

San Joaquin Valley Air Pollution Control District

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DATE: December 19, 2002

TO: SJVUAPCD Governing Board

FROM: 
David L. Crow, Executive Director/APCO
Project Coordinator: Seyed Sadredin

RE: **ADOPT PROPOSED AMENDMENTS TO RULE 2020
(EXEMPTIONS) AND RULE 2201 (NEW AND MODIFIED
STATIONARY SOURCE REVIEW RULE).**

RECOMMENDATION:

Adopt proposed amendments to Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule). As for Rule 2020, section 4.5 relating to permit exemption for agricultural sources, staff recommends option B. Authorize the Chair to sign the attached resolution.

BACKGROUND:

New Source Review (NSR) is the cornerstone of the District's permitting program. Rule 2201 (New and Modified Stationary Source Review Rule) provides the main mechanism by which applications for proposed new sources and modifications to existing sources are evaluated. The purpose of NSR is to provide the regulatory mechanism to allow continued industrial growth while minimizing the amount of emission increases from this growth.

Effective August 20, 2001, after several years of negotiations with the District, EPA granted interim approval of the NSR program. This interim approval allowed the District to use several new program provisions, such as more flexibility in the use of Emission Reduction Credits (ERCs) and enhanced NSR review, which were designed to make the permitting process less burdensome for both affected industry and the District. The interim approval was granted by EPA in the form of a "limited approval - limited disapproval" citing three

deficiencies that had to be corrected before EPA could grant full approval of the rule.

To correct the deficiencies, the EPA requires the following:

1. The District must remove the agricultural exemption from District Rule 2020.
2. The District must revise Rule 2201 to ensure that all sources meet the Lowest Achievable Emission Rate (LAER) if they are allowed to make a significant increase in their actual emission rate.
3. The District must revise Rule 2201 to provide a mandatory and enforceable remedy to cure any annual shortfall and, in the future, prevent shortfalls in the District's New Source Review Offset Equivalency Tracking System.

To avoid federal sanctions, the District must correct the above deficiencies no later than February 20, 2003.

The language changes required to address the deficiencies and obtain final approval of the District NSR program are included in the proposed amendments to Rules 2020 and 2201. Some of the language changes are based on last-minute negotiations with the EPA. To allow time for public review and comment on the significant changes, the changes were presented at the November 14, 2002 public hearing but final action was deferred until the December 19, 2002 when that hearing will be continued.

Since the Governing Board meeting in November, based on discussions with EPA several additional minor language changes to Rule 2201 are also proposed. These changes clarify the rule and are not deemed to be significant.

DISCUSSION:

A. Rule 2020 (Exemptions):

Rule 2020 (Exemptions), specifies the less significant emission units which are exempt from permits and those sources which are precluded from the District's permitting authority.

The major amendments to Rule 2020, as proposed, would include the following:

- 1) The first of the three deficiencies noted in the limited approval document was that the permit exemption in Rule 2020 for agricultural operations does not meet federal NSR program requirements.

- The District is currently precluded by state law (California Health and Safety Code 42310(e)) from permitting agricultural sources. To prevent a potential conflict between District regulations and state law, the rule contains a limited exemption for agricultural sources. Such sources are only exempt to the extent allowed by state law, compared to the prior exemption which did not have that limitation. The District believed that this more narrowly written exemption will address EPA's concerns without conflicting with state law.
 - Should the state law be amended in the future, the rule would automatically reflect such amendments without the need for further rule changes. Any affected sources would have the standard compliance period to comply with the loss of exemption.
 - On October 14, 2002, the District further revised the exemption language in Section 4.5 to give the Governing Board the choice to either A) add additional language explicitly rescinding the section upon a change in state law, or B) deleting the exemption entirely. Deleting the section entirely should meet Federal requirements but would have no practical difference from the first option since state law still precludes the District from permitting agricultural sources. District staff recommend option B which removes the agricultural exemption from Rule 2020.
- 2) Other minor amendments are being proposed to improve clarity of the rule and correct problems discovered with the current language.
- 3) No changes were proposed to this rule since the October 14, 2002 version. A decision to adopt the proposed rule was postponed until December 19, 2002.

B. Rule 2201 (New and Modified Stationary Source Review Rule):

New Source Review (NSR) is the centerpiece of the District's permitting program. It's primary purpose is to minimize emissions associated with new growth, The District's NSR program is designed to meet the state and Federal NSR requirements for non-attainment areas. The District NSR Rule (Rule 2201) applies to new and modified stationary sources which emit NOx, CO, VOC, SOx, PM10 and other pollutants subject to District permit requirements pursuant to District Rule 2010 (Permits Required).

The major amendments to Rule 2201, as proposed, include the following:

- 1) The second of the three deficiencies noted in the limited approval document was that the Rule 2201 requirements for Best Available Control Technology (BACT) may not be triggered for all Title I modifications. Although the de minimus value

for BACT is well below the federal trigger, EPA commented in their limited disapproval finding that there was the small possibility that a Title I modification could occur without BACT being triggered under the District's NSR program.

- Additional language has been added to specifically trigger BACT for Title I modifications. This amendment is expected to address the EPA's concerns about this issue.
- That language was modified, based on public comments from the workshop, to specifically apply BACT to the new or modified units in the stationary source project which triggers BACT.

2) The third of the three deficiencies noted in the limited approval document was that there was insufficient details about the steps to be taken to correct any emission reduction credit (ERC) shortfalls. As part of the agreement between the EPA and the District, the District is tracking the ERC collected under its NSR program and must make an annual demonstration that it is equivalent to the amount of ERC which would be collected under a Federal NSR program. Although the rule mentions tracking and reporting, EPA commented that it must also include details of the ERC shortfall remediation action(s).

- Section 7 was amended to specify the tracking and reporting the actions involved with the Annual Equivalency Determination; list creditable emissions reduction categories used in the Determination; and detail the action(s) required to be taken if an ERC shortfall occurred.
- Key requirements of this section were modeled after the Ventura County tracking system which has already undergone public and EPA scrutiny. The system is designed to be invisible to operators unless equivalency cannot be demonstrated and the indicated remedies must be implemented.
- Informal discussions with the EPA revealed concerns with the proposed list of creditable emission reduction categories. The District removed that rule language and will address this matter as a rule implementation issue. The original tracking program language, which was approved by the EPA on August 20, 2001, was reinstated. Further, the District added a self-implementing emission shortfall remedy procedure to correct the EPA-cited deficiency. A public notice for the October 14, 2002, rule version was published in the appropriate newspapers and on the District's website.

3) Other minor amendments are being proposed to improve clarity of the rule and correct problems discovered with the current language.

- 4) Addendums to the rule were presented at the November 14, 2002 public hearing. The addendums included language changes which the EPA claimed would be required for full federal approval. To allow public participation, that public hearing was continued until December 19, 2002.

Cost Effectiveness and Socioeconomic Analysis

Pursuant to state law, the District is required to analyze the cost effectiveness of new rules that implement Best Available Retrofit Control Technology (BARCT). The proposed amendments do not add BARCT requirements, and are therefore not subject to the cost effectiveness analysis mandate. Additionally, state law requires the District to analyze the socioeconomic impacts of any proposed rule amendments that significantly affects air quality or strengthens an emission limitation. The proposed amendments will have neither effect, and are therefore not subject to the socioeconomic analysis mandate.

Environmental Impacts

Pursuant to the California Environmental Quality Act, staff investigated the possible environmental impacts of the proposed amendments. Based on lack of evidence to the contrary, District staff have concluded that the proposed amendments will not have any significant adverse effect on the environment. Staff recommend filing a Notice of Exemption under the provisions of Public Resource Code 15061(b)(3).

