

RULE 2201 NEW AND MODIFIED STATIONARY SOURCE REVIEW RULE (Adopted September 19, 1991; Amended March 11, 1992; Amended October 29, 1992; Amended December 17, 1992; Amended October 21, 1993; Amended June 15, 1995; Amended August 20, 1998; Amended June 21, 2001, but not effective until August 20, 2001; Amended April 25, 2002; Amended December 19, 2002; Amended April 20, 2005; Amended December 15, 2005; Amended September 21, 2006; Amended December 18, 2008, but not in effect until June 10, 2010; Amended April 21, 2011; Amended February 18, 2016)

## 1.0 Purpose

The purpose of this rule is to provide for the following:

- 1.1 The review of new and modified Stationary Sources of air pollution and to provide mechanisms including emission trade-offs by which Authorities to Construct such sources may be granted, without interfering with the attainment or maintenance of Ambient Air Quality Standards; and
- 1.2 No net increase in emissions above specified thresholds from new and modified Stationary Sources of all nonattainment pollutants and their precursors.

## 2.0 Applicability

This rule shall apply to all new stationary sources and all modifications to existing stationary sources which are subject to the District permit requirements and after construction emit or may emit one or more affected pollutant. The requirements of this rule in effect on the date the application is determined to be complete by the Air Pollution Control Officer (APCO) shall apply to such application.

## 3.0 Definitions

- 3.1 Actual Emissions: emissions having occurred from a source, based on source test or monitoring data, actual fuel consumption, and process data. If source test or monitoring data is not available, other appropriate, APCO-approved, emission factors may be used.
- 3.2 Actual Emissions Reduction (AER): the decrease of actual emissions, compared to the Baseline Period, from an emissions unit and selected for use as emission offsets or ERC banking. AER shall meet the following criteria:
  - 3.2.1 Shall be real, enforceable, quantifiable, surplus, and permanent.
  - 3.2.2 To be considered surplus, AER shall be in excess, at the time the application for an Emission Reduction Credit or an Authority to Construct authorizing such reductions is deemed complete, of any emissions reduction which:
    - 3.2.2.1 Is required or encumbered by any laws, rules, regulations, agreements, orders, or

- 3.2.2.2 Is attributed to a control measure noticed for workshop, or proposed or contained in a State Implementation Plan, or
- 3.2.2.3 Is proposed in the APCO's adopted air quality plan pursuant to the California Clean Air Act.
- 3.2.3 Emissions reductions attributed to a proposed control measure, which are excluded pursuant to Section 3.2.2.2 and 3.2.2.3 may be re-eligible as AER if the control measures identified in the District Air Quality Plan or State Implementation Plan (SIP), are determined not to be necessary for attainment or maintenance of Ambient Air Quality Standards and the APCO and United States Environmental Protection Agency (EPA) have approved amendments to the plan or SIP to reflect this determination.
- 3.3 Administrative Change: a change to an existing permit that:
  - 3.3.1 Corrects typographical errors; or
  - 3.3.2 Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source; or
  - 3.3.3 Changes the components of emissions monitoring equipment or other components, which have no effect on the quantity of emissions from an emissions unit, or
  - 3.3.4 Allows for the change of ownership or operational control of a source where the APCO determines that no other change is necessary.
- 3.4 Affected Pollutants: those pollutants for which an Ambient Air Quality Standard has been established by the EPA or by the California Air Resources Board, (ARB), and the precursors to such pollutants, and those pollutants regulated by the EPA under the Federal Clean Air Act or by the ARB under the Health and Safety Code including, but not limited to, VOC, NO<sub>x</sub>, SO<sub>x</sub>, PM<sub>2.5</sub>, PM<sub>10</sub>, CO, and those pollutants which the EPA, after due process, or the ARB or the APCO, after public hearing, determine may have a significant adverse effect on the environment, the public health, or the public welfare.
- 3.5 Agricultural Source: equipment or operations that emit air contaminants and that are used in the production of crops or the raising of fowl or animals.
- 3.6 Air Quality Improvement Deduction: a 10 percent discount factor applied to Actual Emission Reductions (AER) before the AER is eligible for banking.
- 3.7 Ambient Air Quality Standards: include State and National Ambient Air Quality Standards. (In the inclusion of this rule in the State Implementation Plan, all references in this rule to Ambient Air Quality Standards shall be interpreted as National Ambient Air Quality Standards.)

- 3.8 Baseline Emissions (BE): for a given pollutant, shall be equal to the sum of:
- 3.8.1 The pre-project Potential to Emit for:
    - 3.8.1.1 Any emissions unit located at a non-Major Source,
    - 3.8.1.2 Any Highly-Utilized Emissions Unit, located at a Major Source, provided that if the unit has a Specific Limiting Condition (SLC), all units combined under the SLC have an average combined annual Actual Emissions during the two consecutive years immediately prior to filing of an application for an Authority to Construct equal to or greater than 80% of the units' pre-project SLC limit,
    - 3.8.1.3 Any Fully-Offset Emissions Unit, located at a Major Source, provided that if the unit has a SLC, all units under the SLC also qualify as Fully Offset Emissions Units, or
    - 3.8.1.4 Any Clean Emissions Unit, located at a Major Source, provided that if the unit has a SLC, all units under the SLC also qualify as Clean Emissions Units.
  - 3.8.2 The Historic Actual Emissions (HAE) for emissions units not specified in Section 3.8.1.
- 3.9 Baseline Period: a period of time equal to either
- 3.9.1 the two consecutive years of operation immediately prior to the submission date of the Complete Application; or
  - 3.9.2 at least two consecutive years within the five years immediately prior to the submission date of the Complete Application if determined by the APCO as more representative of normal source operation; or
  - 3.9.3 a shorter period of at least one year if the emissions unit has not been in operation for two years and this represents the full operational history of the emissions unit, including any replacement units; or
  - 3.9.4 zero years if an emissions unit has been in operation for less than one year (only for use when calculating AER).
- 3.10 Best Available Control Technology (BACT): is the most stringent emission limitation or control technique of the following:
- 3.10.1 Achieved in practice for such category and class of source;
  - 3.10.2 Contained in any State Implementation Plan approved by the Environmental Protection Agency for such category and class of source. A specific limitation or control technique shall not apply if the owner of

the proposed emissions unit demonstrates to the satisfaction of the APCO that such a limitation or control technique is not presently achievable; or

- 3.10.3 Contained in an applicable federal New Source Performance Standard; or
- 3.10.4 Any other emission limitation or control technique, including process and equipment changes of basic or control equipment, found by the APCO to be cost effective and technologically feasible for such class or category of sources or for a specific source.
- 3.11 Biomass-fired power facility: a facility generating electrical power and fueled exclusively on biomass fuels consisting of at least 90% of one or more of the following constituents: alfalfa, barley, bean straw, corn, oats, wheat, orchard and vineyard pruning, and forest residues. Grape stems, grape pumice, almond and walnut shells, construction wood waste, urban wood waste, and lawn trimmings are not considered biomass fuels.
- 3.12 Cargo Carriers: trains dedicated to a specific Stationary Source and vessel dockside activities as defined in 45 Federal Register 52696 (August 7, 1980) for vessels dedicated to a specific Stationary Source. Motor vehicles, as defined by the Vehicle Code of the State of California, are not considered Cargo Carriers.
- 3.13 Clean Emissions Unit: for a given pollutant, an emissions unit that meets one of the following criteria:
  - 3.13.1 The unit is equipped with an emissions control technology with a minimum control efficiency of at least 95% (or at least 85% for lean-burn, internal combustion engines); or
  - 3.13.2 The unit is equipped with emission control technology that meets the requirements for achieved-in-practice BACT as accepted by the APCO during the five years immediately prior to the submission of the complete application.
- 3.14 Complete Application: an application for an Emission Reduction Credit or an Authority to Construct for a new or modified emissions unit which has been evaluated and found to include all information necessary to determine compliance with applicable rules and requirements.
- 3.15 Contiguous or Adjacent Property: a property consisting of two or more parcels of land with a common point or boundary, or separated solely by a public roadway or other public right-of-way.
- 3.16 Daily Emissions Limitation (DEL): one or more permit conditions which restrict a unit's maximum daily emissions, to a level at or below the emissions associated with the maximum design capacity. A daily emissions limitation must be:

- 3.16.1 Contained in the latest Authority to Construct and contained in or enforceable by the latest Permit to Operate for the emissions unit; and
- 3.16.2 Enforceable, in a practical manner, on a daily basis.
- 3.17 Emissions Unit: an identifiable operation or piece of process equipment such as a source operation which emits, may emit, or results in the emissions of any affected pollutant directly or as fugitive emissions.
- 3.18 Federal Major Modification: same as “Major Modification” as defined in 40 CFR 51.165 and part D of Title I of the CAA. SB 288 Major Modifications are not federal major modifications if they meet the criteria of one of the following exclusions:
  - 3.18.1 Less-Than-Significant Emissions Increase Exclusion: An emissions increase for the project, or a net emissions increase for the project (as determined pursuant to 40 CFR 51.165 (a)(2)(ii)(B) through (D), and (F)), that is not significant for a given regulated NSR pollutant, as defined in 40 CFR 51.165, is not a federal major modification for that pollutant.
    - 3.18.1.1 To determine the post-project projected actual emissions from existing units, the provisions of 40 CFR 51.165 (a)(1)(xxviii) shall be used.
    - 3.18.1.2 To determine the pre-project baseline actual emissions, the provisions of 40 CFR 51.165 (a)(1)(xxxv)(A) through (D) shall be used.
    - 3.18.1.3 If the project is determined not to be a federal major modification pursuant to the provisions of 40 CFR 51.165 (a)(2)(ii)(B), but there is a reasonable possibility that the project may result in a significant emissions increase, the owner or operator shall comply with all of the provisions of 40 CFR 51.165 (a)(6) and (a)(7).
    - 3.18.1.4 Emissions increases calculated pursuant to this section are significant if they exceed the significance thresholds specified in Table 3-1 of this rule.

