

# AIR POLLUTION CONTROL DISTRICT



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## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT RULES AND REGULATIONS

### REGULATION

#### I

### DEFINITIONS

#### RULE 101 – TITLE

These rules and regulations shall be known as the Rules and Regulations of Mariposa County Air Pollution Control District

#### RULE 102 - DEFINITIONS

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

##### A. **Agricultural Burning**

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

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

C. **Agricultural Waste-** Are (a) unwanted or unsellable materials produced wholly from agricultural operation and (b) materials not produced from agricultural operations, but which are

intimately related to the growing or harvesting of crops and which are used in the field, such as fertilizer and pesticide sacks or containers where the sacks or containers are emptied in the field. This does not include, however, such items as shop wastes, demolition materials, garbage, oil filters, tires, pallets, and the like.

- D. **Air Contaminant or Pollutant-** Any discharge, release, or other propagation into the atmosphere directly, or indirectly, caused by man and includes, but is not limited to, smoke, dust, charred paper, soot, grime, carbon, noxious acids, fumes, gases, odors, or particulate matter, or any combination thereof.
- E. **Air Pollution Control Officer-** The Air Pollution Control Officer of the Air Pollution Control District of Mariposa County.
- F. **Allowable Emissions-** The emission rate calculated using the maximum design capacity of the source unless the source is subject to Permit to Operate conditions which limit the operating rate or hours of operation, or both, which is the most stringent of applicable emission limitations contained in these Rules and Regulations or the emission rate, if any, specified as a Permit to Operate condition.
- G. **Alteration-** Any addition to, enlargement of, replacement of, or any major modification or change of the design, capacity, process, or arrangement, or any increase in the connected loading of equipment or control apparatus, which will significantly increase or effect the kind or amount of air contaminants emitted.
- H. **Approved Ignition Devices-** Means those instruments or materials that will ignite open fires without the production of black smoke by the ignition device, this would include such items as liquid petroleum gas (L.P.G.), butane, propane, or diesel oil burners, flares, or other similar material as approved by the Air Pollution Control Officer. This does not include tires, tar, tar paper, oil and other similar materials.
- I. **A.R.B.** The California State Air Resources Board, or any person authorized to act on its behalf.
- J. **Atmosphere-** The air that envelopes or surrounds the earth. Where air pollutants are emitted into a building not designed specifically as a piece of air pollution control equipment, such emissions into the building shall be considered to be an emission into the atmosphere.
- K. **Attainment Pollutant-** A criteria pollutant in an Air Pollution Control District or sub-District zone designated by the Environmental Protection Agency as an attainment area or unclassified area for such pollutant.
- L. **Baseline Concentration-** The ambient concentration level reflecting actual air quality as monitored or modeled as of (1) January 1, 1981, minus any contribution from major stationary facilities and major modifications on which construction commenced on or after January 5, 1975, for attainment pollutants; and (2) the date an application for Authority or Construct is deemed complete by the Air Pollution Control Officer for nonattainment pollutants.
- M. **Best Available Control Technology-** An emission limitation, based on the maximum degree of reduction for a criteria pollutant or precursor which would be emitted from any source or modification which the Air Pollution Control Officer, on a case-by-case basis, taking into account energy, environmental and economic impacts, and other costs, determines is achievable for such source or modification through application of production processes or available control methods, systems, and techniques, for such pollutant. In no case shall application of best available control technology result in emissions of any pollutant or precursor which would exceed the emissions allowed by 40 CFR Part 60 and 61. If the Air Pollution Control Officer determines that technological or economic limitations on the application of measurement technology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design equipment, work practice or operations standard, or combination thereof. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results.

- N. **Board-** The Mariposa County Air Pollution Control Board.
- O. **Breakdown Condition-** An unforeseeable failure or malfunction of (1) any air pollution control equipment or related operating equipment which causes a violation of any emission limitation or restriction prescribed by these Rules and Regulations, or by state law, or (2) any in-stack continuous monitoring equipment, where such failure or malfunction:
1. Is not the result of neglect or disregard of any air pollution control law or rule or regulation; and
  2. Is not intentional or the result of negligence; and
  3. Is not the result of improper maintenance; and
  4. Does not constitute a nuisance; and
  5. Is not a recurrent breakdown of the same equipment.
- P. **Crush Treated-** The material has been felled, crushed or uprooted with mechanical equipment, or has been desiccated with herbicides.
- Q. **Combustible or Flammable Waste-** Means any garbage, rubbish, trash , rags, paper, boxes, crates, excelsior, ashes, offal, carcass of a dead animal, petroleum product waste or any other combustible or flammable refuse material.
- R. **Combustion Contaminant-** Any particulate matter discharged into the atmosphere from the burning of any material which contains carbon in either the free or the combined state.
- S. **Condensed Fumes-** Particulate matter generated by the condensation of vapors evolved after volatilization from the molten liquid state, or generated by sublimation, distillation, calcination or chemical reaction, when these processes create airborne particles.
- T. **Criteria Pollutant-** An air pollutant regulated by a national ambient air quality standard contained within 40 CFR Part 50.
- U. **Designated Agency-** Any agency designated by the A.R.B. and Mariposa County Air Pollution Control District as having authority to issue Agricultural Burn Permits.
- V. **District-** Is the Air Pollution Control District of Mariposa County.
- W. **Dust-** Minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, sweeping, or other similar processes.
- X. **Emission-** The act of releasing or discharging air contaminants into the ambient air from any source.
- Y. **Emission Data-** Are measured or calculated concentrations or weights of air contaminants emitted into the ambient air. Production data used to calculate emission data are not emission data.
- Z. **Emission Point-** The place, located in a horizontal plane and vertical elevation, at which an emission enters the atmosphere.
- AA. **Facility-** Any source or collection of sources of air contaminants which are located on one or more contiguous or adjacent properties within the District and which is owned, operated, or under shared entitlement to be used by the same person. Items of air contaminant emitting equipment shall be considered aggregated into the same facility and items of non-air contaminant emitting equipment shall be considered associated with air contaminant emitting equipment only if:
1. The operation of each item of equipment is dependent upon, or affects the process of, the others; and
  2. The operation of all such items of equipment involves a common raw material or product. Federal Land Manager. The Secretary of the United States Department with authority over applicable federal lands, his authorized representative, or the President of the United States.
- AB. **Flue-** Any duct or passage for air, gases or the like, such as a stack or chimney.

- AC. **Forest Management Burning-** Means the use of open fires, as part of a forest management practice, to remove forest debris. Forest Management practice include timber operations, silvicultural practices or forest protection practices.
- AD. **Fossil Fuel-Fired Steam Generator-** Means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer. "Fossil fuel" means natural gas, petroleum, coal, and any form of solid, liquid, or gaseous fuel derived from such material
- AE. **Fugitive Dust-** Solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, as a direct result of operation of a facility.
- AF. **Hearing Board-** The appellate review board of any county or regional air pollution control district as provided for in the Health and Safety Code of the State Code of the State of California.
- AG. **Incineration-** An operation in which combustion is carried on for the principal purpose, or with the principal result of oxidizing a waste material to reduce its bulk or facilitate its disposal.
- AH. **Incinerator-** Means any furnace or other closed fire chamber used to dispose of combustible waste by burning and from which the products of combustion are directed through a flue or chimney.
- AI. **Installation-** The placement, assemblage or construction of equipment or control apparatus at the premises where the equipment or control apparatus will be used, including all preparatory work at such premises.
- AJ. **Institutional Facility-** Means any hospital, boarding home, school or like facility.
- AK. **Lowest Achievable Emission Rate-** For any source, the most stringent.
1. The most effective emission limitation which the Environmental Protection Agency certified is contained in the implementation plan of any state approved under the Clean Air Act for such class or category of source, unless the owner or operator of the proposed source demonstrates to the satisfaction of the Air Pollution Control Officer that such limitation is not achievable; or
  2. The most effective emissions control technique which has been achieved in practice, for such category or class of source; or
  3. Any other emissions control technique found, after public hearing, by the Air Pollution Control Officer to be technologically feasible and cost effective for such class or category of sources or for a specific source.

In no event shall the application of lowest achievable emission rate allow for emissions in excess of those allowable under 40 CFR Part 60 Major Facility. Any facility which actually emits or has the potential to emit, when operating at maximum design capacity, 100 tons per year or 1000 pounds per day, or more of a criteria pollutant or precursor.

- AL. **Major Modification-** Any modification of a facility which increases the actual emission or potential to emit a criteria pollutant or precursor by 100 tons per year or 1000 pounds per day or more. Emission increases shall include all accumulated increases in actual emissions or potential to emit at the facility since January 1, 1981, or since the date of issuance of the most recent Authority to Construct for initial construction or major modification of the facility.
- AM. **Modification-** Any physical change in, change in method of operation of, or addition to an existing stationary source, except that routine maintenance or repair shall not be considered to be a physical change. A change in the method of operation, unless previously limited by a Permit to Operate condition, shall not include:
1. An increase in the production rate, if such increase does not exceed the operating design capacity of the source.
  2. An increase in the hours of operation.
  3. A change in ownership of a source Multiple-Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure, used to dispose of combustible

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

- AN. **No-Burn Day-** Means any day on which agricultural burning is prohibited by the A.R.B., the Air Pollution Control Officer or the fire agency with appropriate jurisdiction.
- AO. **Nonattainment Pollutant-** A criteria pollutant in an Air Pollution Control District or sub-District zone designated by the Environmental Protection Agency as a nonattainment area for that pollutant.
- AP. **Open Out-Door Fire-** As used in this regulation means: Combustion of any combustible material of any type, outdoors in the open air, where the product of combustion is not directed through a flue.
- AQ. **Operation-** Any physical action resulting in a change in the location, form or physical properties of a material, or any chemical action resulting in a change in the chemical composition or the chemical properties of a material.
- AR. **Orchard or Citrus Heaters-** Any article, machine, equipment, or other contrivance, burning any type of fuel or material capable of emitting air contaminants, used or capable of being used for the purpose of giving protection from frost damage.
- AS. **Owner or Operator-** Means any person who owns, operates, controls or supervises an affected facility, or a stationary source of which an affected facility is a part.
- AT. **Particulate Matter-** Is any material except uncombined water, which can exist in a finely divided form as a liquid or solid at standard conditions
- AU. **Permissive Burn Day-** Means any day on which agricultural burning is not prohibited by the A.R.B.
- AV. **Person-** Any person, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, operator, user or owner, any government agency or public district or any officer or employee thereof.
- AW. **Potential to Emit-** The quantity of emissions that a source is capable of emitting at maximum design capacity calculated on the assumption that air pollution control equipment incorporated into the design of the source will function in the manner reasonably anticipated when the calculation is made.
- AX. **ppm-** Parts per million by volume expressed on a dried gas basis.
- AY. **Precursor-** A directly emitted pollutant that, when released into the atmosphere, forms or causes to be formed or contributes to the formation of a secondary pollutant which is a criteria pollutant. The following precursor-pollutant transformations shall be included in the determination of secondary pollutant concentrations: non-methane hydrocarbons - ozone; nitrogen oxides - nitrogen dioxide; sulfur oxides - sulfur dioxide.
- AZ. **Process Weight Per Hour-** The total weight, including contained moisture, of all materials introduced into any specific process, which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. (The Process Weight Per Hour will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.)
- BA. **Public Record-** Means any record made available to the public by-law containing information relating to the conduct of the public's business that is prepared, owned, used or retained by the District, except "trade secrets" as defined in Rule, 514 C, Regulation V.
- BB. **Range Improvement Burning-** Means the use of open fires to remove vegetation for a wildlife, game or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.

- CC. **Record-** Means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, drums, and other documents.
- DD. **Residential Rubbish-** Rubbish originating from a single or two family dwelling on its premises, limited to the following material: wood, paper, cloth, cardboard, tree trimmings, leaves, lawn clippings and dry plants.
- EE. **Resource Recovery Facility-** Any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 80% of the heat input to be considered a resource recovery facility.
- FF. **Secondary Emissions-** Emissions within the District from (1) all cargo carriers, excluding motor vehicles as defined in the Vehicle Code, which load or unload at a facility, and (2) all off-site support facilities which would be constructed as a result of construction or modification of a facility.
- GG. **Section-** As used in these Rules and Regulations, unless some other ~code is specifically mentioned, all section references are to the Health and Safety Code as such code reads on January 1, 1976
- HH. **Silvicultural Practices-** Means the establishment, development, care, and reproduction of stands of timber.
- II. **Solid Waste Dump-** Means any accumulation for the purpose of disposal of any solid waste.
- JJ. **Source-** Any machine, equipment, apparatus, device, process, or combination thereof, which emits or may emit air Contaminants to the atmosphere through a common duct or vent to a single emission point.
- KK. **Source Operation-** The last operation preceding the emission of an air contaminant, which operation (a) results in the separation of the air contaminants from the process materials, or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel, and (b) is not an air pollution abatement operation.
- LL. **Standard Conditions-** As used in these regulations, "Standard Conditions" are a gas temperature of 60 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute. Results of all analysis and tests shall be calculated and reported at this gas temperature and pressure.
- MM. **Standard Cubic Foot of Gas-** The amount of gas that would occupy a volume of one (1) cubic foot, if free of water vapor, at standard conditions.
- NN. **Tahoe Basin-** Means that area, within the State of California, as defined by the California Nevada Interstate Compact, Article 11, Paragraph C, as contained in Section 5976 of the State Water Code.
- OO. **Temporary Source-** Any source or activity causing emissions which operates within a single Air Pollution Control District for less than two (2) years in any ten (10) year period, including, but not limited to, pilot plants, portable facilities and construction activity.
- PP. **Timber Operations-** Means cutting or removal of timber or other forest vegetation.
- QQ. **Total Reduced Sulfur (TRS)-** Total reduced sulfur contained in hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide or other organic sulfide compounds, all expressed as hydrogen sulfide. Sulfur dioxide, sulfur trioxide, or sulfuric acid are not to be included in the determination of TRS.

# REGULATION

## II

### PROHIBITIONS

#### **RULE 201 - DISTRICT-WIDE COVERAGE**

Prohibitions, as set forth in this Regulation, shall apply in all portions of the Mariposa County Air Pollution Control District unless otherwise stated.

#### **RULE 202 - VISIBLE EMISSIONS**

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

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

#### **RULE 203 - EXCEPTIONS**

The provisions of Rule 202 do not apply to:

- A. Smoke from fires set or permitted by any public fire officer, if such fire is set by or permission given in the performance of the official duty of such officer, and such fire in the opinion of such officer is necessary:
  - 1. for the purpose of the prevention of a fire hazard. (or health hazard as determined by the Health Officer) which cannot be abated by any other means, or
  - 2. the instruction of public employees and/or volunteer firemen in the methods of fighting fires.
- B. Smoke from fires set pursuant to permit on property used for industrial purposes for the purpose of instruction of employees in methods of fighting fires.
- C. Open outdoor fires used for recreational purposes or for cooking of food for human consumption.
- D. The use of an experimental device, system, or method to study or research open burning authorized by Section 41707 and 41805 (b) of the Health and Safety Code and these Rules and Regulations.
- E. Agricultural operations necessary for the growing of crops, or raising of fowl or animals.
- F. Use of any aircraft to distribute seed, fertilizer, insecticides, or other agriculture aids over lands devoted to the growing of crops, or the raising of fowl or animals.
- G. The use of other equipment in agricultural operations necessary for the growing of crops, or the raising of fowl or animals.
- H. Orchard or citrus grove heaters that are on the approved list published by the State Air Resources Board

- I. The governing board of the district may by Rule provide for the issuance by the Air Pollution Control Officer of permits for open burning. The provisions of Rule 202 do not apply to smoke from fires set pursuant to such permit.
- J. Smoke emissions from tepee burners operating in compliance with Section 4438 of the Public Resources Code during the disposal of forestry and agricultural residues with supplemental fossil fuels, and burners used to produce energy and fired with such fuels, when such emissions result from startup or shutdown of the combustion process or from the malfunction of emissions control equipment. This subdivision shall not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period. This subdivision shall not apply to emissions which result from the failure to operate and maintain in good working order any emission control equipment.

#### **RULE 204 - WET PLUMES**

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

#### **RULE 205 - NUISANCE**

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

#### **RULE 206 - INCINERATOR BURNING**

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

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

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

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



## **RULE 207 - PARTICULATE MATTER**

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

## **RULE 208 - ORCHARD OR CITRUS HEATERS**

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

## **RULE 209 - FOSSIL FUEL-STEAM GENERATOR FACILITY**

A person shall not build, erect, install or expand any fossil fuel fired steam generating facility unless the discharge into the atmosphere of contaminants will not and does not exceed any one or more of the following rates:

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

## **RULE 210 - SPECIFIC CONTAMINANTS**

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

## **RULE 211 - PROCESS WEIGHT PER HOUR**

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

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

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

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

## **RULE 212 - PROCESS WEIGHT TABLE**

### **ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE**

<b>Process Weight Emission Rate</b>	<b>Emission Rate</b>
Lbs/Hr.	Lbs/Hr.
50 .....	.4
100 .....	.6
500 .....	1.5
1,000 .....	2.3
5,000 .....	6.3
10,000 .....	9.7

20,000	.....	15.0
60,000	.....	29.6
80,000	.....	31.2
120,00	.....	33.3
160,000	.....	34.9
200,000	.....	36.2
400,000	.....	40.4
1,000,000	.....	46.8

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

$$E=3.59 pO.62 P \text{ is less than or equal to } 30 \text{ tons/hr.}$$

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

$$E=17.31 pO.16 P \text{ is greater than } 30 \text{ tons/hr.}$$

Where:

*E*=Emission in pounds per hour.

*P*=Process weight rate in tons per hour.

## **RULE 213 - STORAGE OF PETROLEUM PRODUCTS**

A. Except as provided in subdivision (2), no person shall install or maintain any stationary gasoline tank with a capacity of 250 gallons or more which is not equipped for loading through a permanent submerged fill pipe, unless such tank is a pressure tank, or is equipped with a vapor recovery system, or with a floating roof, or unless such tank is equipped with other apparatus of equal efficiency which has been approved by the Air Pollution Control Officer.

1. Subdivision (1) shall not apply to any stationary tanks installed prior to December 31, 1970.
2. Subdivision (1) shall not apply to any stationary tank which is used primarily for the fueling of implements of husbandry, as such vehicles are defined in Division 16 (commencing with Section 36000) of the Vehicle Code.
3. For the purpose of this Rule, "gasoline" means any petroleum distillate having a Reid vapor pressure of four pounds or greater.
4. For the purpose of this Rule, "submerged fill pipe" means any fill pipe which has its discharge opening entirely submerged when the liquid level is six inches above the bottom of the tank. "Submerged fill pipe", when applied to a tank which is loaded from the side, means any fill pipe which has its discharge opening entirely submerged when the liquid level is 18 inches above the bottom of the tank.
5. A "pressure tank" is a tank which maintains working pressure sufficient at all times to prevent hydro- carbon vapor or gas loss to the atmosphere.
6. A "vapor recovery system" consists of a vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor disposal system capable of

processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere, with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place.

7. A "floating roof" consists of a pontoon-type or double-deck-type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. This control equipment shall not be used if the gasoline or petroleum distillate has a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
- B. A person shall not place, store or hold in any stationary tank, reservoir or other container of more than 40,000 gallons capacity, any gasoline or any petroleum distillate having a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank, or equipped with a vapor recovery system, or a floating roof as described in subsection (A) of this Rule, or other equipment of equal efficiency, provided such equipment is approved by the Air Pollution Control Officer.

#### **RULE 214 - REDUCTION OF ANIMAL MATTER**

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

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

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

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

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

#### **RULE 215 - ABRASIVE BLASTING**

By reference Title 17, Subchapter 6, of the California Administrative Code shall apply.

#### **RULE 216 - ENFORCEMENT**

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

## **RULE 217 - EXISTING SOURCES**

In any case where Regulation II imposes standards different than the standards applicable to an existing source of emission (on day before adoption of new Regulation 1974), and the source of emissions was in compliance, under variance, or authority to construct, with the less restrictive standards applicable on such date, then the source shall remain in compliance with such Rule, until modified or until July 1, 1984, whichever occurs first. In no event is any modification to cause an increase in emissions, over that being emitted prior to such modification.

## **RULE 218 - COMPLIANCE TESTS**

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

## **REGULATION**

### **III**

## **OPEN BURNING**

*All references in this rule are to Health and Safety Code Sections 39000 thru 41864 and/or Sections 80100 thru 80310 of Title 17, Subchapter 2, Agricultural Burning Guidelines, California Code of Regulations (CCR). (Prior to January 1, 1988, the CCR was known as the California Administrative Code.)*

## **RULE 300 - GENERAL DEFINITIONS**

- A. **Agricultural Operation-** The growing and harvesting of crops, or the burning of grass and weeds in or adjacent to fields in cultivation or being prepared for cultivation (CCR, Title 17, Sec. 80100 (F) (2) (A), or the raising of fowl or animals for the primary purpose of making a profit, or providing a livelihood, or the conduct of agricultural research or instruction by an educational institution. Agricultural operations do not include forest management, range improvement, improvement of land for wildlife and game habitat, or disease or pest prevention or wildland vegetation management.
- B. **Agricultural Waste-**
  - 1. Unwanted or unsellable material produced wholly from agricultural operations.
  - 2. Materials not produced wholly from agricultural operations, but which are intimately related to the growing or harvesting of crops and which are used in the fields, such as fertilizer and pesticide sacks or containers where the sacks or containers are emptied in the fields, except as prohibited in this Regulation. This does not include such items as shop wastes, demolition materials, garbage, oil filters, tires, pallets, and the like.
- C. **APCD-** The Air Pollution Control District of Mariposa County.
- D. **APCO-** The Air Pollution Control Officer of the Air Pollution Control District of Mariposa County, or designated representative

- E. **Approved Ignition Devices-** Those instruments or materials that will ignite open fires without the production of black smoke, including such items as liquid petroleum gas (L.P.G.), butane, propane, or diesel oil burners, flares, or other similar material as approved by the APCO. Tires, tar, tar paper, oil and other similar materials are not approved.
- F. **ARB-** The California State Air Resources Board, or any person authorized to act on its behalf.
- G. **Designated Agency-** Any agency designated by the ARB as having authority to issue agricultural burning permits. The U.S. Forest Service and the California Department of Forestry are so designated within their respective areas of jurisdiction.
- H. **Forest Management Burning-** The use of open fires to remove forest debris or for practices which include timber operations, silvicultural practices, or forest protection practices.
- I. **Person-** Any person, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, operator, user or owner, any government agency or public district or any officer or employee thereof.
- J. **Range Improvement Burning-** The use of open fires to remove vegetation for a wildlife, game, or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.
- K. **Residential Rubbish-** Rubbish originating from a single or two family dwelling on its premises, limited to the following material: wood, paper, cloth, cardboard, tree trimmings, leaves, lawn clippings and dry plants.
- L. **Section-** As used in these Rules and Regulations, unless some other code is specifically mentioned, all section references are to the California Health and Safety Code.
- M. **Silvicultural Practices-** Means the establishment, development, care, and reproduction of stands of timber.
- N. **Timber Operations-** The cutting or removal of timber or other forest vegetation.

