwelling for not more than two families.
- C. The following equipment:
  - 1. Comfort air conditioning, or comfort ventilating systems, which are not designed to remove air contaminants generated by, or released from specific units or equipment.
  - 2. Refrigeration units except those used as, or in conjunction with, air pollution control equipment.
  - 3. Piston type internal combustion engines used on other than vehicles for transporting passengers or freight, and fired with natural gas or liquefied petroleum gas, or those having 50 horsepower or less and fired with diesel oil or gasoline.
  - 4. Water cooling towers and water cooling ponds not used for evaporative cooling of water from barometric jets or from barometric condensers.
  - 5. Equipment used exclusively for steam cleaning.
  - 6. Equipment used in eating establishments for the purpose of preparing food for human consumption.
  - 7. Equipment used exclusively to compress or hold dry natural gas.
  - 8. Gas turbines below 3,000,000 BTUs
  - 9. Surface Coating and Preparation
    - a) Water solution for surface preparation, cleaning, stripping, etching, or electrolytic plating;
    - b) Surface coating operations using less than one gallon per day or less of coating material and solvent;

- c) Unheated non-conveyorized solvent rinsing containers or unheated non-conveyorized coating dip tanks of 100 gallons capacity or less.
- 10. Storage and Transfer – Tanks, reservoirs, vessels or other containers and their associated dispensing, pumping and compression systems used exclusively for the storage of:
  - a) Liquefied or compressed gases;
  - b) Unheated organic materials with an initial boiling point of 150 C (302 F) or greater, or with an organic vapor pressure of 5 mm Hg (0.1 psia) or less at 20 C;
  - c) Organic liquids with a vapor pressure of 77.5 mm Hg (1.5 psia) or less at 20 C, having a capacity of 23,000 liters (6,076 gallons). Equipment used exclusively for the transfer of organic liquids with a vapor pressure of 77.5 mm Hg (1.5 psia) at 20 C to or from storage;
  - d) Unheated solvent dispensing containers of 380 liters (100 gallons) or less.
  
- D. The following equipment or any other exhaust system or collector serving exclusively such equipment:
  - 1. Laboratory equipment used exclusively for chemical or physical analysis and bench scale laboratory equipment.
  - 2. Brazing, soldering welding equipment.
  
- E. Steam generators, steam superheaters, water boilers, water heaters, and closed heat transfer systems that have a maximum heat input rate of less than 1,000,000 British Thermal Units (BTU) per hour gross, and are fired exclusively with one of the following:
  - 1. Natural gas;
  - 2. Liquefied petroleum gas;
  - 3. A combination of natural gas and liquefied petroleum gas.
  
- F. Self-propelled mobile construction equipment other than pavement burners.
  
- G. Implements of husbandry used in agricultural operations.
  
- H. Repairs or maintenance not involving structural changes to any equipment for which a Permit to Operate has been granted.
  
- I. Other sources emitting less than 1 ton per year of any criteria pollutant or precursor which may be specified by the Air Pollution Control Officer.

Rule 403

Applications. Every application for an Authority to Construct required under this Regulation shall be filed in the manner and form prescribed by the Air Pollution Control Officer, and shall give all the information necessary to enable the Air Pollution Control Officer to make the determination on the approvability of the application. The Air Pollution Control Officer may require that such information be certified by a professional engineer registered in the State of California.



Rule 404

Application Criteria. The Air Pollution Control Officer shall maintain, periodically review, and update a list of information which may be required of applicants seeking an Authority to Construct. The information list shall be transmitted to the applicant with the requested application for Authority to Construct. The Air Pollution Control Officer may conduct a pre-application conference with the applicant to ascertain the information to be required in the application.

Rule 405

Determination of Requirements. Upon request for an application for an Authority to Construct, the Air Pollution Control Officer shall determine in which District zone the source is proposed for location and whether the facility or modification will be a major facility or a major modification impacting attainment and nonattainment pollutants. The Air Pollution Control Officer shall advise the applicant on the basis of this preliminary determination which requirements of this Regulation will apply. Special studies necessary to provide information in the application shall be borne at the expense of the applicant. The Air Pollution Control Officer shall base a final determination of requirements under this Regulation upon information contained in the complete application for Authority to Construct.

Rule 406

Completeness of Application. Within 30 days after receiving an application for Authority to Construct, the Air Pollution Control Officer shall advise the applicant in writing whether the application is complete. If an application is deemed incomplete, the Air Pollution Control Officer shall notify the applicant of the additional information requirements. Failure to notify the applicant in writing of the completeness of the application shall be deemed acceptance of the application as complete. If the applicant fails to submit such requested information, the Air Pollution Control Officer may deny the application. Upon resubmission of an application, a new 30 day review period shall commence. After the Air Pollution Control Officer accepts an application as complete, he shall not subsequently request of an applicant any new or additional information which was not specified in the application form and information list. While an application is being processed after being deemed complete, the Air Pollution Control Officer may require the applicant to clarify, amplify, or supplement the information supplied.

Rule 407

Pollutant Modelling. The Air Pollution Control Officer, in consultation with other Air Districts in the Mountain Counties Air Basin, shall designate air quality simulation models for use in determining air quality impacts of emissions from new and existing facilities and modifications. Each model shall utilize information relating to emission quantities and meteorological conditions for areas within and adjacent to the District. Each model designated shall be consistent with the requirements provided in the "Revisions to Guidelines on Air Quality Models," published in the Federal Register Vol. 82, January 17, 2017, unless the Air Pollution Control Officer finds that such model is inappropriate for use in the District. After making such finding, the Air Pollution Control Officer may designate an alternate model only after allowing for public comment and only after consultation with other Air Districts in the Mountain Counties Air Basin, the Air Resources Board and the Environmental Protection Agency.

Rule 408

Attainment Pollutant Air Quality Analysis. Utilizing the air quality simulation model designated in Rule 407, the Air Pollution Control Officer shall determine the increases in attainment pollutant concentrations in downwind District zones and other Air Districts that will occur as a result of operation of proposed facilities or modifications. The Air Pollution Control Officer may require that the modeling cost be borne by the applicant. The model shall consider air quality impacts projected for the area as a result of general commercial, residential, industrial, and other growth associated with the facility if such facility or modification is proposed to employ more than 2,000 new residents. The applicant shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new or modified facility's associated growth, except that such analysis of impacts on vegetation having no significant commercial or recreational value need not be provided. The Air Pollution Control Officer may require the applicant to monitor applicable pollutants for a maximum of one year prior to consideration of an application for Authority to Construct, and for a period determined by the Air Pollution Control Officer to be necessary after issuance of the Permit to Operate for the facility or modification to determine compliance with national ambient air quality standards or attainment pollutant increments contained in Rule 413. Such monitoring shall comply with 40 CFR, Part 53, and the Air Resources Board Quality Assurance Plan for Ambient Air Monitoring.

Rule 409

Exemptions to Rule 408. The Air Pollution Control Officer may exempt from the provisions of Rule 408 any of the following facilities or modifications, or portions thereof, with respect to attainment pollutants:

- A. Portable facilities being relocated which have received Permits to Operate after January 1, 1981, and temporary sources of emissions if:
  - 1. Emissions from the facility would not exceed emissions limitations provided in these Rules and Regulations and would not cause or contribute to a violation of a national ambient air quality standard; and
  - 2. Such operation would impact no Class I area and no area where an applicable increment is known to be violated; and
  - 3. Notice is given to the Air Pollution Control Officer at least 90 days prior to a relocation identifying the proposed new location and the probable duration of operation at such location.
  
- B. Modification of a source for the sole purpose of converting from the use of petroleum products, natural gas, or both, by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act or the Federal Energy Supply, and Environmental Coordination Act of 1974 (or any superseding legislation). An exemption for such modification shall not apply for more than five (5) years after the effective day of such plan.
  
- C. Any modification which causes no net increase in the quantity of emissions from a facility, or any facility which causes no net increase in the quantity of emission within a District zone. Emission offset eligibility shall be determined through the provisions of Rule 411. No exemption shall be allowed if the facility or modification would impact a nonattainment area or an attainment pollutant increment violation area for such pollutant.
  
- D. Sources of fugitive dust.
  
- E. Any facility or modification which is not a major facility or major modification except any which would have the potential to emit an increase of emissions in excess of:
  - 1. 5.0 tons per year of lead;
  - 2. 0.02 tons per year of asbestos;
  - 3. 0.001 tons per year of beryllium;
  - 4. 0.3 tons per year of mercury;
  - 5. 3.0 tons per year of vinyl chloride;

6. 3.0 tons per year of fluorides;
  7. 7.0 tons per year of sulfuric acid;
  8. 10.0 tons per year of hydrogen sulfide;
  9. 10.0 tons per year of total reduced sulfur.
- F. Any source of carbon monoxide which the Air Pollution Control Officer determines would not cause a violation of any national ambient air quality standard for such pollutant at the point of maximum ground level impact.

Rule 410      Calculation of Emissions.

- A.      The potential to emit (lb/day or tons/year) of a new facility or modification shall be used to determine the emissions from the new facility or modification unless the applicant, as a condition to receiving Authorities to Construct and Permits to Operate for such new facility or modification, agrees to a limitation on the operation of the new facility or modification. Such limitation shall be used to establish the maximum emissions from the new facility or modification and shall be attached as a condition to the Permits to Operate. Allowable emissions shall be calculated on the basis of the emissions limitation contained in these Rules and Regulations as of the date the Air Pollution Control Officer deems the application for Authority to Construct complete. The calculation methodology shall employ emission factors or other data acceptable to the District. Applicants are encouraged to consult with the District in determining potential to emit.
  
- B.      The maximum emissions for an existing facility shall be based on the actual operating conditions averaged over the two year period preceding the date of application, or such other averaging period as determined by the Air Pollution Control Officer if the source did not operate, or operated irregularly, during the preceding two year period. If violation of laws, rules, regulations, permit conditions or orders of the District, the Air Resources Board or the Environmental Protection Agency occurred during the period used to determine the actual operating conditions, then adjustments to the operating conditions shall be made to determine the emissions the existing facility would have caused without such violations.
  
- C.      When computing the net increases in emissions for modifications, the Air Pollution Control Officer shall take into account the cumulative net emissions changes which are represented by Authorities to Construct associated with the existing facility, and issued after January 1, 1981, excluding any emissions reductions required to comply with federal, state, or District laws, rules or regulations.



Rule 411      Emission Offset Eligibility.

- A. Except in the case of seasonal sources, emissions offset quantities shall be calculated on annual, and daily bases. For seasonal sources, emission offset quantities shall be calculated on the basis of the season date span of operation, and daily emission rate, either estimated for proposed sources or averaged over the two year period preceding the date of application, or other appropriate periods as determined by the Air Pollution Control Officer, for existing sources.
- B. Emission offsets may be developed by the reduction of emissions from existing stationary, and non-stationary sources. Offsets from stationary sources not exempt from the provisions of Rule 501 shall be certified by the Air Pollution Control Officer through conditions attached to the Permits to Operate of the emission-reducing sources. Offsets from non-stationary sources, and exempt stationary sources shall be certified by the Air Pollution Control Officer through new facility Permit to Operate conditions, contracts, or other means deemed adequate by the Air Pollution Control Officer. Such emissions offsets shall take effect no later than 120 days after initial operation of the new facility or modification.
- C. The ratio of emission offsets to the emission from a new facility or modification shall be:
  - 1. 1.0:1 for offsets within the facility;
  - 2. 1.2:1 for offsets upwind in the same or adjoining Air District, or within a 15 mile radius of the proposed new facility or modification.
  - 3. Sufficient to demonstrate an air quality benefit through modeling in the area affected by emissions from the new facility or modification for offsets located in areas other than those of 1. or 2. above.
- D. If an applicant certifies that the proposed new facility or modification is a replacement for a facility or source which was shut down or curtailed after January 1, 1981, emission reductions associated with such shutdown or curtailment may be used as offsets for the proposed facility or modification. Sources which were shut down or curtailed prior to January 1, 1981, may be used to offset emissions increases for replacements for such sources, provided that:
  - 1. The shutdown or curtailment was made in good faith pursuant to an established plan with the Air Pollution Control Officer for replacement and emission control, and in compliance with air pollution laws, rules and regulations at the time; and
  - 2. The applicant demonstrates to the satisfaction of the Air Pollution Control Officer that there was good cause for delay in construction of the replacement sources.

- E. Notwithstanding any other provisions of this rule, any emissions reductions not otherwise authorized by this Rule may be used as offsets or emission increases from the pro- posed facility or modification provided that the applicant demonstrates to the satisfaction of the Air Pollution Control Officer that such reductions will result in a net air quality benefit in the area affected by emissions from the new facility or modification.
- F. Emissions reductions resulting from measures required by adopted federal, state, or District laws, rules or regulations shall not be allowed as emissions offsets unless a complete application incorporating such offsets was filed with the District prior to the date of adoption of the laws, rules or regulations.
- G. Emissions reductions of one precursor may be used to offset emissions increases of another precursor of the same secondary pollutant provided that the applicant demonstrates to the satisfaction of the Air Pollution Control Officer that the net emission increase of the latter precursor will not cause a new violation, or contribute to an existing violation, of any national ambient air quality standard. The ratio of emission reductions between precursor pollutants of the same secondary pollutant shall be determined by the Air Pollution Control Officer based upon existing air quality data.

Rule 412      Emission Reduction Credit.

- A.      The Air Pollution Control Officer shall allow emissions reductions which exceed those required by these Rules and Regulations to be banked for use in the future by a source owner or by others through agreement with the source owner. Reductions approved under this Rule shall be certified by the Air Pollution Control Officer and maintained for offset eligibility in an emission reduction bank. Banked emissions shall be used only for emission offsets pursuant to this Regulation.
- B.      Emission reductions eligible for credit under this Rule shall be actual emissions averaged over a two year period from sources holding Permits to Operate, reduced through the modification of equipment, modification of operations schedules, or shutdowns occurring after January 1, 1981. Eligible reductions shall be real, permanent, and enforceable, and shall not derive from enactment of more restrictive emission regulations. Emission reductions produced by modifications of operations schedules or equipment shall be secured by the Air Pollution Control Officer through conditions of Permits to Operate. No emission reduction shall be eligible for credit unless the applicant can demonstrate that the reduction will produce no corresponding emission increase within the District or impacting the District. Emission reductions shall be substantiated by source test, emission monitor, operating record or other data as required by the Air Pollution Control Officer. Engineering data may be substituted for source test data upon approval of the Air Pollution Control Officer.
- C.      Eligible emission reductions shall be banked pursuant to the following provisions:
1.      Applications for reduction credit shall be submitted on forms or pursuant to guidelines approved by the Air Pollution Control Officer. Failure to provide all required information shall constitute denial of the application.
  2.      The Air Pollution Control Officer shall publish a public notice once in a newspaper of general circulation in the District at least thirty (30) days prior to making a final decision on an application. The notice shall state the location of the application available for public review, the quantity, and type of pollutant proposed for reduction, and instructions for submitting comments.
  3.      If after review of public comments, the application is approved by the Air Pollution Control Officer, the emission reductions shall be certified by return of a certificate to the applicant identifying the pollutant type, and daily average, and annual quantities approved for banking.
  4.      Certified emission reductions shall continue to be banked until withdrawn pursuant to the provisions of this Rule.
- D.      Emission reductions certified for banking shall be withdrawn pursuant to the

following provisions:

1. The use, sale, or exchange of certified reductions shall be at the discretion of the depositor, provided that exclusive right to use, and authorize use shall not constitute an unrestricted right. Certified reductions shall only be used as emission offsets within the District, or outside the District with the approval of the Air Pollution Control Officer, pursuant to the provisions of this Regulation. If the Air Pollution Control Board determines that emission reductions contained within an approved Nonattainment Plan or other applicable air quality maintenance plan are not being met within established schedules, the Air Pollution Control Board may declare a moratorium on or restrict the withdrawal of certified reductions until the applicable plan is modified or the reduction schedule is met. The Air Pollution Control Officer shall notify all affected depositors of the declaration of a moratorium or restriction and its cancellation.
  2. Certified reduction on deposit for less than two (2) years shall comply with offset requirements in existence on the date of deposit when withdrawn. The use of all other withdrawn reductions shall comply with offset requirements in existence on the date of issuance of an Authority to Construct.
  3. If there is more than one owner of the source of the certified reduction, initial title to that reduction shall be deemed to be owned by such co-owners in the same manner as they hold title to the source of the reduction at the time the reduction was certified by the Air Pollution Control Officer.
  4. Certified emission reductions shall be reduced by that quantity required by any applicable emission limitation adopted by the Air District within two (2) years succeeding the issuance of the reduction certificate.
  5. Withdrawal of the certified reductions may be made in whole, or in part, upon application to, review, and determination of withdrawal availability by the Air Pollution Control Officer. Prior to the use of certified reductions, applicable certificates shall be surrendered by the depositor to the Air Pollution Control Officer.
- E. In the event that the Air Pollution Control Officer disapproves the certification or withdrawal of emission reductions the affected applicant or depositor shall have the right to appeal such decision to the Hearing Board of the District within 30 days after receipt of the notice of disapproval. The Hearing Board shall conduct a public hearing to consider the appeal pursuant to the provision of Regulation VII, Procedure Before the Hearing Board.

Rule 413      Attainment Pollutant Increments. The Air Pollution Control Officer shall deny an Authority to Construct for a proposed facility or modification which, pursuant to an analysis performed in accordance with the provisions of Rules 408 and 415, causes an ambient pollutant concentration to exceed the following increments of increase above the baseline concentration:

<u>Pollutant: Monitoring Interval</u>	<u>Maximum Allowable Increase (micrograms per cubic meter)</u>		
	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>
Particulate Matter: Annual Geometric Mean	5	19	37
24-hour Maximum	10	27	75
Sulfur Dioxide: Annual Geometric Mean	2	20	40
24-hour Maximum	5	91	182
3-hour Maximum	25	512	700
Ozone: 1-hour Maximum	20	40	80
Oxides of Nitrogen: Annual Average	10	20	40
Hydrocarbons (corrected for methane): 3-hour Maximum	10	40	80
Lead: Calendar Quarter Average	0.15	0.3	0.6

For any monitoring period other than an annual period, the applicable maximum allowable increase may be exceeded during one such monitoring period per year at any one location.

Rule 414      Sources Impacting Class I Areas.

- A. The Air Pollution Control Officer shall accept, and consider comments offered by the Federal Land Manager of any lands contained within a Class I area impacted by a proposed major facility or major modification. If the Federal Land Manager demonstrates that the emissions from a proposed major facility or major modification would have an adverse impact on the air quality-related values (including visibility) of any federal mandatory Class I areas, notwithstanding that the change in air quality resulting from emissions from such facility or modification would not cause or contribute to concentrations which would exceed the maximum allowable increase for a Class I area, and if the Air Pollution Control Officer concurs with such demonstration, then he shall deny the Authority to Construct.
- B. If the applicant demonstrates, and the affected Federal Land Manager of a Class I area concurs, that the emissions from a proposed major facility or major modification would have no adverse impact on the air quality-related values (including visibility) of such federal mandatory Class I area, and providing that all District Rules and Regulations are otherwise met, the Air Pollution Control Officer may issue an Authority to Construct with such emission limitations as he may deem necessary to assure that emissions of sulfur dioxide and particulate matter would not exceed the following maximum allowable increases over the baseline concentrations:

<u>Zone Pollutant</u>	<u>Maximum Allowable Increase (micrograms per cubic meter)</u>
Class I	
Particulate Matter:	
Annual Geometric Mean	19
24-hour Maximum	37
Sulfur Dioxide:	
Annual Arithmetic Mean	20
24-hour Maximum	91
3-hour Maximum	325

- C. If the applicant demonstrates, and the Air Resources Board, and the affected Class I Federal Land Manager concur, that the proposed major facility or major modification cannot be constructed in compliance with Section B. above as it relates to sulfur dioxide increments and that such facility or modification would not adversely affect air quality-related values (including visibility) of any affected federal mandatory Class I area, and provided that the District Rules and Regulations are otherwise met, the Air Pollution Control Officer may issue an Authority to Construct with such emission limitations as he may deem necessary to assure that emissions of sulfur dioxide would not exceed the following

maximum allowable increase over the baseline concentration:

<u>Zone Pollutant</u>	<u>Maximum Allowable Increase</u> <u>(micrograms per cubic meter)</u>
Class I	
Sulfur Dioxide:	
24-hour Maximum	62
3-hour Maximum	221

The emission limitation contained in the Authority to Construct under this Section shall also prohibit the exceedance of the maximum allowable increases contained in Rule 413 for period of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period.

Rule 415

Attainment Pollutant Increment Consumption. Every two years, the Air Pollution Control Officer shall estimate emissions from all sources in the District, and utilize available information on emissions from upwind Air Districts to calculate the portion of each increment specified in Rule 413 having been consumed, provided the necessary computer resources are provided by the Air Resources Board or others. The Air Pollution Control Officer shall estimate the difference between actual emissions, averaged over the two year period prior to the date of calculation, or other reasonable period as determined by the Air Pollution Control Officer, and maximum allowable emissions for each source operating under Permits to Operate prior to January 1, 1981, and shall reserve that difference and its attendant increment portion for use by the permitted source.



Rule 416      Violation of National Ambient Air Quality Standards.

- A.      The Air Pollution Control Officer shall deny an Authority to Construct for a facility or modification or, pursuant to an analysis performed in accordance with the provisions of Rule 408, causes a violation of a national ambient air quality standard.
  
- B.      The Air Pollution Control Officer shall deny an Authority to Construct for a facility or modification which, pursuant to an analysis performed in accordance with the provisions of Rule 408, contributes to a violation of a national ambient air quality standard in a downwind non-attainment area. The Air Pollution Control Officer may exempt sources from this Section that comply with the provisions of Rule 421, Sections A. and B.

Rule 417

Violation of Emission Limitation. The Air Pollution Control Officer shall deny an Authority to Construct for a source unless the source as proposed complies with all District emission limitation and all other Rules and Regulations.

Rule 418      Attainment Pollutant Control Technology.

- A. The Air Pollution Control Officer shall deny an Authority to Construct for a facility or modification subject to review under the provisions of Rule 408 unless the facility or modification is designed to apply best available control technology for each applicable attainment pollutant or precursor. For an existing facility this requirement shall apply only to new or modified sources.
- B. For applicable phased construction projects, the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time prior to commencement of each independent phase of the proposed facility or modification.
- C. In the case of a major facility or major modification which the applicant proposed to construct in a Class II area, emissions from which would cause or contribute to air quality exceeding the maximum allowable increase that would be applicable if the area were a Class II area and where no new source performance standard under 40 CFR 60 has been promulgated for such source category, the Air Pollution Control Officer shall submit the determination of best available control technology to the Environmental Protection Agency for concurrence.
- D. For those facilities or modifications required to meet the provisions of Section A of this Rule, the Air Pollution Control Officer may approve with the consent of the Air Resources Board the use of innovative control technology in lieu of best available control technology, provided that:
  - 1. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function, or cause emissions in excess of any standard contained in these Rules and Regulations or in 40 CFR Parts 60 and 61; and
  - 2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that achieved by the application of best available control technology by a date specified by the Air Pollution Control Officer. Such date shall not be later than 4 years from the date of issuance of the Authority to Construct.
- E. The Air Pollution Control Officer shall withdraw any approval to employ a system of innovative control technology approved under this Rule if:
  - 1. The proposed system fails by the specified date to achieve the required continuous emission reduction rate; or
  - 2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or
  - 3. The Air Pollution Control Officer decides at any time that the proposed

system is unlikely to achieve the required level of control, or to protect the public health, welfare, or safety.

If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or its approval is withdrawn pursuant to this Section, the Air Pollution Control Officer may allow the source or modification up to an additional 3 years to meet the requirements of best available control technology through use of a demonstrated control system.

- F. In the event that the Air Pollution Control Officer withdraws approval of such a system of innovative control technology, the affected operator shall have the right to appeal such decision to the Hearing Board of the District within 30 days after receipt of the notice of withdrawal of approval.

Rule 419      Nonattainment Pollutant Air Quality Analysis.

- A. Utilizing the air quality simulation model designated pursuant to Rule 407, the Air Pollution Control Officer shall determine the increases in ambient nonattainment pollutant concentrations in downwind District zones and other Air Districts that will occur as a result of operation of the proposed facility or modification. Also, the Air Pollution Control Officer may require that the cost of modeling be borne by the applicant. The model shall consider air quality impacts projected for the area from source emissions and secondary emissions.
- B. Where a facility or modification is constructed in phases which individually do not emit more than 100 tons per year of a nonattainment pollutant or precursor, the allowable emissions from all such phases granted an Authority to Construct after December 21, 1976, shall be added together and this Rule shall be applicable when a proposed phase would cause the sum of the allowable emissions to exceed 100 tons per year of such nonattainment pollutant or precursor.
- C. For sources of nitrogen oxides, the initial determination of whether such facility or modification would cause or contribute to a violation of the national ambient air quality standard for nitrogen dioxide shall be made using the model designated pursuant to the provisions of Rule 407 and assuming that all nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level. The initial concentration estimates may be adjusted by the Air Pollution Control Officer if adequate data are available to account for the expected oxidation rate.
- D. The determination as to whether a facility would cause or contribute to a violation of the national ambient air quality standards shall be made as of the new or modified facility's startup date.

Rule 420      Exemptions to Rule 419. The Air Pollution Control Officer may exempt from the provisions of Rule 419 any of the following facilities or modifications with respect to a particular nonattainment pollutant or precursor:

- A. Any new facility or modification which is not a major facility or major modification, providing such facility or modification will meet all other District Rules and Regulations, any applicable new source performance standard in 40 CFR Part 60 and any applicable national emission standard for hazardous air pollutants in 40 CFR Part 61.
- B. Any source of non-methane hydrocarbons, providing the owner or operator can demonstrate to the satisfaction of the Air Pollution Control Officer that the emissions from the proposed source will have no impact upon any area that exceeds the national ambient air quality standard for ozone. This exemption shall be considered only for sources locating in rural areas where source emissions would not be likely to interact with other significant sources of non-methane hydrocarbons or nitrogen oxides to form additional ozone.
- C. Any new facility or modification, providing the applicant can demonstrate to the satisfaction of the Air Pollution Control Officer that the proposed facility location will not be in violation of an applicable national ambient air quality standard as of the new facility or modification startup date. Such an exemption shall be granted by the Air Pollution Control Officer only if the applicant presents a substantial and relevant argument (including any necessary monitoring data gathered in compliance with the provisions of 40 CFR Part 53) to substantiate the attainment status of the proposed source location. To qualify for such exemption, the applicant must notify the Air Pollution Control Officer no less than 30 days prior to the initiation of any air quality monitoring effort.
- D. Any source of temporary emissions.
- E. Any source of carbon monoxide which the Air Pollution Control Officer determines would not cause a violation of any national ambient air quality standard for such pollutant at the point of maximum ground level impact.

Rule 421

Contribution to Violation of National Ambient Air Quality Standard. The Air Pollution Control Officer shall deny an Authority to Construct for a new facility or modification for which an analysis was required and performed in accordance with the provisions of Rule 419 and which would contribute to concentrations which exceed the current national ambient air quality standard as of the new or modified facility's startup date unless the following conditions are met:

- A. Each new source or modification within the facility shall meet an emission limitation which is equivalent to the lowest achievable emission rate for such source and such nonattainment pollutant or precursor.
- B. The applicant shall certify that all existing major facilities owned or operated by the applicant in the State of California are in compliance, or are on approved schedules of compliance with all applicable emission limitations or standards which are part of the State Implementation Plan approved by the Environmental Protection Agency.
- C. Emission reductions (offsets) from existing facilities in the area of the new facility or modification shall be secured pursuant to the provisions of Rule 411. The emission reductions shall be sufficient to provide a net positive air quality benefit consistent with the provisions of the approved Nonattainment Plan.

Rule 422

Exemptions to Rule 421. The Air Pollution Control Officer may exempt from any of the requirements of Rule 421.C. any of the following facilities or modifications: (1) Resource recovery sources burning refuse-derived or biomass-derived solid waste fuels, (2) sources which must switch fuels due to a lack of adequate fuel supplies, and (3) sources required to be modified as a result of Environmental Protection Agency regulations where no exemption from such regulation is available to the source. An exemption under this Rule shall not be granted unless:

- A. The applicant demonstrated that it made its best efforts to obtain sufficient emission offsets to comply with Rule 421.C. and that such efforts were unsuccessful; and
- B. The applicant has secured all available emission offsets and will continue to seek the necessary offsets and apply them when they become available.



Rule 423

Power Plants. This Rule shall apply to all power plants proposed to be constructed in the District and for which a Notice of Intention (NOI) or Application for Certification (AFC) has been accepted by the California Energy Commission. The Air Pollution Control Officer, pursuant to Section 25538 of the Public Resources Code, may apply for reimbursement of all costs, including lost fees, incurred in order to comply with the provisions of this Section.

- A. Within fourteen days of receipt of an NOI, the Air Pollution Control Officer shall notify the Air Resources Board and the Energy Commission of the District's intent to participate in the NOI Proceeding. If the Air Pollution Control Officer chooses to participate in the NOI proceeding, he shall prepare and submit a report to the Air Resources Board and the Energy Commission prior to the conclusion of the nonadjudicatory hearings specified in Section 25509.5 of the Public Resources Code. That report shall include, at a minimum:
1. A preliminary specific definition of best available control technology and where applicable, lowest achievable emission rate for the proposed facility;
  2. A preliminary discussion of whether there is a substantial likelihood that the requirement of these Rules and Regulations can be satisfied by the proposed facility;
  3. A preliminary list of conditions which the proposed facility must meet in order to comply with these Rules and Regulations.

The preliminary determinations contained in the report shall be as specific as possible within the constraints of the information contained in the NOI.

- B. Upon receipt of an Application of Certification (AFC) for a power plant, the Air Pollution Control Officer shall conduct a Determination of Compliance review. This determination shall consist of a review identical to that which would be performed if an application for an Authority to Construct had been received for the power plant. If the information contained in the AFC does not meet the requirements of Rule 403, the Air Pollution Control Officer shall, within 20 calendar days of receipt of the AFC, so inform the Energy Commission, and the AFC shall be considered incomplete and returned to the applicant for resubmittal.
- C. The Air Pollution Control Officer shall consider the AFC to be equivalent to an application for an Authority to Construct during the Determination of Compliance review, and shall apply all provisions of this Regulation.
- D. The Air Pollution Control Officer may request from the applicant any information necessary for the completion of the Determination of Compliance review. If the Air Pollution Control Officer is unable to obtain the information, the Air Pollution Control Officer may petition the presiding Commissioner for an order directing the applicant to supply such information.

- E. Within 180 days of accepting an AFC as complete, the Air Pollution Control Officer shall make a preliminary decision on:
  - 1. Whether the proposed power plant meets the requirements of this Regulation and all other applicable District Rules; and
  - 2. In the event of compliance, what permit conditions will be required, including the specific emission control requirements and a description of required emission offset measures.
  
- F. The preliminary written decision made under Section E. above shall be treated as a preliminary decision under Rule 424.A., and shall be finalized by the Air Pollution Control Officer only after being subject to the notice and comment requirements of Rule 424.. The Air Pollution Control Officer shall not issue a Determination of Compliance unless all requirements of this Regulation are met.
  
- G. Within 240 days of the filing date of the complete AFC, the Air Pollution Control Officer shall issue and submit to the Commission a Determination of Compliance or, if such a determination cannot be issued, shall so inform the Commission. A Determination of Compliance shall confer the same rights and privileges as an Authority to Construct only when and if the Energy Commission approves the AFC, and the Energy Commission certificate includes all conditions of the Determination of Compliance.

Rule 424      Authority to Construct Decision.

- A. The Air Pollution Control Officer shall issue a preliminary decision on whether the Authority to Construct should be approved, approved with conditions, or disapproved no later than one year after an application has been deemed complete by the Air Pollution Control Officer. The preliminary decision, together with a copy of all materials the applicant submitted and a copy or summary of all other materials, if any, considered in making the preliminary decision, shall be made available in at least one location in the District for public inspection. The Air Pollution Control Officer may exempt from the provisions of this Section any source with the potential to emit less than 100 tons per year of each criteria pollutant or precursor.
  