Rule Development Process

District staff conducted two rounds of public workshops to present the proposed amendments and to receive comments from interested parties and affected industries. Notices for the public workshops were published in a general circulation newspaper in each of the eight San Joaquin Valley counties, and mailed to affected sources and interested parties. The workshop notices solicited written comments to be submitted by mail, and identified the names and telephone numbers of the District staff who could answer questions and respond to comments. Information obtained throughout this workshop process has been used to make appropriate changes to the draft rule.

FISCAL IMPACT:

Staff expects no fiscal impact to result from the proposed rule.

Attachments:

Resolution for Proposed Rules 2020 and 2201 (3 pages)

Proposed Rule 2020 (Exemptions) (12 pages)

Second Revised Proposed Rule 2201 (New and Modified Stationary Source Review) (40 pages)

Final Draft Staff Report (8 pages)

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**BEFORE THE GOVERNING BOARD OF THE
SAN JOAQUIN VALLEY UNIFIED
AIR POLLUTION CONTROL DISTRICT**

**IN THE MATTER OF: PROPOSED
RULES 2020 (Exemptions) and 2201
(New and Modified Stationary Source
Review) Rule**

RESOLUTION NO. 02-12-12

WHEREAS, the San Joaquin Valley Unified Air Pollution Control District (District) is a duly constituted unified air pollution control district, as provided in California Health and Safety Code Sections 41050 to 40161; and

WHEREAS, said district is authorized by California Health and Safety Code Section 40702 to make and enforce all necessary and proper orders, rules, and regulations to accomplish the purpose of Division 26 of the Health and Safety Code; and

WHEREAS, Title I of the 1990 amendments to the federal Clean Air Act and corresponding 40 Code of Federal Regulations, section 70, require the District to adopt a federally approved operating permits program;

WHEREAS, effective August 19, 2001, the United States Environmental Protection Agency (EPA) finalized limited approval and limited disapproval of Rules 2020 and 2201; and

WHEREAS, to obtain full EPA approval of the Rules 2020 and 2201 the District must correct three main deficiencies in those rules; and

WHEREAS, the District has amended the rules to incorporate language to correct the aforementioned deficiencies; and

WHEREAS, a public hearing for the amendment of Rule 2020 (Exemptions) and Rule 2201 (New and Modified Stationary Source Review Rule) was duly noticed for November 14, 2002, in accordance with California Health and Safety Code Section 40725; and

WHEREAS, said public hearing was held on November 14, 2002 and continued on December 19, 2002 to allow public review of and comment on the amendments,

1 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

2 1. The Governing Board hereby amends Rules 2020 (Exemptions) and 2201
3 (New and Modified Stationary Source Review Rule), as set forth in the attached
4 hereto and incorporated herein by this reference. Said rules become effective on
5 December 19, 2002.

6 2. The Governing Board hereby finds, based on the evidence and information
7 presented at the hearing upon which its decision is based, all notices required to be
8 given by law have been duly given in accordance with Health and Safety Code
9 Section 40725, and the Board has allowed public testimony in accordance with Health
10 and Safety Code Section 40726.

11 3. In connection with the proposed amendments of said rules, the Board makes
12 the following findings as required by California Health and Safety Code Section
13 40727:

14 a. **NECESSITY.** The Governing Board finds, based on the staff report,
15 public and industry testimony, on the record for this rulemaking proceeding that a
16 need exists for the said rules. The proposed said rules are necessary to meet the
17 requirements of the Clean Air Act.

18 b. **AUTHORITY.** The Governing Board finds that it has the legal authority to
19 adopt said rules under the California Health & Safety Code Sections 40000 and
20 40001.

21 c. **CLARITY.** The Governing Board finds that said rules are written or
22 displayed so that their meaning can be easily understood by those persons or
23 industries directly affected by them.

24 d. **CONSISTENCY.** The Governing Board finds that said rules are in
25 harmony with, and not in conflict with or contradictory to, existing statutes, court
26 decisions, or state or federal regulations.

27 e. **NONDUPLICATION.** The Governing Board finds that said rules do not
28 impose the same requirements as any existing state or federal regulation.

1 f. **REFERENCE.** The Governing Board finds that said rules implement
2 section 182(d) of the Clean Air Act.

3 4. The District reviewed for possible environmental impacts of the said rules and
4 based on the lack of evidence to the contrary, the project will not result in any
5 significant adverse effects to the environment, and a Notice of Exemption is to be
6 prepared and properly noticed pursuant to the California Environmental Quality Act
7 Guidelines (CEQA).

8 5. The APCO is directed to file with all appropriate agencies certified copies of
9 this resolution and the rules adopted herein and is directed to maintain a record of this
10 rulemaking proceeding in accordance with California Health and Safety Code Section
11 40728.

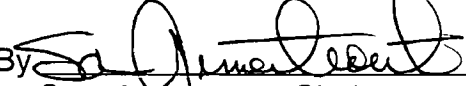
12 **THE FOREGOING** was passed and adopted by the following vote of the
13 Governing Board of the San Joaquin Valley Unified Air Pollution Control District this
14 19th day of December 2002, to wit:

15 **AYES:** Gase, Sieglock, Maggard, Patrick, Sanders, O'Banion,
16 Blom, Applegate, Barba, Dominici and Armentrout.

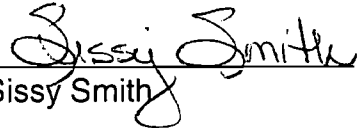
17
18 **NOES:** No.

19
20 **ABSENT:** No.

21 SAN JOAQUIN VALLEY UNIFIED
22 AIR POLLUTION CONTROL DISTRICT

23 By 
24 Sam Armentrout, Chair
25 Governing Board

26 **ATTEST:**
27 Clerk to the Governing Board

28 By 
Sissy Smith

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RULE 2020 EXEMPTIONS (Adopted September 19, 1991; Amended July 16, 1992; Amended December 17, 1992; Amended October 21, 1993; Amended July 21, 1994; Amended September 17, 1998; Amended June 21, 2001; Amended March 21, 2002; Amended December 19, 2002.)

1.0 Purpose

This rule specifies emissions units that are not required to obtain an Authority to Construct or Permit to Operate. This rule also specifies the recordkeeping requirements to verify the exemption and outlines the compliance schedule for emissions units that lose the exemption after installation.

2.0 Applicability

This rule shall apply to any source that emits or may emit air contaminants.

3.0 Definitions

3.1 Clean Produced Water: as defined in Rule 1020.

3.2 Emissions Unit: as defined in Rule 2201.

3.3 HAP: a hazardous air pollutant listed in Section 112(b) of the federal Clean Air Act or the lists prepared by the California Air Resources Board pursuant to Section 44321 of the California Health and Safety Code that have OEHHA approved health risk values.

3.4 HAP Source: an emissions unit that is subject to an emissions limitation, a performance standard, work practice standard, or other requirements under an applicable provision of any of the following regulations:

3.4.1 National Emission Standards for Hazardous Air Pollutants (NESHAPS), Maximum Achievable Control Technology (MACT) standard, or other requirements promulgated pursuant to Section 112 of the federal Clean Air Act (42 U.S. Code, 7401, et. seq.).

3.4.2 Airborne Toxic Control Measures (ATCM) adopted by the California Air Resource Board in accordance with requirements of Section 39658 of the California Health and Safety Code.

3.4.3 A rule contained in Regulation VII (Toxic Air Pollutants) of the District Rules and Regulations.

3.5 Indirect heat transfer system: A heat transfer system in which the products of combustion do not come into direct contact with the material being heated.