## **RULE 301 - COMPLIANCE**

- A. **Enforcement-** These Rules and Regulations shall be enforced by the APCO under authority of Sections 40001, 40702, 40752, and all officers empowered by Section 40120.
- B. **Penalty-** A violation of the provisions of this Regulation, or of Section 41852 or 41800 is a misdemeanor punishable by imprisonment in the County Jail not exceeding nine (9) months or by fine not exceeding ten thousand dollars (\$10,000.00) or both, and the cost of putting out the fire. Every day during any portion of which such violation occurs constitutes a separate offense. (Section 42400, 42400.1, and 42400.5)

## **RULE 302 - BURNING PERMIT**

### 302.1 Requirements

- A. No person shall knowingly set or permit open outdoor fires unless that person has been issued a valid permit by the APCO or a designated agency. (Section 41852)
- B. A permit shall not be issued unless information is provided as required by the APCO or a designated agency, including:
  1. Name and address of the applicant.
  2. Location of proposed burn.
  3. Acreage or estimated tonnage, and type of material to be burned
  4. Any other information the APCO or the designated agency may deem pertinent.

- C. Each permit issued shall bear a statement of warning containing the following words or words of like or similar import:

**"THIS PERMIT IS VALID ONLY ON THOSE DAYS DURING WHICH AGRICULTURAL BURNING IS NOT PROHIBITED BY THE STATE AIR RESOURCES BOARD OR THE AIR POLLUTION CONTROL DISTRICT, PURSUANT TO SECTION 41855 OF THE HEALTH AND SAFETY CODE."  
(Section 41854).**

- D. A permit shall not be valid unless information is provided as required by the designated fire protection agency for fire protection purposes.
- E. The designated agency shall forward the permit information received from applicants to the APCO upon request.

**302.2 Exception-** The APCO may exempt Residential and Recreational Activities as defined.

### **RULE 303 - NO-BURN DAY**

**303.1 Prohibition-** No Person shall knowingly permit open outdoor fires on days when such burning is prohibited by ARB, the APCO, or the fire agency with appropriate jurisdiction.

**303.2 Exception-** The APCO may issue a permit to authorize the use of open outdoor fires on No-Burn Days, when denial of such a permit would threaten imminent and substantial economic loss.

### **RULE 304 - BURNING MANAGEMENT**

#### **304.1 Requirements**

- A. Material to be burned shall be arranged so that it will burn with a minimum of smoke.
- B. Except for large trees (diameter of six or more inches), only the amount that can reasonably be expected to completely burn within the following twenty-four hours shall be ignited in any one day.
- C. All outdoor fires shall be ignited only with approved ignition devices.
- D. Material to be burned shall be ignited as rapidly as practicable within applicable fire control restrictions.
- E. Burning shall be curtailed when smoke is drifting into a nearby populated area or creating a public nuisance.
- F. No material shall be burned unless it is free of tires, rubbish, tar paper, and construction debris is reasonably free of dirt, soil, and moisture; and is loosely stacked in such a manner to promote drying and insure combustion with a minimum of smoke.

### **RULE 305 - MINIMUM DRYING TIMES**

**305.1 Requirements-** To lower the moisture content of the material being burned, the elapsed time between cutting and burning shall be:

- A. A minimum of three days for green straw and stubble.
- B. Sufficient time for agricultural waste such as orchard prunings, small branches, vegetable tops, and seed screenings to assure rapid and complete combustion with a minimum of smoke.
- C. A minimum of six weeks for trees stumps, and large branches greater than six inches in diameter.
- D. Under Forest Management Burning the drying time shall be specified by the designated agency.
- E. Under Range Improvement Burning the brush shall be felled, crushed or uprooted with mechanical equipment, or desiccated with herbicides, or dead at least six months prior to the burn if economically and technically feasible.

**305.2 Exception-** The APCO may, by permit, authorize shorter drying times if the denial of such a permit would threaten imminent and substantial economic loss.

## **RULE 306 - AGRICULTURAL BURNING**

- A. Agricultural Burning is defined in this rule as any open outdoor fire used in agricultural operations necessary for the growing of crops or raising of fowl or animals, or in Forest Management Burning, Range Improvement Burning, Wildland Vegetation Management Burning, or the improvement of land for wildlife and game habitat, or disease or pest prevention. (Section 39011)
- B. Agricultural Burning is also defined in this rule as any open outdoor fire used in the operation or maintenance of a system for the delivery of water for purposes specified in Subdivision A of this rule
- C. Permissive-Burn or No Burn Days.
  - 1. A notice as to whether the following day is a permissive-burn day, or no-burn day, or whether the decision will be announced the following day, shall be provided by the ARB Board by 3:00 p.m. daily for each of the air basins. If the decision is made the following day it shall be announced by 7:45 a.m. Such notices shall be based on the Meteorological Criteria for Regulating Agricultural Burning, Article 3, Section 80290 of the Agricultural Burning Guidelines.
  - 2. Agricultural burning is prohibited on no-burn days, except as specified in Section 80102, Section 80120, subdivisions (d) and (e), and as may be permitted by a provision in an implementation plan adopted pursuant to Section 89150 (c) (5).
  - 3. Upon request from a permittee through a designated agency, seven days in advance of a specific range improvement burn, forest management burn, or wildland vegetation management burn, at any elevation below 6,000 ft. (msl), a permissive-burn or no-burn notice will be issued by the State Board up to 48 hours prior to the date scheduled for the burn. Without further request, a daily notice will continue to be issued until a permissive-burn notice is issued.
  - 4. Notwithstanding subdivision (c) of Section 80110, the ARB may cancel permissive-burn notices that have been issued more than 24 hours in advance if the cancellation is necessary to maintain suitable air quality.
  - 5. A permissive-burn or no-burn advisory outlook will be available up to 72 hours in advance of burns specified in Subdivision (c) of Section 80110.

### **306.1 Agricultural Burning Requirement**



- A. Agricultural burning is allowed by complying with the following Rules:
  - 1. 302 Burning Permit Requirement
  - 2. 303 Burn Days
  - 3. 304 Burning Management
  - 4. 305 Minimum Drying Time
- B. Burning conducted by a Public Agency or through a cooperative agreement or contract involving a Public Agency, shall comply with Rule 307, instead of this Rule.
- C. No burning shall be conducted for the improvement of land for wildlife or game wildlife or game habitat until the person who desires to conduct the burning files with the APCO a written statement from the Department of Fish and Game that certifies that the burning is desirable and proper. If the Department of Fish and Game wishes to conduct the burn itself, it shall, on its own behalf, issue and file the statement. (Section 41861).
- D. Agricultural waste material shall be windrowed or piled where possible, unless good silviculture practice dictates otherwise.

### **306.2 Exemptions**

- A. The burning of empty sacks or containers which contain pesticides or other toxic substances is exempt from 306.1, provided that the sacks or containers are within the definition of Agricultural Waste - Rule 300(B).
- B. Open burning of agricultural waste above 3,000 feet and agricultural burning above 6,000 feet shall be exempt from Sections A through C of this Rule.

## **RULE 307 - WILDLAND VEGETATION MANAGEMENT BURNING**

### **A. Wildland Vegetation Management Burning**

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

### **B. Prescribed Burning**

Prescribed Burning is defined in this rule as the planned application of fire to vegetation on land selected in advance of such application, where any of the purposes of the burning are specified in the definition of agricultural burning as set forth in Section 39011

### **307.1 Wildland Vegetation Management Burning Requirements**

- A. This rule applies to all burning which meets the definition as stated in Rule 307, regardless of whether such burning also meets another definition within this regulation.
- B. All open outdoor fires shall be ignited only with approved ignition devices as defined in Rule 300.E.
- C. The APCO shall regulate total acreage or tonnage that may be burned each day within the district.
- D. The APCO will regulate burning or require mitigation when the meteorological conditions could otherwise cause smoke to create or contribute to an exceedance of a State or Federal ambient air quality standard or cause a public nuisance.
- E. Vegetation burned under this rule shall be free of tires, rubbish, tar paper or construction debris, and reasonably free of dirt and soil

- F. Vegetation will be in a condition to facilitate combustion and minimize the amount of smoke emitted during combustion.

### **307.2 Burn Plan**

The following information will be provided to the APCO for review and approval at least 10 days in advance of the proposed burn:

- A. Location and specific objectives of the proposed burn.
- B. Acreage or tonnage, type, and arrangement of vegetation to be burned.
- C. Directions and distance to nearby sensitive receptor areas.
- D. Fuel condition, combustion, and meteorological prescription elements developed for the project.
- E. Projected schedule and duration of project ignition, combustion and burn down.
- F. Specifications for monitoring and verifying critical project parameters.
- G. Specification for disseminating project information.

### **307.3 Exemptions**

- A. The APCO may exempt project burns smaller in area or tonnage than threshold levels established by the District.
- B. The APCO may exempt projects located in zones as established by the District
- C. To receive a permissive-burn or no-burn notice, a permittee must submit a request for notice to the ARB at least seven days before the date of the burn. Such a notice will be issued up to 48 hours before the scheduled commencement of the burn project; however the ARB may cancel permissive-burn notices that have been issued more than 24 hours before project commencement if such cancellation is necessary) to maintain suitable air quality.

## **RULE 308 - NONAGRICULTURAL BURNING**

### **308.1 Prohibition**

Except as otherwise provided in this Regulation, no person shall use open outdoor fires for the purpose of disposal or burning of petroleum wastes, demolition debris, tires, tar, trees, wood waste, or other combustible or flammable solid or liquid waste; or for metal salvage or burning of motor vehicle bodies. section 41800)

### **308.2 Exemptions**

- A. Land Development Clearing  
The APCD finds it more economically desirable to dispose of wood waste from trees, vines, and bushes on property being developed for commercial or residential purposes by burning instead of burying at a sanitary landfill. This material shall be allowed for disposal by burning in compliance with the following Rules:
  - 1. Rule 302 Burning Permit Requirements
  - 2. Rule 303 Burn Days
  - 3. Rule 304 Burning Management
  - 4. Rule 305 Minimum Drying Time

## B. Ditch and Road Maintenance

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

1. Rule 302 Burning Permit Requirements
2. Rule 303 Burn Days
3. Rule 304 Burning Management
4. Rule 305 Minimum Drying Time

## C. Hazard Reduction

1. The burning of vegetation such as vines, bushes and waste from trees produced by fire safe clearing will be allowed when this burning is done in compliance with State and Local law or ordinance to reduce a fire hazard.
2. The burning shall be done in compliance with the following rules:
  - a. Rule 302 Burning Permit Requirements
  - b. Rule 303 Burn Days
  - c. Rule 304 Burning Management
  - d. Rule 305 Minimum Drying Time
3. If a fire officer with jurisdiction determines that a condition exists in which a fire hazard will have an imminent effect on life, or property, or where other authorized officials determine that a health hazard exists and that there is no alternative to burning, all other provision of this Regulation shall be waived.

## D. Fire Suppression and Training

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

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

## E. Residential Maintenance

The burning of Residential Rubbish shall be allowed under the following condition:

1. Burning shall be allowed only on the premises where the material originated.
2. Burning shall be managed in compliance with Rules 304 and 305.

## F. Recreational Activity

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

1. Material to be burned shall be limited to charcoal, untreated wood, or cooking fuels.
2. Burning shall be managed in compliance with Rule 305.
3. Only approved ignition devices will be used as stated in Rule 300.E.

## G. Mechanized Burner Requirements

The APCO may authorize, by permit, open outdoor fires for the purpose of disposing of agricultural wastes, or wood waste from trees, vines, bushes, or other wood debris free of nonwood materials, in a mechanized burner such that no air contaminant is discharged for a period or periods aggregating more than 30 minutes in any eight hour period which is;

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

In authorizing the operation of a mechanized burner, the APCO may make the permit

subject to whatever conditions he determines are reasonably necessary to assure conformance with the standards prescribed in this recalculation. section 41812)

## **REGULATION**

### **IV**

#### **AUTHORITY TO CONSTRUCT REGULATIONS**

##### **RULE 401 - PERMIT REQUIRED**

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

##### **RULE 402 - EXEMPTIONS TO RULE 401**

An Authority to Construct shall not be required for:

- A. Vehicles as defined by the Vehicle Code of the State of California.
- B. Vehicles other than those contained within the provisions of subsection 1. above used to transport passengers or freight.
- C. The exemption allowed under this Section shall not be extended to include any article, machine, equipment, or other contrivance mounted on such vehicle contained within the provisions of subsection 1. and 2. above that would otherwise require an Authority to Construct under the provisions of this Regulation.
  1. Equipment utilized exclusively in connection with any structure, which structure is designed for, and used exclusively as a dwelling for not more than two families.
  2. The following equipment:
- D. Comfort air conditioning, or comfort ventilating systems, which are not designed to remove air contaminants generated by, or released from specific units or equipment.
- E. Refrigeration units except those used as; or in conjunction with, air pollution control equipment.
- F. Piston type internal combustion engines used on other than vehicles for transporting passengers or freight, and fired with natural gas or liquefied petroleum gas, or those having 1,000 cubic inches cylinder displacement or less and fired with diesel oil or gasoline.
- G. Water cooling towers and water cooling ponds not used for evaporative cooling of water from barometric jets or from barometric condensers.
- H. Equipment used exclusively for steam cleaning.
- I. Equipment used in eating establishments for the purpose of preparing food for human consumption.
- J. Equipment used exclusively to compress or hold dry natural gas.

- K. The following equipment or any exhaust system or collector serving exclusively such equipment:
  - 1. Laboratory equipment used exclusively for chemical or physical analysis and bench scale laboratory equipment.
  - 2. Brazing, soldering or welding equipment.
- L. Steam generators, steam superheaters, water boilers, water heaters, and closed heat transfer systems that have a maximum heat input rate of less than 50,000,000 British Thermal Units (BTU) per hour gross, and are fired exclusively with one of the following:
  - 1. Natural gas;
  - 2. Liquefied petroleum gas;
  - 3. A combination of natural gas and liquefied petroleum gas.
- M. Self-propelled mobile construction equipment other than pavement burners.
- N. Implements of husbandry used in agricultural operations.
- O. Repairs or maintenance not involving structural changes to any equipment for which a Permit to Operate has been granted.
- P. Other sources emitting less than 1 ton per year of any criteria pollutant or precursor which may be specified by the Air Pollution Control Officer.

### **RULE 403 - APPLICATIONS**

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

### **RULE 404 - APPLICATION CRITERIA**

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

### **RULE 405 - DETERMINATION OF REQUIREMENTS**

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

## **RULE 406 - COMPLETENESS OF APPLICATION**

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

## **RULE 407 - POLLUTANT MODELING**

The Air Pollution Control Officer, in consultation with other Air Pollution Control Districts in the Mountain Counties Air Basin, shall designate air quality simulation models for use in determining air quality impacts of emissions from new and existing facilities and modifications. Each model shall utilize information relating to emission quantities and meteorological conditions for areas within and adjacent to the District. Each model designated shall be consistent with the requirements provided in the "Guidelines on Air Quality Models, OAQPS 1.2-080", unless the Air Pollution Control Officer finds that such model is inappropriate for use in the District. After making such finding, the Air Pollution Control Officer may designate an alternate model only after allowing for public comment and only after consultation with other Air Pollution Control Districts in the Mountain Counties Air Basin, the Air Resources Board and the Environmental Protection Agency.

## **RULE 408 - ATTAINMENT POLLUTANT AIR QUALITY ANALYSIS**

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

## **RULE 409 - EXEMPTIONS TO RULE 408**

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

- A. Portable facilities being relocated which have received Permits to Operate after January 1, 1981, and temporary sources of emissions if:
  1. Emissions from the facility would not exceed emissions limitations provided in these Rules and Regulations and would not cause or contribute to a violation of a national ambient air quality standard; and
  2. Such operation would impact no Class I area and no area where an applicable increment is known to be violated; and
  3. Notice is given to the Air Pollution Control Officer at least 90 days prior to a relocation identifying the proposed new location and the probable duration of operation at such location.
- B. Modification of a source for the sole purpose of converting from the use of petroleum products, natural gas, or both, by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act or the Federal Energy Supply, and Environmental Coordination Act of 1974 (or any superseding legislation). An exemption for such a modification shall not apply for more than five (5) years after the effective day of such plan.
- C. Any modification which causes no net increase in the quantity of emissions from a facility, or any facility which causes no net increase in the quantity of emission within a District zone. Emission offset eligibility shall be determined through the provisions of Rule 411. No exemption shall be allowed if the facility or modification would impact a nonattainment area or an attainment pollutant increment violation area for such pollutant
- D. Sources of fugitive dust.
- E. Any facility or modification which is not a major facility or major modification except any which would have the potential to emit an increase of emissions in excess of
  1. 5.0 tons per year of lead;
  2. 0.02 tons per year of asbestos;
  3. 0.001 tons per year of beryllium;
  4. 0.3 tons per year of mercury;
  5. 3.0 tons per year of vinyl chloride;
  6. 3.0 tons per year of fluorides;
  7. 7.0 tons per year of sulfuric acid;
  8. 10.0 tons per year of hydrogen sulfide;
  9. 10.0 tons per year of total reduced sulfur.
- F. Any source of carbon monoxide which the Air Pollution Control Officer determines would not cause a violation of any national ambient air quality standard for such pollutant at the point of maximum ground level impact.

## **RULE 410 - CALCULATION OF EMISSIONS**

- A. The maximum design capacity of a new facility or modification shall be used to determine the emissions from the new facility or modification unless the applicant, as a condition to receiving Authorities to Construct and Permits to Operate for such new facility or modification, agrees to a limitation on the operation of the new facility or modification. Such limitation shall be used to establish the maximum emissions from the new facility or modification and shall be attached as a condition to Permits to Operate. Allowable emissions shall be calculated on the basis of the

emissions limitation contained in these Rules and Regulations as of the date the Air Pollution Control Officer deems the application for Authority to Construct complete.

- B. The maximum emissions for an existing facility shall be based on the actual operating conditions averaged over the two year period preceding the date of application, or such other averaging period as determined by the Air Pollution Control Officer if the source did not operate, or operated irregularly, during the preceding two year period. If violation of laws, rules, regulations, permit conditions or orders of the District, the Air Resources Board or the Environmental Protection Agency occurred during the period used to determine the operating conditions, then adjustments to the operating conditions shall be made to determine the emissions the existing facility would have caused without such violations.
- C. When computing the net increases in emissions for modifications, the Air Pollution Control Officer shall take into account the cumulative net emissions changes which are represented by Authorities to Construct associated with the existing facility, and issued after January 1, 1981, excluding any emissions reductions required to comply with federal, state, or District laws, rules or regulations.

#### **RULE 411 - EMISSION OFFSET ELIGIBILITY**

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



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

#### **RULE 412 - EMISSION REDUCTION CREDIT**

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

applicant identifying the pollutant type, and daily average, and annual quantities approved for banking.

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

## **RULE 413 - ATTAINMENT POLLUTANT INCREMENTS**

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

**Pollutant: Monitoring Interval**

**Maximum Allowable Increase**

(micrograms per cubic meter)

	<b>Class I</b>	<b>II</b>	<b>III</b>
Particulate Matter:			
Annual Geometric Mean	5	19	37
24-hour Maximum	10	27	75
Sulfur Dioxide:			
Annual Arithmetic Mean	2	20	40
24-hour Maximum	5	91	182
3-hour Maximum	25	512	700
Ozone:			
1-hour Maximum	20	40	80
Oxide of Nitrogen:			
Annual Average	10	20	40
Hydrocarbons (corrected for methane):			
3-hour Maximum	20	40	80
Lead:			
Calendar Quarter Average	0.15	0.30	0.60

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

#### **RULE 414 - SOURCES IMPACTING CLASS I AREAS**

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

<b>ZONE POLLUTANT</b>	<b>Maximum Allowable Increase</b> (micrograms per cubic meter)
Particulate Matter:	<b>Class I</b>
Annual Geometric Mean	19
24-hour Maximum	37
Sulfur Dioxide:	
Annual Arithmetic Mean	20
24-hour Maximum	91

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

<b>ZONE POLLUTANT</b>	<b>Maximum Allowable Increase</b> (micrograms per cubic meter) <b>Class I</b>
Sulfur Dioxide:	
24-hour Maximum	62
3-hour Maximum	221

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

**RULE 415 - ATTAINMENT POLLUTANT INCREMENT CONSUMPTION**

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

**RULE 416 - VIOLATION OF NATIONAL AMBIENT AIR QUALITY STANDARDS**

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

## **RULE 417 - VIOLATION OF EMISSION LIMITATION**

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

## **RULE 418 - ATTAINMENT POLLUTANT CONTROL TECHNOLOGY**

- A. The Air Pollution Control Officer shall deny an Authority to Construct for a facility or modification subject to review under the provisions of Rule 408 unless the facility or modification is designed to apply best available control technology for each applicable attainment pollutant or precursor. For an existing facility this requirement shall apply only to new or modified sources.
- B. For applicable phased construction projects, the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time prior to commencement of each independent phase of the proposed facility or modification.
- C. In the case of a major facility or major modification which the applicant proposed to construct in a Class III area, emissions from which would cause or contribute to air quality exceeding the maximum allowable increase that would be applicable if the area were a Class II area and where no new source performance standard under 40 CFR 60 has been promulgated for such source category, the Air Pollution Control Officer shall submit the determination of best available control technology to the Environmental Protection Agency for concurrence.
- D. For those facilities or modifications required to meet the provisions of Section A of this Rule, the Air Pollution Control Officer may approve with the consent of the Air Resources Board the use of innovative control technology in lieu of best available control technology, provided that:
  1. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function, or cause emissions in excess of any standard contained in these Rules and Regulations or in 40 CFR Parts 60 and 61; and
  2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that achieved by the application of best available control technology by a date specified by the Air Pollution Control Officer. Such date shall not be later than 4 years from the time of startup or 7 years from the date of issuance of the Authority to Construct.
- E. The Air Pollution Control Officer shall withdraw any approval to employ a system of innovative control technology approved under this Rule if:
  1. The proposed system fails by the specified date to achieve the required continuous emission reduction rate; or
  2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety or
  3. The Air Pollution Control Officer decides at any time that the proposed system is unlikely to achieve the required level of control, or to protect the public health, welfare, or safety. If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or its approval is withdrawn pursuant to this Section, the Air Pollution Control Officer may allow the source or modification up to an additional 3 years to meet the requirements of best available control technology through use of a demonstrated control system.
- F. In the event that the Air Pollution Control Officer withdraws approval of a system of innovative control technology, the affected operator shall have the right to appeal such decision to the Hearing Board of the District within 30 days after receipt of the notice of withdrawal or approval.

## **RULE 419 - NONATTAINMENT POLLUTANT AIR QUALITY ANALYSIS**

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

## **RULE 420 - EXEMPTIONS TO RULE 419**

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

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

- E. Any source of carbon monoxide which the Air Pollution Control Officer determines would not cause a violation of any national ambient air quality standard for such pollutant at the point of maximum ground level impact.