- B. Within ten (10) calendar days following the preliminary decision in the case of an Authority to Construct for a facility or modification with the potential to emit 100 tons per year or more of any criteria pollutant or precursor, the Air Pollution Control Officer shall publish a notice in at least one newspaper of general circulation in the District stating the preliminary decision and where the public may inspect the information required to be available in Section A. above. The notice shall provide 30 days from the date of publication for the public to submit written comments on the preliminary decision. For a major facility or major modification of attainment pollutants or precursors, the notice shall include (1) the

degree of increment consumption that is expected from the facility or modification, and (2) the date and place of a public hearing to accept public comment on the preliminary decision.

- C. The Air Pollution Control Officer shall send copies of any notice of preliminary decision to the applicant, the Air Resources Board, the Environmental Protection Agency, and to any appropriate Federal Land Manager and Air District affected by emissions from the proposed source or modification.
- D. The Air Pollution Control Officer shall consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approvability of the application. Such comments shall be made available for public inspection in the same location as available application information relating to the proposed facility or modification are located.
- E. The Air Pollution Control Officer shall make a final decision as to whether an Authority to Construct should be approved with conditions or disapproved. Such decision shall be transmitted to the applicant and made available for public inspection. If the application is denied, the Air Pollution Control Officer shall not accept a further application unless the application has complied with the objections or deficiencies specified by the Air Pollution Control Officer as reasons for denial of the Authority to Construct.
- F. Appeals of the Air Pollution Control Officer's decision may be made pursuant to the requirements of Rule 519, Appeals.

Rule 425

Cancellation of Authority to Construct. An Authority to Construct shall be cancelled one year from the date of issuance unless reasonable progress on facility or modification can be demonstrated to the satisfaction of the Air Pollution Control Officer.

Rule 426

Transfer of Authority to Construct. An Authority to Construct shall not be transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another.

Rule 427      Regulating Construction or Reconstruction of Major Sources of Hazardous Air Pollutants (Federal Clean Air Act Section 112 (g))

**(a)      PURPOSE**

The purpose of this rule is to require the installation of best available control technology for toxics (T-BACT) at any constructed or reconstructed major source of hazardous air pollutants (HAPs). All T-BACT determinations shall ensure a level of control that the Air Pollution Control Officer (APCO) has determined to be, at a minimum, no less stringent than new source maximum achievable control technology (MACT) as required by the federal Clean Air Act (CAA), §112 (g)(2)(B) and implemented through 40 CFR, subpart B §§63.40-63.44.

**(b)      APPLICABILITY**

The requirements of this rule shall apply to all owners or operators that construct or reconstruct a major source of HAPs, unless the major source is exempt pursuant to section (d).

Compliance with this rule does not relieve any owner or operator of a major source of HAPs from complying with all other District rules or regulations, any applicable State airborne toxic control measure (ATCM), or other applicable State and federal laws.

**(c)      EFFECTIVE DATE:** This rule is effective on July 1, 1998.

**(d)      EXEMPTIONS:** The provisions of this rule do not apply to:

1. any major source that is subject to an existing National Emissions Standard (NESHAPs) for HAPs pursuant to sections 112 (d), 112 (h) or 112 (j) of the CAA,
2. any major source that has been specifically exempted from regulation under a NESHAP issued pursuant to sections 112 (d), 112 (h) or 112(j) of the CAA,
3. any major source that has received all necessary air quality permits for such construction or reconstruction project before June 29, 1998,
4. electric utility steam generating units, unless and until such time as these units are added to the source category list pursuant to section 112 (c)(5) of the CAA,
5. any stationary sources that are within a source category that has been deleted from the source category list pursuant to section 112 (c)(9) of the CAA,
6. research and development activities as defined in 40 CFR §63.41, and
7. any other stationary source exempted by section 112 of the CAA.

Rule 428      Emissions Statements

A. Purpose

This Rule establishes the requirements for the submittal from specified stationary sources in accordance with the requirements of the 1990 Clean Air Act Section 182(a)(3)(B).

B. Applicability

The requirements of this Rule are applicable to any stationary source emitting 25 or more tons per year of oxides of nitrogen (NO<sub>x</sub>) or volatile organic compounds (VOC).

C. Definitions

1. Actual Emissions: Measured or estimated emissions which most accurately represent the emissions from an emissions unit, including fugitive emissions.
2. Emissions Statement Information Request: An annual information request form by the APCO to each affected source subject to this Rule for emissions data, including but not limited to, actual emissions or operational data allowing the District to estimate actual emissions.
3. Volatile Organic Compounds (VOCs): Reactive Organic Compounds (ROCs), and Reactive Organic Gases (ROGs) are any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.
4. Responsible Official: An individual who is responsible for the data presented in the emissions statement, and who accepts legal responsibility for the emission statement's accuracy. The responsible official is liable to legal review, or in case of fault, to penalties.

D. Requirements

1. The owner or operator of any stationary source that is subject to this Rule shall provide the Amador Air District (District) with a written emissions statement showing actual emissions or operational data allowing the District to estimate actual emissions from that source.
2. The emissions statement shall be on a form (Emissions Statement Information Request) or in a format specified by the APCO and shall contain emissions or data for the time period specified by the APCO. Emissions statements shall be submitted annually.

3. The owner or operator of the stationary source shall maintain records for a period of up to five years from the date of submittal. All records shall be submitted indicating the nature and amounts of emissions from that source and/or any other information as may be necessary or requested by the APCO to determine whether such source is in compliance with applicable emissions limitations, control measures, and permit conditions.

E. Administrative Requirements

1. District Requirements

- a. The APCO may waive the requirements of Section D of this Rule to any class or category of stationary sources which emit less than 25 tons per year of NOx or VOCs if the District provides the California Air Resources Board (ARB) with an emissions inventory of sources emitting less than 25 tons per year of NOx or VOCs, based on the use of emissions factors established by or other methods acceptable to the EPA.
- b. All official documents submitted to the District shall contain a certification signed and dated by a responsible official of the company attesting that the information contained in the submitted documents is accurate to the best knowledge of the individual certifying the submission. The requirements of this Section apply to, but are not limited to, the emission statement required in Section D of this Rule.

2. Failure to Submit

- a. A failure by a responsible official to submit an Emissions Statement by the date required, shall be deemed a willful failure to furnish information required to disclose the nature and quantity of emissions discharged by the stationary source. In such case, the APCO may take action in the form of the following:
  - i. The APCO may suspend the Permit(s) of such source.
  - ii. The APCO shall serve notice in writing of such suspension and the reasons for the suspension upon the permittee.
  - iii. The APCO will reinstate the suspended Permit(s) when furnished with the required information.
  - iv. The APCO may choose as an alternative to suspending the Permit, to levy a monetary penalty of \$500 per day until furnished with the required information. The APCO may waive this penalty for reasons beyond the responsible official's control.



**(e) DEFINITIONS**

Terms used in this rule that are not defined in this section have the meaning given to them in District Rule 102, Definitions.

Best Available Control Technology for Toxics (T-BACT)

T-BACT means the most effective emissions limitation or control technique which:

1. has been achieved in practice for such permit unit category or class of sources; or
2. is any other emissions limitation or control technique, including process and equipment changes of basic and control equipment, found by the APCO to be technologically feasible for such a category or class of sources, or for a specific source.

Construct a Major Source means the same as defined in 40 CFR §63.41 Definitions.

Hazardous Air Pollutants (HAPs) means any air pollutant listed in or pursuant to CAA, section 112 (b).

Major Source of HAPs means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of hazardous air pollutants or 25 tons per year or more of any combination of hazardous air pollutants.

Potential to Emit (PTE) means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitations or the effect it would have on emissions are incorporated into the applicable permit as enforceable permit conditions.

Reconstruct a Major Source means the same as defined in 40 CFR §63.41 Definitions.

**(f) REQUIREMENTS**

No person shall construct a major source or reconstruct a major source of HAPs unless the APCO determines that the T-BACT requirements of this rule will be met.

**(g) CALCULATION PROCEDURES**

The potential to emit for a source of HAP emissions shall equal the sum of the potentials to emit of the constructed or reconstructed source of HAPs. All fugitive HAP emissions associated with the construction or reconstruction shall be included in the potential to emit determination.

**(h) ADMINISTRATIVE PROCEDURES**

An application for authority to construct a major source or reconstruct a major source of HAPs shall be subject to the administrative procedures contained in Regulation IV, Authority to Construct Regulations.

Adopted 10/5/93

Revised 7/5/94, 9/5/94, 2/25/97, 3/27/01

Regulation V - lix

# **REGULATION**

## **V**

# **PERMIT TO OPERATE REGULATIONS**

Adopted 10/5/93

Revised 7/5/94, 9/5/94, 2/25/97, 3/27/01

Regulation V - lx

**Rule 500      Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990**

500.I Purpose and General Requirements of Rule 500. Rule 500 implements the requirements of Title V of the federal Clean Air Act as amended in 1990 (CAA) for permits to operate. Title V provides for the establishment of operating permit programs for sources which emit regulated air pollutants, including attainment and nonattainment pollutants. Additionally, Rule 500 is used to implement the Phase II acid deposition control provisions of Title IV of the CAA, including provisions for Acid Rain Permits. The effective date of Rule 500 is the date the District Board adopts this rule.

By the effective date of Rule 500, the Amador County Air District (District) shall implement an operating permit program pursuant to the requirements of this rule. The District shall also continue to implement its existing programs pertaining to permits to operate required by Rule 501, including authorities to construct, Rule 401. Nothing in Rule 500 limits the authority of the District to revoke or terminate a permit pursuant to sections 40808, and 42307-42309 of the California Health and Safety Code (H&SC).

Sources subject to Rule 500 include major sources, acid rain units subject to Title IV of the CAA, solid waste incinerators subject to section 111 or 129 of the CAA, and any other sources specifically designated by rule of the U.S. EPA. Sources subject to Rule 500 shall obtain permits to operate pursuant to this rule. Each permit to operate issued pursuant to Rule 500 shall contain conditions and requirements adequate to ensure compliance with:

- A. All applicable provisions of Division 26 of the H&SC, commencing with section 39000;
- B. All applicable orders, rules, and regulations of the District and the California Air Resources Board (ARB);
- C. All applicable provisions of the applicable implementation plan required by the CAA. In satisfaction of this requirement, a source may ensure compliance with a corresponding District-only rule in accordance with the procedure specified in subsection V.K. below;
- D. Each applicable emission standard or limitation, rule, regulation, or requirement adopted or promulgated to implement the CAA. In satisfaction of this requirement, a source may propose compliance with a requirement of permit streamlining in accordance with the procedures specified in subsection V.J. below; and
- E. The requirements of all preconstruction permits issued pursuant to Parts C and D of the CAA.

The operation of an emissions unit to which Rule 500 is applicable without a

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Regulation V - lxi

permit or in violation of any applicable permit condition or requirement shall be a violation of Rule 500.

500.II Definitions. The definitions in this section apply throughout Rule 500 and are derived from related provisions of the U.S. EPA's Title V regulations in Part 70 Code of Federal Regulations (CFR), "State Operating Permit Programs." The terms defined in this section are italicized throughout Rule 500.

- A. *Acid Rain Unit*** An "acid rain unit" is any fossil fuel-fired combustion device that is an affected unit under 40 CFR Part 72.6 and therefore subject to the requirements of Title IV (Acid Deposition Control) of the CAA. (The District may be able to provide a more detailed definition when the U.S. EPA clarifies which sources are subject to Title IV requirements.)
- B. *Administrative Permit Amendment*** An "administrative permit amendment" is an amendment to a permit to operate which:
1. Corrects a typographical error.
  2. Identifies a minor administrative change at the stationary source; for example, a change in the name, address, or phone number of any person identified in the permit.
  3. Requires more frequent monitoring or reporting by a responsible official of the stationary source.
  4. Transfers ownership or operational control of a stationary source, provided that, prior to the transfer, the APCO receives a written agreement which specifies a date for the transfer of permit responsibility, coverage, and liability from the current to the prospective permittee.
- C. *Affected State*** An "affected state" is any state that: 1) is contiguous with California and whose air quality may be affected by a permit action, or 2) is within 50 miles of the source for which a permit action is being proposed.
- D. *Air Pollution Control Officer (APCO)*** "Air Pollution Control Officer" refers to the air pollution control officer of the Amador County Air District, or his or her designate.
- E. *Amador County Air District*** "Amador County Air District" includes all portions of Amador County.
- F. *Applicable Federal Requirement*** An "applicable federal requirement" is any requirement which is enforceable by the U.S. EPA and citizens pursuant to section 304 of the CAA and is set forth in, or authorized by, the CAA or a U.S. EPA regulation. An "applicable federal requirement" includes any requirement of a regulation in effect at permit issuance and any requirement of a regulation that becomes effective during the term of the permit. Applicable federal requirements include:

1. Title I requirements of the CAA, including:
  - a. New Source Review requirements in the State Implementation Plan approved by the U.S. EPA and the terms and conditions of the preconstruction permit issued pursuant to an approved New Source Review rule;
  - b. Prevention of Significant Deterioration (PSD) requirements and the terms and conditions of the PSD permit (40 CFR Part 52);
  - c. New Source Performance Standards (40 CFR Part 60);
  - d. National Ambient Air Quality Standards, increments, and visibility requirements as they apply to portable sources required to obtain a permit pursuant to section 504(e) of the CAA;
  - e. National Emissions Standards for Hazardous Air Pollutants (40 CFR Part 61);
  - f. Maximum Achievable Control Technology or Generally Available Control Technology Standards (40 CFR Part 63);
  - g. Risk Management Plans (section 112(r) of the CAA);
  - h. Solid Waste Incineration requirements (sections 111 or 129 of the CAA);
  - i. Consumer and Commercial Product requirements (section 183 of the CAA);
  - j. Tank Vessel requirements (section 183 of the CAA);
  - k. District prohibitory rules that are approved into the state implementation plan;
  - l. Standards or regulations promulgated pursuant to a Federal Implementation Plan; and
  - m. Enhanced Monitoring and Compliance Certification requirements (section 114(a)(3) of the CAA).
2. Title III, section 328 (Outer Continental Shelf) requirements of the CAA (40 CFR Part 55);
3. Title IV (Acid Deposition Control) requirements of the CAA (40 CFR Parts 72, 73, 75, 76, 77, 78 and regulations implementing sections 407 and 410 of the CAA);
4. Title VI (Stratospheric Ozone Protection) requirements of the CAA (40 CFR Part

- 82); and
5. Monitoring and Analysis requirements (section 504(b) of the CAA).
- G.** *ARB* "ARB" refers to the California Air Resources Board.
- H.** *California Air Resources Board (ARB)* "California Air Resources Board" refers to the Air Resources Board of the State of California.
- I.** *Clean Air Act (CAA)* "Clean Air Act" refers to the federal Clean Air Act as amended in 1990 (42 U.S.C. section 7401 et seq.).
- J.** *Code of Federal Regulations (CFR.)* "Code of Federal Regulations" refers to the United States Code of Federal Regulations.
- K.** *Commence Operation* "Commence operation" is the date of initial operation of an emissions unit, including any start-up or shakedown period authorized by a temporary permit to operate issued pursuant to section 42301.1 of the H&SC.
- L.** *Direct Emissions* "Direct emissions" are emissions that may reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- M.** *District* "District" refers to the Amador County Air District.
- N.** *District-only* "District-only" means a District rule, permit term or condition, or other requirement identified in accordance with H&SC section 42301.12(a)(3) that is not an applicable federal requirement. If a "District-only" requirement becomes a federally-enforceable condition upon the issuance of the initial permit or permit modification in accordance with requirements of Rule 500 and H&SC section 42301.12(a)(3), such requirement shall no longer be a "District-only" requirement.
- O.** *Effective Date of Rule 500* The "effective date of Rule 500" is the date the District Board adopts this rule.
- P.** *Emergency* An "emergency" is any situation arising from a sudden and reasonably unforeseeable event beyond the control of a permittee (e.g., an act of God) which causes the exceedance of a technology-based emission limitation under a permit and requires immediate corrective action to restore compliance. An "emergency" shall not include noncompliance as a result of improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.
- Q.** *Emissions Unit* An "emissions unit" is any identifiable article, machine, contrivance, or operation which emits, may emit, or results in the emissions of, any regulated air pollutant or hazardous air pollutant.
- R.** *Federally-enforceable Condition* A "federally-enforceable condition" is any term,

condition, or requirement set forth in the permit to operate which addresses an applicable federal requirement, a voluntary emissions cap, a "District-only requirement of permit streamlining imposed in accordance with subsection V.J. below, and the H&SC section 42301.12(a)(3), or a District-only requirement which applies in accordance with subsection V.K.1. below, and H&SC section 42301.12(a)(3) for satisfaction of a corresponding requirement in the State Implementation Plan.

- S. ***Fugitive Emissions*** "Fugitive emissions" are emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- T. ***Generally Available Control Technology (GACT) Standard*** A "generally available control technology standard" refers to any generally available control technology standard or management practice promulgated pursuant to section 112(d) of the CAA (40 CFR Part 63).
- U. ***Hazardous Air Pollutant (HAP)*** A "hazardous air pollutant" is any air pollutant listed pursuant to section 112(b) of the CAA.
- V. ***Health and Safety Code (H&SC)*** "Health and Safety Code" refers to the California Health and Safety Code.
- W. ***Initial Permit*** An "initial permit" is the first operating permit for which a source submits an application that addresses the requirements of the federal operating permits program as implemented by Rule 500.
- X. ***Major Source*** A "major source" is a stationary source which has the potential to emit a regulated air pollutant or a HAP in quantities equal to or exceeding the lesser of any of the following thresholds:
1. 100 tons per year (tpy) of any regulated air pollutant.
  2. 50 tpy of volatile organic compounds or oxides of nitrogen for a federal nonattainment area classified as serious, 25 tpy for an area classified as severe, or, 10 tpy for an area classified as extreme.
  3. 70 tpy of PM10 (particulate matter of 10 microns or less) for a federal PM10 nonattainment area classified as serious.
  4. 10 tpy of one HAP or 25 tpy of two or more HAPs.
  5. Any lesser quantity threshold promulgated by the U.S. EPA.
- Y. ***Maximum Achievable Control Technology (MACT) Standard*** A "maximum achievable control technology standard" refers to any maximum achievable control technology emission limit or other requirement promulgated pursuant to section 112(d) of the CAA as set forth in 40 CFR Part 63.



- Z. *Minor Permit Modification*** A "minor permit modification" is any modification to a federally-enforceable condition on a permit to operate which: 1) is not a significant permit modification, and 2) is not an administrative permit amendment.
- AA. *Permit Modification*** A "permit modification" is any addition, deletion, or revision to a permit to operate condition.
- BB. *Potential to Emit*** For the purposes of Rule 500, "potential to emit" as it applies to an emissions unit and a stationary source is defined below.
1. Emissions Unit. The "potential to emit" for an emissions unit is the maximum capacity of the unit to emit a regulated air pollutant or HAP considering the unit's physical and operational design. Physical and operational limitations on the emissions unit shall be treated as part of its design, if the limitation are set forth in permit conditions or in rules or regulations that are legally and practicably enforceable by U.S. EPA and citizens or by the District. Physical and operational limitations shall include, but are not limited to, the following: limits placed on emissions; and restrictions on operations such as hours of operation and type or amount of material combusted, stored, or processed.
  2. Stationary Source. The "potential to emit" for a stationary source is the sum of the potential to emit from all emissions units at the stationary source. If two or more HAPs are emitted at a stationary source, the potential to emit for each of those HAPs shall be combined to determine applicability. Fugitive emissions shall be considered in determining the potential to emit for:
    - 1) Sources specified in 40 *CFR* Part 70.2 Major Sources, subsection (2) (i) through (xxvi),
    - 2) sources of *HAP* emissions, and
    - 3) any other stationary source category regulated under section 111 or 112 of the CAA and for which the U.S. EPA has made an affirmative determination by rule under section 302(j) of the CAA.

Notwithstanding the above, any HAP emissions from any oil or gas exploration or production well (with its associated equipment) and any pipeline compressor or pump station shall not be aggregated with emissions of similar units for the purpose of determining a major source of HAPs, whether or not such units are located in contiguous areas or are under common control.

- CC. *Preconstruction Permit*** A "preconstruction permit" is a permit authorizing construction prior to construction and includes:
1. A preconstruction permit issued pursuant to a program for the prevention of significant deterioration of air quality required by section 165 of the CAA.

2. A preconstruction permit issued pursuant to a new source review program required by sections 172 and 173 of the CAA.

**DD. *Regulated Air Pollutant*** A "regulated air pollutant" is any pollutant: 1) which is emitted into or otherwise enters the ambient air, and 2) for which the U.S. EPA has adopted an emission limit, standard, or other requirement. Regulated air pollutants include:

1. Oxides of nitrogen and volatile organic compounds;
2. Any pollutant for which a national ambient air quality standard has been promulgated pursuant to section 109 of the CAA;
3. Any pollutant subject to a new source performance standard promulgated pursuant to section 111 of the CAA;
4. Any ozone-depleting substance specified as a Class I (chlorofluorocarbons) or Class II (hydrofluorocarbons) substance pursuant to Title VI of the CAA; and
5. Any pollutant subject to a standard or requirement promulgated pursuant to section 112 of the CAA, including:
  - a. Any pollutant listed pursuant to section 112(r) of the CAA (Prevention of Accidental Releases) shall be considered a "regulated air pollutant" upon promulgation of the list.
  - b. Any HAP subject to a standard or other requirement promulgated by the U.S. EPA pursuant to section 112(d) or adopted by the District pursuant to 112(g) and (j) of the CAA shall be considered a "regulated air pollutant" for all sources or categories of sources: 1) upon promulgation of the standard or requirement, or 2) 18 months after the standard or requirement was scheduled to be promulgated pursuant to section 112(e)(3) of the CAA.
  - c. Any HAP subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the U.S. EPA promulgation or scheduled promulgation of an emissions limitation shall be considered a "regulated air pollutant" when the determination is made pursuant to section 112(g)(2) of the CAA. In case-by-case emissions limitation determinations, the HAP shall be considered a "regulated air pollutant" only for the individual source for which the emissions limitation determination was made.

**EE. *Responsible Official*** "Responsible official" means one of the following:

1. For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible

for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

- a. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
  - b. The delegation of authority to such representative is approved in advance by the APCO.
2. For a partnership or sole proprietorship, a general partner or the proprietor, respectively.
  3. For a municipality, state, federal, or other public agency, either a principal executive officer or a ranking elected official.
  4. For an acid rain unit subject to Title IV (Acid Deposition Control) of the CAA, the "responsible official" is the designated representative of that unit for any purposes under Title IV and Rule 500.

**FF. *Significant Permit Modification*** A "significant permit modification" is any modification to a federally-enforceable condition on a permit to operate which:

1. Involves any permit modification under section 112(g) of Title I of the CAA or under U.S. EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR Parts 51, 52, 60, 61, and 63.
  2. Significantly changes monitoring conditions.
3. Provides for the relaxation of any reporting or recordkeeping conditions.
4. Involves a permit term or condition which allows a source to avoid an applicable federal requirement, including: 1) a federally-enforceable voluntary emissions cap assumed in order to avoid triggering a modification requirement of Title I of the CAA, or 2) an alternative HAP emission limit pursuant to section 112(i)(5) of the CAA.
5. Involves a case-by-case determination of any emission standard or other requirement.
6. Involves a source-specific determination for ambient impacts, visibility analysis, or increment analysis on portable sources.
7. Involves permit streamlining in accordance with subsection V.J. below; or
8. Involves the use of a District-only rule, in accordance with subsection V.K.1. below, in satisfaction of a requirement in the State Implementation Plan.

**GG. *Solid Waste Incinerator*** A "solid waste incinerator" is any incinerator which burns solid waste material from commercial, industrial, medical, general public sources (e.g., residences, hotels, or motels), or other categories of solid waste incinerators subject to a performance standard promulgated pursuant to sections 111 or 129 of the CAA.

The following incinerators are excluded from the definition of "solid waste incinerator" for the purpose of Rule 500:

1. Any hazardous waste incinerator required to obtain a permit under the authority of section 3005 of the Solid Waste Disposal Act (42 U.S.C. section 6925).
2. Any materials recovery facility which primarily recovers metals.
3. Any qualifying small power production facility as defined in 16 U.S.C.A. section 796(17)(C).
4. Any qualifying cogeneration facility which burns homogenous waste for the production of energy as defined in 16 U.S.C.A. section 796(18)(B).
5. Any air curtain incinerator which burns only wood, yard, or clean lumber waste and complies with the opacity limitations to be established by the Administrator of the U.S. EPA.

**HH. *Stationary Source*** For the purposes of Rule 500, a "stationary source" is any building, structure, operation, facility, or installation (or any such grouping) that:

1. Emits, may emit, or results in the emissions of any regulated air pollutant or HAP;
2. Is located on one or more contiguous or adjacent properties;
3. Is under the ownership, operation, or control of the same person (or persons under common control) or entity; and
4. Belongs to a single major industrial grouping; for example, each building, structure, operation, facility, or installation in the grouping has the same two-digit code under the system described in the 1987 Standard Industrial Classification Manual.

- II.** *United States Environmental Protection Agency (U.S. EPA)* "United States Environmental Protection Agency" refers to the Administrator or appropriate delegee of the "United States Environmental Protection Agency."
- JJ.** *Voluntary Emissions Cap* A "voluntary emissions cap" is an optional, federally-enforceable emissions limit on one or more emissions unit(s) which a source assumes in order to avoid an applicable federal requirement. The source remains subject to all other applicable federal requirements.

### 500.III Applicability

**A. Sources Subject to Rule 500** The sources listed below are subject to the requirements of Rule 500:

1. A major source except, when the U.S. EPA finalizes the underlying related requirements in 40 CFR part 70, for a source classified as a major source solely because it has the potential to emit major amounts of a pollutant listed pursuant to section 112(r)(3) of the CAA and is not otherwise a major source as defined in subsection II.X. above;
2. A source with an acid rain unit for which application for an Acid Rain Permit is required pursuant to Title IV of the CAA;
3. A solid waste incinerator subject to a performance standard promulgated pursuant to section 111 or 129 of the CAA;
4. Any other source in a source category designated by rule of the U.S. EPA; and
5. Any source that is subject to a standard or other requirement promulgated pursuant to section 111 or 112 of the CAA, published after July 21, 1992, that the U.S. EPA does not exempt from the requirements of Title V of the CAA.

**B. Sources Exempt from Rule 500** The sources listed below are not subject to the requirements of Rule 500:

1. Any stationary source that would be required to obtain a permit solely because it is subject to 40 CFR Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters);
2. Any stationary source that would be required to obtain a permit solely because it is subject to 40 CFR Part 61, Subpart M, section 145 (National Emission Standards for Asbestos, Standard for Demolition and Renovation); and
3. Any other source in a source category deferred pursuant to 40 CFR Part 70.3, by U.S. EPA rulemaking, unless such source is otherwise subject to Title V (i.e., it is a major source).

### 500.IV Administrative Procedures for Sources

Adopted 10/5/93

Revised 7/5/94, 9/5/94, 2/25/97, 3/27/01

Regulation V - 71

- A. Permit Requirement and Application Shield** A source shall operate in compliance with permits to operate issued pursuant to Rule 500. Rule 500 does not alter any applicable requirement that a source obtain preconstruction permits.

If a responsible official submits, pursuant to Rule 500, a timely and complete application for a permit, a source shall not be in violation of the requirement to have a permit to operate until the APCO takes final action on the application. The application shield here will cease to insulate a source from enforcement action if a responsible official of the source fails to submit any additional information requested by the APCO pursuant to subsection IV.C.2.c, below.

If a responsible official submits a timely and complete application for an initial permit, the source shall operate in accordance with the requirements of any valid permit to operate issued pursuant to section 42301 of the H&SC until the APCO takes final action on the application. If a responsible official submits a timely and complete application for renewal of a permit to operate, the source shall operate in accordance with the permit to operate issued pursuant to Rule 500, notwithstanding expiration of this permit, until the APCO takes final action on the application.

The application shield does not apply to sources applying for permit modifications. For permit modifications, a source shall operate in accordance with the permit to operate issued pursuant to Rule 500 and any temporary permit to operate issued pursuant to section 42301.1 of the H&SC.

**B. Application Requirements**

**1. Initial Permit**

- a. For a source that is subject to Rule 500 on the date the rule becomes effective, a responsible official shall submit a standard District application within 10 months after the date the rule becomes effective.
- b. For a source that becomes subject to Rule 500 after the date the rule becomes effective, a responsible official shall submit a standard District application within 6 months of the source commencing operation or of otherwise becoming subject to Rule 500.
- c. For a source with an acid rain unit subject to Phase II of the Acid Deposition Control Program of Title IV of the CAA, initial Phase II acid rain permits shall be submitted to the District by January 1, 1996 for sulfur dioxide and for coal-fired units by January 1, 1998 for oxides of nitrogen.

- 2. Permit Renewal** For renewal of a permit, a responsible official shall submit a standard District application no earlier than 18 months and no later than 6 months before the expiration date of the current permit to operate. Permits to operate for

all emissions units at a stationary source shall undergo simultaneous renewal.

3. ***Significant Permit Modification*** After obtaining any required preconstruction permits, a responsible official shall submit a standard District application for each emissions unit affected by a proposed permit revision that qualifies as a significant permit modification. Upon request by the APCO, the responsible official shall submit copies of the latest preconstruction permit for each affected emissions unit. The emissions unit(s) shall not commence operation until the APCO takes final action to approve the permit revision.
4. ***Minor Permit Modification*** After obtaining any required preconstruction permits, a responsible official shall submit a standard District application for each emissions unit affected by the proposed permit revision that qualifies as a minor permit modification. The emissions unit(s) affected by the proposed permit modification shall not commence operation until the APCO takes final action to approve the permit revision. In the application, the responsible official shall include the following:
  - a. A description of the proposed permit revision, any change in emissions, and additional applicable federal requirements that will apply;
  - b. Proposed permit terms and conditions; and
  - c. A certification by a responsible official that the permit revision meets criteria for use of minor permit modification procedures and a request that such procedures be used.
5. ***Acid Rain Unit Permit Modification*** A permit modification of the acid rain portion of the operating permit shall be governed by regulations promulgated pursuant to Title IV of the CAA.

#### C. **Application Content and Correctness**

1. ***Standard District Application*** The standard District application submitted shall include the following information:
  - a. Information identifying the source;
  - b. Description of processes and products (by Standard Industrial Classification Code) including any associated with proposed alternative operating scenarios;
  - c. Identification of fees specified in District Regulation VI, Fees;
  - d. A listing of all existing emissions units at the stationary source and identification and description of all points of emissions from the emissions units in sufficient detail to establish the applicable federal requirements



and the basis for fees pursuant to section VII, below;

- e. Citation and description of all applicable federal requirements, information and calculations used to determine the applicability of such requirements and other information that may be necessary to implement and enforce such requirements;
- f. Calculation of all emissions, including fugitive emissions, in tons per year and in such terms as are necessary to establish compliance with all applicable District, state, or federal requirements for the following:
  - 1) All regulated air pollutants emitted from the source,
  - 2) Any HAP that the source has the potential to emit in quantities equal to or in excess of 10 tons per year, and
  - 3) If the source has the potential to emit two or more HAPs in quantities equal to or in excess of 25 tons per year, all HAPs emitted by the source;
- g. As these affect emissions from the source, the identification of fuels, fuel use, raw materials, typical production rates, maximum production or usage rates, operating schedules, limitations on source operation or workplace practices;
- h. An identification and description of air pollution control equipment and compliance monitoring devices or activities;
- i. Other information required by an applicable federal requirement (or a District-only rule in accordance with subsection V.K.1., below);
- j. The information needed to define permit terms or conditions implementing a source's options for operational flexibility, including alternative operating scenarios, pursuant to subsection V.G., below;
- k. A compliance plan and compliance schedule with the following:
  - 1) A description of the compliance status of each emissions unit within the stationary source with respect to applicable federal requirements, except as provided below:
    - a) For all applicable federal requirements which are to be satisfied by compliance with the requirements of a permit streamlining proposal made in accordance with subsection IV.C.1.s., below, the responsible official may certify compliance with only the requirements of the permit streamlining proposal if data on which to base such a certification is submitted or referenced with the

application. The application shall include an attachment that demonstrates that compliance with the requirements of the permit streamlining proposal ensures compliance with the identified applicable federal requirements that are being subsumed.