- 3.6 Low Emitting Unit: An emissions unit with an uncontrolled emissions rate of each any single air contaminant, ~~other than HAP,~~
- 3.6.1 Less than or equal to two pounds per day or,
- 3.6.2 If greater than two pounds per day, is less than or equal to 75 pounds per year.
- 3.7 NSPS Source: an emissions unit that is subject to an emissions limitation, performance standard, work practice standard, or other requirements under an applicable provision of 40 CFR, Part 60, New Source Performance Standards (NSPS).
- 3.8 Portable Emissions Unit: as defined in Rule 2280.
- 3.9 Reconstructed Stationary Source: a Reconstructed Stationary Source as defined in Rule 2201, or a Reconstruction as defined in 40 CFR Part 60 Subpart A.
- 3.10 Roadmix: a mixture of tank bottoms from crude oil storage tanks, material from crude oil spills, or other crude-oil-containing soil mixed with aggregates and soils, that is used as a base or cover material for roads, parking lots, berms, tank and well locations, or similar applications.
- 3.11 Routine Replacement: as defined in Rule 2201.
- 3.12 Stationary Source: as defined in Rule 2201.
- 3.13 True Vapor Pressure: as defined in Rule 4623.
- 3.14 Unloading Rack: any aggregate or combination of equipment or control equipment that unloads organic liquid ~~from~~ into a storage tank ~~into~~ from tank trucks, trailers, or railroad tank cars. The unloading rack is the portion of the connection system from the connection at the inlet of the organic liquid pump to and including the hose and connector at the delivery tank.

4.0 Precluded Source Categories

No Authority to Construct or Permit to Operate shall be required for the following source categories that are specifically precluded from District permitting requirements by state or federal law:

- 4.1 Any structure designed for and used exclusively as a dwelling for not more than four families and any incinerator used exclusively in connection with such structure (Health and Safety Code Section 42310(b) and (c)).

- 4.2 Barbecue equipment that is not used for commercial purposes, (Health and Safety Code Section 42310(d)).
- 4.3 Motor vehicles as defined by the Vehicle Code of the State of California (Health and Safety Code, Section 42310(a)), but not including any emissions unit mounted on such vehicle, that would otherwise require a permit under the provisions of the District Rules and Regulations.
- 4.4 Locomotives, airplanes, and watercraft used to transport passengers or freight. This exemption is not intended to apply to equipment used for the dredging of waterways or to equipment used in pile driving adjacent to or in waterways.

Option A:

- 4.5 Any equipment used in agricultural operations, in the growing of crops or the raising of fowl or animals which is exempted from permitting pursuant to the California Health and Safety Code. Upon the effective date of any revision or repeal of the Health and Safety Code to allow the permitting of these sources, this provision shall no longer have effect, without the need for further rulemaking by the District.

Option B:

- ~~4.5 Any equipment used in agricultural operations, in the growing of crops or the raising of fowl or animals which is exempted from permitting pursuant to the California Health and Safety Code.~~

5.0 District Permit Exemptions

An Authority to Construct or Permit to Operate shall not be required for an emissions unit covered under District Exempt Source Categories listed in Sections 6.0 or 7.0, unless one or more of the following is true:

- 5.1 The source is a NSPS source;
- 5.2 The source is a HAP source;
- 5.3 The APCO makes a determination that a permit shall be required because the source may not operate in compliance with all District rules and regulations; or
- 5.4 The owner specifically requests a Permit to Operate.

6.0 District Exempt Source Categories

Except as required by Section 5.0, no Authority to Construct or Permit to Operate shall be required for an emission unit specified below. All other equipment within that source category shall require an ATC or PTO.

6.1 Combustion and Heat Transfer Systems

6.1.1 Steam generators, steam superheaters, water boilers, water heaters, steam cleaners, and closed indirect heat transfer systems that have a maximum input heat rating of 5,000,000 Btu per hour (gross) or less 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 percent by weight hydrocarbons heavier than butane (as determined by test method ASTM E-260-73) and no more than 0.75 grains of total sulfur per 100 standard cubic feet of gas (as determined by test method ASTM D-1072-80).

6.1.2 Piston type internal combustion engines with a manufacturer's maximum continuous rating of 50 braking horsepower (bhp) or less.

6.1.3 Gas turbine engines with a maximum heat input rating of 3,000,000 Btu per hour or less at ISO Standard Day Conditions.

6.1.4 Equipment used exclusively for space heating, other than boilers.

6.1.5 Multiple chambered or equivalent incinerators used to destroy animals from a wildlife habitat for the sole purpose of disease control, as authorized by a public official.

6.2 Cooling Towers: Water cooling towers that have a circulation rate of less than 10,000 gallons per minute, and that are not used for cooling of process water, water from barometric jets, or water from barometric condensers.

6.3 Graphic Arts Equipment: Printing, coating, or laminating facility with a total graphic arts material usage of

6.3.1 Less than or equal to two gallons per any day or,

6.3.2 If greater than two gallons per day, is less than or equal to 30 gallons per year.

6.3.3 Graphic arts materials are any ink, coating, adhesive, fountain solution, thinner, retarder, or cleaning solution.

- 6.4 Food Processing Equipment
 - 6.4.1 Equipment, excluding charbroilers subject to Rule 4692 and boilers, used in eating establishments or other retail establishments for the purpose of preparing food for human consumption.
 - 6.4.2 Mixers and blenders used in bakeries where the products are edible and intended for human consumption.
 - 6.4.3 Ovens at bakeries provided that the total production from the bakery is less than 1,000 pounds of product per operating day and the oven is fired solely on natural gas and the oven has a rating less than 5 MMBtu per hour.
 - 6.4.4 Smokehouses for preparing food in which the maximum horizontal inside cross-sectional area does not exceed 20 square feet.
- 6.5 Plastic/Rubber Processing: Emissions units used exclusively for the extruding or the compression molding of rubber products or plastics, where no plasticizer or blowing agent is present.
- 6.6 Storage Equipment: Containers, reservoirs, or tanks used exclusively for:
 - 6.6.1 The storage or processing of clean produced water as represented in Figure 1 as being below the oil/water line.
 - 6.6.2 The storage of crude oil with 0.8762 specific gravity or higher (30°API or lower) as measured by test method API 2547 or ASTM D-1298-80, ~~and~~ having a capacity of 100 bbl or less, and is not subject to a VOC control requirement of Rule 4623.
 - 6.6.3 The storage of crude oil with specific gravity lower than 0.8762 (greater than 30°API) as measured by test method API 2547 or ASTM D-1298-80, and existing before June 1, 1989, ~~and~~ having a capacity of 100 bbl or less, and is not subject to a VOC control requirement of Rule 4623. This exemption shall not apply to a new tank installed after June 1, 1989.
 - 6.6.4 The storage of organic material with a capacity of 250 gallons or less where the actual storage temperature does not exceed 150°F.
 - 6.6.5 The unheated storage of organic material with an initial boiling point of 302°F or greater as measured by test method ASTM D-86.

- 6.6.6 The storage of fuel oils or non-air-blown asphalt with 0.9042 specific gravity or higher (25°API or lower) as measured by test method API 2547 or ASTM D-1298-80.
- 6.6.7 The storage of petroleum distillates used as motor fuel with 0.8251 specific gravity of higher (40°API or lower) as measured by test method API 2547 or ASTM D-1298-80 and having a capacity of 19,800 gallons (471 bbl) or less;
- 6.6.8 The storage of refined lubricating oils.
- 6.6.9 The storage of liquefied gases in unvented (except for emergency pressure relief valves) pressure vessels.
- 6.6.10 The storage of produced fluids in portable tanks, to be used for less than six months at any one (1) location and is not subject to a VOC control requirement of Rule 4623.
- 6.6.11 Mobile transport, delivery, or cargo tanks on vehicles for delivery of VOCs.