Table 3-1, Significance Thresholds

POLLUTANT	THRESHOLD (POUNDS PER YEAR)
VOC	0
NO <sub>x</sub>	0
PM <sub>2.5</sub>	20,000 of direct PM <sub>2.5</sub> emissions or
	80,000 of sulfur dioxide emissions or
	80,000 of nitrogen oxide emissions
PM <sub>10</sub>	30,000
SO <sub>x</sub>	80,000

3.18.2 Plantwide Applicability Limit (PAL) Exclusion: An SB 288 major modification that does not cause facility-wide emissions to exceed a pre-established PAL, as defined in 40 CFR 51.165 (f)(2)(v), for the respective pollutant, is not a federal major modification for that pollutant. PAL exclusions shall not be allowed for either NO<sub>x</sub> or VOC pollutants.

3.18.2.1 For the purposes of this exclusion, a PAL must be established by a permitting action prior to the SB 288 major modification permitting action.

3.18.2.2 All PALs shall be established according to the provisions of 40 CFR 51.165 (f)(1) through (15).

3.18.2.3 All PALs shall comply with the requirements under 40 CFR 51.165 (f)(1) through (15) to either maintain, renew or retire the PAL.

3.19 Fugitive Emissions: emissions that could not reasonably pass through a vent, chimney, stack, or other functionally equivalent opening. Emissions that are not vented through a stack but can reasonably be captured and vented through a stack are not considered Fugitive. Fugitive emissions shall be included in all calculations, except as provided for in Section 3.24 and as allowed in the applicable 40 CFR Part 51.165.

3.20 Fully Offset Emissions Unit: for a given pollutant, an emissions unit for which

3.20.1 Offsets have been provided for the unit’s full potential to emit; or

3.20.2 Offsets have been provided for the entire stationary source’s potential to emit in excess of the offset trigger level; or

3.20.3 Offsets have previously been provided for the stationary source’s NSR balance as calculated pursuant to the NSR rule in effect at the time of the offset action, and the emissions unit was installed after the County baseline date as indicated below:

Table 3-2, County Baseline Dates

COUNTY	BASELINE DATE
San Joaquin County	May 29, 1979
Stanislaus County	June 19, 1979
Merced, Madera, or Kings County	May 21, 1979
Fresno County Oil Fields	September 20, 1983
Fresno County all other sources	January 1, 1977
Tulare County	June 26, 1979
Kern County Heavy Oil Production	September 12, 1979
	June 22, 1987 for heavy oil production operations with negative cumulative net emissions change as of June 22, 1987
Kern County all other sources	December 28, 1976

- 3.21 Heavy Oil: crude oil having an American Petroleum Institute gravity of 20 degrees or less as determined by test method ASTM 287-82.
- 3.22 Highly Utilized Emissions Unit: for a given pollutant, an emissions unit for which the average annual Actual Emissions during the two consecutive years immediately prior to filing of an application for an Authority to Construct were equal to or greater than 80% of the unit's pre-project Potential to Emit. The unit must have been in operation for at least two years and, during that entire period, the unit must have complied with all applicable emission limits and performance standards.
- 3.23 Historical Actual Emissions (HAE): Actual Emissions occurring during the Baseline Period, after discounting for:
- 3.23.1 Any emissions reductions required or encumbered by any laws, rules, regulations, agreements, orders, or permits; and
  - 3.23.2 Any emissions reductions attributed to a control measure noticed for workshop, or proposed or contained in a State Implementation Plan, and
  - 3.23.3 Any emissions reductions proposed in the District air quality plan for attaining the annual reductions required by the California Clean Air Act, and
  - 3.23.4 Any Actual Emissions in excess of those required or encumbered by any laws, rules, regulations, orders, or permits. For units covered by a Specific Limiting Condition (SLC), the total overall HAE for all units covered by SLC must be discounted for any emissions in excess of that allowed by the SLC.
- 3.24 Major Source: for each pollutant, a Stationary Source with post-project emissions or a post-project Stationary Source Potential to Emit (SSPE2), equal to or exceeding one or more of the following threshold values.

- 3.24.1 For determining major source status, fugitives shall only be included for calculating the air pollutant post-project emissions or SSPE2 if the source is included in the list of source categories identified in the major source definition in 40 CFR Part 70.2, or when determining if a stationary source is a major air toxics source as defined in Rule 2520.

Table 3-3, Major Source Emission Thresholds

POLLUTANT	THRESHOLD (POUNDS PER YEAR)
VOC	20,000
NO <sub>x</sub>	20,000
CO	200,000
PM <sub>2.5</sub>	140,000
PM <sub>10</sub>	140,000
SO <sub>x</sub>	140,000

- 3.24.2 For the purpose of determining major source status, the SSPE2 shall not include the quantity of emission reduction credits (ERC) which have been banked since September 19, 1991 for Actual Emissions Reductions that have occurred at the source, and which have not been used on-site. This ERC quantity includes all ERC held as certificates and all emission reduction credits that have been sold or transferred.

3.25 Modification:

- 3.25.1 An action including at least one of the following items:

- 3.25.1.1 Any change in hours of operation, production rate, or method of operation of an existing emissions unit, which would necessitate a change in permit conditions.
- 3.25.1.2 Any structural change or addition to an existing emissions unit which would necessitate a change in permit conditions. A Replacement Emissions Unit shall not be considered to be a structural change.
- 3.25.1.3 An increase in emissions from an emissions unit caused by a modification of the Stationary Source when the emissions unit is not subject to a daily emissions limitation.
- 3.25.1.4 Addition of any new emissions unit which is subject to District permitting requirements.
- 3.25.1.5 A change in a permit term or condition proposed by an applicant to obtain an exemption from an applicable requirement to which the source would otherwise be subject.

- 3.25.2 A reconstructed Stationary Source shall be treated as a new Stationary Source and not as a modification.
- 3.25.3 Unless previously limited by a permit condition, the following shall not be considered a modification:
  - 3.25.3.1 A change in ownership of an existing emissions unit with valid Permit to Operate provided that the APCO determines that all applicable offset provisions required by the Permit to Operate will be met;
  - 3.25.3.2 A change in ownership of an entire existing Stationary Source with a valid Permit to Operate;
  - 3.25.3.3 A change which consists solely of a transfer of location of an emissions unit within a Stationary Source; or
  - 3.25.3.4 A Replacement Emissions Unit where the replacement part is the same as the original emissions unit in all respects except for the serial number.
- 3.26 Offsets: emission reductions recognized by the APCO in the form of Emission Reduction Credits that are issued in accordance with the provisions of Rule 2301 (Emission Reduction Credit Banking), or other Actual Emissions Reductions that may be used to mitigate an emission increase as part of the same Stationary Source Project in accordance with the provisions of this rule.
- 3.27 Potential to Emit: the maximum capacity of an emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including pollution control equipment and restrictions in 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 or the effect it would have on emissions is incorporated into the applicable permit as an enforceable permit condition.
- 3.28 PM2.5: particulate matter with an aerodynamic diameter smaller than or equal to a nominal 2.5 microns, including gaseous emissions which condense to form particulate matter at ambient temperatures.
- 3.29 PM10: particulate matter with an aerodynamic diameter smaller than or equal to a nominal ten microns, as defined in District Rule 1020, Definitions.
- 3.30 Pre-baseline ERCs: Emission Reduction Credits that were banked prior to the baseline year for a given District-adopted and EPA-approved Attainment Plan.
- 3.31 Precursor: a directly emitted air contaminant that, when released into the atmosphere, forms or causes to be formed or contributes to the formation of a secondary air contaminant for which an Ambient Air Quality Standard has been

adopted, or whose presence in the atmosphere will contribute to the violation of one or more Ambient Air Quality Standards. The following precursor-secondary air contaminant relationships shall be used for the purposes of this rule:

Table 3-4, Precursors

PRECURSOR	SECONDARY AIR CONTAMINANT
Volatile Organic Compounds	a. Photochemical oxidants (Ozone) b. The organic fraction of PM10
Nitrogen Oxides	a. Nitrogen dioxide b. The nitrate fraction of PM2.5 c. The nitrate fraction of PM10 d. Photochemical oxidants (Ozone)
Sulfur Oxides	a. Sulfur dioxide b. Sulfates c. The sulfate fraction of PM2.5 d. The sulfate fraction of PM10

- 3.32 Quarter: for a non-Seasonal Source, this is defined as a calendar quarter. For a Seasonal Source, a quarter is defined as the entire operating season.
- 3.33 Reasonable Further Progress: as defined by the federal Clean Air Act, Section 182(c)(2)(b).
- 3.34 Reconstructed Source: any Stationary Source undergoing reconstruction where the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable, entirely new Stationary Source. Fixed capital cost is the capital needed to provide depreciable components. Reconstructed Source cost shall include only the cost of all emission-producing equipment and associated integral activities at the stationary source. A reconstructed Stationary Source shall be considered a new Stationary Source and not as a modification of an existing Stationary Source.
- 3.35 Replacement Emissions Unit: replacement in whole or in part of any article, machine, equipment, or other contrivance with a valid District Permit to Operate provided that all of the following conditions are met:
- 3.35.1 There is no increase in permitted emissions from the replacement unit(s). For replacements at major sources, “no increase in permitted emissions” as used in this definition also means no significant emissions increase according to the applicability calculations of 40 CFR 51.165(a)(2)(ii)(C). For the purposes of this definition, a Replacement Emissions Unit is an existing emissions unit.
- 3.35.2 There is no increase in design capacity, unless an old part is no longer available in which case the replacement can result in a design capacity increase of up to 10%. No change to the permitted throughput or

emission limits is authorized due to a change in design capacity as part of a replacement. Such changes shall require application for permit modification.

- 3.35.2.1 Permitted throughputs are throughput limits upon which emission calculations are, or could be, based.
- 3.35.2.2 If there are no throughput limiting conditions, permitted throughput shall be a throughput rate which affects emissions.
- 3.35.3 The replacement equipment performs the same function as the equipment being replaced.
- 3.35.4 The replacement does not constitute a Reconstructed Source (as defined by this rule) or Reconstruction (as defined by any applicable New Source Performance Standard). Reconstructed Source cost shall include only the cost of all emission-producing equipment and associated integral activities at the stationary source.
- 3.35.5 When the entire emissions unit is replaced as a replacement action, the emissions unit shall either have been addressed by a BARCT rule or shall be equipped with a control device capable of at least 85% emission control.
- 3.36 SB 288 Major Modification: as defined in 40 CFR Part 51.165 (as in effect on December 19, 2002) and part D of Title I of the CAA (as in effect on December 19, 2002). For the purposes of this definition, the SB 288 major modification thresholds for existing major sources are listed as follows:

Table 3-5, SB 288 Major Modification Thresholds

POLLUTANT	THRESHOLD (POUNDS PER YEAR)
VOC	50,000
NO <sub>x</sub>	50,000
PM <sub>10</sub>	30,000
SO <sub>x</sub>	80,000

- 3.37 Seasonal Source: any Stationary Source with more than 90% of its annual emissions occurring within a consecutive 120-day period.
- 3.38 Specific Limiting Condition (SLC): permit terms or conditions, which can be enforced in a practical manner, contained in Authorities to Construct and Permits to Operate and established pursuant to New Source Review provisions that restrict the total overall permitted emissions from two or more emissions units.
- 3.39 Stationary Source: any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. Building,

structure, facility or installation includes all pollutant emitting activities including emissions units which:

- 3.39.1 Are under the same or common ownership or operation, or which are owned or operated by entities which are under common control; and
  - 3.39.2 Belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material; and
  - 3.39.3 Are located on one or more contiguous or adjacent properties; or
  - 3.39.4 Are located on one or more properties wholly within either the Western Kern County Oil Fields or the Central Kern County Oil Fields or Fresno County Oil Fields and are used for the production of light oil, heavy oil or gas. Notwithstanding the provisions of this definition, light oil production, heavy oil production, and gas production shall constitute separate Stationary Sources.
- 3.40 Stationary Source Project: a single permitting action involving the modification, addition or shutdown of one or more emissions units. If any increase in emissions from a new or modified emissions unit is permitted based on emission reductions from one or more emissions units included in the stationary source project, the following condition must also be met:
- 3.40.1 The modification or shutdown resulting in the necessary emission reductions shall occur not later than the date of initial operation of the new or modified emissions unit. If the new or modified emissions unit is, in whole or in part, a replacement for an existing emissions unit at the same stationary source, the APCO may allow a maximum of 90 days as a start up period for simultaneous operation of the existing emissions unit and the unit being replaced.
- 3.41 Temporary Replacement Emissions Unit (TREU): an emissions unit which is at a Stationary Source for less than 180 days in any twelve month period and replaces an existing emissions unit which is shut down for maintenance or repair.
- 3.41.1 The Potential to Emit from a TREU must not exceed the Potential to Emit from the existing emissions unit.
  - 3.41.2 If a TREU is used to replace a TREU, the combined time at the Stationary Source for the two TREU shall not exceed a total of 180 days in any twelve-month period.
  - 3.41.3 An emissions unit not removed from the Stationary Source within 180 days is not a TREU.

#### 4.0 Source Requirements

- 4.1 Best Available Control Technology (BACT): BACT requirements shall be triggered on a pollutant-by-pollutant basis and on an emissions unit-by-emissions unit basis. Unless exempted pursuant to Section 4.2, BACT shall be required for the following actions:
  - 4.1.1 Any new emissions unit or relocation from one Stationary Source to another of an existing emissions unit with a Potential to Emit exceeding 2.0 pounds in any one day;
  - 4.1.2 Modifications to an existing emissions unit with a valid Permit to Operate resulting in an Adjusted Increase in Permitted Emissions (AIPE) exceeding 2.0 pounds in any one day;
  - 4.1.3 Any new or modified emissions unit, in a stationary source project, which results in an SB 288 Major Modification or a Federal Major Modification, as defined in this rule.
- 4.2 BACT Exemptions: BACT shall not be required for the following:
  - 4.2.1 CO emissions from a new or modified emissions unit at a Stationary Source with a post project Stationary Source Potential to Emit (SSPE2) of less than 200,000 pounds CO per year;
  - 4.2.2 Cargo Carriers;
  - 4.2.3 For existing facilities, the installation or modification of an emission control technique performed solely for the purpose of compliance with the requirements of District, State or Federal air pollution control laws, regulations, or orders, as approved by the APCO, shall be exempt from Best Available Control Technology for all air pollutants, provided all of the following conditions are met:
    - 4.2.3.1 There shall be no increase in the physical or operational design of the existing facility, except for those changes to the design needed for the installation or modification of the emission control technique itself;
    - 4.2.3.2 There shall be no increase in the permitted rating or permitted operating schedule of the permitted unit;
    - 4.2.3.3 There shall be no increase in emissions from the stationary source that will cause or contribute to any violation of a National Ambient Air Quality Standard, Prevention of Significant Deterioration increment, or Air Quality Related Value in Class I areas; and

4.2.3.4 The project shall not result in an increase in permitted emissions or potential to emit of more than 25 tons per year of NO<sub>x</sub>, or 25 tons per year of VOC, or 15 tons per year of SO<sub>x</sub>, or 15 tons per year of PM-10, or 50 tons per year of CO.

4.2.3.5 The project shall not constitute a federal major modification.

4.2.4 New emissions unit or modification of an existing emissions unit for voluntary reduction in emissions, for the sole purpose of generating emission reduction credits. This exemption applies only to the pollutant for which emission reduction credits are obtained. BACT may be required for other affected pollutants;

4.2.5 Temporary Replacement Emissions Units;

4.2.6 Replacement Emissions Units; or

4.2.7 Transfer of location of emissions units within the same stationary source.

4.3 Adjusted Increase in Permitted Emissions (AIPE) Calculations: Adjusted Increase in Permitted Emissions shall be calculated as

$$AIPE = PE2 - HAPE$$

Where:

- AIPE = Adjusted Increase in Permitted Emissions, pounds per day
- PE2 = the emissions units post project Potential to Emit, pounds per day
- HAPE = the emissions unit's Historically Adjusted Potential to Emit, pounds per day

4.4 Historically Adjusted Potential to Emit (HAPE) Calculations: Historically Adjusted Potential to Emit shall be calculated as

$$HAPE = PE1 \times (EF2 / EF1)$$

Where:

- PE1 = The emissions unit's Potential to Emit prior to modification or relocation
- EF2 = The emissions unit's permitted emission factor for the pollutant after modification or relocation. If EF2 is greater than EF1 then EF2/EF1 shall be set to 1.
- EF1 = The emissions unit's permitted emission factor for the pollutant before the modification or relocation

4.5 Emission Offset Requirements:

4.5.1 If emission offset requirements are triggered pursuant to Section 4.5.3, emission offsets shall be provided for net emissions increases resulting from a project. Offset quantities shall be calculated pursuant to Section 4.7.