## **RULE 421 - CONTRIBUTION TO VIOLATION OF NATIONAL AMBIENT AIR QUALITY STANDARD**

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

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

## **RULE 422 - EXEMPTIONS TO RULE 421**

The Air Pollution Control Officer may exempt from any of the requirements of Rule 421.C. any of the following facilities or modifications:

- A. Resource recovery sources burning refuse-derived or biomass-derived solid waste fuels,
- B. sources which must switch fuels due to a lack of adequate fuel supplies, and
- C. sources required to be modified as a result of Environmental Protection Agency regulations where no exemption from such regulation is available to the source. An exemption under this Rule shall not be granted unless:
  - 1. The applicant demonstrates that it made its best efforts to obtain sufficient emission offsets to comply with Rule 421.C. and that such efforts were unsuccessful; and
  - 2. The applicant has secured all available emission offsets and will continue to seek the necessary offsets and apply them when they become available.

## **RULE 423 - POWER PLANTS**

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

- A. Within fourteen days of receipt of an NOI, the Air Pollution Control Officer shall notify the Air Resources Board and the Energy Commission of the District's intent to participate in the NOI Proceeding. If the Air Pollution Control Officer chooses to participate in the NOI proceeding,

he shall prepare and submit a report to the Air Resources Board and the Energy Commission prior to the conclusion of the nonadjudicatory hearings specified in Section 25509.5 of the Public Resources Code. That report shall include, at a minimum:

1. A preliminary specific definition of best available control technology and where applicable, lowest achievable emission rate for the proposed facility;
2. A preliminary discussion of whether there is a substantial likelihood that the requirement of these Rules and Regulations can be satisfied by the proposed facility;
3. A preliminary list of conditions which the proposed facility must meet in order to comply with these Rules and Regulations.

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

- B. Upon receipt of an Application for Certification (AFC) for a power plant, the Air Pollution Control Officer shall conduct a Determination of Compliance review. This determination shall consist of a review identical to that which would be performed if an application for an Authority to Construct had been received for the power plant. If the information contained in the ABC does not meet the requirements of Rule 403, the Air Pollution Control Officer shall, within 20 calendar days of receipt of the ABC, so inform the Energy Commission, and the ABC shall be considered incomplete and returned to the applicant for resubmittal.
- C. The Air Pollution Control Officer shall consider the ABC to be equivalent to an application for an Authority to Construct during the Determination of Compliance review, and shall apply all provisions of this Regulation.
- D. The Air Pollution Control Officer may request from the applicant any information necessary for the completion of the Determination of Compliance review. If the Air Pollution Control Officer is unable to obtain the information, the Air Pollution Control Officer may petition the presiding Commissioner for an order directing the applicant to supply such information.
- E. Within 180 days of accepting an ABC as complete, the Air Pollution Control Officer shall make a preliminary decision on:
  1. Whether the proposed power plant meets the requirements of this Regulation and all other applicable District Rules; and
  2. In the event of compliance, what permit conditions will be required including the specific emission control requirements and a description of required emission offset measures.
- F. The preliminary written decision made under Section E. above shall be treated as a preliminary decision under Rule 424.A., and shall be finalized by the Air Pollution Control Officer only after being subject to the notice and comment requirements of Rule 424. The Air Pollution Control Officer shall not issue a Determination of Compliance unless all requirements of this Regulation are met.
- G. Within 240 days of the filing date of the complete ABC, the Air Pollution Control Officer shall issue and submit to the Commission a Determination of Compliance or, if such a determination cannot be issued, shall so inform the Commission. A Determination of Compliance shall confer the same rights and privileges as an Authority to Construct only when and if the Energy Commission approves the ABC, and the Energy Commission certificate includes all conditions of the Determination of Compliance.

## **RULE 424 - AUTHORITY TO CONSTRUCT DECISION**

- A. The Air Pollution Control Officer shall issue a preliminary decision on whether the Authority to Construct should be approved, approved with conditions, or disapproved no later than one year after an application has been deemed complete by the Air Pollution Control Officer. The



preliminary decision, together with a copy of all materials the applicant submitted and a copy or summary of all other materials, if any, considered in making the preliminary decision, shall be made available in at least one location in the District for public inspection. The Air Pollution Control Officer may exempt from the provisions of this Section any source with the potential to emit less than 100 tons per year of each criteria Pollutant or precursor.

- B. Within ten (10) calendar days following the preliminary decision in the case of an Authority to Construct for a facility or modification with the potential to emit 100 tons per year or more of any criteria pollutant or precursor, the Air Pollution Control Officer shall publish a notice in at least one newspaper of general circulation in the District stating the preliminary decision and where the public may inspect the information required to be available in Section A. above. The notice shall provide 30 days from the date of publication for the public to submit written comments on the preliminary decision. For a major facility or major modification of attainment pollutants or precursors, the notice shall include (1) the degree of increment consumption that is expected from the facility or modification, and (2) the date and place of a public hearing to accept public comment on the preliminary decision.
- C. The Air Pollution Control Officer shall send copies of any notice of preliminary decision to the applicant, the Air Resources Board, the Environmental Protection Agency, and to any appropriate Federal Land Manager and Air Pollution Control District affected by emissions from the proposed source or modification.
- D. The Air Pollution Control Officer shall consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approvability of the application. Such comments shall be made available for public inspection in the same location as available application information relating to the proposed facility or modification are located.
- E. The Air Pollution Control Officer shall make a final decision as to whether an Authority to Construct should be approved, approved with conditions or disapproved. Such decision shall be transmitted to the applicant and made available for public inspection. If the application is denied, the Air Pollution Control Officer shall not accept a further application unless the application has complied with the objections or deficiencies specified by the Air Pollution Control Officer as reasons for denial of the Authority to Construct.
- F. Within ten (10) days after notice by the Air Pollution Control Officer of a denial or conditional approval of an Authority to Construct, the applicant may petition the Hearing Board, in writing, for public hearing. The Hearing Board, after notice and public hearing held within 30 days after filing the petition, may sustain or reverse the action of the Air Pollution Control Officer, provided that in reversing an action the Hearing Board shall make the finding that the action of the Air Pollution Control Officer was not proper. Such orders of the Hearing Board may be made subject to specified conditions.

#### **RULE 425 - CANCELLATION OF AUTHORITY TO CONSTRUCT**

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

#### **RULE 426 - TRANSFER OF AUTHORITY TO CONSTRUCT**

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

## **REGULATION**

### **V**

#### **PERMIT TO OPERATE REGULATIONS**

##### **RULE 501 - PERMIT REQUIRED**

Before any source may be operated, a Permit to operate shall be obtained from the Air Pollution Control Officer. No Permit to Operate shall be granted either by the Air Pollution Control Officer or the Hearing Board for any source constructed or modified without authorization as required in Regulation IV until the information required is provided to the Air Pollution Control Officer and such source is altered, if necessary, and made to conform to the standards set forth in Regulation IV and elsewhere in these Rules and Regulations.

##### **RULE 502 - EXEMPTIONS TO RULE 501**

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

##### **RULE 503 - APPLICATIONS**

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

##### **RULE 504 - ACTION ON APPLICATIONS**

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

##### **RULE 505 - CONDITIONAL APPROVAL**

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

##### **RULE 506 - DENIAL OF APPLICATION**

In the event of denial of a Permit to Operate, the Air Pollution Control Officer shall notify the applicant

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

#### **RULE 507 - RESPONSIBILITY**

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

#### **RULE 508 - POSTING OF PERMIT TO OPERATE**

A person who has been granted a Permit to Operate under this Regulation shall firmly affix such Permit to Operate, an approved facsimile or other identification approved by the Air Pollution Control Officer upon the article, machine, equipment, or other contrivance in such a manner as to be clearly visible and accessible. In the event that the equipment is so constructed or operated that the Permit to Operate cannot be so placed, the Permit to Operate shall be mounted so as to be clearly visible in an accessible place on the premises or maintained readily available at all time on the operating premises. A person shall not willfully deface, alter, forge, counterfeit, or falsify a Permit to Operate.

#### **RULE 509 - AUTHORITY TO INSPECT**

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

#### **RULE 510 - SEPARATION OF EMISSIONS**

If air contaminants from a single source operation are emitted through two or more emission points, the total emitted quantity of air contaminants cannot exceed the quantity which should be allowable through a single emission point. The total emitted quantity of any such air contaminant shall be taken as

the product of the highest concentration measured in any of the emission points, unless the person responsible for the source operation establishes the correct total emitted quantity to the Air Pollution Control Officer's satisfaction

#### **RULE 511 - COMBINATION OF EMISSIONS**

- A. If air contaminants from two or more source operations are combined prior to emission and there are adequate and reliable means reasonably susceptible for confirmation and use by the Air Pollution Control Officer in establishing a separation of the components of the combined emission to indicate the nature, extent, quantity, and degree of emission arising from each such source operation, the Rules and Regulations shall apply to each such source operation separately.
- B. If air contaminants from two or more source operations are combined emissions cannot be separated according to the requirements of Section A above, the Rules and Regulations shall be applied to combined emissions as if it originated in a single source operation subject to the most stringent limitations and requirements placed by the Rules and Regulations on any of the source operations whose air contaminants are so combined.

#### **RULE 512 - CIRCUMVENTION**

A person shall not build, erect, install, or use any article, machine, equipment or other contrivance, the use of which, without resulting in an actual reduction in the total release of air contaminants to the atmosphere, superficially reduces or conceals an emission which would otherwise constitute a violation of Division 26 of the Health and Safety Code of the State of California or of these Rules and Regulations. This Rule shall not apply to cases in which the only violations involved are Section 41700 of the Health and Safety Code, or of Rule 205 of these Rules and Regulations.

#### **RULE 513 - SOURCE RECORDKEEPING**

The owner or operator of any stationary source shall, upon notification from the Air Pollution Control Officer, maintains records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Air Pollution Control Officer to determine whether such source is in compliance with applicable emission limitations or other control measures. The Air Pollution Control Officer may require that such records be certified by a professional engineer registered in the State of California. Such studies shall be made at the expense of the person causing the emissions.

The information recorded shall be summarized and reported to the Air Pollution Control Officer, on forms or formats as required by the Air Pollution Control Officer, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1 - June 30 and July 1 - December 31, or other periods as may be specified by the Air Pollution Control Officer.

Information reported by the owner or operator and copies of the summarizing reports submitted to the Air Pollution Control Officer shall be retained by the owner or operator for two years after the date on which the pertinent report is submitted.

## **RULE 514 - PUBLIC RECORDS AND TRADE SECRETS**

- A. All information, analysis, plans, or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which will be produced by any source which the District requires any applicant to provide before such applicant builds, alters, replaces, operates, sells, rents, or uses such source, are public records.
- B. All air quality or other pollution monitoring data, including data compiled from stationary sources, are public records.
- C. Except as otherwise provided in Section D below, trade secrets are not public records under this Rule. Trade secrets, as used in this Rule, may include, but are not limited to, any formula, plan, pattern, process, tool mechanism, compound, procedure, production rate, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade, or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it. The owner or operator shall state in writing his justification for claiming material as trade secrets and such justification shall be public record. The Air Pollution Control Officer shall rule on the validity of trade secret claims. Requests from the public for records shall be specific and in sufficient detail to enable the Air Pollution Control Officer to readily identify the information requested.
- D. Notwithstanding any other provisions of the law, all air pollution emission data, including those emission data which constitute trade secrets as defined in Section C above, are public records. Production data used to calculate emission data are not emission data for purposes of this subdivision and data which constitute trade secrets and which are used to calculate emission data are not public records.

## **RULE 515 - PROVISION OF SAMPLING AND TESTING FACILITIES**

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

- A. Provide to the Air Pollution Control Officer data on process and production rate, and techniques, flow diagrams, descriptions of basic equipment and control equipment, rates of emissions and other information which the Air Pollution Control Officer may require.
- B. Provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity, or degree of air contaminants discharged into the atmosphere from the equipment in question. In the event of such a requirement, the Air Pollution Control Officer shall notify the applicant, in writing, of the required size, number and location of sampling holes, the size, and location of the sampling platform. All utilities shall be constructed in accordance with the general industry safety orders of the State of California.
  - 1. Provide and maintain sampling and monitoring apparatus to measure emissions of air contaminants when the Air Pollution Control Officer has determined that such apparatus is available and should be installed.
  - 2. A person installing, operating, or using any of the following equipment shall provide, properly install, maintain in good working order, and operate continuous stack monitoring systems as described below:

- a. Oxides of nitrogen (NOX) and carbon dioxide (CO<sub>2</sub>) of oxygen (O<sub>2</sub>) from steam generators with a heat input of 25 million British Thermal Units or more per hour and with a use factor of at least 30 percent.
  - b. Oxides of nitrogen (NOX) from all new nitric acid plants.
  - c. Sulfur dioxide (SO<sub>2</sub>) from sulfuric acid plants, sulfur recovery plants, carbon monoxide (CO) from boilers or regenerators of fluid catalytic cracking units, new fluid cokers and existing fluid cokers with a feed rate greater than 10,000 barrels per day.
3. A person operating or using a stack monitoring system shall, upon written notice from the Air Pollution Control Officer, provide a summary of the data obtained from such systems. This summary of the data shall be in the form and the manner prescribed by the Air Pollution Control Officer. The summary of data shall be available for public inspection at the Office of the Air Pollution Control District.

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

4. A violation of emission standards of these Rules and Regulations, as shown by the stack monitoring system, shall be reported by the source owner or operator to the Air Pollution Control Officer within 96 hours.
  5. The owner or operator shall notify the Air Pollution Control Officer of the intent to shut down any monitoring equipment at least 24 hours prior to the event.
  6. The Air Pollution Control Officer shall inspect, as he determines to be necessary, the monitoring devices required by this Rule to ensure that such devices are functioning properly.
- C. The Air Pollution Control Officer may require that disclosures required by this Rule be certified by a professional engineer registered in the State of California. Studies necessary to provide such information shall be made at the expense of the person causing the emissions.

## **RULE 516 - UPSET AND BREAKDOWN CONDITIONS**

### **A. Breakdown Procedure**

1. The owner or operator shall notify the Air Pollution Control Officer of any occurrence which constitutes a breakdown condition. Such notification shall identify the time, specific location, equipment involved, and (*to the extent known*) the cause(s) of the occurrence, and shall be given as soon as reasonably possible, but not later than two (2) hours after its detection during normal District business hours.
2. The Air Pollution Control Officer shall establish written procedures and guidelines, including appropriate forms for logging of initial reports, investigation, and enforcement follow-up, to ensure that all reported breakdown occurrences are handled uniformly to final disposition.
3. Upon receipt of notification pursuant to subsection A.1. above, the Air Pollution Control Officer shall promptly investigate and determine whether the occurrence constitutes a breakdown condition. If the Air Pollution Control Officer determines that the occurrence does not constitute a breakdown condition, the Air Pollution Control Officer may take appropriate enforcement action, including, but not limited to seeking fines, an abatement order, or an injunction against further operation.

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

1. An occurrence which constitutes a breakdown condition, and which persists longer than 48 hours, except for continuous monitoring equipment for which the period shall be 96 hours, shall constitute a violation of any applicable emission limitation or restriction prescribed b) these Rules and Regulations; however, the Air Pollution Control Officer may elect to take no enforcement action if the owner demonstrates to his satisfaction that a breakdown condition exists and the following requirements are met:
  - a. The owner or operator submits the notification required by subsection A.1. above; and
  - b. The owner or operator immediately undertakes appropriate corrective measures and comes into compliance, or elects to shut down for corrective measures within 48 hours, except for continuous monitoring equipment for which the period shall be 96 hours. If the owner or operator elects to shut down rather than come into immediate compliance, he must nonetheless take whatever steps are possible to minimize the impact of the breakdown within the 48 hour period; and The breakdown does not interfere with the attainment and maintenance of any national ambient air quality standard.
2. An occurrence which constitutes a breakdown condition shall not persist longer than 48 hours, except for continuous monitoring equipment for which the period shall be 96 hours, unless the owner or operator has obtained an emergency variance.

### **C. Emergency Variance Procedures**

1. If the breakdown condition will require more than 48 hours to correct, except for continuous monitoring equipment for which the period shall be 96 hours, the owner or operator may, in lieu of shutdown, request the Air Pollution Control Officer to commence the emergency variance procedure set forth in subsection D.2. below.
2. Upon receipt of a request for an emergency variance, the Air Pollution Control Officer shall contact the chairperson of the Hearing Board, or their designated member(s) of the Hearing Board, who shall conduct deliberations for consideration of the request. The Air Pollution Control Officer shall inform the owner or operator of the source of such deliberation. During consideration of the emergency variance, the Air Pollution Control Officer shall recommend whether any emergency variance should be granted, and the owner or operator of the source shall be entitled to present relevant information or data applicable to the breakdown. The burden shall be on the owner or operator to establish that a breakdown condition exists. Thereafter, the chairperson or other designated member(s) may, without notice or hearing, grant or deny an emergency variance. The chairperson or other designated member(s) shall, within five (5) working days, issue a written order confirming the decision, with appropriate findings.
3. No emergency variance shall be granted unless the chairperson or other designated member(s) determines that:
  - a. The occurrence constitutes a breakdown condition; and
  - b. Continued operation is not likely to create a nuisance, an immediate threat, or hazard to public health or safety; and
  - c. The requirements for a variance set forth in Health and Safety Code Sections 42352 and 42353 have been met; and
  - d. The continued operation in a breakdown condition will not interfere with the attainment or maintenance of the national ambient air quality standards.
4. At any time after an emergency variance has been warranted, the Air Pollution Control Officer may request that the chairperson or designated member(s) reconsider and revoke, modify, or further condition the variance if the Air Pollution Control Officer has good cause to believe that:

- a. Continued operation is likely to create a nuisance, an immediate threat, or hazard to public health or safety;  
or
  - b. The owner or operator is not complying with all applicable conditions of the variance; or c. A breakdown condition no longer exists; or d. Final compliance is not being accomplished as expeditiously as practicable The procedures set forth in subsection C.2. above shall govern any proceedings conducted under this subsection.
5. An emergency variance shall remain in effect only for as long as necessary to repair or remedy the breakdown condition, but in no event after a regularly noticed hearing to consider an interim or 90 day variance has been held, or fifteen (15) days from the date of the subject occurrence, whichever is sooner.

**D. Reporting Requirements**

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

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

**E. Burden of Proof**

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

**F. Failure to Comply with Reporting Requirements**

Any failure or comply in a timely manner, with the reporting requirement established in subsection B.1. and E. 1. through E.5. of this Rule shall constitute a separate violation of this Rule.

**G. False Claiming of Breakdown Occurrence**

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

**H. Hearing Board Standards and Guidelines**

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

**RULE 517 - TRANSFER**

A Permit to Operate shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.



## **RULE 518 - REVOCATION OF A PERMIT TO OPERATE**

If the holder of any Permit to Operate within a reasonable time willfully fails and refuses to furnish to the Air Pollution Control Officer information, analysis, plans, or specifications requested by the Air Pollution Control Officer, the Air Pollution Control Officer may suspend the Permit to Operate. He shall serve notice in writing of such suspension and the reasons therefore on the permittee.

## **RULE 519 - APPEALS**

Within ten (10) days after notice by the Air Pollution Control Officer of any of the following: denial of an Authority to Construct, Permit to Operate, or denial of Trade Secret status, or any conditional approval, requirements for sampling and monitoring apparatus, or any Permit to Operate suspension, the applicant may petition the Hearing Board, in writing, for public hearing. The Hearing Board, after notice and public hearing held within thirty (30) days after filing the petition may sustain or reverse the action of the Air Pollution Control Officer, provided that in reversing an action, the Hearing Board shall make the finding that the action of the Air Pollution Control Officer was not proper. Such orders of the Hearing Board may be made subject to specified conditions.

## **RULE 520 - REINSTATEMENT**

The Air Pollution Control Officer shall reinstate a revoked Permit to Operate when all information, analysis, plans, and specifications are furnished, and the source is in compliance with these Rules and Regulations.

## **RULE 521 - ANNUAL RENEWAL**

Permits to Operate issued pursuant to the provisions of this Regulation shall expire one (1) year after the date of issuance. The Air Pollution Control Officer may renew an expired Permit to Operate upon payment of the applicable permit fees by the source operator.

(Mariposa County Ordinance No. 738)

## **REGULATION**

### **VI**

### **FEES**

## **RULE 601 - PERMIT FEES**

This Rule requires that fees be paid for:

- A. **Filing Fee**-Every applicant, except any state or local governmental agency or public district, for an Authority to Construct, or a Permit to Operate equipment for which a permit is required by the State Law or the Rules and Regulations of the Air Pollution Control District, shall pay a

filing fee of \$100.00. When an application is filed for a Permit to Operate any article, machine, equipment, or other contrivance by reason of transfer from one person to another, and where a Permit to Operate had previously been granted under Rule and no alteration, addition, or transfer of location has been made, the applicant shall pay only the filing fee.

**B. Engineering Evaluation Fee**

Every applicant who files an application for a permit, alteration of a permit, additions to a permit or revision of a permit, including one for change of location, shall in addition to the filing fee pay upon notification an engineering evaluation fee. The fee shall not exceed the actual engineering costs incurred by the district.

**C. Permit Fee**

Every applicant, except any state or local governmental agency, or public district, who files application with the Air Pollution Control Officer for a Permit to Operate, shall, in addition to the filing fee prescribed herein, pay the fee for the issuance of a Permit to Operate in the amount prescribed in the following schedules, provided, however, that the filing fee shall be applied to the fee prescribed for the issuance of the Permit to Operate.

**D. Cancellation or Denial**

If an application for an Authority to Construct or a Permit to Operate is cancelled, or if an Authority to Construct or Permit to Operate is denied and such denial becomes final, the filing fee required herein shall not be refunded nor applied to any subsequent application. The charge for engineering evaluation incurred shall not be refunded.

**E. Transfer of Location or Owner**

Where an application is filed for a Permit to Operate any equipment by reason of transfer of location or transfer from one person to another, or both, and where a Permit to Operate had previously been granted for such equipment under Rule 501 and an alteration or addition has been made, the applicant shall be assessed a fee based upon the increase in total horsepower rating, the increase in total fuel consumption expressed in thousands of British Thermal Units (BTU) per hour, the increase in total electrical energy rating, the increase in maximum horizontal inside cross sectional area or the increase in total stationary container capacity resulting from such alteration or additions, as described in the fee schedules contained herein. Where the application is for transfer of location, and no alteration or addition has been made, the applicant shall pay only the amount of the filing fee required herein.

**F. Alteration of Equipment**

Where an application is filed for an Authority to Construct or a Permit to Operate exclusively involving revisions to the conditions of an existing Permit to Operate or involving alterations or additions resulting in a change to any existing equipment holding a permit under the provisions of Rule 501 of these Rules and Regulations, the applicant shall be assessed a fee based upon the increase in total horsepower rating, the increase in total fuel consumption expressed in thousands of British Thermal Units (BTU) per hour, the increase in total electrical energy rating, the increase in maximum horizontal inside cross sectional area or the increase in total stationary container capacity resulting from such alterations or additions, as described in the fee schedules contained herein. Where there is no change or a decrease in such rating, the applicant shall pay only the amount of the filing fee and engineering analysis fee required herein.