- b) In order to certify compliance with a corresponding requirement in the State Implementation Plan, the responsible official may certify compliance with a District-only rule, if data on which to base such a certification is submitted or referenced with the application, and if the use of the District-only rule is proposed and approved in accordance with subsection IV.C.1.t., below.
  - 2) A statement that the source will continue to comply with such applicable federal requirements that the source is in compliance,
  - 3) A statement that the source will comply, on a timely basis, with future effective requirements which have been adopted, and
  - 4) A description of how the source will achieve compliance with requirements for which the source is not in compliance, however, if the source complies with a District-only rule addressed in a proposal submitted in accordance with subsection IV. C.1.t., below, no description is needed to address the corresponding State Implementation Plan requirement unless otherwise required by the District;
- 1. A schedule of compliance, which resembles and is at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the District hearing board if required by state law and which identifies remedial measures with specific increments of progress, a final compliance date, testing and monitoring methods, record keeping requirements, and a schedule for submission of certified progress reports to the U.S. EPA and the APCO at least every 6 months for a source that is: not in compliance at the time of permit issuance, renewal, and modification if the non-compliance is with units being modified) and is:
  - 1) A streamlined emission limit proposed in accordance with subsection IV.C.1.s., below, or
  - 2) A District-only rule proposed in accordance with subsection V.C.1.t., below, or
  - 3) An applicable federal requirement not to be subsumed by a proposal submitted in accordance with subsection V.C.1.s. or V.C.1.t., below:
- m. A certification by a responsible official of all reports and other documents submitted for permit application, compliance progress reports at least every 6 months, statements on compliance status with any applicable enhanced

monitoring, and compliance plans at least annually which shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;

- n. For a source with an acid rain unit, an application shall include the elements required by 40 CFR Part 72;
- o. For a source of HAPs, the application shall include verification that a risk management plan has been prepared in accordance with section 112(r) of the CAA and registered with the authorized local fire or health department; and
- p. For proposed portable sources, an application shall identify all locations of potential operation and how the source will comply with all applicable District, state, and federal requirements at each location.
- q. In lieu of providing the information specified in subsection IV.C.1.e., above, an owner or operator may, upon written concurrence from the APCO, stipulate that the source is a major source and/or that identified applicable federal requirements apply to the source. A stipulation does not preclude the APCO from requiring the submittal of subsequent additional information in accordance with this rule.
- r. An owner or operator may, upon written concurrence from the APCO, reference documents that contain the information required in subsections IV.C.1.a. through j. and o., provided the documents are specifically and clearly identified, and are readily available to the District and to the public. Each reference shall include, at a minimum, the title or document number, author and recipient if applicable, date, identification of relevant sections of the document, and identification on specific application content requirements and source activities or equipment for which the referencing applies. A reference does not preclude the APCO from requiring the submittal of information to supplement or verify the referencing or the submittal of other additional information in accordance with this rule.
- s. The application may contain a proposal for permit streamlining of two or more sets of applicable federal requirements and/or District-only requirements, to be reviewed by the District in accordance with subsection V.J., below. The application shall clearly note any proposal for permit streamlining. The permit streamlining proposal shall include the most stringent of multiple applicable emission limitations for each regulated air pollutant in order to ensure compliance with all applicable requirements for each emission unit or group of emission units. For purposes of this paragraph, an alternative or hybrid emission limit that is at least as stringent as any applicable emission limitation or a District-only requirement which meets the criteria set forth in section V.K., below, may be submitted, provided the limits ensure compliance with all applicable requirements for each emission unit or group of emissions unit:

- 1) A side-by-side comparison of all District-only and applicable federal requirements that are currently applicable and effective. Requirements for emissions and/or work practice standards shall be distinguished from provisions for monitoring and compliance demonstration.
- 2) A determination of the most stringent emissions and/or performance standard (or any hybrid or alternative limits as appropriate) and the documentation relied upon to make this determination.
- 3) A proposal for one set of permit terms and conditions to include the most stringent emissions limitations and/or standards (including pertinent work practice standards). Appropriate monitoring and its associated record keeping and reporting requirements, and such other conditions as are necessary to ensure compliance with all applicable federal requirements affected by the proposal. The most stringent emission limits shall be determined in accordance with the criteria in section II.A.2.(a) of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program, " U.S. EPA Office of Air Quality Planning and Standards, dated March 5, 1996. Streamlining of work practice standards shall be consistent with the guidance in section II.A.2(b) of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program, " U.S. EPA Office of Air Quality Planning and Standards, dated March 5, 1996. Streamlining of monitoring, record keeping, and reporting requirements shall be consistent with the guidance in section II.A.2(e) of "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permits Program, " U.S. EPA Office of Air Quality Planning and Standards, dated March 5, 1996.
- 4) If there is pertinent source compliance data, a certification that the source complies with the streamlined emission limits and that compliance with the streamlined emission limit ensures compliance, in accordance with subsection IV.C.1.k., above, with all applicable federal requirements affected by the proposal.
- 5) A compliance schedule to implement any new monitoring/ compliance approach relevant to the streamlined limit if the emissions unit is unable to comply with the streamlined limit at the time of permit issuance. The record keeping, monitoring, and reporting requirements of the applicable federal requirements being subsumed shall continue to apply (as would the requirement for the emission unit to operate in compliance with each of its emission limits) until the new streamlined compliance approach

becomes operative.

- 6) A proposal for a permit shield in accordance with subsection IV.C.1.u., below, for the applicable federal requirements and the District-only requirements associated with the streamlining proposal.
  - 7) If the proposal includes the use of any District-only requirement(s) as a requirement of permit streamlining, an authorization for the APCO to identify such District-only requirement(s), and any streamlined monitoring, record keeping, or reporting requirements derived from it, in the permit as a federally-enforceable condition in accordance with H&SC Section 42301.12(a)(3).
  - 8) Other pertinent information as specified by the APCO, including supplementary information pertaining to paragraphs 1) through 6) of this subsection.
- t. If the application contains a proposal to address a District-only rule that has been submitted to the U.S. EPA for State Implementation Plan approval, in lieu of a corresponding requirement in the State Implementation Plan, the application shall include the following additional information:
- 1) An indication that this approach is being proposed, a list or cross-reference of all requirements from pertinent District-only rules that are eligible for this approach, and reference to the list maintained for this purpose by the District.
  - 2) Identification of the State Implementation Plan requirements that the District-only rule(s) would replace.
  - 3) A compliance certification for the requirements of the pertinent District-only rule(s) in lieu of the requirements in the State Implementation Plan in accordance with subsection IV.C.1.k., above.
  - 4) A proposal for a permit shield in accordance with subsection IV.C.1.u., below, for the affected applicable federal requirements in the State Implementation Plan.
  - 5) An authorization for the APCO to identify in the permit, in accordance with H&SC section 42301.12(a)(3), any such District-only emission limit and any associated District-only monitoring, record keeping, or reporting requirements as a federally enforceable condition.
  - 6) Other information as specified by the APCO in accordance with

this rule.

- u. The application may contain a proposal for a permit shield to be reviewed by District in accordance with subsection V.L., below, and to be included in the permit. The proposal shall indicate the applicable federal requirements and the District-only requirements for which the permit shield is sought. The proposal shall also specify the emissions unit(s) for which the permit shield is sought or whether the permit shield is sought for the entire stationary source.
- v. Activities identified as insignificant in Attachment 1 of Rule 500 based upon size and production rate shall be listed in the permit application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required in Section VII of this rule. (Reference: 40 CFR Part 70.5(c).

## 2. *Correctness of Applications*

- a. Upon written request of the APCO, a responsible official shall supplement any complete application with additional information within the time frame specified by the APCO.
- b. A responsible official shall promptly provide additional information in writing to the APCO upon discovery of submittal of any inaccurate information as part of the application or as a supplement thereto, or of any additional relevant facts previously omitted which are needed for accurate analysis of the application.
- c. Intentional or negligent submittal of inaccurate information shall be reason for denial of an application and are subject to penalty per HS&C.

**D. Written Requests for District Action** A responsible official shall submit a written request to the APCO for the following permit actions:

1. ***Administrative Permit Amendment*** For an administrative permit amendment, a responsible official may implement the change addressed in the written request immediately upon submittal of the request.
2. ***Permit Modification for a Condition that is not Federally Enforceable*** For a permit modification for a condition that is not federally enforceable, a responsible official shall submit a written request in accordance with the requirements of District Rule 401.
3. ***Permits to Operate for New Emissions Units*** For permits to operate for a new emissions unit at a stationary source, a responsible official shall submit a written request in accordance with the requirements of District Rule 401, except under the following circumstances:
  - a. The construction or operation of the emissions unit is a modification under U.S. EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR

Parts 51, 52, 60, 61, 63.

- b. The construction or operation of the emissions unit is addressed or prohibited by permits for other emissions units at the stationary source.
- c. The emissions unit is an acid rain unit subject to Title IV of the CAA.

In the circumstances specified in subsections a., b., or c., above, a responsible official shall apply for a permit to operate for the new emissions unit pursuant to the requirements of Rule 500.

- E. Response to Permit Reopening For Cause** Upon notification by the APCO of a reopening of a permit for cause for an applicable federal requirement pursuant to section V.H., below, a responsible official shall respond to any written request for information by the APCO within the time frame specified by the APCO.

## 500.V District Administrative Procedures

- A. Completeness Review of Applications** The APCO shall determine if an application is complete and shall notify the responsible official of the determination within the following time frames:
1. For an initial permit, permit renewal, or a significant permit modification, within 60 days of receiving the application;
  2. For a minor permit modification, within 30 days of receiving the application;

The application shall be deemed complete unless the APCO requests additional information or otherwise notifies the responsible official that the application is incomplete within the time frames specified above.

- B. Notification of Completeness Determination** The APCO shall provide written notification of the completeness determination to the U.S. EPA, the ARB and any affected state and shall submit a copy of the complete application to the U.S. EPA within five working days of the determination. If the application includes a proposal for permit streamlining, the APCO shall note this when submitting a copy of the complete application to the U.S. EPA. The APCO need not provide notification for applications from sources that are not major sources when the U.S. EPA waives such requirement for a source category by regulation or at the time of approval of the District operating permits program.
- C. Application Processing Time Frames** The APCO shall act on a complete application in accordance with the procedures in subsections D., E. and F., below (except as application procedures for acid rain units are provided for under regulations promulgated pursuant to Title IV of the CAA), and take final action within the following time frames:
1. For an initial permit for a source subject to Rule 500 on the date the rule becomes effective, no later than three years after the date the rule becomes effective.
  2. For an initial permit for a source that becomes subject to Rule 500 after the date the rule becomes effective, no later than 18 months after the complete application is received.
  3. For a permit renewal, no later than 18 months after the complete application is received.
  4. For a significant permit modification, no later than 90 days after the complete application is received.
  5. For a minor permit modification, within 90 days after the application is received or 60 days after written notice to the U.S. EPA on the proposed decision, whichever is later.
  6. For any permit application with early reductions pursuant to section 112(i)(5) of the CAA, within 9 months from the date a complete application is received.
  7. Provided the U.S. EPA has entered into a formal agreement with the APCO to expedite its review of a District-only rule, the APCO may delay issuance of the affected portions of a permit in accordance with subsection V.K.2., below, until the U.S.



EPA formally acts to approve or disapprove a District-only rule submitted for inclusion in the State Implementation Plan. If the U.S. EPA disapproves the District-only rule, the APCO shall require the owner or operator to revise the application to address the corresponding requirements in the State Implementation Plan not yet addressed and to provide additional information as specified by the APCO in accordance with this rule. The APCO shall specify an expeditious time frame for the owner or operator to submit the revised application.

**D. Notification and Opportunity for Review of Proposed Decision** Within the applicable time frame specified in subsection V.C., above, the APCO shall provide notice of and opportunity to review the proposed decision to issue a permit to operate in accordance with requirements in this subsection. Fees for requests for documentation may be charged in accordance with District policy and Regulation VI.

1. For initial permits, renewal of permits, significant permit modifications, and reopenings for cause, the APCO shall provide the following:
  - a. Written notice, the proposed permit and, upon written request, copies of the District analysis to interested persons or agencies. The District analysis shall include a statement that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory and regulatory provisions. Interested persons or agencies shall include persons who have requested in writing to be notified of proposed Rule 500 decisions, any affected state and the ARB.
  - b. On or after providing written notice pursuant to subsection a., above, public notice that shall be published in at least one newspaper of general circulation in the District, and if necessary, by other means to assure adequate notice to the affected public. The notice shall provide the following information:
    - 1) The identification of the source, the name and address of permit holder, the activity(ies) and emissions change involved in the permit action;
    - 2) The name and address of the District, the name and telephone number of District staff to contact for additional information;
    - 3) The availability, upon request, of a statement that sets forth the legal and factual basis for the proposed permit conditions;
    - 4) The location where the public may inspect the complete application, the District analysis, and the proposed permit;
    - 5) A statement that the public may submit written comments regarding the proposed decision within at least 30 days from the date of publication and a brief description of commenting procedures, and
    - 6) A statement that members of the public may request a public hearing if a

hearing has not been scheduled. The APCO shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing in accordance with District Rule 424.B.

- c. A copy of the complete application, the District analysis and the proposed permit at District offices for public review and comment during normal business hours;
  - d. A written response, including reasons for not accepting comments and recommendations for a proposed permit, to persons or agencies that submitted written comments which are postmarked by the close of the public notice and comment period. All written comments and responses to such comments shall be sent to all commenters and kept on file at the District office and made available upon request.(Reference: 40 CFR Part 70.7(h)(5) and 70.8)
  - e. After completion of the public notice and comment period pursuant to subsection a., above, written notice to the U.S. EPA of the proposed decision along with copies of the proposed permit, the District analysis, the public notice submitted for publication, the District's response to written comments, and all necessary supporting information.
2. For minor permit modifications, the APCO shall provide written notice of the proposed decision to the U.S. EPA, the ARB, and any affected state. Additionally, the District shall provide to the U.S. EPA (and, upon request, to the ARB or any affected state) copies of the proposed permit, the District analysis, and all necessary supporting information. The District analysis shall include a statement that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory and regulatory provisions.

**E. Changes to the Proposed Decision** Changes to the proposed decision shall be governed by the following procedure:

1. The APCO may modify or change the proposed decision, the proposed permit, or the District analysis on the basis of information set forth in the comments received during the public comment period provided pursuant to subsection D.1.a., above, or due to further analysis of the APCO. Pursuant to subsection D.1.e., above, the APCO shall forward any such modified proposed decision, the proposed permit, the District analysis, and all necessary supporting information to the U.S. EPA.
2. If the U.S. EPA objects in writing to the proposed decision within 45 days of being notified of the decision and receiving a copy of the proposed permit and all necessary supporting information pursuant to subsection D.1.e., above, the APCO shall not issue the permit. Also, if the public petitions the U.S. EPA within 60 days after the end of the U.S. EPA's 45-day review period and the permit has not yet been issued, the APCO shall not issue the permit until U.S. EPA objections in response to the petition are resolved. The APCO shall either deny the application or revise and resubmit a permit which addresses

the deficiencies identified in the U.S. EPA objection within the following time frames:

- a. For initial permits, permit renewals, and significant permit modifications, within 90 days of receiving the U.S. EPA objection.
- b. For minor permit modifications, within 90 days of receipt of the application or 60 days of the notice to U.S. EPA, whichever is later.

- F. Final Decision** If the U.S. EPA does not object in writing within 45 days of the notice provided pursuant to subsection D.1.e., above, or the APCO submits a revised permit pursuant to subsection E.2., above, the APCO shall, expeditiously, deny the application or issue the final permit to operate. In any case, the APCO shall take final action on an application within the applicable time frame specified in subsection C., above. Failure of the APCO to act on a permit application or permit renewal application in accordance to the time frames provided in subsection C., above, shall be considered final action for purposes of obtaining judicial review to require that action on the application be taken expeditiously.

Written notification of the final decision shall be sent to the responsible official of the source, the U.S. EPA, the ARB and any person or affected state that submitted comments during the public comment period. The APCO shall submit a copy of a permit to operate as issued to the U.S. EPA and provide a copy to any person or agency requesting a copy. If the application is denied, the APCO shall provide reasons for the denial in writing to the responsible official along with the District analysis and cite the specific statute, rule, or regulation upon which the denial is based. Fees for requests for documentation may be charged in accordance with District policy and Regulation VI.

- G. District Action on Written Requests** The APCO shall act on a written request of a responsible official for permit action using the applicable procedure specified in this subsection.

1. **Administrative Permit Amendment** The APCO shall take final action no later than 60 days after receiving the written request for an administrative permit amendment.
  - a. After designating the permit revisions as an administrative permit amendment, the APCO may revise the permit without providing notice to the public or any affected state.
  - b. The APCO shall provide a copy of the revised permit to the responsible official and the U.S. EPA.
  - c. While the APCO need not make a completeness determination on a written request, the APCO shall notify the responsible official if the APCO determines that the permit cannot be revised as an administrative permit amendment.

2. ***Permit Modification for a Condition that is not Federally Enforceable*** The APCO shall take action on a written request for a permit modification for a condition that is not federally enforceable in accordance with the requirements of District Rule 401 under the following circumstances:

- a. Any change at the stationary source allowed by the permit modification shall comply with all permit streamlining requirements imposed in accordance with subsection V.J., below, all District-only rules imposed in accordance with subsection V.K.1., below, and all applicable federal requirements not subsumed by permit streamlining requirements imposed in accordance with subsection V.J., below, or District-only rules substituting for provisions of the State Implementation Plan pursuant to subsection V.K.1., below, and shall not violate any existing permit term or condition; and
- b. The APCO shall provide to the U.S. EPA a contemporaneous written notice describing the change, including the date, any change in emissions or air pollutants emitted, and any applicable federal requirement that would apply as a result of the change.

3. ***Permits to Operate for New Emissions Unit*** The APCO shall take action on a written request for a permit to operate for a new emissions unit in accordance with the requirements of District Rule 401 under the circumstances specified in subsection 2.a. and 2.b., above. However, if subsections IV.D.3.a., IV.D.3.b., or IV.D.3.c., above, apply, the APCO shall require the submittal of a standard District application and take action on that application pursuant to the requirements of Rule 500.

**H. Permit Reopening for Cause** The APCO shall reopen and revise a permit to operate during the annual review period required by section 42301(c) of the H&SC, or petition the District hearing board to do so pursuant to section 42307 of the H&SC, whichever is applicable, prior to its expiration date upon discovery of cause for reopening or upon notification of cause for reopening by the U.S. EPA, or within 18 months of promulgation of a new applicable federal requirement. The APCO shall act only on those parts of the permit for which cause to reopen exists.

1. Circumstances that are cause for reopening and revision of a permit include, but are not limited to, the following:
  - a. The need to correct a material mistake or inaccurate statement.
  - b. The need to revise or revoke a permit to operate to assure compliance with permit streamlining requirements imposed in accordance with subsection V.J., below, District-only rules imposed in accordance with subsection V.K.1., below, and all applicable federal requirements not subsumed by permit streamlining requirements imposed in accordance with subsection V.J., below, or District-only rules

substituting for provisions of the State Implementation Plan pursuant to subsection V.K.1., below.

- c. The need to incorporate any new, revised, or additional applicable federal requirements, if the remaining authorized life of the permit is 3 years or greater, no later than 18 months after the promulgation of such requirement (where less than 3 years remain in the authorized life of the permit, the APCO shall incorporate these requirements into the permit to operate upon renewal).
  - d. The need to reopen a permit issued to any acid rain unit subject to Phase II of Title IV of the CAA to include:
    - 1) Oxides of nitrogen requirements prior to January 1, 1999, and
    - 2) Additional requirements promulgated pursuant to Title IV as they become applicable to any acid rain unit governed by the permit.
2. In processing a permit reopening, the APCO shall use the same procedures as for an initial permit and additionally:
- a. Provide written notice to a responsible official and the U.S. EPA at least 30 days, or a shorter period in the case of an emergency, prior to reopening a permit; and
  - b. Complete action to revise the permit as specified in the notice of reopening within 60 days after the written notice to the U.S. EPA pursuant to subsection D.1.e., if the U.S. EPA does not object, or after the APCO has responded to U.S. EPA objection pursuant to subsection E.2., above.

**I. Options for Operational Flexibility** The APCO shall allow specified changes in operations at a source without requiring a permit revision for conditions that address an applicable federal requirement. The APCO shall not allow changes which constitute a modification under Title I of the CAA or District Rule 401, or that result in an exceedance of the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions without revision to the permit. The source may gain operational flexibility through use of the following options:

1. ***Alternative Operating Scenarios*** The APCO shall allow the use of alternative operating scenarios provided that:
  - a. Terms and conditions applicable to each operating scenario are identified by the responsible official in the permit application,
  - b. The terms and conditions are approved by the APCO,
  - c. The terms and conditions are incorporated into the permit; and
  - d. The terms and conditions are in compliance with all applicable District, state, and federal requirements.

A permit condition shall require a contemporaneous log to record each change made from one operating scenario to another.

2. ***Voluntary Emissions Caps*** The APCO shall issue a permit that contains terms and conditions that allow for trading of emissions increases and decreases within the stationary source solely for the purpose of complying with a voluntary emissions cap established in the permit independent of otherwise applicable federal requirements provided that:
  - a. The requirements of subsections 1.a., 1.c., and 1.d., above, are met;
  - b. The terms and conditions are approved by the APCO as quantifiable and enforceable; and
  - c. The terms and conditions are consistent with the applicable preconstruction permit.

A permit condition shall require that a responsible official provide written notice to the U.S. EPA and APCO 30 days in advance of a change by clearly requesting operational flexibility under this subsection of Rule 500. The written notice shall describe the change, identify the emissions unit which will be affected, the date on which the change will occur and the duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not.

3. ***Contravening an Express Permit Condition*** The APCO shall allow for changes in operation that contravene an express condition addressing an applicable federal requirement in a permit to operate provided that:
- a. The change will not violate any applicable federal requirement or any previously District-only rule used in accordance with subsection V.K.1., below:
  - b. The change will not contravene federally-enforceable conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements;
  - c. The change is not a modification under Title I of the CAA or any provision of District Rule 401;
  - d. The change does not result in exceeding the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions;
  - e. Written notice is given to the U.S. EPA and APCO 30 days in advance of a change, and the notice clearly indicates which term or condition will be contravened, requests operational flexibility under this subsection, describes the change, identifies the emissions units which will be affected, the date on which the change will occur, the duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not; and
  - f. The APCO has not provided a written denial to the responsible official within 30 days of receipt of the request for an operational change.

- J. Permit Streamlining** The APCO may approve a proposal in the application, submitted in accordance with subsection IV.C.1.s., above, for permit streamlining, provided the proposal and the permit terms and conditions are sufficient to ensure compliance with all applicable federal requirements for each emission unit or group of emission units and with subsection VI, "Permit Content Requirements," below. The APCO shall not approve any streamlined permit term or condition unless it is enforceable as a practical matter. Streamlined permit terms and conditions based on District-only requirements shall be federally-enforceable in accordance with H&SC section 42301.12(a)(3). The permit shall include a permit shield provided in accordance with subsection V.L., below, for the applicable federal requirements and the District-only requirements subsumed by the permit streamlining action.

The APCO may approve a proposal which includes either: 1) the most stringent of multiple applicable emission limitations (including work practice and operational standards) for each regulated air pollutant, or 2) an alternative or hybrid emission limitation that is at least as stringent as any applicable emission limitation, or 3) a District-only requirement which meets the criteria set forth in subsequent V.K., below, and is at least as stringent as the applicable federal requirements(s) which it subsumes.

## **K. Requirements From the State Implementation Plan**

1. In response to a proposal in the application submitted in accordance with subsection IV.C.1.t., above, the APCO may issue a permit with permit terms and conditions in accordance with section VI., "Permit Content Requirements," below, based on a District-only rule in lieu of a corresponding rule in the State Implementation Plan, provided the following requirements are met:
  - a. Compliance with one of the following criteria:
    - 1) The U.S. EPA has determined in writing that the District-only rule is at least as stringent as, and ensures compliance with, the corresponding rule in the applicable State Implementation Plan, or
    - 2) The owner or operator has demonstrated to the satisfaction of the APCO and U.S. EPA, expressed in writing, that compliance with the District-only rule assures compliance with the corresponding rule in the State Implementation Plan, and
  - b. Once the permit is issued, the permit terms and conditions based on the District-only rule shall be federally enforceable in accordance with H&SC section 42301.12(a)(3) and subsection VI.A.2. The permit shall include a permit shield provided in accordance with subsection V.L., below, for the applicable federal requirements associated with the District-only rule. The requirements of the corresponding rule in the Implementation Plan shall remain federally enforceable until the U.S. EPA approves the District-only rule for inclusion in the State Implementation Plan. If, after permit issuance, the District or U.S. EPA determines that the permit does not assure compliance with applicable federal requirements, the permit shall be reopened.
2. Provided the U.S. EPA has entered into a formal agreement with the APCO to expedite its review of a District-only rule, the APCO may delay issuance of the affected portions of the permit until the U.S. EPA formally acts to approve or disapprove the District-only rule submitted for inclusion in the State Implementation Plan.

## **L. Permit Shield**

1. In response to a proposal in the application, the APCO may include in the permit a provision stating that compliance with specifically identified conditions of the permit shall be deemed compliance with any applicable federal requirement(s) or with any District-only requirement(s) set forth in accordance with subsection V.J., above, as of the date of permit issuance, provided that:



- a. Such applicable federal requirements and/or District-only requirements are specifically identified and included in the permit; or
  - b. The APCO, in acting on the permit application or revision, determines in writing that other specifically identified requirements are not applicable to the source, and the permit includes the determination or a concise summary thereof.
2. When a permit shield is provided by the APCO for permit streamlining in accordance with subsection V.J., above, the permit shield shall be effective only when the source is in compliance with the streamlined emission limits (including applicable work standards and operation practices), during which time no enforcement action shall be taken for noncompliance with subsumed requirements. If the source is not in compliance with the streamlined emission limits, the permit shield shall not be in effect and enforcement action may be taken for noncompliance with subsumed emissions limitations to the extent that such noncompliance can be established.
3. A permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.
4. A permit shield shall not be provided for the following:
  - a. Any minor permit modification.
  - b. Any change in operation allowed by subsection V.I.3., above, for contravening an express permit condition.
  - c. Any change in operation or any permit modification pursuant to subsection V.G.2. or V.G.3., above.
5. The provisions of subsection V.L.1., above, shall not alter or affect any of the following:
  - a. The provisions of section 303 (emergency orders) of the CAA including the authority of the U.S. EPA Administrator.
  - b. The liability of an owner or operator of a source for any violation of applicable federal requirements prior to or at the time of permit issuance.
  - c. The applicable federal requirements prior to or at the time of permit issuance.
  - d. The ability of the U.S. EPA or APCO to implement and enforce the provisions of section 114 of the CAA and regulations promulgated thereunder.
  - e. The applicability of state or District-only requirements that are not associated with any permit streamlining action in accordance with subsection V.J., above, at the time of permit issuance but which do apply to the source.
  - f. The applicability of regulatory requirements with compliance dates after the permit issuance date.

500.VI Permit Content Requirements. A permit-to-operate shall contain permit conditions that will ensure compliance with all requirements of permit streamlining imposed in accordance with subsection V.J.1., above, all District-only rules which apply in accordance with subsection V.K.1., above, and all applicable federal requirements not subsumed by such permit streamlining requirements or District-only rules.

**A. Incorporation of Applicable Federal Requirements**

1. A permit to operate shall incorporate all applicable federal requirements (or District-only rules which apply in accordance with subsection V.K.1., above, in lieu of applicable federal requirements) as permit conditions. Streamlining, if any, of requirements shall be accomplished in accordance with subsection V.J., above.
2. A permit condition that addresses an applicable federal requirement a permit streamlining requirement imposed in accordance with subsection V.J. above, or a District-only rule which applies in accordance with subsection V.K.1., above, shall be specifically identified in the permit, or otherwise distinguished from any requirement that is not enforceable by the U.S. EPA in accordance with H&SC section 42301.12(a)(3);.

**B. General Requirements** All permits to operate shall contain the conditions or terms consistent with 40 CFR Part 70.6 Permit Content, including:

1. ***Emission and Operational Limitations*** The permit shall contain terms and conditions that ensure compliance with all permit streamlining requirements imposed in accordance with subsection V.J., above, all District-only rules which apply in accordance with subsection V.K.1., above, and all applicable federal requirements not submitted by such permit streamlining requirements or District-only rules, including any operational limitations or requirements.
2. ***Preconstruction Permit Requirements*** The permit shall include all of the preconstruction permit conditions for each emissions unit.
3. ***Origin and Authority for Permit Conditions*** The origin and authority for each permit term or condition shall be referenced in the permit. If a permit term or condition is used to subsume requirements in accordance with this rule, the origin and authority of the subsumed requirements shall also be referenced in the permit.

4. ***Equipment Identification*** The permit shall identify the equipment to which a permit condition applies.
  
5. ***Monitoring, Testing, and Analysis*** The permit shall contain terms and conditions that require monitoring, analytical methods, compliance certification, test methods, equipment management, and statistical procedures consistent with all permit streamlining requirements imposed in accordance with subsection V.J., above, all District-only rules which apply in accordance with subsection V.K.1., above, and all applicable federal requirements, including those pursuant to sections 114(a)(3) and 504(b) of the CAA, and 40 CFR Part 64 not subsumed by such permit streamlining requirement(s) or District-only rules. Periodic monitoring shall be required as a condition to ensure that the monitoring is sufficient to yield reliable data which are representative of the source's compliance with permit conditions over the relevant time period.
  
6. ***Recordkeeping*** The permit shall include recordkeeping conditions that require:
  - a. Record maintenance of all monitoring and support information associated with all permit streamlining requirement imposed in accordance with subsection V.J., above, all District-only rules which apply in accordance with subsection V.K.1., above, and all applicable federal requirement not subsumed by such permit streamlining requirement(s) or District-only rules, including:
    - 1) Date, place, and time of sampling;
    - 2) Operating conditions at the time of sampling;
    - 3) Date, place, and method of analysis; and
    - 4) Results of the analysis;
  - b. Retention of records of all required monitoring data and support information for a period of at least five years from the date of sample collection, measurement, report, or application; and
  - c. Any other recordkeeping deemed necessary by the APCO to ensure compliance with all permit streamlining requirements imposed in accordance with subsection V.J., above, all District-only rules which apply in accordance with subsection V.K.1., above, and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules.
  
7. ***Reporting*** The permit shall include reporting conditions that require the following:
  - a. Any deviation from permit requirements, including that attributable to upset

conditions (as defined in the permit), shall be promptly reported to the APCO who will determine what constitutes "prompt" reporting in terms of the requirement, the degree, and type of deviation likely to occur;

- b. A monitoring report shall be submitted at least every six months and shall identify any deviation from permit requirements, including that previously reported to the APCO (see subsection 7.a. above);
- c. All reports of a deviation from permit requirements shall include the probable cause of the deviation and any preventative or corrective action taken;
- d. A progress report shall be made on a compliance schedule at least semi-annually and shall include: 1) the date when compliance will be achieved, 2) an explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) a log of any preventative or corrective action taken; and
- e. Each monitoring report shall be accompanied by a written statement from the responsible official which certifies the truth, accuracy, and completeness of the report.

**8. *Compliance Plan*** The permit shall include a compliance plan that:

- a. Describes the compliance status of an emissions unit with respect to each applicable federal requirement, except as provided below:
  - 1) For all applicable federal requirements which are satisfied by compliance with a permit streamlining requirement approved by the District in accordance with subsection V.J., above, the responsible official may certify compliance with the streamlined requirement(s) if there is data on which to base such a certification. The compliance plan shall include an attachment that indicates that compliance with the permit streamlining requirement ensures compliance with the identified applicable federal requirements that are being subsumed.
  - 2) In lieu of a corresponding requirement in the State Implementation Plan, the responsible official may certify compliance with a District-only rule allowed by the District in accordance with subsection V.K.1., above, if there is data on which to base such a certification:
- b. Describes how compliance will be achieved if an emissions unit is not in compliance with an applicable federal requirement at the time of permit issuance. However, if the emissions unit complies with a District-only rule in accordance with subsection V.K.1., above, no description is needed to address the corresponding State Implementation Plan requirement unless otherwise required by the District:
- c. Assures that an emissions unit will continue to comply with those permit conditions

with which it is in compliance; and

- d. Assures that an emissions unit will comply with any future applicable federal requirement on a timely basis.