4.5.2 For Stationary Sources with a quarterly Potential to Emit which remain constant throughout the year, the amount shall be calculated in pounds per

year. For Stationary Sources with quarterly Potential to Emit that is not constant throughout the year, and for Seasonal Sources the amount shall be calculated in pounds per quarter.

4.5.3 Offset requirements shall be triggered on a pollutant-by-pollutant basis. Unless exempted pursuant to Section 4.6, offsets shall be required if the post-project Stationary Source Potential to Emit (SSPE2) equals or exceeds the following offset threshold levels:

Table 4-1, Emissions Offset Threshold Levels

POLLUTANT	SSPE2 (POUNDS /YEAR)
VOC	20,000
NOx	20,000
CO	200,000
SOx	54,750
PM10	29,200

4.5.4 Offsets shall be required for PM2.5 and PM2.5 precursor emission increases for such increases that constitute new major sources or federal major modifications.

4.6 Emission Offset Exemptions: Emission offsets shall not be required for the following:

4.6.1 Increases in carbon monoxide in attainment areas if the applicant demonstrates to the satisfaction of the APCO, that the Ambient Air Quality Standards are not violated in the areas to be affected, and such emissions will be consistent with Reasonable Further Progress, and will not cause or contribute to a violation of Ambient Air Quality Standards;

4.6.2 Emergency equipment that is used exclusively as emergency standby equipment for electric power generation or any other emergency equipment as approved by the APCO that does not operate more than 200 hours per year for non-emergency purposes and is not used pursuant to voluntary arrangements with a power supplier to curtail power. Equipment exempted by this section shall maintain a written record of hours of operation and shall have permit conditions limiting non-emergency operation;

4.6.3 Portable equipment which is registered as such in accordance with the provisions of Rule 2280 (Portable Equipment Registration) or the Statewide Portable Equipment Registration Program (California Code of Regulation Title 13, Article 5, Sections 2450-2465), or equipment registered in accordance with the provisions of Rule 2250 (Permit-Exempt Equipment Registration).

4.6.4 On-site soil or groundwater decontamination performed by, under the jurisdiction of, or pursuant to the requirements of an authorized health

officer, agricultural commissioner, fire protection officer, or other authorized government officers, provided emissions do not exceed 4,000 pounds per year of any affected pollutant from all emissions units associated with decontamination project;

- 4.6.5 Temporary Replacement Emissions Units.
- 4.6.6 A transfer of location of an entire Stationary Source within the District, under the same owner and provided:
  - 4.6.6.1 The Potential to Emit of any affected pollutant will not be greater at the new location than at the previous location when all emissions units are operated at the same permitted conditions; and
  - 4.6.6.2 BACT is applied to all emissions units with a Potential to Emit exceeding 2.0 pounds per day; and
  - 4.6.6.3 The transferred Stationary Source is not added to an existing Stationary Source.
- 4.6.7 A transfer of location of an emissions unit from one Stationary Source to another within the District, under the same owner and provided:
  - 4.6.7.1 The Potential to Emit of any affected pollutant will not be greater at the new location than at the previous location when all emissions units are operated at the same permitted conditions, and
  - 4.6.7.2 The offsets that would be otherwise required for the unit at the new location have been provided for the emissions unit previously.
- 4.6.8 For existing facilities, the installation or modification of an emission control technique performed solely for the purpose of compliance with the requirements of District, State or Federal air pollution control laws, regulations, or orders, as approved by the APCO, shall be exempt from offset requirements for all air pollutants provided all of the following conditions are met:
  - 4.6.8.1 There shall be no increase in the physical or operational design of the existing facility, except for those changes to the design needed for the installation or modification of the emission control technique itself;
  - 4.6.8.2 There shall be no increase in the permitted rating or permitted operating schedule of the permitted unit;

4.6.8.3 There shall be no increase in emissions from the stationary source that will cause or contribute to any violation of a National Ambient Air Quality Standard, Prevention of Significant Deterioration increment, or Air Quality Related Value in Class I areas; and

4.6.8.4 The project shall not result in an increase in permitted emissions or potential to emit of more than 25 tons per year of NO<sub>x</sub>, or 25 tons per year of VOC, or 15 tons per year of SO<sub>x</sub>, or 15 tons per year of PM-10, or 50 tons per year of CO.

4.6.9 Agricultural Sources, for criteria pollutants for that source if emissions reductions from that source would not meet the criteria for real, permanent, quantifiable, and enforceable emission reductions.

4.6.9.1 In no case shall the offset exemption in Section 4.6.9 apply to an agricultural source that is also a major stationary source for the pollutant for which the offset exemption is sought.

#### 4.7 Emission Offset Quantity Calculations:

4.7.1 For pollutants with a pre-project Stationary Source Potential to Emit (SSPE1) greater than the emission offset threshold levels, emission offsets shall be provided for:

4.7.1.1 All increases in Stationary Source emissions, calculated as the sum of differences between the post-project Potential to Emit (PE2) and the Baseline Emissions (BE) of all new and modified emissions units, plus

4.7.1.2 All increases in Cargo Carrier emissions.

4.7.2 For pollutants with a pre-project Stationary Source Potential to Emit (SSPE1) less than or equal to the offset threshold levels, emission offsets shall be provided for:

4.7.2.1 All increases in Stationary Source emissions above the offset trigger levels, calculated as the difference between the SSPE2 and the offset trigger level, plus

4.7.2.2 All increases in Cargo Carrier emissions.

4.7.3 The quantity of offsets calculated pursuant to Sections 4.7.1 and 4.7.2 shall be multiplied by the appropriate Distance Offset Ratio to determine the final quantity of offsets required.

- 4.7.4 PM10 Emissions: In determining the quantity of required PM10 offsets, the Total Suspended Particulate Matter (TSP) emissions for which full offsets have been previously provided shall not be recalculated as PM10.
- 4.8 Distance Offset Ratio: For offset calculations, the distance offset ratio shall be as shown below:
- 4.8.1 For NOx and VOC offsets for new major sources and federal major modifications, the distance offset ratio shall be 1.5;
- 4.8.2 For PM2.5 and PM2.5 precursor offsets for new major sources and federal major modifications, the offset ratio shall be 1.0;
- 4.8.3 The requirements of Section 4.8.1 shall not apply if the District demonstrates to the satisfaction of the federal Environmental Protection Agency that all major sources of NOx and VOC in the District are equipped with federal BACT, as defined in CAA Section 169(3). After EPA approval of such a demonstration, the standard distance offset ratios listed in Table 4-2 shall apply for new major sources and federal major modifications, except that where the original location of the offsets is at the same stationary source as the new or modified emissions unit, the distance offset ratio shall be 1.2.
- 4.8.4 For all other projects not specified above, the standard distance offset ratio shall be as shown in Table 4-2:

Table 4-2, Standard Distance Offset Ratio

ORIGINAL LOCATION OF EMISSION OFFSETS	OFFSET RATIO
at the same Stationary Source as the new or modified emissions unit	1.0
within 15 miles of the new or modified emissions unit's Stationary Source	1.2 for Non-Major Sources 1.3 for Major Sources
15 miles or more from the new or modified emissions unit's Stationary Source	1.5

- 4.9 Pre-project Stationary Source Potential to Emit (SSPE1) shall be calculated as the sum of the following:
- 4.9.1 The Potential to Emit from all units with valid Authorities to Construct (ATC) or Permits to Operate (PTO) at the Stationary Source.
- 4.9.1.1 For a unit with both a valid ATC and a PTO or a unit with multiple valid ATC, use the ATC or PTO with the highest potential emissions.

- 4.9.1.2 For units subject to an SLC, the Potential to Emit shall be based on the overall Potential to Emit limit for all units covered by the SLC and not the sum of the individual Potential to Emit of each emissions unit.
- 4.9.2 The quantity of emission reduction credits (ERC) which have been banked since September 19, 1991 for Actual Emissions Reductions that have occurred at the source, and which have not been used on-site. This quantity includes all ERC held as certificates and all emission reduction credits that have been sold or transferred. Reductions shall be added to the SSPE1 as positive values.
- 4.10 Post-project Stationary Source Potential to Emit (SSPE2) shall be calculated, on a pollutant-by-pollutant basis, as the sum of the following:
  - 4.10.1 The Potential to Emit from all units with valid Authorities to Construct or Permits to Operate at the Stationary Source, except for emissions units proposed to be shut down as part of a Stationary Source Project.
    - 4.10.1.1 The Potential to Emit of the post-project Authority to Construct will be used for new or modified units, provided that the ATC will include new conditions canceling the existing ATC or PTO for those units, otherwise use the ATC or PTO with the highest potential emissions.
    - 4.10.1.2 For units subject to an SLC, the Potential to Emit shall be based on the overall Potential to Emit limit for all units covered by the SLC and not the sum of the individual Potential to Emit of each emissions unit.
  - 4.10.2 The quantity of emission reduction credits (ERC) which have been banked since September 19, 1991 for Actual Emissions Reductions that have occurred at the source, and which have not been used on-site. This quantity includes all ERC held as certificates and all emission reduction credits that have been sold or transferred. Reductions shall be added to the SSPE2 as positive values.
- 4.11 Calculations involving PM10 emissions
  - 4.11.1 For existing Stationary Sources for which particulate matter emissions have been calculated as Total Suspended Particulate (TSP), the PM10 emissions shall be recalculated from TSP values using PM10 emission factors or speciation data.
  - 4.11.2 In the absence of PM10 emissions factors or speciation data, assume 50% of the total suspended particulates is PM10.