6.7 Transfer Equipment

- 6.7.1 Loading Racks (as defined in Rule 1020 (Definitions)) and unloading racks that are:
 - 6.7.1.1 Used exclusively for the transfer of less than 4,000 gallons per day of:
 - 6.7.1.1.1 Unheated organic materials with an initial boiling point of 302°F or greater as measured by test method ASTM D-86, or
 - 6.7.1.1.2 Fuel oil with 0.8251 specific gravity or higher (40°API or lower) as measured by test method API 2547 or ASTM D-1298-80.
 - 6.7.1.2 Used exclusively for the transfer of:
 - 6.7.1.2.1 Crude oil, asphalt, or residual oil stored in tanks not required to be permitted in accordance with this rule; or

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6.7.1.2.2 Crude oil with 0.8762 specific gravity or higher (30°API or lower) as measured by test method API 2547 or ASTM D-1298-80.

6.7.1.3 Attached to an organic material delivery vehicle and used exclusively for the transfer of crude oil, asphalt, or residual oil.

6.7.2 Equipment used exclusively for the transfer of refined lubricating oil.

6.8 Surface Coating Operations

6.8.1 Application equipment for architectural surface coatings used for commercial or residential applications. Architectural surface coating is defined as any coating applied to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs. This exemption does not apply to coating application equipment used in the manufacturing of architectural components and appurtenances that are coated before their installation as part of a structure.

6.8.2 Surface coating operations, except for powder coating operations, which use less than one quart of coating per day or less than eight gallons of coating per year.

6.8.3 Powder coating operations that use less than five pounds of coating material per day or less than fifty pounds of coating material per year.

6.9 Solvent Cleaning Operations

Unheated, nonconveyorized cleaning equipment (not including the control enclosures):

6.9.1 With an open surface area of 10.0 square feet or less, and internal volume of 92.5 gallons or less;

6.9.2 Using only organic solvents with an initial boiling point of 248°F or greater as determined by ASTM 1078-78; and

6.9.3 From which less than 25 gallons of solvent per year are lost to the atmosphere from all such equipment at the stationary source. Solvent lost shall not include solvent that is recycled or disposed of properly. Any person claiming exemption pursuant to this section shall maintain adequate monthly records to substantiate their exempt status.

6.10 Brazing, soldering, or welding equipment.

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- 6.11 Equipment used exclusively to compress or hold dry natural gas. Any internal combustion engine or other emissions unit associated with the operation that would otherwise require a written permit is not exempt.
- 6.12 Fugitive emissions sources such as valves and flanges associated with an emissions unit that is exempt from a written permit.
- 6.13 Unvented (except for emergency pressure relief valves) pressure vessels associated with an emissions unit that is exempt from a written permit.
- 6.14 Fugitive emissions sources and pressure vessels that are associated with an emissions unit for which a written permit is required shall be included as part of such emissions unit. A separate permit for the fugitive source or pressure vessel is not required.
- 6.15 Pits and ponds as defined in Rule 1020 (Definitions).
- 6.16 Portable Emissions Units: a portable emissions unit for which a written permit is otherwise required, shall be exempt from the permitting requirements provided that all of the following conditions are met:
 - 6.16.1 The emissions unit has a valid registration obtained in accordance with the provisions of Rule 2280 (Portable Equipment Registration), the Statewide Portable Equipment Registration Program (California Code of Regulation Title 13, Article 5, Sections 2450-2465), or other equipment registration program approved by the APCO; and
 - 6.16.2 The portable emissions unit is not subject to the District's Title V permitting requirements (Rule 2520).
- 6.17 Roadmix manufacturing and application operations
 - 6.17.1 Roadmix manufacturing operations, provided that
 - 6.17.1.1 The roadmix is used exclusively on properties owned or operated by the company which operates the roadmix manufacturing operation and generated the roadmix feedstock, excluding aggregates, and
 - 6.17.1.2 The roadmix feedstock does not contain refined hydrocarbons.
 - 6.17.1.3 Notwithstanding the provisions of Section 6.17.1.1, an exempt roadmix manufacturing operator may donate roadmix material to non-profit organizations.

6.17.2 Roadmix application operations.

6.18 Laboratory testing equipment and quality control testing equipment used exclusively for chemical and physical analysis, provided

6.18.1 Emissions from such equipment do not exceed 2.0 pounds per day or 75 pounds per year, and

6.18.2 The equipment is not a HAP source.

6.19 Low Emitting Units, except those which belong to a source category listed in Sections 6.1 through 6.18 ~~except those that belong to the following source categories and have not been specifically exempted in Sections 6.1 through 6.18,~~ shall not require an Authority to Construct or Permit to Operate.

6.19.1 Low Emitting Units, which belong to a source category listed in Sections 6.1 through 6.18, shall require an Authority to Construct or Permit to Operate unless they are specifically exempted in the applicable source category section.

6.19.2 Notwithstanding Sections 6.19 and 6.19.1, Low Emitting Units, with uncontrolled HAP emissions that may cause a significant health risk to the public, shall require an Authority to Construct or Permit to Operate.

~~6.19.1 boilers, steam generator, or process heater~~

~~6.19.2 IC engines~~

~~6.19.3 gas turbines~~

~~6.19.4 cooling towers~~

~~6.19.5 printing and reproduction equipment~~

~~6.19.6 mixers and blenders at food processing facilities~~

~~6.19.7 smokehouses~~

~~6.19.8 storage containers for organic liquids~~

~~6.19.9 loading racks and unloading racks for organic liquids~~

~~6.19.10 surface coating operations~~

~~6.19.11 solvent cleaning equipment~~

~~6.19.12 roadmix manufacturing and application~~

~~6.19.13 laboratory testing equipment and quality control testing equipment.~~

7.0 District Exempt Activities

No Authority to Construct or Permit to Operate shall be required for the following activities:

- 7.1 Routine replacement of a whole or partial emissions unit where the replacement part is the same as the original emissions unit in all respects except for the serial number and the action does not create a reconstructed Stationary Source.
- 7.2 The venting of California Public Utility Commission quality natural gas from pipelines and compressors for the sole purpose of pipeline and compressor repair and or maintenance, providing that such emissions consist solely of residual natural gas that is vented after the equipment is isolated or shut down and that the residual amounts have been reduced as much as practical prior to venting.
- 7.3 Repairs or maintenance not involving structural changes to any emissions unit for which a permit has been granted (Health and Safety Code, Section 42310(f)).
- 7.4 The detonation of explosives for research and development activity, provided the quantity of explosives detonated does not exceed 100 pounds per day and 1,000 pounds per year at a single stationary source.
- 7.5 Pilot tests for soil remediation projects, provided that all of the following conditions are met.
 - 7.5.1 The sole purpose of the pilot test is to determine the VOC concentration in the soil in order to design or size the appropriate control equipment for the soil remediation project;
 - 7.5.2 The pilot test will not last more than five days; and
 - 7.5.3 The effluent gas stream from the pilot test is controlled by either carbon canisters, a thermal or catalytic incinerator, or an IC engine.

8.0 Administrative Requirements

Recordkeeping shall be required to verify or maintain any exemption for which the exemption is based on a throughput or emissions limitation. Such records shall be retained for at least two years and provided to the APCO upon request.

9.0 Compliance Schedule

The owner or operator of an emissions unit that was exempt from written permits at the time of installation, which becomes subject to the provisions of Rule 2010 (Permits Required), through loss of exemption, shall submit an application for a Permit to Operate within six months from the date of adoption of this rule and shall not be subject to Rule 2201 (New and Modified Stationary Source Review Rule), until such time that the emissions unit is modified.