**G. Permit Fee**

After the provisions for granting permits as set forth in Article 1, Chapter 4, Part 4, Division 26, of the Health and Safety Code and these Rules and Regulations, have been complied with, the applicant shall be notified by the Air Pollution Control Officer, in writing, of the fee to be paid for issuance of the Permit to Operate. Such notice may be given by personal service, or by deposit, postpaid, in the United States Mail and shall serve as a Temporary Permit to Operate for thirty (30) days from the date of personal service or mailing. Non-payment of the fee within this period of time shall result in the automatic cancellation of the application.

**H. Permit Granted by Hearing Board**

In the event that a Permit to Operate is granted by the Hearing Board, after denial by the Air Pollution Control Officer, or after the applicant deems his application denied, the applicant shall pay the fee prescribed in the following schedules within thirty (30) days after the date of the decision of the Hearing Board. Non-payment of the fee within this period of time shall result in automatic cancellation of the permit and the application.

**I. Annual Renewal Fee**

Annually on the anniversary of the issuance of a Permit to Operate granted under Rule 501 the permittee shall pay a renewal fee amounting to one-fourth of the initial permit fee under current fee schedules. (Rule 602A) and the total annual emission fees (Rule B). Gasoline service stations subject to vapor recovery shall pay 100% of the nozzle fee in Schedule 6. Gasoline service stations exempt from vapor recovery shall not be charged an annual renewal fee under this rule. The holder of permits with more than one anniversary date may adjust annually, prorating renewal fee(s) as necessary. If the renewal fee is not paid within thirty (30) days after it becomes due, the fee shall be increased by one-half the amount thereof, and the Air Pollution Control Officer shall thereupon promptly notify the permittee by mail of the increased fee. If the increased fee is not paid within thirty (30) days after such notice, the permit shall be automatically revoked and the Air Pollution Control Officer shall so notify the permittee by mail.

**J. Multiple Locations**

When permits have been issued to operate movable equipment at two or more locations, only one annual renewal fee will be charged. The anniversary date on which the annual renewal fee will be due will be that noted on the original permit.

**K. Duplicate Permit**

A request for duplicate Permit to Operate shall be made in writing to the Air Pollution Control Officer within ten (10) days after the destruction, loss, or defacement of a Permit to Operate. A fee of \$5.00 shall be charged, except to any state or local governmental agency or public district, for issuing a duplicate Permit to Operate.

**RULE 602 - PERMIT FEE SCHEDULES**

**A. Equipment**

In determining the fees to be charged, the applicable equipment within each process that requires a permit will be totaled for each schedule. In the event that more than one fee schedule is applicable to a Permit to Operate, the governing schedule shall be that which results in the higher fee.

**SCHEDULE I**

**ELECTRIC MOTOR HORSEPOWER SCHEDULE.V**

Any equipment which may cause the emission of air contaminants where an electric motor is used as the power supply shall be assessed a permit fee based on the total rated motor horsepower of all electric motors included in any article, machine, equipment, or other contrivance, in accordance with the following schedule:

<b>HORSEPOWER</b>	<b>FEE</b>
(A) Less than 50	\$ 55.00
(B) 50 or greater but less than 100	\$ 110.00

(C) 100 or greater but less than 200	\$ 165.00
(D) 200 or greater but less than 300	\$ 220.00
(E) 300 or greater but less than 400	\$ 275.00
(F) 400 or greater but less than 500	\$ 330.00
(G) 500 or greater but less than 600	\$ 385.00
(H) 600 or greater	\$ 440.00

## **SCHEDULE II**

### **FUEL BURNING EQUIPMENT SCHEDULE**

Any equipment which may cause the emission of air contaminants in which fuel is burned, with the exception of incinerators which are covered in Schedule 4, shall be assessed a permit fee based upon the design of the equipment expressed in British Thermal Units (BTU) per hour in accordance with the following schedule:

<b>1,000 BTU PER HOUR</b>	<b>FEE</b>
(A) Less than 1,500	\$ 55.00
(B) 1,500 or greater but less than 5,000	\$ 165.00
(C) 5,000 or greater but less than 15,000	\$ 220.00
(D) 15,000 or greater but less than 50,000	\$ 385.00
(E) 50,000 or greater but less than 100,000	\$ 660.00
(F) 100,000 or greater but less than 200,000	\$ 990.00
(G) 200,000 or greater	\$1265.00

## **SCHEDULE III**

### **ELECTRICAL ENERGY SCHEDULE**

Any equipment which may cause the emission of air contaminants which uses electrical energy, with the exception of electric motors covered in Schedule I, shall be assessed a permit fee based upon the total kilovolt ampere (KVA) ratings, in accordance with the following schedule:

<b>KILVOLT AMPERES</b>	<b>FEE</b>
(A) Less than 50	\$ 55.00
(B) 150 or greater but less than 450	\$ 110.00
(C) 450 or greater but less than 4,500	\$ 165.00
(D) 4,500 or greater but less than 14,500	\$ 220.00
(E) 14,500 or greater but less than 45,000	\$ 275.00
(F) 45 000 or greater	\$ 330.00

## **SCHEDULE IV**

### **INCINERATOR SCHEDULE**

Any equipment designed and used primarily to dispose of combustible refuse by wholly consuming the material charge leaving only the ashes or residue shall be assessed a permit fee

based on the following schedule of the maximum horizontal inside cross sectional area, in square feet, of the primary combustion chamber:

<b>AREA IN SQUARE FEET</b>	<b>FEE</b>
(A) Less than 10	\$ 55.00
(B) 10 or greater but less than 15	\$ 110.00
(C) 15 or greater but less than 25	\$ 165.00
(D) 25 or greater but less than 40	\$ 220.00
(E) 40 or greater but less than 100	\$ 330.00
(F) 100 or greater	

**SCHEDULE V**

**STATIONARY CONTAINER SCHEDULE**

Any stationary tank, reservoir, or other container, with the exception of stationary storage tanks covered in Schedule 6 herein, shall be assessed a permit fee on the following schedule of capacities in Gallons or cubic equivalent:

<b>GALLONS</b>	<b>FEE</b>
(A) Less than 40,000	\$ 55.00
(B) 40,000 or greater but less than 100, 000	\$ 110.00
(C) 100,000 or greater but less than 400,000	\$ 165.00
(D) 400,000 or greater but less than 1,000,000	\$ 220.00
(E) 1,000,000 or greater but less than 1,500,000	\$ 275.00
(F) 1,500,000 or greater	\$ 330.00

**SCHEDULE VI**

**GASOLINE FUELING EQUIPMENT SCHEDULE**

Any gasoline fueling equipment, at a single location including stationary gasoline storage tanks and dispensers, required to have a vapor recovery system shall be assessed an annual permit fee based on the number of gasoline dispensing nozzles, in accordance with the following schedule:

Gasoline Dispensing Facility, Annual Permit	\$ 228.00
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**Nozzles**

Each . . . . .	\$ 38.00
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**SCHEDULE VII**

**MISCELLANEOUS SCHEDULE**

Any article, machine, equipment, or other contrivance which may cause the issuance of air contaminants as defined in Rule 102 of the Rules and Regulations which is not included in the preceding schedules shall be assessed a permit fee of **\$525.00**.

## **SCHEDULE VIII**

### **EMISSION FEE SCHEDULE**

#### **A. Annual Permit Fee Based on Emissions**

1. The operator of all equipment operating under permit shall pay an annual permit fee based on the total weight of emissions of each of the contaminants specified in schedule VIII from equipment on the premises. The fee established in Rule B is pursuant to the authority granted in the Health and Safety Code Section 42311. Such fee shall be in addition to other fees payable under this Regulation. As used in this paragraph, "premises" means one parcel of land, or continuous parcels of land under the same ownership or entitlement to use not including the parcels which are remotely located and connected only by land carrying a pipeline. No annual permit fee based upon emissions shall be required for vehicle (Section 670 Vehicle Code) fueling equipment.

Each ton (rounded to the nearest ton ) for any one of the following air contaminants: gaseous sulfur compounds (expressed as sulfur dioxide), total organic gases, oxides of nitrogen (expressed as nitrogen dioxide), or particulate matter; and in excess of 10 tons per year (rounded to the nearest ton) for carbon monoxide shall be assessed a fee as set forth in the following schedule:

<b>AIR CONTAMINANT</b>	<b>DOLLARS PER TON</b>
Organic gases	\$ 20.00
Carbon monoxide	\$ 3.50
Oxides of nitrogen (expressed as nitrogen dioxide)	\$ 8.00
Gaseous sulfur compounds (expressed as sulfur dioxide)	\$ 48.00
Particulate matter	\$ 33.00

2. The Air Pollution Control Officer shall determine the total emissions for the preceding year of each of the air contaminants listed in Schedule VIII from all equipment on the premises of facilities to which this paragraph applies. The Air Pollution Control Officer shall determine the emission factors applicable to each permit unit or group of permit units, and provide them to the operator upon request. In determining emission factors, the Air Pollution Control Officer shall use the best available data. Emission Factor", as used in this subparagraph, means the amount of air contaminant emitted per unit of time or per unit of material handled, processed, produced or burned.

## **SCHEDULE IX**

### **OPEN BURNING**

#### **A. Open Burning**

Any person who shall set and conduct an open outdoor fire or fires for which a permit must be issued authorizing such a fire under the provisions of Regulation III shall pay a permit fee in accordance with the following schedule:

Burn Permit: Residential	\$25
Burn Permit: Exempt Residential (Calfire 100' clearances)	\$0
Burn Permit: Rule 306- Agricultural Burning	\$25
Burn Permit: Rule 307 – Prescribed Fire, Base Fee	\$175
Burn Permit: Rule 307- Prescribed Fire, Fee per Acre	\$1.75 per acre
Burn Permit: Rule 308.2a- Land Development Clearing	\$175
Burn Permit: Rule 308.2b- Ditch/ Road Maintenance	\$25
Burn Permit: Rule 308.2c – Hazard Reduction (Residential Piles beyond Calfire 100' requirement)	\$25
Burn Permit: Exception to Burn Prohibition	\$175
Burn Permit: After Notice of Violation for Burning without a Permit	Double regular permit fee

#### **RULE 603 - ANALYSIS FEES**

Whenever the Air Pollution Control Officer finds that an analysis of the emissions from any source is necessary to determine the extent and amount of pollutants being discharged into the atmosphere which cannot be determined by visual observation, he may order the collection of samples and the physical analysis made or the collection of data and the engineering analysis made by qualified personnel as determined by the Air Pollution Control Officer. The time required for collecting samples or data, making the physical or engineering analysis, and preparing the necessary reports, but excluding the time required in going to and from such premises, shall be charged against the owner or operator of said premises in a reasonable sum to be determined by the Air Pollution Control Officer, which sum is not to exceed the actual cost of such work.

#### **RULE 604 - TECHNICAL REPORTS**

Charges for information, circular, reports of technical work, and other reports prepared by the Air Pollution Control District when supplied to other governmental agencies or individuals or groups requesting copies of the same may be charged for by the District in a sum not to exceed the cost of preparation and distribution of such documents. All such monies collected shall be turned into the general funds of the said District.

#### **RULE 605 - HEARING BOARD FEES**

- A. Every applicant or petitioner for a variance, or for the extension, revocation, or modification of a variance or for an appeal from a denial or conditional approval or an Authority to Construct or Permit to Operate, except any state or local governmental agency or public district, shall pay the clerk of the Hearing Board, on filing, a fee not to exceed the cost of the Hearing.
- B. Any person requesting a transcript of the hearing shall pay the cost of such transcript.
- C. This Rule shall not apply to petitions filed by the Air Pollution Control Officer.

## **RULE 606 - COMPLIANCE FEE**

If a notice of violation is issued and the annual fee paid under previous schedules is insufficient to pay District costs for the additional time required for inspections, report writing and evaluations associated with enforcement and returning a source to compliance, a charge of \$21.00/hour will be assessed, the amount not to exceed actual District costs. This fee is in addition to any penalties or fines imposed by the District or State.

## **REGULATION**

### **VII**

## **PROCEDURE BEFORE THE HEARING BOARD**

### **RULE 700 - APPLICABLE ARTICLES OF THE HEALTH AND SAFETY CODE**

The provisions of Article 2, Chapter 4, Part 4, and Chapter 8, Part 3 of Division 26 of the Health and Safety Code, respectively entitled Variances and Hearing Board, are applicable within the boundaries of the Mariposa County Air Pollution Control District.

### **RULE 701 - GENERAL**

This regulation shall apply to all hearings before the Hearing Board of the Air Pollution Control District.

### **RULE 702 - FILING PETITIONS**

Requests for hearing shall be initiated by the filing of a petition, in triplicate, with the clerk of the Hearing Board, and the payment of the fee as provided for in Rule 605 of these Rules and Regulations, after service of a copy of the petition has been made on the Air Pollution Control Officer and one copy on the holder of the permit or variance, if any, involved. Service may be made in person or by mail, the service may be proved by written acknowledgment of the person served or by the affidavit of the person making the service.



## **RULE 703 - CONTENTS OF PETITIONS**

Every petition shall state:

- A. The name, address, and telephone number of the petitioner, or other person authorized to receive service of notices.
- B. Whether the petitioner is an individual, co-partner, corporation, or other entity, and names and addresses of the partners if a co-partnership, names, and addresses of the officers, if a corporation, and the names, and addresses of the persons in control, if other entity.
- C. The type of business or activity involved in the application and the street address at which it is conducted
- D. A brief description of the article, machine, equipment, or other contrivance~, if any involved, in the application.
- E. The Section or Rule under which the petition is filed:
  1. To determine whether a permit shall be revoked, or a suspended permit reinstated, under Section 42307, Health and Safety Code;
  2. For a variance under Section 42350, Health and Safety Code;
  3. To revoke or modify a variance under Section 42356, Health and Safety Code;
  4. To review the denial or conditional granting of an Authority to Construct or Permit to Operate under Rule 519 of these Rules and Regulations.
  5. To review the denial of certification or withdrawal of certified emission reductions under Rule 412 or to review the withdrawal of approval of innovative technology under Rule 418.
- F. Each petition shall be signed by the petitioner, or by some person on his behalf, and where the person signing is not the petitioner, it shall set forth his authority to sign.
- G. Petitions for revocation of permits shall allege, in addition, the Rule under which permit was granted, the Rule, or Section which is alleged to have been violated, together with a brief statement of the facts constituting such alleged violations.
- H. Petitions for reinstatement of suspended permits shall allege, in addition, the Rule under which the permit was granted, the request and alleged refusal which formed the basis for such suspension, together with a brief statement as to why information requested, if any, was not furnished, whether such information is believed by petitioner to be pertinent, and, if so, when it will be furnished.
- I. All petitions shall be typewritten, double spaced, on legal or letter size paper, on one side of the paper only, leaving a margin of at least one inch at the top and left side of each sheet.

## **RULE 704 - PETITIONS FOR VARIANCES**

The Petition for Hearing form, as provided, shall be filled out completely.

## **RULE 705 - APPEAL FROM DENIAL**

A petition to review the denial or conditional approval of a permit shall, in addition to the information required by Rule 703, set forth a summary of the permit application or a copy thereof, and the alleged reasons for the denial or conditional approval and the reasons for appeal.

## **RULE 706 - FAILURE TO COMPLY WITH RULES**

The clerk of the Hearing Board shall not accept for filing any petition which does not comply with these Rules relating to form, filing, and service of petitions unless the chairman of the Hearing Board directs otherwise and confirms such direction in writing. Such direction need not be made at a meeting of the Hearing Board.

## **RULE 707 - ANSWERS**

Any person may file an answer within ten (10) days after service. All answers shall be served in the same manner as are petitions under the provisions of Rule 702.

## **RULE 708 - DISMISSAL OF PETITION**

The petitioner may dismiss his petition at any time before submission of the case to the Hearing Board, without a hearing or meeting of the Hearing Board. The clerk of the Hearing Board shall notify all interested persons of such dismissal.

## **RULE 709 - PLACE OF HEARING**

All hearings shall be held at a place designated by the Hearing Board.

## **RULE 710 - NOTICE OF PUBLIC HEARING**

- A. For hearings requested under Rule 519, the clerk of the Hearing Board shall serve-a-notice of the time and place of a hearing upon the Air--Pollution Control Officer and upon the applicant or permittee affected, not less than ten (10) days prior-to such hearing. In addition, such notice shall be published in at least one newspaper of general circulation within the District. The notice shall state the time and place of the hearing and such other information as may be necessary to reasonably apprise the people within the District of the nature and purpose of the hearing.
- B. Except as stated in (A), (C), (D), and (E), in the case of a hearing to consider the application for a variance, the clerk of the Hearing Board shall serve a notice of the time and place of a hearing upon the Air Pollution Control Officer, all other districts within the air basin, the Air Resources Board, the Environmental Protection Agency, the applicant or permittee, and every person who requests such a notice not less than thirty (30) days prior to such hearing.
- C. In addition, such notice shall be published in at least one daily newspaper of general circulation in the District at least thirty (30) days prior to the hearing. The notice shall state the time and place of the hearing, and the place where the application, including any proposed conditions or schedule of increments of progress, is available for public inspection, and such other information as may be necessary to reasonably apprise the people within the District of the nature and purpose of the hearing.

- D. For an application for a variance, or a series of variances, to be in effect for R period of not more than ninety (90) days, the clerk of the Hearing Board shall serve a notice of the time and place of a hearing to grant such a variance upon the Air Pollution Control Officer, all other districts within the basin, the Air Resources Board, the Environmental Protection Agency, and upon the applicant or permittee, not less than ten (10) days prior to such hearing.
- E. For an application for interim variance, the clerk of the Hearing Board shall serve reasonable notice of the time and place of a hearing upon the Air Pollution Control Officer and upon the applicant.
- F. For an application for an emergency variance, the clerk of the Hearing Board shall serve notice of the time and place of a hearing upon the Air Pollution Control Officer and upon the applicant.
- G. The clerk of the Hearing Board shall serve a notice of time and place of a hearing either by personal services or by first-class mail, postage prepaid. If either the 56 identity or address of any person entitled to notice is unknown, the clerk shall serve such person by publication of notice in the District pursuant to Section 6061 of the Government Code.
- H. Sections 42450 through 42454 of the Health and Safety Code, Orders of Abatement, shall apply.
- I. For an application-for an appeal of denial of emission reduction certification or withdrawal, or for an application for an appeal of approval of innovative technology, the clerk of the Hearing Board shall serve reasonable notice of the time and place of a hearing upon the Air Pollution Control Officer and upon the applicant.

## **RULE 711 - EVIDENCE**

- A. Oral evidence shall be taken only on oath or affirmation.
- B. Each party shall have these rights:
  - 1. To call and examine witnesses;
  - 2. To introduce exhibits;
  - 3. To cross-examine opposing witnesses on any matter relevant to the issues, even though that matter was not covered in the direct examination;
  - 4. To impeach any witness regardless of which party first called him to testify;
  - 5. To rebut the evidence against him.
- C. If respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.
- D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.
- E. All evidence, oral or written, and all exhibits, shall be recorded at the time of the hearing and all records shall be maintained for a period of time as specified by law or as determine by the Air Pollution Control Board.

## **RULE 712 - PRELIMINARY MATTERS**

Preliminary matters such as setting a date for hearing, granting continuances, approving petitions for filing, allowing amendments and other preliminary rulings not determinative of the merits of the case may be made by the chairman of the Hearing Board without a hearing or meeting of the Hearing Board and without notice.

#### **RULE 713 - OFFICIAL NOTICE**

The Hearing Board may take official notice of any matter which may be judicially noticed by the courts of this State.

#### **RULE 714 - CONTINUANCES**

The chairman of the Hearing Board shall grant any continuance of fifteen (15) days, or less, concurred in by petitioner, the Air Pollution Control Officer and by every person who has filed an answer in the action and may grant any reasonable continuance; in either case such action may be ex parte, without a meeting of the Hearing Board and without prior notice.

#### **RULE 715 - DECISION**

The decision shall be in writing, served and filed within fifteen (15) days after submission of the cause by the parties thereto and shall contain a brief statement of facts found to be true, the determination of the issue presented and the order of the Hearing Board. A copy shall be mailed or delivered to the Air Pollution Control Officer, the Air Resources Board, the petitioner, and to every person who has filed an answer or who has appeared as a party in person or by counsel at the hearing.

#### **RULE 716 - EFFECTIVE DATE OF DECISION**

The decision shall become effective fifteen (15) days after delivering or mailing a copy of the decision, as provided in Rule 715, or the Hearing Board may order that the decision shall become effective sooner.

#### **RULE 717 - LACK OF PERMIT**

The Hearing Board shall not receive or accept a petition for a variance for the operation or use of any equipment until a permit has been granted or denied by the Air Pollution Control Officer, except that an appeal from a denial of a permit and a petition for a variance may be filed with the Hearing Board in a single petition. A variance granted by the Hearing Board after a denial of a permit by the Air Pollution Control Officer may include a permit for the duration of the variance.

## **REGULATION**

### **VIII**

## **AIR QUALITY ZONING**

### **RULE 801 - ESTABLISHMENT OF AIR QUALITY ZONES**

The Air Pollution Control Board may establish air quality zones within the District for the implementation of air pollution control strategies. The Air Pollution Control Board may consider factors including, but not limited to, topography, meteorology, land use, and existing air quality in considering boundaries of a zone. Air pollution control strategies may include different Omission limitation and source category applicabilities. The establishment of District zones shall be enacted only after consultation with the Control Council of the Mountain Counties Air Basin.

### **RULE 802 - ATTAINMENT POLLUTANT ZONES**

#### **A. Class I Zones**

1. All of the following areas within the District which were in existence on August 7, 1977, shall be Class I zones with respect to attainment pollutant increment consumption and shall not be redesigned:
  - a. National wilderness areas which exceed 5,000 acres in size;
  - b. National memorial parks which exceed 5,000 acres in size;
  - c. National parks which exceed 6,000 acres in size.
2. Pursuant to the provisions of Rule 803, the District Air Pollution Control Board may redesignate any other area within the District as a Class I zone. Such eligible lands include, but are not limited to, any local, state or federal monument, primitive area, preserve, recreational area, wild and scenic river, wildlife refuge, lake shore, park, wilderness area or other area of cultural or recreational value

#### **B. Class II Zones**

1. All area within the District not contained within Class I or Class III zones shall be Class II zones with respect to attainment pollutant increment consumption.
2. Pursuant to the provisions of Rule 803, the District Air Pollution Control Board may redesignate any area not contained within a mandatory federal Class I zone as a Class II zone.

#### **C. Class III Zones**

1. Pursuant to the provisions of Rule 803, the District Air Pollution Control Board may redesignate any area not contained within a mandatory federal Class I zone or restricted area as listed below as a Class III zone:
  - a. An area which as Of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lake shore or seashore; or
  - b. A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.
2. In redesignating an area as a Class III zone, the District Air Pollution Control Board shall make the finding that the highest and best use of the land redesignated as a Class III zone is for industrial development.