**9. *Compliance Schedule*** The permit shall include a compliance schedule for any emissions unit which is not in compliance, at the time of permit issuance, renewal, and modification (if the non-compliance is with units being modified), with any permit streamlining requirement imposed in accordance with subsection V.J., above, and any current applicable federal requirement not subsumed by such permit streamlining requirement(s) or District-only rules. The compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the District hearing board if required by state law and shall require:

- a. A statement that the emissions unit will continue to comply with those permit conditions with which it is in compliance;
- b. A statement that the emissions unit will comply with any future applicable federal requirement on a timely basis;
- c. For each condition with which the emissions unit is not in compliance with a permit streamlining requirement imposed in accordance with subsection V.J., above, a District-only rule which applies in accordance with subsection V.K.1., above, or an applicable federal requirement not subsumed by such permit streamlining requirements or District-only rules, a schedule of compliance which lists all preventative or corrective activities, and the dates when these activities will be accomplished; and
- d. For each emissions unit that is not in compliance with a permit streamlining requirement imposed in accordance with subsection V.J., above, a District-only rule which applies in accordance with subsection V.K.1., above, or an applicable federal requirement not subsumed by such a permit streamlining requirements or District-only rules, a schedule of progress on at least a semi-annual basis which includes: 1) the date when compliance will be achieved, 2) an explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) a log of any preventative or corrective actions taken.

**10. *Right of Entry*** The permit shall require that the source allow the entry of the District, ARB, or U.S. EPA officials for the purpose of inspection and sampling, including:

- a. Inspection of the stationary source, including equipment, work practices, operations, and emission-related activity;
- b. Inspection and duplication of records required by the permit to operate; and

- c. Source sampling or other monitoring activities.

**11. *Compliance with Permit Conditions*** The permit shall include the following provisions regarding compliance:

- a. The permittee shall comply with all permit conditions;
- b. The permit does not convey property rights or exclusive privilege of any sort;
- c. The non-compliance with any permit condition is grounds for permit termination, revocation and reissuance, modification, enforcement action, or denial of permit renewal;
- d. The permittee shall not use the "need to halt or reduce a permitted activity in order to maintain compliance" as a defense for non-compliance with any permit condition;
- e. A pending permit action or notification of anticipated non-compliance does not stay any permit condition; and
- f. Within a reasonable time period, the permittee shall furnish any information requested by the APCO, in writing, for the purpose of determining: 1) compliance with the permit, or 2) whether or not cause exists for a permit or enforcement action.

**12. *Emergency Provisions*** The permit shall include the following emergency provisions:

- a. The responsible official shall submit to the District a properly signed contemporaneous log or other relevant evidence which demonstrates that:
  - 1) An emergency occurred;
  - 2) The permittee can identify the cause(s) of the emergency;
  - 3) The facility was being properly operated at the time of the emergency;
  - 4) All steps were taken to minimize the emissions resulting from the emergency; and
  - 5) Within two working days of the emergency event, the permittee provided the district with a description of the emergency and any mitigating or corrective actions taken;

- b. In any enforcement proceeding, the permittee has the burden of proof for establishing that an emergency occurred; and
  - c. In addition to the emergency provisions above, the permittee shall comply with the emergency or upset provisions contained in all permit streamlining requirements imposed in accordance with subsection V.J., above, all District-only rules which apply in accordance with subsection V.K. 1., above, and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules and District Rule 516 requirements.
- 13. *Severability*** The permit shall include a severability clause to ensure the continued validity of otherwise unaffected permit requirements in the event of a challenge to any portion of the permit.
- 14. *Compliance Certification*** The permit shall contain conditions for compliance certification which include the following requirements:
- a. The responsible official shall submit a compliance certification to the U.S. EPA and the APCO every 12 months or more frequently as specified in an applicable requirement or by the District. All compliance reports and other documents required to be submitted to the District by the responsible official shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;
  - b. The compliance certification shall identify the basis for each permit term or condition (e.g., specify the emissions limitation, standard, or work practice) and a means of monitoring compliance with the term or condition;
  - c. The compliance certification shall include the compliance status and method(s) used to determine compliance for the current time period and over the entire reporting period; and
  - d. The compliance certification shall include any additional inspection, monitoring, or entry requirement that may be promulgated pursuant to sections 114(a) and 504(b) of the CAA.
- 15. *Permit Life*** With the exception of acid rain units subject to Title IV of the CAA and solid waste incinerators subject to section 129(e) of the CAA, each permit to operate for any source shall include a condition for a fixed term not to exceed five years from the time of issuance. A permit to operate for an acid rain unit shall have a fixed permit term of five years. A permit to operate for a solid waste incinerator shall have a permit term of 12 years; however, the permit shall be reviewed at least every five years.

16. ***Payment of Fees*** The permit shall include a condition to ensure that appropriate permit fees are paid on schedule. If fees are not paid on schedule, the permit is revoked. Operation without a permit subjects the source to potential enforcement action by the District and the U.S. EPA pursuant to section 502(a) of the CAA.
17. ***Alternative Operating Scenarios*** Where a responsible official requests that an alternative operating scenario be included in the permit for an emissions unit, the permit shall contain specific conditions for each operating scenario, including each alternative operating scenario. Each operating scenario, including each alternative operating scenario, identified in the permit must ensure compliance with all permit streamlining requirements imposed in accordance with subsection V.J., above, all District-only rules which apply in accordance with subsection V.K.1., above, and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules, and all of the requirements of this section. Furthermore, the source is required to maintain a contemporaneous log to record each change from one operating scenario to another.
18. ***Voluntary Emissions Caps*** To the extent applicable federal requirements provide for averaging emissions increases and decreases within a stationary source without case-by-case approval, a responsible official may request, subject to approval by the APCO, to permit one or more emissions unit(s) under a voluntary emissions cap. The permit for each emissions unit shall include federally-enforceable conditions requiring that:
- a. All permit streamlining requirements imposed in accordance with subsection V.J., above, all District-only rules which apply in accordance with subsection V.K.1., above, and all applicable federal requirements not subsumed by such permit streamlining requirement(s) or District-only rules, including those authorizing emissions averaging, are complied with;
  - b. No individual emissions unit shall exceed any emissions limitation, standard, or other requirement;
  - c. Any emissions limitation, standard, or other requirement shall be enforced through continuous emission monitoring, where applicable; and
  - d. All affected emissions units under a voluntary emissions cap shall be considered to be operating in violation of the permit, if the voluntary emissions cap is exceeded.
19. ***Acid Rain Units Subject to Title IV*** The permit for an acid rain unit shall include conditions that require compliance with any federal standard or requirement promulgated pursuant to Title IV (Acid Deposition Control) of the CAA and any federal standard or requirement promulgated pursuant to Title V of the CAA, except as modified by Title IV. Acid rain unit permit conditions shall include the requirements of 40 CFR Part 72.9 and the following provisions:



- a. The sulfur dioxide emissions from an acid rain unit shall not exceed the annual emissions allowances (up to one ton per year of sulfur dioxide may be emitted for each emission allowance allotted) that the source lawfully holds for that unit under Title IV of the CAA or the regulations promulgated pursuant to Title IV;
- b. Any increase in an acid rain unit's sulfur dioxide emissions authorized by allowances acquired pursuant to Title IV of the CAA shall not require a revision of the acid rain portion of the operating permit provided such increases do not require permit revision under any other applicable federal requirement;
- c. Although there is no limit on the number of sulfur dioxide emissions allowances held by a source, a source with an acid rain unit shall not use these emissions allowances as a defense for noncompliance with any applicable federal requirement or District requirement; and
- d. An acid rain unit's sulfur dioxide allowances shall be accounted for according to the procedures established in regulations promulgated pursuant to Title IV of the CAA.

**20. *Portable Sources*** The permit for any portable source, which may operate at two or more locations, shall contain conditions that require the portable source to:

- a. Meet all applicable District, state, and federal requirements at each location;
- b. Specify the monitoring methods, or other methods (e.g. air quality modeling) approved by the APCO, that will be used to demonstrate compliance with all District, state, and federal requirements; and
- c. Notify the APCO ten working days prior to a change in location.

**21. *Permit Shield*** In response to a proposal in the application and upon approval by the APCO, the permit may contain a permit shield in accordance with subsection V.L., above. The permit shield shall specify the requirements of permit streamlining, the applicable federal requirements, and the District-only requirements for which the permit shield applies. The permit shield shall also state the specific emission units for which the permit shield applies whether the permit shield applies to the stationary source.

**C. Referencing of District and Applicable Federal Requirements** In lieu of specifying detailed requirements, the permit may reference documents that contain the detailed requirements; provided the documents are specifically and clearly identified, and are readily available to the District and to the public. Each reference shall include, at a minimum, the title or document number, author and recipient if applicable, date, citation of relevant sections of the rule or document, and identification of specific source activities or equipment for which the referencing applies.

500.VII Supplemental Annual Fee. The fees collected pursuant to this section shall supplement the fee requirements in District Regulation VI.

- A. Payment of Supplemental Fee** Upon program approval by the U.S. EPA, a responsible official, or his or her designee, shall pay an annual supplemental fee for a permit to operate pursuant to this rule as determined by the calculation method in subsection B. below to meet an overall fee rate of \$25.00 per ton of fee-based emissions (CPI adjusted).
1. "Fee-based emissions" means the actual rate of emissions in tons per year of any fee pollutant, including fugitive emissions, emitted from the stationary source over the preceding year or any other period determined by the APCO to be representative of normal operation. Fee-based emissions shall be calculated using each emission unit's actual operating hours, production rates, and in-place control equipment; types of material processed, stored, or combusted during the preceding calendar year, or other time period established by the APCO.
  2. "Fee pollutant" means oxides of nitrogen, volatile organic compounds, any pollutant for which a national ambient air quality standard has been promulgated by the U.S. EPA (excluding carbon monoxide), and any other pollutant that is subject to a standard or regulation promulgated by the U.S. EPA under the CAA or adopted by the District pursuant to Section 112(g) and (j) of the CAA. Any air pollutant that is regulated solely because of a standard or regulation under Section 112(r) of the CAA for accidental release or under Title VI of the CAA for stratospheric ozone protection shall not be included.
  3. "(CPI adjusted)" means adjusted by the percentage, if any, by which the Consumer Price Index of the year exceeds the Consumer Price Index for calendar year 1989. The value for (CPI adjusted) shall be obtained from the U.S. EPA.

- B. Determination of Supplemental Fee** The supplemental annual fee shall be determined by completing the following steps:

Step 1: Calculation of Supplemental Annual Fee

$$s = [\$25 \text{ per ton (CPI adjusted)} \times e] - f$$

where:

s = supplemental annual fee in dollars

e = fee-based emissions in tons per year

f = sum (in dollars) of annual fee under District Regulation VI (Permit Fee Rule) that funds direct and indirect costs associated with activities related to the operating permits program as specified in Section 502(b)(3)(A) of the CAA.

Step 2: When the Supplemental Annual Fee is Zero

If "f" is equal to or greater than "\$25 per ton (CPI adjusted) x e," then "s" shall be zero and subsection B., above, applies. If "f" is less than "\$25 per ton (CPI adjusted) x e," then "s" shall be as calculated in Step 1.

- C. Submittal of Information** The responsible official, or his or her designee, shall provide the APCO sufficient information to determine the supplemental fee.
- D. Submittal of Information** An owner or operator of a source, or his or her delegee, shall provide the APCO sufficient information to determine the supplemental fee.

## Attachment 1

### List of Title V Insignificant Activities

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### **A. General Criteria for Insignificant Activities**

An insignificant activity is any activity, process, or emissions unit which is not subject to a source-specific requirement of a State Implementation Plan, preconstruction permit, or federal standard<sup>1</sup> and which: 1) meets the “Criteria for Specific Source Categories” below; or 2) emits no more than 0.5 tons per year of a federal hazardous air pollutant (HAP)<sup>2</sup> and no more than two tons per year of a regulated pollutant that is not a HAP.

### **B. Criteria for Specific Source Categories**

#### 1. Fugitive Emissions Sources Associated With Insignificant Activities

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<sup>1</sup> Federal standards include: 40 CFR Parts 60 (New Source Performance Standards), 61 (National Emission Standards for Hazardous Air Pollutants), 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories).

<sup>2</sup> HAPs are toxic substances listed pursuant to Section 112(b) of the Federal Clean Air Act.

Any valves, flanges, and unvented (except for emergency pressure relief valves) pressure vessels associated with an insignificant activity on this list.

Justification: Insignificant air pollutant emissions from this source

## 2. Combustion and Heat Transfer Equipment

- a) Any combustion equipment, other than a gas turbine, that has a maximum heat input rating of no more than five million British thermal units (mmBtu) per hour (gross) and is equipped to be fired exclusively with natural gas, liquefied petroleum gas, or any combination thereof, provided the fuel contains no more than five per cent by weight of hydrocarbons heavier than butane (as determined by American Society for Testing and Materials (ASTM) test method E-260-73) and no more than 0.75 grains of total sulfur per 100 cubic feet of gas (as determined by ASTM test method D-1072-80).

Justification:

$$100 \text{ lb NO}_x/10^6 \text{ft}^3 * 5 \text{ mmBtu/hr}/1,050 \text{ mmBtu}/10^6 \text{ft}^3 = 0.5 \text{ lb NO}_x/\text{hr}$$

(Reference AP-42)

- b) Any piston-type internal combustion engine (ICE) with a manufacturer's maximum continuous rating of no more than 50 braking horsepower (bhp).

Justification:

$$14 \text{ g NO}_x/\text{hp-hr} * 50 \text{ hp}/454 \text{ g/lb} = 1.5 \text{ lb NO}_x/\text{hr}$$

(Reference AP-42)

- c) Any ICE which emits no more than 2 tons per year of NO<sub>x</sub> and is operated solely for the purpose of: 1) providing power when normal power service fails (service failure does not include voluntary power reductions); or 2) the emergency pumping of water.

Justification:

$$14 \text{ g NO}_x/\text{hp-hr} * 300 \text{ bhp} * 100 \text{ hr/yr}/454 \text{ g/lb}/2,000 \text{ lb/ton} = 0.46 \text{ tons NO}_x/\text{yr}$$

(Reference AP-42)

- d) Any non-electric space heater that is not a boiler.

Justification:

$$94 \text{ lb NO}_x/10^6 \text{ft}^3 * 60,000,000 \text{ Btu/hr} * 720 \text{ hr/yr}/1,000 \text{ Btu/scf} = 2 \text{ tons NO}_x/\text{yr}$$

*Note: An electric space heater should be considered a trivial activity.*

## 3. Cooling Towers

Any water cooling tower which: 1) has a circulation rate of less than 10,000 gallons per minute; and 2) is not used to cool process water, water from barometric jets, or water from barometric condensers.

Justification:

$0.019 \text{ lb PM}_{10}/1,000 \text{ gal/min} * 10,000 \text{ gal/min} * 60 \text{ min/hr} * 0.10 = 1.14 \text{ lb PM}_{10}/\text{hr}$

#### 4. Printing and Reproduction Equipment

- a) Any printing, coating, or laminating activity which uses no more than two gallons per day of graphic arts materials, including: inks, coatings, adhesives, fountain solutions, thinners, retarders, or cleaning solutions.

Justification:  $7.5 \text{ lb VOC/gal} * 2 \text{ gal/day} = 15 \text{ lb VOC/day}$

- b) Any photographic process equipment, and control equipment venting such equipment, which reproduces images upon material sensitized to radiant energy.

Justification: Insignificant air pollutant emissions from this source

- c) Any laser printing equipment.

Justification: Insignificant air pollutant emissions from this source

#### 5. Food Processing Equipment

- a) Any oven in a food processing operation where less than 1,000 pounds of product are produced per day of operation.

Justification:

$13.7 \text{ lb VOC}/2,000 \text{ lb product} * 1,000 \text{ lb product} = 6.9 \text{ lb VOC/day}$   
(Reference AP-42)

- b) Any smokehouse in which the maximum horizontal inside cross section area does not exceed 20 square feet.

Justification:

$0.3 \text{ lb PM}_{10}/\text{ton of meat} * 1 \text{ ton /day} = 0.3 \text{ lb PM}_{10}/\text{day}$   
 $0.6 \text{ lb CO}/ \text{ton of meat} * 1 \text{ ton/day} = 0.6 \text{ lb CO/day}$   
(Reference AP-42)

- c) Any confection cooker, and associated venting or control equipment, cooking edible products intended for human consumption.

Justification: Insignificant air pollutant emissions from this source

#### 6. Plastic and/or Rubber Processing

- a) Any hot-wire cutting of expanded polystyrene foam, provided such cutting is limited to

packaging operations.

Justification:  $20 \text{ cuts/day} * 0.27 \text{ lb VOC/cut} = 5.4 \text{ lb VOC/day}$   
[San Diego APCD emission factor based on BASF Wyandotte Corporation industrial hygiene tests]

- b) Any equipment used exclusively for the extrusion or compression molding of rubber or plastics, provided no plasticizer or blowing agent is used.

Justification: Insignificant air pollutant emissions from this source

- c) Any oven used exclusively for curing, softening, or annealing plastics except for ovens used to cure fiberglass reinforced plastics.

Justification: Insignificant air pollutant emissions from this source

#### 7. Storage Containers, Reservoirs, and Tanks - Fuel, Fuel Oil, Asphalt

- a) Any temporary storage of gasoline in flexible containers to support equipment responding to an emergency or for the purposes of training to support such equipment.

Justification:

$11.5 \text{ lb VOC/1,000 gal transferred} * 5,000 \text{ gal} * 2 \text{ transfers/yr} = 115 \text{ lb VOC/yr}$

- b) Any equipment with a capacity of no more than 1,500 gallons used exclusively for the storage of gasoline.

Justification:

Breathing losses =

$30.5 \text{ lb VOC/1,000 gal capacity} * 1,500 \text{ gal capacity} = 45.8 \text{ lb VOC/yr}$

Working losses =

$10 \text{ lb VOC/1,000 gal throughput} * 12,000 \text{ gal throughput/yr} = 120 \text{ lb VOC/yr}$

Total losses = 0.08 ton VOC/yr

- c) Any equipment with a capacity of no more than 19,800 gallons (471 barrels) used exclusively for the storage of petroleum distillates used as motor fuel with specific gravity 0.8251 or higher [40° American Petroleum Institute (API) or lower] as determined by API test method 2547 or ASTM test method D-1298-80.

Justification: 0.03 lb/1,000 gal throughput

(Reference U.S. EPA 450/4-90-003)

- d) Any equipment used exclusively for the storage of fuel oils or non-air-blown asphalt with specific gravity 0.9042 or higher (25° API or lower) as determined by API test method 2547 or ASTM test method D-1298-80.



Justification: 0.03 lb/1,000 gal throughput  
(Reference U.S. EPA 450/4-90-003)

8. Storage Containers, Reservoirs, and Tanks - General Organic and VOC-containing Material

- a) Any equipment used exclusively for the storage of unheated organic material with: 1) an initial boiling point of 150° Centigrade (C) [302° Fahrenheit (F)] or greater as determined by ASTM test method 1078-86); or 2) a vapor pressure of no more than five millimeters mercury (mmHg) [0.1 pound per square inch (psi) absolute] as determined by ASTM test method D-2879-86.

Justification:

$0.39 \text{ lb VOC/1,000 gal storage capacity-yr} * 10,000 \text{ gal stored} = 3.9 \text{ lb VOC/yr}$

$0.007 \text{ lb VOC/1,000 gal storage capacity-yr}$

(Reference U.S. EPA 450/4-90-003 for propylene glycol)

- b) Any equipment with a capacity of no more than 250 gallons used exclusively for the storage of unheated organic liquid.

Justification:

$30.5 \text{ lb VOC/1,000 gal storage capacity-yr} * 250 \text{ gal capacity} = 7.62 \text{ lb VOC/yr}$

$17.9 \text{ lb VOC/1,000 gal storage capacity-yr} * 250 \text{ gal capacity} = 4.5 \text{ lb VOC/yr}$

(Reference U.S. EPA 450/4-90-003 for carbon tetrachloride)

- c) Any equipment with a capacity of no more than 6,077 gallons used exclusively for the underground storage of unheated organic liquid with a vapor pressure no more than 75 mm Hg (1.5 psi absolute) as determined by ASTM test method D-2879-86.

Justification:

$3.6 \text{ lb VOC/1,000 gal storage capacity-yr} * 6,077 \text{ gal capacity} = 21.9 \text{ lb VOC/yr}$

- d) Any transport, delivery, or cargo tank or equipment on vehicles used to deliver VOC-containing material.

Justification:

$0.005 \text{ lb VOC/1,000 gal}$

(Reference U.S. EPA 450/4-90-003)

9. Storage Containers, Reservoirs, and Tanks - Inorganic Materials

Any equipment used exclusively for the storage of fresh, commercial or purer grade of:

- 1) sulfuric or phosphoric acid with acid content of no more than 99 per cent by weight; or 2) nitric acid with acid content of no more than 70 per cent by weight.

Justification: Insignificant air pollutant emissions from this source

10. Storage Containers, Reservoirs, and Tanks - Liquefied Gases

Any equipment used exclusively for the storage of liquified gases in unvented (except for emergency pressure-relief valves) pressure vessels.

Justification: Insignificant air pollutant emissions from this source

11. Compression and Storage of Dry Natural Gas

Any equipment used exclusively to compress or hold dry natural gas. Any ICE or other equipment associated with the dry natural gas should not be considered an insignificant activity unless such ICE or other equipment independently qualifies as an insignificant activity.

Justification: Insignificant air pollutant emissions from this source.

12. Transfer Equipment

a) Any transfer equipment when used with the equipment described in 7-11, above.

Justification: Please see justification for 7-11, above

b) Any equipment used exclusively to transfer crude oil, asphalt, or residual oil from a delivery vehicle.

Justification: 0.03 lb/1,000 gal transferred  
(Reference U.S. EPA 450/4-90-003)

c) Any equipment used exclusively for the transfer of crude oil with 0.8762 specific gravity or higher (30 degrees API or lower) as measured by API test method 2547 or ASTM test method D-1298-80.

Justification: Transfer emissions for heavy crude oil are much less than  
1 lb/1,000 gal

d) Any equipment used exclusively for the transfer of less than 4,000 gallons per day of: 1) unheated organic material with an initial boiling point of 150° C (302°F) or greater as determined by ASTM test method D-86; or 2) fuel oil with 0.8251 specific gravity or higher (40° API or lower) as determined by API test method 2547 or ASTM test method D-1298-80.

Justification: Less than 0.03 lb/1,000 gal transferred  
(Reference U.S. EPA 450/4-90-003)

13. Adhesive Application

Any adhesive operation in which no more than 173 gallons of adhesives are applied in a

consecutive 12-month period.

Justification:  $11.1 \text{ lb VOC-HAP/gal} * 0.52 * 173 \text{ gal/year} = 0.5 \text{ TPY VOC-HAP}$

*“Note: Districts with SIP-approved adhesive rules should determine if insignificant adhesive application at a Title V facility should be less than 173 gallons/year.*

14. Surface Coating

- a) Any equipment or activity using no more than one gallon per day of surface coating, or any combination of surface coating and solvent, which contains either VOC or hazardous air pollutants (HAP), or both.

Justification:  $7.5 \text{ lb VOC/gal} * 1 \text{ gal/day} = 7.5 \text{ lbVOC/day}$

- b) Any coating operation using less than 10, 950 gallons per year of coating(s) that contain less than 20 grams of VOC per liter.

Justification:  $0.16 \text{ lb VOC/gal} * 10,950 \text{ gal/year} = 1,752 \text{ lb VOC/yr}$

15. Solvent Cleaning

- a) Any equipment or activity using no more than one gallon per day of solvent, or combination of solvent and surface coating, which contains either VOC or HAP, or both.

Justification:  $7.5 \text{ lb VOC/gal} * 1 \text{ gal/day} = 7.5 \text{ lb VOC/day}$

- b) Any unheated, non-conveyorized cleaning equipment (not including control enclosures): 1) which has an open surface area of no more than 10.8 square feet (2 square meters) and internal volume of no more than 92.5 gallons; 2) which uses organic solvents with an initial boiling point of 302° F or greater as determined by ASTM test method 1078-78; and 3) from which the owner or operator can demonstrate, through solvent purchase and use records, that less than 25 gallons per year of solvent was lost exclusive of solvent loss from recycling or disposal.

Justification:

$7.5 \text{ lb VOC/gal solvent} * 25 \text{ gal solvent/yr} / 2,000 \text{ lb/ton} = 0.094 \text{ ton VOC/yr}$

- c) Any solvent wipe cleaning provided such cleaning: 1) utilizes a container applicator to limit emissions (e.g., squeeze containers with narrow tips, spray bottles, dispensers with press-down caps, etc.); and 2) occurs at a facility which emits no more than five tons VOC (uncontrolled emissions) per calendar year from all solvent wipe-cleaning operations or which purchases no more than 1,500 gallons of solvent per calendar year.

Justification: Less than 5 tons VOC per calendar year

16. Abrasive Blasting

- a) Any blast cleaning equipment using a suspension of abrasive material in water and the control equipment venting such blast cleaning equipment.

Justification: Insignificant air pollutant emissions from this source

- b) Any abrasive blast room when vented to a control device that discharges back to the room.

Justification: Insignificant air pollutant emissions from this source.

17. Brazing, Soldering, Welding, and Cutting  
Torches

Any brazing, soldering, welding, or cutting torch equipment used in manufacturing and construction activities and with the potential to emit hazardous air pollutant (HAP) metals, provided the total emissions of HAPs do not exceed 0.5 tons per year.

Justification: Less than 0.5 tons per year of total HAPs

*Note: U.S. EPA's List of Trivial Activities says brazing, soldering, and welding associated with maintenance is a trivial activity. Such activity performed as part of the manufacturing process is also a trivial activity, provided no metal HAPs are emitted.*

18. Solder Leveler, Hydrosqueegee, Wave Solder Machine, or Drag Solder Machine

Any solder leveler, hydrosqueegee, wave solder machine, or drag solder machine which uses less than an average of 10 pounds/day of any VOC-containing material.

Justification: Less than 10 pounds/day of VOC

19. Metal Products

Any equipment, and associated control equipment, used exclusively for the inspection of metal products.

Justification: Insignificant air pollutant emissions from this source.

20. Aerosol Can Puncturing or Crushing

Any aerosol can puncturing or crushing operation that processes less than 500 cans per day, provided such operation uses a closed loop recovery system.

Justification:  $0.02 \text{ lb VOC/aerosol can} * 500 \text{ aerosol cans/day} = 10 \text{ lb VOC/day}$   
[San Diego County APCD emission factor based on saturated vapor in aerosol can]

21. Biotechnology Manufacture

Provided the total uncontrolled VOC emissions from any biotechnology manufacturing facility does not exceed five tons per year, any equipment used in the manufacture of:

- a) Biotechnology pharmaceutical products used exclusively in federal Food and Drug Administration (FDA)-approved clinical trials;
- b) Biomedical devices and diagnostic kits used exclusively in FDA-approved clinical trials and laboratory failure analysis testing; or
- c) Bioagricultural products for exclusive use in field testing required to obtain FDA, U.S. EPA, United States Department of Agriculture (USDA), or California Environmental Protection Agency (Cal-EPA) approval.

Justification: No more than 2 tons VOC/year

22. Textile Dyeing, Stripping, or Bleaching

Any equipment used for dyeing, stripping, or bleaching textiles, provided no organic solvents, diluents, or thinners are used.

Justification: Insignificant air pollutant emissions from this source

23. Laboratory Fume Hoods and Vents

Any laboratory fume hood or vent, provided such equipment is used exclusively for the purpose of teaching, research, or quality control.

Justification: Insignificant air pollutant emissions from this source

*Note: According to the U.S. EPA's List of Trivial Activities, "many lab fume hoods or vents might qualify for treatment as insignificant"*

24. Refrigeration Units

Any refrigeration unit provided the unit: 1) contains less than 50 pounds of refrigerant; and 2) is not used in conjunction with air pollution control equipment.

Justification: Insignificant air pollutant emissions from this source.

Rule 501      Permit Required. Before any source may be operated, a Permit to Operate shall be obtained from the Air Pollution Control Officer. No Permit to Operate shall be granted either by an Air Pollution Control Officer or the Hearing Board for any source constructed without authorization as required in Regulation IV until the information required is provided to the Air Pollution Control Officer and such

source is altered, if necessary, and made to conform to the standards set forth in Regulation IV and elsewhere in these Rules and Regulations.

Rule 502      Exemptions to Rule 501. The Air Pollution Control Officer may exempt from the requirements of Rule 501 any item of equipment specified in Rule 402, Exemptions to Rule 401.

Rule 503      Applications. Every application for a Permit to Operate shall be filed in the manner and form prescribed by the Air Pollution Control Officer, and shall give all the information necessary to enable the Air Pollution Control Officer to make the determination on the approvability of the application.

Rule 504      Action on Applications. The Air Pollution Control Officer shall act within 180 days after the filing date on a Permit to Operate application and shall notify the applicant in writing of his approval, conditional approval or denial.

Rule 505      Conditional Approval. The Air Pollution Control Officer may issue a Permit to Operate subject to conditions which will insure the compliance of any equipment within the standards of these Rules and Regulations, in which case the conditions shall be specified in writing. Commencing work under an Authority to Construct, or operation under a Permit to Operate, shall be deemed acceptance of all the conditions so specified.

Rule 506      Denial of Application. In the event of denial of a Permit to Operate, the Air Pollution Control Officer shall notify the applicant in writing of the reasons therefore. Service of this notification may be made in person or by mail, and such service may be proved by a written acknowledgement of the persons served or affidavit of the person making the service. The Air Pollution Control Officer shall not accept a further application unless the application has complied with the objections specified by the Air Pollution Control Officer as his reasons for denial of the Permit to Operate.

Rule 507      Responsibility. The fact that a Permit to Operate for an article, machine, equipment or other contrivance described therein shall not be an endorsement of such article, machine, equipment or other contrivance; neither shall it be deemed or construed to be a warranty, guarantee or representation on the part of the Air Pollution Control Officer that emission standards would not be exceeded by such article, machine, equipment or other contrivance. In every instance the person, firm or corporation to whom such Permit to Operate is issued shall be and remain responsible under these Rules and Regulations for each and every instance wherein emission standards are exceeded by the article, machine, equipment or other contrivance described in the Permit to Operate, and the fact of issuance shall not be a defense to or mitigation of any charge of violation. Issuance of a Permit to Operate pursuant to these Rules and Regulations does not release the permittee of the responsibility of any and all other applicable permits and authorizations issued by other local governmental agencies.

Rule 508      Posting of Permit to Operate. A person who has been granted a Permit to Operate under this Regulation shall firmly affix such Permit to Operate, and approved facsimile or other identification approved by the Air Pollution Control Officer upon the article, machine, equipment or other contrivance in such a manner as to be clearly visible in an accessible place on the premises or maintained readily available at all times on the operating premises. A person shall not willfully deface, alter, forge, counterfeit, or falsify a Permit to Operate.

Rule 509      Authority to Inspect. For the purpose of enforcing or administering any State or local law, order, regulation, or rule relating to air pollution, the Air Pollution Control Officer and his duly authorized agents shall have the right of entry to any premises on which an air pollution emission source is located for the purpose of inspecting such source, including securing samples of emissions therefrom, or any records required to be maintained therewith by the District. The Air Pollution Control Officer or his duly authorized agent shall have the right to inspect sampling and monitoring apparatus as he deems necessary.

Rule 510      Separation of Emissions. If air contaminants from a single source operation are emitted through two or more emission points, the total emitted quantity of air contaminants cannot exceed the quantity which would be allowable through a single emission point. The total emitted quantity of any such air contaminant shall be taken as the product of the highest concentration measured in any of the emission points, unless the person responsible for the source operation establishes the correct total emitted quantity to the Air Pollution Control Officer's satisfaction.

Rule 511      Combination of Emissions.

A.      If air contaminants from two or more source operations are combined prior to emission and there are adequate and reliable means reasonably susceptible for confirmation and use by the Air Pollution Control Officer in establishing a separation of the components of the combined emission to indicate the nature, extent, quantity, and degree of emission arising from each such source operation, the Rules and Regulations shall apply to each source operation separately.