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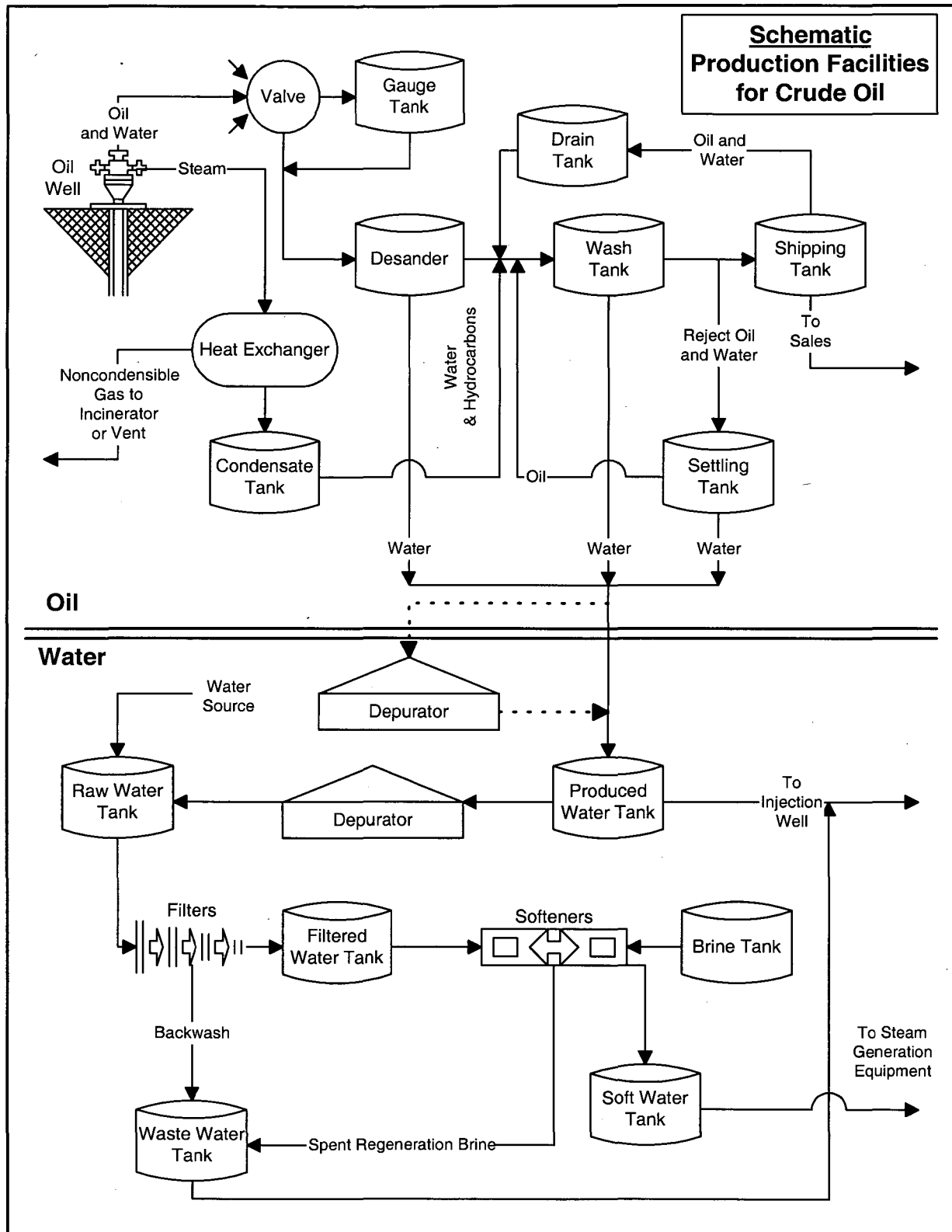


Figure1 Oil/water line

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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)

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 except as provided in Section 2.1.

- 2.1 The requirements of this rule in effect on the date that the rule was most recently amended shall apply to all applications that have not been deemed complete before that date.

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:

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- 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 reeligible 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 ~~Environmental Protection Agency EPA~~ or by the California Air Resources Board, (ARB), and the precursors to such pollutants, and those pollutants regulated by the ~~Environmental Protection Agency EPA~~ under the Federal Clean Air Act or by the ARB under the Health and Safety Code including, but not limited to, VOC, NO_x, SO_x, PM10, CO, and those pollutants which the ~~Environmental Protection Agency 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 Air Quality Improvement Deduction: a 10 percent discount factor applied to Actual Emission Reductions (AER) before the AER is eligible for banking.

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- 3.6 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.)
- 3.7 Baseline Emissions (BE): for a given pollutant, shall be equal to the sum of:
- 3.7.1 The pre-project Potential to Emit for:
- 3.7.1.1 Any emissions unit located at a non-Major Source,
- 3.7.1.2 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 were equal to or greater than 80% of the units' pre-project SLC limit,
- 3.7.1.3 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
- 3.7.1.4 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.
- 3.7.2 The Historic Actual Emissions (HAE) for emissions units not specified in Section 3.7.1.
- 3.8 Baseline Period: a period of time equal to either
- 3.8.1 the two consecutive years of operation immediately prior to the submission date of the Complete Application; or
- 3.8.2 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
- 3.8.3 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
- 3.8.4 zero years if an emissions unit has been in operation for less than one year (only for use when calculating AER).

- 3.9 Best Available Control Technology (BACT): is the most stringent emission limitation or control technique of the following:
- 3.9.1 Achieved in practice for such category and class of source;
 - 3.9.2 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
 - 3.9.3 Contained in an applicable federal New Source Performance Standard; or
 - 3.9.4 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.
- 3.10 Biomass-fired power cogeneration facility: A facility ~~capable of generating both electrical and thermal~~ power and fueled exclusively on biomass fuels consisting of at least 90% of one or more of the following constituents: alfalfa, barley, beanstraw, 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.
- 3.11 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.
- 3.12 Clean Emissions Unit: for a given pollutant, an emissions unit that meets one of the following criteria:
- 3.12.1 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
 - 3.12.2 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.
- 3.13 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.

- 3.14 Contemporaneous Period: A period of five consecutive years immediately prior to the date of initiating construction on a new or modified emissions unit.
- 3.15 Contemporaneous Increase in Permitted Emissions: an increase in permitted emissions authorized at a Stationary Source during a Contemporaneous Period.
- 3.16 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.
- 3.17 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:
 - 3.17.1 Contained in the latest Authority to Construct and contained in or enforceable by the latest Permit to Operate for the emissions unit; and
 - 3.17.2 Enforceable, in a practical manner, on a daily basis.
- 3.18 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.
- 3.19 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 in Section 3.24.
- 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:

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Table 3-1, 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 Modification: as defined in 40 CFR Part 51.165.

3.25 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.

3.25.1 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 3-2, Major Source Emission Thresholds

| POLLUTANT | THRESHOLD (POUNDS PER YEAR) |
|------------------|-----------------------------|
| VOC | 50,000 |
| NO _x | 50,000 |
| CO | 200,000 |
| PM ₁₀ | 140,000 |
| SO _x | 140,000 |

3.25.2 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.

3.26 Modification:

3.26.1 An action including at least one of the following items:

3.26.1.1 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.

3.26.1.2 Any structural change or addition to an existing emissions unit which would necessitate a change in permit conditions. Routine replacement shall not be considered to be a structural change.

3.26.1.3 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.

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- 3.26.1.4 Addition of any new emissions unit which is subject to District permitting requirements.
- 3.26.1.5 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.
- 3.26.2 A reconstructed Stationary Source shall be treated as a new Stationary Source and not as a modification.
- 3.26.3 Unless previously limited by a permit condition, the following shall not be considered a modification:
 - 3.26.3.1 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;
 - 3.26.3.2 A change in ownership of an entire existing Stationary Source with a valid Permit to Operate;
 - 3.26.3.3 A change which consists solely of a transfer of location of an emissions unit within a Stationary Source; or
 - 3.26.3.4 Routine replacement of a whole or partial emissions unit where the replacement part is the same as the original emissions unit in all respects except for the serial number.
- 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 PM10: particulate matter with an aerodynamic diameter smaller than or equal to a nominal ten microns as measured by an applicable reference test method or methods found in Article 2, Subchapter 6, Title 17, California Code of Regulations (commencing with Section 94100).
- 3.29 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 3-3, 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 PM10 c. Photochemical oxidants (Ozone) |
| Sulfur Oxides | a. Sulfur dioxide b. Sulfates c. The sulfate fraction of PM10 |

- 3.30 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.
- 3.31 Reasonable Further Progress: as defined by the federal Clean Air Act, Section 182(c)(2)(b).
- 3.32 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.
- 3.33 Routine Replacement: routine 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:
- 3.33.1 There is no increase in permitted emissions from the Stationary Source.
 - 3.33.2 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 emissions is authorized due to a change in design capacity as part of routine replacement. Such changes shall require application for permit modification.
 - 3.33.2.1 Permitted throughputs are throughput limits upon which emission calculations are, or could be, based.

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- 3.33.2.2 If there are no throughput limiting conditions, permitted throughput shall be a throughput rate which affects emissions.
- 3.33.3 The replacement equipment performs the same function as the equipment being replaced.
- 3.33.4 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.
- 3.33.5 When the entire emissions unit is replaced as a routine 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.
- 3.34 Seasonal Source: any Stationary Source with more than 90% of its annual emissions occurring within a consecutive 120-day period.
- 3.35 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.
- 3.36 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:
- 3.36.1 Are under the same or common ownership or operation, or which are owned or operated by entities which are under common control; and
- 3.36.2 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
- 3.36.3 Are located on one or more contiguous or adjacent properties; or
- 3.36.4 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.

3.37 Stationary Source Project: A single permitting action involving the modification, addition or shutdown of ~~two~~ 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:

3.37.1 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 replacement emissions unit.

3.38 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 shutdown for maintenance or repair.

3.38.1 The Potential to Emit from a TREU must not exceed the Potential to Emit from the existing emissions unit.

3.38.2 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.

3.38.3 An emissions unit not removed from the Stationary Source within 180 days is not a TREU.

3.39 Title I Modification: ~~the same as a Major Modification. a Stationary Source modification that results in one of the following emission levels. For the purpose of determining if a project is a Title I modification, fugitive emissions shall not be included in the calculation of the SSPE2 unless the source is included in the list of source categories identified in the major source definition in 40 CFR Part 70.2.~~

~~3.39.1 For an existing Major Source, the Contemporaneous Increase in Permitted Emissions (CIPE), is equal to or greater than one or more of the following threshold values;~~

Table 3-5, Title 1 CIPE Thresholds

| POLLUTANT | CIPE (POUNDS PER YEAR) |
|------------------|------------------------|
| VOC | 50,000 |
| NO _x | 50,000 |
| CO | 100,000 |
| PM ₁₀ | 30,000 |
| SO _x | 30,000 |

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~~3.39.2 Contemporaneous Increase in Permitted Emissions (CIPE) shall be calculated, on a pollutant by pollutant basis, as follows:~~

~~3.39.2.1 Sum of Potential to Emit in pounds per year for all new emissions units permitted during the period contemporaneous to the proposed Stationary Source project, (For new units covered by a Specific Limiting Condition (SLC), the overall Potential to Emit for all units covered by the SLC shall be used.);~~

~~3.39.2.2 Plus the sum of Stationary Source Project Increase in Permitted Emissions (SSIPE) for modifications allowed during the period contemporaneous to the proposed Stationary Source project. (For Stationary Source projects permitted before August 20, 2001, the increase in permitted emissions as calculated pursuant to the New Source Review Rule in effect at the time of the modification shall be used.);~~

~~3.39.2.3 Plus any on site Actual Emission Reductions (AER) banked during the Contemporaneous Period for the proposed Stationary Source Project; and~~

~~3.39.2.4 Minus any on site AER, occurring during the Contemporaneous Period, which have not been banked; transferred to another entity; used as offsets at another Stationary Source; or for which a banking certificate is voluntarily surrendered to the APCO.~~

~~3.39.3 Stationary Source Project Increase in Permitted Emissions (SSIPE) shall be calculated, on a pollutant by pollutant basis, as the sum of Net Emissions Change (NEC), calculated for all emissions units contained in the Stationary Source project. A SSIPE calculated to a negative value shall be set to zero.~~

~~3.39.4 Net Emissions Change (NEC) shall be calculated, on a pollutant by pollutant basis, as follows~~

~~3.39.4.1 For emissions units not covered by a Specific Limiting Condition (SLC):~~

$$\text{NEC} = \text{PE} - \text{BE}$$

~~where,~~

~~NEC = Net Emissions Change for each emissions unit, pounds per year~~

~~PE = Post project potential to emit for each emissions unit, pounds per year~~

~~BE = Baseline emissions for each emissions unit, pounds per year~~

~~3.39.4.2 For emissions units covered by a Specific Limiting Condition (SLC):~~

$$\del{NEC_{SLC} = PE_{SLC} - BE_{SLC}}$$

~~where,~~

~~NEC_{SLC} = Overall Net Emissions Change for all units covered by the SLC, pounds per year~~

~~PE_{SLC} = Overall post project Potential to Emit for all units covered by the SLC, pounds per year~~

~~BE_{SLC} = Overall Baseline Emissions for all units covered by the SLC, pounds per year.~~

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 two pounds in any one day; and

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, and,

4.1.3 Any new or modified emissions unit, in a stationary source project, which results in a Title I 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:

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- 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_x, or 25 tons per year of VOC, or 15 tons per year of SO_x, or 15 tons per year of PM-10, or 50 tons per year of CO.
- 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 Routine Replacement; 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
- $$\text{AIPE} = \text{PE2} - \text{HAPE}$$
- 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
- $$\text{HAPE} = \text{PE1} \times (\text{EF2} / \text{EF1})$$
- 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 (non-attainment areas) | 30,000 |
| CO (attainment areas) | 200,000 |
| SOx | 54,750 |
| PM10 | 29,200 |

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).
- 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 emissions a Potential to Emit exceeding equal to or greater than two (2) 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_x, or 25 tons per year of VOC, or 15 tons per year of SO_x, or 15 tons per year of PM-10, or 50 tons per year of CO.

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) ~~below~~ 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:

Table 4-2, 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 shutdown 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 or a Title I 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 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 In no case shall exempt compounds or the other compounds excluded from the definition of VOC be used as offsets for VOC.
 - 4.13.3.2 Interpollutant offsets between PM₁₀ and PM₁₀ precursors may be allowed.
 - 4.13.3.3 PM₁₀ emissions shall not be allowed to offset NO_x or reactive organic compound emissions in ozone nonattainment areas, nor be allowed to offset SO₂ emissions in sulfate nonattainment areas.
 - 4.13.3.4 Interpollutant offsets between NO_x and VOC may be allowed.
 - 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.

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- 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 eogeneration 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 replacement emissions unit.
- 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, and 4.13.3, and as described in Section 7.0.

4.14 Additional Source Requirements:

4.14.1 Alternative siting: For those sources for which an analysis of alternative sites, sizes, and production processes is required under Section 172 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.

4.14.2 Ambient Air Quality Standards: 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.

4.14.2.1 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 4.14.2.

4.14.3 Compliance by Other Owned, Operated, or Controlled Source: The owner of a proposed new Major Source or Title I 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 ~~applications for~~ power plants ~~over 50 megawatts~~ 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 and Title I 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 EPA and 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 and Title I 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, ~~the EPA,~~ 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 and Title I 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 replacement emissions unit.

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 ~~Environmental Protection Agency~~ 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 over 50 megawatts which will be licensed by the California Energy Commission:** The administrative requirements of this section shall be applied to all power plants ~~over 50 megawatts~~ 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 Requirement

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 Emission Offset Trading and Reporting

~~7.1 The APCO shall monitor and report emission offset transactions when the ERC are used for emission offsets in Major Source or Title I modification projects. Transactions which consist solely of the sale or transfer of ERC shall not be included.~~

~~7.2 The APCO shall annually report such ERC transactions, to the EPA and ARB. The report shall include an analysis which compares the reductions achieved by the ERC calculation methods and the reductions which would occur using ERC which are adjusted at time of use for federal, state, and District Rules and Regulations.~~

7.0 Annual Offset Equivalency Demonstration

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 major modifications in the District had the federal new source review requirements, codified in 40 CFR 51.165 in effect on November 14, 2002, and Title I part D of the Clean Air Act (CAA), been applied to these sources. These requirements include offsetting the full emissions from new major sources, using actual emissions baselines when required under 40 CFR 51.165 in effect on November 14, 2002, 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.

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 in effect on November 14, 2002, 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 in effect on November 14, 2002, 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 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 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.

8.0 Application Shield for Routine Replacement

8.1 For a Routine Replacement 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 Routine Replacement has been submitted within seven calendar days of completing the routine replacement.

8.1.2 The source operates in compliance with all applicable requirements of the federal, state, and District rules and regulations.

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- 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 an application for a Routine Replacement and does not authorize any increases to the permitted throughput or emissions due to a change in design capacity as part of a Routine Replacement.

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SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

Final Draft Staff Report Proposed Amendments to Rule 2020 (Exemptions); Rule 2201 (New and Modified Stationary Source Review Rule);

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December 19, 2002

I. SUMMARY

The District is proposing amendments to Rules 2020 and 2201 to obtain final Federal approval of the District's New Source Review (NSR) program.

Effective August 20, 2001, after several years of negotiations with the District, EPA granted interim approval of the NSR program. This interim approval allowed the District to use several new program provisions, such as more flexibility in the use of Emission Reduction Credits (ERCs) and enhanced NSR review, which were designed to make the permitting process less burdensome for both affected industry and the District. The interim approval was granted by EPA in the form of a "limited approval - limited disapproval" citing three deficiencies that had to be corrected before EPA could grant full approval of the rule.

To correct the deficiencies, the EPA requires the following:

1. The District must remove the agricultural exemption from District Rule 2020.
2. The District must revise Rule 2201 to ensure that all sources meet the Lowest Achievable Emission Rate (LAER) if they are allowed to make a significant increase in their actual emission rate.
3. The District must revise Rule 2201 to provide a mandatory and enforceable remedy to cure any annual shortfall and, in the future, prevent shortfalls in the District's New Source Review Offset Equivalency Tracking System.

To avoid federal sanctions, the District must correct the above deficiencies no later than February 20, 2003.

The language changes required to address the deficiencies and obtain final approval of the District NSR program are included in the proposed amendments to Rules 2020 and 2201.

- To rectify EPA's concern regarding the broad exemption for agricultural sources, the District has previously revised Rule 2020 to limit the agricultural exemption to only those sources exempted under the State law.
 - Total elimination of the agricultural exemption requires legislative action at the State level.
 - On October 14, 2002, the District revised and re-noticed changes to this section which will be discussed below.
- To remedy the second deficiency cited by EPA, Rule 2201 is being revised to require application of Best Available Control Technology (BACT) to all Title I modifications.
- To provide a mandatory and enforceable remedy to cure any annual shortfall in the offset equivalency tracking system, Rule 2021 has been revised to require discounting of ERCs at the time of use for new major sources and Title I modifications in the event of a shortfall.
 - The discounting requirement would be lifted once tracking system shows that the shortfall is remedied.
 - On October 14, 2002, the District revised and re-noticed changes to this section which will be discussed below.

Additionally, the District is proposing minor language amendments proposed by the public and staff to enhance the clarity of these rules. Those changes are considered minor clarifications and are discussed later in this report.

Drafts of the proposed rule amendments were originally prepared and published in 2001. Staff will conduct a second series of public workshops to discuss these amendments and to receive comments from the public and industry in August 2002. This Staff Report was revised to account for additional information obtained during the workshop process, and will be published before the adoption of the proposed amendments. Changes proposed are primarily to address the Federal requirements and did not significantly change the intent or provisions of the proposed rules. Further changes were proposed in the October 14, 2002 version of the rules which will be discussed below.

Staff proposed the rules for adoption by the District Governing Board on November 14, 2002 to avoid triggering federal sanctions based on the limited disapproval finding. At that public hearing, staff introduced additional, significant language changes, required by the EPA for full federal approval of Rule 2201. To allow full public participation, the public hearing was continued to December 19, 2002. A version of rule 2201 with the new rule language was made available for public review and comment.

II. CURRENT AND PROPOSED REGULATIONS

A. Rule 2020 (Exemptions):

Rule 2020 (Exemptions), specifies the less significant emission units which are exempt from permits and those sources which are precluded from the District's permitting authority.

Key features of Rule 2020 include:

- Permit to Operate (PTO) and Authority to Construct (ATC) exemptions for "Low Emitting Units," which are defined as having uncontrolled emissions of less than 2 pounds per day or less than 75 pounds per year, unless the source category is included on the specific list of exempt equipment and operations,
- Exemptions from ATC and PTO requirements are also included for equipment used in agricultural operations, residential equipment, motor vehicles, registered portable equipment, and repair and maintenance of permitted units.
- Regardless of the provisions of this rule, an emission unit may require an ATC or PTO if it is subject to Federal New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants; if the APCO determines that the unit may not operate in compliance with all District Rule and Regulations; if the owner requests a permit; or if the equipment controls emissions from soil or groundwater decontamination projects.

The major amendments to Rule 2020, as proposed, would include the following:

- 1) The first of the three deficiencies noted in the limited approval document was that the permit exemption in Rule 2020 for agricultural operations does not meet federal NSR program requirements.
 - The District is currently precluded by state law (California Health and Safety Code 42310(e)) from permitting agricultural sources. To prevent a potential conflict between District regulations and state law, the rule contains a limited exemption for agricultural sources. Such sources are only exempt to the extent allowed by state law, compared to the prior exemption which did not have that limitation. The District believed that this more narrowly written exemption will address EPA's concerns without conflicting with state law.

- Should the state law be amended in the future, the rule would automatically reflect such amendments without the need for further rule changes. Any affected sources would have the standard compliance period to comply with the loss of exemption.
 - On October 14, 2002, the District further revised the language in Section 4.5 to give the Governing Board the choice to either A) add additional language explicitly rescinding the section upon a change in state law, or B) deleting the exemption entirely. The additional language was informally suggested by the EPA but with no guarantee that the amended section would meet Federal requirements. Deleting the section entirely should meet Federal requirements but would have no practical difference from the first option since state law still precludes the District from permitting agricultural sources.
- 2) Other minor amendments are being proposed to improve clarity of the rule and correct problems discovered with the current language:
- Added a definition for "indirect heat transfer system" and modification of the definition of "unloading rack" in response to comments from the public and staff. The changes increase the clarity of the rule and strengthen compliance with its requirements.
 - Previously proposed language to clarify the cooling tower exemption was removed at the request of the EPA. Informal comments indicated a concern that the exemption was too broad. Because of the time needed to properly address their concerns, this issue will be addressed at a later date.
 - Changed the crude oil storage tank exemptions to reflect recent changes to Rule 4623. That rule now has emission control requirements for some tanks with a capacity greater than 1,100 gallon so permits are required to ensure enforcement of those requirements. The current exemption for tanks which are not subject to Rule 4623 is unchanged so de minimis emission units without emission control requirements will not require permits, but compliance with Rule 4623 can be better enforced.
 - Clarified the language for the Low Emitting Unit exemption applicability. Section 6.19 exempts Low Emitting Units not covered by the source categories exemptions in Section 6.1 to 6.18. Section 6.19.1 exempts Low Emitting Units, in the source categories specified in Section 6.1 to 6.18, but only to the extent that the applicable section provides a specific exemption threshold. The present language created some confusion which the

amended language clarifies, without relaxing the rule or providing a new exemption.

B. Rule 2201 (New and Modified Stationary Source Review Rule):

New Source Review (NSR) is the centerpiece of the District's permitting program. Its primary purpose is to minimize emissions associated with new growth. The District's NSR program is designed to meet the state and Federal NSR requirements for non-attainment areas. The District NSR Rule (Rule 2201) applies to new and modified stationary sources which emit NO_x, CO, VOC, SO_x, PM₁₀ and other pollutants subject to District permit requirements pursuant to District Rule 2010 (Permits Required).

Key features of Rule 2201 include:

- Best Available Control Technology (BACT): which mandates emission controls to minimize emission increases above de minimus values;
- Emission offsets: which requires emissions above specified offset threshold levels to be mitigated with either concurrent reductions or emission reduction credits (ERC);
- Public notification: a 30-day period prior to issuance of an Authority to Construct (ATC) to garner comments on projects that result in emissions above specified levels;
- Required elements for ATC and PTO and administrative requirements for the processing of NSR applications.

The major amendments to Rule 2201, as proposed, include the following:

- 1) The second of the three deficiencies noted in the limited approval document was that the Rule 2201 requirements for Best Available Control Technology (BACT) may not be triggered for all Title I modifications. Although the de minimus value for BACT is well below the federal trigger, EPA commented in their limited disapproval finding that there was the small possibility that a Title I modification could occur without BACT being triggered under the District's NSR program.
 - Additional language has been added to specifically trigger BACT for Title I modifications. This amendment is expected to address the EPA's concerns about this issue.

- That language was modified, based on public comments from the workshop, to specifically apply BACT to the new or modified units in the stationary source project which triggers BACT.
- 2) The third of the three deficiencies noted in the limited approval document was that there was insufficient details about the steps to be taken to correct any emission reduction credit (ERC) shortfalls. As part of the agreement between the EPA and the District, the District is tracking the ERC collected under its NSR program and must make an annual demonstration that it is equivalent to the amount of ERC which would be collected under a Federal NSR program. Although the rule mentions tracking and reporting, EPA commented that it must also include details of specific ERC shortfall remediation actions.
- Section 7 was amended to specify the tracking and reporting the actions involved with the Annual Equivalency Determination; list creditable emissions reduction categories used in the Determination; and detail the actions required to be taken if an ERC shortfall occurred.
 - Key requirements of this section were modeled after the Ventura County tracking system which has already undergone public and EPA scrutiny. The system is designed to be invisible to operators unless equivalency cannot be demonstrated and the indicated remedies must be implemented.
 - Informal discussions with the EPA revealed concerns with the proposed list of creditable emission reduction categories. The District removed that rule language and will address this matter a rule implementation issue. The original tracking program language, which was approved by the EPA on August 20, 2001, was reinstated. Further, the District added a self-implementing emission shortfall remedy procedure to correct the EPA-cited deficiency. A public notice for the October 14, 2002, rule version was published in the appropriate newspapers and on the District's website.
 - The District staff has been in constant negotiations with the EPA in an attempt to craft the necessary language that consistent with applicable law and past agreements would correct the deficiencies cited by the EPA. The language proposed at the November 14, 2002 Governing Board meeting reflects last-minute agreements reached by the EPA and the District staff on these matters. Since the proposed language contains substantial changes from the language previously made available to the public, final action on this matter cannot be taken until the December Governing Board meeting to allow for full public review.

- 3) Other minor amendments are being proposed to improve clarity of the rule and correct problems discovered with the current language:
- The definition for Title I modification was amended to reflect that this term is equivalent to federal use of the term “major modification”. A definition was added for “major modification” as defined in 40 CFR part 51.
 - Proposed changes to the biomass definition raised concerns from EPA. The District believes the changes are warranted based on past discussions with the stakeholders and the environmental benefits received from reducing open agricultural burning. Because the current sanction clock does not allow adequate time to resolve this issue, staff propose retaining the current language and addressing this issue as a separate rule development effort.
 - Minor wording changes were added to clarify or correct provisions of the current rule. For example, there was an inconsistency in the paragraphs referencing the BACT trigger level. Some paragraphs set the limit at “two pounds per day” while others used “2.0 pound per day”. For consistency, the level has been set to “2.0 pounds per day” throughout the rule. Because of the low de minimus level, there is little practical difference between the two limits but the proposed wording is believed to be more precise and less open to misinterpretation.
 - Minor wording changes to the public noticing requirements of power plants greater than 50 MW where the California Energy Commission (CEC) will not be licensing the plant. This addresses plants obtaining a Small Power Plant Exemption (SPPE) from the CEC, where the CEC does not license the plant, but does issue a Negative Declaration, and the plant then has to obtain local permits.

For an SPPE project, public noticing sufficient to meet Sections 5.1 through 5.7, inclusive, is not performed by the CEC unless the project is going through the Application for Certificate process. The current language does not require any sort of noticing for SPPE projects. The proposed language corrects this oversight and protects the public's right to know about major projects.

- Minor wording changes have been incorporated to specifically require EPA notice in the event of a new Major Source or Title I modification. Currently, EPA is notified of all actions triggering public notice, even minor source projects or those near a school. To reduce unnecessary work for EPA on these less consequential projects, EPA will only be notified of significant actions, more relevant to their regulatory interests.

III COST EFFECTIVENESS AND SOCIOECONOMIC IMPACT ANALYSIS

Pursuant to state law, the District is required to analyze the cost effectiveness of new rules that implement Best Available Retrofit Control Technology (BARCT). The proposed amendments do not add BARCT requirements, and are therefore not subject to the cost effectiveness analysis mandate. Additionally, state law requires the District to analyze the socioeconomic impacts of any proposed rule amendment that significantly affects air quality or strengthens an emission limitation. The proposed amendment will have neither effect, and is therefore not subject to the socioeconomic analysis mandate.

IV RULE CONSISTENCY ANALYSIS

Pursuant to CH&SC Section 40727.2 (g) a rule consistency analysis of these draft rules is not required. The draft rules do not strengthen emission limits or impose more stringent monitoring, reporting, or recordkeeping requirements.

V. ENVIRONMENTAL EFFECTS

Pursuant to the California Environmental Quality Act, staff investigated the possible environmental impacts of the proposed amendments. Based on lack of evidence to the contrary, District staff have concluded that the proposed amendments will not have any significant adverse effect on the environment. Staff recommend filing a Notice of Exemption under the provisions of Public Resource Code 15061(b)(3).