### **RULE 803 - ATTAINMENT POLLUTANT ZONE REDESIGNATIONS**

- A. The District Air Pollution Control Board may redesignate areas as Class I or Class II zones with respect to attainment pollutant increment consumption, provided that:
1. Prior to the issuance of notice respecting the redesignation of an area that includes any Federal lands, the Air Pollution Control Officer shall provide written notice to the appropriate Federal Land Manager and afford adequate opportunity (not in excess of 60 days) to confer with the Air Pollution Control Officer respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager has submitted written comments and recommendations, the Air Pollution Control Officer shall publish a list of any inconsistency between such redesignation and such comments and recommendations together with the reasons for making redesignation against the recommendation of the Federal Land Manager; and
  2. At least one public hearing is to be held to receive comments relative to such redesignation. The notice of public hearing shall be published at least 30 days prior to the hearing date in a newspaper of general circulation in the District; and
  3. The Air Pollution Control Officer shall consult with the Control Council of the Mountain Counties Air Basin regarding such redesignation; and
  4. Federal Land Managers and other Air Pollution Control Districts outside the Mountain Counties Air Basin whose lands may be affected shall be notified at least 30 days prior to the public hearing; and
  5. A description of the reasons for the proposed redesignation, including a description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation shall be prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing shall contain appropriate notification of the availability of such discussion.
- B. The District Air Pollution Control Board may redesignate areas, except those listed in Rule 802.A.1. and C.1., as Class III zones with respect to attainment pollutant increment consumption, provided that:
1. All the requirements for a Class I or Class II area redesignation contained in Section A. above shall be met with respect to the proposed Class III area redesignation; and
  2. The redesignation shall have been specifically approved by the Air Resources Board after consultation with the Legislature, if it is in session, or with the leadership of the Legislature if it is not in session; and
  3. The District Air Pollution Control Board shall enact a resolution concurring with redesignation: and
  4. The redesignation shall not cause, or contribute to, a concentration of any air pollution which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and
  5. Any Authority to Construct application for any major stationary source or major modification subject to the provisions of Regulation IV which could receive an Authority to Construct only if the area in question were redesignated as Class III, and any material submitted as part of that application, shall be made available, insofar as is practicable, for public inspection prior to any public hearing on redesignation of any area as Class III.

## **NONVEHICULAR AIRBORNE TOXIC CONTROL MEASURES**

### **REGULATION IX**

#### **BENZENE AIRBORNE TOXIC CONTROL MEASURE**

#### **RETAIL SERVICE STATIONS (CCR Title 17 and Title 26 Sections 93100 & 93101)**

## **RULE 900**

**DEFINITIONS:** The following definitions shall apply for the Purposes of this Rule.

- A. **ARB-CERTIFIED VAPOR RECOVERY SYSTEM-** A vapor recovery system which has been certified by the Air Resources Board pursuant to Health and Safety Code section 41954.
- B. **EXCAVATION** - Exposure to view by digging.
- C. **GASOLINE-** Any organic liquid (including petroleum distillates and methanol) having a Reid vapor pressure of four pounds or greater and used as a motor vehicle fuel or any fuel which is commonly or commercially known as or sold as gasoline.
- D. **LEAK FREE** - A liquid leak of no more than three drops per minute excluding losses which occur upon disconnecting transfer fittings, provided such disconnect losses do not exceed 10 milliliters (0.34 fluid ounces) per disconnect, averaged over three disconnects.
- E. **MOTOR VEHICLE** - As defined in the Vehicle Code section 415.
- F. **OWNER OR OPERATOR** - An owner or operator of a retail service station.
- G. **PHASE I VAPOR RECOVERY SYSTEM** - A gasoline vapor recovery system which recovers vapors during the transfer of gasoline from delivery tanks into stationary storage tanks.
- H. **PHASE II VAPOR RECOVERY SYSTEM** - A gasoline vapor recovery system which recovers vapors during the fueling of motor vehicles from stationary storage tanks.
- I. **RETAIL SERVICE STATION** - Any new or existing motor vehicle fueling service station subject to payment of California sales tax on gasoline sales.
- J. **EXISTING RETAIL SERVICE STATION** - Any retail service station operating, constructed, or under construction as of the date of District adoption of regulations implementing this control measure.
- K. **NEW RETAIL SERVICE STATION** - Any retail service station which has not been constructed or is not under construction as of the date of District adoption of the regulations implementing this control measure.
- L. **TANK REPLACEMENT** - Replacement of one or more stationary storage tanks at an existing retail service station or excavation of 50 percent or more of an existing retail service stations total underground liquid piping from the stationary storage tanks to the gasoline dispensers.
- M. **THROUGHPUT** - The volume of gasoline dispensed at a retail service station
- N. **VAPOR TIGHT** - A leak of less than 100% of the lower explosive limit on a combustible gas detector measured at a distance of 2.5 cm (1 inch) from the source or no visible evidence of air entrainment in the sight glasses of liquid delivery hoses.

### **PHASE I VAPOR RECOVERY SYSTEM REQUIREMENTS**

No owner or operator shall transfer, permit the transfer, or provide equipment for the transfer of gasoline, and no other person shall transfer gasoline from a gasoline delivery truck equipped with a vapor recovery system into a stationary storage tank at a retail service station unless an ARB certified phase I vapor recovery system is installed on the stationary storage tank and used during the transfer.

- A. The provisions of subdivision (B)(1) shall not apply to:
  - 1. A transfer to a stationary storage tank with a capacity of less than 1.0 cubic meter (260 gallons).
  - 2. A transfer to a stationary storage tank used the majority of the time for the fueling of implements of husbandry as defined in Division 16, Chapter 1 of the Vehicle Code.
  - 3. A transfer to a stationary storage tank used exclusively to fuel motor vehicles with a fuel capacity of five gallons or less.

4. An existing retail service station with an annual throughput from tanks other than those described in subdivisions (B)(2)(a), (B)(2)(b) and (B)(2)(c) of 480,000 or fewer gallons during the calendar year prior to District adoption of this measure. If during any calendar year thereafter the gasoline throughput from such tanks at the existing retail service station exceeds 480,000 gallons, this exemption shall cease to apply commencing with the first day of the following calendar year.
  5. A transfer to a stationary storage tank at an existing retail service station which receives gasoline exclusively from delivery tanks that are not required to be equipped with vapor recovery systems.
- B. Notwithstanding (B)(2)(d), at the time of tank replacement at an existing retail service station, ARB-certified Phase I vapor recovery systems shall be installed and used thereafter on all of the station facilities, except those which are exempt from the Phase I requirement by (B)(2)(a), (B)(2)(b), (B)(2)(c) or (B)(2)(e).

## **PHASE II VAPOR RECOVERY SYSTEM REQUIREMENTS**

No owner or operator shall transfer, permit the transfer or provide equipment for the transfer of gasoline from a stationary storage tank at a retail service station into a motor vehicle fuel tank unless an ARB certified PHASE II vapor recovery system is installed and used during the transfer.

- A. The provisions of subdivision (C)(1) shall not apply to:
1. A transfer of gasoline from a stationary storage tank which is exempt from Phase I requirements under subdivision (B)(2)(a), (B)(2)(b), or (B)(2)(c).
  2. An existing retail service station which is exempt from Phase I requirements under subdivision (B)(2)(d).
- B. Notwithstanding (C)(2)(b), at the time of tank replacement at an existing retail service station, ARB-certified Phase II vapor recovery systems shall be installed and used thereafter on all of the station facilities, except those which are exempt from the Phase II requirement by (C)(2)(a).

## **CORRECTION OF DEFECTS**

No owner or operator shall use or permit the use of any Phase II system or any component thereof containing a defect identified in California Code of Regulations Title 17, section 94006 until it has been repaired, replaced or adjusted, as necessary, to remove the defect and, if required under Health and Safety Code section 41960.2, District personnel have reinspected the system or have authorized its use pending reinspection. Nothing in this subdivision shall excuse compliance with subdivision (C)(1).

## **COMPLIANCE SCHEDULE**

For the purposes of this regulation, the following compliance schedule shall apply:

- A. The owner or operator of any new retail service station subject to this regulation shall comply with the provisions of this regulation at the time gasoline is first sold from the station.
- B. The owner or operator of any existing retail service station without ARB-certified Phase I and Phase II vapor recovery systems shall notify the Air Pollution Control Officer in writing in advance of an intended tank replacement and shall secure all necessary permits and other approvals for the installation of Phase I and Phase II vapor recovery systems. The owner or operator of an existing retail service station shall comply with the provisions of this regulation upon completion of the tank replacement.



- C. The owner or operator of an existing retail service station subject to this regulation, who has not earlier complied in accordance with (E)(2), shall within 15 months after District adoption of these regulations implementing this control measure secure all permits and other approvals necessary for the installation of the equipment required by this regulation. The owner or operator shall comply with the provision of this regulation within 24 months after District adoption of regulations implementing this control measure.
- D. Excluding those existing retail service stations subject to this regulation as a result of tank replacement, the owner or operator of a previously exempted stationary storage tank or retail service station where the operation or annual throughput has changed such that the exemption from either Phase I or Phase II requirements or both is no longer applicable, shall comply with the regulations provisions in accordance with (E)(3) above, provided that the first day the retail service station or stationary storage tank is no longer exempt shall be considered as the date of District adoption of the regulations implementing this control measure.
- E. The owner or operator of a new retail service station shall file an application for an Authority to Construct Permit prior to construction. (Health & Safety Code section 42300 & 42303).
- F. The owner or operator of any existing retail service station, who must install Phase I or Phase II vapor recovery systems under the provisions of this Regulation, shall obtain an Authority to Construct Permit from the Air Pollution Control District prior to construction.

## **OPERATING INSTRUCTIONS**

- A. All Phase I and Phase II gasoline vapor recovery equipment shall be -installed as required by the Air Resources Board certifications and operated as recommended by the manufacturer and shall be maintained to be leak free, vapor tight and in good working order .
- B. The owner or operator of each service station utilizing a system for the control of gasoline vapors resulting from motor vehicle fueling operations shall conspicuously post operating instructions for the system in the gasoline dispensing area. The instructions shall clearly describe how to fuel vehicles correctly with vapor recovery nozzles utilized at the station and shall include a warning that repeated attempts to continue dispensing, after the system having indicated that the vehicle fuel tank is full, may result in spillage or recirculation of gasoline .
- C. Any person storing or transferring gasoline shall follow good operating practices including but not limited to: preventing spills, storing gasoline in closed containers and disposing of gasoline in compliance with state regulations.
- D. The owner or operator shall also include a prominent display of the Districts or the Air Resources Board toll free number for complaints (Health & Safety Code 41960.3).

## **COMPLIANCE**

- A. **Enforcement:** These Rules and Regulations shall be enforced by the Air Pollution Control Officer under the authority of Health & Safety Code sections 40001, 40702 and all officers empowered by section 40120.
- B. **Penalty:** A violation of these provisions of this regulation is a misdemeanor punishable according to the provisions in Health & Safety Code sections 42400, 42400.1, 42400.2, 42400.5, 42401, 42402, 42402.1, 42402.2 and 42403.

## **RULE 901 - HEXAVALENT CHROMIUM TOXIC CONTROL MEASURE CHROME PLATING AND CHROMIC ACID ANODIZING OPERATIONS**

**DEFINITIONS:** The following definitions shall apply for the purposes of this rule:

- A. **AMPERE-HOURS:** The integral of electric current applied to a plating tank (amperes) over a period of time (hours).
- B. **ANTI-MIST ADDITIVES:** A chemical which reduces the emission rate from the tank when added to and maintained in the plating tank.
- C. **CHROME:** Metallic chrome.
- D. **CHROME PLATING:** Either hard or decorative.
- E. **CHROMIC ACID:** An aqueous solution of chromium trioxide (CrO<sub>3</sub>) or a commercial solution containing chromic acid (H<sub>2</sub>CrO<sub>4</sub>), dichromic acid (H<sub>2</sub>Cr<sub>2</sub>O<sub>7</sub>) or trichromic acid (H<sub>2</sub>Cr<sub>3</sub>O<sub>10</sub>).
- F. **CHROMIC ACID ANODIZING:** The electrolytic process by which a metal surface is converted to an oxide surface coating in a solution containing chromic acid.
- G. **CHROMIUM: HEXAVALENT chromium (Cr+6).**
- H. **CONTROL EQUIPMENT:** Any device which reduces emissions from the emissions collection system.
- I. **DECORATIVE CHROME PLATING:** The process by which chromium is electrodeposited from a solution containing compounds of chromium onto an object resulting in a chrome layer 1 micron (0.04 mil) thick or less.
- J. **EMISSION FACTOR:** The mass of chromium emitted during a test conducted in the emissions collection system in accordance with Air Resources Board Test Method 425 divided by the ampere-hours consumed by the tanks in the tested emissions collection system expressed as the mass of chromium emitted per ampere-hours of electrical current consumed.
- K. **EMISSIONS COLLECTION SYSTEM:** A device or apparatus used to gather chromium emissions from the surface of a chrome plating or chromic acid anodizing tank or tanks.
- L. **FACILITY:** A business or businesses engaged in chrome plating or chromic acid anodizing which are owned or operated by the same person or persons and are located on the same parcel or on contiguous parcels.
- M. **FACILITYWIDE EMISSIONS FROM HARD CHROME PLATING OR CHROMIC ACID ANODIZING:** The total emissions from all hard chrome plating or chromic acid anodizing at the facility over a calendar year. Emissions shall be calculated as the sum of emissions from the emissions collection system at the facility. The emissions from an emissions collection system shall be calculated by multiplying the emission factor for that emissions collection system by the sum of ampere-hours consumed during that year for all of the tanks served by the emissions collection system.
- N. **HARD CHROME PLATING:** The process by which chromium is electrodeposited from a solution containing compounds of chromium onto an object resulting in a chrome layer thicker than 1 micron (0.04 mil).
- O. **PLATING TANK:** Any container used to hold a chromium or chromic acid solution for the purposes of chrome plating or chromic acid anodizing.
- P. **UNCONTROLLED CHROMIUM EMISSIONS FROM THE HARD CHROME PLATING OR CHROMIC ACID ANODIZING FACILITY:** The Chromium emission from the emissions collection system at the facility calculated as if no control equipment is in use. For the purpose of determining compliance with this rule the uncontrolled chromium emissions shall be calculated using an emission factor based on tests conducted in accordance with Air Resources Board Test Method 425 or 14 mg/ampere-hours whichever is less.

## **REQUIREMENTS FOR DECORATIVE CHROME PLATING FACILITIES**

No person shall operate a decorative chrome plating tank unless an anti-mist additive is continuously maintained in the plating tank or control equipment is installed and used, in a manner which has been demonstrated to and approved by the Air Pollution Control Officer as reducing chromium emissions by 95 percent or more relative to chromium emissions when an anti-mist additive is not maintained or control equipment is not installed and used.

## **REQUIREMENT FOR HARD CHROME PLATING AND CHROMIC ACID ANODIZING FACILITIES**

The owners or operators of all hard chrome plating and chromic acid anodizing facilities shall maintain a continuous record of current integrated over time (ampere-hours) for all plating tanks for each collection system used in the hard chrome plating or chromic acid anodizing operations and shall within six months after adoption of the Rules enacting this control measure and upon request thereafter, submit the information to the Air Pollution Control Officer.

- A. No person shall operate a plating tank for hard chrome plating or chromic acid anodizing unless the tank has an emissions collection system.
- B. No person shall operate a hard chrome plating or chromic acid anodizing tank unless:
  - 1. The chromium emissions from the emissions collection system serving the plating tank have been reduced by 95 percent or more of the uncontrolled chromium emissions or ;
  - 2. The chromium emissions from the emissions collection system serving the plating tank have been reduced to less than 0.15 milligrams (mg) of chromium per ampere-hour of electrical charge applied to the plating tank.
- C. No person shall operate a hard chrome plating tank or chromic acid anodizing tank at a facility if facility wide chromium emissions from hard chrome plating or chromic acid anodizing are greater than 2 pounds per year but less than 10 pounds per year, unless:
  - 1. The chromium emissions from the emissions collection system serving the plating tanks have been reduced by at least 99 percent of the uncontrolled chromium emissions from the hard chrome plating or chromic acid anodizing facility or;
  - 2. The chromium emissions from the emissions collection system are reduced to less than 0.03 milligrams (mg) of chromium per ampere-hour of electrical charge applied to the tanks.
- D. No person shall operate a hard chrome plating or chromic acid anodizing tank at a facility if the facility wide chromium emissions from hard chrome plating or chromic acid anodizing are 10 pounds per year or greater, unless:
  - 1. The chromium emissions from the emissions collection system serving the plating tanks have been reduced by at least 99.8 percent of the uncontrolled chromium emissions from the hard chrome plating or chromic acid anodizing facility or;
  - 2. The chromium emission from the emissions collection system are reduced to less than 0.006 milligrams (mg) of chromium per ampere-hour electrical charge applied to the tanks.

## **COMPLIANCE SCHEDULE - DECORATIVE CHROME PLATING, HARD CHROME PLATING, AND CHROMIC ACID ANODIZING FACILITIES**

No later than one month after the adoption of the rules enacting this control measure, the owners or operators of facilities listed above shall submit an application for an Authority to Construct to the Air Pollution Control Officer and comply with the rules enacting this control measure with six months.

- A. Owners or operators of any new facilities listed above shall submit to the Air Pollution Control Officer an application for an Authority to Construct and comply with the rules enacting this control measure prior to the start of business.

## NONVEHICULAR AIRBORNE TOXIC CONTROL MEASURES

### REGULATION

#### IX

### Hexavalent Chromium Airborne Toxic Control Measure - Chromate Cooling Towers (CCR Title 17 and Title 26 Sections 93103)

#### RULE 902

**DEFINITIONS:** For the purposes of this section, the following definitions shall apply: In this regulation, hexavalent chromium and chromate are substances identified as toxic air contaminants by the Air Resources Board. You, yours, I, and my mean the person who owns or operates, or who plans to build, own or operate, a cooling tower. The district is the local Air Pollution Control District or Air Quality Management District. A cooling tower is a device which evaporates circulating water to remove heat from a process, a building, or a refrigerator, and puts the heat into the ambient air. Must means a provision is mandatory, and may means a provision is permissive.

*Who must comply with this regulation?* Any person who owns or operates, or who plans to build, own, or operate, a cooling tower must comply with this regulation.

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*What must I do to comply with this regulation?* To comply with this regulation, you must:

1. Notify the district in writing about your cooling tower, and
2. Not add any hexavalent chromium-containing compounds to the cooling tower circulating water, and
3. Keep the hexavalent chromium concentration in the cooling tower circulating water less than 0.15 milligrams hexavalent chromium per liter of circulating water, and
4. Test the circulating water to determine the concentration of hexavalent chromium every six months, and
5. Keep the results of all required tests of circulating water for two years, and give them to the district when asked.

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*What information must I send to the district?* Within 90 days after the effective date of this regulation, you must write and tell the district the following:

1. That you own or operate a cooling tower, and
2. Where the cooling tower is located, and

3. Who is the owner or operator of the cooling tower, and
4. Whether or not you use hexavalent chromium in the cooling tower, and
5. If you are using hexavalent chromium, when you plan to stop.

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*When must I comply with the hexavalent chromium limits?*

You must stop adding hexavalent chromium-containing compounds to the circulating water in your cooling tower and meet the 0.15 milligrams per liter hexavalent chromium concentration limit no later than 180 days after the effective date of the regulation. This is the compliance date for the regulation.

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*For how long do I have to test the circulating water?*

If, after the effective date of this regulation, two consecutive required tests showing concentrations of hexavalent chromium less than 0.15 milligrams of hexavalent chromium per liter of circulating water, then the testing requirement is ended. All other requirements remain the same. The District may, however, require you to resume testing the circulating water at any time if the District has information that the circulating water may contain hexavalent chromium

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*How do I test the circulating water for hexavalent chromium?*

You must test the circulating water to determine hexavalent chromium concentrations using American Public Health Association Method 312B, or an equivalent method approved by the District. You will find Method 312B in a book called Standard Methods for the Examination of Water and Wastewater, Sixteenth Edition, published by the American Public Health Association, and available at libraries and bookstores nationwide. I use hexavalent chromium in a wooden cooling tower. Even if I stop adding hexavalent chromium on the compliance date, hexavalent chromium from the wood may cause the concentration in the circulating water to exceed 0.15 milligrams per liter for a time after the compliance date.

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*How may I avoid being cited immediately after the compliance date?*

You may avoid being cited for violations of the 0.15 milligrams per liter hexavalent chromium concentration limit for up to six months after the compliance date. In order to not be cited during the transition period, you must:

1. Comply with all other requirements of this regulation, and
2. Notify the District in writing that your cooling tower has wooden components that are exposed to the circulating water, and that you plan to take advantage of this section, and
3. Test the circulating water to determine the concentration of hexavalent chromium monthly, and
4. Show a decrease in hexavalent chromium concentrations in the circulating water each month, and
5. Keep the results of the tests of circulating water for two years and give them to the District when asked, and
6. The hexavalent chromium concentration in the circulating water must not exceed 8 milligrams hexavalent chromium per liter of circulating water.

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*I switched to non-chromate treatments before this regulation became effective. Do I have to meet the same requirements?*

If you have not used hexavalent chromium in your cooling tower for at least one year immediately before the compliance date, or if your cooling tower has never used hexavalent chromium, and you can demonstrate this to the District, then the District may waive the testing requirement. The District may, however, require you to test the circulating water at any time, if the District has information that the circulating water may contain hexavalent chromium.