B.      If air contaminants from two or more source operations are combined and the emissions cannot be separated according to the requirements of Section A above, the Rules and Regulations shall be applied to combined emissions as if it originated in a single source operation subject to the most stringent limitations and requirements placed by the Rules and Regulations on any of the source operations whose air contaminants are so combined.

Rule 512      Circumvention. A person shall not build, erect, install, or use any article, machine, equipment or other contrivance, the use of which, without resulting in an actual reduction in the total release of air contaminants to the atmosphere,

superficially reduces or conceals an emission which would otherwise constitute a violation of Division 26 of the Health and Safety Code of the State of California or of these Rules and Regulations. This Rule shall not apply to cases in which the only violations involved are Section 41700 of the Health and Safety Code, or of Rule 205 of these Rules and Regulations.

## **Rule 513 Emissions Statements and Recordkeeping**

### **1.0 General**

#### **1.1 Purpose**

The purpose of this rule is to establish requirements for the submittal of emissions statements from stationary sources pursuant to the requirements of the 1990 amendments to the Federal Clean Air Act [Section 182(a)(3)(B)] and in the interest of verifying compliance with conditions of permits to operate.

#### **1.2 Applicability**

The requirements of this rule are applicable to all classes and categories of stationary sources that have actual emissions of, or potential to emit, volatile organic compounds (VOC) or oxides of nitrogen (NO<sub>x</sub>), and also those for which the District requests emissions information.

1.2.1 The APCO may waive the applicability of section 1.2 for certain classes or categories of sources with actual emissions or potential to emit less than 10 tons per year of actual facility-wide VOC or NO<sub>x</sub> emissions if the emissions for the class or category of source are included in the base year and periodic emission inventories and the emissions are calculated using emission factors established by the US Environmental Protection Agency (EPA) or other methods acceptable to EPA.

1.2.2 Major sources subject to Title V of the Federal Clean Air Act of 1990 are additionally subject to the recordkeeping and reporting requirements specified in Parts 6.2.6 and 6.2.7 of Rule 522.

### **2.0 Definitions**

2.1 Actual Emissions: Measured or estimated emissions which most accurately represent the emissions from an emissions unit, including fugitive emissions.

2.2 Affected Pollutants: All criteria pollutants for which the District requests emission information. In federally designated ozone nonattainment areas, volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) shall specifically be included as affected pollutants.

2.3 Renewal Information Request: An annual information request by the APCO to each source subject to this rule for emissions data including, but not limited to, actual emissions and/or operational data allowing the District to estimate actual emissions.

2.4 Responsible Official: An individual who is responsible for the data presented in the emissions statement, and who accepts legal responsibility for the statement's accuracy. The responsible official is liable to legal review, or in case of fault, to penalties.



### **3.0 Source Recordkeeping Requirements**

#### **3.1 Recordkeeping**

The owner or operator of any permitted stationary source shall maintain records indicating the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the APCO to determine whether such source is in compliance with applicable emission limitations, control measures and permit conditions.

3.1.1 The APCO may require that such records be certified by a professional engineer registered in the State of California. Such studies shall be made at the expense of the person causing the emissions.

3.1.2 Information reported by the owner or operator and copies of the summarizing reports submitted to the APCO shall be retained by the owner or operator for at least two years after the date on which the emissions statement is submitted.

### **4.0 Emissions Statement Reporting Requirements**

#### **4.1 Reporting**

The owner or operator of any stationary source that is subject to this rule shall provide the District with an annual written emissions statement showing actual emissions (or operational data allowing the District to estimate actual emissions from that source), as requested by the District.

#### **4.2 Required Elements**

The emission statement shall be on a form or in a format specified by the APCO (the Renewal Information Request) and shall contain the following information:

4.2.1 Actual emissions data or operational data necessary to estimate actual emissions of affected pollutants, in tons per year, for the calendar year prior to the preparation of the emission statement; and 4.2.2 Information regarding seasonal or diurnal peaks in the emission of affected pollutants; and

4.2.3 Certification by a responsible official of the company that the information contained in the emission statement is accurate to the best of their knowledge.

#### **4.3 Timing**

Annual emissions statements shall be submitted to the District no later than the date specified in the Renewal Information Request.

### **5.0 Emissions Statement Administrative Requirements**

#### **5.1 District Requirements**

The Air Pollution Control Officer shall annually request and require the submission of emissions information (per section 4.2) through a Renewal Information Request for each applicable source (per section 1.2) within the District.

## 5.2 Failure to Submit

A failure by the responsible official to submit a Renewal Information Request by the date required shall be deemed a willful failure to furnish information required to disclose the nature and quantity of emissions discharged by the stationary source.

5.2.1 The Air Pollution Control Officer may suspend the permit(s) of such a source.

5.2.2 The Air Pollution Control Officer shall serve notice in writing of such suspension and the reasons for the suspension upon the permittee.

5.2.3 The Air Pollution Control Officer will reinstate the suspended permit(s) when furnished with the required information.

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## Rule 514      Public Records and Trade Secrets.

A. All information, analysis, plans, or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which will be produced by any source which the District requires any applicant to provide before such applicant builds, alters, replaces, operates, sells, rents, or uses such source, are public records.

B. All air quality or other pollution monitoring data, including data compiled from stationary sources, are public records.

C. Except as otherwise provided in Section D below, trade secrets are not public records under this Rule. Trade secrets, as used in this Rule, may include, but are not limited to, any formula, plan, process, tool mechanism, compound, procedure, production rate, or compilation of information which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade, or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it. The owner or operator shall state in writing his justification for claiming material as trade secrets and such justification shall be public record. The Air Pollution Control Officer shall rule on the validity of trade secret claims. Requests from the public for records shall be specific and in sufficient detail to enable the Air Pollution Control Officer to readily identify the information requested.

D. Notwithstanding any other provisions of the law, all air pollution emission data, including those emission data which constitute trade secrets as defined in Section C above, are public records. Production data used to calculate emission data are not emission data for purposes of this subdivision and data which constitute trade secrets and which are used to calculate emission data are not public records.

Rule 515

Provision of Sampling and Testing Facilities. The Air Pollution Control Officer may, upon reasonable written notice, require the owner or operator of any source, the use of which may cause the issuance of air contaminants or the use of which may eliminate, reduce, or control the issuance of air contaminants, to:

A. Provide to the Air Pollution Control Officer data on process and production rate, and techniques, flow diagrams, descriptions of basic equipment and control equipment, rates of emissions and other information which the Air Pollution Control Officer may require.

B. Provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity, or degree of air contaminants discharged into the atmosphere from the equipment in question. In the event of such a requirement, the Air Pollution Control Officer shall notify the applicant, in writing, of the required size, number and location of sampling holes, the size, and location of the sampling platform, All utilities shall be constructed in accordance with the general industry safety orders of the State of California.

C. 1. Provide and maintain sampling and monitoring apparatus to measure emissions of air contaminants when the Air Pollution Control Officer has determined that such apparatus is available and should be installed.

2. A person installing, operating, or using any of the following equipment shall provide, properly install, maintain in good working order, and operate continuous stack monitoring systems as described below:

a. Oxides of nitrogen (NO<sub>x</sub>) and carbon dioxide (CO<sub>2</sub>) of oxygen (O<sub>2</sub>) from steam generators with a heat input of 250 million British Thermal Units or more per hour and with a use factor of at least 30 percent.

b. Oxides of nitrogen (NO<sub>x</sub>) from all new nitric oxide plants.

c. Sulfur dioxide (SO<sub>2</sub>) from sulfuric acid plants, sulfur recovery plants, carbon monoxide (CO) from boilers or regenerators of fluid catalytic cracking units, new fluid cokers and existing fluid cokers with a feed rate greater than 10,000 barrels per day.

3. A person operating or using a stack monitoring system shall, upon written notice of the Air Pollution Control Officer, provide a

summary of the data obtained from such systems. This summary of the data shall be in the form and manner prescribed by the Air Pollution Control Officer. The summary of the data shall be available for public inspection at the office of the Air District.

Records from the monitoring equipment shall be kept by the owner or operator for a period of two years, during which time they shall be available to the Air Pollution Control Officer in such form as he directs.

4. A violation of emission standards of these Rules and Regulations, as shown by the stack monitoring system, shall be reported to the Air Pollution Control Officer within 96 hours.

5. The owner or operator shall notify the Air Pollution Control Officer of the intent to shut down any monitoring equipment at least 24 hours prior to the event.

6. The Air Pollution Control Officer shall inspect, as he determines to be necessary, the monitoring devices required by this Rule to ensure that such devices are functioning properly.

D. The Air Pollution Control Officer may require that disclosures required under this Rule be certified by a professional engineer registered in the State of California. Studies necessary to provide such information shall be made at the expense of the person causing the emissions.

Rule 516      Breakdown Conditions.

A.      Breakdown Procedure.

1.      a. The owner or operator shall notify the Air Pollution Control Officer of any occurrence which constitutes a breakdown condition. Such notification shall identify the time, specific location, equipment involved, and (to the extent known) the cause(s) of the occurrence, and shall be given as soon as reasonably possible, but not later than two (2) hours after its detection.

b. The above information must be submitted on District provided forms, or the equivalent, no later than 24 hours after the owner or operator detected the occurrence, or if the occurrence occurs on a weekend or holiday, by the end of the next business day.

2.      The Air Pollution Control Officer shall establish written procedures and guidelines, including appropriate forms for logging of initial reports, investigation, and enforcement follow up, to ensure that all reported breakdown occurrences are handled uniformly to final

disposition.

3. Upon receipt of notification pursuant to subsection A.1 above, the Air Pollution Control Officer shall promptly investigate and determine whether the occurrence constitutes a breakdown condition. If the Air Pollution Control Officer determines that the occurrence does not constitute a breakdown condition, the Air Pollution Control Officer may take appropriate enforcement action, including, but not limited to seeking fines, an abatement order, or an injunction against further operation. The Air Pollution Control Officer may take into account “acts of God,” which are beyond the control of the facility, as a legitimate cause of a breakdown or malfunction. The Air Pollution Control Officer will review breakdowns and malfunctions caused by “acts of God” on a case by case basis provided the facility offers full cooperation in proper documentation of the breakdown or malfunction.

4. A breakdown condition is defined as an unforeseeable failure or malfunction of (1) any air pollution control equipment or related operating equipment which causes a violation of any emission limitation or restriction prescribed by these Rules and Regulations, or by State law, or (2) any in-stack continuous monitoring equipment, where such failure or malfunction:

a. Is not the result of neglect or disregard of any air pollution control law or rule or regulation; and

b. Is not intentional or the result of negligence; and

c. Is not the result of improper maintenance; and

d. Does not constitute a nuisance; and

e. Is not a recurrent breakdown or malfunction of the same equipment.

5. Code of Federal Regulations 40, Part 60, § 60.2 defines a malfunction as any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner.

**B. Disposition of Short-Term Breakdown Conditions.**

1. An occurrence which constitutes a breakdown condition, and which persists longer than 24 hours after the facility detects the occurrence, except for continuous monitoring equipment for which the period shall be 96 hours, shall constitute a violation of any applicable emission limitation or restriction prescribed by these Rules and Regulations; however, the Air Pollution Control Officer may elect to take

no enforcement action if the owner or operator demonstrates to the Air Pollution Control Officer's satisfaction that a breakdown exists and the following requirements are met:

a. The owner or operator submits the notification required by subsection A.1. above; and

b. The owner or operator immediately undertakes appropriate corrective measures and comes into compliance, or elects to shutdown for corrective measures within 24 hours, except for continuous monitoring equipment for which the period shall be 96 hours. If the owner or operator elects to shut down rather than come into compliance, he must nonetheless take whatever steps are possible to minimize the impact of the breakdown within the 24-hour period; and

c. The breakdown does not interfere with the attainment and maintenance of any national ambient air quality standard.

2. An occurrence which constitutes a breakdown condition shall not persist longer than 24 hours, except for continuous monitoring equipment for which the period shall be 96 hours, unless the owner or operator has requested the Air Pollution Control Officer to commence the emergency variance procedure.

C. Emergency Variance Procedures.

1. If the breakdown condition will require more than 24 hours to correct, except for continuous monitoring equipment for which the period shall be 96 hours, the owner or operator may, in lieu of a shutdown, request the Air Pollution Control Officer to commence the emergency variance procedure set forth in subsection C.2. below.

2. Upon receipt of a request for an emergency variance, the Air Pollution Control Officer shall contact the chairperson of the Hearing Board, or designated member(s) of the Hearing Board, who shall conduct deliberations for consideration of the request. The Air Pollution Control Officer shall inform the owner or operator of the source of such deliberation. During consideration of the emergency variance, the Air Pollution Control Officer shall recommend whether any emergency variance should be granted, and the owner or operator of the source shall be entitled to present relevant information or data applicable to the breakdown. The burden shall be in the owner or operator to establish that a breakdown condition exists. Thereafter, the chairperson or other

designated member(s) may, without notice or hearing, grant or deny an emergency variance. The chairperson or other designated member(s) shall, within five (5) working days, issue a written order, confirming the decision, with appropriate findings.

3. No emergency variance shall be granted unless the chairperson or other designated member(s) determines that:

a. The occurrence constitutes a breakdown condition; and

b. Continued operation is not likely to create a nuisance, an immediate threat, or hazard to public health or safety; and

c. The requirements for a variance set forth in Health and Safety Code Sections 42352 and 42353 have been met; and

d. The continued operation in a breakdown condition will not interfere with the attainment of the national ambient air quality standards.

4. At any time after an emergency variance has been granted the Air Pollution Control Officer may request that the chairperson or designated member(s) reconsider and revoke, modify, or further condition the variance if the Air Pollution Control Officer has good cause to believe that:

a. Continued operation is likely to create a nuisance, an immediate threat, or hazard to public health or safety; or

b. The owner or operator is not complying with all applicable conditions of the variance; or

c. A breakdown condition no longer exists; or

d. Final compliance is not being accomplished as expeditiously as practicable.

The procedures set forth in subsection C.2. above shall govern any proceedings conducted under this subsection.

5. An emergency variance shall remain in effect only for as

long as necessary to repair or remedy the breakdown condition, but in no event after a regularly noticed hearing to consider an interim or 90 day variance has been held, or fifteen (15) days from the date of the subject notice, whichever is sooner.

D. Reporting Requirements. Within one week after a breakdown occurrence has been corrected, the owner or operator shall submit a written report to the Air Pollution Control Officer which includes:

1. A statement that the occurrence has been corrected together with the date of correction and proof of compliance; and
2. A specific statement of the reason(s) or cause(s) for the occurrence sufficient to enable the Air Pollution Control Officer to determine whether the occurrence was a breakdown condition; and
3. A description of the corrective measures undertaken and/or to be taken to avoid such an occurrence in the future. The Air Pollution Control Officer may, at the request of the owner or operator, for good cause, extend up to 30 days the deadline for submitting the description required by this subsection; and
4. An estimate of the quantity of, or detailed description of emissions caused by the occurrence; and
5. Pictures of the equipment or control which failed if available.

E. Burden of Proof. The burden shall be on the owner or operator of the source to provide sufficient information to demonstrate that a breakdown did occur. If the owner or operator fails to provide sufficient information, the Air Pollution Control Officer shall undertake appropriate enforcement action.

F. Failure to Comply with Reporting Requirements. Any failure to comply, or to comply in a timely manner, with the reporting requirement established in subsection A.1. and D.1. through D.5. of this Rule shall constitute a separate violation of this Rule.

G. False Claiming of Breakdown Occurrence. It shall constitute a separate violation of this Rule for any person to file with the Air Pollution Control Officer a report which falsely, or without probable cause, claims that an occurrence is a breakdown.

H. Hearing Board Standards and Guidelines. The Hearing Board shall adopt standards and guidelines consistent with this Rule to assist the chairperson or other designated member(s) of the Hearing Board in determining whether to grant or deny an emergency variance, and to assist the Air Pollution Control Officer in



the enforcement of this Rule.

- Rule 517      Transfer. A Permit to Operate shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.
- Rule 518      Revocation of a Permit to Operate. If the holder of any Permit to Operate within a reasonable time willfully fails and refuses to furnish to the Air Pollution Control Officer information, analysis, plans, or specifications requested by the Air Pollution Control Officer, the Air Pollution Control Officer may suspend the Permit to Operate. He shall serve notice in writing of such suspension and the reasons therefore on the permittee.
- Rule 519      Appeals. Within ten (10) days any decision or action pertaining to the issuance or suspension of a Permit to Operate by the district, denial of an Authority to Construct, or any conditional approval, requirements for sampling and monitoring apparatus, or denial of Trade Secret status, or within ten (10) days after mailing of the notice of issuance of the permit or action to any person who has requested notice, or within ten (10) days of the publication and mailing of notice, provided for in Section 1 of the act amending the Health and Safety Code Section 42302.1 in the 1993 Regular Session of the Legislature, any aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in the action before the district may request the hearing board of the district to hold a public hearing to determine whether the permit or other approval or requirement was properly issued. Except as provided in Section 1 of the act amending the Health and Safety Code Section 42302.1 in the 1993 Regular Session of the Legislature, within thirty (30) days of the request, the hearing board shall hold a public hearing and shall render a decision on whether or not said action by the district was properly issued.
- Rule 520      Reinstatement. The Air Pollution Control Officer shall reinstate a revoked Permit to Operate when all information, analysis, plans, and specifications are furnished, and the source is in compliance with these Rules and Regulations.
- Rule 521      Annual Renewal. Permits to Operate issued pursuant to this Rule shall expire one (1) year after the date of issuance. The Air Pollution Control Officer may renew an expired Permit to Operate upon payment of the applicable permit fees by the source operator.
- Rule 522      Request for Synthetic Minor Source Status

522.1 General

- A.      Purpose. This rule authorizes the owners or operators of specified stationary sources that otherwise be major sources to request and accept federally-enforceable emission limits sufficient to allow the source to be considered "synthetic minor sources".

A synthetic minor source is not subject to Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, unless it is subject to that rule for any reason other than being a major source. A synthetic minor source is subject to all applicable federal requirements for non-major stationary sources and to all federally-enforceable conditions and requirements pursuant to this rule. In addition, a synthetic minor source is subject to all applicable State and District rules, regulations, and other requirements.

B. Applicability.

1. This rule applies to any major source for which the owner or operator requests, and would be able to comply with, federally-enforceable conditions that qualify the source to be a synthetic minor sources, as defined herein.
2. This rule shall not apply to any source subject to Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, for any reason other than being a major source.

522.2 Definitions. All terms shall retain the definitions provided under Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, unless otherwise defined herein.

- A. Major Source Threshold. The potential to emit a regulated air pollutant in the amounts specified in the definition of a "major source" as defined in Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM.
- B. Modification. Any physical or operational change at a source or facility which necessitates a revision of any federally-enforceable condition, established pursuant to this rule or by any other mechanism, that enables a source to be a synthetic minor source.
- C. Operating Scenario. Any mode of operation to be permitted, including: normal operation, start-up, shutdown, and reasonably foreseeable changes in process, feed, or product.
- D. Owner or Operator. Any person who owns, operates, controls, or supervises a stationary source.
- E. Synthetic Minor Source. A stationary source which pursuant to this rule or another mechanism, is subject to federally-enforceable conditions that limit its potential to emit to below major source thresholds.

522.3 Standards

- A. Modification Requirements. The following requirements apply to any modification of a synthetic minor source:

1. For a modification that would not increase the synthetic minor source's potential to emit to equal or exceed any major source threshold, the source shall comply with the requirements of NEW SOURCE REVIEW.
2. For a modification that would increase the synthetic minor source's potential to emit to equal or exceed any major source threshold or would affect a monitoring, recordkeeping, or reporting requirement pursuant to Section 522.4 D.3. of this rule, the owner or operator shall comply with the applicable requirements of NEW SOURCE REVIEW, and shall:
  - a. Submit a revised request for synthetic minor status in accordance with Section 522.4 A. of this rule no later than 180 days prior to the intended modification; or
  - b. Submit an application in accordance with the requirements of Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, no later than 180 days prior to the intended modification.

#### 522.4 Administrative Requirements

##### A. Request for Synthetic Minor Status.

1. A request for synthetic minor source status shall not relieve a source of the responsibility to comply with the application requirements of Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, within the specified timeframes. A major source subject to this Rule may request synthetic minor source status in accordance with the requirements of Sections 522.4 A. and 522.4 B. of this rule.
2. A request for designation as a synthetic minor source shall include:
  - a. The identification and description of all existing emission units at the source;
  - b. The calculation of each emission unit's maximum annual and maximum monthly emissions of regulated air pollutants for all operating scenarios to be permitted, including any existing federally-enforceable limits established by a mechanism other than this rule;
  - c. Proposed federally-enforceable conditions which:
    1. Limit source-wide emissions to below major source thresholds, and;

2. Are permanent, quantifiable, and otherwise enforceable as a practical matter;
  - d. Proposed federally-enforceable conditions to impose monitoring, recordkeeping, and reporting requirements sufficient to determine compliance;
  - e. Any additional information requested by the Air Pollution Control Officer; and
  - f. Certification by a responsible official that the contents of the request are true, accurate, and complete.
- B. Request Schedule. The owner or operator of a major source who chooses to request synthetic minor source status shall make such a request within the following timeframes:
1. For any major source that is operating or is scheduled to commence operating on the effective date of Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, the owner or operator shall request synthetic minor source status no later than 60 days before an application is required under Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM.
  2. For any major source that commences operating after the effective date of Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, the owner or operator shall request synthetic minor source status no later than 60 days before an application is required under Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM.
  3. For a major source that is operating in compliance with a permit pursuant to Rule TITLE V - FEDERAL OPERATING PERMIT PROGRAM, the owner or operator shall request synthetic minor source status at any time, but no later than 180 days prior to permit renewal.
- C. Completeness Determination. The Air Pollution Control Officer shall determine if the request for synthetic minor status is complete within 30 days of receipt, unless a longer period of time is agreed upon by the Air Pollution Control Officer and the source's owner or operator.
- D. Federally Enforceable Conditions. Federally-enforceable conditions enabling a source to become a synthetic minor source shall be identified as federally enforceable included in a source's Permit to Operate issued by the Air Pollution Control Officer in accordance with Rule 500 GENERAL PERMIT REQUIREMENTS, and Sections 522.4 E., F., and G. of this

rule, and shall be:

1. Permanent, quantifiable, and practically enforceable permit conditions, including any operational limitations or conditions, which limit the source's potential to emit to below major source thresholds;
2. Monitoring, recordkeeping, and reporting conditions sufficient to determine on-going compliance with the emission limits set forth pursuant to Section 522.4 D.1. of this rule; and
3. Subject to public notice and U.S. EPA review pursuant to Sections 522.4 E. and 522.4 F. of this rule.

Permits that do not conform to the requirements of this Section, and other requirements of this Rule, or any underlying federal regulations which set forth criteria for federal-enforceability may be deemed not federally-enforceable by the U.S. EPA.

- E. Public Notification and Review. After a request for synthetic minor status is determined to be complete, the Air Pollution Control Officer shall:
1. Public a notice of the request in one or more major newspapers in the area where the source is located;
  2. In the public notice:
    - a. State that conditions for the source identified as federally-enforceable in the source's permit will establish a voluntary emissions limit in accordance with this Rule and
    - b. Describe how the public may obtain copies of the proposed permit including the federally-enforceable conditions addressing the emissions limit; and
  3. Provide 30 days for public review to final permit action.
- F. U.S. EPA Review. After a request for synthetic minor source status is determined to be complete, the Air Pollution Control Officer shall:
1. Provide the U.S. EPA with copies of the proposed permit including the conditions which:
    - a. Are identified as federally-enforceable, and
    - b. Limit emissions to below major source thresholds;
  2. Provide 30 days for U.S. EPA review of the proposed permit prior to final permit action; and

3. Provide the U.S. EPA with copies of the final permit.

G. Final Action.

1. Until the Air Pollution Control Officer takes final action to issue the Permit to Operate pursuant to this Section, a source requesting synthetic minor status shall not be relieved of the responsibility to comply with the application or other requirements of Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, within the specified timeframes.
2. Upon fulfilling the requirements of Sections 502.4 C. through 522.4 F. of this rule, the Air Pollution Control Officer shall consider any written comments received during public and U.S. EPA review and take final action on the Permit to Operate of a source requesting synthetic minor source status within 90 days of deeming such request complete or within three years of the effective date of Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, whichever is later.
3. The Air Pollution Control Officer shall maintain a public record of all pertinent documents regarding a request for synthetic minor source status, including: the request, proposed permit, all written comments and responses, and the final permit.

- H. Renewal of Synthetic Minor Status. Renewal of synthetic minor source status shall be made in accordance with Rule 500 GENERAL PERMIT REQUIREMENTS. In addition, at permit renewal, any revision of conditions identified as federally enforceable shall be subject to the provisions of Sections 522.4 A. and 522.4 C. through 522.4 G. of this rule.

I. Compliance.

1. The owner or operator of a synthetic minor source which exceeds the conditions identified as federally enforceable and established pursuant to Section 522.4 D.2. of the rule shall report such exceedances to the Air Pollution Control Officer in accordance with Rule 404 UPSET AND BREAKDOWN CONDITIONS.
2. The owner or operator of a synthetic minor source that is not in compliance with any condition identified as federally enforceable or with any requirement set forth in this Rule, or that file false information to the Air Pollution Control Officer to obtain synthetic minor source designation, is in violation of the Clean Air Act and District Rules and Regulations. A non-complying synthetic minor source may be subject to the one or combination of the following

actions: enforcement action, permit termination, permit revocation and reissuance, and permit renewal denial.

Rule 523      Limit Potential to Emit

523.1      Applicability

A.      General Applicability. This rule shall apply to any stationary source which would, if it did not comply with the limitations set forth in this rule, have the potential to emit air contaminants equal to or in excess of the threshold for a major source of regulated air pollutants or a major source of hazardous air pollutants (HAPs) and which meets one of the following conditions:

1.      In every 12-month period, the actual emissions of the stationary source are less than or equal to the emission limitations specified in section 523.3 A., below; or
2.      In every 12-month period, at least 90 percent of the emissions from the stationary source are associated with an operation limited by any one of the alternative operational limits specified in section 523.6 A., below.

B.      Stationary Source with De Minimis Emissions. The recordkeeping and reporting provisions in sections 523.4, 523.5 and 523.6 below shall not apply to a stationary source with de minimis emissions or operations as specified in either subsection 523.1 B.1., or 523.1 B.2., below:

1.      In every 12-month period, the stationary source emits less than or equal to the following quantities of emissions:
  - a.      5 tons per year of a regulated air pollutant (excluding HAPs),
  - b.      2 tons per year of a single HAP,
  - c.      5 tons per year of any combination of HAPs, and
  - d.      20 percent of any lesser threshold for a single HAP that the United States Environmental Protection Agency (U.S. EPA) may establish by rule.
2.      In every 12-month period, at least 90 percent of the stationary source's emissions are associated with an operation for which the throughput is less than or equal to one of the quantities specified in subsections 523.1 B.2.a., through 523.1 B.2.i., below:
  - a.      1,400 gallons of any combination of solvent-containing materials but no more than 550 gallons of any one solvent-

containing material, provided that the materials do not contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene;

- b. 750 gallons of any combination of solvent-containing materials where the materials contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, but not more than 300 gallons of any one solvent-containing material;
- c. 4,400,000 gallons of gasoline dispensed from equipment with Phase I and II vapor recovery systems;
- d. 470,000 gallons of gasoline dispensed from equipment without Phase I and II vapor recovery systems;
- e. 1,400 gallons of gasoline combusted;
- f. 16,600 gallons of diesel fuel combusted;
- g. 500,000 gallons of distillate oil combusted, or
- h. 71,400,000 cubic feet of natural gas combusted.

Within 30 days of a written request by the District or the U.S. EPA, the owner or operator of a stationary source not maintaining records pursuant to sections 523.4 or 523.6 shall demonstrate that the stationary source's emissions or throughput are not in excess of the applicable quantities set forth in subsection 523.1 B.1., or 523.1 B.2., above.

C. Provision for Air Pollution Control Equipment. The owner or operator of a stationary source may take into account the operation of air pollution control equipment on the capacity of the source to emit an air contaminant if the equipment is required by Federal, State, or District rules and regulations or permit terms and conditions. The owner or operator of the stationary source shall maintain and operate such air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. This provision shall not apply after January 1, 1999 unless such operational limitation is federally enforceable or unless the District Board specifically extends this provision and it is submitted to the U.S. EPA. Such extension shall be valid unless, and until, the U.S. EPA disapproves the extension of this provision.

D. Exemption, Stationary Source Subject to Rule 500 Title V - Federal Operating



Permit Program. This rule shall not apply to the following stationary sources:

1. Any stationary source whose actual emissions, throughput, or operation, at any time after the effective date of this rule, is greater than the quantities specified in sections 523.3 A or 523.6 A., below and which meets both of the following conditions:
  - a. The owner or operator has notified the District at least 30 days prior to any exceedance that s/he will submit an application for a Part 70 permit, or otherwise obtain federally-enforceable permit limits, and
  - b. A complete Part 70 permit application is received by the District, or the permit action to otherwise obtain federally-enforceable limits is completed, within 12 months of the date of notification.

However, the stationary source may be immediately subject to applicable federal requirements, including but not limited to, a maximum achievable control technology (MACT) standard.

2. Any stationary source that has applied for a Part 70 permit in a timely manner and in conformance with Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, and is awaiting final action by the District and U.S. EPA.
3. Any stationary source required to obtain an operating permit under Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM for any reason other than being a major source.
4. Any stationary source with a valid Part 70 permit.

Notwithstanding subsections 523.1 D.2., and 523.1 D.4., above, nothing in this section shall prevent any stationary source which has had a Part 70 permit from qualifying to comply with this rule in the future in lieu of maintaining an application for a Part 70 permit or upon rescission of a Part 70 permit if the owner or operator demonstrates that the stationary source is in compliance with the emissions limitations in section 523.3 A., below or an applicable alternative operational limit in section 523.6 A., below.

E. Exemption, Stationary Source with a Limitation on Potential to Emit. this rule shall not apply to any stationary source which has a valid operating permit with federally-enforceable conditions or other federally-enforceable limits limiting its potential to emit to below the applicable threshold(s) for a major source as defined in sections 523.2 G. and 523.2 E. below.

F. Within three years of the effective date of Rule 500 TITLE V - FEDERAL

OPERATING PERMIT PROGRAM, the District shall maintain and make available to the public upon request, for each stationary source subject to this rule, information identifying the provisions of this rule applicable to the source.

- G. This rule shall not relieve any stationary source from complying with requirements pertaining to any otherwise applicable preconstruction permit, or to replace a condition or term of any preconstruction permit, or any provision of a preconstruction permitting program. This does not preclude issuance of any preconstruction permit with conditions or terms necessary to ensure compliance with this rule.

523.2      Definitions

All terms shall retain the definitions provided under Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM, unless otherwise defined herein.

- A. 12-Month Period. A period of twelve consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.
- B. Actual Emissions. The emissions of a regulated air pollutant from a stationary source for every 12-month period. Valid continuous emission monitoring data or source test data shall be preferentially used to determine actual emissions. In the absence of valid continuous emissions monitoring data or source test data, the basis for determining actual emissions shall be: throughputs of process materials; throughputs of materials stored; usage of materials; data provided in manufacturer's product specifications, material volatile organic compound (VOC) content reports or laboratory analyses; other information required by this rule and applicable District, State and Federal regulations; or information requested in writing by the District. All calculations of actual emissions shall use U.S. EPA, California Air Resources Board (CARB) or District approved methods, including emission factors and assumptions.
- C. Alternative Operational Limit. A limit on a measurable parameter, such as hours of operation, throughput of materials, use of materials, or quantity of product, as specified in Section 523.6, Alternative Operational Limit and Requirements.
- D. Emission Unit. Any article, machine, equipment, operation, contrivance or related groupings of such that may produce and/or emit any regulated air pollutant or hazardous air pollutant.
- E. Federal Clean Air Act. The federal Clean Air Act (CAA) as amended in 1990 (42 U.S.C. section 7401 et seq.) and its implementing regulations.
- F. Hazardous Air Pollutant. Any air pollutant listed pursuant to section 112(b) of

the federal Clean Air Act.