4.11.3 If the applicant has previously provided full offsets for total suspended particulate matter emissions, those total suspended particulate matter emissions need not be recalculated as PM10, for the purpose of determining the quantity of offsets.

4.12 Actual Emissions Reductions (AER) Calculations: Actual Emissions Reductions shall be calculated, on a pollutant-by-pollutant basis, as follows:

$$\text{AER} = \text{HAE} - \text{PE2}$$

Where:

HAE = Historic Actual Emissions

PE2 = Post-project Potential to Emit

4.12.1 Prior to banking, AER shall be discounted by 10 percent (10%) for Air Quality Improvement Deduction, and shall comply with all applicable provisions of Rule 2301 (Emission Reduction Credit Banking).

4.13 Additional Offset Requirements: Offsets obtained subject to this rule shall comply with the following provisions:

4.13.1 Major Source shutdowns or permanent curtailments in production or operating hours of a Major Source may not be used as offsets for emissions from a Major Source, a Federal Major Modification, or an SB 288 Major Modification, unless the ERC, or the emissions from which the ERC are derived, has been included in an EPA-approved attainment plan.

4.13.2 Offsets from another district may be used only if the source of the offsets is within 50 miles of the proposed emissions increases and the APCO has reviewed the permit conditions issued by the district in which the proposed offsets are obtained and certifies that such offsets meet the requirements of this rule and CH&SC Section 40709.6.

4.13.3 Interpollutant offsets:

4.13.3.1 Interpollutant offsets may be approved by the APCO on a case-by-case basis, provided that the applicant demonstrates to the satisfaction of the APCO, that the emission increases from the new or modified source will not cause or contribute to a violation of an Ambient Air Quality Standard. In such cases, the APCO shall, based on an air quality analysis, impose offset ratios equal to or greater than the requirements of this rule.

4.13.3.1.1 In no case shall exempt compounds or the other compounds excluded from the definition of VOC be used as offsets for VOC.

4.13.3.1.2 Interpollutant offsets between PM10 and PM10 precursors may be allowed.

- 4.13.3.1.3 PM10 emissions shall not be allowed to offset NOx or reactive organic compound emissions in ozone nonattainment areas, nor be allowed to offset SO2 emissions in sulfate nonattainment areas.
- 4.13.3.1.4 Interpollutant offsets between NOx and VOC may be allowed.
- 4.13.3.2 Interpollutant offsets between PM2.5 and PM2.5 precursors are allowed at specific ratios as established by US EPA, or as approved into the State Implementation Plan by the US EPA.
- 4.13.4 Actual Emissions Reductions (AER) used as offsets must have occurred during the same calendar quarter as the emissions increases being offset except as allowed pursuant to Sections 4.13.6 through 4.13.9.
- 4.13.5 AER used as offsets for a Seasonal Source must have occurred during the same time period as the proposed source will operate except as allowed pursuant to Sections 4.13.6 through 4.13.9.
- 4.13.6 AER used as offsets for a biomass-fired power facility may have occurred during any quarter.
- 4.13.7 AER for PM that occurred from October through March, inclusive, may be used to offset increases in PM during any period of the year.
- 4.13.8 AER for NOx and VOC that occurred from April through November may be used to offset increases in NOx and VOC during any period of the year.
- 4.13.9 AER for CO that occurred from November through February may be used to offset increases in CO during any period of the year.
- 4.13.10 AER used as offsets for new and modified Major Sources must be obtained from an area:
  - 4.13.10.1 That has a nonattainment classification that is equal to or higher than the area in which the new or modified Major Source is located, and
  - 4.13.10.2 Where emissions contribute to a violation of a national Ambient Air Quality Standard in the area in which the new or modified Major Source is located.
- 4.13.11 Offsets required as a condition of an Authority to Construct or a Permit to Operate shall commence not later than the date of initial operation of the new or modified emissions unit.

- 4.13.11.1 If the new or modified emissions unit is, in whole or in part, a replacement for an existing emissions unit at the same stationary source, the APCO may allow a maximum of 90 days as a start up period for simultaneous operation of the existing emissions unit and the unit being replaced.
  - 4.13.12 Nothing in this rule shall be construed as requiring ERC used as NSR offsets to be discounted at time of use, except for the additional offsets as required by Sections 4.8, 4.13.3, and as described in Section 7.0.
- 4.14 Ambient Air Quality Standards:
  - 4.14.1 Emissions from a new or modified Stationary Source shall not cause or make worse the violation of an Ambient Air Quality Standard. In making this determination, the APCO shall take into account the increases in minor and secondary source emissions as well as the mitigation of emissions through offsets obtained pursuant to this rule. Modeling used for the purposes of this rule shall be consistent with the requirements contained in the most recent edition of EPA's "Guideline on Air Quality Models" unless the APCO finds such model is inappropriate for use. After making such a finding, the APCO may designate an alternative model only after allowing for public comments and only with the concurrence of the ARB or the EPA.
    - 4.14.1.1 At the discretion of the APCO, a new or modified source which is not subject to the public noticing requirements of Section 5.4 shall be exempted from the requirements of Section 4.14.1.
- 4.15 Additional Requirements for new Major Sources and Federal Major Modifications
  - 4.15.1 Alternative siting: For those sources for which an analysis of alternative sites, sizes, and production processes is required under Section 173 of the Federal Clean Air Act, the applicant shall prepare an analysis functionally equivalent to the requirements of Division 13, Section 21000 et. seq. of the Public Resources Code.
  - 4.15.2 Compliance by Other Owned, Operated, or Controlled Source: The owner of a proposed new Major Source or federal major modification shall demonstrate to the satisfaction of the APCO that all major Stationary Sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in California which are subject to emission limitations are in compliance or on a schedule for compliance with all applicable emission limitations and standards.

## 5.0 Administrative Requirements

The administrative requirements of Sections 5.1 through 5.7, inclusive, shall be applied to all applications for a new or modified emissions unit except for 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. For such power plants, the administrative requirements of Section 5.8 shall apply.

- 5.1 Complete Application: The APCO shall determine whether the application is complete not later than 30 days after receipt of the application, or after such longer time as both the applicant and the APCO may agree.
  - 5.1.1 If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information required. Upon receipt of any resubmittal of the application, a new 30-day period to determine completeness shall begin.
  - 5.1.2 Completeness of an application or resubmitted application shall be evaluated on the basis of the information requirements set forth in the District Rules and Regulations as they exist on the date on which the application or resubmitted application is received.
  - 5.1.3 Upon determination that the application is complete, the APCO shall notify the applicant in writing.
  - 5.1.4 The APCO may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.
- 5.2 Preliminary Decision: Following acceptance of an application as complete, the APCO shall perform the evaluations required to determine compliance with this rule and make a preliminary written decision as to whether an Authority to Construct should be approved, conditionally approved, or disapproved.
  - 5.2.1 The APCO shall deny any Authority to Construct if the APCO finds that the subject of the application would not comply with the standards set forth in this rule or any other District rule.
  - 5.2.2 The decision shall be supported by a succinct, written analysis.
- 5.3 Final Action: Within 180 days after acceptance of an application as complete, or within 180 days after the lead agency has approved the project under the California Environmental Quality Act, whichever occurs later, the APCO shall take final action on the application after considering all written comments.
- 5.4 Public Notification and Publication Requirements: The APCO shall provide public notification and publication for the following types of applications:

- 5.4.1 New Major Sources, Federal Major Modifications, and SB 288 Major Modifications.
- 5.4.2 Applications which include a new emissions unit with a Potential to Emit greater than 100 pounds during any one day for any one affected pollutant;
- 5.4.3 Modifications that increase the Stationary Source Potential to Emit (SSPE1) from a level below the emissions offset threshold level to a level exceeding the emissions offset threshold level for one or more pollutants;
- 5.4.4 New Stationary Sources with post-project Stationary Source Potential to Emit (SSPE2) exceeding the emissions offset threshold level for one or more pollutants;
- 5.4.5 Any permitting action resulting in a Stationary Source Project Increase in Permitted Emissions (SSIPE) exceeding 20,000 pounds per year for any one pollutant.
- 5.5 Public Notification and Publication Actions: For the types of applications listed in Section 5.4, the APCO shall perform the following actions:
  - 5.5.1 Within ten (10) calendar days following the preliminary decision the APCO shall publish in at least one newspaper of general circulation in the District a notice stating the preliminary decision, noting how pertinent information can be obtained, and inviting written public comment for a 30 day period following the date of publication.
  - 5.5.2 No later than the date of publication, the APCO shall transmit to the applicant its preliminary written decision, the analysis, and a copy of the notice submitted for publication.
  - 5.5.3 No later than the date of publication, the APCO shall transmit to the ARB and to any person who requests such information, its preliminary written decision, the analysis, and a copy of the notice submitted for publication. For new Major Sources, Federal Major Modifications, and SB 288 Major Modifications, the APCO shall also transmit the preliminary written decision and supporting documents to the EPA.
  - 5.5.4 No later than the time the notice of the preliminary decision is published, the APCO shall make available for public inspection at the District office the information submitted by the applicant and the analysis.
  - 5.5.5 The APCO shall provide written notice of the final action to the applicant, and the ARB, and shall publish such notice in a newspaper of general circulation, except that for an application not subject to Section 5.4, the APCO shall not be subject to this section. In such a case, the applicant shall receive notification as provided in Rule 2040 (Applications). For new Major Sources, Federal Major Modifications, and SB 288 Major

Modifications, the APCO shall also transmit written notice of the final action to the EPA.

5.5.6 No later than the time of notice of final action is published, the APCO shall make available for public inspection at the District office a copy of the notice submitted for publication and all supporting documents.

## 5.6 Authority to Construct (ATC) - General Conditions

5.6.1 An ATC shall not be issued unless the new or modified source complies with the provisions of this rule and all other applicable District Rules and Regulations.

5.6.2 An ATC shall require that the new or modified source be built according to the specifications and plans contained in the application.

5.6.3 An ATC shall include all those conditions which the APCO deems necessary to assure construction and operation in the manner assumed in making the analysis to determine compliance with this rule.

5.6.4 An ATC shall include all those conditions relating to the satisfaction of the offset requirements of this rule.

5.6.5 An ATC issued for an emissions unit that relies on reduction in emissions from other units included in the Stationary Source Project, must include a condition that requires initiating and completing construction on those units that provide the reduction prior to commencing operation of the unit with increase in emissions.

5.6.5.1 If the new or modified emissions unit is, in whole or in part, a replacement for an existing emissions unit at the same stationary source, the APCO may allow a maximum of 90 days as a start up period for simultaneous operation of the existing emissions unit and the unit being replaced.

## 5.7 Permit to Operate (PTO) - General Conditions

5.7.1 A PTO shall require that the new source or modification be operated in the manner assumed in making the analysis to determine compliance with this rule and as conditioned in the Authority to Construct.

5.7.2 A PTO shall include daily emissions limitations and other enforceable conditions which reflect applicable emission limits including the offset requirements.

5.7.3 The APCO shall determine if the applicant has complied with all the conditions in the ATC. The APCO may allow conditions which have not been met at the time the PTO is issued to be incorporated into the Permit to

Operate, provided that compliance with that condition is demonstrated by a specified date.

5.7.4 Any source which provides offsets shall be subject to enforceable permit conditions containing specific operational and emissions limitations, which ensure that the emissions reductions will be provided in accordance with the provisions of this rule and shall continue for the reasonably expected life of the proposed source. Where the source of offsets is not subject to a permit, a written contract shall be required between the applicant and the owner of such source, which contract, by its terms, shall be enforceable by the APCO. The permit and contract shall be submitted to the ARB to be forwarded to the EPA as part of the State Implementation Plan. A violation of the emission limitation provisions of any such contract shall be chargeable to the applicant.

5.7.5 Offsets required as a condition of an ATC or a PTO shall commence not later than the date of initial operation of the new or modified source,

5.7.5.1 If a new or modified Stationary Source is, in whole or in part, a replacement for an existing Stationary Source on the same or contiguous property the APCO may allow a maximum of 90 days as a start up period for simultaneous operation of the existing Stationary Source and the new or replacement source.

5.8 Power plants which will be licensed by the California Energy Commission: The administrative requirements of this section shall be applied 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 APCO may apply for reimbursement of all costs incurred, including lost fees, in order to comply with the provisions of this section.

5.8.1 Intent to Participate and Preliminary Report: Within 14 days of receipt of a NOI, the APCO shall notify the ARB and the California Energy Commission of the APCO's intent to participate in the NOI proceeding. If the APCO chooses to participate in the NOI proceeding, the APCO shall prepare and submit a report to the ARB and the California Energy Commission prior to the conclusion of the nonadjudicatory hearings specified in Section 25509.5 of the Public Resources Code. The report shall include at least:

5.8.1.1 A preliminary specific definition of BACT for the proposed facility.

5.8.1.2 A preliminary discussion of whether there is substantial likelihood that the requirements of this rule and all other District rules can be satisfied by the proposed facility.

- 5.8.1.3 A preliminary list of conditions which the proposed facility must meet in order to comply with this rule or any other applicable District rules. The preliminary determinations contained in the report shall be as specific as possible within the constraints of the information contained in the NOI.
- 5.8.2 Equivalency of Application for Certification to Application for Authority to Construct: The APCO shall consider an Application for Certification (AFC) to be equivalent to an application for an Authority to Construct, and subject, as such, to all definitions and requirements of this rule.
- 5.8.3 Upon receipt of an AFC for a power plant, the APCO shall conduct a Determination of Compliance review. This review shall determine whether an AFC is complete, and within 20 calendar days of receipt of the AFC, the APCO shall so inform the California Energy Commission and the applicant in writing.
  - 5.8.3.1 If the APCO determines that the application is not complete, the information required shall be specified, and the AFC shall be returned to the applicant for resubmittal. Upon receipt of any resubmittal of the application, a new 20 day period to determine completeness shall begin.
  - 5.8.3.2 Completeness of an application or resubmitted application shall be evaluated on the basis of the information requirements set forth in District Rules and Regulations as they exist on the date on which the application or resubmitted application is received.
- 5.8.4 The APCO may request from the applicant any information necessary for the completion of the Determination of Compliance review. If the APCO is unable to obtain the information, the APCO may petition the presiding Commissioner of the California Energy Commission for an order directing the applicant to supply such information.
- 5.8.5 Within 180 days of accepting an AFC as complete, the APCO shall make a preliminary written decision as to whether a Determination of Compliance Certification should be approved, conditionally approved, or disapproved. The APCO shall deny any Determination of Compliance Certification if the APCO finds that the subject of the application would not comply with the standards set forth in this rule or any other District rule. The decision shall be supported by a succinct, written analysis.
- 5.8.6 Notification and Publication actions shall be conducted according to the requirements of Section 5.5.
- 5.8.7 Within 240 days after acceptance of an application as complete, the APCO, after considering all written comments, shall take final action on the application, which action shall consist of the following:

5.8.7.1 The APCO, if all requirements of this rule are met, shall issue and submit to the California Energy Commission a Determination of Compliance, or advise the Commission that a Determination of Compliance cannot be issued.

5.8.7.2 Public inspection of final action documents shall be provided for in accordance with Section 5.5.6

5.8.8 Equivalency of Determination of Compliance to Authority to Construct: A Determination of Compliance shall confer the same rights and privileges as an Authority to Construct provided that the California Energy Commission approves the Application for Certification and the certificate granted by the Commission includes all conditions of the Determination of Compliance.

5.8.9 The APCO shall issue a Permit to Operate to any applicant receiving a certificate from the California Energy Commission pursuant to this rule provided that the construction or modification is in compliance with all conditions of the certificate and of the Determination of Compliance, and provided that the Permit to Operate includes the conditions prescribed in Section 5.7.

## 5.9 Enhanced Administrative Requirements

Application for a certificate of conformity with the procedural requirements of 40 CFR Part 70 shall be subject to the following enhanced administrative requirements in addition to any other applicable administrative requirements of Section 5.0:

### 5.9.1 New Sources and Significant Permit Modifications

5.9.1.1 Public Notification: The APCO shall provide a written notice of the proposed permit and, upon request, copies of the APCO analysis to interested parties. Interested parties shall include affected states, ARB and persons who have requested in writing to be notified. The notice shall also be given by publication in a newspaper of general circulation in the District and by any other means if necessary to assure adequate notice to the affected public. The public shall be given 30 days from the date of publication to submit written comments on the APCO's proposed action.

5.9.1.2 The notice shall provide the following information:

5.9.1.2.1 The identification of the source, the name and address of the permit holder, the activities and emissions change involved in the permit action;

- 5.9.1.2.2 The name and address of the APCO, the name and telephone number of District staff to contact for additional information;
  - 5.9.1.2.3 The availability, upon request, of a statement that sets forth the legal and factual basis for the proposed permit conditions;
  - 5.9.1.2.4 The location where the public may inspect the Complete Application, the APCO's analysis, the proposed permit, and all relevant supporting materials;
  - 5.9.1.2.5 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
  - 5.9.1.2.6 A statement that members of the public may request the APCO or his designee to preside over a public hearing for the purpose of receiving oral public comment, if a hearing has not already 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;
- 5.9.1.3 The APCO shall provide written response 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 kept on file at the District office and made available upon request.
- 5.9.1.4 A copy of the Complete Application, the APCO's analysis and the proposed permit shall be made available at District offices for public review and comment during normal business hours. The APCO's 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.
- 5.9.1.5 The APCO shall provide written notice to the EPA of the proposed decision along with copies of the proposed permit, the APCO's analysis, the public notice submitted for publication, and all necessary supporting information.
- 5.9.1.6 If the EPA does not object pursuant to Section 5.9.1.9, the APCO shall issue the final permit.
- 5.9.1.7 If the EPA does not object in writing to the APCO's preliminary decision during the EPA's 45 day review period, any person may

petition the EPA within 60 days after the expiration of the EPA's 45 day review period. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates to the EPA that it was impracticable to raise such objections within such period, or unless grounds for such objections arose after such period. Petitions shall be based on the compliance of the permit provisions with applicable requirements.

5.9.1.8 Within 180 days after acceptance of an application as complete, or within 180 days after the lead agency has approved the project under the California Environmental Quality Act, whichever occurs later, the APCO shall take final action on the application after considering all written comments.

5.9.1.9 The APCO shall not issue a permit if the EPA objects to its issuance in writing within 45 days of receipt of the APCO's notice of preliminary decision on the proposed permit.

5.9.1.9.1 Any EPA objection shall include a statement of the EPA's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections. The EPA shall provide the permit applicant a copy of the objection.

5.9.1.9.2 If the APCO fails, within 90 days after the date of EPA's objection, or within 180 days from the date the application was deemed complete plus any extension allowed by the state law, whichever is sooner, to revise and submit a proposed permit in response to the objection, the APCO shall not issue a certification on conformity to Title V.

5.9.1.9.3 If the EPA objects to the permit as a result of a public petition, the APCO shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the APCO has issued a permit prior to receipt of an EPA objection, the EPA will modify, terminate, or revoke such permit, and shall do so consistent with procedures in Section 70.7(g)(4) or (5)(i) and (ii) of the 40 CFR regulations, and the APCO may thereafter reissue only a revised permit that satisfies EPA objection.

5.9.1.9.4 EPA objection shall be limited to compliance with applicable requirements and the requirements of 40 CFR Part 70.

## 5.9.2 Minor Permit Modifications

5.9.2.1 Within 5 working days after the receipt of a Complete Application for a minor permit modification, the APCO shall provide notification of the proposed permit modification to the EPA, affected states, and interested parties pursuant to Section 5.9.1.1.

5.9.2.2 The APCO shall not issue a final permit modification until after a 45-day period review of the proposed permit modification by EPA or until EPA has notified the APCO that EPA will not object to issuance of the permit modification, whichever is first.

5.9.2.3 Within 90 days after APCO's receipt of an application for a minor permit modification or 15 days after the end of the EPA's 45-day review, whichever is later, the APCO shall do one of the following:

5.9.2.3.1 Issue the permit as proposed;

5.9.2.3.2 Deny the permit modification application;

5.9.2.3.3 Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed pursuant to the administrative requirements for significant permit modifications; or

5.9.2.3.4 Revise the draft permit modification and transmit the new proposed permit modification to EPA and the affected states.

## 6.0 Certification of Conformity

A new or modified source subject to the requirements of Rule 2520 may choose to apply for a certificate of conformity with the procedural requirements of 40 CFR Part 70. A certification of conformity will allow changes authorized by the Authority to Construct to be incorporated into the Part 70 permit as administrative permit amendments.

6.1 The APCO will issue a written certificate of conformity with the procedural requirements of 40 CFR 70.7 and 70.8, and with the compliance requirements of 40 CFR 70.6(8)(c), if the following conditions are met:

6.1.1 The Authority to Construct is issued in conformance with the Enhanced Administrative Requirements of this rule;

- 6.1.2 The content of the Authority to Construct issued by the APCO complies with the requirements set forth in Section 9.0 of District Rule 2520 (Federally Mandated Operating Permits);
  - 6.1.3 An application for a certificate of conformity with the requirements of 40 CFR Part 70 is submitted with the application for Authority to Construct. The content of application for the certificate of conformity must comply with the requirements of Sections 7.1 of District Rule 2520 (Federally Mandated Operating Permits);
  - 6.1.4 The Authority to Construct contains a statement of conformity with the requirements of Title V and 40 CFR Part 70;
  - 6.1.5 EPA has not objected to the issuance of the Authority to Construct, or EPA's objections have been resolved to the satisfaction of EPA administrator; and
  - 6.1.6 The Part 70 operating permit being issued will contain the federally enforceable requirements contained in the Authority to Construct.
  - 6.2 The certificate of conformity with the procedural requirements of 40 CFR Part 70 is valid as long as the Authority to Construct with which it was issued is valid.
  - 6.3 Modifications to an Authority to Construct for which a certificate of conformity has been issued are subject to the administrative requirements of Section 11.0 of District Rule 2520 that apply to permit modifications and changes, as well as the requirements of all District Rules that apply to modifications of Authorities to Construct.
- 7.0 Annual Offset Equivalency Demonstration and Pre-baseline ERC Cap Tracking System
- 7.1 Offset Tracking System
    - The APCO shall implement a system for tracking the following for each permitting action:
      - 7.1.1 The quantity of offsets that would have been required for new major sources and federal major modifications in the District had the federal new source review requirements, codified in 40 CFR 51.165, and Title I part D of the Clean Air Act (CAA), been applied to these sources. These requirements include offsetting the full emissions increase from new and modified major sources, using actual emissions baselines when required under 40 CFR 51.165, and providing offsets necessary to meet the CAA offset ratio requirements and provide a net air quality benefit.
      - 7.1.2 The quantity of offsets actually required for all new and modified sources in the District pursuant to the requirements of this rule, and, for the purposes

of the Pre-baseline ERC Cap Tracking System outlined in any District-adopted and EPA-approved attainment plan.

- 7.1.3 The surplus value of creditable emission reductions used as offsets by stationary sources.
  - 7.1.3.1 The surplus value shall be determined at the time of ATC issuance for the sources using the emission reductions to satisfy offset requirements of this rule.
  - 7.1.3.2 The determination of surplus value shall specify all requirements that apply to the offsets being reviewed, the methodology used to calculate the impact of these requirements, and all calculations performed in arriving at the final surplus value.
- 7.1.4 For purposes of the requirements of Section 7.0, surplus value shall be defined as the quantity of actual emission reductions achieved by a source in excess of the following requirements:
  - 7.1.4.1 Any emission reduction required by a stand-alone federal requirement or regulation, including, but not limited to, Acid Rain, New Source Performance Standard, Reasonably Available Control Technology, and Maximum Achievable Control Technology, whether or not the requirements are part of the State Implementation Plan (SIP) or a local attainment plan.
  - 7.1.4.2 Any emission reduction relied upon by a permitting authority for attainment purposes, such as through an attainment plan, including emission reductions relied upon for Reasonable Further Progress calculations.
  - 7.1.4.3 Any emission reduction achieved by shutting down an existing source or curtailing production or operating hours below baseline levels whose original emission is not included in the District's emission inventory.
  - 7.1.4.4 Any emission reduction based on a source-specific or source category-specific SIP provision used to comply with CAA requirements.
  - 7.1.4.5 Any emission reduction required by a condition of a permit issued to comply with CAA New Source Review requirements, except that any emission reduction required by a permit condition, which was placed on a permit solely to assure compliance with a state or local requirement, which is not on its own federally enforceable, shall not be included in this class.

7.1.4.6 Any emission reduction based on a source-specific emission limitation resulting from an EPA enforcement case.

7.1.5 For purposes of the requirements of Section 7.0, creditable shall be defined as emission reductions are real, surplus, quantifiable, enforceable and permanent. The creditability of a given emission reduction may be subject to review by the EPA.

## 7.2 Annual Demonstration Report

The APCO shall annually prepare a report with the following demonstrations to be provided to the public, the ARB and the EPA in accordance with the dates specified in Section 7.3. The District shall also make available to the public, the ARB and the EPA the data used to prepare the demonstrations.

### 7.2.1 Demonstration on Equivalency of Offset Requirements

7.2.1.1 The report shall include a comparison of the annual quantity of federal offsets that would have been required (as tracked pursuant to Section 7.1.1) to the annual quantity of offsets actually required under this rule, including any excess offsets required from previous reporting years (as tracked pursuant to Section 7.1.2).