## **NON-VEHICULAR AIRBORNE TOXIC CONTROL MEASURES REGULATION**

### **IX**

#### **RULE 903 Ethylene Oxide Airborne Toxic Control Measure - Sterilizers and Aerators (CCR Title 17 and Title 26 Sections 93108)**

**DEFINITIONS:** For the purposes of this section, the following definitions shall apply:

- A. **ACUTE CARE FACILITY-** means any facility currently licensed by the California Department of Health Services as a general acute care hospital (as defined in Title 22, CCA, Section 70005), or any military hospital.
- B. **AERATION-** is the process during which residual ethylene oxide dissipates, whether under forced air flow, natural or mechanically assisted convection, or other means, from previously sterilized materials after the sterilizer cycle is complete.
- C. **AERATION -ONLY FACILITY-** means a facility which performs aeration on materials which have been sterilized with ethylene oxide at another facility.
- D. **AERATOR-** means any equipment or space in which materials previously sterilized with ethylene oxide are placed or remain for the purpose or aeration. An aerator is not any equipment or space in which materials that have previously undergone ethylene oxide sterilization and aeration can be handled,-stored, and transported in the same manner as similar materials that have not been sterilized with ethylene oxide.
- E. **AERATOR EXHAUST STREAM-** means all ethylene oxide contaminated air which is emitted from an aerator
- F. **BACK-DRAFT VALVE EXHAUST STREAM-** is the air stream which results from collection of ethylene oxide- contaminated air which may be removed from the sterilizer through a back-draft valve or rear chamber exhaust system during unloading of the sterilized materials.
- G. **CONTROL DEVICE-** means an article, machine, equipment, or contrivance which reduces the amount of ethylene oxide between its inlet and outlet and which is sized, installed, operated, and maintained according to good engineering practices, as determined by the District.
- H. **CONTROL EFFECIENCY-** is the ethylene oxide (EtO) mass or concentration reduction efficiency of a control device, as measured with ARB Test Method 431 (Title 17, CCR, Section 94143) according to the source testing requirements herein, and expressed as a percentage calculated across control device as follows:  $\text{EtO in} - \text{EtO out} \times 100 = \% \text{ Control Efficiency EtO in}$

- I. **DATE OF COMPLIANCE-** means the time from District adoption of regulations enacting this control measure until a facility must be in compliance with specific requirements of this rule.
- J. **DISTRICT-** means the local Air Pollution Control District or Air Quality Management District
- K. **ETHYLENE OXIDE (EtO)-** is the substance identified as a toxic air contaminant by the Air Resources Board in 17 CCR, Section 93000.
- L. **FACILITY** means any entity or entities which: own or operate a sterilizer or aerator, are owned or operated by the same person or persons, and are located on the same parcel or contiguous parcels.
- M. **FACILITY-WIDE POUNDS OF ETHYLENE OXIDE USED PER YEAR** is the total pounds of ethylene oxide used in all of the sterilizers at the facility during a one-year period.
- N. **LEAK FREE-** refers to that state which exists when the concentration of sterilant gas measured 1 cm. away from any portion of the exhaust system of a sterilizer or aerator, during conditions of maximum sterilant gas mass flow is less than:
  1. 30 ppm for sterilant gas composed of 12% ethylene oxide/88% chlorofluorocarbon-12 by weight; and
  2. 10 ppm for other compositions of sterilant gas, as determined by ARB Test Method 21 (Title 17, CCR, Section 94124) using a portable flame ionization detector or a non-dispersive infrared analyzer, calibrated with methane, or an acceptable alternative method or analytical instrument approved by the District. A chlorofluorocarbon-12 specific audible detector using a metal oxide semi-conductor sensor shall be considered an acceptable alternative for exhaust systems carrying a sterilant gas mixture of ethylene oxide and chlorofluorocarbon-12.
- O. **LOCAL MEDICAL EMERGENCY-** means an unexpected occurrence in the area served by the acute care facility resulting in a sudden increase in the amount of medical treatments which require a significant increase in the operation of a sterilizer or aerator
- P. **STERILANT GAS-** means ethylene oxide or any combination of ethylene oxide and (an) other gas(es) used in a sterilizer.
- Q. **STERILIZER-** means any equipment in which ethylene oxide is used as a biocide to destroy bacteria, viruses, fungi, and other unwanted organisms on materials. Equipment in which ethylene oxide is used to fumigate foodstuffs is considered a sterilizer.
- R. **STERILIZER CYCLE-** means the process which begins when ethylene oxide is introduced into the sterilizer, includes the initial purge or evacuation after sterilization and subsequent air washes, and ends after evacuation of the final air wash.
- S. **STERILIZER DOOR HOOD EXHAUST STREAM-** is the air stream which results from collection of fugitive ethylene oxide emissions, by means of an existing hood over the sterilizer door, during the time that the sterilizer door is open after the sterilizer cycle has been completed.
- T. **STERILIZER EXHAUST STREAM** is all ethylene oxide contaminated air which is intentionally removed from the sterilizer during the sterilizer cycle.
- U. **STERILIZER EXHAUST VACUUM PUMP-** means a device used to evacuate the sterilant gas during the sterilizer cycle, including any associated heat exchanger. A sterilizer exhaust vacuum pump is not a device used solely to evacuate a sterilizer prior to the introduction of ethylene oxide.

## Applicability

Any person who owns or operates a sterilizer or an aerator must comply with this regulation.

## Notification

Any person subject to this regulation must provide the District with the following information, in writing, within 30 days of the date of District adoption:

- A. The name(s) of the owner and operator of the facility, and
- B. The location of the facility, and
- C. The number of sterilizers and aerators at the facility, and
- D. An estimate of the total pounds of ethylene oxide and sterilant gas used by the facility, in all sterilizers, during the previous calendar year, as determined by a method approved by the District.

A District may exempt a source from this requirement if the District maintains current equivalent information on the source.

## Reporting

Any person who owns or operates a sterilizer shall furnish a written report to the District annually on the date specified by the District, or, at the District's discretion, shall maintain such a report and make it available to the District upon request. This report shall include one of the following, as determined by the District:

- A. The number of sterilizer cycles and the pounds of ethylene oxide used per cycle for each sterilizer during the reporting period, as determined by a method approved by the District; or
- B. The total pounds of sterilant gas and the total pounds of ethylene oxide purchased, used, and returned in the previous calendar year, as determined by a method approved by the District.

## Requirements

No person shall operate a sterilizer or aerator after the applicable date shown in column (d), Table I, unless all of the following requirements are satisfied:

- A. There is no discharge of sterilizer exhaust vacuum pump working fluid to wastewater streams, and
- B. The exhaust system including, but not limited to, any piping, ducting, fittings, valves, or flanges, through which ethylene oxide-contaminated air is conveyed from the sterilizer and aerator to the outlet of the control device are leak-free and
- C. All of the control requirements shown in Table I below for the applicable control category are met; and
- D. For facilities using more than 600 pounds of ethylene oxide per year, the back-draft valve is ducted to the control device used to control the sterilizer exhaust stream or the aerator exhaust stream; and
- E. For facilities using more than 5,000 pounds of ethylene oxide per year, the sterilizer door hood exhaust stream is ducted to the control device used to control the aerator exhaust stream.

Table I  
Control and Compliance Requirements

### CONTROL CATEGORY

### REQUIREMENTS

	(a)	(b)	(c)	(d)
Facility-wide pounds Ethylene Oxide Used per Year	Exhaust Streams to be Controlled	Exhaust Streams to be Tested	Control Efficiency (%)	Date of Compliance (months)



Less than or equal to 26	None	None	None	None
More than 26 and less than or equal to 600	Sterilizer	Sterilizer	99.0	24
More than 600 and less than or equal to 5,000	Sterilizer Aerator Back-draft Valve	Sterilizer Aerator	99.9 95.0 N/A*	18
More than 5,000	Sterilizer Aerator Sterilizer Door Hood Back-draft Valve	Sterilizer Aerator	99.9 99.0 N/A* N/A*	12
Aeration-Only Facility	Aerator	Aerator	95.0	18

\* Not Applicable

## Exemptions

The requirements set forth in Subsection (E) above do not apply to any facility which treats materials in a sterilizer and which uses a total of 26 pounds or less of ethylene oxide per calendar year.

- A. The District Hearing Board may grant an emergency variance from items (a) and (c) in Table I of Subsection (E), Requirements, to a person who owns or operates an acute care facility if response to a local medical emergency requires increased operation of a sterilizer or aerator such that the requirements cannot be met.
- B. The demonstrated need for such increased operation shall constitute "good cause" pursuant to Health and Safety Code Section 42359.5. The emergency variance shall be granted in accordance with this section and any applicable District rule regarding the issuance of emergency variances for such occurrences, including the requirement that the emergency variance shall not remain in effect longer than 30 days; however, the emergency variance shall be granted only for the period of time during which increased operation of a sterilizer or aerator is necessary to respond to the local medical emergency.

## Compliance

The facility shall be in compliance with all provisions specified in Subsection (E) Requirements, no later than the date specified in column (d) of Table I.

- A. For the purpose of determining compliance with the control efficiency requirement shown in column (c) of Table I, Subsection (E), if a reduction in the amount of ethylene oxide across the control device is demonstrated, but the control efficiency cannot be affirmatively demonstrated because the concentration of ethylene oxide measured in the outlet of the control device is below 0.2 parts per million ethylene oxide, the facility shall be considered to be in compliance with this requirement.

- B. **Alternate Compliance Date.** The owner or operator of any facility which uses more than 600 pounds of ethylene oxide per year may choose this alternate compliance option which addresses the date for compliance with the requirements of Subsection (E). If this compliance option is chosen, the owner or operator shall:
1. Within three (3) months of the date of District adoption of regulations enacting this control measure, comply with the requirements shown in Subsections (E) (1) and (E) (2) and demonstrate a control efficiency of 99.98 for the sterilizer exhaust stream, in accordance with the source testing requirements set forth in Subsection (I) and;
  2. Within six (6) months of the date of District adoption of regulations enacting this control measure, submit to the District a plan to discontinue operation of all sterilizers and aerators or comply with the District requirements to submit a plan to comply with the requirements of Subsections (E)(3), (E)(4), and (E)(5), and
  3. Within eighteen (18) months of the date of District adoption of regulations enacting this control measure, do one of the following:
    - a. Demonstrate to the satisfaction of the District that operation of all sterilizers and aerators at the facility has been permanently discontinued; or
    - b. Demonstrate compliance with the requirements of Subsections (E)(3), (E)(4), and (E)(5), in accordance with the source testing provisions set forth in Subsection (I), below.
- C. **Source Testing.** Source testing shall be conducted according to ARB Test Method 431 (Title 17, CCR, Section 94143) and the method evaluations cited therein or an acceptable source test method approved by the Executive Officer of the Air Resources Board. Specific requirements for application are given below:
1. The test on a control device for a sterilizer exhaust stream shall be run with a typical load, as approved by the District, in the sterilizer.
  2. The test on a control device for an aerator exhaust stream shall be run with a typical load, as approved by the District, in the aerator.
  3. The inlet and outlet of the control device shall be sampled simultaneously during testing to measure the control efficiency.
  4. The efficiency of each control device shall be determined under conditions of maximum ethylene oxide mass flow to the device, under normal operating conditions. To measure the control efficiency of the control device on the sterilizer exhaust stream sampling shall be done during the entire duration of the first sterilizer evacuation after ethylene oxide has been introduced. To measure the control efficiency of the control device on an aerator exhaust stream with a constant air flow, sampling shall be done during a period of at least 60 minutes, starting 15 minutes after aeration begins. To measure the control efficiency of the control device on an aerator exhaust stream with a non-constant air flow, sampling shall be done during the entire duration of the first aerator evacuation after aeration begins.
  5. There shall be no dilution of the air stream between the inlet and outlet test points during testing.

## **NONVEHICULAR AIRBORNE TOXIC CONTROL MEASURES**

### **REGULATION**

#### **IX**

Asbestos Airborne Toxic Control Measure Asbestos Containing Serpentine Rock. (CCR Title 17 and Title 26 Section 93106)

**RULE 904**

**Definitions.** For the purposes of this section following definitions shall apply:

- A. **AGGREGATE-** means a mixture of mineral fragments, sand, gravel, rocks, or similar minerals.
- B. **ALLUVIAL DEPOSIT-** means any deposit of sediments laid down by running water including but not limited to streams and rivers.
- C. **ARB TEST METHOD 435-** means the test method specified in Title 17, California code of Regulations, Section 94147.
- D. **ASBESTOS-** means asbestiforms of the following hydrated minerals: chrysotile (fibrous serpentine), crocidolite (fibrous riebeckite), amosite (fibrous cummingtonite--grunerite), fibrous tremolite, fibrous actinolite, and fibrous anthophyllite.
- E. **ASBESTOS-CONTAINING SERPENTINE MATERIAL-** means serpentine material that has an asbestos content greater than five percent (5.0%) as determined by ARB Test Method 485.
- F. **RECEIPT-** means any written acknowledgement that a specified amount of serpentine material was received, delivered, or purchased. Receipts include but are not limited to, bills of sale, bills of lading, and notices of transfer.
- G. **ROAD SURFACE** means the traveled way of a road and any shoulder which extends up to 10 feet from the edge of the traveled way.
- H. **"SAND AND GRAVEL OPERATION-** means any aggregate-producing facility operating in alluvial deposits.
- I. **SERPENTINE-** means any form of hydrous magnesium silicate minerals--including, but not limited to, antigorite, lizardite, and chrysotile.
- J. **SERPENTINE MATERIAL-** is any material that contains at least ten percent (10%) serpentine as determined by a registered geologist. The registered geologist must document precisely how the serpentine content of the material in question was determined.
- K. **SURFACING-** means the act of covering any surface used for purposes of pedestrian, vehicular, or nonvehicular travel including, but not limited to, roads, road shoulders, streets, alleys, lanes, driveways, parking lots, playgrounds, trails, squares, plazas, and fairgrounds.

**Requirements for use or sale of asbestos-containing serpentine material.**

- A. No person shall use or apply serpentine material for surfacing in California unless the material has been tested using ARB Test Method 435 and determined to have an asbestos content of five percent (5.0%) or less. A written receipt or other record documenting the asbestos content shall be retained by any person who uses or applies serpentine material, for a period of at least seven years from the date of use or application, and shall be provided to the Air Pollution Control Officer or his designee for review upon request.
- B. Any person who sells, supplies, or offers for sale serpentine material in California shall provide with each sale or supply a written receipt containing the following statement: "Serpentine material may have an asbestos content greater than five percent (5.0%). It is unlawful to use serpentine material for surfacing unless the material has been tested and found to contain less than or equal to five percent (5.0%) asbestos. All tests for asbestos content must use California Air Resources Board Test Method 435, and a written record documenting the test results must be retained for at least seven years if the material is used for surfacing."

- C. No person shall sell, supply, or offer for sale serpentine material for surfacing in California unless the serpentine material has been tested using ARB Test Method 435 and determined to have an asbestos content of five percent (5.0%) or less. Any person who sells, supplies, or offers for sale serpentine material that he or she represents, either orally or in writing, to be suitable for surfacing or to have an asbestos content that is five percent (5.0%) or less shall provide to each purchaser or person receiving the serpentine material a written receipt which specifies the following information; the amount of serpentine material sold or supplied; the dates that the serpentine material was produced, sampled, tested, and supplied or sold; and the asbestos content of the serpentine material as measured by ARB Test Method 435. A copy of the receipt must, at all times, remain with the serpentine material during transit and surfacing.
- D. Any person who sells, supplies, or offers for sale serpentine material, shall retain for a period of at least seven years from the date of sale or supply, copies of all receipts and copies of any analytical test results from asbestos testing of the serpentine material. All receipts and test results shall be provided to the Air Pollution Control Officer or his designee for review upon request.
- E. If ARB Test Method 435 has been used to perform two or more tests on any one volume of serpentine material, whether by the same or a different person, the arithmetic average of these test results shall be used to determine the asbestos content of the serpentine material.

## **Exemptions**

- A. The provisions of Subsection (B) (2) through (B) (5) shall not apply to sand and gravel operations.
- B. The provisions of Subsection (B)(1) shall not apply to roads located at serpentine quarries, asbestos mines, or mines located in serpentine deposits.
- C. The provisions of Subsection (B)(1) shall not apply to maintenance operations on any existing road surfaces, or to the construction of new roads in serpentine deposits, as long as no additional asbestos-containing serpentine material is applied to the road surface.
- D. Emergency Road Repairs. The Air Pollution Control Officer may issue a temporary exemption from the requirements of Subsection (B)(1) to an applicant who demonstrates that a road repair is necessary due to a landslide, flood, or other emergency and that the use of material other than serpentine is not feasible for this repair. The Air Pollution Control Officer shall specify the time during which such exemption shall be effective, provided that no exemption shall remain in effect longer than six (6) months.
- E. Bituminous and Concrete Materials. The provisions of Subsection (B) shall not apply to serpentine material that is an integral part of bituminous concrete, portland cement concrete, bituminous surface, or other similar cemented materials.
- F. The provisions of Subsection (B)(1) shall not apply to landfill operations other than the surfacing of public-access roads dedicated to use by vehicular traffic.

**NOTE:** Authority cited: Sections 39600, 39601, 39650 and 39666, Health and Safety Code. Reference: Sections 39650 and 39666, Health and Safety Code

## **REGULATION**

### **X**

## **ADDITIONAL PROCEDURES FOR ISSUING PERMITS TO OPERATE FOR**

# SOURCES SUBJECT TO TITLE V OF THE FEDERAL CLEAN AIR ACT AMENDMENTS OF 1990

## **RULE 1001 - PURPOSE AND GENERAL REQUIREMENTS OF REGULATION X**

Reference: 40 CFR Part 70.1, 70.4, 70.6(1)(6) and 70.7(a)(6) and (b)

Regulation X implements the requirements of Title V of the federal *Clean Air Act* as amended in 1990 (CAA) for permits to operate. Title V provides for the establishment of operating permit programs for sources which emit *regulated air pollutants*, including attainment and nonattainment pollutants. The *effective date of Regulation X* is the date the *United States Environmental Protection Agency (U.S. EPA)* promulgates interim, partial, or final approval of this rule in the Federal Register.

By the *effective date of Regulation X*, the Mariposa County Air Pollution Control District (*District*) shall implement an operating permit program pursuant to the requirements of this regulation. The requirements of Regulation X shall augment and take precedence over conflicting administrative requirements of other provisions of the *District's* rules and regulations. The *District* shall also continue to implement its existing programs through Regulations IV and V. Nothing in Regulation X limits the authority of the District to revoke or terminate permit pursuant to sections 40808, and 42307-42309 of the *California Health and Safety Code (H&SC)*.

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

- A. All applicable provisions of Division 26 of the *H&SC*, commencing with section 39000;
- B. All applicable orders, rules, and regulations of the *District* and the *California Air Resources Board (ARB)*;
- C. All applicable provisions of the applicable implementation plan required by the CAA;
- D. Each applicable emission standard or limitation, rule, regulation, or requirement adopted or promulgated to implement the CAA; and
- E. The requirements of all *preconstruction permits* issued pursuant to Parts C and D of Title I of the CAA.

The operation of an *emissions unit* to which Regulation X is applicable without a permit or in violation of any applicable permit condition or requirement shall be a violation of Regulation X.

**RULE 1002 – DEFINITIONS** The definitions in this rule apply throughout Regulation X and are derived from related provisions of the *U.S. EPA's* Title V regulations in Part 70 *Code of Federal Regulations (CFR)*, "State Operating Permit Programs." The terms defined in this section are italicized throughout Regulation X.

- A. **ACID RAIN UNIT**- An "acid rain unit" is any fossil fuel-fired combustion device that is an affected unit under 40 *CFR* Part 72.6 and therefore subject to the requirements of Title IV (Acid Deposition Control) of the CAA.  
[Reference: 40 *CFR* Part 70.2 Affected Unit]
- B. **ADMINISTRATIVE PERMIT AMENDMENTS**- An "administrative permit amendment" is an amendment to a permit to operate which:

1. Corrects a typographical error;
2. Identifies a minor administrative change at the *stationary source*; for example, a change in the name, address, or phone number of any person identified in the permit;
3. Requires more frequent monitoring or reporting by an *owner or operator* of the *stationary source*; or
4. Transfers ownership or operational control of a *stationary source*, provided that, prior to the transfer the *APCO* receives a written agreement which specifies a date for the transfer of permit responsibility, coverage, and liability from the current to the prospective permittee.

[Reference: 40 *CFR* Part 70.7(d)]

- C. **AFFECTED STATE** An "affected state: is any state that: 1) is contiguous with California and whose air quality may be affected by a permit action, or 2) is within 50 miles of the source for which a permit action is being proposed.

[Reference: 40 *CFR* 70.2 Affected States]

- D. **AIR POLLUTION CONTROL OFFICER (APCO)** "Air Pollution Control Officer" refers to the air pollution control officer of the Mariposa County Air Pollution Control District, or his or her designee.