G. Major Source of Regulated Air Pollutants (excluding HAPs): A stationary source that emits or has the potential to emit a regulated air pollutant (excluding HAPs) in quantities equal to or exceeding the lesser of any of the following thresholds:

1. 100 tons per year (tpy) of any regulated air pollutant;
2. 50 tpy of volatile organic compounds or oxides of nitrogen for a federal ozone nonattainment area classified as serious, 25 tpy for an area classified as severe, or 10 tpy for an area classified as extreme; and
3. 70 tpy of PM<sub>10</sub> for a federal PM<sub>10</sub> nonattainment area classified as serious.

Fugitive emissions of these pollutants shall be considered in calculating total emissions for stationary sources in accordance with 40 CFR Part 70.2 "Definitions- Major source(2)."

H. Major Source of Hazardous Air Pollutants. A stationary source that emits or has the potential to emit 10 tons per year or more of a single HAP listed in section 112(b) of the CAA, 25 tons per year or more of any combination of HAPs, or such lesser quantity as the U.S. EPA may establish by rule. Fugitive emissions of HAPs shall be considered in calculating emissions for all stationary sources. The definition of a major source of radionuclides shall be specified by rule by the U.S. EPA.

I. Part 70 Permit. An operating permit issued to a stationary source pursuant to an interim, partial or final Title V program approved by the U.S. EPA.

J. Potential to Emit. The maximum capacity of a stationary source to emit a regulated air pollutant based on its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation is federally enforceable.

K. Process Statement. An annual report on permitted emission units from an owner or operator of a stationary source certifying under penalty of perjury the following: throughputs of process materials; throughputs of materials stored; usage of materials; fuel usage; any available continuous emissions monitoring data; hours of operation; and any other information required by this rule or requested in writing by the District.

L. Regulated Air Pollutant. The following air pollutants are regulated:

1. Oxides of nitrogen and volatile organic compounds;
2. Any pollutant for which a national ambient air quality standard has been promulgated;
3. Any Class I or Class II ozone depleting substance subject to a standard promulgated under Title VI of the federal Clean Air Act;
4. Any pollutant that is subject to any standard promulgated under section 111 of the federal Clean Air Act; and
5. Any pollutant subject to a standard or requirement promulgated pursuant to section 112 of the federal Clean Air Act, including:
  - a. Any pollutant listed pursuant to section 112(r) (Prevention of Accidental Releases) shall be considered a regulated air pollutant upon promulgation of the list.
  - b. Any HAP subject to a standard or other requirement promulgated by the U.S. EPA pursuant to section 112(d) or adopted by the District pursuant to 112(g) and (j) shall be considered a regulated air pollutant for all sources or categories of sources: 1) upon promulgation of the standard or requirement, or 2) 18 months after the standard or requirement was scheduled to be promulgated pursuant to section 112(e)(3).
  - c. Any HAP subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the U.S. EPA promulgation or scheduled promulgation of an emissions limitation shall be considered a regulated air pollutant when the determination is made pursuant to section 112(g)(2). In case-by-case emissions limitation determinations, the HAP shall be considered a regulated air pollutant only for the individual source for which the emissions limitation determination was made.

523.3 Emission Limitations

- A. Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in section 523.6 A., below, no stationary source subject to this rule shall emit in every 12-month period more than the following quantities of emissions:
  1. 50 percent of the major source thresholds for regulated air pollutants (excluding HAPs),

2. 5 tons per year of a single HAP,
  3. 12.5 tons per year of any combination of HAPs, and
  4. 50 percent of any lesser threshold for a single HAP as the U.S. EPA may establish by rule.
- B. The APCO shall evaluate a stationary source's compliance with the emission limitations in section 523.3 A., above as part of the District's annual permit renewal process required by Health & Safety Code section 42301(e). In performing the evaluation, the APCO shall consider any annual process statement submitted pursuant to Section 523.5, Reporting Requirements. In the absence of valid continuous emission monitoring data or source test data, actual emissions shall be calculated using emissions factors approved by the U.S. EPA, CARB, or the APCO.
- C. Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in section 523.6 A., below, the owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in actual emissions that exceed the limits specified in section 523.3 A., above.

#### 523.4 Recordkeeping Requirements

Immediately after adoption of this rule, the owner or operator of a stationary source subject to this rule shall comply with any applicable recordkeeping requirements in this section. However, for a stationary source operating under an alternative operational limit, the owner or operator shall instead comply with the applicable recordkeeping and reporting requirements specified in Section 523.6 Alternative Operational Limit and Requirements. The recordkeeping requirements of this rule shall not replace any recordkeeping requirement contained in an operating permit or in a District, State, or Federal rule or regulation.

- A. A stationary source previously covered by the provisions in section 523.1 B., above shall comply with the applicable provisions of section 523.4 above and sections 523.5 and 523.6 below if the stationary source exceeds the quantities specified in section 523.1 B.1., above.
- B. The owner or operator of a stationary source subject to this rule shall keep and maintain records for each permitted emission unit or groups of permitted emission units sufficient to determine actual emissions. Such information shall be summarized in a monthly log, maintained on site for five years, and be made available to District, CARB, or U.S. EPA staff upon request.

1. Coating/Solvent Emission Unit

The owner or operator of a stationary source subject to this rule that contains a coating/solvent emission unit or uses a coating, solvent, ink or adhesive shall keep and maintain the following records:

- a. A current list of all coatings, solvents, inks and adhesives in use. This list shall include: information on the manufacturer, brand, product name or code, VOC content in grams per liter or pounds per gallon, HAPS content in grams per liter or pounds per gallon, or manufacturer's product specifications, material VOC content reports or laboratory analyses providing this information;
- b. A description of any equipment used during and after coating/solvent application, including type, make and model; maximum design process rate or throughput; control device(s) type and description (if any); and a description of the coating/solvent application/drying method(s) employed;
- c. A monthly log of the consumption of each solvent (including solvents used in clean-up and surface preparation), coating, ink and adhesive used; and
- d. All purchase orders, invoices, and other documents to support information in the monthly log.

2. Organic Liquid Storage Unit

The owner or operator of a stationary source subject to this rule that contains a permitted organic liquid storage unit shall keep and maintain the following records:

- a. A monthly log identifying the liquid stored and monthly throughput; and
- b. Information on the tank design and specifications including control equipment.

3. Combustion Emission Unit

The owner or operator of a stationary source subject to this rule that contains a combustion emission unit shall keep and maintain the following records:

- a. Information on equipment type, make and model, maximum design process rate or maximum power input/output, minimum

operating temperature (for thermal oxidizers) and capacity, control device(s) type and description (if any) and all source test information; and

- b. A monthly log of hours of operation, fuel type, fuel usage, fuel heating value (for non-fossil fuels; in terms of BTU/lb or BTU/gal), percent sulfur for fuel oil and coal, and percent nitrogen for coal.
4. Emission Control Unit

The owner or operator of a stationary source subject to this rule that contains an emission control unit shall keep and maintain the following records:

- a. Information on equipment type and description, make and model, and emission units served by the control unit;
  - b. Information on equipment design including where applicable: pollutant(s) controlled; control effectiveness; maximum design or rated capacity; inlet and outlet temperatures, and concentrations for each pollutant controlled; catalyst data (type, material, life, volume, space velocity, ammonia injection rate and temperature); baghouse data (design, cleaning method, fabric material, flow rate, air/cloth ratio); electrostatic precipitator data (number of fields, cleaning method, and power input); scrubber data (type, design, sorbent type, pressure drop); other design data as appropriate; all source test information; and
  - c. A monthly log of hours of operation including notation of any control equipment breakdowns, upsets, repairs, maintenance and any other deviations from design parameters.
5. General Emission Unit

The owner or operator of a stationary source subject to this rule that contains an emission unit not included in subsections 523.4 B.1., 523.4 B.2., or 523.4 B.3., above shall keep and maintain the following records:

- a. Information on the process and equipment including the following: equipment type, description, make and model; maximum design process rate or throughput; control device(s) type and description (if any);
- b. Any additional information requested in writing by the APCO;
- c. A monthly log of operating hours, each raw material used and its amount, each product produced and its production rate; and

- d. Purchase orders, invoices, and other documents to support information in the monthly log.

523.5 Reporting Requirements

- A. At the time of annual renewal of a permit to operate under Rule 500 GENERAL PERMIT REQUIREMENTS, each owner or operator of a stationary source subject to this rule shall submit to the District a process statement. The statement shall be signed by the owner or operator and certify that the information provided is accurate and true.
- B. For the purpose of determining compliance with this rule, this requirement shall not apply to stationary sources which emit in every 12-month period less than or equal to the following quantities:
  - 1. For any regulated air pollutant (excluding HAPs),
    - a. 25 tons per year including a regulated air pollutant for which the District has a federal area designation of attainment, unclassified, transitional, or moderate nonattainment,
    - b. 15 tons per year for a regulated air pollutant for which the District has a federal area designation of serious nonattainment,
    - c. 6.25 tons per year for a regulated air pollutant for which the District has a federal area designation of severe nonattainment,
  - 2. 2.5 tons per year of a single HAP,
  - 3. 6.25 tons per year of any combination of HAPs, and
  - 4. 25 percent of any lesser threshold for a single HAP as the U.S. EPA may establish by rule.
- C. A stationary source previously covered by provisions in section 523.5 B. above shall comply with the provisions of section 523.5 A. above if the stationary source exceeds the quantities specified in section 523.5 B.
- D. Any additional information requested by the APCO under section 523.5 A. above shall be submitted to the APCO within 30 days of the date of request.

523.6 Alternative Operational Limit and Requirements

The owner or operator may operate the permitted emission units at a stationary source subject to this rule under any one alternative operational limit, provided that at least 90 percent of the stationary source's emissions in every 12-month period are associated with the operation(s) limited by the alternative operational



limit.

- A. Upon choosing to operate a stationary source subject to this rule under any one alternative operational limit, the owner or operator shall operate the stationary source in compliance with the alternative operational limit and copy with the specified recordkeeping and reporting requirements.
1. The owner or operator shall report within 24 hours to the APCO any exceedance of the alternative operational limit.
  2. The owner or operator shall maintain all purchase orders, invoices, and other documents to support information required to be maintained in a monthly log. Records required under this section shall be maintained on site for five years and be made available to District or U.S. EPA staff upon request.
  3. Gasoline Dispensing Facility Equipment with Phase I and II Vapor Recovery Systems

The owner or operator shall operate the gasoline dispensing equipment in compliance with the following requirements:

- a. No more than 7,000,000 gallons of gasoline shall be dispensed in every 12-month period.
  - b. A monthly log of gallons of gasoline dispensed in the preceding month with a monthly calculation of the total gallons dispensed in the previous 12 months shall be kept on site.
  - c. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.
4. Degreasing or Solvent-Using Unit

The owner or operator shall operate the degreasing or solvent-using unit(s) in compliance with the following requirements:

- a.
  - i. If the solvents do not include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 5,400 gallons of any combination of solvent-containing materials and no more than 2,200 gallons of any one solvent-containing material shall be used in every 12-month period.
  - ii. If the solvents include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane),

tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 2,900 gallons of any combination of solvent-containing materials and no more than 1,200 gallons of any one solvent-containing material shall be used in every 12-month period.

- b. A monthly log of amount and type of solvent used in the preceding month with a monthly calculation of the total gallons used in the previous 12 months shall be kept on site.
- c. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

5. Diesel-Fueled Emergency Standby Engine(s) with Output Less Than 1,000 Brake Horsepower

The owner or operator shall operate the emergency standby engine(s) in compliance with the following requirements:

- a. For a federal ozone nonattainment area classified as severe, the emergency standby engine(s) shall not operate more than 1,300 hours in 12-month period and shall not use more than 66,000 gallons of diesel fuel in every 12-month period.
  - b. A monthly log of hours of operation, gallons of fuel used, and a monthly calculation of the total hours operated and gallons of fuel used in the previous 12 months shall be kept on site.
  - c. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

- B. The owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in an exceedance of an applicable operational limit specified in section 523.6 A., above.

523.7 Violations

- A. Failure to comply with any of the applicable provisions of this rule shall constitute a violation of this rule. Each day during which a violation of this rule occurs is a separate offense.

- B. A stationary source subject to this rule shall be subject to applicable federal requirements for a major source, including Rule 500 TITLE V - FEDERAL OPERATING PERMIT PROGRAM when the conditions specified in either subsections 523.7 B.1., or 523.7 B.2., below, occur:
1. Commencing on the first day following every 12-month period in which the stationary source exceeds a limit specified in section 523.3 A., above and any applicable alternative operational limit specified in section 523.6 A., above, or
  2. Commencing on the first day following every 12-month period in which the owner or operator can not demonstrate that the stationary source is in compliance with the limits in section 523.3 A., above or any applicable alternative operational limit specified in section 523.6 A., above.

Rule 524      Notice to Comply

A.      Purpose

The purpose of this rule is to implement the provisions of Chapter 3 of Part 1 of Division 26 of the California Health and Safety Code (commencing with section 39150) which define a minor violation and establish guidelines for issuing a Notice to Comply.

B.      Applicability

This rule applies to any person or owner, operator, employee, or representative of a facility subject to State requirements, District rules and regulations, administrative or procedural plan or permit conditions, or requests for information or records by the District.

C.      Definitions

1. **Administrative Requirements:** A provision, rule, regulation, plan or permit condition which requires a specified action but does not directly result in air contaminant emissions to the atmosphere.

2. **Ambient Air Quality Standard:** Any National Ambient Air Quality Standard promulgated pursuant to the provisions of 42 U.S.C. Section 7409 (Federal Clean Air Act section 109) or any State Ambient Air Quality Standard promulgated pursuant to the provisions of California Health and Safety Code, section 39606.

3. **Chronic Violation:** A violation of the District's rules and regulations by a person or facility that reflects a pattern of recurrence of the same or similar violation at the same facility, process, or piece of equipment.

4. **Information:** Data, records, photographs, analyses, plans, or specifications which will disclose the nature, extent, quantity, or degree of air contaminants which are, or may be, discharged by the source for which a permit was issued or applied or which is subject to State or Federal requirements, District rules and regulations, administrative or procedural plan or permit conditions, or requests for information or records by the District.

5. **(a) Minor Violation:** The failure of a person or facility to comply with administrative or procedural requirements of applicable State or Federal requirements, District rules and regulations, administrative or procedural plan or permit conditions, or requests for information or records by the District which meets the following criteria:

(i.) Does not result in an increase of emissions of air contaminants; and  
(ii.) Does not endanger the health, safety, or welfare of any person or persons; and

(iii.) Does not endanger the environment; and

(iv.) Does not cause or contribute to the violation of any State or National Ambient Air Quality Standard; and

(v.) Does not preclude or hinder the District's ability to determine compliance with other applicable State or Federal requirements, District rules and regulation, administrative or procedural plan or permit conditions, or requests for information or records.

5. **(b)** Notwithstanding subparagraph (C)(5)(a) above, no violation of an applicable State or Federal requirement, District rule or regulation, administrative or procedural plan or permit condition, or request for information or records shall be considered a minor violation if:

(i.) The violation involves failure to comply with the emissions standards in the applicable rule or regulation, including requirements for control equipment, emissions rates, concentration limits, product material limitations, and other rule provisions directly associated with emissions; or

(ii.) The violation is knowing, willful, or intentional; or

(iii.) The violation enables the violator to benefit economically from noncompliance, either by realizing reduced costs or by gaining a competitive advantage; or

(iv.) The violation is chronic; or

(v.) The violation is committed by a recalcitrant violator.

6. **Notice to Comply:** A written method of alleging a minor violation that:

(a) Is written in the course of conducting an inspection by the District, or is written after an administrative requirement is past due to the District.

(b) Is presented to a person or owner, operator, employee, or representative of the facility being inspected at the time that the Notice to Comply is written.

(c) Clearly states the following:

(i.) The nature of the alleged minor violation; and

(ii.) A means by which compliance with the requirement cited by the District may be achieved; and

(iii.) A time limit, not to exceed thirty (30) days, by which date compliance must be achieved; and

(iv.) A statement that the inspected site of facility may be subject to reinspection at any time.

7. **Procedural Requirement:** A provision of a rule or regulation that establishes a manner, method, or course of action, but does not specify, limit, or otherwise address direct air contaminant emissions.

8. **Recalcitrant Violator:** A person or facility where there is evidence to indicate that the person or facility has engaged in a pattern of neglect or disregard with respect to the requirements of the District rules and regulations, permit conditions, or other applicable provisions of State or Federal law or regulations.

D. Requirements

1. A person or facility who receives a Notice to Comply pursuant to this subparagraph shall have the period specified in the Notice to Comply from the date of receipt of the Notice to Comply in which to achieve compliance with the requirement cited on the Notice to Comply. Within five (5) working days of achieving compliance, the person who received the Notice to Comply shall either contact the District by telephone or send a signed letter to the District, stating that the person or facility has complied with the Notice to Comply. A false statement that compliance has been achieved is a violation subject to further legal action pursuant to the California Health and Safety Code, section 42400, et seq.

(a) If testing is required by the State Board or District or an authorized or designated officer to determine compliance, and the testing cannot be conducted during the course of the inspection, the APCO shall have a reasonable period of time to conduct the required testing.

(b) If, after the test results are available, the APCO determines that the issuance of a Notice to Comply is warranted, the APCO shall immediately notify the person or facility owner or operator in writing. If off site testing is required pursuant to subdivision (D)(1)(a), a copy of the Notice to Comply may be mailed to the person or owner or operator of the facility.

2. A single Notice to Comply shall be issued for all minor violations cited during the same inspection and the Notice to Comply shall separately list each cited minor violation and the manner in which each minor violation may be brought into compliance.
3. A Notice to Comply shall not be issued for any minor violation that is corrected immediately in the presence of the inspector. Immediate compliance in that manner may be noted in the inspection report or other District documents, but the person or facility shall not be subject to any further action by the District's representative or an authorized or designated officer. Corrected minor violations may be used to show a pattern of disregard or neglect by a recalcitrant violator.
4. Except as otherwise provided in paragraph (D), a Notice to Comply shall be the only means by which the APCO shall cite a minor violation. The APCO shall not take any other enforcement action specified in this division to enforce the minor violation against a person or facility who has received a Notice to Comply if the person or facility is in compliance with this section.
5. If a person who receives a Notice to Comply pursuant to paragraph (D) disagrees with one or more of the alleged violations cited in the Notice to Comply, the person shall give written notice of appeal to the District within 10 days of the issuance of the Notice to Comply.
6. Notwithstanding any other provision of paragraph (D), if a person or facility fails to comply with a Notice to Comply within the prescribed period, or if the APCO determines that the circumstances surrounding a particular minor violation are such that immediate enforcement is warranted to prevent harm to the public health or safety or to the environment, the APCO may take any needed enforcement action authorized by law.
7. Nothing in this rule shall be construed as preventing the reinspection of a site or facility to ensure compliance or to ensure that minor violations cited in a Notice to Comply have been corrected.
8. Nothing in this rule shall be construed as preventing the APCO, on a case-by-case basis, from requiring a person or facility subject to a Notice to Comply to submit reasonable and necessary information to support a claim of compliance by the person or facility.
9. Nothing in this rule restricts the power of a city attorney, district attorney, county counsel, or the Attorney General to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law. Furthermore, nothing in this rule prevents the APCO from cooperating with, or participating in, such a proceeding.

10. The issuance of a Notice to Comply for a violation of State law will not interfere with an agency's ability to enforce all Federal requirements or laws.

11. Notwithstanding any other provision of paragraph (D), if the APCO determines that the circumstances surrounding a particular minor violation are such that the assessment of a penalty pursuant to this rule is warranted or required by Federal law, in addition to issuance of a Notice to Comply, the District shall assess a penalty in accordance with Division 26 of the California Health and Safety code, section 42400, et seq., if the APCO makes written findings that set forth the basis for the determination of the District.

E. **Penalty for failure to comply**

Any person or facility who fails to comply by the date specified on the Notice to Comply shall be issued a Notice of Violation which is subject to further legal action pursuant to the California Health and Safety Code, section 42400, et seq.



# **REGULATION**

## **VI**

### **FEES**

Adopted 6/30/98

Regulation VI – cxlvi

Rule 600      Filing Fee. Every applicant for an Authority to Construct or Permit to Operate shall pay a filing fee of \$120.00 per permit unit. If an application is canceled, or is denied, as such denial becomes final, the filing fee required herein shall not be refunded nor applied to any subsequent application.

Rule 600      Filing Fee. Every applicant for an Authority to Construct or Permit to Operate shall pay a filing fee of \$171.60 per permit unit. If an application is canceled, or is denied, as such denial becomes final; the filing fee required herein shall not be refunded nor applied to any subsequent application.

Rule 600      Filing Fee. Every applicant for an Authority to Construct or Permit to Operate shall pay a filing fee of \$156.00 per permit unit. If an application is canceled, or is denied, as such denial becomes final; the filing fee required herein shall not be refunded nor applied to any subsequent application.

Rule 600      Filing Fee. Every applicant for an Authority to Construct or Permit to Operate shall pay a filing fee of \$205.92 per permit unit. If an application is canceled, or is denied, as such denial becomes final; the filing fee required herein shall not be refunded nor applied to any subsequent application. (Amended 7/22/08)

Adopted 12/30/86  
Amended 06/25/91  
Amended 05/16/00  
Amended 08/29/06  
Amended 06/26/07  
Amended 07/22/08

Rule 601      Permit Fee.

Every permit holder shall pay an annual fee for the issuance of each Permit to Operate in the amount of the filing fee prescribed in Rule 600.

In addition to the annual permit filing fee, every permit holder shall pay a fee based on the annual emissions from the facility. Each ton of emissions for any of the following air contaminants shall be assessed a fee as set forth in the following schedule:

<u>Air Contaminant Fees</u> <u>per Ton</u>	<u>Dollars</u>
Total organic gases, except those compounds containing sulfur.....	\$18.00
Gaseous sulfur compounds, expressed as sulfur dioxide.....	\$18.00
Particulate matter .....	\$18.00
Oxides of nitrogen, expressed as nitrogen dioxide .....	\$18.00
Carbon monoxide.....	\$5.00
Toxic air contaminants.....	\$25.00
Excess emissions during variance period .....	\$25.00

Title V Supplemental Fees

Rule 500, Section 500.7 contains the procedure to determine Title V supplemental fees.

Vapor Recovery Nozzle Fees

Rule 902, contains the provision for charging a fee for vapor recovery nozzles. The vapor recovery nozzle fee shall be \$28.00 per nozzle.

Rule 601      Permit Fee. Every permit holder shall pay an annual fee for the issuance of each Permit to Operate in the amount of the filing fee prescribed in Rule 600.

In addition to the annual permit filing fee, every permit holder shall pay a fee based on the annual emissions from the facility. Each ton of emissions or part thereof for any of the following air contaminants shall be assessed a fee as set forth in the following schedule:

<u>Air Contaminant Fees</u>	<u>Dollars per Ton</u>
Total organic gases, except those compounds containing sulfur .....	\$30.42
Gaseous sulfur compounds, expressed as sulfur dioxide.....	\$30.42
Particulate matter .....	\$30.42
Oxides of nitrogen, expressed as nitrogen dioxide .....	\$30.42
Carbon monoxide.....	\$8.45
Toxic air contaminants.....	\$42.25
Excess emissions during variance period .....	\$42.25

Title V Supplemental Fees

Rule 500, Section 500.7 contains the procedure to determine Title V supplemental fees.

Vapor Recovery Nozzle Fees

Rule 902, contains the provision for charging a fee for vapor recovery nozzles. The vapor recovery nozzle fee shall be \$47.32 per nozzle.

Rule 601      Permit Fee.

Every permit holder shall pay an annual fee for the issuance of each Permit to Operate in the amount of the filing fee prescribed in Rule 600.

In addition to the annual permit filing fee, every permit holder shall pay a fee based on the annual emissions from the facility. Each ton of emissions or part thereof for any of the following air contaminants shall be assessed a fee as set forth in the following schedule:

<u>Air Contaminant Fees</u>	<u>Dollars per Ton</u>
Total organic gases, except those compounds containing sulfur .....	\$23.40
Gaseous sulfur compounds, expressed as sulfur dioxide.....	\$23.40
Particulate matter .....	\$23.40
Oxides of nitrogen, expressed as nitrogen dioxide .....	\$23.40
Carbon monoxide.....	\$6.50
Toxic air contaminants.....	\$32.50
Excess emissions during variance period .....	\$32.50

Title V Supplemental Fees

Rule 500, Section 500.7 contains the procedure to determine Title V supplemental fees.

Vapor Recovery Nozzle Fees

Rule 902, contains the provision for charging a fee for vapor recovery nozzles. The vapor recovery nozzle fee shall be \$36.40 per nozzle.

Rule 601      Permit Fee. Every permit holder shall pay an annual fee for the issuance of each Permit to Operate in the amount of the filing fee prescribed in Rule 600.

In addition to the annual permit filing fee, every permit holder shall pay a fee based on the annual emissions from the facility. Each ton of emissions or part thereof for any of the following air contaminants shall be assessed a fee as set forth in the following schedule:

<u>Air Contaminant Fees</u>	<u>Dollars per Ton</u>
Total organic gases, except those compounds containing sulfur .....	\$36.50
Gaseous sulfur compounds, expressed as sulfur dioxide.....	\$36.50
Particulate matter .....	\$36.50
Oxides of nitrogen, expressed as nitrogen dioxide .....	\$36.50
Carbon monoxide.....	\$10.14
Toxic air contaminants.....	\$50.70
Excess emissions during variance period .....	\$50.70

Title V Supplemental Fees

Rule 500, Section 500.7 contains the procedure to determine Title V supplemental fees.

Vapor Recovery Nozzle Fees

Rule 902, contains the provision for charging a fee for vapor recovery nozzles. The vapor recovery nozzle fee shall be \$56.78 per nozzle.

(Amended 07/22/08)

Rule 602

Permit Fee Penalty. When the Permit to Operate is issued, it will be accompanied by a statement of the fee to be paid. If the fee is not paid within thirty (30) days after the Permit is issued, the fee shall be increased by one-half the amount thereof and the Air Pollution Control Officer (APCO) shall thereupon promptly notify the applicant of the increased fee by mail. If the increased fee is not paid within sixty (60) days after the Permit is issued, the application shall be deemed withdrawn and canceled. The APCO shall so notify the applicant by mail, and the Permit shall be void. Continuing to operate shall subject the operator to penalties of up to \$1000.00 per day per permit unit for each day of operation. The increased fee and penalty must be paid in full before the Permit will be reissued.

Rule 603      Permit Granted by Hearing Board. In the event that a Permit to Operate is granted by the Hearing Board after denial by the APCO, the provisions of Rule 601 and 602 shall apply.



Rule 604

Revising Permit Conditions. Where an application is filed for a Permit to Operate exclusively involving revisions to the conditions of an existing Permit to Operate, the applicant shall pay only the amount of the filing fee required herein (Rule 600) plus any analysis or technical report charges (Rules 605 and 606). The annual renewal fee shall be due and payable on the anniversary date of the Permit.

Rule 605

Analysis Fees. Where the APCO finds that an analysis of the emission from any source is necessary to determine the extent and amount of pollutants being discharged into the atmosphere which cannot be determined by visual observation, the APCO may order the collection of samples and the physical and/or chemical analysis made or the collection of data and the engineering analysis made by qualified personnel as determined by the APCO. The time required for collecting samples or data, making the physical, chemical, or engineering analysis, and preparing the necessary reports, as well as costs incurred by the District in any work required to be done to comply with the California Environmental Quality Act, or in compliance with any other state law or regulation, may be charged against the owner or operator of said premises in a sum to be determined by the APCO, which sum is not to exceed the actual cost of such work.

Rule 606

Technical Reports. Charges for information, circulars, District Rules, reports of technical work, and other reports prepared by the District when supplied to other governmental agencies or individuals or groups requesting copies of the same may be charged a fee not to exceed the actual cost and distribution of such documents.

Rule 607

Hearing Board Fees. Every applicant or petitioner for a variance, or for the extension, revocation, or modification of a variance or for an appeal from a denial or conditional approval of an Authority to Construct or Permit to Operate shall pay the clerk of the Hearing Board, on filing, a fee not to exceed the cost of the hearing, and may be subsequently billed for any analysis or report fees, not to exceed the District's costs of such fees. Any person requesting a transcript of the hearing shall pay the cost of such transcript. This Rule does not apply to the APCO.

Rule 608

Change of Ownership. An Authority to Construct or Permit to Operate is not transferable from one owner or operator to another. Where an application is filed for a Permit to Operate exclusively involving change of owner or operator of a Permit to Operate, the applicant shall pay only the amount of the filing fee required herein (Rule 600). The annual renewal fee shall be due and payable on the anniversary date of the Permit.

Rule 609

Miscellaneous Fees. Fees required to be collected by the District for the state or federal government are due and payable within thirty (30) days. After thirty (30) days of billing, the amount will be increased by fifty percent (50%). If the amount is not paid within an additional thirty (30) days (sixty days from billing date), the billed amount will be increased by one hundred percent (100%). If the full amount is not paid within 120 days, the Permit shall be deemed revoked. The APCO shall notify the operator by mail, and the Permit shall be void. Continuing to operate without a Permit shall subject the operator to penalties of \$1000.00 per day per permit unit for each day of operation. The increased penalty must be paid in full before the Permit will be reissued. (Health and Safety Code Section 44380)

A. Purpose

Health and Safety Code Section 44380 requires Air District's to adopt a fee schedule to recover the costs incurred by the State of California and the District associated with the Air Toxics Hot Spots Program.

B. Applicability

1. Per Title 17, California Code of Regulations, Subchapter 3.6, this rule applies to the following facilities:
  - a. Any facility that manufactures, formulates, uses, or releases any of the substances listed by the Air Resources Board pursuant to Health and Safety Code Section 44321 and contained in Appendix A of the Guidelines Report, or any other substance which reacts to form a substance so listed, and releases 10 tons per year or greater of any criteria pollutant, or
  - b. Any facility that is listed in any current toxics use or toxics air emission survey, inventory, or report released or compiled by an Air District and referenced in Title 17, California Code of Regulations, Subchapter 3.6, Appendix A, or
  - c. Any facility that manufactures, formulates, uses or releases any listed substance or any other substance which reacts to form any listed substance, and which releases less than 10 tons per year of each criteria pollutant and falls in any class listed in Appendix E of the Guidelines Report, or
  - d. Any facility that is reinstated under Health and Safety Code Section 44344.7.

C. Definitions

1. **Criteria pollutant** for the purposes of the Program fees include total organic gases, particulate matter, or oxides of nitrogen or sulfur.
2. **Facility** means every structure, appurtenance, installation, and improvement on land which is associated with a source of air releases or potential air releases of

a hazardous material.



3. **Industry wide source class** includes facilities that have the same Standard Industrial Classification code and are small businesses. The hazardous releases from the facilities in the group can easily and generically be characterized and calculated. Individual compliance with preparing inventories and risk assessments required of the Program would impose severe economic hardships on the facilities in the industry wide source class.

#### D. Requirements

1. The State portion of the fee shall be proportionate to the extent of the releases identified in the toxics emission inventory and the level of priority assigned by the District pursuant to Section 44360 of the Health and Safety Code, and in accordance with Title 17, California Code of Regulations, Subchapter 3.6. The State fee schedule may be updated annually.

2. The District portion of the fee shall be the following:

a. Facilities with a prioritization score greater than 1.0 and less than or equal to 10.0, a cancer risk greater than or equal to 1.0 and less than 10.0, or a non-cancer risk of greater than or equal to 0.1 and less than or equal to 1.0 shall be assessed a fee of \$125.00 per facility every fourth year to cover the costs of processing the quadrennial emissions update reports.

b. Facilities that emit greater than 10 tons per year of any criteria pollutant and have a prioritization score greater than or equal to 10.0, a cancer risk greater than or equal to 10, a non-cancer risk greater than or equal to one, or is unprioritized shall be assessed a fee of \$100 per facility per year.

c. Industry wide sources shall be exempt from the District portion of the AB2588 program fees.

3. Assessed fees shall be past due sixty (60) days after notice of the assessment by the District and subject to a penalty increase of 50% of the past due amount. The District shall notice the facility (second notice) of the increased fee. If the facility fails to pay the increased fee within sixty (60) days after the second notice, the District may initiate permit revocation proceedings.

Rule 611      Emission Reduction Credit Program Fees

The following fees are applicable to participants of the District's emission reduction credit program that is contained in Regulation IV, Authority to Construct Regulations.