7.2.1.2 The report shall also describe any additional emission reductions retired to address a shortfall in required offsets as specified in Section 7.4.1.1. Such description shall, at a minimum, specify the emission reductions used and the surplus value of those reductions. The surplus value of these reductions may also be used in demonstrating equivalency under Section 7.2.2

### 7.2.2 Demonstration on Creditability of Emission Reductions

7.2.2.1 The report shall include a comparison of the annual quantity of federal offsets that would have been required (as tracked pursuant to Section 7.1.1) to the surplus value of creditable emission reductions used as offsets during the year (as tracked pursuant to Section 7.1.3).

7.2.2.2 For purposes of the demonstration described in Section 7.2.2, the comparison may also include the surplus value of additional creditable emission reductions that have not been used as offsets and have been banked or have been generated as a result of permitting actions. The surplus value of these reductions may also be used to remedy any shortfall as specified under Section 7.4.1.1.

7.2.2.2.1 The surplus value of these additional credits shall be determined as of the date of the issuance of the

Authority to Construct utilizing such reductions in demonstration described in this subsection.

7.2.2.2.2 Any such additional emission reductions used in this demonstration shall be permanently retired and shall not be used to meet any offset or netting requirements and shall not be used in future demonstrations required by Section 7.0.

7.2.2.2.3 Additional emission reductions described in Section 7.2.2.2 shall only be included in the comparison to the extent the annual quantity of federal offsets that would have been required (as tracked pursuant to Section 7.1.1) exceeds the surplus value of creditable emission reductions used as offsets (as tracked pursuant to Section 7.1.3).

7.2.2.2.4 Any additional emission reductions described in Section 7.2.2.2 that are not included in the demonstration required by this subsection, may be used in future demonstrations in accordance with this subsection.

### 7.3 Reporting Schedule

7.3.1 The report shall cover the period August 20 to August 19 of each year. For the Initial report, the District shall track offset requirements for new and modified sources for which a complete application for Authority to Construct was submitted after August 20, 2001. Additional emission reductions, other than banked emission reductions, may be used in the equivalency demonstration only if the reduction occurred after August 20, 2001

7.3.2 For each reporting period, the APCO shall submit the report and data described in Section 7.2 to ARB and the EPA no later than November 20 of each year. In addition, the APCO shall release the report to the public and shall present it to the District Governing Board, each year, at the first Board meeting following its submittal to the EPA.

7.3.3 All documents created and/or used in implementing the requirements of Section 7.0 shall be kept and maintained by the APCO for no less than five years from the date of their creation and/or use.

## 7.4 Remedy for Emission Offset Shortfalls

### 7.4.1 Failure to Demonstrate Equivalency in Offset Requirements

7.4.1.1 If the comparison described in Section 7.2.1 does not show, or EPA determines the comparison erroneously shows, that the annual quantity of offsets actually required under this rule (as tracked pursuant to Section 7.1.2) equals or exceeds the annual quantity of federal offsets that would have been required (as tracked pursuant to Section 7.1.1), the District shall retire additional creditable emission reductions that have not been used as offsets and have been banked or have been generated as a result of permitting actions such that the surplus value of these emission reductions satisfies any shortfall.

7.4.1.1.1 The surplus value of these additional credits shall be determined as of the date of the issuance of the Authority to Construct utilizing such reductions in demonstration described in this subsection.

7.4.1.1.2 Any such additional emission reductions used in this demonstration shall be permanently retired and shall not be used to meet any offset or netting requirements and shall not be used in future demonstrations required by Section 7.0.

7.4.1.2 If the District does not have sufficient additional creditable emission reductions to satisfy the shortfall described in 7.4.1.1, all ATCs issued after the report deadline for that year shall comply with the offset requirements of 40 CFR 51.165, and part D of Title I of the CAA, for each pollutant for which there is a shortfall, until the applicability and offset requirements of this rule are revised to comply with the federal new source review requirements and approved into the SIP by EPA.

7.4.1.3 If the APCO fails to submit a report meeting the requirements of Section 7.2.1, all ATC issued after the report deadline and until the APCO submits to ARB, EPA and the public a report complying with the requirements of Section 7.2.1 shall comply with the offset requirements of 40 CFR 51.165, and part D of Title I of the CAA.

### 7.4.2 Failure to Demonstrate Adequate Creditable Emission Reductions

7.4.2.1 If the comparison described in Section 7.2.2 does not show, or EPA determines the comparison erroneously shows, that the surplus value of creditable emission reductions used as offsets during the year (as tracked pursuant to Section 7.1.3) combined

with additional emission reductions as described in Section 7.2.2.2 equals or exceeds the annual quantity of federal offsets that would have been required (as tracked pursuant to Section 7.1.1), all ATCs issued, for new major sources or federal major modifications, for each pollutant for which there is a shortfall, after the report deadline shall ensure that emission reductions used to satisfy offset requirements are creditable and that the surplus value of those credits is determined at the time of ATC issuance.

7.4.2.2 The requirements of Section 7.4.2.1 shall remain in effect until this rule is revised to require offset discounting at time of use and such revision is approved into the SIP by EPA, or until a subsequent annual report prepared in accordance with Section 7.2.2 demonstrates that the surplus value of creditable emission reductions used as offsets (as tracked pursuant to Section 7.1.3) combined with additional emission reductions as described in Section 7.2.2.2 equals or exceeds the annual quantity of federal offsets that would have been required (as tracked pursuant to Section 7.1.1).

7.4.2.3 If the APCO fails to submit a report meeting the requirements of Section 7.2.2, all ATCs issued for new major sources or federal major modifications after the report deadline and until the APCO submits to ARB, EPA and the public a report complying with the requirements of Section 7.2.1 shall ensure that emission reductions used to satisfy offset requirements are creditable and that the surplus value of those credits is determined at the time of ATC issuance.

## 7.5 Pre-Baseline ERC Usage Caps from District Attainment Plans

7.5.1 ERCs that were banked prior to the baseline year for a given District-adopted and EPA-approved Attainment Plan shall not be used to offset emissions increases under the provisions of this rule if the usage of such credits during the effective period of the plan exceeds the respective pollutant's Pre-Baseline ERC Usage Cap in the plan.

7.5.2 Such caps on pre-baseline ERC usage remain in effect until the end of the plan's effective period, or until such time as EPA approves revised caps through an Attainment Plan revision process or a Rate of Progress update.

## 8.0 Application Shield for Replacement Emissions Units and Temporary Replacement Emissions Units (TREUs)

8.1 For a Replacement Emissions Unit or a TREU for which an Authority to Construct is required, the permitted source may continue to operate under an application shield, provided that all of the following conditions are met.

- 8.1.1 An application for the Replacement Emissions Unit or TREU has been submitted within seven calendar days of completing the construction or installation of the replacement.
- 8.1.2 The source operates in compliance with all applicable requirements of the federal, state, and District rules and regulations.
- 8.1.3 For a TREU, all of the following conditions must be met:
  - 8.1.3.1 The TREU results in no increase in design capacity, unless a replacement unit of the same or lower design capacity is not available, in which case the replacement can result in a design capacity increase of up to 10%.
  - 8.1.3.2 The TREU results in no change to the permitted throughput or emission limits due to a change in the design capacity as part of the replacement.
  - 8.1.3.3 The TREU performs the same function as the equipment being replaced.
  - 8.1.3.4 The TREU either is addressed by a BARCT rule or is equipped with a control device capable of at least 85% emission control.
- 8.2 When the application has been deemed complete by the APCO, the application shield shall be made effective retroactive from the date of application submittal until the application is either approved or denied.
  - 8.2.1 The application shield is not applicable if the District's final action is delayed due to the failure of the applicant to submit timely information requested by the District. The source must also submit additional information for any requirements that become applicable after a complete application is submitted, but before a PTO is issued.
- 8.3 The application shield does not exempt the operator from any applicable requirements.
- 8.4 The application shield applies only to applications for Replacement Emissions Units, and TREUs meeting the requirements of 8.1.3.1 through 8.1.3.4, and does not authorize any increases to the permitted throughput or emissions due to a change in design capacity as part of a Replacement Emissions Unit or a TREU.
- 8.5 For replacements at major sources, the application shield applies only to Replacement Emissions Units that result in no significant emissions increase according to the applicability calculations of 40 CFR 51.165(a)(2)(ii)(C), "Actual-to-projected actual applicability test for projects that only involve existing emissions units". For the purposes of this section, a Replacement Emissions Unit is an existing emissions unit. A copy of the emission calculations used to determine

that the Replacement Emissions Unit did not result in a significant emissions increase must be included with the application required by Section 8.1.1.

- 8.6 For a TREU that is removed from the Stationary Source within seven calendar days of completing the installation of the TREU, the application requirements of Section 8.1.1 shall not apply, provided the permittee submits, within seven calendar days of completing the installation of the TREU, a report to the District demonstrating compliance with the requirements of Section 8.

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