- E. **APPLICABLE FEDERAL REQUIREMENT** An "applicable federal requirement" is any requirement which is enforceable by the *U.S. EPA* and citizens pursuant to section 304 of the *CAA* and is set forth in, or authorized by, the *CAA* or a *U.S. EPA* regulation. An "applicable federal requirement" includes any requirement of a regulation that becomes effective during the term of the permit. *applicable federal requirements* include:

**Title I requirements of the CAA, including:**

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

- c. Title VI (Stratospheric Ozone Protection) requirements of the CAA (40 CFR Part 82); and
  - d. Monitoring and Analysis requirements (section 504(b) of the CAA).  
[Reference: 40 CFR Part 70.2 Applicable Requirement]
- F. **CALIFORNIA AIR RESOURCES BOARD (ARB)**- "California Air Resources Board" refers to the Air Resources Board of the State of California.
- G. **CLEAN AIR ACT (CAA)**- "Clean Air Act" refers to the federal Clean Air Act as amended in 1990 (42 U.S.C. section 7401 et seq.).
- H. **CODE OF FEDERAL REGULATIONS (CFR)**- "Code of Federal Regulations" refers to the United States Code of Federal Regulations.
- I. **COMMENCE OPERATION**- "Commence operation" is the date of initial operation of an emissions unit, including any start-up or shakedown period authorized by a temporary permit to operate pursuant to section 42301.1 of the H&SC.
- J. **DIRECT EMISSIONS**- "Direct emissions" are emissions that may reasonably pass through a stack, chimney, vent or other functionally-equivalent opening.
- K. **DISTRICT**- "District" refers to Mariposa County Air Pollution Control District.
- L. **EFFECTIVE DATE OF REGULATION X**- The "effective date of Regulation X" is the date the U.S. EPA promulgates interim, partial, or final approval of the rule in the Federal Register.  
[Reference: 40 CFR Part 70.4(g)]
- M. **EMERGENCY**- An "emergency" is any situation arising from a sudden and reasonably unforeseeable event beyond the control of a permittee (e.g., an act of god) which causes the exceedance of a technology-based emission limitation under a permit and requires immediate corrective action to restore compliance. An "emergency" shall not include noncompliance as a result of improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.  
[Reference: 40 CFR Part 70.6(g)(1)]
- N. **EMISSIONS UNIT**- An "emission unit" is any identifiable article, machine, contrivance, or operation which emits, may emit, or results in the emissions of, any regulated air pollutant or hazardous air pollutant.  
[Reference: 40 CFR Part 70.2 emissions unit]
- O. **FEDERALLY-ENFORCEABLE CONDITION**- "A federally-enforceable condition" is any condition set forth in the permit to operate which addresses and applicable federal requirement or a voluntary emissions cap.
- P. **FUGITIVE EMISSIONS**- "fugitive emissions" are emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening. [Reference: 40 CFR Part 70.2 Fugitive Emissions]
- Q. **HAZARDOUS AIR POLLUTANT (HAP)**- A "hazardous air pollutant" is any air pollutant listed pursuant to section 112(b) of the CAA.
- R. **HEALTH AND SAFETY CODE(H&SC)**- "Health and Safety Code" refers to the California Health and Safety Code. S. Initial Permit An "initial permit" is the first operating permit for which a source submits an application that addresses the requirements of the federal operating permits program as implemented by Regulation X.
- S. **MAJOR SOURCE**- A "major source" is a stationary source which has the potential to emit a regulated air pollutant or a HAP in quantities equal to or exceeding the lesser of any of the following thresholds:
1. 100 tons per year (tpy) of any *regulated air pollutant*;
  2. 10 tpy of one *HAP* or 25 tpy of two or more *HAPs*; or
  3. Any lesser quantity threshold promulgated by the *U.S. EPA*.
- [Reference: 40 CFR Part 70.2 Major Source]

- T. **MINOR PERMIT MODIFICATION-** A "minor permit modification" is any modification to a federally-enforceable condition on a permit to operate which: 1) Is not a significant permit modification, and 2) is not an administrative permit amendment. [Reference: 40 CFR part 70.7(e)(2)]
- U. **OWNER OR OPERATOR-** An "owner or operator" is any person who owns, leases, operates, controls, or supervises a stationary source.
- V. **PERMIT MODIFICATION-** A "permit modification" is any addition, deletion, or revision to a permit to operation condition.  
[Reference: 40 CFR Part 70.2 Permit Modification and Permit Revision]
- W. **POTENTIAL TO EMIT-** For the purposes of Regulation X, "potential to emit" as it applies to an emissions unit and a stationary source is defined below.
1. **Emissions Unit** The "*potential to emit*" for an *emissions unit* is the maximum capacity of the unit to emit a *regulated air pollutant* or *HAP* considering the unit's physical and operational design. Physical and operational limitations on the *emissions unit* shall be treated as part of its design, if the limitations are set forth in permit conditions which address *applicable federal requirements*. Physical and operational limitations shall include, but are limited to the following: limits placed on emissions and restrictions on hours of operation and type or amount of material combusted, stored or processed.
  2. **Stationary Source** The "*potential to emit*" for a *stationary source* is the sum of the *potential to emit* from all *emissions units* at the *stationary source*. If two or more *HAPs* are emitted at a stationary source, the *potential to emit* for each of those *HAPs* shall be combined to determine applicability. *Fugitive emissions* shall be considered in determining the *potential to emit* for: 1) sources as specified in 40 *CFR* Part 70.2 Major Source (2), and 2) sources of *HAP* emissions. Notwithstanding the above, any *HAP* emissions from any oil or gas exploration or production well (with its associated equipment) and any pipeline compressor or pump station shall not be aggregated with emissions of similar units for the purpose of determining a *major source* of *HAPs*, whether or not such units are located in contiguous areas or are under common control.  
[Reference: 40 *CFR* Part 70.2 *potential to emit* and Major Source (2)]
- Y. **PRECONSTRUCTION PERMIT-** A "preconstruction permit" is a permit issued prior to construction which authorized construction:
1. Pursuant to a program for the prevention of significant deterioration of air quality required by section 165 of the *CAA* or Regulation IV; or
  2. Pursuant to a new source review program required by sections 172 and 173 of the *CAA* or Regulation IV.  
[Reference: 40 *CFR* Part 70.2 Applicable Requirement (2)]
- Z. **REGULATE AIR POLLUTANT-** A "regulated air pollutant" is any pollutant: 1) which is emitted into or otherwise enters the ambient air, and 2) for which the *U.S. EPA* has adopted an emission limit, standard, or other requirement. Regulated air pollutants include:
1. Oxides of nitrogen and volatile organic compounds;
  2. Any pollutant for which a national ambient air quality standard has been promulgated pursuant to section 109 of the *CAA*;
  3. Any pollutant subject to a new source performance standard promulgated pursuant to section 111 of the *CAA*;
  4. Any ozone-depleting substance specified as Class I (chlorofluorocarbons) or Class II (hydrofluorocarbons) substance pursuant to Title VI of the *CAA*; and
  5. Any pollutant subject to a standard or requirement promulgated pursuant to section 112 of the *CAA*, including:



- a. Any pollutant listed pursuant to section 112(r) of the CAA (Prevention of Accidental Releases) shall be considered a "regulated air pollutant" upon promulgation of the list.
- b. Any *HAP* subject to a standard or other requirement promulgated by the *U.S. EPA* pursuant to section 112(d) or adopted by the District pursuant to 112(g) and (j) of the CAA shall be considered a "regulated air pollutant" for all sources or categories of sources: 1) upon promulgation of the standard or requirement, or 2) 18 months after the standard or requirement was scheduled to be promulgated pursuant to section 112(e)(3) of the CAA.
- c. Any *HAP* subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the *U.S. EPA* promulgation or scheduled promulgation of an emissions limitation shall be considered a "regulated air pollutant" when the determination is made pursuant to section 112(g)(2) of the CAA. In case-by-case emissions limitation determinations, the *HAP* shall be considered a "regulated air pollutant" only for the individual source for which the emissions limitation determination was made. [Reference: 40 *CFR* Part 70.2 Regulated Air Pollutant]

**AA. RESPONSIBLE OFFICIAL-** A "responsible official" is an individual with the authority to certify that a source complies with all *applicable federal requirements* and *federally-enforceable conditions* of permits issued to sources in accordance with Regulation X.

"Responsible official" means one of the following:

1. For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
  - a. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
  - b. The delegation of authority to such representative is approved in advance by the *APCO*;
2. For a partnership or sole proprietorship, a general partner of the proprietor, respectively;
3. For a municipality, state, federal, or other public agency, either a principal executive officer or a ranking elected official; or
4. For an acid rain unit subject to Title IV (Acid Deposition Control) of the CAA, the "responsible official" is the designated representative of that unit for any purposes under Title IV and Regulation X.

[Reference: 40 *CFR* Part 70.2 Responsible Official]

**AB. SIGNIFICANT PERMIT MODIFICATION-** A "significant permit modification" is any modification to a *federally-enforceable condition* on a permit to operate which:

1. Involves any modification under section 112(g) of Title I of the CAA or under *U.S. EPA* regulations promulgated pursuant to Title I of the CAA, including 40 *CFR* Parts 51, 52, 60, 61 and 63;
2. Significantly changes monitoring conditions;
3. Provides for the relaxation of any reporting or recordkeeping conditions;
4. Involves a permit term or condition which allows a source to avoid an *applicable federal requirement*, including: 1) a federally-enforceable *voluntary emissions cap* assumed in order to avoid triggering a modification requirement of Title I of the CAA, or 2) an alternative *HAP* emission limit pursuant to section 112(i)(5) of the CAA;
5. Involves a case-by-case determination of any emission standard or other requirement; or

6. Involves a source-specific determination for ambient impacts, visibility analysis, or increment analysis on portable sources.

[Reference: 40 *CFR* Part 70.7(e)(2) and (4)]

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

The following incinerators are excluded from the definition of "solid waste incinerator" for the purpose of Regulation X.

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

**AD. STATIONARY SOURCE** For the purposes of Regulation X, a "*stationary source*" is any building, structure, facility, or installation (or any such grouping) that: Emits, may emit, or results in the emissions of any *regulated air pollutant* or *HAP*;

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

[Reference: 40 *CFR* Part 70.2 Stationary Source]

**AE. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY- (*U.S. EPA*)**

"United States Environmental Protection Agency" refers to the Administrator or appropriate delegate of the "United States Environmental Protection Agency."

**FF. VOLUNTARY EMISSIONS CAP-** A "voluntary emissions cap" is an optional, federally-enforceable emissions limit on one or more *emissions unit(s)* which a source assumes in order to avoid an *applicable federal requirement*. The source remains subject to all other *applicable federal requirements*.

## **RULE 1003 – APPLICABILITY**

### **A. Sources Subject to Regulation X**

The sources listed below are subject to the requirements of Regulation X:

[Reference: 40 *CFR* Part 70.3(a)]

1. A *major source*;
2. Source with an *acid rain unit* for which application for an Acid Rain Permit is required pursuant to title IV of the *CAA*;
3. A *solid waste incinerator* subject to a performance standard promulgated pursuant to section 111 or 129 of the *CAA*;

4. Any other source in a source category designated, pursuant to 40 *CFR* Part 70.3, by rule of the *U.S. EPA*; and
5. Any source that is subject to a standard or other requirement promulgated pursuant to section 111 or 112 of the *CAA*, published after July 21, 1992, designated, pursuant to 40 *CFR* Part 70.3, by the *U.S. EPA* at the time the new standard or requirement is promulgated.

**B. Sources Exempt from Regulation X**

The sources listed below are not subject to the requirements of Regulation X:

[Reference: 40 *CFR* Part 70.3(b)]

1. Sources regulated solely by 40 *CFR* Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters);
2. Sources regulated solely by 40 *CFR* Part 61, Subpart M, section 145 (National Emission Standards for Asbestos, Standard for Demolition and Renovation); and
3. Any other source in a category deferred, pursuant to 40 *CFR* Part 70.3, by *U.S. EPA* rulemaking.

## **RULE 1004 - ADMINISTRATIVE PROCEDURES FOR SOURCES**

**A. Permit Requirement and Application Shield**

A source shall operate in compliance with permits to operate issued pursuant to Regulation X. Regulation X does not alter any applicable requirement that a source obtain *preconstruction permits*.

[Reference: 40 *CFR* Part 70.7(a)(6) and (b)]

If an *owner or operator* submits, pursuant to Regulation X, a timely and complete application for a permit, a source shall not be in violation of the requirement to have a permit to operate until the *APCO* takes final action on the application. The application shield here will cease to insulate a source from enforcement action if an *owner or operator* of the source fails to submit any additional information requested by the *APCO* pursuant to subsection C.2., below.

[Reference: 40 *CFR* Part 70.7(b)]

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

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

[Reference: 40 *CFR* Part 70.6(a)(6)(iii) and 70.7(b) and (e)(2)(v)]

**B. Application Requirements**

[Reference: 40 *CFR* Part 70.5]

**1. Initial Permit**

[Reference: 40 *CFR* Part 70.5(a)(1) and (c)(10)]

- a. For a source that is subject to Regulation X on the date the becomes effective, an *owner or operator* shall submit a standard District application within 12 months after the date the rule becomes effective.
- b. For a source that becomes subject to Regulation X after the date the rule becomes effective, an owner or operator shall submit a standard District application with 12 months of the source *commencing operation*.
- c. For a source with an *acid rain unit*, an *owner or operator* shall submit a standard *District* application and acid rain permit applications to the *District*. The application shall be submitted within the following timeframe:
  1. If the source is subject to Regulation X because of Rule 1003 A.1., above, within the applicable timeframe specified in subsection B.1.a. or B.1.b., above.
  2. If the source is subject to Regulation X only because of Rule 1003 A.2., above, by January 1, 1996, or, if applicable, a latter date established by 40 CFR Part 72.  
[Reference: 40 CFR Part 70.5(a)(1)(iii)]

## 2. **Permit Renewal**

For renewal of a permit, an *owner or operator* shall submit a standard *District* application no earlier than 18 months and no later than 6 months before the expiration date of the current permit to operate. Permits to operate for all *emissions units* at a *stationary source* shall undergo simultaneous renewal.

[Reference: 40 CFR Part 70.5(a)(1)(ii)]

## 3. **Significant Permit Modification**

After obtaining any required *preconstruction permit*, an *owner or operator* shall submit a standard District application for each *emissions unit* affected by a proposed permit revision that qualifies as a *significant permit modification*. Upon request by the APCO, an *owner or operator* shall submit copies of the latest *preconstruction permit* for each affected *emissions unit*. The *emissions unit(s)* shall not *commence operation* until the APCO takes final action to approve the permit revision.

## 4. **Minor Permit Modification**

[Reference: 40 CFR Part 70.5(a)(ii) and 70.7(e)(ii and v)]

After obtaining any required *preconstruction permits*, an *owner or operator* shall submit a standard District application for each *emissions unit* affected by the proposed permit revision that qualifies as a *minor permit modification*. The *emissions unit(s)* affected by the proposed *permit modification* shall not *commence operation* until the APCO takes final action to approve the permit revision. In the application, an *owner or operator* shall include the following:

- a. A description of the proposed permit revision, any change in emissions, and additional *applicable federal requirements* that will apply;
- b. Proposed permit terms and conditions; and
- c. A certification by a *responsible official* that the permit revision meets criteria for use of *minor permit modification* procedures and a request that such procedures be used.

## 5. **Acid Rain Unit Permit Modification**

[Reference: 40 CFR Part 70.7(e)]

A *permit modification* of the acid rain portion of the operating permit shall be governed by regulations promulgated pursuant to Title IV of the CAA.

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

[Reference: 40 CFR Part 70.5]

## 1. Application Content

When submitting an application, an *owner or operator* shall include the following information:

- a. Information identifying the source;  
[Reference: 40 CFR Part 70.5(c)(1)]
- b. Description of processes and products (by Standard Industrial Classification Code) including any associated with proposed alternative operating scenarios;  
[Reference: 40 CFR Part 70.5(c)(2)]
- c. Identification of fees specified in Regulation VI;  
[Reference: 40 CFR Part 70.6(a)(7)]
- d. A listing of all existing *emissions units* at the *stationary source* and identification and description of all points of emissions from the *emissions units* in sufficient detail to establish the applicable federal requirements and the basis for fees pursuant to Rule 1007, below;  
[Reference: 40 CFR Part 70.5(c)(3)(i)]
- e. Citation and description of all applicable federal requirements, information and calculations used to determine the applicability of such requirements and other information that may be necessary to implement and enforce such requirements;  
[Reference: 40 CFR Part 70.5(c)(3)(vii) and (4)(I and ii)]
- f. Calculation of all emissions, including *fugitive emissions*, in tons per year and in such terms as are necessary to establish compliance with all applicable *District*, state, or federal requirements for the following:
  - g. All *regulated air pollutants* emitted from the source,
  - h. Any *HAP* that the source has the *potential to emit* in quantities equal to or in excess of 10 tons per year, and
  - i. If the source has the potential to emit two or more *HAPs* in quantities equal to or in excess of 25 tons per year, all *HAPs* emitted by source;  
[Reference: 40 CFR Part 70.5(c)(3)(i and viii)]
  - j. As these affect emissions from the source, the identification of fuels, fuel use, raw materials, production rates, operating schedules, limitations on source operation or workplace practices;  
[Reference: 40 CFR Part 70.5(c)(3)(iv and vi)]
  - k. An identification and description of air pollution control equipment and compliance monitoring devices or activities;  
[Reference: 40 CFR Part 70.5(c)(3)(v)]
  - l. Other information required by an *applicable federal requirement*;  
[Reference: 40 CFR Part 70.5(c)(3)(vii) and (5)]
  - m. The information needed to define permit terms or conditions implementing a source's options for operational flexibility, including alternative operating scenarios, pursuant to Rule 1005 I., below;  
[Reference: 40 CFR Part 70.5(c)(7)]
  - n. A compliance plan and compliance schedule with the following;
    1. A description of the compliance status of each *emissions unit* within the *stationary source* with respect to *applicable federal requirements*,
    2. A statement that the source will continue to comply with such *applicable federal requirements* that the source is compliance,
    3. A statement that the source will comply, on a timely basis, with *applicable federal requirements* that will become effective during the permit term, and

4. A description of how the source will achieve compliance with requirements for which the source is not in compliance;  
[Reference: 40 CFR Part 70.5(c)(8)]
  - o. For a source not in compliance with an *applicable federal requirement* at the time of permit issuance or renewal, schedule of compliance approved by the *District* hearing board that identified remedial measures with specific increments of progress, a final compliance date, testing and monitoring methods, recordkeeping requirements, and a schedule for submission of certified progress reports to the *U.S. EPA* and the *APCO* at least every 6 months;  
[Reference: 40 CFR Part 70.5(c)(8)(iii)(C)]
  - p. A certification a *responsible official* of the truth, accuracy and completeness of application forms, progress reports at least every 6 months, statements on compliance status with any applicable enhanced monitoring, and compliance plans at least annually;  
[Reference: 40 CFR Part 70.5(c)(9) and (d)]
  - q. For a source with an *acid rain unit*, an application shall include the elements required by 40 CFR Part 72;  
[Reference: 40 CFR Part 70.5(c)(10)]
  - r. For a source of *HAPs* required to prepare a risk management plan pursuant to section 112(r) of the *CAA*, the application shall include verification that such a plan has been submitted to the authorized implementing agency or a compliance schedule for the submittal of such a plan; and
  - s. For proposed portable sources, an application shall identify all locations of potential operation and how the source will comply with all applicable *District*, state, and federal requirements at each location.  
[Reference: 40 CFR Part 70.]
2. **Correctness of Application** An *owner or operator* of a source shall submit an accurate and complete application in accordance with the requirements of the *District*.  
[Reference: 40 CFR Part 70.5(a)(2) and (b)]
- a. Upon written request of the *APCO*, an *owner or operator* shall supplement any complete application with additional information within the timeframe specified by the *APCO*.
  - b. An *owner or operator* shall promptly provide additional information in writing to the *APCO* upon discovery of submittal of any inaccurate information as part of the application or as a supplement thereto, or of any additional relevant facts previously omitted which are needed for accurate analysis of the application.
  - c. Intentional or negligent submittal of inaccurate information shall be reason for denial of an application.

#### D. **Written Requests for District Action**

A owner or operator shall submit a written request to the *APCO* for the following permit actions:

##### 1. **Administrative Permit Amendment**

For an administrative permit amendment, an owner or operator may implement the change addressed in the written request immediately upon submittal of the request.  
[Reference: 40CFR Part 70.7(d)(3)]

##### 2. **Permit Modification for a Condition that is not Federally Enforceable**

For a permit modification for a condition that is not federally enforceable, an owner or operator shall submit a written request in accordance with the requirements of Regulation V.

### 3. **Permits to Operate for New Emissions Units**

For permits to operate for a new *emissions unit* at a stationary source, an owner or operator shall submit a written request in accordance with the requirements of Regulation V, except under the following circumstances:

- a. The construction or operation of the *emissions unit* is a modification under U.S. EPA regulations promulgated pursuant to Title I of the CAA, including 40 CFR Parts 51, 52, 60, 61, 63;  
[Reference: 40 CFR Part 70, 7(e)(2)(i)(A)(5)]
  - b. The construction or operation of the *emissions unit* is addressed or pro-hibited by permits for other *emissions units* at the stationary source; or  
[Reference: 40 CFR Part 70.5 (a)(ii)]
  - c. The *emissions unit* is an acide rain unit subject to Title IV of the CAA.  
[Reference: 40 CFR Part 70.7 (e)]
- In the circumstances specified in subsections a., b., or c., above, an owner or operator shall apply for a permit to operate for the new *emissions unit* pursuant to the requirements of Regulation X.

#### E. **Response to Permit Reopening For Cause**

Upon notification by the *APCO* of a reopening of a permit for cause for an *applicable federal requirement* pursuant to Rule 1005 H., below, an *owner or operator* shall respond to any written request for information by the *APCO* within the timeframe specified by the *APCO*.

[Reference: 40 CFR Part 70.6 (a)(6)(v)]

## **RULE 1005 - DISTRICT ADMINISTRATIVE PROCEDURES**

#### A. **Completeness Review of Application**

The *APCO* shall determine if an application is complete and shall notify an *owner or operator* of the determination within the following timeframes:

[Reference: 40 CFR Part 70.5(a)(2) and 70.7(a)(4)]

1. For an *initial permit*, permit renewal, or a *significant permit modification*, within 60 days of receiving the application;
2. For a *minor permit modification*, within 30 days of receiving the application.

The application shall be deemed complete unless the *APCO* requests additional information or otherwise notifies an *owner or operator* that the application is incomplete within the timeframes specified above.

#### B. **Notification of Completeness Determination**

The *APCO* shall provide written notification of the completeness determination to the *U.S. EPA*, the *ARB* and any *affected state* and shall submit a copy of the complete application to the *U.S. EPA* within five working days of the determination. The *APCO* need not provide notification for applications from sources that are not major sources when the *U.S. EPA* waives such requirement for a source category by regulation or at the time of approval of the *District* operating permits program.

[Reference: 40 CFR Part 70.7(e)(2)(iii) and 70.8(a)(1 and 2)]

#### C. **Application Processing timeframes**

The *APCO* shall act on a complete application in accordance with the procedures in subsections D., E., and F., below (except as application procedures for *acid rain units* are provided for under regulations promulgated pursuant to Title IX of the CAA), and take final action with the following timeframes:

[Reference: 40 CFR Part 70.7(a)(2)]

1. For an *initial permit* for a source subject to Regulation X on the date the rule becomes effective, no later than three years after the date the rule becomes effective; [Reference: 40 CFR Part 70.7(e)(2)(iv)]
2. For an *initial permit* for a source that becomes subject to Regulation X after the date the rule becomes effective, no later than 18 months after the complete application is received;
3. For a permit renewal, no later than 18 months after the complete application is received;
4. For a *significant permit modification*, no later than 18 months after the complete application is received;
5. For a *minor permit modification*, within 90 days after the application is received or 60 days after written notice to the *U.S. EPA* on the proposed decision, whichever is later; or [Reference: 40 CFR Part 70.7(e)(e)(iv)]
6. For any permit application with early reductions pursuant to section 112(i)(5) of the *CAA*, within 9 months after the complete application is received. [Reference: 40 CFR Part 70.4(b)(11)(iii)]

**F. Notification and Opportunity for Review of Proposed Decision**

Within the applicable timeframe specified in subsection C., above, the *APCO* shall provide notice of and opportunity to review the proposed decision to issue a permit to operate in accordance with requirements in this subsection.