Application Filing Fee

Every applicant for emission reduction credit shall pay a filing fee of \$120.00 per application. If an application is canceled, or is denied, as such denial becomes final, the filing fee required herein shall not be refunded nor applied to any subsequent application. The application filing fee includes 2 (two) hours of District review time.

Public Notice Fee

The District is required to provide public notice in a newspaper of general circulation prior to making a final decision and issuing a certificate for emission reduction credit in accordance with Rule 412. Every applicant for emission reduction credit shall pay a fee of \$35.00 to cover the cost to run the public notice.

Transaction Fee

If a change to an existing emission reduction credit certificate is requested, the owner of the certificate must pay a transaction fee of \$40.00 prior to the District reviewing the request and changing the certificate. Changes include but are not limited to use or sale of credits, transfer of credits, reduction of credits, and ownership or address changes. The transaction fee includes 2 (two) hours of District review time.

Time and Materials Fee

If the District is required to spend more than 2 (two) hours processing the emission reduction credit application or transaction request, the District reserves the right to charge the applicant a time and materials fee at the rate of \$50 per hour.

# **REGULATION**

## **VII**

### **PROCEDURE BEFORE THE HEARING BOARD**

Rule 700      Applicable Articles of the Health and Safety Code. The provisions of Article 2, Chapter 4, Part 4, and Chapter 8, Part 3 of Division 26 of the Health and Safety Code, respectively entitled Variances and Hearing Board, are applicable within the boundaries of the Amador County Air District.

Rule 701      General. This regulation shall apply to all hearings before the Hearing Board of the Air District.

Rule 702

Filing Petitions. Requests for hearing shall be initiated by the filing of a petition, in triplicate, with the clerk of the Hearing Board, and the payment of the fee as provided in Rule 605 of these Rules and Regulations, after service of a copy of the petition has been made on the Air Pollution Control Officer and one copy on the holder of the permit or variance, if any, involved. Service may be in person or by mail, the service may be proved by written acknowledgment of the person making the service.

Rule 703

Contents of Petitions. Every petition shall state:

A. The name, address, and telephone number of the petitioner, or other person authorized to receive service of notices.

B. Whether the petitioner is an individual, co-partner, corporation, or other entity, and names and addresses of the officers, if a corporation, and the names and addresses of the persons in control, if other entity.

C. The type of business or activity involved in the application and the street address at which it is conducted.

D. A brief description of the article, machine, equipment or other contrivance, if any involved, in the application.

E. The Section or Rule under which the petition is filed:

1. To determine whether a permit shall be revoked, or a suspended permit reinstated, under Section 42307, Health and Safety Code;

2. For a variance under Section 42350, Health and Safety Code;

3. To revoke or modify a variance under Section 42356, Health and Safety Code;

4. To review the denial or conditional granting of an Authority to Construct or Permit to Operate under Rule 519 of these Rules and Regulations;

5. To review the denial of certification or withdrawal of certified emission reductions under Rule 412, or to review the withdrawal of approval of innovative technology under Rule 418.

F. Each petition shall be signed by the petitioner, or by some person on his behalf, and where the person signing is not the petitioner, it shall set forth his authority to sign.

G. Petitions for revocation of permits shall allege, in addition, the Rule under which permit was granted, the Rule, or Section which is alleged to have been violated, together with a brief statement of the facts constituting such alleged violations.





H. Petitions for reinstatement of suspended permits shall allege, in addition, the Rule under which the permit was granted, the request and alleged refusal which formed the basis for such suspension, together with a brief statement as to why information requested, if any, was not furnished, whether such information is believed by petitioner to be pertinent, and, if so, when it will be furnished.

I. All petitions shall be typewritten, double spaced, on legal or letter size paper, on one side of the paper only, leaving a margin of at least one inch at the top and left side of each sheet.

Rule 704      Petitions for Variances. The Petition for Hearing form, as provided, shall be filled



out completely.





Rule 705      Appeal from Denial. A petition to review the denial or conditional approval of a

permit shall, in addition to the information required by Rule 703, set forth a

summary of the permit application or a copy thereof, and the alleged reasons for

the denial or conditional approval and the reasons for appeal.





Rule 706      Failure to Comply with Rules. The clerk of the Hearing Board shall not accept



for filing any petition which does not comply with these Rules relating to form,



filing, and service of petitions unless the chairman of the Hearing Board directs



otherwise and confirms such direction in writing. Such direction need not be



made at a meeting of the Hearing Board.





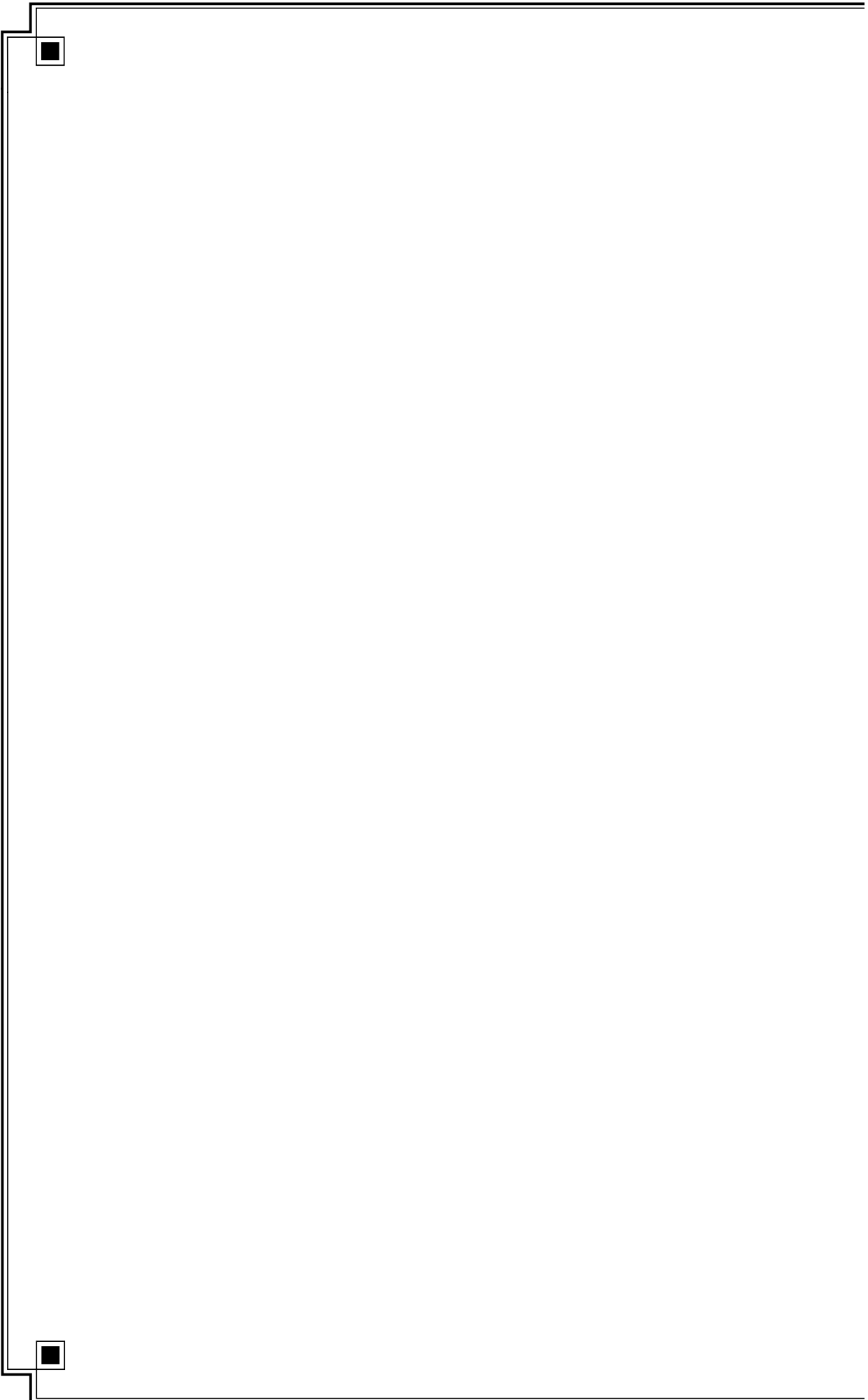


Rule 707      Answers. Any person may file an answer within ten (10) days after service. All

answers shall be served in the same manner as are petitions under the provisions

of Rule 702.





Rule 708      Dismissal of Petition. The petitioner may dismiss his petition at any time before

submission of the case to the Hearing Board, without a meeting or hearing of the

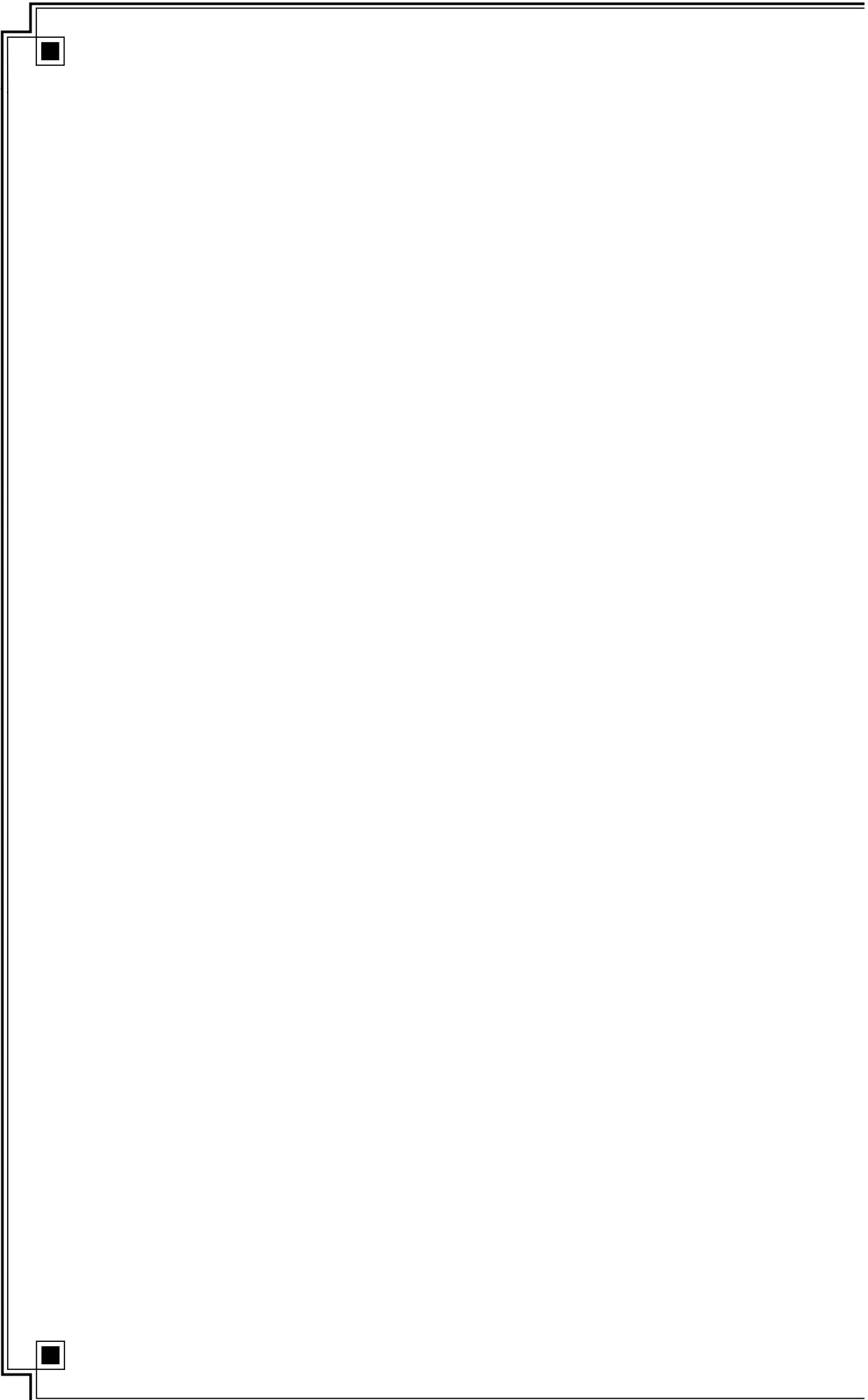
Hearing Board. The clerk of the Hearing Board shall notify all interested persons





of such dismissal.







Rule 709      Place of Hearing. All hearings shall be held at a place designated by the Hearing



Board.







Rule 710      Notice of Public Hearing.









A. For hearings requested under Rule 519, the clerk of the



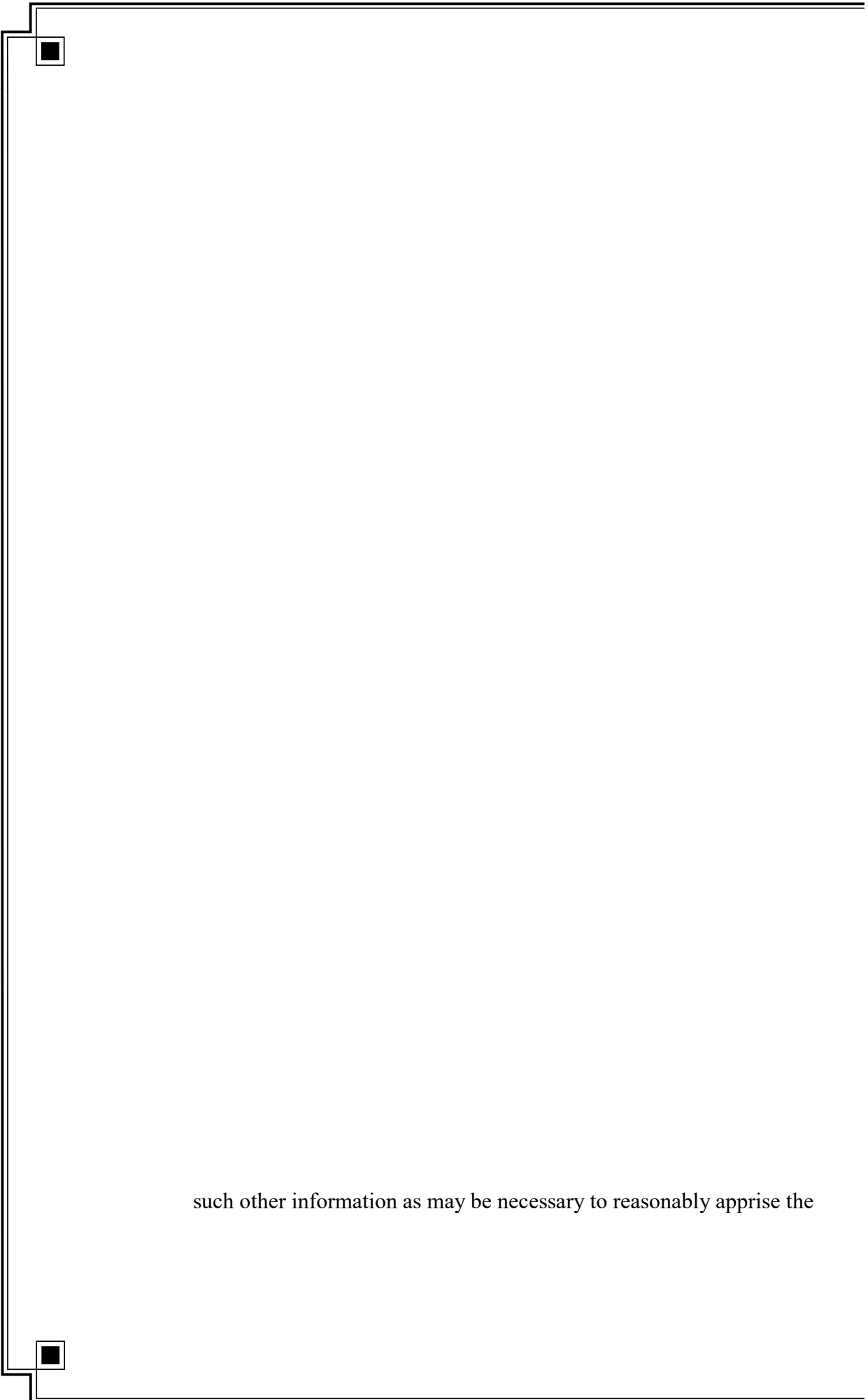
Hearing Board shall serve notice to the time and place of a hearing on the

Air Pollution Control Officer and upon the applicant or permittee affected,

not less than ten (10) days prior to such hearing. In addition, such notice

shall be published in at least one newspaper of general circulation within

the District. The notice shall state the time and place of the hearing and



such other information as may be necessary to reasonably apprise the

people within the District of the nature and purpose of the hearing.







B. Except as stated in (A), (C), (D), and (E), in the case of a



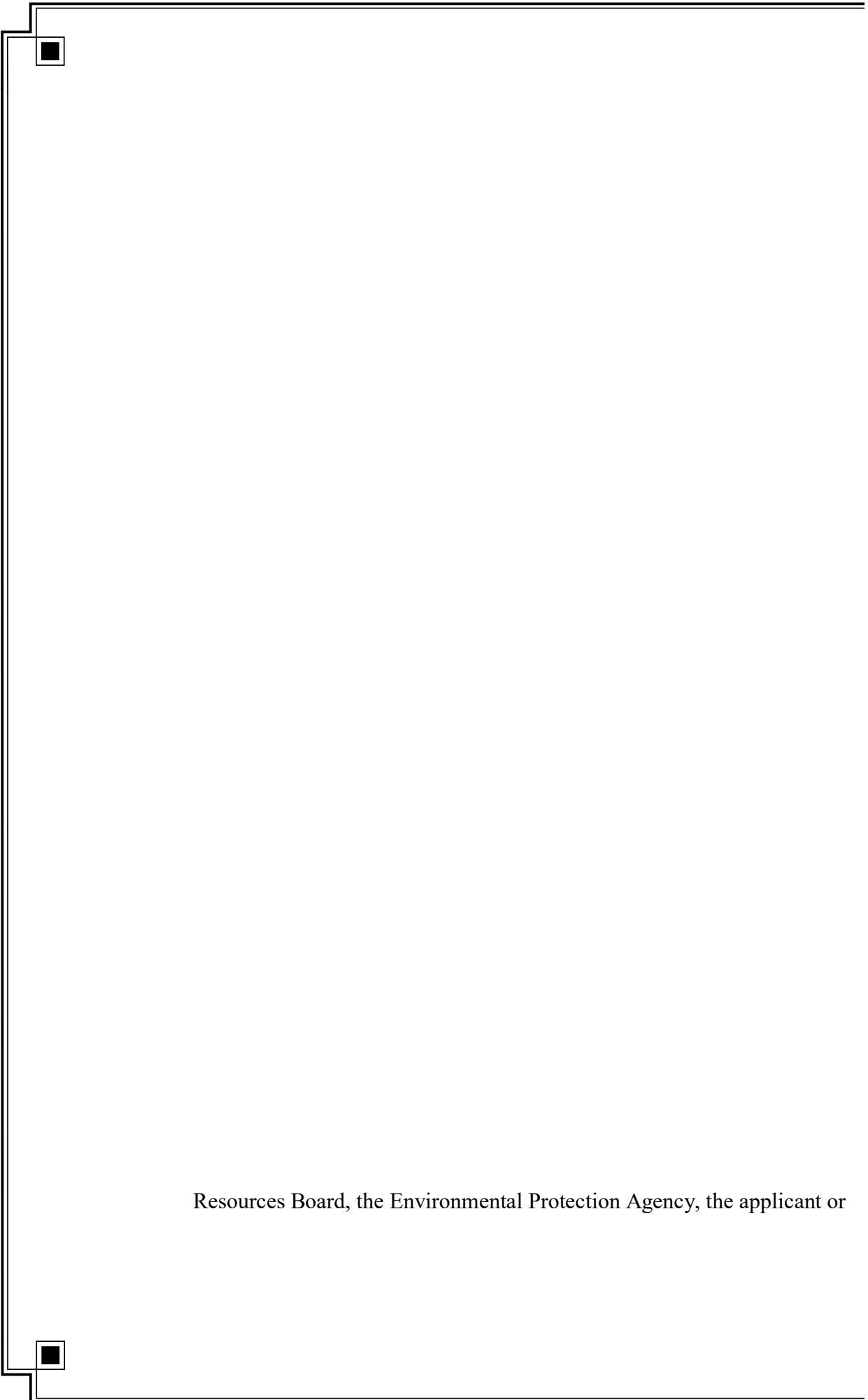
hearing to consider the application for a variance, the clerk of the Hearing



Board shall serve a notice of the time and place of a hearing upon the Air



Pollution Control Officer, all other districts within the air basin, the Air



Resources Board, the Environmental Protection Agency, the applicant or

permittee, and every person who requests such a notice not less than 30



days prior to such hearing.









In addition, such notice shall be published in at least one daily



newspaper of general circulation in the District at least thirty (30) days

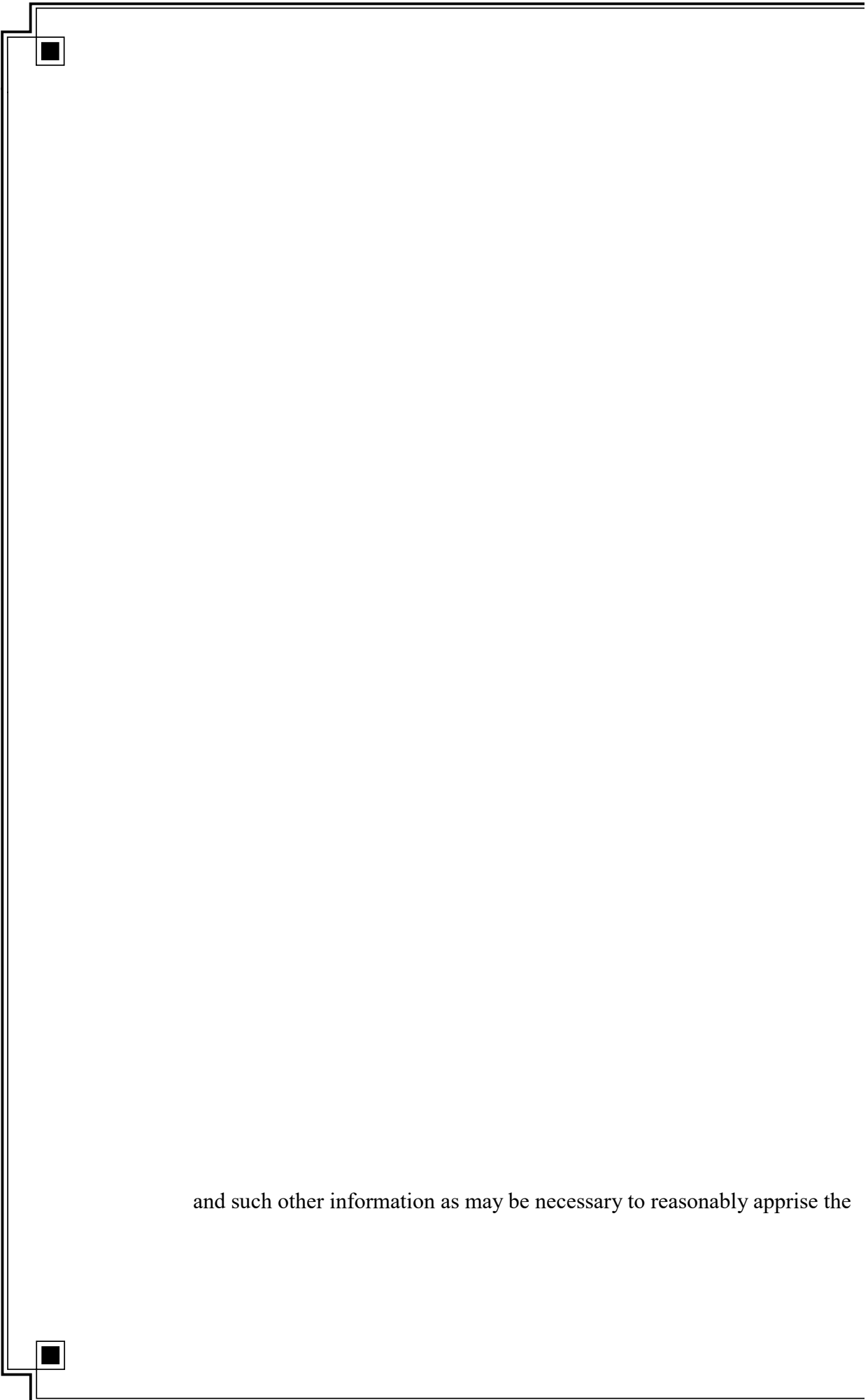


prior to the hearing. The notice shall state the time and place of the



hearing, and the place where the application, including any proposed

conditions or increments of progress, is available for public inspection,

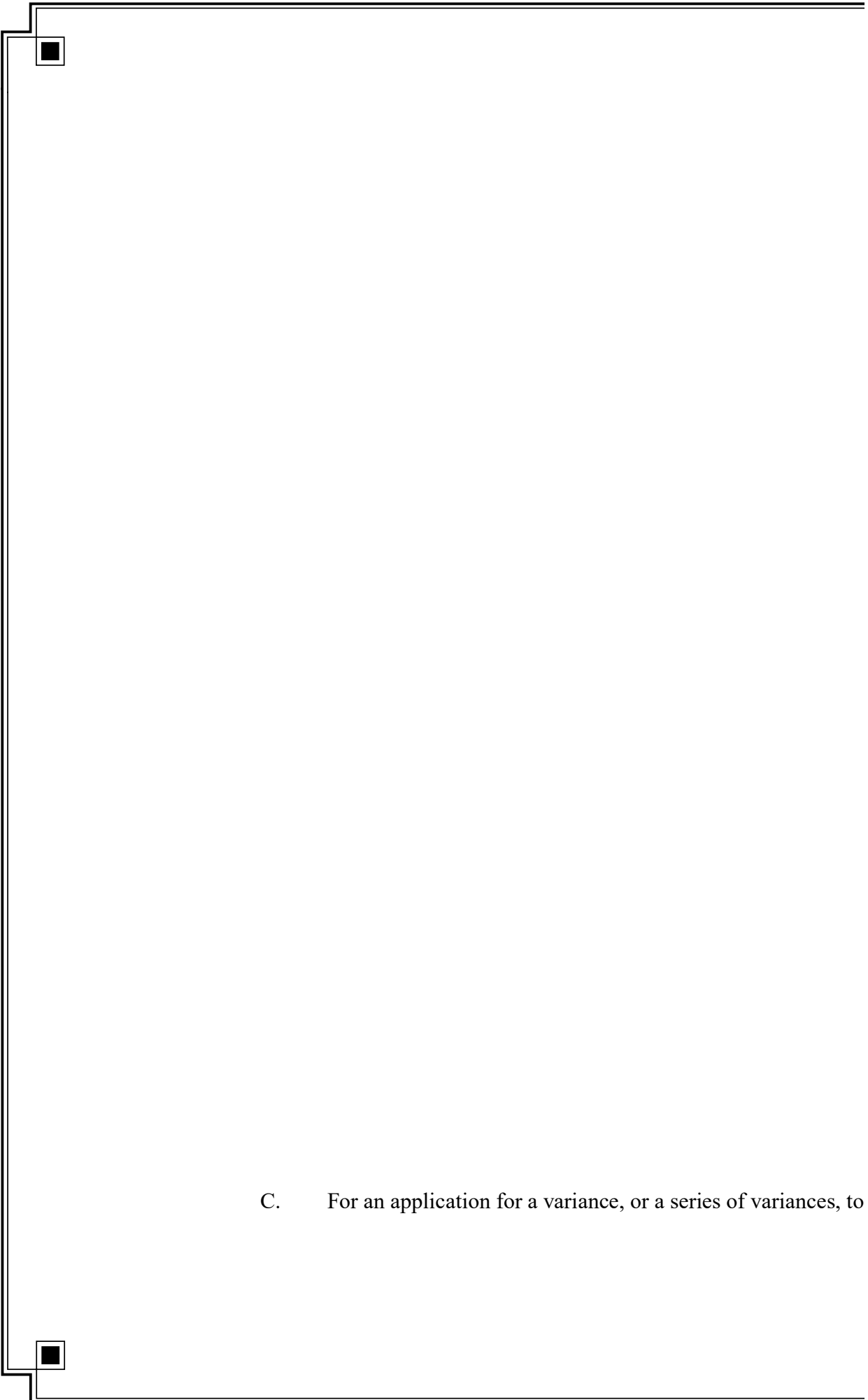


and such other information as may be necessary to reasonably apprise the

people within the District of the nature and purpose of the hearing.







C. For an application for a variance, or a series of variances, to



be in effect for a period of not more than ninety (90) days, the clerk of the





Hearing Board shall serve a notice of the time and place of a hearing to



grant such a variance upon the Air Pollution Control Officer, all other

districts within the basin, the Air Resources Board, the Environmental



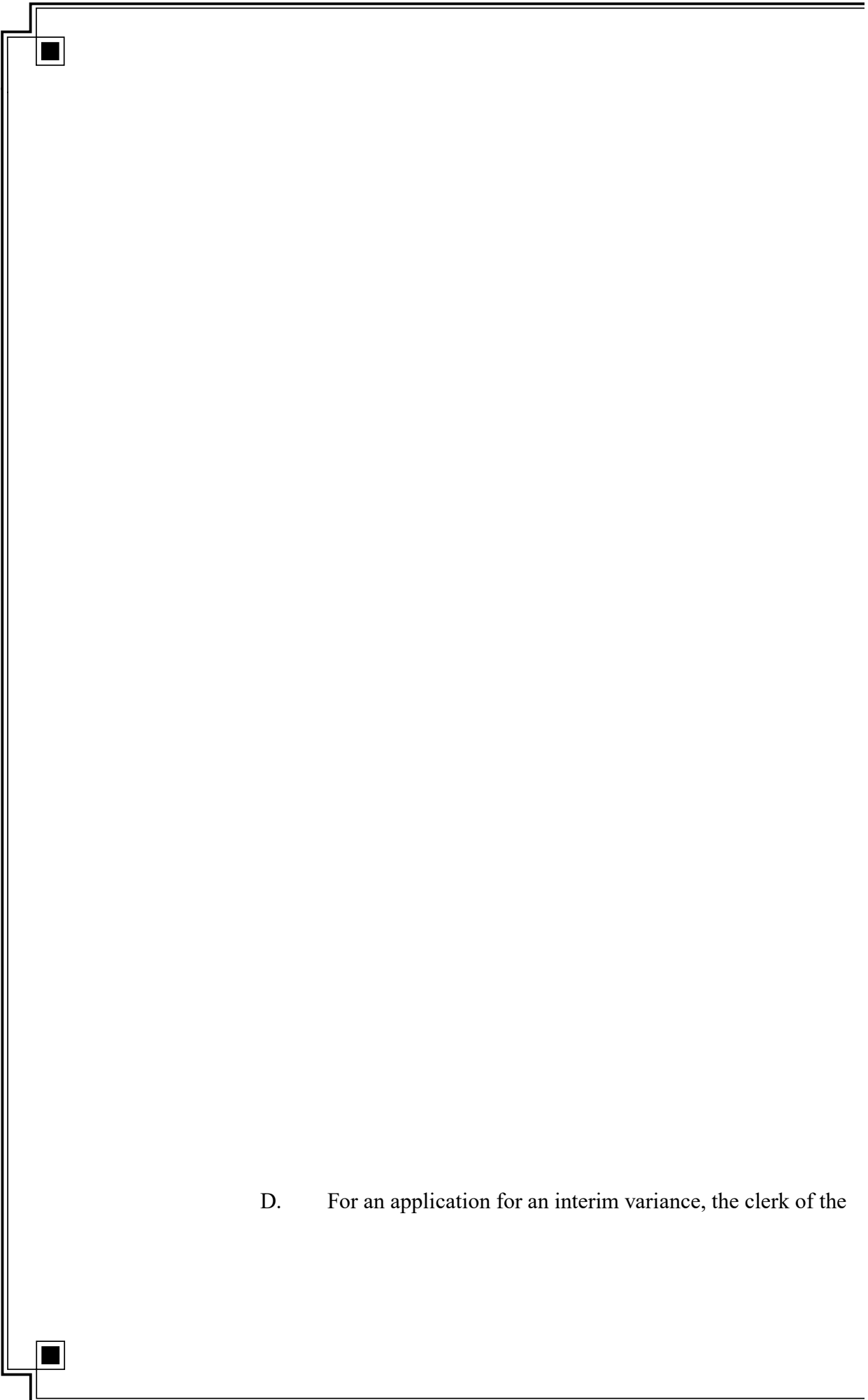
Protection Agency, and upon the applicant or permittee, not less than ten



(10) days prior to such hearing.







