

**RULE 400– NSR REQUIREMENTS FOR NEW AND MODIFIED MAJOR SOURCES IN
NONATTAINMENT AREAS** (~~ADOPTED ON AUGUST 20, 2019~~ADOPTED ON JANUARY
17, 2023)

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1 APPLICABILITY PROCEDURES

1.1 PRECONSTRUCTION REVIEW REQUIREMENTS

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

1.2 AUTHORITY TO CONSTRUCT REQUIREMENT

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

1.3 EMISSION CALCULATION REQUIREMENTS TO DETERMINE NSR APPLICABILITY

1.3.1 New Major Stationary Sources

The definition of Major Stationary Source as incorporated by reference in Section 2 shall be used to determine if a new or modified stationary source is a new major stationary source. Different pollutants, including individual precursors, are not summed to determine applicability of a major stationary source.

1.3.2 Major Modifications

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

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

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

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

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

1.5 PROJECTS THAT RELY ON A PROJECTED ACTUAL EMISSIONS TEST

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

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

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

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

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1.6 SECONDARY EMISSIONS

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

1.7 STATIONARY SOURCES

For purposes of this rule, the term stationary source does not refer to the source of emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the Clean Air Act ([42 U.S.C. §7550 Definitions](#)).

1.8 ENVIRONMENTAL PROTECTION AGENCY DETERMINATION

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

2 DEFINITIONS

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

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

- (b) The following definitions shall also apply:

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

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

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

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

“*District*” means the Amador Air District.

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

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

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

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

“*Real*” means, as it pertains to emission reductions, emissions that were actually emitted.

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

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

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

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

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

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

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

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

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

3 APPLICATION REQUIREMENTS

3.1 APPLICATION SUBMITTAL

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

3.2 APPLICATION CONTENT

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

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

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

3.3 LOWEST ACHIEVABLE EMISSION RATE (LAER)

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

3.4 STATEWIDE COMPLIANCE

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

3.5 ANALYSIS OF ALTERNATIVES

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

3.6 SOURCES IMPACTING CLASS I AREAS

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

3.7 APPLICATION FEES

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

4 EMISSIONS OFFSETS

4.1 OFFSET REQUIREMENTS

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

4.2 TIMING

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

4.3 QUANTITY

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

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

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

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

Area Designation <u>Classification</u>	Pollutant	Offset Ratio
Marginal Ozone Nonattainment Area	NO _x or VOC	1:1.1
Moderate Ozone Nonattainment Area	NO _x or VOC	1:1.15
Serious Ozone Nonattainment Area	NO_x or VOC	1:1.2

4.84.4 EMISSION REDUCTION REQUIREMENTS

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

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

4.5 RESTRICTIONS ON OFFSET POLLUTANTS

- ~~(e) The emission offsets obtained shall be for the same regulated NSR pollutant.~~
- ~~(f) In no case, shall the compounds excluded from the definition of *Volatile Organic Compounds* be used as offsets for Volatile Organic Compounds.~~
- ~~(g) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except that emissions credit may be allowed for the replacement with those compounds listed as having negligible photochemical reactivity in 40 CFR 51.100(s).~~

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5.0 RESTRICTIONS ON TRADING POLLUTANTS

- ~~(f) The emission offsets obtained shall be for the same regulated NSR pollutant except as specified below.~~
- ~~(g) For the purposes of satisfying the offset requirements for the ozone precursors NO_x and VOC, the APCO may approve interpollutant emission offsets for these precursor pollutants on a case by case basis, if all other requirements for such offsets are also satisfied. The permit applicant shall submit information to the reviewing authority, including the proposed ratio for the precursor substitution for ozone, a description of the air quality model(s) used, and the technical demonstration substantiating the equivalent or greater air quality benefit for ozone in the nonattainment area. The APCO shall impose, based on the air quality analysis, emission offset ratios in addition to the requirements of Table 1.~~
- ~~(h) In no case, shall the compounds excluded from the definition of *Volatile Organic Compounds* be used as offsets for Volatile Organic Compounds.~~

95 ADMINISTRATIVE REQUIREMENTS

9.15.1 VISIBILITY

- (a) The APCO shall provide written notice and conduct any necessary review and consultation with the Federal Land Manager regarding any proposed major stationary source or major modification that may impact visibility in any Mandatory Class I Federal Area, in accordance with the applicable requirements of 40 CFR 51.307.
- (b) The APCO may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the APCO deems necessary and appropriate.

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9.25.2 AMBIENT AIR QUALITY STANDARDS

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

9.35.3 AIR QUALITY MODELS

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

9.45.4 STACK HEIGHT PROCEDURES

The degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in 40 CFR 51.118(b). For the purposes of this Section, the definitions in 40 CFR 51.100 shall apply.

- (a) Before the ~~Control Officer~~ APCO issues an Authority to Construct under this rule to a source with a stack height that exceeds good engineering practice (GEP) stack height, the ~~Control Officer~~ APCO shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing.

- (b) Any field study or fluid model used to demonstrate GEP stack height and any determination concerning excessive concentration must be approved by the EPA and the ~~Control Officer~~ APCO prior to any emission limit being established.
- (c) The provisions of Section 5.4 do not restrict, in any manner, the actual stack height of any stationary source or facility.

10.6 AUTHORITY TO CONSTRUCT – DECISION

10.16.1 PRELIMINARY DECISION

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

10.26.2 AUTHORITY TO CONSTRUCT – PRELIMINARY DECISION REQUIREMENTS

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

If the APCO determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the APCO may instead prescribe a design, operational or equipment standard. In such cases, the APCO shall make its best estimate as to the emission rate that will be achieved and must specify that rate in the application review documents. Any Authority to Construct issued without an enforceable numerical emission standard must contain enforceable conditions which assure that the design characteristics or equipment will be properly maintained or that the operational conditions will be properly performed to continuously achieve the assumed degree of control. Such conditions shall be

enforceable as emission limitations by private parties under section 304 of the CAA. The term “emission limitation” shall also include such design, operational, or equipment standards; and

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

10.36.3 AUTHORITY TO CONSTRUCT CONTENTS

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

10.46.4 AUTHORITY TO CONSTRUCT – FINAL DECISION

- (a) Prior to making a final decision to issue an Authority to Construct for a new major stationary source or major modification, the APCO shall consider all written comments that are submitted within 30 days of public notification and all comments received at any public hearing(s) in making a final determination on the approvability of the application and the appropriate Authority to Construct conditions. The District shall make all comments available, including the District’s response to the comments, for public inspection in the same locations where the District made preconstruction information relating to the proposed source or modification available.

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

10.56.5 PERMIT TO OPERATE

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

11.7 SOURCE OBLIGATIONS

11.7.1 ENFORCEMENT

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

11.7.2 TERMINATION

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

11.7.3 COMPLIANCE

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

11.7.4 RELAXATION IN ENFORCEABLE LIMITATIONS

At such time that a particular stationary source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the stationary source or modification to emit a pollutant, then the requirements of this rule shall apply to

the stationary source or modification as though construction had not yet commenced on the stationary source or modification.

128 PUBLIC PARTICIPATION

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

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

139 PLANT-WIDE APPLICABILITY LIMITS (PAL)

13.19.1 APPLICABILITY

- (a) The APCO may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in Sections 9.1 through 9.15. The term "PAL" shall mean "actuals PAL" throughout Section 9.
- (b) Any physical change in, or change in the method of operation of, a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of Sections 9.1 through 9.415, and complies with the PAL Permit:

- (i) Is not a major modification for the PAL pollutant;
 - (ii) Does not have to be approved through the plan's Nonattainment Major NSR Program; and
 - (iii) Is not subject to the provisions in Section 97.4.
- (c) Except as provided under paragraph (b)(3iii) of Section 9.1, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

13.29.2 DEFINITIONS

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

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

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

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

"Major emissions unit" means:

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

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

"PAL effective date" generally means the date of issuance of the PAL Permit. ~~However,~~ the PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

"PAL effective period" means the period beginning with the PAL effective date and ending ten years later.

“PAL major modification” means, ~~notwithstanding the definitions for major modification and net emissions increase incorporated by reference in Section 2,~~ any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

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

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

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

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

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

13.39.3 PERMIT APPLICATION REQUIREMENTS

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

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

13.49.4 GENERAL REQUIREMENTS FOR ESTABLISHING PALs

- (a) The APCO may establish a PAL at a major stationary source, provided that, at a minimum, the requirements in paragraphs (a)(i) through (a)(vii) below are met.
 - (i) The PAL shall impose an annual emission limitation, in tpy, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first twelve months of establishing a PAL, the major stationary source owner or operator shall show that the sum of

the monthly emissions from each emissions unit under the PAL for the previous twelve consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first eleven months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

- (ii) The PAL shall be established in a PAL Permit that meets the public participation requirements in Section 9.5 of this rule.
 - (iii) The PAL Permit shall contain all the requirements of Section 9.7 of this rule.
 - (iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.
 - (v) Each PAL shall regulate emissions of only one pollutant.
 - (vi) Each PAL shall have a PAL effective period of ten years.
 - (vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Sections 9.12 through 9.14 of this rule for each emissions unit under the PAL through the PAL effective period.
- (b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of generating offsets unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

13.59.5 PUBLIC PARTICIPATION REQUIREMENTS FOR PALs

PALs for existing major stationary sources shall be established, renewed, or increased through the public participation procedures in Section ~~98~~ of this rule.

13.69.6 SETTING THE 10-YEAR ACTUALS PAL LEVEL

- (a) Except as provided in paragraph (b) of this Section, the Actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant as defined in Section 2 or under the CAA, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The APCO shall specify a reduced PAL level(s) (in tons/yr) in the PAL Permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the APCO is aware of prior to issuance of the permit.

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

13.79.7 CONTENTS OF THE PAL PERMIT

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

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

13.89.8 PAL EFFECTIVE PERIOD AND REOPENING OF PAL PERMIT

The PAL shall include the following information:

- (a) PAL Effective Period. The APCO shall specify a PAL effective period of ten years from the date of issuance.
- (b) Reopening of the PAL Permit.

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

13.99.9 EXPIRATION OF A PAL

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

- (a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following:
 - (i) Within the time frame specified for PAL renewals in paragraph (b) of Section 9.10, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the APCO-) by distributing the PAL allowable emissions for the affected major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (e) of Section 9.10, such distribution shall be made as if the PAL had been adjusted.

- (ii) The APCO ~~will~~shall decide whether and how the PAL allowable emissions will be distributed and issue a revised ~~Part 70~~title V Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the APCO determines is appropriate.
- (b) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The APCO may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.
- (c) Until the APCO issues the revised ~~Part 70~~title V Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (a)(ii) of Section 9.9, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.
- (d) Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of *Major Modification* in Section 2.
- (e) The major stationary source owner or operator shall continue to comply with any federal, state or county applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period except as provided in paragraph (b)(iii) of Section 9.1.

13.109.10 RENEWAL OF A PAL

- (a) The APCO will follow the procedures specified in Section 9.5 in approving any request to renew a PAL Permit for a major stationary source, and ~~will~~shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the APCO .
- (b) Application deadline. A major stationary source owner or operator shall submit a timely application to the APCO to request renewal of the PAL Permit. A timely application is one that is submitted at least six months prior to, but not earlier than eighteen months prior to, the date of expiration of the PAL Permit. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL Permit within this time period, then the PAL Permit shall continue to be effective until the revised permit with the renewed PAL is issued.
- (c) Application Requirements. The application to renew a PAL Permit shall contain the information required in paragraphs (c)(i) through (c)(iv) of Section 9.10 of this rule:
 - (i) The information required in paragraphs (a) through (c) of Section 9.3;
 - (ii) A proposed PAL level;
 - (iii) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation); and

- (iv) Any other information the owner or operator wishes the APCO to consider in determining the appropriate level for renewing the PAL Permit.
- (d) PAL Adjustment. In determining whether and how to adjust the PAL, the APCO ~~will~~ shall consider the options outlined in paragraphs (d)(i) and (d)(ii) of Section 9.10. However, in no case may any such adjustment fail to comply with paragraph (d)(iii) of Section 9.10.
 - (i) If the emissions level calculated in accordance with Section 9.5-6 is equal to or greater than eighty (80) percent of the PAL level, the APCO may renew the PAL at the same level without considering the factors set forth in paragraph (d)(ii) of Section 9.10; or
 - (ii) The APCO may set the PAL at a level that ~~he-the APCO~~ determines to be more representative of the source's baseline actual emissions, or that ~~he-the APCO~~ determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the APCO in ~~his-their~~ written rationale.
 - (iii) Notwithstanding paragraphs (d)(i) and (d)(ii) of Section 9.10:
 - A. If the potential to emit of the major stationary source is less than the PAL, the APCO shall adjust the PAL to a level no greater than the potential to emit of the source; and
 - B. The APCO shall not approve renewed PAL level higher than the current PAL unless the major stationary source has complied with the provisions of Section 9.11.
- (e) If the compliance date for a federal or state requirement that applies to the PAL source occurs during the PAL effective period, and if the APCO has not already adjusted for such requirement, the PAL shall be adjusted at the time ~~of~~ the affected ~~Part 70-title V~~ Operating Permit is renewed.

13.11.9.11 INCREASING A PAL DURING THE PAL EFFECTIVE PERIOD

- (a) The APCO may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (a)(i) through (a)(iv) of Section 9.11.
 - (i) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.
 - (ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT-equivalent controls, plus the

sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT-equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

- (iii) The owner or operator obtains an Authority to Construct issued in accordance with Sections 1 through 8 of this rule for all emissions unit(s) identified in paragraph (a)(i) of Section 9.11, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment Authority to Construct issued in accordance with Sections 1 through 8 of this rule (for example, LAER), issuance process, even though they have also become subject to the PAL or continue to be subject to the PAL.
- (iv) The PAL Permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
- (b) The APCO shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls as determined in accordance with paragraph (a)(ii) of Section 9.11), plus the sum of the baseline actual emissions of the small emissions units.
- (c) The PAL Permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 9.5.

13.129.12 MONITORING REQUIREMENTS FOR PALS

- (a) General requirements.
 - (i) ~~The Each~~ PAL Permit must include enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL ~~conditions-Permit~~ must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.
 - (ii) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(i) through (b)(iv) of Section 9.12 and must be approved by the APCO .

- (iii) Notwithstanding paragraph (a)(ii) of Section 9.12, the PAL monitoring system may also employ an alternative monitoring approach that meets paragraph (a)(i) of Section ~~79~~.12 if approved by the APCO .
- (iv) Failure to use a monitoring system that meets the requirements of Section 9.12 renders the PAL invalid.
- (b) Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (c) through (i) of Section 9.12:
 - (i) Mass balance calculations for activities using coatings or solvents;
 - (ii) CEMS;
 - (iii) CPMS or PEMS; and
 - (iv) Emission factors.
- (c) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coatings or solvents shall meet the following requirements:
 - (i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;
 - (ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
 - (iii) Where the vendor of a material or fuel which is used in or at the emissions unit publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the APCO determines there is site-specific data or a site-specific monitoring program to support another content within the range.
- (d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:
 - (i) The CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and
 - (ii) The CEMS must sample, analyze, and record data at least every fifteen minutes while the emissions unit is operating.
- (e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:
 - (i) The CPMS or PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

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

13.139.13 RECORDKEEPING REQUIREMENTS

- (a) The PAL Permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Section 9 and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.
- (b) The PAL Permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:

- (i) A copy of the PAL Permit application and any applications for revisions to the PAL Permit; and
- (ii) Each annual certification of compliance pursuant to title V and the data relied on in certifying the compliance.

13.149.14 REPORTING AND NOTIFICATION REQUIREMENTS

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

- (a) Semiannual Report. The semiannual report shall be submitted to the APCO within thirty days of the end of each reporting period. This report shall contain the information required in paragraphs (a)(i) through (a)(vii) of Section 9.14:
 - (i) The identification of owner and operator and the permit number;
 - (ii) Total annual emissions (in tpy) based on a 12-month rolling total for each month in the reporting period ~~recorded~~ pursuant to paragraph (a) of ~~Subection~~ Section 9.13.
 - (iii) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;
 - (iv) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period;
 - (v) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken;
 - (vi) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g) of Section 9.12; and
 - (vii) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.
- (b) Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL ~~conditions~~ Permit, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports

shall be submitted within the time limits prescribed by the affected ~~Part 70~~title V Operating Permit. The reports shall contain the following information:

- (i) The identification of owner and operator and the permit number;
 - (ii) The PAL requirement that experienced the deviation or that was exceeded;
 - (iii) Emissions resulting from the deviation or the exceedance; and
 - (iv) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.
- (c) Revalidation Results. The owner or operator shall submit to the APCO the results of any revalidation test or method within three months after completion of such test or method.

13.159.15 TRANSITION REQUIREMENTS

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

1410 INVALIDATION

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

1511 EFFECTIVE DATE FOR REFERENCED FEDERAL REGULATIONS

All references and citations in this rule to Title 40 of the Code of Federal Regulations (CFR) refer to the referenced federal regulation as in effect on ~~August 20, 2019~~January 17, 2023.