[Reference: 40 CFR Part 70.7(h) and 70.8]

1. For *initial permits*, renewal of permits, *significant permit modifications*, and reopenings for cause, the *APCO* shall provide the information in subsections a. through e., below.
  - a. Written notice, the proposed permit and, upon request, copies of the *District* analysis to interested persons or agencies. The *District* analysis shall include a statement that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory and regulatory provisions. Interested persons or agencies shall include persons who have requested in writing to be notified of proposed Regulation X decisions, any *affected state* and *ARB*. [Reference: 40 CFR Part 70.7(h)(3) and 70.8(b)(1)]
  - b. On or after providing written notice pursuant to subsection a., above, public notice that shall be published in at least one newspaper of general circulation in the *District*. The notice shall provide the information in subsections 1) through 6) below.
    1. The identification of the source, the name and address of permit holder, the activity (ies) and emissions change involved in the permit section.
    2. The name and address of the *District* and the name and telephone number of *District* staff to contact for additional information.
    3. The availability, upon request, of a statement that sets forth the legal and factual basis for the proposed permit conditions.
    4. The location where the public may inspect the complete application, the *District* analysis, and the proposed permit.
    5. A statement that the public may submit written comments regarding the proposed decision within at least 30 days from the date of publication and a brief description of commenting procedures.
    6. A statement that members of the public may request the *APCO* 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. [Reference: 40 CFR Part 70.7(a)(5) and 70.7(h)(1, 2 and 4)]



- c. A copy of the complete application, the *District* analysis and the proposed permit at *District* offices for public review and comment during normal business hours.
  - d. A written response 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. [Reference: 40 CFR Part 70.7(h)(5) and 70.8]
  - e. After completion of the public notice and comment period pursuant to subsection b., above, written notice to the *U.S. EPA* of the proposed decision along with copies of the proposed permit, the *District* analysis, the public notice submitted for publication, the *District's* response to written comments, and all necessary supporting information. [Reference: 40 CFR Part 70.8]
2. For *minor permit modifications*, the *APCO* shall provide written notice of the proposed decision to the *U.S. EPA*, the *ARB*, and any *affected state*. Additionally, the *District* shall provide to the *U.S. EPA* (and, upon request, to the *ARB* or any *affected state*) copies of the proposed permit, the *District* analysis, and all necessary supporting information. The *District* analysis shall include a statement that sets forth the legal and factual basis for the proposed permit conditions, including references to the applicable statutory and regulatory provisions. [Reference: 40 CFR Part 70.7(a)(1)(iii and v) and (5)]

#### G. Changes to the Proposed Decision

Changes to the proposed decision shall be governed by the following procedure:

1. The *APCO* may modify or change the proposed decision, the proposed permit, or the *District* analysis on the basis of information set forth in the comments received during the public comment period provided pursuant to subsection D.1.b., above, or due to further analysis of the *APCO*. Pursuant to subsection D.1.e., above, the *APCO* shall forward any such modified proposed decision, the proposed permit, the *District* analysis, and all necessary supporting information to the *U.S. EPA*. [Reference: 40 CFR Part 70.7(g)(5) and 70.8(b)(2)]
2. If the *U.S. EPA* objects in writing to the proposed decision within 45 days of being notified of the decision and receiving a copy of the proposed permit and all necessary supporting information pursuant to subsection D.1.e., above, the *APCO* shall not issue the permit. The *APCO* shall either deny the application or revise and resubmit a permit which addresses the deficiencies identified in the *U.S. EPA* objection within the following timeframes:
  - a. For *initial permits*, permit renewals, and *significant permit modifications*, within 90 days of receiving the *U.S. EPA* objection; or
  - b. For *minor permit modifications*, within 90 days of receipt of the application or 60 days of the notice to *U.S. EPA*, whichever is later. [Reference: 40 CFR Part 70.7(e)(2)(iv) and 70.8(c)]

#### H. Final Decision

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

application be taken expeditiously.

[Reference: 40 CFR Part 70.4(b)(xi), 70.7(a)(1)(v and (a)(2), and 70.8(c)]

Written notification of the final decision shall be sent to an *owner or operator* of the source, the *U.S. EPA*, the *ARB* and any person and *affected state* that submitted comments during the public comment period. The *APCO* shall submit a copy of a permit to operate as issued to the *U.S.*

*EPA* and provide a copy to any person or agency requesting a copy. If the application is denied, the *APCO* shall provide reasons for the denial in writing to an *owner or operator* along with the *District* analysis and cite the specific statute, rule, or regulation upon which the denial is based.

[Reference: 40 CFR Part 70.8(a)(1)]

**I. District Action on Written Requests-**The *APCO* shall act on a written request of an *owner or operator* for permit action using the applicable procedure specified in this subsection.

**1. Administrative Permit Amendment-**The *APCO* shall take final action no later than 60 days after receiving the written request for an *administrative permit amendment*.

[Reference: 40 CFR Part 70.7(d)(3)]

- a. After designating the permit revisions as an *administrative permit amendment*, the *APCO* may revise the permit without providing notice to the public or any *affected state*.
- b. The *APCO* shall provide a copy of the revised permit to an *owner or operator* of the source and the *U.S. EPA*.
- c. While the *APCO* need not make a completeness determination on a written request, the *APCO* shall notify an *owner or operator* of the source if the *APCO* determines that the permit cannot be revised as an *administrative permit amendment*.

**2. Permit Modification-** for a Condition that is not Federally Enforceable

[Reference: 40 CFR Part 70.4(b)(14) and 70.6(b)]

The *APCO* shall take action on a written request for a *permit modification* for a condition that is not federally enforceable in accordance with the requirements of Regulation V under the following circumstances:

- a. Any change at the *stationary source* allowed by the *permit modification* shall meet all *applicable federal requirements* and shall not violate any existing permit term or condition; and
- b. The *APCO* provides to the *U.S. EPA* a contemporaneous written notice describing the change, including the date, any change in emissions or air pollutants emitted, and any *applicable federal requirements* that would apply as a result of the change.

**3. Permits to Operate for New Emissions Unit-** The *APCO* shall take action on a written request for a permit to operate for a new *emissions unit* in accordance with the requirements of Regulation V under the circumstances specified in subsection 2.a. and 2.b., above. However, if Rule 1004 D.3.a., b., or c., above, apply, the *APCO* shall require the submittal of a standard *District* application and take action on that application pursuant to the requirement of Regulation X.

**J. Permit Reopening for Cause**

[Reference: 40 CFR Part 70.7(f)]

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

those parts of the permit for which cause to reopen exists.

[Reference: 40 CFR Part 70.7(f)(2)]

1. Circumstances that are cause for reopening and revision of a permit include but are not limited to, the following:
    - a. The need to correct a material mistake or inaccurate statement;
    - b. The need to revise or revoke a permit to operate to assure compliance with *applicable federal requirements*;
    - c. The need to incorporate any new, revised, or additional *applicable federal requirements*, if the remaining authorized life of the permit is 3 years or greater, no later than 18 months after the promulgation of such requirement (where less than 3 years remain in the authorized life of the permit, the *APCO* shall incorporate these requirements into the permit to operate upon renewal); or
    - d. The need to reopen a permit issued to *acid rain unit* subject to Phase II of Title IV of the *CAA* to include:
      1. Oxides of nitrogen requirements prior to January 1, 1999, and
      2. Additional requirements promulgated pursuant to Title IV as they become applicable to any *acid rain unit* governed by the permit.
  2. In processing a permit reopening, the *APCO* shall use the same procedures as for an *initial permit* and shall additionally:
    - a. Provide written notice to an *owner or operator* of the source and the *U.S. EPA* at least 30 days, or a shorter period in the case of an *emergency*, prior to reopening a permit; and
    - b. Complete action revise the permit as specified in the notice of reopening within 60 days after the written notice to the *U.S. EPA* pursuant to subsection D.1.e., if the *U.S. EPA* does not object, or after the *APCO* has responded to *U.S. EPA* objection pursuant to subsection E.2., above.
- [Reference: 40 CFR Part 70.7(f)(1)]

#### K. Options for Operational Flexibility

The *APCO* shall allow specified changes in operations at a source without requiring a permit revision for conditions that address an *applicable federal requirement*. The *APCO* shall not allow changes which constitute a modification under Title I of the *CAA*, Rule 102, or Regulation IV, or that result in an exceedance of the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions without revision to the permit. The source may gain operational flexibility through use of the following options:

[Reference: 40 CFR Part 70.4(b)(12) and (d)(3)(viii)]

1. **Alternative Operating Scenarios-** The *APCO* shall allow the use of alternative operating scenarios provided that:

[Reference: 40 CFR Part 70.7(a)(9)]

  - a. Terms and conditions applicable to each operating scenario are identified by *owner or operator* of source in the permit application,
  - b. The terms and conditions are approved by the *APCO*,
  - c. The terms and conditions are incorporated into the permit; and
  - d. The terms and conditions are in compliance with all applicable *District*, state, and federal requirements.

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

2. **Voluntary Emissions Caps-** The *APCO* shall issue a permit that contains terms and conditions that allow for trading of emissions increases and decreases within the *stationary source* solely for the purpose of complying with a *voluntary emissions cap*

established in the permit independent of otherwise *applicable federal requirements* provided that:

[Reference: 40 CFR Part 70.4(b)(12)(iii) and 70.6(a), (a)(10) and (c)]

- a. The requirements of subsections 1.a., 1.c., and 1.d., above, are met;
- b. The terms and conditions are approved by the *APCO* as quantifiable and enforceable; and
- c. The terms and conditions are consistent with the applicable *preconstruction permit*.

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

3. **Contravening an Express Permit Condition-** The *APCO* shall allow for changes in operation that contravene an express condition addressing an *applicable federal requirement* in a permit to operate provided that:

[Reference: 40 CFR Part 70.4(b)(12)]

- a. The change will not violate any *applicable federal requirement*;
- b. The change will not contravene *federally-enforceable conditions* that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements;
- c. The change is not a modification under Title I of the *CAA* or any provision of Rule 102 or Regulation IV;
- d. The change does not result in exceeding the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions;
- e. Written notice is given to the *U.S. EPA* and the *APCO* 30 days in advance of a change, and the notice clearly indicates which term or condition will be contravened, requests operational flexibility under this subsection, describes the change, identifies the *emissions units* which will be affected, the date on which the change will occur, the duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not; and
- f. The *APCO* has not provided a written denial to an *owner or operator* of the source within 30 days of receipt of the request for an operational change. The written denial shall identify which of the requirements of subsections a., b., c., d., or e., above, have not been satisfied.

## **RULE 1006 - PERMIT CONTENT REQUIREMENTS**

A permit to operate shall contain permit conditions that will assure compliance with all *applicable federal requirements*.

[Reference: 40 CFR Part 70.6]

### **A. Incorporated of *Applicable Federal Requirements***

A permit to operate shall incorporate all *applicable federal requirements* as permit conditions. The following procedure shall be used to incorporate an *applicable federal requirement* as a

permit condition:

[Reference: 40 CFR Part 70.3(c) and 70.6(a)(1) and (b)]

1. A permit condition that addresses an *applicable federal requirement* shall be specifically identified in the permit or otherwise distinguished from any requirement that is not enforceable by the *U.S. EPA*;
2. Where an *applicable federal requirement* and a similar requirement that is not federally enforceable apply to the same *emissions unit*, both shall be incorporated as permit conditions provided that they are not mutually exclusive; and
3. Where an *applicable federal requirement* and a similar requirement that is not federally enforceable apply to the same *emissions unit* and are mutually exclusive (e.g., require different air pollution control technology), the requirement specified in the *preconstruction permit* (or, in the case of sources without preconstruction permits, the more stringent requirement) shall be incorporated as a permit condition and the other requirement shall be referenced.

## B. General Requirements

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

1. **Emission and Operational Limitations-** The permit shall contain conditions that require compliance with *applicable federal requirements*, including any operational limitations or requirements.  
[Reference: 40 CFR Part 70.6(a)(1)]
2. **Preconstruction Permit Requirements-** The permit shall include all of the *preconstruction permit* conditions for each *emissions unit*.  
[Reference: 40 CFR Part 70.2 Applicable Requirement (2) and 70.3(c)]
3. **Origin and Authority for Permit Conditions-** The origin and authority for each permit term or condition shall be referenced in the permit.  
[Reference: 40 CFR Part 70.6(2)(1)(i)]
4. **Equipment Identification-** The permit shall identify the equipment to which a permit condition applies.
5. **Monitoring, Testing, and Analysis-** The permit shall contain conditions that require monitoring, analytical methods, compliance certification, test methods, equipment management, and statistical procedures consistent with any *applicable federal requirement*, including those pursuant to sections 114(a)(3) and 504(b) of the *CAA*, and 40 CFR Part 64. Periodic monitoring shall be required as a condition to ensure that the monitoring is sufficient to yield reliable data which are representative of the source's compliance with permit conditions over the relevant time period.  
[Reference: 40 *CFR* Part 70.6(a)(3)(i)]
6. **Recordkeeping-** The permit shall include recordkeeping conditions that require:  
[Reference: 40 CFR Part 70.6(a)(3)(ii)]
  - a. Record maintenance of all monitoring and support information associated with any *applicable federal requirement*, including:
    1. Date, place, and time of sampling;
    2. Operating conditions at the time of sampling;
    3. Date, place, and method of analysis; and
    4. Results of the analysis;
  - b. Retention of records of all required monitoring data and support information for a period of at least five years from the date of sample collection, measurement, report, or application; and
  - c. Any other recordkeeping deemed necessary by the *APCO* to ensure compliance with all *applicable federal requirements*.

7. **Reporting-** The permit shall include reporting conditions that require the following:  
[Reference: 40 CFR Part 70.6(a)(3)(iii)]
- a. Any deviation from permit requirements, including that attributable to upset conditions (as defined in the permit), shall be promptly reported to the *APCO* who will determine what constitutes "prompt" reporting in terms of the requirement, the degree, and type of deviation likely to occur;
  - b. A monitoring report shall be submitted at least every six months and shall identify any deviation from permit requirements, including that previously reported to the *APCO* (see subsection 7.a., above);
  - c. All reports of a deviation from permit requirements shall include the probable cause of the deviation and any preventative or corrective action taken;
  - d. A progress report shall be made on a compliance schedule at least semi-annually and shall include: 1) the date when compliance will be achieved, 2) an explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) a log of any preventative or corrective action taken; and
  - e. Each monitoring report shall be accomplished by a written statement from the *responsible official* which certifies the truth, accuracy, and completeness of the report.
8. **Compliance Plan-** The permit shall include a compliance plan that:  
Reference: 40 CFR Part 70.5(c)(8)]
- a. Describes the compliance status of an *emissions unit* with respect to each *applicable federal requirement*;
  - b. Describes how compliance will be achieved if an *emissions unit* is not in compliance with an *applicable federal requirement* at the time of permit issuance;
  - c. Assures that an *emissions unit* will continue to comply with those permit conditions with which it is in compliance; and
  - d. Assures that an *emissions unit* will comply with, on a timely basis, any *applicable federal requirement* that will become effective during the permit term.
9. **Compliance Schedule-** The permit shall include a compliance schedule for any *emissions unit* which is not in compliance with current *applicable federal requirements*. The compliance schedule shall require:  
[Reference: 40 CFR Part 70.5(c)(8)]
- a. A statement that the *emissions unit* will continue to comply with those permit conditions with which it is in compliance;
  - b. A statement that the *emissions unit* will comply, on a timely basis, with an *applicable federal requirement* that will become effective during the permit term;
  - c. For each condition with which the *emissions unit* is not in compliance with an *applicable federal requirement*, a schedule of compliance which lists all preventative or corrective activities, and the dates when these activities will be accomplished; and
  - d. For each *emissions unit* that is not in compliance with an *applicable federal requirement*, a schedule of progress on at least a semi-annual basis which includes: 1) the date when compliance will be achieved, 2) an explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) a log of any preventative or corrective actions taken.

10. **Right of Entry** The permit shall require that the source allow the entry of the *District*, *ARB*, or *U.S. EPA* officials for the purpose of inspection and sampling, including:  
[Reference: 40 CFR Part 70.5(c)(2)]
- a. Inspection of the *stationary source*, including equipment, work practices, operations, and emission-related activity;
  - b. Inspection and duplication of records required by the permit to operate; and
  - c. Source sampling or other monitoring activities.
11. **Compliance with Permit Conditions-** The permit shall include the following provisions regarding compliance:  
[Reference: 40 CFR Part 70.6(a)(6)]
- a. The permittee shall comply with all permit conditions;
  - b. The permit does not convey property rights or exclusive privilege of any sort;
  - c. The noncompliance with any permit condition is grounds for permit termination, revocation and reissuance, modification, enforcement action, or denial of permit renewal;
  - d. The permittee shall not use the "need to halt or reduce a permitted activity in order to maintain compliance" as a defense for noncompliance with any permit condition;
  - e. A pending permit action or notification of anticipated noncompliance does not stay any permit condition; and
  - f. Within a reasonable time period, the permittee shall furnish any information requested by the *APCO*, in writing, for the purpose of determining: 1) compliance with the permit, or 2) whether or not cause exists for a permit or enforcement action.
12. **Emergency Provisions-** The permit shall include the following *emergency* provisions:  
[Reference: 40 CFR Part 70.6(g)]
- a. The permittee shall comply with the requirements of Rule 516 and the emergency provisions contained in all *applicable federal requirements*;
  - b. Within two weeks of an *emergency* event, an *owner or operator* of the source shall submit to the *District* a properly signed, contemporaneous log or other relevant evidence which demonstrates that:
    1. An *emergency* occurred;
    2. The permittee can identify the cause(s) of the *emergency*;
    3. The facility was being properly operated at the time of the *emergency*;
    4. All steps were taken to minimize the emissions resulting from the *emergency*; and
    5. Within two working days of the *emergency* event, the permittee provided the *District* with a description of the *emergency* and any mitigating or corrective actions taken;
  - c. In any enforcement proceeding, the permittee has the burden of proof for establishing that an *emergency* occurred.
13. **Severability-**The permit shall include a severability clause to ensure the continued validity of otherwise unaffected permit requirements in the event of a challenge to any portion of the permit.  
[Reference: 40 CFR Part 70.6(b)(5)]
14. **Compliance Certification-**The permit shall contain conditions for compliance certification which include the following requirements:  
[Reference: 40 CFR Part 70.6(b)(5)]

- a. An *owner or operator* of the source shall submit a compliance certification to the *U.S. EPA* and the *APCO* every 12 months;
  - b. The compliance certification shall identify the basis for each permit term or condition (e.g., specify the emissions limitation, standard, or work practice) and a means of monitoring compliance with the term or condition;
  - c. The compliance certification shall include the compliance status and method(s) used to determine compliance for the current time period and over the entire reporting period; and
  - d. The compliance certification shall include any additional inspection, monitoring, or entry requirement that may be promulgated pursuant to sections 114(a) and 504(b) of the *CAA*.
15. **Permit Life-** With the exception of *acid rain units* subject to Title IV of the *CAA* and *solid waste incinerators* subject to section 129(e) of the *CAA*, each permit to operate for any source shall include a condition for a fixed term not to exceed five years from the time of issuance. A permit to operate for an *acid rain units* shall have a fixed permit term of five years. A permit to operate for a *solid waste incinerator* shall have a permit term of 12 years; however, the permit shall be reviewed at least every five years.  
[Reference: 40 CFR Part 70.6(a)(2)]
16. **Payment of Fees-** The permit shall include a condition to ensure that appropriate permit fees are paid on schedule. If fees are not paid on schedule, the permit is forfeited. Operation without a permit subjects the source to potential enforcement action by the *District* and the *U.S. EPA* pursuant to section 502(a) of the *CAA*.  
[Reference: 40 CFR Part 70.6(a)(7)]
17. **Alternative Operating Scenarios-** Where an *owner or operator* requests that an alternative operating scenario be included in the permit for an *emissions unit*, the permit shall contain specific conditions for each operating scenario, including each alternative operating scenario. Each operating scenario, including each alternative operating scenario, identified in the permit must meet all *applicable federal requirements* and all of the requirements of this section. Furthermore, the source is required to maintain a contemporaneous log to record each change from one operating scenario to another.  
[Reference: 40 CFR Part 70.6(a)(9)]
18. **Voluntary Emissions Cap-** To the extent *applicable federal requirements* provide for averaging emissions increases and decreases within a stationary source without case-by-case approval, an *owner or operator* may request, subject to approval by the *APCO*, to permit one or more *emissions unit(s)* under a *voluntary emissions cap*. The permit for each *emissions unit* shall include *federally-enforceable conditions* requiring that:  
[Reference: 40 CFR Part 70.6(a)(10)]
- a. All *applicable federal requirements*, including those authorizing emissions averaging, are complied with;
  - b. No individual *emissions unit* shall exceed any emissions limitation, standard, or other requirement;
  - c. Any emissions limitation, standard, or other requirement shall be enforced through continuous emission monitoring, where applicable; and
  - d. All effected *emissions units* under a *voluntary emissions cap* shall be considered to be operating in violation of the permit, if the *voluntary emissions cap* is exceeded.
19. **Acid Rain Units Subject to Title IV-** The permit for an *acid rain unit* shall include conditions that require compliance with any federal standard or requirement promulgated pursuant to Title IV (Acid Deposition Control) of the *CAA* and any federal



standard or requirement promulgated pursuant to Title V of the CAA, except as modified by Title IV. *Acid rain unit* permit conditions shall include the requirements of 40 CFR Part 72.9 and the following provisions:

[Reference: 40 CFR Part 70.6(a)(d)]

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

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

[Reference: 40 CFR Part 70.6(e)]

Meet all applicable *District*, state, and federal requirements of each location;

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

## **RULE 1007 - SUPPLEMENTAL ANNUAL FEE**

The fees collected pursuant to this rule shall supplement the fee requirements in Regulation VI, if applicable.

### **A. Payment of Supplemental Fee**

An *owner or operator*, or his or her delegee, shall pay an annual supplemental fee for a permit to operate pursuant to Regulation X as determined by the calculation method in subsection C., below, to meet an overall fee rate of \$25 per ton of fee-based emissions (CPI adjusted), unless subsection B., below, applies.

[Reference: 40 CFR Part 70.9(b)(2)(i)]

1. **Fee-based emissions**- means the actual rate of emissions in tons per year of any fee pollutant, including *fugitive emission*, emitted from the *stationary source* over the preceding year or any other period determined by the *APCO* to be representative of normal operation. Fee-based emissions shall be calculated using each *emission unit's* actual operating hours, production rates, and in-place control equipment; types of material processed, stored, or combusted during the preceding calendar year, or other time period established by the *APCO*. [Reference: 40 CFR Part 70.9(b)(2)(iii)]
2. **Fee pollutant**- means oxides of nitrogen, volatile organic compounds, any pollutant for which a national ambient air quality standard has been promulgated by the *U.S. EPA* (excluding carbon monoxide), and any other pollutant that is subject to a standard or

regulation promulgated by the *U.S. EPA* under the *CAA* or adopted by the *District* pursuant to section 112(g) and (j) of the *CAA*. Any air pollutant that is regulated solely because of a standard or regulation under section 112(r) of the *CAA* for accidental release or under Title VI of the *CAA* for stratospheric ozone production shall not be included. [Reference: 40 CFR Part 70.2 Regulated Pollutant (for Presumptive Fee Calculation)]

3. **(CPI adjusted)**- means adjusted by the percentage, if any, by which the Consumer Price Index of the year exceeds the Consumer Price Index for calendar year 1989. [Reference: 40 CFR Part 70.9(b)(2)(iv)]

**B. No Supplemental Fee**

There shall not be a supplemental annual fee if the total annual fee rate paid by the source under Regulation VI and *H&SC* section 44380 (AB 2588 Toxic Hot Spots) equals or exceeds \$25 per ton of fee-based emissions (CPI adjusted). Only those AB 2588 Toxic Hot Spots fees that fund direct and indirect costs associated with activities related to the operating permits program as specified in section 502(b)(3)(A) of the *CAA* are to be used to meet the overall fee rate of \$25 per ton of fee-based emissions (CPI adjusted).

[Reference: 40 CFR Part 70.9(b)(1)]

**C. Determination of Supplemental Fee**

The supplemental annual fee shall be determined by completing the following steps:

Step 1: Calculation of Supplement Annual Fee

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

where:

s = supplemental annual fee in dollars

e = fee-based emissions in tons per year

f = sum (in dollars) of annual fee under Regulation VI and that portion of AB 2588 Toxic Hot Spots fees that funds direct and indirect costs associated with activities related to the operating permits program as specified in section 502(b)(3)(A) of the *CAA*.

Step 2: When the Supplemental Annual Fee is Zero

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

**D. Submit of Information**

An *owner or operator* of a source, or his or her delegee, shall provide the *APCO* sufficient information to determine the supplemental fee.

[Reference: 40 CFR Part 70.6(a)(7)]