D. For an application for an interim variance, the clerk of the

Hearing Board shall serve reasonable notice of the time and place of a

hearing upon the Air Pollution Control Officer and upon the applicant.





E. For an application for an emergency variance, the clerk of



the Hearing Board shall serve notice of the time and place of the hearing

upon the Air Pollution Control Officer and upon the applicant.





F. The clerk of the Hearing Board shall serve notice of time and place of a hearing either by personal services, or by first-class mail, postage prepaid. If either the identity or address of any person entitled to notice is unknown, the clerk shall serve such person by publication of the notice in the District pursuant to Section 6061 of the Government Code.

G. Sections 42450 through 42454 of the Health and Safety Code, Orders of Abatement, shall apply.

H. For an application for an appeal of denial of emission reduction certification or withdrawal, or for an application for an appeal of approval of innovative technology, the clerk of the Hearing Board shall serve reasonable notice of the time and place of a hearing upon the Air Pollution Control Officer and upon the applicant.

Rule 711      Evidence.

- A. Oral evidence shall be taken only on oath or affirmation.
- B. Each party shall have these rights:
  - 1. To call and examine witnesses;
  - 2. To introduce exhibits;
  - 3. To cross-examine opposing witnesses on any matter relevant to the issues, even though that matter was not covered in the direct examination;
  - 4. To impeach any witness regardless of which party first called him to testify;
  - 5. To rebut the evidence against him.
- C. If a respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.
- D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.
- E. All evidence, oral or written, and all exhibits, shall be recorded at the time of the hearing and all records shall be maintained for a period of time as specified by law or as determined by the Air Pollution Control Board.

Rule 712      Preliminary Matters. Preliminary matters such as setting a date for hearing, granting continuances, approving petitions for filing, allowing amendments and other preliminary rulings not determinative on the merits of the case may be made by the chairman of the Hearing Board without a hearing or meeting of the Hearing Board and without notice.

Rule 713      Official Notice. The Hearing Board may take official notice of any matter which may be judicially noticed by the courts of this State.

Rule 714      Continuances. The chairman of the Hearing Board shall grant any continuance of fifteen (15) days, or less, concurred in by petitioner, the Air Pollution Control Officer and by every person who has filed an answer in the action and may grant any reasonable continuance; in either case such action may be *ex parte*, without a meeting of the Hearing Board and without prior notice.

Rule 715      Decision. The decision shall be in writing, served and filed within fifteen (15) days after submission of the cause by the parties thereto and shall contain a brief statement of facts found to be true, the determination of the issue presented and the order of the Hearing Board. A copy shall be mailed or delivered to the Air Pollution Control Officer, the Air Resources Board, the petitioner, and to every person who has filed an answer or who has appeared as a party in person or by counsel at the hearing.

Rule 716      Effective Date of Decision. The decision shall become effective fifteen (15) days after delivering or mailing a copy of the decision, as provided in Rule 715, or the Hearing Board may order that the decision shall become effective sooner.



Rule 717      Lack of Permit. The Hearing Board shall not receive or accept a petition for a variance for the operation or use of any equipment until a permit has been granted or denied by the Air Pollution Control Officer, except that an appeal from a denial of a permit and a petition for a variance may be filed with the Hearing Board in a single petition. A variance granted by the Hearing Board after a denial of a permit by the Air Pollution Control Officer may include a permit for the duration of the variance.

# **REGULATION**

## **VIII**

### **AIR QUALITY ZONING**

Rule 801

Establishment of Air Quality Zones. The Air Pollution Control Board may establish air quality zones within the District for the implementation of air pollution control strategies. The Air Pollution Control Board may consider factors including, but not limited to, topography, meteorology, land use, and existing air quality in considering boundaries of a zone. Air pollution control strategies may include different emission limitation and source category applicabilities. The establishment of District zones shall be enacted only after consultation with the Control Council of the Mountain Counties Air Basin.

Rule 802      Attainment Pollutant Zones.

A.      Class I Zones.

1.      All of the following areas within the District which were in existence on August 7, 1977, shall be Class I zones with respect to attainment pollutant increment consumption and shall not be redesignated:

- a.      National wilderness areas which exceed 5,000 acres in size;
- b.      National memorial parks which exceed 5,000 acres in size;
- c.      National parks which exceed 6,000 acres in size.

2.      Pursuant to the provisions of Rule 803, the District Air Pollution Control Board may redesignate any other area within the District as a Class I zone. Such eligible lands include, but are not limited to, any local, state, or federal monument, primitive area, preserve, recreational area, wild and scenic river, wildlife refuge, lakeshore, park, wilderness area or other area of cultural or recreational value.

B.      Class II Zones.

1.      All area within the District not contained within Class I or Class III zones shall be Class II zones with respect to attainment pollutant consumption.

2.      Pursuant to the provisions of Rule 803, the District Air Pollution Control Board may redesignate any area not contained within a mandatory federal Class I zone as a Class II zone.

C.      Class III Zones.

1.      Pursuant to the provisions of Rule 803, the District Air Pollution Control Board may redesignate any area not contained within a mandatory federal Class I zone or restricted area as listed below as a Class III zone:

- a.      An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a

national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; or

b. A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

2. In redesignating an area as a Class III zone, the District Air Pollution Control Board shall make the finding that the highest and best use of the land redesignated as a Class III zone is for industrial development.

Rule 803      Attainment Pollutant Zone Redesignations.

A.      The District Air Pollution Control Board may redesignate areas as Class I or Class II zones with respect to attainment pollutant increment consumption, provided that:

1.      Prior to the issuance of notice respecting the redesignation of an area that includes any Federal lands, the Air Pollution Control Officer shall provide written notice to the appropriate Federal Land Manager and afford adequate opportunity (not in excess of 60 days) to confer with the Air Pollution Control Officer respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager has submitted written comments and recommendations, the Air Pollution Control Officer shall publish a list of any inconsistency between such redesignation and such comments and recommendations together with the reasons for making redesignation against the recommendation of the Federal Land Manager; and

2.      At least one public hearing is to be held to receive comments relative to such redesignation. The notice of public hearing shall be published at least 30 days prior to the hearing date in a newspaper of general circulation in the District; and

3.      The Air Pollution Control Officer shall consult with the Control Council of the Mountain Counties Air Basin regarding such redesignation; and

4.      Federal Land Managers and other Air Districts outside the Mountain Counties Air Basin whose lands may be affected shall be notified at least 30 days prior to the public hearing; and

5.      A description of the reasons for the proposed redesignation, including a description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation shall be prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing shall contain appropriate notification of the availability of such discussion.

B.      The District Air Pollution Control Board may redesignate areas, except those listed in Rule 802.A.1. and C.1., as Class III zones with

respect to attainment pollutant increment consumption, provided that:

1. All the requirements for a Class I or Class II area redesignation contained in Section A. above shall be met with respect to the proposed Class III area redesignation; and

2. The redesignation shall have been specifically approved by the Air Resources Board after consultation with the Legislature, if it is in session, or with the leadership of the Legislature if it is not in session; and

3. The District Air Pollution Control Board shall enact a resolution concurring with the redesignation; and

4. The redesignation shall not cause, or contribute to, a concentration of any the classification of any other area or any national ambient air quality standard; and

5. Any Authority to Construct application for any major stationary source or major modification subject to the provisions of Regulation VI which could receive an Authority to Construct only if the area in question were redesignated as Class III, and any material submitted as part of that application, shall be made available, insofar as is practicable, for public inspection prior to any public hearing on redesignation of any area as Class III.



# **REGULATION**

## **IX**

### **NON-VEHICULAR AIRBORNE TOXIC CONTROL MEASURES**

Adopted 02/21/89  
Amended 5/16/00

Regulation IX - 4

Rule 900 General

900.1. Statutory Requirements. Health and Safety Code Section 39666 directs the Air Resources Board to reduce emissions of toxic air contaminants from nonvehicular sources. Following action by the Air Resources Board and approval by the Office of Administrative Law, the Amador County Air District is required to propose and adopt regulations implementing the airborne toxic control measure (Health and Safety Code Section 39666(d)). The regulations must be proposed within 120 days and adopted within 180 days of the effective date of the Air Resources Board's airborne toxic control measure.

900.2. Definitions

- A. APCD. The Air District of Amador County.
- B. APCO. The Air Pollution Control Officer of Amador County, or designated representative.
- C. ARB. The California Air Resources Board, or any person authorized to act on its behalf.
- D. ATCM. Airborne toxic control measure.
- E. CCR. The California Code of Regulations.
- F. Person. Any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, operator, user or owner, any government agency or public district, or any officer or employee thereof.
- G. Section. As used in these Rules and Regulations, unless some other code is specifically mentioned, all section references are to the California Health and Safety Code.

## Rule 901 Compliance

- 901.1. Enforcement. This Regulation shall be enforced by the APCO under authority of Sections 40001, 40702, 40752, and all officers empowered by Section 40120.
- 901.2. APCD-wide Coverage. Rules and prohibitions as set forth in this Regulation shall apply in all portions of the Amador County Air District.
- 901.3. Penalty. A violation of the provisions of this Regulation, or of Section 41700 is a misdemeanor punishable by imprisonment in the County Jail not exceeding twelve (12) months or by fine not exceeding twenty-five thousand dollars (\$25,000.00) or both. Every day during any portion of which such violation occurs constitutes a separate offense. (Sections 42400, 42400.1, 42400.2, 42400.5, 42402, 42402.1, 42402.2, and 42403)

Rule 902      Benzene Airborne Toxic Control Measure at Retail Service Stations.

902.1.      Definitions.

- A.      ARB Certified Vapor Recovery System. A vapor recovery system which has been certified by the ARB pursuant to Section 41954.
- B.      Excavation. Exposure to view by digging.
- C.      Existing Retail Service Station. Any retail service station operating, constructed, or under construction as of February 21, 1989.
- D.      Gasoline. Any organic liquid (including petroleum distillates and methanol) having a Reid vapor pressure of four pounds or greater and used as a motor vehicle fuel or any fuel which is commonly or commercially known or sold as gasoline.
- E.      Leak-Free. A liquid leak of no more than three drops per minute, excluding losses which occur upon disconnect transfer filling, provided such losses do not exceed ten milliliters (0.34 fluid ounces) per disconnect, averaged over three disconnects.
- F.      Motor vehicle. As defined in Section 415 of the Vehicle Code.
- G.      New Retail Service Station. Any retail service station which is not constructed or under construction as of February 21, 1989.
- H.      Owner or Operator. An owner or operator of a retail service station.
- I.      Phase I Vapor Recovery System. A gasoline vapor recovery system which recovers vapors during the transfer of gasoline from delivery tanks into stationary storage tanks.
- J.      Phase II Vapor Recovery System. A gasoline vapor recovery system which recovers vapors during the fueling of motor vehicles from stationary storage tanks.
- K.      Retail Service Station. Any new or existing motor vehicle fueling service station subject to payment of California sales tax on gasoline sales. The term retail service station does not apply to any of the following operations:

1. A transfer to a stationary storage tank with a capacity of less than 250 gallons.

2. A transfer to a stationary storage tank used the majority of the time for the fueling of implements of husbandry as defined in Division 16, Chapter 1, of the Vehicle Code.
  3. A transfer to a stationary storage tank used exclusively to fuel motor vehicles with a fuel capacity of five gallons or less.
- L. Submerged Fill Pipe. Any fill pipe which has its discharge opening entirely submerged when the liquid level above the bottom of the stationary storage tank is
1. Six inches for stationary storage tanks filled from the top.
  2. Eighteen inches for stationary storage tanks filled from the side.
- M. Tank Replacement. Replacement of one or more stationary storage tanks at an existing retail service station or excavation of fifty percent (50%) or more of an existing retail service station's total underground liquid piping from the stationary storage tanks to the gasoline dispensers.
- N. Throughput. The volume of gasoline dispensed at a retail service station.
- O. Vapor-tight. A vapor leak of less than 100% of the lower explosive limit on a combustible gas detector measured at a distance of one inch from the source.

902.2. Vapor Recovery Requirements.

A. Phase I Vapor Recovery System Requirements.

1. Prohibition. No owner or operator shall transfer, permit the transfer, or provide equipment for the transfer of gasoline, and no other person shall transfer gasoline, from a gasoline delivery tank equipped with a vapor recovery system into a stationary storage tank at a retail service station unless all of the following conditions are met:
  - a. The stationary storage tank is equipped with a permanent submerged fill pipe.
  - b. The stationary storage tank is equipped with an ARB certified vapor recovery system.
  - c. All vapor return lines are connected between the delivery tank and the stationary storage tank.

- d. The vapor recovery system is operating in accordance with the manufacturer's specifications; and the delivery vehicle, including all hoses, fittings, and couplings, is maintained in a vapor-tight condition; and equipment is operated and maintained according to manufacturers' specifications.
  - e. Hatch openings of no more than three minutes in duration are permitted for visual inspection, provided that:
    - (1) Pumping has been stopped for at least three minutes prior to opening.
    - (2) The hatch is closed before pumping is resumed.
  - f. Except for above-ground tanks, all lines are to be gravity-drained, in such a manner that upon disconnect, no spillage would be expected.
  - g. Above-ground tanks shall be equipped with dry-breaks, with any liquid spillage upon disconnect not exceeding ten milliliters.
  - h. Equipment is to be operated and maintained, with no defects, as follows:
    - (1) All fill tubes are equipped with vapor-tight covers, including gaskets.
    - (2) All dry breaks have vapor-tight seals and are equipped with vapor-tight covers or dust covers.
    - (3) Coaxial fill tubes are operated so there is no obstruction of vapor passage from the storage tank back to the delivery vehicle.
    - (4) The fill tube assembly, including fill tube, fittings and gaskets, is maintained to prevent vapor leakage from any portion of the vapor recovery system.
    - (5) All storage tank vapor return pipes without dry breaks are equipped with vapor-tight covers, including gaskets.
2. Exemptions. The provisions of 902.2.A.1 shall not apply to:

- a. An existing retail service station with an annual station gasoline throughput of 480,000 or fewer gallons during the calendar year prior to 1989. If during any calendar year thereafter the gasoline throughput from such tanks at the existing retail service station exceeds 480,000 gallons, this exemption shall cease to apply commencing with the first day of the following calendar year.
  - b. A transfer to a stationary storage tank at an existing retail service station which receives gasoline from delivery tanks that are not equipped with vapor recovery systems.
3. Tank Replacement. Notwithstanding 902.2.A.2.a, at the time of tank replacement at an existing retail service station, ARB certified Phase I vapor recovery shall be installed and used thereafter on all of the station facilities.

B. Phase II Vapor Recovery System Requirements.

1. Prohibition. No owner or operator shall transfer, permit the transfer, or provide equipment for the transfer of gasoline from a stationary storage tank at a retail service station into a motor vehicle fuel tank of greater than five gallons unless:
  - a. The dispensing unit used to transfer the gasoline from the stationary storage tank to the motor vehicle fuel tank is equipped with an ARB certified vapor recovery system.
  - b. The vapor recovery system is operating in accordance with the manufacturer's specifications.
  - c. Equipment subject to this Rule is operated and maintained with none of the following defects, pursuant to the definitions in CCR Section 94006, Subchapter 8, Chapter 1, Part III, of Title 17, including but not limited to:
    - (1) Torn or cut boots.
    - (2) Torn or cut face seals or face cones.
    - (3) Loose or broken retractors.
    - (4) Boots clamped or otherwise held in an open position.



- (5) Leaking nozzles.
  - (6) Any nozzle components which are loose, missing, or disconnected, including but not limited to boots, face seals, face cones, check valve wires, and diaphragm covers and latching devices.
  - (7) Defective shutoff mechanisms.
  - (8) Any vapor fuel hoses and associated components which are loose, missing, or disconnected, including but not limited to flow restrictors, swivels, and anti-recirculation valves.
  - (9) Crimped, cut, severed, or otherwise damaged vapor or fuel hoses.
  - (10) Assist-type vapor recovery systems, or any components of such systems, missing, turned off, or otherwise not operating.
  - (11) Any improper or non-ARB certified equipment or components.
2. Exemptions. The provisions of 902.2.B shall not apply to an existing retail service station which is exempt from Phase I requirements under 902.2.A.2.a.
  3. Tank Replacement. Notwithstanding 902.2.B.2, at the time of tank replacement at an existing retail service station, ARB certified Phase II vapor recovery systems shall be installed and used thereafter on all of the station facilities.
  4. Correction of Defects. No owner or operator shall use or permit the use of any Phase II system or any component thereof containing a defect identified in Title 17, CCR, Section 94006 until it has been repaired, replaced, or adjusted, as necessary to remove the defect and APCD personnel have reinspected the system or have authorized its use pending reinspection. Nothing in this subdivision shall excuse compliance with 902.2.B.1. (Sections 41960.2.(c), 41960.2.(d), and 41960.2.(e))

C. Additional Requirements.

1. Vapor recovery or vapor processing systems used to comply with the provisions of this Rule shall comply with all safety, fire, weights and measures, and other applicable codes or regulations. (Section 41960.1)
2. A person shall not offer for sale, sell, or install within the Amador County APCD, any new or rebuilt vapor recovery equipment unless the components clearly identify by markings the certified manufacturing company and/or certified rebuilding company. (Section 41960.2.(b))
3. Vapor recovery systems required under Rules 902.2.A and 902.2.B shall at all times be installed, maintained and operated in accordance with the manufacturer's specifications and the ARB certification, and shall be maintained to be leak-free, vapor-tight and in good working order. (Section 41960.2.(a)) In the event that the vapor recovery system is not capable of being operated in accordance with the manufacturer's specifications or ARB certification, the upset and breakdown procedures of Rule 516 shall be followed.

902.3. Administrative Requirements.

A. New Retail Service Stations.

1. Authority to Construct. The owner or operator of any new retail service station shall file an application for an Authority to Construct with the APCD for the installation of the equipment required by Rules 902.2.A and 902.2.B prior to construction.
2. Permit to Operate. The owner or operator of any new retail service station shall comply with the provisions of Rules 902.2.A and 902.2.B and shall secure the Permit to Operate from the APCD at the time gasoline is first sold from the station.

B. Existing Retail Service Stations.

1. Stations Subject to Rules 902.2, Vapor Recovery Requirements.
  - a. Authority to Construct. The owner or operator of an existing retail service station subject to Rules 902.2.A and 902.2.B, who has not earlier complied, shall within six months after February 21, 1989, file an application for an Authority to Construct with the APCD for the installation of the vapor recovery systems required.

- b. Permit to Operate. The owner or operator shall fully comply with the provisions in Rules 902.2.A and 902.2.B, and shall secure the Permit to Operate from the APCD by January 1, 1991.

2. Stations Exempt from Rule 902.2.

- a. Permit to Operate. The owner or operator of a retail service station exempt from either Phase I or Phase II requirements shall file an application for a Permit to Operate with the APCD within six months after February 21, 1989.

- b. Authority to Construct.

- (1) Tank Replacement. The owner or operator of any retail service station previously exempt from the vapor recovery requirements of Rules 902.2.A and 902.2.B shall at the time of a tank replacement or repair fully comply with the requirements of Rules 902.2.A and 902.2.B at the time gasoline is first received or dispensed after completion of the replacement or repair.

- (2) Throughput Change. The owner or operator of any retail service station previously exempt from the vapor recovery requirements of Rules 902.2.A and 902.2.B, where the throughput has changed such that the exemption is no longer applicable, except for those stations that lose the exemption due to tank replacement (Rule 902.3.B.2.b.(1)), shall apply for the Authority to Construct with the APCD for the vapor recovery system(s) required no later than six months from the first day of the calendar year following the year the retail service station is no longer exempt. The owner or operator shall be in full compliance with the provisions in Rules 902.2.A and 902.2.B and shall have secured a new Permit to Operate within twenty-four months from the first day of the calendar year following the year the retail service station is no longer exempt.

C. Posting Requirements.

1. The owner or operator of a retail service station utilizing a Phase II vapor recovery system shall conspicuously post operating instructions for the system in the gasoline dispensing area. The instructions shall clearly describe how to fuel vehicles correctly with the vapor recovery nozzles utilized at the station and shall include a warning that repeated attempts to continue dispensing, after the system having indicated that the vehicle tank is full, may result in spillage or recirculation of gasoline. (Section 41960.4)
2. The owner or operator of a retail service station subject to Rule 902.2.B, Phase II Vapor Recovery, shall conspicuously post in the gasoline dispensing area the phone number for the APCD for complaints. (Section 41960.3)

D. Fees.

1. The owner or operator of a retail service station shall pay the fees required by Regulation VI of the Amador County Air District Rules and Regulations.
2. The owner or operator of a retail service station subject to the requirements of Rule 902.2.B shall pay an additional fee per nozzle as prescribed in Rule 601.

Adopted 02/21/89

Amended 5/16/00

Rule 903      Contaminated Soil Remediation. The purpose of this Rule is to limit the emission of organic compounds from soil that has been contaminated by organic chemical leaks or petroleum chemical leaks or spills, to describe an acceptable soil aeration procedure, and to reduce public exposure to emissions for toxic compounds.

903.1.      Definitions.

- x)      Active Storage Pile. A pile of contaminated soil to which soil is currently being added or from which soil is currently being removed. Activity must have occurred or be anticipated to occur within one hour to be current.
  
- xi)      Aeration. Exposure of contaminated soil to the air.
  
- xii)      Aeration Depth. The smaller of the following: the actual average depth of contaminated soil or 0.5 feet multiplied by the daily frequency with which soil is turned.
  
- xiii)      Aeration Volume. The volume of soil being aerated shall be calculated as follows: the exposed surface area (in square feet) shall be multiplied by the aeration depth. The exposed surface area includes the pile of excavated soil unless the pile is covered per Rule 903.2.E.
  
- xiv)      Bioremediation. The cleaning up of contaminated soil by an approved biological process.
  
- xv)      Contaminated Soil. Soil which has an organic content, as measured in Rule 903.3.B, exceeding 50 ppm by weight.
  
- xvi)      Organic Compound. Any compound of carbon, excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonate and ammonium carbonate.
  
- xvii)      Organic Content. The concentration of organic compounds measured in the composite sample collected and analyzed using the procedures in Rule 903.3.B.
  
- xviii)      Remediation. The cleaning up of contaminated soil by an approved process.
  
- xix)      Sensitive Area. Any area where there are substantial concentrations of people for an extended period of time. These areas include, but are not limited to a park, a shopping center, a government center, or a residential neighborhood.

903.2 Requirements. All soil to be remediated shall have originated in the Amador County Air District.

A. Excavation.

- (1) Soil will be kept moist to contain hydrocarbons and reduce dust emissions during excavation.
- (2) Soil will be placed on an impermeable material and covered securely with an impermeable material until proposed treatment method has been submitted and approved by the District in the form of a Permit to Operate or a written exemption from the Permit to Operate requirement.

B. Aeration Without Control Device. Based on the specific level of contamination, a person shall not aerate contaminated soil at a rate in excess of that specified in the following table. The limitations in the table apply to the entire facility.

TPHg <sup>1</sup> ppm(weight)	Volume of Soil (cubic yards)
<50	exempt
50 - 99	600
100 - 499	120
500 - 999	60
1000 - 1999	30
2000 - 2999	15
3000 - 3999	10
4000 - 4999	8

<sup>1</sup>TPHg is total petroleum hydrocarbons of gasoline.

- C. Aeration with a Control Device. Soil may be aerated at rates exceeding the limitation of 903.2.B. above, provided emissions of organic compounds to the atmosphere are reduced by at least 90% by weight.
- D. Bioremediation proposals will be evaluated from the Authority to Construct application and appropriate conditions placed on the Permit to Operate. Bioremediation projects are also subject to the risk assessment requirements of 903.3.C and total hydrocarbon release to the atmosphere per table in 903.2.B.

- E. Storage Piles. Contaminated soil which is not being aerated shall be covered except when soil is being added or removed. Any uncovered contaminated soil will be considered to be aerated. The soil may be covered with an impermeable covering, provided no head space where vapors may accumulate is formed and provided the covering is in good condition and is secured adequately so as to minimize emissions to the atmosphere.
- F. Exemptions.
1. The treatment of less than 5 cubic yards of contaminated soil shall be exempt from the requirements of this rule provided it is not located within 1000 feet of a school, hospital, health care facility or other sensitive area.
  2. The requirements of this rule shall not apply to the emergency soil decontamination which may be performed by, under the jurisdiction of, or pursuant to the requirements of, an authorized health officer, agricultural commissioner, fire protection officer, or other authorized agency officer. Whenever possible, the APCO shall be notified prior to commencement of such action.
  - (3) Contaminated soil exposed for the sole purpose of sampling shall not be considered to be aerated. Removal of soil for sampling shall not qualify a pile as "active."
  - (4) Upon receipt of an Authority to Construct application demonstrating that the soil is contaminated exclusively by hydrocarbons with a boiling point of greater than or equal to 302 degrees F, the aeration limits in 903.2.B shall be waived. Written permission to aerate the soil under the exemption and waiver from the Permit to Operate requirement will be issued.

903.3

Administrative Requirements.

- i) Notification. The person responsible for the aeration of any contaminated soil shall provide the following information to the District in the form of an Authority to Construct/Permit to Operate application:
- (1) Estimated total quantity of soil to be aerated.
  - (2) Estimated total quantity of soil to be aerated per day.
  - (3) Estimated average degree of contamination, or total organic content of soil.
  - (4) Chemical composition of contaminating organic compounds and a description of the basis on which these estimates were derived (soil analysis test reports, etc.).
  - (5) Indication of whether the site is within 1000 feet of a school, hospital, health care facility, or other sensitive area.

ii) Testing Requirements.

(1) Sampling.

- (a) Each 50 cubic yard pile shall be considered to have four equal sectors. One sample shall be taken from the center of each sector. Samples shall be taken at least three inches below the surface of the pile. Samples shall be composited from the four sectors by the test laboratory.
- b. One composite sample shall be collected and analyzed for every 50 cubic yards of excavated contaminated soil to be remediated. At least one composite sample shall be collected from each inactive, uncovered storage pile within 24 hours of excavation. Samples are not required if soil is uncontaminated.
- c. Samples shall be taken using one of the following methods:
  - (i) Samples shall be taken using a driven-tube type sampler, capped and sealed with inert materials, and extruded in the laboratory in order to reduce the loss of volatile materials; or
  - (ii) Samples shall be taken using a clean brass tube (at least three inches long) driven into the soil with a suitable instrument. The ends of the brass tube shall then be covered with aluminum foil, then plastic end caps, and finally be wrapped with a suitable tape. The samples shall then be immediately placed on ice or dry ice for transport to a laboratory.
2. Measurement of organic content. Organic content of soil shall be determined by the Regional Water Quality Control Board's Revised Analytical Methods, EPA Reference Method 8010 or 8015, or any other method approved by the APCO.
3. Total hydrocarbon and benzene emission rates will be estimated using the following factors:
  - (a) The average total hydrocarbon or benzene concentration found by sampling and analysis of the soil stockpile.
  - (b) Five days of aeration.
  - (c) The total volume of soil in cubic yards.
  - (d) A soil density of 3900 lb/cubic yard.

C. Risk Assessment. At the discretion of the APCO, no remediation project may occur until a screening level risk assessment is completed and submitted to the APCO for review and approval.

D. Final Disposition. Written notification of the final disposition of the soil, including final laboratory test results, shall be submitted to the District within one week of the completion of the remediation. The notification shall include test results showing the final hydrocarbon levels.



903.4 Additional Requirements. Upon excavation of underground tanks or exposure of 50% of the underground piping at retail service stations, the retail service station is required by state law to have Phase I and Phase II vapor recovery installed before commencing to sell gasoline again (see District Rule 902 for requirements). An Authority to Construct application separate from the remediation application must be filed for the installation of the vapor recovery systems.

# **REGULATION**

## **X**

# **LANDFILL GAS**

Rule 1000      Municipal Solid Waste Landfills

A.      Purpose:

The purpose of this rule is to limit nonmethane organic compound (NMOC) emissions from municipal solid waste (MSW) landfills by implementing the provisions of 40 Code of Federal Regulations (CFR) Part 60, Subpart Cc--Emission Guidelines and Compliance Times for MSW Landfills.

B.      Applicability:

1.      This rule applies to all MSW landfills meeting the following conditions:
  - a.      construction, reconstruction, or modification was commenced before May 30, 1991, and
  - b.      the MSW landfill has accepted waste at any time since November 8, 1987 or has additional design capacity available for future waste deposition.

C.      Definitions:

Terms used but not defined in this rule have the meaning given them in 40 CFR part 60.751 (Definitions) except:

1.      *Administrator*, for the purposes of this rule, means the Air Pollution Control Officer (APCO) of the Amador County Air District, except that the APCO shall not be empowered to approve:
  - a.      alternative or equivalent test methods, alternative standards or;
  - b.      alternative work practices unless included in the site specific design plan as provided in 40 CFR, section 60.752 (b)(2)(i).
2.      *Design plan or plan* means the site-specific plan for the gas collection and control system submitted under Section F.3 of this rule.

D.      Exemptions:      None.

E.      Effective Date:      The effective date of this rule shall be February 25, 1997.

F. Standards:

1. Each owner or operator of a MSW landfill that has:
  - a. a design capacity equal to or greater than 2.5 million megagrams or 2.5 million cubic meters, and
  - b. a NMOC emission rate of 50 megagrams per year or more as calculated pursuant to 40 CFR 60.754 (Test methods and procedures);

shall install a collection and control system meeting the conditions provided in 40 CFR 60.752(b) (2) (ii) and (iii).
2. The owner or operator of each MSW landfill shall submit an initial design capacity report and amended design capacity report as specified in 40 CFR 60.752 (Standards for Air Emissions from MSW Landfills). Any density conversions shall be documented and submitted with the report.
3. The owner or operator shall submit a site-specific collection and control system design plan to the APCO as provided under 40 CFR 60.752 (b)(2) (i).
4. The design plan shall include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, record keeping or reporting provision of 40 CFR 60.753 through 60.758.
5. The APCO shall review and either approve or disapprove the plan, or request that additional information be submitted. The design plan shall either conform with specifications for active collection systems in 40 CFR 60.759 or include a demonstration to the APCO's satisfaction of the sufficiency of the alternative provisions to 40.CFR 60.759. The design plan may include alternatives as specified in 40CFR 60.752(b)(2)(i)(B).
6. Each MSW landfill required to install a gas collection and control system under this section shall meet the operational standards in 40 CFR 60.753; the compliance provisions in 40 CFR 60.755 and the monitoring provisions in 40 CFR 60.756, except that the APCO can approve alternatives in the design plan as provided in Section F.5 of this Rule.

G. Record Keeping and Reporting Requirements:

The owner or operator of each MSW landfill shall meet the record keeping and reporting requirements of 40 CFR 60.757 and 40 CFR 60.758, as applicable, except that the APCO may approve alternative record keeping and reporting provisions as provided in Section F.4 of this rule. Any records or reports required to be submitted pursuant to 40 CFR 60.757 or 40 CFR 60.758 shall be submitted to the APCO.

H. Compliance Schedule:

1. The design capacity and the NMOC emissions reports required pursuant to 40 CFR 60.752 and 40 CFR 60.754 shall be submitted within ninety (90) days of the effective date of this rule.
2. The site-specific collection and control system design plan required under Section F.3 of this rule shall be submitted within one year after determining that the MSW landfill has a NMOC emission rate equal to or greater than fifty (50) megagrams per year.
3. The planning, awarding of contracts, and installation of the collection and control equipment required pursuant to Section F.1 of this rule shall be accomplished within thirty (30) months after the effective date of this rule, or within thirty (30) months after meeting the condition in F.1.
4. The initial performance test of the collection and control system equipment shall be accomplished within six (6) months of control system startup.

## **RULE 1000 - APPENDIX**

Included as an appendix to Rule 1000 is Federal Register Vol. 61, No. 49, Pages 9905-9944 which promulgates the following regulations regarding municipal solid waste landfills:

1. 40 CFR, Part 60, Subpart Cc, Emissions Guidelines and Compliance Times for Municipal Solid Waste Landfills, and
2. 40 CFR, Part 60, Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills.