

# Antelope Valley Air Quality Management District

2551 W Avenue H  
Lancaster, CA 93536  
www.avaqmd.ca.gov

## Governing Board Special Meeting

### Agenda

#### MEETING LOCATION

Antelope Valley Transit Authority  
District Office  
42210 6th Street West  
Lancaster, CA 93534  
661.723.8070

#### Zoom Link

<https://stradlinglaw.zoom.us/j/87295983817?pwd=jEtaMTqmZYhSY3MxztOppiWlwIbRIZ.1>

**Meeting ID: 872 9598 3817**

**Passcode: 511783**

**MONDAY, December 30, 2024**

**10:00 A.M.**

#### BOARD MEMBERS

Marvin Crist, Chair, City of Lancaster  
Austin Bishop, Vice Chair, City of Palmdale  
Newton Chelette, Public Member  
Ron Hawkins, Los Angeles County  
Howard Harris, Los Angeles County  
Ken Mann, City of Lancaster  
Richard Loa, City of Palmdale

IF YOU CHALLENGE ANY DECISION REGARDING ANY OF THE LISTED PROPOSALS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED DURING THE PUBLIC TESTIMONY PERIOD REGARDING THAT PROPOSAL OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE GOVERNING BOARD AT, OR PRIOR TO, THE PUBLIC HEARING.

DUE TO TIME CONSTRAINTS AND THE NUMBER OF PERSONS WISHING TO GIVE ORAL TESTIMONY, PUBLIC COMMENTS ARE LIMITED TO FIVE MINUTES PER SPEAKER. YOU MAY WISH TO MAKE YOUR COMMENTS IN WRITING TO ASSURE THAT YOU ARE ABLE TO EXPRESS YOURSELF ADEQUATELY.

ALL SCHEDULED ITEMS WILL BE HEARD AT THE ANTELOPE VALLEY TRANSIT AUTHORITY (AVTA) DISTRICT OFFICE, 42210 6TH STREET WEST, LANCASTER, CA 93534 AND THE TELECONFERENCE LOCATION(S), IF APPLICABLE. PLEASE NOTE THAT THE BOARD MAY ADDRESS ITEMS IN THE AGENDA IN A DIFFERENT ORDER THAN THE ORDER IN WHICH THE ITEM HAS BEEN POSTED.

PUBLIC COMMENTS ON ANY AGENDA ITEM WILL BE HEARD AT THE TIME OF DISCUSSION OF THE AGENDA ITEM. PUBLIC COMMENTS NOT PERTAINING TO AGENDA ITEMS WILL BE HEARD DURING THE PUBLIC COMMENT PERIOD BELOW. PUBLIC COMMENTS ON AGENDIZED ITEMS MAY BE SUBMITTED VIA EMAIL TO: [PUBLICCOMMENT@AVAQMD.CA.GOV](mailto:PUBLICCOMMENT@AVAQMD.CA.GOV) AT LEAST TWO HOURS PRIOR TO THE START OF THE MEETING.

**CALL TO ORDER 10:00 A.M.**

Pledge of Allegiance.

Roll Call.

Items with potential Conflict of Interests — If you believe you have a conflict of interest, please recuse yourself at the appropriate time. If you have a question regarding a potential conflict of interest, please contact District Counsel.

PUBLIC COMMENT.

**ITEMS FOR DISCUSSION**

NEW BUSINESS

1. Conduct a public hearing to consider the amendment of Regulation XIII – *New Source Review*, Rule 1301, 1302, 1303, 1304, 1305, 1309 and the adoption of Rule 1314. 1) Open a public hearing; 2) Receive staff report and additional information; 3) Receive additional public testimony; 4) Close public hearing; 5) Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; 6) Waive reading of Resolution; 7) Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rules and directing staff actions..
2. Reports: Governing Board Counsel, Executive Director/APCO, Staff.
3. Board Member Reports and Suggestions for Future Agenda Items.
4. Adjourn to Regular Governing Board Meeting of Tuesday, January 21, 2025.

***In compliance with the Americans with Disabilities Act, if special assistance is needed to participate in the Board Meeting, please contact the Executive Director during regular business hours at 661.723.8070 x23. Notification received 48 hours prior to the meeting will enable the District to provide reasonable accommodation. All accommodation requests will be processed swiftly and resolving any doubt in favor of accessibility.***

I hereby certify, under penalty of perjury, that this agenda has been posted 24 hours prior to the stated meeting in a place accessible to the public. Copies of this agenda and any or all additional materials relating thereto are available at [www.avaqmd.ca.gov](http://www.avaqmd.ca.gov) or by contacting Barbara Lods at 661.723.8070 ext. 23 or by email at [blods@avaqmd.ca.gov](mailto:blods@avaqmd.ca.gov).

**Mailed & Posted on: Thursday, December 26, 2024**

***Barbara Lods***

Barbara Lods



**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT  
GOVERNING BOARD**

**\*\*\*\*NOTICE OF SPECIAL MEETING\*\*\*\***

**NOTICE IS HEREBY GIVEN** that the Governing Board of the Antelope Valley Air Quality Management District (District) will conduct a Special Meeting on Monday, December 30, 2024, at 10:00 a.m.

**SAID MEETING** will be conducted at the Antelope Valley Transit Authority (AVTA) District Office, 42210 6<sup>th</sup> Street West, Lancaster, California 93534. Interested persons may attend and submit oral and/or written comments/statements at the meeting or you may access the meeting via Zoom with the following link:

<https://stradlinglaw.zoom.us/j/87295983817?pwd=jEtaMTqmZYhSY3MxztOppiWIwlbRIZ.1>

Meeting ID: 872 9598 3817

Passcode: 511783

It is requested that written comments/statements be submitted prior to the meeting.

Copies of this agenda and any or all additional materials relating thereto are available at [www.avaqmd.ca.gov](http://www.avaqmd.ca.gov) or by contacting Barbara Lods at 661-723-8070 ext. 23 or by email at [blods@avaqmd.ca.gov](mailto:blods@avaqmd.ca.gov).

**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT  
GOVERNING BOARD**

**BARBARA LODS  
EXECUTIVE DIRECTOR/APCO  
PHONE: (661)723-8070, Ext. 23.**

Mailed and Posted: **Thursday, December 26, 2024.**  
**DATE**

**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT  
LANCASTER, CALIFORNIA**

**AGENDA ITEM #1**

**DATE:** December 30, 2024

**RECOMMENDATION:** Conduct a public hearing to consider the amendment of Regulation XIII – *New Source Review*, Rule 1301, 1302, 1303, 1304, 1305, 1309 and the adoption of rule 1314. 1) Open a public hearing; 2) Receive staff report and additional information; 3) Receive additional public testimony; 4) Close public hearing; 5) Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; 6) Waive reading of Resolution; 7) Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rules and directing staff actions.

**SUMMARY:** The proposed amendments to Regulation XIII – *New Source Review* are necessary to: allow certification of the AVAQMD’s NSR program in response to the 2015 70 ppb Ozone Standard, address a variety of approvability issues as identified by USEPA

**CONFLICT OF INTEREST:** None.

**BACKGROUND:** In 2015, pursuant to requirements under the Federal Clean Air Act (FCAA), the United States Environmental Protection Agency (USEPA) lowered the primary ozone National Ambient Air Quality Standard (NAAQS) from 75 parts per billion (ppb) to 70 ppb. In 2018 USEPA promulgated a final implementation rule specifying timeline requirements for submissions of mandatory elements into the State Implementation Plan (SIP) under the revised Ozone NAAQS. The Antelope Valley Air Quality Management District (AVAQMD or District) has been designated as non-attainment for ozone and classified Severe-15 and thus the District is required to submit specific elements in accordance with the implementation rule. One of the required elements is a certification that the District’s Nonattainment New Source Review program (NANSR or NSR<sup>1</sup>) meets or exceeds various requirements as set forth in the FCAA and the regulations promulgated thereunder. The deadline under the implementation rule is 3 years from the date of nonattainment designation under the NAAQS. As the effective non-attainment designation date for that area of the AVAQMD was August 3, 2018, the NSR certification submission was due to USEPA on or before August 3, 2021, the amendment was submitted July 26, 2021, and received approval/limited disapproval on July 3, 2023.

In response to the July 2023 USEPA decision, the AVAQMD is proposing to amend Regulation XIII – *New Source Review*, Rules 1301, 1302, 1303, 1304, 1305, 1309 and proposed new Rule 1314 to provide an approvable set of NSR rules with consideration being given to the disapproval items identified in the July 3, 2023, decision. The AVAQMD has developed amendments to Regulation XIII which comply with both the Federal regulation and state law. The proposed amendments divide the NSR program into rules which separately

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**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT  
LANCASTER, CALIFORNIA**

*AGENDA ITEM #1*

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address State NSR and Federal Nonattainment NSR (NNSR). The Federal NNSR requirements are primarily contained in proposed Rule 1314 and implement the requirements of the Federal regulations.

Changes are proposed to procedural Rule 1302 to implement the two-part analysis to determine either State or Federal rule requirements. The net result of the proposed amendments will be that any new facility or modification to a facility will initially be analyzed to determine the emissions change based on calculation procedures in Rule 1314 for Federal NNSR and Rule 1304 for State NSR. Best Available Control Technology (BACT) and/or Offsets may be required if the emissions are greater than the applicable thresholds found in current Rules 1314 or 1303. Applicability thresholds remain the same as those currently in the District's Rulebook.

The proposed amendments to Rule 1303, Rule 1304, and Rule 1305 are specific to State NSR requirements. Rule 1304 details the emission calculation methods and Rule 1305 focuses on how to determine both the base quantity of offsets, based on the emission change, considering SERs when appropriate, and other adjustments factors such as surplus and offset ratio.

Rule 1314 incorporates many of the federal requirements outlined in the partial disapproval including the requirement to assess significant net emissions increases and non-de minimis emission increases using historical actual emissions rather than potential to emit.

A Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308) has been prepared for adoption by the AVAQMD for this action pursuant to the requirements of CEQA.

**REASON FOR RECOMMENDATION:** Health & Safety Code §§40702 and 40703 require the Governing Board to hold a public hearing before adopting rules and regulation. Also, 42 U.S.C. §7410(I) (FCAA §110(I)) requires that all SIP revisions be adopted after public notice and hearing.

**REVIEW BY OTHERS:** This item was reviewed by Barbara Lods, Executive Director/APCO on or about December 23, 2024.

**FINANCIAL DATA:** No increase in appropriation is anticipated.

**LEVINE ACT:** The Levine Act (Gov. Code Section 84308) prohibits AVAQMD officials from participating in certain decisions regarding licenses, permits, and other entitlements for use if the official has received a campaign contribution of more than \$250 from a party, participant, or agent of a party or participant in the previous 12 months. The Levine Act is intended to prevent financial influence on decisions that affect specific, identifiable persons or participants. For more information see the FPPC website: [www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html](http://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html)

**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT  
LANCASTER, CALIFORNIA**

*AGENDA ITEM #1*

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SUBJECT TO THE LEVINE ACT	EXEMPT FROM THE LEVINE ACT
<input type="checkbox"/> Permit, license, or entitlement for use	<input type="checkbox"/> Competitively bid contract
<input type="checkbox"/> Contract or grant	<input type="checkbox"/> Labor or personal employment
	<input checked="" type="checkbox"/> General policy and legislative actions

**PRESENTER:** Barbara Lods, Executive Director/APCO

**RESOLUTION 24-05**

**A RESOLUTION OF THE GOVERNING BOARD OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING REGULATION XIII – *NEW SOURCE REVIEW (RULE 1301, 1302, 1303, 1304, 1305, 1309) AND ADOPTING RULE 1314 AND DIRECTING STAFF ACTIONS.***

On December 30, 2024, on motion by Member Board Member Name, seconded by Member Board Member Name, and carried, the following resolution is adopted:

**WHEREAS**, the Antelope Valley Air Quality Management District (AVAQMD) has authority pursuant to California Health and Safety Code (H&S Code) §§40702, 40725-40728 to adopt, amend or repeal rules and regulations; and

**WHEREAS**, the AVAQMD is proposing to amend Regulation XIII – *New Source Review* (Rules 1301, 1302, 1303, 1304, 1305, 1309) and adopt proposed new Rule 1314 to provide an approvable set of NSR rules with consideration being given to the disapproval items identified in the July 3, 2023, decision; and

**WHEREAS**, the AVAQMD has developed amendments to Regulation XIII which comply with both the Federal regulation and state law. The proposed amendments divide the NSR program into rules which separately address State NSR and Federal Nonattainment NSR (NNSR); and

**WHEREAS**, the Federal NNSR requirements are primarily contained in proposed Rule 1314 and implement the requirements of the Federal regulations; and

**WHEREAS**, changes are proposed to procedural Rule 1302 to implement the two-part analysis to determine either State or Federal rule requirements; and

**WHEREAS**, the net result of the proposed amendments will be that any new facility or modification to a facility will initially be analyzed to determine the emissions change based on calculation procedures in Rule 1314 for Federal NNSR and Rule 1304 for State NSR; and

**WHEREAS**, Best Available Control Technology (BACT) and/or Offsets may be required if the emissions are greater than the applicable thresholds found in current Rules 1314 or 1303; and

**WHEREAS**, applicability thresholds remain the same as those currently in the District’s Rulebook; and

**WHEREAS**, the proposed amendments to Rule 1303, Rule 1304, and Rule 1305 are specific to State NSR requirements; and

## **RESOLUTION 24-05**

1           **WHEREAS**, Rule 1304 details the emission calculation methods and Rule 1305 focuses on how to  
2 determine both the base quantity of offsets, based on the emission change, considering SERs when  
3 appropriate, and other adjustments factors such as surplus and offset ratio; and

4           **WHEREAS**, Rule 1314 incorporates many of the federal requirements outlined in the partial  
5 disapproval including the requirement to assess significant net emissions increases and non-de minimis  
6 emission increases using historical actual emissions rather than potential to emit; and

7           **WHEREAS**, the AVAQMD has the authority pursuant to H&S Code §40702 to amend rules and  
8 regulations; and

9           **WHEREAS**, the proposed actions are clear in that the meaning can be easily understood by the  
10 persons impacted by the rule in that they are designed to: clarify particular existing practices, reorganize  
11 and renumber provisions for ease of use, remove unused and unusable provisions, add provisions to conform  
12 with FCAA requirements, clarify Minor Facility notice requirements, and bifurcate the applicability  
13 calculations from the calculations required to determine the amount of offsets; and

14           **WHEREAS**, the proposed amendments are in harmony with, and not in conflict with, or  
15 contradictory to existing statutes, court decisions, or state or federal regulations, and do not interfere with  
16 any federal applicable requirement concerning attainment or Reasonable Further Progress (RFP) pursuant  
17 to the Federal Clean Air Act (FCAA) in that the applicable provisions require specific rule adoptions in  
18 order for the requirements to be properly implemented; and

19           **WHEREAS**, the proposed amendments do not impose the same requirements as any existing state  
20 or federal regulation in that the applicable provisions of state and federal law and regulation require rule  
21 adoption to be implemented; and

22           **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to H&S Code  
23 §40725, concerning the proposed actions; and

24           **WHEREAS**, a Notice of Exemption, a Categorical Exemption (Class 8, 14 CCR §15308) for the  
25 proposed amendments to Regulation XIII – *New Source Review (Rule 1301, 1302, 1303, 1304, 1305, 1309)*  
26 *and the adoption of Rule 1314*, completed in compliance with the California Environmental Quality Act  
27 (CEQA), has been presented to the AVAQMD Board; each member having reviewed, considered and  
28 approved the information contained therein prior to acting on the proposed actions, and the Governing



**RESOLUTION 24-05**

1 Board of the AVAQMD having determined that the proposed amendments will not have any potential for  
2 resulting in any adverse impact upon the environment; and

3       **WHEREAS**, the Governing Board of the AVAQMD has considered the evidence presented at the  
4 public hearing; and

5       **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the AVAQMD finds that  
6 the proposed amendments to Regulation XIII – *New Source Review (Rule 1301, 1302, 1303, 1304, 1305,*  
7 *1309) and the adoption of Rule 1314*, are necessary, authorized, clear, consistent, non-duplicative and  
8 properly referenced; and

9       **BE IT FURTHER RESOLVED**, that the Governing Board of the AVAQMD hereby makes a  
10 finding that the Class 8 Categorical Exemption (14 CCR §15308) applies and certifies the Notice of  
11 Exemption for the proposed actions; and

12       **BE IT FURTHER RESOLVED**, that the Governing Board of the AVAQMD does hereby adopt,  
13 pursuant to the authority granted by law, the proposed actions, as set forth in the attachments to this  
14 resolution and incorporated herein by this reference; and

15       **BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately upon adoption,  
16 that Staff is directed to file the Notice of Exemption in compliance with the provisions of CEQA.

17 **PASSED, APPROVED AND ADOPTED** by the Governing Board of the Antelope Valley Air Quality  
18 Management District by the following vote:

19 AYES:                   MEMBER:

20 NOES:                   MEMBER:

21 ABSENT:               MEMBER:

22 ABSTAIN:              MEMBER:

24 STATE OF CALIFORNIA        )  
25 COUNTY OF LOS ANGELES    )

SS:

26 //  
27 //  
28 //

**RESOLUTION 24-05**

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I, Barbara Lods, Executive Director/APCO of Antelope Valley Air Quality Management District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as the same appears in the Official Minutes of said Governing Board at its meeting of December 30, 2024.

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Barbara Lods  
Executive Director/APCO  
Antelope Valley Air Quality Management District

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*Antelope Valley*

Air Quality Management District

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Draft

# Staff Report

**Proposed Amendment of  
Regulation XIII – New Source Review  
Rule 1301, 1302, 1303, 1304, 1305, 1309  
Proposed Adoption of Rule 1314**

**For Amendment/Adoption on  
12/30/2024**

2551 W AVENUE H  
LANCASTER, CALIFORNIA 93536  
PHONE (661) 723-8070

**Staff Report**  
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# **STAFF REPORT**

## **Regulation XIII – *New Source Review***

### **I. PURPOSE OF STAFF REPORT**

The primary purpose of this Staff Report is to provide a summary and background material to the members of the Governing Board regarding the proposed amendments to Regulation XIII– *New Source Review*. This allows the Governing Board to be fully informed before determining whether to approve the proposed amendments.

### **II. EXECUTIVE SUMMARY**

In 2015, pursuant to requirements under the Federal Clean Air Act (FCAA), the United States Environmental Protection Agency (USEPA) lowered the primary ozone National Ambient Air Quality Standard (NAAQS) from 75 parts per billion (ppb) to 70 ppb. In 2018 USEPA promulgated a final implementation rule specifying timeline requirements for submissions of mandatory elements into the State Implementation Plan (SIP) under the revised Ozone NAAQS. The Antelope Valley Air Quality Management District (AVAQMD or District) has been designated as non-attainment for ozone and classified Severe-15 and thus the District is required to submit specific elements in accordance with the implementation rule. One of the required elements is a certification that the District’s Nonattainment New Source Review program (NANSR or NSR) meets or exceeds various requirements as set forth in the FCAA and the regulations promulgated thereunder. The deadline under the implementation rule is 3 years from the date of nonattainment designation under the NAAQS. As the effective non-attainment designation date for that area of the AVAQMD was August 3, 2018, the NSR certification submission was due to USEPA on or before August 3, 2021, the amendment was submitted July 26, 2021, and received approval/limited disapproval on July 3, 2023.

In response to the July 2023 USEPA decision, the AVAQMD is proposing to amend Regulation XIII – *New Source Review*, Rules 1301, 1302, 1303, 1304, 1305, 1309 and adopt proposed new rule 1314 to provide an approvable set of NSR rules with consideration being given to the disapproval items identified in the July 3, 2023, decision. The AVAQMD has developed amendments to Regulation XIII which comply with both the Federal regulation and state law. The proposed amendments divide the NSR program into rules which separately address State NSR and Federal Nonattainment NSR (NNSR). The Federal NNSR requirements are primarily contained in proposed Rule 1314 and implement the requirements of the Federal regulations.

Changes are proposed to procedural Rule 1302 to implement the two-part analysis to determine either State or Federal rule requirements. The net result of the proposed amendments will be that any new facility or modification to a facility will initially be analyzed to determine the emissions change based on calculation procedures in Rule 1314 for Federal NNSR and Rule 1304 for State NSR. Best Available Control Technology (BACT) and/or Offsets may be required if the emissions are greater than the applicable thresholds found in current Rules 1314 or 1303. Applicability thresholds remain the same as those currently in the District’s Rulebook.

The proposed amendments to Rule 1303, Rule 1304, and Rule 1305 are specific to State NSR requirements. Rule 1304 details the emission calculation methods and Rule 1305 focuses on how to determine both the base quantity of offsets, based on the emission change, considering SERs when appropriate, and other adjustments factors such as surplus and offset ratio.

Rule 1314 incorporates many of the federal requirements outlined in the partial disapproval including the requirement to assess significant net emissions increases and non-de minimis emission increases using historical actual emissions rather than potential to emit.

### III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the AVAQMD amend Regulation XIII – *New Source Review* and approve the appropriate California Environmental Quality Act (CEQA) documentation. This action is necessary to allow the certification of certain mandatory submission requirements in response to the 2015 70 ppb Ozone standard; to address a variety of issues identified by the USEPA in their review of previously submitted rule versions; and provisions to address the disapproval items and to provide reorganization of State and Federal requirements for additional clarity.

#### IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct adoption of amendments to Regulation XIII – *New Source Review*. Each item is discussed, if applicable, in Section V. Copies of related documents are included in the appropriate appendices.

##### **FINDINGS REQUIRED FOR RULES & REGULATIONS:**

- X Necessity
- X Authority
- X Clarity
- X Consistency
- X Nonduplication
- X Reference
- X Public Notice & Comment
- X Public Hearing

##### **REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):**

- X Public Notice & Comment
- X Availability of Document
- X Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- X Public Hearing
- X Legal Authority to adopt and implement the document.
- X Applicable State laws and regulations were followed.

##### **ELEMENTS OF A FEDERAL SUBMISSION:**

N/A Elements as set forth in applicable Federal law or regulations.

##### **CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):**

- N/A Ministerial Action
- N/A Exemption
- X Negative Declaration
- N/A Environmental Impact Report
- X Appropriate findings, if necessary.
- X Public Notice & Comment

##### **SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):**

- X Environmental impacts of compliance.
- X Mitigation of impacts.
- X Alternative methods of compliance.

##### **OTHER:**

- X Written analysis of existing air pollution control requirements
- X Economic Analysis
- X Public Review

## V. DISCUSSION OF LEGAL REQUIREMENTS

### A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State of California statutory requirements that apply to the proposed adoption of Regulation XIII – *New Source Review*. These are actions that need to be performed and/or information that must be provided in order to amend the rule in a procedurally correct manner.

#### 1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the District Governing Board is required to make findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon relevant information presented at the hearing. The information below is provided to assist the Board in making these findings.

##### a. Necessity:

The proposed amendments to Regulation XIII – *New Source Review* are necessary to: allow certification of the AVAQMD’s NSR program in response to the 2015 70 ppb Ozone Standard, address a variety of approvability issues as identified by USEPA

##### b. Authority:

The District has the authority pursuant to California Health and Safety Code (H&S Code) §40702 to adopt, amend or repeal rules and regulations.

##### c. Clarity:

The proposed amendments to Regulation XIII – *New Source Review* are clear in that they are written so that the persons subject to the Rule can easily understand the meaning. Most of the proposed amendments are simply designed to clarify existing practices. Provisions have been reorganized and renumbered to conform to other, similar, rule provisions as well as to remove unused and unusable provisions.

##### d. Consistency:

The proposed amendments to Regulation XIII – *New Source Review*, are in harmony with, and not in conflict with or contradictory to any State law or regulation, Federal law or regulation, or court decisions.



H&S Code §§42300 et seq. allows the District to establish a permitting program requiring the obtaining of a permit prior to building, erecting, altering, replacement, operating or using any machine, equipment, or other contrivance that causes or controls air contaminants and to ensure that such equipment does not prevent or interfere with the attainment or maintenance of any applicable air quality standard. Similarly, the FCAA requires areas which have been designated nonattainment with the NAAQS to develop a permitting program to ensure that the preconstruction review requirements for new or modified stationary source of air contaminants are met. The District has been designated Federal nonattainment for O<sub>3</sub>. Regulation XIII and Regulation XVII are the AVAQMD's rules which establish the State and Federal permitting program and implement the mandatory requirements thereof.

In addition, California Law requires an analysis when amendments are proposed to a nonattainment NSR program to show that the proposed changes are not less stringent than the FCAA provisions and implementing regulations which were in existence as of December 30, 2002.

Finally, Title V of the FCAA provides that each state (or in this case the District) submits a Federal Operating Permit (FOP) program to control major stationary sources of air pollution.

Section V of this staff report contains a detailed discussion of the consistency of each proposed amendment with the applicable State or Federal requirements.

e. Nonduplication:

The proposed amendments to Regulation XIII – *New Source Review* do not impose the same requirements as any existing State or Federal law or regulation because the provisions listed in subsection V.A.1.d. above all require the adoption of rules and regulations to properly implement such requirements and programs.

f. Reference:

The District has the authority pursuant to H&S Code §40702 to adopt, amend or repeal rules and regulations.

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendments to Regulation XIII – *New Source Review*, will be published on

11/29/2024. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, and District responses.

2. Federal Elements (SIP Submittals, Other Federal Submittals).

Submittals to USEPA are required to include various elements depending upon the type of document submitted and the underlying Federal law that requires the submittal. The information below indicates which general procedural elements are required for the proposed amendments to Regulation XIII – *New Source Review* and how they were satisfied.

a. Satisfaction of Underlying Federal Requirements:

The FCAA requires that Districts adopt and implement programs to ensure that certain large new or modified stationary sources of air pollutants obtain permits prior to construction or modification. The program covering nonattainment pollutants is commonly referred to as NSR or NNSR while the program for attainment pollutants are referred to as PSD. Such programs must be included in the applicable SIP and comply with implementing regulations as promulgated and adopted by USEPA. Since Regulation XIII and Regulation XVII are the regulations implementing these requirements, they must comply with the applicable provisions of the FCAA and the regulations promulgated thereunder. Please see the appropriate provision section VI. for a detailed discussion regarding compliance of certain proposed provisions with the specific applicable Federal requirements.

In addition, the FCAA requires all submissions for inclusion into the SIP to meet certain requirements. The criteria for determining completeness of SIP submissions are set forth in 40 CFR Part 51, Appendix V, 2.0. In addition, FCAA §110(l) (42 U.S.C. 7410(l)) requires that any SIP submission which might possibly be construed as a relaxation of a requirement provide a demonstration that the change not interfere with any FCAA requirements concerning attainment or Reasonable Further Progress (RFP). Since the AVAQMD’s NSR program is a specific response to implement FCAA programmatic requirements it is required to be in the SIP and is thus subject to these general completeness requirements.

FCAA 110(l), (42 U.S.C. 7410(l)) further requires that any SIP submission which might potentially be construed as a relaxation of a previously existing requirement provide a demonstration that the proposed change not interfere with the attainment or maintenance of the NAAQS and or any Reasonable Further Progress requirements. A similar analysis is required under California Law

to show that any proposed changes are not less stringent than the provisions implementing the FCAA in effect as of December 30, 2002. Please see subsection VI. H. for the applicable analysis.

Finally, 40 CFR 51.100 requires areas not in attainment for the NAAQS to submit specific plan elements for the particular pollutant(s) for which they have been designated nonattainment. The AVAQMD was designated nonattainment under the 2015 NAAQS revision and thus is required to submit either revised programmatic elements or a certification that the currently existing elements meet or exceeds the specific requirements. The AVAQMD has been informed that portions of the current NSR Rules cannot be approved. As a result, the AVAQMD is required to amend its NSR rules to correct identified deficiencies. Please see section VI. for a detailed discussion as to how the elements are satisfied by the proposed amendments.

b. Public Notice and Comment:

Notice for the public hearing for the Notice for the public hearing for the proposed amendments to Regulation XIII – *New Source Review*, Regulation will be published 11/29/2024. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments and District responses.

c. Availability of Document:

Copies of the Notice for the public hearing for the proposed amendments to Regulation XIII – *New Source Review* and the accompanying draft staff report will be made available to the public on 11/29/2024.

d. Notice to Specified Entities:

Copies of the proposed amendments to Regulation XIII – *New Source Review* and the accompanying draft staff report were sent to all affected agencies. The proposed amendments were officially sent to CARB and USEPA on 11/29/2024.

e. Public Hearing:

A public hearing to consider the proposed amendments to Regulation XIII – *New Source Review* has been set for 12/30/2024.

f. Legal Authority to Adopt and Implement:

The District has the authority pursuant to H&S Code §40702 to adopt, amend, or repeal rules and regulations and to do such acts as

may be necessary or proper to execute the duties imposed upon the District.

g. Applicable State Laws and Regulations Were Followed:

Public notice and hearing procedures pursuant to H&S Code §§40725-40728 have been followed. See Section (V)(A)(1) above for compliance with state findings required pursuant to H&S Code §40727. See Section (V)(B) below for compliance with the required analysis of existing requirements pursuant to H&S Code §40727.2. See Section (V)(C) for compliance with economic analysis requirements pursuant to H&S Code §40920.6. See Section (V)(D) below for compliance with provisions of the CEQA.

B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS

H&S Code §40727.2 requires air districts to prepare a written analysis of all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed by the District. Regulation XIII – *New Source Review* is meant to ensure that all necessary analysis and notices for proper permit issuance are performed. Therefore, as a procedural rule providing implementation of State and Federal requirements rather than providing specific prohibitory provisions, this analysis is not necessary.

C. ECONOMIC ANALYSIS

1. General

The District cannot speculate as to the economic impact of the proposed amendments as this rule only affects new or modified facilities and equipment.

2. Incremental Cost Effectiveness

Pursuant to H&S Code §40920.6, incremental cost effectiveness calculations are required for rules and regulations which are adopted or amended to meet the California Clean Air Act (CCAA) requirements for Best Available Retrofit Control Technology (BARCT) or “all feasible measures” to control volatile compounds (VOCs), oxides of nitrogen (NO<sub>x</sub>) or oxides of sulfur (SO<sub>x</sub>). As a procedural rule, which does not require specific control measures this analysis is not required.

D. ENVIRONMENTAL ANALYSIS (CEQA)

Through the process described below the appropriate CEQA process for the proposed amendments to Regulation XIII – *New Source Review* was determined.

1. The proposed amendments to Regulation XIII – *New Source Review* meet the CEQA definition of “project.” It is not a “ministerial” action.

2. The proposed amendments to Regulation XIII – *New Source Review* are exempt from CEQA Review because the proposed actions do not result in a practical change of any thresholds or in the permitting status of any class or category of equipment. In addition, the proposed amendments increase the environmental protection in that they result in notice to a wider number of agencies and the general public for a greater amount of time prior to permit issuance. Therefore, there is no potential that the proposed amendments might cause the release of additional air contaminants or create any other adverse environmental impacts, a Class 8 Categorical Exemption (14 Cal Code Regs. §15308) applies. Copies of the documents relating to CEQA can be found in Appendix “D”.

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

The potential environmental impacts of compliance with the proposed amendments to Regulation XIII – *New Source Review* will not cause any negative environmental impacts, and the overall environmental impact will remain primarily unchanged.

It should be noted, however, that any new Facility and large changes to an existing Facility will be required to undergo CEQA review and thus specific environmental impacts caused by the project will be assessed at that time.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) and (2)(b), as well as Appendix “B.”

VI. TECHNICAL DISCUSSION

A. TECHNICAL DISCUSSION

On July 3, 2023 (88 FR 42621), the EPA finalized approval of three rules and a limited approval and limited disapproval of six rules that were submitted by AVAQMD for incorporation into the California SIP. EPA approved Rules 219, 1300, and 1306 as authorized under section 110(k)(3) of the Act. As authorized in sections 110(k)(3) and 301(a) of the Act, they finalized a limited approval and limited

disapproval of Rules 1301, 1302, 1303, 1304, 1305, and 1309 because although they acknowledged that they fulfilled most of the relevant CAA requirements and strengthen the SIP, EPA determined that they contained what they determined are the following five deficiencies that do not fully satisfy the relevant requirements for preconstruction review and permitting under section 110 and part D of the Act:

1. Rule 1304(C)(2)(d) allows Simultaneous Emission Reductions (SERs), which are emission reductions that are proposed to occur in conjunction with emission increases from a proposed project, to be calculated using a potential-to-emit (PTE)-to-PTE calculation method rather than an actuals-to-PTE calculation method for determining:

- (a) applicability of NNSR or quantity of offsets required for a new Major Facility or a Major Modification, and

- (b) the amount of offsets required at a Major Facility or Modified Facility.

EPA determined that SERs are inconsistent with 40 CFR 51.165(a)(1)(vi)(E)(1) and 40 CFR 51.165(a)(3)(ii)(J), and, when used as offsets, may not be real reductions in actual emissions as required by 40 CFR 51.165(a)(3)(i) and CAA section 173(c)(1). They stated that these deficiencies make portions of Rules 1301, 1302, 1303, 1304, and 1305 not fully approvable.

2. Rule 1304(E)(2), which defines the calculation method for determining Historical Actual Emissions (HAE), contains a typographical error making the provision deficient.
3. Rules 1302(D)(6)(a)(iii), 1304(C)(4)(c), 1309(D)(3)(c), and 1309(E)(6) allow the use of contracts, but neither the District's NSR rules submitted for approval nor any of the District's other SIP-approved NSR rules define the term "contract" or provide requirements for how a contract is an enforceable mechanism that may be used in the same way as an ATC or PTO.
4. Rule 1305(C)(6) allows interprecursor trading (IPT) between ozone precursors on a case-by-case basis, which is no longer permissible.
5. The District's rules do not contain the de minimis plan requirements contained in CAA section 182(c)(6) that apply to areas classified as Severe nonattainment.

These deficiencies, and the proposed resolutions, are described below.

#### *Simultaneous Emission Reductions (SERs) Calculation Methodology*

SERs, as defined in Rule 1301, are an "enforceable reduction in the emissions of an existing Emissions Unit(s), calculated and adjusted pursuant to the provisions of Rule 1304(C), which occur in the same permitting action as when such SERs are used pursuant to this Regulation." These are emission reductions that are proposed to occur in conjunction with emission increases from a proposed project. SERs were used under the District's prior submitted NSR rules:

- (1) as Offsets pursuant to 1301 and 1305;
- (2) to determine the Net Emission Increase (NEI) for determining whether a project at a Modified Major Facility is a Major Modification; and
- (3) to determine the amount of Offsets required at a new or Modified Facility

Rule 1304(C)(3) allows SERs to be calculated using a PTE-to-PTE calculation method rather than an actuals-to-PTE calculation method. Specifically, 1304(C)(3) states that, the historic actual emissions for a specific facility or Emission Unit may be equal to the PTE for that facility Emission Unit if the particular Emission Unit has been previously offset in a documented prior permitting action so long as:

- (1) the PTE for the specific Emissions Unit is specified in a Federally Enforceable Emissions Limitation;

(2) the resulting Emissions Change from a calculation using this provision is a decrease or not an increase in emissions from the Emissions Unit(s); and

(3) any excess SERs generated from a calculation using this provision are not eligible for banking.

EPA asserts that the allowance of a PTE-to-PTE test in Rule 1304(b) creates the following deficiencies:

- (a) SERs used as Offsets may not be based on real or actual emissions reductions as required by CAA Section 173 (c)(1)
- (b) SERs used in Net Emission Increase (NEI) Calculations are less stringent than the federal definition for the term NEI

To address these deficiencies, SERs will no longer be used as offsets under either regulation. However, the use of prior offset PTE as HAE in net emissions calculations has long been the approved practice for California sources and this provision is retained in Rule 1304 (C)(3) when calculating Emission Changes for facilities and Emissions Units for state NSR compliance.

To satisfy EPA requirements, however, proposed new Rule 1314 addresses Federal NNSR. This rule does not allow the use of SERs when calculating NEI. Instead, proposed Rule 1314 defines NEI as comparing baseline actual emissions to proposed emissions in the calculations. Baseline actual emissions means “the average rate, in tons per year, at which the Emission Unit(s) actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the Project, or the date a complete permit application is received by the APCO for a permit required either under Rule 201 or under a plan approved by the Administrator, whichever is earlier.”

#### *Rule 1304(E)(2) Typographical Error*

In the prior version of the rules, Rule 1304(E)(2) defined the calculation method for determining the HAE as it relates to emission changes at a Facility pursuant to 1304. Rule 1304(E)(2) stated that HAE, in pounds per year, is the actual emissions of an emission unit, “(i) . . . averaged from the 2-year period which immediately **proceeds** the date of application and which is representative of Facility operations; or (ii) averaged for any 2 years of the 5-year period which immediately precedes the date of application which the APCO has determined is more representative of Facility operations . . . .”

EPA noted that the provision contains a typographical error making the provision deficient. The actual emissions must be based on emissions emitted preceding the date of application. This deficiency was corrected by replacing the word “proceeds” with “precedes” in Rule 1301, where the definition of HAE now resides.

#### *Use of the term “Contracts”*

EPA pointed out in their comments that although several proposed AVAQMD NSR Rules including 1302, 1304 and 1309, referred to “permits or contracts” neither the NSR rules submitted for approval nor any other SIP-approved NSR rules defined the term “contract” or provided requirements for how a contract is an enforceable mechanism that may be used in the same way as an ATC or PTO. This deficiency was corrected by removing the term “contract” from the proposed rules and replacing it with ATC or PTO.

#### *Interprecursor Trading*

EPA noted that submitted Rule 1305(C)(6) allowed interprecursor trading (IPT) between nonattainment pollutants and their precursors on a case-by-case basis but included a footnote which stated: “Use of this subsection [is] subject to the Ruling in *Sierra Club v. USEPA* 985 F.3d 1055 (D.C. Cir, 2021) and subsequent guidance as issued by USEPA.” This footnote referenced the D.C. Circuit Court

of Appeals decision issued on January 29, 2021, vacating the provisions of the 2018 Implementation Rule that allowed IPT for the ozone precursors of VOC and NO<sub>x</sub>.

On July 19, 2021, the EPA issued a final rulemaking that removed the IPT provisions found in 40 CFR 51.165(a)(11) pertaining to ozone precursors, consistent with the D.C. Circuit Court decision. Therefore, the provision in Rule 1305(C)(6) allowing IPT for ozone precursors is no longer permissible under EPA regulations. Rule 1305(C)(6) has been revised to remove the reference to IPT using ozone precursors.

*CAA Sections 182(c)(6) and 182(d)*

EPA stated that Section 182(c) of the Act details the SIP requirements for Serious ozone nonattainment areas which include the AVAQMD. Section 182(c)(6) requires, with respect to a Serious ozone nonattainment area, that the NSR provisions in the SIP “shall ensure increased emissions of volatile organic compounds resulting from any physical change in, or change in the method of operation of, a stationary source located in the area shall not be considered de minimis for purposes of determining the applicability of the permit requirements established by this Act unless the increase in net emissions of such air pollutant from such source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred.”

Section 182(d) of the Act details the SIP requirements for Severe nonattainment areas and includes all the provisions under Section 182(c) for Serious nonattainment areas. Thus, EPA concluded, the SIP for a Severe ozone nonattainment area must include the de minimis requirements in CAA section 182(c)(6). Since the AVAQMD’s submitted nonattainment NSR rules did not include this de minimis SIP requirement, EPA found the District rules are deficient and not fully approvable.

To correct that deficiency, AVAQMD is proposing Rule 1314 to address all aspects of Federal NNSR, including the “de minimis” provision. Rule 1314 (C)(8) defines a “non-de minimis emission increase” as “an emission increase from the proposed Project located in a Serious or Severe ozone Nonattainment Area, including Fugitive Emission increases, aggregated with all other Net Emissions Increases from the Facility that occurred during the last 5 consecutive calendar years, including the calendar year in which such increase occurred, equal to or greater than 25 tpy of NO<sub>x</sub> or VOC.” Rule 1314 (E)(1)(b)(iii) requires an analysis pursuant to assure compliance with this provision.

Below you will find the summarized changes to Regulation XIII

	Section	reason
<b>1301</b>		Rule 1301 has been updated for capitalization of defined terms and the removal of the word District preceding a Rule number
		Introduction was summarized to include not only the rules in 1301 but the District Rule book as well; singular to plural and plural to singular
	(JJ) Historical Actual Emissions (HAE)	1304(E)(3) was moved to 1301 (JJ) for clarity of all defined terms



	(MM) Major Modification	Definition change to reflect new Rule 1314 or Rule 1700
	(RR) Modification (Modified)	Term Net Emission Increase changed to an emission change pursuant to 1304(B)(2)(a). Net Emission Increase is now defined and applicable to Rule 1314
	(UU) <i>Net Emission Increase</i>	Removed for Rule 1301. Term now defined in Rule 1314 (C)(7)
	(UU) New Source Review Document	Updated to reference new Rule 1314 and/or 1700
	(ZZ) Offset Emission Reductions	Language was removed as it is a “requirement” to ensure is does not conflict with any language in the rules and SERs can no longer be used for Offsets, only Netting
	(EEE) PM <sub>10</sub>	Definition changed for clarity
	(FFF) PM <sub>2.5</sub>	Term has been added to comply with updated regulations
	(GGG) – Potential to Emit	Changed to read legally and practicably enforceable based on EPA guidance
	(HHH) Precursor	Table updated to reflect correct precursors and pollutants
	(TTT) Significant	“Significant” was removed from 1301 and Significant Emissions Increase and Significant Net Emissions Increase are defined in Rule 1314
	(TTT) Simultaneous Emission Reduction	Changed by removing reference to Federal enforceability as it is only applicable to State NSR
	(YYY) Surplus	1304(D)(3) was moved to 1301 (YYY) for clarity of all defined terms
<b>1302</b>	Rule 1302 procedures are to determine Federal or State applicability. The rule has also been updated for capitalization of defined terms; reference to a specific section or subsection in this rule has been updated to designate above or below	
	(B)(1)(a)(iv)	Added for Federal applicability
	(B)(1)(a)(v)	Added for State applicability
	(B)(1)(e)	Added for Federal applicability
	(C)	Section C is used to determine if the proposed action, through analysis is or is not a Federal Major Stationary Source or a Federal Major Modification per Rule 1314 (C). If determined to not be Federal, the analysis will continue at section (C)(2); if it is determined to be Federal the proposed action will be evaluated for compliance with Rule 1314

	(D)(6)(a)(iii)	The limited disapproval included a deficiency regarding the use of “contract”. The term has been removed
<b>1303</b>		Rule 1303 was changed to address what will be required for a project that is subject to <b>State</b> New Source Review. Rule 1303 has been updated for capitalization of defined terms; reference to a specific section or subsection in this rule has been updated to designate above or below
	(B)(1)	Offsets are now calculated in Rule 1305
	(B)(3)	This language was moved to Rule 1314(B)(2)
<b>1304</b>		<b>Rule 1304 provides the procedures for calculating emissions for NSR</b>
	(A)(2)	The Applicability section has been added to provide clarification on determining Federal or State permitting requirements
	(B)(2)	Changes were made to explain the HAE calculation
	(C)(3)	This section provides clarity on calculating SERs for state permitting actions. In response to the limited disapproval, Use of PTE to PTE calculation in rule 1304 is limited to state NSR actions. See Rule 1314 for Federal NNSR for actual to PTE calculation method
	(C)(4)(c)	The limited disapproval included a deficiency regarding the use of “contract”. The term has been removed, (currently (C)(5)(c).
	(D)	Calculation of Emission Reduction Credits (ERCs) was moved to Rule 1309 (D)
	(E)	Calculation of Terms Used in Rule 1304 Terms in this section have been moved and are now defined in Rule 1301 – (JJ).
	(E)(2)(a)(i)	The limited disapproval included a typographical error in the existing 1304(E)(2)(a)(i), proceeds, which has now been corrected to precedes in Rule 1301 (JJ).
<b>1305</b>		Rule 1305 now provides State Emission Offset calculation, eligibility and determining the use pursuant to Rule 1303(B). The rule has been updated for capitalization of defined terms; reference to a specific section or subsection in this rule has been updated to designate above or below, and sections have been renamed
	(B)	Offset Calculations – the reference to “major” has been removed as this is now a rule applied to State permit action projects requiring Offsets
	(B)(2)(c)	Language was added to address State Nonattainment Offsets
	(B)(2)(b), (d) and(f)	Applicability moved to Rule 1314

	(B)(2) (c), (e) and (g)	Removed because the entire District is considered nonattainment
	(B)(2)(c)	Potential to Emit was added on advisement of EPA as PTE seems to be the correct term, consistent with the provisions of 1303(B)(2) which require offsetting down to zero
	(C)(2)	SERs are no longer used for Offsets and the Offsets can be redeposited when surrendering an Offset ATC
	(C)(6)(b)(iii)	Language was modified and moved from (C)(6)(d) below
	(C)(6)(d)	Removed from rule pursuant to USEPA limited disapproval
	(D)(1) - Table	Table columns were updated
	(D)(2)	Entire District is a Nonattainment area – language removed
	(D)(4)	Language moved to Rule 1309(D)(3)
<b>1309</b>		This rule is applicable to both Federal and State. The rule has been updated for capitalization of defined terms; reference to a specific section or subsection in this rule has been updated to designate above or below and sections have been renamed
	(A)(3)(a)(i)	Removed (i) as SERs are not banked, only used for netting for State NSR
	(B)(1)(d)	Added language to reflect that that this provision, (d), does not apply to ERCs used to offset pursuant to Rule 1314
	(B)(2)(iii)	Removed reference to ERC expiration
	(C)(1)(b)(iii)	ERC calculation methodology moved from 1304 to 1309 (D)
	(C)(3)(c)	Table has been corrected
	(D)	ERC Calculation Requirements moved from Rule 1304 (D)
	(D)(3)(c)	The limited disapproval included a deficiency regarding the use of “contract”. The term has been removed. Correction is now in (E)(3)(c)
	(E)	The calculation procedures in 1304 were moved to 1309(D) and
	(E)(6)	The limited disapproval included a deficiency regarding the use of “contract”. The term has been removed. Deletion is shown in current (F)(7)(a)

	(G)	Section was simplified and condensed
<b>1314</b>		New Rule 1314 is based extensively on EPA provided template for approvable NNSR rule. This rule addresses all required elements of 40 CFR 51.165 for NNSR permitting, including the EPA limited disapproval noted deficiencies of actual to PTE and de minimis calculations

**Appendix “A”**  
**Regulation XIII – *New Source Review***  
Iterated Versions

The iterated version (redline) is provided so that the changes to an existing rule may be easily found. The manner of differentiating text is as follows:

1. Underlined text identifies new or revised language.
2. ~~Lined-out text~~ identifies language which is being deleted.
3. Normal text identifies the current language of the rule which will remain unchanged by the adoption of the proposed amendments.
4. *[Bracketed italicized text]* is explanatory material that is not part of the proposed language. It is removed once the proposed amendments are adopted.
5. **Highlighted text** indicates items, such as adoption dates, which will be determined by date of Governing Board action or items which require a more permanent citation when such becomes available.

(Adopted: 10/05/79; Amended: 03/07/80; Amended: 07/11/80;  
Amended: 09/10/82; Amended: 07/12/85; Amended: 08/01/86;  
Amended: 12/02/88; Amended: 06/28/90; Amended: 05/03/91;  
Amended: 12/07/95; Amended: 03/20/01; Amended: 07/20/21);  
Amended: xx/xx/xx

## RULE 1301

### New Source Review Definitions

~~For the purposes of this Regulation, the following definitions shall apply:~~

The definitions contained in each specific District Rule shall apply unless the term is otherwise defined herein. As applicable, defined terms in the singular include the plural and the plural defined terms include the singular.

- (A) Actual Emissions - The actual rate of emissions of a Regulated Air Pollutant which accurately ~~represent~~represents the emissions from ~~Emissions~~Emission Unit(s). Such emissions shall be Real, Quantifiable and calculated using the verified actual operating hours; production rates; and types of materials processed, stored or combusted as applicable.
- (B) Affected State - Any State or local air pollution control agency whose air quality may be affected by the granting of a permit to a Facility or ~~Emissions~~Emission Unit(s) and which is contiguous to the District; or any State which is located within 50 miles of the Facility.
- (C) Air Pollutant - Any air pollution agent or combination of such agents, including any physical, chemical, biological, or radioactive (including source material, special nuclear material and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air.
- (D) Air Pollution Control Officer (APCO) - The person appointed to the position of Air Pollution Control Officer of the District pursuant to the provisions of California Health & Safety Code §40750, and his or her designee.
- (E) Air Quality Attainment Plan (AQAP) - A planning document submitted and periodically revised by the District pursuant to the provisions of the California Health & Safety Code §§40910 et seq. and approved by CARB. Also known as Air Quality Management Plan.
- (F) Ambient Air Quality Standards - Any National Ambient Air Quality Standard promulgated pursuant to the provisions of 42 U.S.C. §7409 (Federal Clean Air Act §109) or any State Ambient Air Quality Standard promulgated to California Health & Safety Code §39606, unless the particular Ambient Air Quality Standard (either National or State) is specified.
- (G) Application for Certification (AFC) - A document submitted to the CEC requesting certification of an EEGF ~~pursuant to the provisions of D1-4/29/2021.~~

- (H) Authority to Construct Permit (ATC) - A District permit required pursuant to the provisions of ~~District~~ Rule 201 which must be obtained prior to the building, erecting, installation, alteration or replacement of any Permit Unit. Such permit may act as a temporary PTO pursuant to the provisions of ~~District~~ Rule 202.
- (I) Banking (Bank, Banked) - The process of recognizing and certifying emissions reductions of Regulated Air Pollutants pursuant to the provisions of ~~District~~ Rule 1309 which results in the issuance of an ERC Certificate and recordation of the ERC in the Registry.
- (J) Begin Actual Construction - The general initiation of physical on-site construction activities on ~~Emissions~~Emission Unit(s) which are of a permanent nature. Actual construction activities include, but are not limited to, the following:
- (1) Installation of building supports and foundations;
  - (2) Laying of underground pipe work;
  - (3) Construction of permanent storage structures; and
  - (4) With respect to a change in operating method, those on-site activities, other than preparatory activities, which mark the initiation of the change.
- (K) Best Available Control Technology (BACT) - For ~~Permit Units~~Emission Unit(s) at Facilities as indicated below:
- (1) For a new or Modified Major Facility as defined ~~below~~in this rule, the most stringent of:
    - (a) The most stringent emission limit or control technique which has been achieved in practice, for such ~~Permit~~Emission Unit,(s), class or category of source; or
    - (b) LAER as defined ~~below~~in this rule; or
    - (c) Any other emission limitation or control technique, and/or different fuel demonstrated in practice to be technologically feasible and cost-effective by the APCO or by CARB.
  - (2) For a new or modified non-major facility:
    - (a) The most stringent emission limit or control technique which has been achieved in practice for such category or class of source. Economic and technical feasibility may be considered in establishing the class or category of source; or

- (b) Any other emission limit or control technique found by the APCO to be technologically feasible and cost effective for such class or category of source.
- (3) Under no circumstances shall BACT be determined to be less stringent than the emission limit or control technique contained in any State Implementation Plan as approved by USEPA unless the applicant demonstrates to the satisfaction of the APCO that such limitation or control technique is not achievable.
- (4) In no event shall the application of BACT result in the emissions of any Regulated Air Pollutant which exceeds the emissions allowed by any applicable standard or other requirement under 42 U.S.C. §7411, Standards of Performance for New Stationary Sources (Federal Clean Air Act §111) or 42 U.S.C. §7412, Hazardous Air Pollutants (Federal Clean Air Act §112) or the regulations promulgated thereunder.
- (L) California Air Resources Board (CARB) - The California State Air Resources Board, the powers and duties of which are described in Part 2 of Division 26 of the California Health & Safety Code (commencing with §39500).
- (M) California Energy Commission (CEC) - The California Energy Commission, the powers and duties of which are described in Division 15 of the California Public Resources Code (commencing with §25000).
- (N) Cogeneration Project - ~~a~~A project which:
  - (1) Makes sequential use of exhaust steam, waste steam, heat or resultant energy from an industrial, commercial or manufacturing plant or process for the generation of electricity; or
  - (2) Makes sequential use of exhaust steam, waste steam, or heat from a thermal power plant, in an industrial, commercial, or manufacturing plant or process; and
  - (3) Such “industrial, commercial or manufacturing plant or process” is not a thermal power plant or portion thereof; and
  - (4) Does not consist of steam or heat developed solely for electrical power generation; and
  - (5) The processes listed in subsections (N)(1) and (N)(2) above must meet the conditions set forth in the California Public Resources Code §25134.
- (O) Class I Area – Any area listed as Class I in 40 CFR 81.405 – California, or an area otherwise specified as Class I in legislation that creates a national monument, a national primitive area, a national preserve, a national recreation area, a national wild and scenic river, a national wildlife refuge or a national lakeshore or seashore.



- (P) Commence Construction - When the owner or operator of a new Facility or of a Facility undergoing a Major Modification has obtained all necessary preconstruction approvals and/or permits pursuant to the provisions of this Regulation, and ~~District Rule~~Rules 1314 and 1700, if applicable, and has either:
- (1) Begun, or caused to begin, a continuous program of actual on-site construction to be completed within a reasonable time; or
  - (2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the Facility or ~~Emissions~~Emission Unit(s) to be completed within a reasonable time.
- (Q) Comprehensive Emission Inventory – A plan and report prepared pursuant to the most recently published District *Comprehensive Emissions Inventory Guidelines* which consists of numerical representations of the existing and proposed emissions from a Facility and the methods utilized to determine such data.
- (R) Construction - Any physical change or change in the method of operation in a Facility (including fabrication, erection, installation, demolition, or modification of ~~Emissions~~Emission Unit(s)) which would result in a change in Actual Emissions.
- (S) Contiguous Property - Two or more parcels of land with a common boundary or separated solely by a public or private roadway, or other public or private right-of-way.
- (T) Dispersion Technique – For purposes of determining whether a stack height exceeds good engineering practices, the definition contained in 40 CFR 51.100(hh) in effect on ~~June 15, 2021~~ {insert date of board adoption} shall apply; and is incorporated herein by this reference.
- (U) District - The Antelope Valley Air Quality Management District created pursuant to Chapter 14, Part 3 of Division 26 of the California Health & Safety Code (commencing with §41300), the geographical area of which is described in ~~District~~ Rule 103.
- (V) Electrical Energy Generating Facility (EEGF) - Any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto.
- (1) Exploratory, development, and production wells, resource transmission lines and other related facilities used in connection with a geothermal exploratory project or a geothermal field development project are not appurtenant facilities for the purposes of this Regulation.
  - (2) EEGF does not include any wind, hydroelectric or solar photovoltaic electrical generating facility.

- (W) EmissionsEmission Limitation - One or a combination of ~~Federally Enforceable~~legally and practicably Enforceable permit conditions specific to ~~a~~Permitan Emission Unit(s) which restricts its maximum daily emissions, in pounds per day or other appropriate unit of measure, at or below the emissions associated with the maximum design capacity.
- (X) EmissionsEmission Reduction Credit (ERC) - A credit for an amount and type of emissions reductions of Regulated Air Pollutant(s) granted by the District pursuant to the provisions of ~~District~~ Rule 1309 which is evidenced by recordation in the Registry and by an ERC Certificate.
- (Y) EmissionsEmission Unit~~—any(s)~~ - Any article, machine, equipment, contrivance or combination thereof which emits or has the Potential to Emit any Regulated Air Pollutant, including any associated air pollution control equipment.
- (Z) Enforceable – Verifiable, legally binding, and practically enforceable.
- (AA) ERC Certificate - ~~a~~A certificate evidencing ownership of an ERC issued pursuant to the provisions of ~~District~~ Rule 1309.
- (BB) Excessive Concentration – For purposes of determining whether a stack height exceeds good engineering practices, the definition contained in 40 CFR 51.100(kk) in effect ~~June 15, 2021~~ {insert date of adoption} shall apply; and is incorporated herein by this reference.
- (CC) Facility - Any structure, building, EmissionsEmission Unit, combination of EmissionsEmission Units, or installation which emits or may emit, a Regulated Air Pollutant, and which are:
- (1) Located on one or more Contiguous or adjacent properties within the District;
  - (2) Under the control of the same person (or by persons under common control); and
  - (3) Belong to the same industrial grouping, as determined by being within the same two-digit Standard Industrial Classification Code (SICC).
  - (4) For the purpose of this regulation, such above-described grouping, remotely located but connected only by land carrying a pipeline, shall not be considered one Facility.
- (DD) Federal Class I Area – Any Federal land that is classified or reclassified as a Class I Area.
- (EE) Federal Land Manager - ~~with~~With respect to any lands in the United States, the Secretary of the department with authority over such lands and their designee.
- (FF) Federally Enforceable - ~~any~~Any limitation and/or condition which is set forth in permit conditions or in Rules or Regulations that are legally and ~~practically~~practicably enforceable by USEPA, citizens and the District; including, but not limited to:

- (1) Requirements developed pursuant to 42 U.S.C. §7411 - *Standards of Performance for New Stationary Sources* (Federal Clean Air Act §111) or 42 U.S.C. §7412 - *Hazardous Air Pollutants* (Federal Clean Air Act §112) or the regulations promulgated thereunder;
  - (2) Requirements within any applicable SIP; and
  - (3) Permit requirements established pursuant to 40 CFR 52.21; 51.160-166; or under regulations approved pursuant to 40 CFR 51, subpart I, including operating permits issued under a USEPA approved program that is incorporated into the State Implementation Plan and expressly requires adherence to any permit issued under such program.
- (GG) Fugitive Emissions - Those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.
- (HH) Good Engineering Practice – For purposes of determining whether a stack height exceeds good engineering practices, the definition contained in 40 CFR 51.100(ii) in effect on June 15, 2021 {insert date of board adoption} shall apply; and is incorporated herein by reference.
- (II) "Halocarbons" - For the purpose of this rule, halocarbons are 1,1,1-trichloroethane, trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (CFC-23), methylene chloride, trichlorotrifluoroethane (CFC-113), dichlorotetrafluoroethane (CFC-114), and chloropentafluoroethane (CFC-115).
- (JJ) "Historic Actual Emissions" (HAE) -- The verified Actual Emissions of an existing EmissionsEmission Unit or combination of EmissionsEmission Units, including Fugitive Emissions directly related to the EmissionsEmission Unit(s), if the Facility belongs to one of the Facility categories as listed in 40 CFR 51.165(a)(1)(iv)(C), calculated pursuant to the provisions of District Rule 1304(E)(2)-as follows:
- (1) The Actual Emissions of an Emission Unit(s), averaged from the 2 year period which immediately proceeds the date of application, and which is representative of Facility operations; or
  - (2) The Actual Emissions of an Emission Unit(s), averaged for any 2 years of the 5 year period which immediately precedes the date of application which the APCO has determined is more representative of Facility operations than subsection (JJ)(1) above.
  - (3) If the Emission Unit(s) have been in operation for less than one year, the HAE shall be equal to zero.
- (KK) Lowest Achievable Emissions Rate (LAER) - The rate of emissions which is not in excess of the amount allowable under the applicable New Source Performance Standards as found in 40 CFR 60 and which reflects the most stringent emissions limitation which is:

- (1) Contained in the SIP of any State for such class or category of source, unless the owner/operator of the source demonstrates that such limitations are not achievable; or
  - (2) Achieved in practice by such class or category of source.
- (LL) Major Facility - Any Facility which emits or has the Potential to Emit any Regulated Air Pollutant or its Precursors in an amount greater than or equal to the amounts set forth in ~~District~~ Rule 1303(B)(1).
- (1) Any Modification at a Facility which, by itself, would emit or have the Potential to Emit any Regulated Air Pollutant or its Precursors in an amount greater than or equal to the amounts listed in ~~District~~ Rule 1303(B)(1), shall also constitute a Major Facility.
  - (2) The Fugitive Emissions of a Facility shall not be included in the determination of whether a Facility is a Major Facility unless the Facility belongs to one of the categories of Facilities as listed in 40 CFR 51.165(a)(1)(iv)(C).
- (MM) Major Modification — Any Modification ~~in~~ at a Facility that would result in a ~~Significant Net Emissions Increase of any Regulated Air Pollutant~~ Federal Major Modification as defined ~~below in Rule 1314 or a Major PSD Modification as defined in Rule 1700.~~
- (NN) Mandatory Class I Federal Area or Mandatory Federal Class I Area – Any area identified in 40 CFR 81, Subpart D (commencing with 81.400) specifically 40 CFR 81.405 – California.
- (OO) Military Base Designated for Closure or Realignment - A military base designated for closure or downward realignment pursuant to the Defense Base Closure and Realignment Act of 1988 (PL 100-526) or the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. §§2687 et seq.).
- (PP) Mobile Source - A device by which any person or property may be propelled, moved, or drawn upon the surface, waterways, or through the atmosphere, and which emits air contaminants. For the purpose of this Regulation, mobile source includes registered Motor Vehicles which are licensed, or driven on the public roadways of the state of California.
- (QQ) Modeling - An air quality simulation model based on specific assumptions and data; which comply with the most current version of 40 CFR Appendix W or an alternative method approved by USEPA after an opportunity for public notice and comment; and which have been approved in advance and in writing by the APCO.
- (RR) Modification (Modified) - Any physical or operational change to a Facility or ~~an~~ Emissionsa Permit Unit to replace equipment, expand capacity, revise methods of operation, or modernize processes by making any physical alteration or change, change in method of operation, addition to an existing Permit Unit and/or change in hours of

operation which result in ~~a Net Emission Increase~~ an emission change as calculated pursuant to the provisions of Rule 1304(B)(2)(a) of any Regulated Air Pollutant or which result in the emission of any Regulated Air Pollutant not previously emitted.

- (1) A physical or operational change shall not include:
  - (a) Routine maintenance, repair and/or replacement; or
  - (b) A change in ownership of an existing Facility with valid PTO(s); or
  - (c) An increase in the production rate, unless:
    - (i) Such an increase will cause the maximum design capacity of the Emission Unit(s) to be exceeded; or
    - (ii) Such an increase will exceed a previously imposed ~~federally enforceable~~ Federally Enforceable limitation contained in a permit condition.
  - (d) An increase in the hours of operation, unless such increase will exceed a previously imposed Federally Enforceable limitation contained in a permit condition.
  - (e) The alteration or replacement of an ~~Emissions~~ Emission Unit(s) where the following requirements are met:
    - (i) The replacement unit is functionally identical as the original ~~Emissions~~ Emission Unit(s) being replaced; and
    - (ii) The maximum rating of the replacement ~~Emissions~~ Emission Unit(s) will not be greater than that of the ~~Emissions~~ Emission Unit(s) being replaced; and
    - (iii) The Potential to Emit for any Regulated Air Pollutant will not be greater from the replacement ~~Emissions~~ Emission Unit(s) than from the original ~~Emissions~~ Emission Unit(s) when the replacement ~~Emissions~~ Emission Unit(s) is operated at the same permitted conditions as the original ~~Emissions~~ Emission Unit(s) and as if current BACT had been applied; and
    - (iv) The replacement does not occur at a Major Facility and is not a Major Modification.
    - (v) ~~Emissions~~ Emission Unit(s) shall not be considered a functionally identical replacement if USEPA objects to such determination on a case-by-case basis.
  - (f) The relocation of an existing Facility, utilizing existing equipment where the following requirements are met:
    - (i) The relocation does not result in an increase in emissions from the Facility; and

- (ii) The relocation is to a site within 10 miles of the original Facility location; and
  - (iii) The relocation is to a site which is not in actual physical contact with the original site and the sites are not separated ~~solely~~ solely by a public roadway or other public right-of-way.
  - (iv) The relocation is to a site within a Federal designation which is less than or equal to the designation or classification of the original site; and
  - (v) The relocation occurs within 1 year of the Facility ceasing operations at its original location; and
  - (vi) The relocation does not occur at a Major Facility and is not a Major Modification; and
  - (vii) Any new or replacement equipment associated with the relocation complies with the applicable provisions of this Rule.
- (g) The periodic movement of internal combustion engines and gas turbines within a Facility because of the nature of their operation provided that all of the following conditions are met:
- (i) The engine or turbine is used to remediate soil or groundwater contamination as required by federal, state, or local law or by a judicial or administrative order; or for flight-line operations.
  - (ii) The engine or turbine is not periodically moved solely for the purpose of qualifying for this exemption.
  - (iii) Emissions from the engine, by itself, do not cause an exceedance of any Ambient Air Quality Standard.
  - (iv) Emissions from the engine do not exceed the following:

Volatile Organic Compounds (VOC)	75 pounds per day
Nitrogen Oxides (NO <sub>x</sub> )	100 pounds per day
Sulfur Oxides (SO <sub>x</sub> )	150 pounds per day
Particulate Matter (PM <sub>10</sub> )	150 pounds per day
Carbon Monoxide (CO)	550 pounds per day

- (SS) Motor Vehicle - Any self-propelled Vehicle, including, but not limited to cars, trucks, buses, golf carts, vans, motorcycles, recreational Vehicles, tanks, and armored personnel carriers as defined in California Vehicle Code §415 and/or §670 (as in effect on the most recent amendment date of this Rule) including, but not limited to, any Motor Vehicles which are registered, licensed, or driven on the public roadways of the State of California
- (TT) Nearby – For purposes of determining whether a stack height exceeds good engineering practices, the definition contained in 40 CFR 51.100(jj) in effect on ~~June 15, 2021~~ *{insert date of adoption}* shall apply, and is incorporated herein by this reference.

~~(UU) Net Emissions Increase – An emissions change as calculated pursuant to District Rule 1304(B)(2) which exceeds zero.~~

~~(VV(UU))~~ New Source Review Document (NSR Document) - A document issued by the APCO pursuant to the procedures of ~~District Rule 1302(D)~~ for a Facility subject to the provisions of ~~District Rule Rules 1303(B), 1314 and/or 1700~~, which includes, but is not limited to, all analysis relating to the project, Offsets required for the project, and proposed conditions for any required ATC(s) or PTO(s).

~~(WWVV)~~ Nonattainment Air Pollutant - Any Regulated Air Pollutant for which the District, or a portion thereof, has been designated nonattainment as codified in 40 CFR 81.305, or for which has been designated nonattainment by the CARB pursuant to California Health and Safety Code §39607. ~~–~~A pollutant for which the District is designated nonattainment by USEPA shall be referred to in this regulation as a *Federal Nonattainment Pollutant* while a pollutant for which the District is designated nonattainment by CARB shall be referred to as a *State Nonattainment Pollutant*.

~~(XXWW)~~ Nonattainment Area – Any area within the jurisdiction of the District which has been designated nonattainment by USEPA as exceeding a National Ambient Air Quality Standard as codified in 40 CFR 81.305 or which has been designated nonattainment by CARB as exceeding a State Ambient Air Quality Standard pursuant to California Health & Safety Code §39607. An area designated nonattainment by USEPA shall be referred to in this regulation as a *Federal Nonattainment Area* while an area designated nonattainment by CARB shall be referred to as a *State Nonattainment Area*.

~~(YYXX)~~ Notice of Intention (NOI) - A notice regarding an EEGF produced pursuant to the provisions of Division 15 of the California Public Resources Code (commencing with §25000).

~~(ZZZY)~~ Off-road Vehicle - Any vehicle which is not licensed for use on the public roadways in the State of California and is used exclusively at the Facility.

~~(AAZZ)~~ Offset Emission Reductions (Offsets) ~~–~~ Emission Reduction Credits (ERCs) ~~or Simultaneous Emissions Reductions (SERs)~~ when used to offset emission increases of Regulated Air Pollutants on a pollutant ~~category-specific-by-pollutant~~ basis. ~~ERCs shall be calculated and comply with the provisions of District Rule 1309. SERs shall be calculated and comply with the provisions of District Rule 1304(C). ERCs and SERs shall be adjusted, if necessary, pursuant to the applicable provisions of District Rule 1305.~~

~~(BBBAAA)~~ Permanent - Continuing or enduring without fundamental marked change. As used for the purposes of Offset Emissions Reductions, a reduction that is Federally Enforceable via changes in permits or other means for the life of the corresponding increase in emissions.

~~(CCCBBB)~~ Permit to Operate" (PTO) ~~–~~ A District permit required pursuant to the provisions of ~~District Rule 203~~ which must be obtained prior to operation of a ~~Permitan Emission~~

Unit-(s). An ATC may function as a temporary PTO pursuant to the provisions of ~~District~~ Rule 202.

(~~DDDDCCC~~) Permit Unit - Any ~~Emissions~~Emission Unit(s) which is required to have a PTO pursuant to the provisions of ~~District~~ Rule 203.

(~~EEEEDDD~~) Person - Includes but is not limited to: any individual, firm, association, organization, partnership, business trust, corporation, limited liability company, company, proprietorship, trust, joint venture, government, political subdivision of a government, or other entity or group of entities.

(~~FFFFEEE~~) PM<sub>10</sub> - Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers. Gaseous emissions which condense to form PM<sub>10</sub> at ambient temperatures shall also be counted as PM<sub>10</sub>.

(~~FFF~~) PM<sub>2.5</sub> - Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers. Gaseous emissions which condense to form PM<sub>2.5</sub> at ambient temperatures shall also be counted as PM<sub>2.5</sub>.

(GGG) Potential to Emit (PTE) -- The maximum capacity of a Facility or ~~Emissions~~Emission Unit(s) to emit any Regulated Air Pollutant under its physical and operational design.

(1) Any physical or operational limitation on the capacity of the Facility or ~~Emissions~~Emission Unit(s) to emit an Air Pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processes, shall be treated as part of its design only if the limitation or the effect it would have on emissions is ~~Federally Enforceable~~.legally and practicably Enforceable.

(2) Fugitive Emissions of Hazardous Air Pollutants shall be included in the calculation of a Facility's or Emission Unit(s)' Potential to Emit.

(3) Fugitive Emissions of ~~other~~Stationary Source Criteria Air Pollutants shall not be included ~~infor any of the eaculations of a Facility or Emissions Unit(s)~~ Potential purposes of this paragraph to ~~Emit~~determine whether it is a Major Stationary Source, unless the ~~Facility's~~source belongs to one of the categories listed in 40 CFR 51.165(a)(1)(iv)(C).

(4) Secondary Emissions shall not be included in the calculations of a Facility or ~~Emissions~~Emission Unit(s) Potential to Emit.

(HHH) Precursor - A substance which, when released to the atmosphere, forms or causes to be formed or contributes to the formation of a Regulated Air Pollutant. -These include, but are not limited to the following:

<u>Precursors</u>	<u>Secondary Pollutants</u>
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Ammonia	a) <del>PM<sub>10</sub></del> PM <sub>2.5</sub>
Hydrocarbons and substituted hydrocarbons (Volatile Organic Compounds)	a) Photochemical oxidant (ozone) b) The organic fraction of PM <sub>10</sub> c) <u>The organic fraction of PM<sub>2.5</sub></u>
<del>Nitrogen dioxide (NO<sub>2</sub>)</del>	<del>a) PM<sub>2.5</sub></del>
Nitrogen oxides (NO <sub>x</sub> )	a) Nitrogen dioxide (NO <sub>2</sub> ) <del>b) Photochemical oxidant (ozone)</del> c) The nitrate fraction of PM <sub>10</sub> <del>e) Photochemical oxidant (ozone)</del> d) <u>The nitrate fraction of PM<sub>2.5</sub></u>
<del>Sulfur dioxide (SO<sub>2</sub>)</del>	<del>a) PM<sub>2.5</sub></del>
Sulfur oxides (SO <sub>x</sub> )	a) -Sulfur dioxide (SO <sub>2</sub> ) b) Sulfates (SO <sub>4</sub> ) c) The sulfate fraction of PM <sub>10</sub> d) <u>The sulfate fraction of PM<sub>2.5</sub></u>

- (III)- Proposed Emissions - ~~the~~The Potential to Emit for ~~a~~ new or post-modification EmissionsEmission Unit(s), or a new or post-modification Facility as constructed or modified, including Fugitive Emissions directly related to the EmissionsEmission Unit(s) if the Facility belongs to one of the Facility categories as listed in 40 CFR 51.165(a)(1)(iv)(C), ~~calculated in pounds per year and determined pursuant to the provisions of Rule 1304(D)(3).~~
- (JJJ) “Quantifiable” - Capable of being determined. As used for the purposes of Offset Emissions Reductions a reliable, replicable and accurate basis for calculating the amount, rate, nature and characteristic of an emissions reduction by adhering to a protocol that is established considering USEPA, CARB and District policies and procedures. The same method of calculating emissions should generally be used to quantify the emission levels before and after any reduction in emissions.
- (KKK) Readjustment - The process of revising the amount of AERs and ERCs issued due to changes in control measures identified in the District’s AQAP or SIP.
- (LLL) Real - Actually occurring, implemented and not artificially devised.
- (MMM) Reasonably Available Control Technology (RACT) - Any device, system, process modification, apparatus, technique or combination of the above which results in the lowest emissions rate and which is reasonably available considering technological and economic feasibility.
- (NNN)- Reduced Sulfur Compounds - Hydrogen sulfide, carbon disulfide and carbonyl sulfide.
- (OOO) Registry (ERC Registry) - The document established by ~~District~~ Rule 1309(B) which lists all ERCs, their amounts, owners and serves as evidence of ownership of an ERC.

(PPP) Regulated Air Pollutant - Any of the following Air Pollutants:

- (1) Any Air Pollutant, and its Precursors, for which an Ambient Air Quality Standard has been promulgated.
- (2) Any Air Pollutant that is subject to a standard under 42 U.S.C. §7411 - *Standards of Performance for New Stationary Sources* (Federal Clean Air Act §111) or the regulations promulgated thereunder.
- (3) Any substance which has been designated a Class I or Class II substance under 42 U.S.C. §7671a (Federal Clean Air Act §602) or the regulations promulgated thereunder.
- (4) Any Air Pollutant subject to a standard or other requirement established pursuant to 42 U.S.C. §7412 - *Hazardous Air Pollutants* (Federal Clean Air Act §112) or the regulations promulgated thereunder.

(QQQ) Seasonal Source - Any Facility or ~~Emissions~~Emission Unit(s) with more than seventy-five percent (75%) of its annual emissions within a consecutive 120-day period.

(RRR) Secondary Emissions - Emissions which would occur as a result of the Construction or operation of a Major Facility or Major Modification to a Facility, but which do not come from the Major Facility or the Major Modification itself.

- (1) These emissions must be specific, well defined, quantifiable, and impact the same general area as the Major Facility or the Major Modification which causes the Secondary Emissions.
- (2) Secondary Emissions shall include emissions from any offsite support Facility which would not be constructed or increase its emissions except as the result of the construction or operation of the Major Facility or Major Modification.
- (3) Secondary Emissions shall not include any emissions which come directly from a Mobile Source.

(SSS) Shutdown - ~~the~~The earlier of either:

- (1) The permanent cessation of emissions from ~~Emissions~~Emission Unit(s); or
- (2) The surrender of ~~Emissions~~Emission Unit(s) operating permit.

(TTT) ~~Significant - A Net Emissions Increase from a Major Modification which would be greater than or equal to the following emissions rates for those Nonattainment Air Pollutants and their Precursors dependent upon Facility location.~~

POLLUTANT

EMISSION RATE  
(Within a Severe Federal

EMISSION RATE  
(Within a moderate PM<sub>10</sub>

	ozone nonattainment area)	nonattainment area)
Carbon Monoxide (CO)	100 tpy	100 tpy
Lead (Pb)	0.6 tpy	0.6 tpy
Oxides of Nitrogen (NOx)	25 tpy	40 tpy
PM10	N/A	15 tpy
Reactive Organic Compounds (ROC)	25 tpy	40 tpy
Sulfur Dioxide (SO2)	40 tpy	40 tpy

~~(1) — If a Facility is located in more than one Federal Nonattainment Area then the lower of the limits listed above shall apply on a pollutant category specific basis.~~

~~(UUU) Simultaneous Emission Reduction (SER) — A Federally- An Enforceable reduction in the emissions of an existing Emissions Emission Unit(s), calculated and adjusted pursuant to the provisions of District Rule 1304(C), which occurs occur in the same permitting action as when such SERs are used pursuant to this Regulation and is a reduction in the Historic Actual Emissions of the Emissions Unit(s).~~

~~(VVVUUU) South Coast Air Quality Management District (SCAQMD) — The air district created pursuant to Division 26, Part 3, Chapter 5.5 of the Health & Safety Code (commencing with §40400).~~

~~(WWWVVV) Stack — Any point in a Facility or Emission Unit(s) designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.~~

~~(XXX) WWW) Stack in Existence - For purposes of determining whether a stack height exceeds good engineering practices, the definition contained in 40 CFR 51.100(gg) in effect on June 15, 2021 {insert date of adoption} shall apply; and is incorporated herein by this reference.~~

~~(YYYXXX) State Implementation Plan (SIP) - A plan for the reduction of Regulated Air Pollutants created by the District and CARB and approved by USEPA pursuant to the provisions of Title I of the Federal Clean Air Act (42 U.S.C. §§7401 et seq.) and the regulations promulgated thereunder.~~

~~(ZZZYYY) Surplus — That which is not otherwise required. — As used for the purposes of Offset Emissions Reductions, the amount of emissions reductions that are, at the time of generation and use, not otherwise required by Federal, State or District law, rule, order, permit or regulation; not required by any legal settlement or consent decree; and not relied upon to meet any requirement related to the California State Implementation Plan (SIP); or any control measures identified in the District's Air Quality Attainment Plan (AQAP) or contained in the State Implementation Plan (SIP) for the District and which have not yet been implemented in the form of District Rules and/or Regulations.~~

~~(AAAAZZZ)~~ Total Organic Compounds - Compounds of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates and ammonium carbonate.

~~(BBBBAAAA)~~ United States Environmental Protection Agency (USEPA) - The United States Environmental Protection Agency, the Administrator of the USEPA and their authorized representative.

~~(CCCCBBBB)~~ Volatile Organic Compounds (VOC) -- Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions; and excluding those organic compounds listed in 40 CFR 51.100(s)(1-), that have been determined to have negligible photochemical reactivity.

[See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans> ]

(Adopted: 10/05/79; Amended: 03/07/80; Amended: 07/11/80;  
Amended: 09/10/82; Amended: 07/12/85; Amended: 08/01/86;  
Amended: 12/02/88; Amended: 06/28/90; Amended: 05/03/91;  
Amended: 12/07/95; Amended: 03/20/01; Amended: 8/15/06;  
Amended: 07/20/21); Amended: xx/xx/xx

## RULE 1302

### New Source Review ~~Procedure~~Procedures

#### (A) Applicability~~:~~

- (1) This rule shall apply to all new or Modified Facilities, ~~including EEGFs as defined in District Rule 1301(V), pursuant to the provisions of District Rule 1306.~~

#### (B) Applications~~:~~

- (1) Any application for an ATC or modification to a PTO, submitted pursuant to the procedures of District Regulation II, shall be analyzed to determine if such application is complete. An application shall be deemed complete when it contains the following, as applicable:

##### (a) General Application Requirements~~:~~

- (i) Enough information regarding the location, design, ~~construction~~Construction, and operation of the new or modified Facility or ~~Emissions~~Emission Unit(s) to allow all the applicable analysis and calculations required under this Regulation to be made, including but not limited to: identification of all new or modified ~~Emissions~~Emission Unit(s); the amount of potential emissions from such new or modified ~~Emissions~~Emission Unit(s); information sufficient to determine all rules, regulations or other requirements applicable to such ~~Emissions~~Emission Unit(s); a determination of whether stack height exceeds Good Engineering Practice; and any necessary air quality modeling consistent with the most recent USEPA guidance, including but not limited to, the requirements contained in 40 CFR 51 Appendix W, modeling protocols and the results of such modeling.
- (ii) A Comprehensive ~~Emissions~~Emission Inventory. If a Facility has a current approved Comprehensive ~~Emissions~~Emission Inventory on file with the District such Facility may, upon written request and approval of the APCO, update the Comprehensive ~~Emissions~~Emission Inventory to reflect the addition, deletion or modification of all Emission Unit(s) affected by the application.
- (iii) ~~A District Regulation XVHR~~Rule 1700 applicability analysis sufficient to determine whether the Facility or Modification<sub>2</sub> is or is not<sub>2</sub> a Major PSD Facility or a Major PSD Modification as

- defined in ~~District~~ Rule 1700(B), using the applicability procedures adopted by reference in ~~District~~ Rule 1700.
- (iv) A Rule 1314 applicability analysis sufficient to determine whether the Facility or Modification is, or is not, a Federal Major Stationary Source or a Federal Major Modification as defined in Rule 1314(C)(5), using the calculation procedures in Rule 1314(E).
  - (v) A Rule 1303 applicability analysis sufficient to determine whether the provisions of Rule 1303 apply to the proposed new or Modified Facility.
  - (vi) Any other information specifically requested by the District.
- (b) Application Requirements for Facilities Requiring Offsets-
- (i) For all new and modified Facilities requiring ~~offsets~~Offsets pursuant to ~~District~~ Rule 1303(B) or Rule 1314(D)(1)(b):
    - a. An alternative siting analysis including an analysis of alternative sites, sizes and production processes pursuant to 42 U.S.C. §7503(a)(5) (Federal Clean Air Act §173(a)(5)). Such analysis shall be functionally equivalent to that required pursuant to Division 13 of the California Public Resources Code (commencing with §21000.)
    - b. A statewide compliance certification stating that all Facilities which are under the control of the same person (or persons under common control) in the State of California are in compliance with all applicable ~~emissions limitations~~Emission Limitations and standards under the Federal Clean Air Act and the applicable implementation plan for the air district in which the other Facilities are located.
- (c) Mandatory Federal Class I Area Visibility Protection Application Requirements-
- (i) An application for a new or ~~modified~~Modified Major Facility or a Facility with a Federal Major Modification which may have an impact upon visibility in any Mandatory Federal Class I Area, shall include in its application an analysis of any anticipated impacts on visibility within that Mandatory Federal Class I Area. Such analysis shall include, but is not limited to, an analysis of the factors found in 40 CFR 51.307(a).
- (d) Prevention of Significant Deterioration (PSD) Application Requirements-
- (i) For a Facility which is a Major PSD Facility or Major PSD Modification as defined in ~~District~~ Rule 1700(B):

- a. A modeling protocol consistent with the most recent USEPA guidance including but not limited to the requirements contained in 40 CFR 51 Appendix W, as approved by the APCO. Such a protocol shall also be submitted to USEPA and, if applicable, the Federal Land Manager(s) of any potentially impacted area; and
- b. A control technology review pursuant to 40 CFR 52.21(j); and
- c. A source impact analysis, including but not limited to analysis pursuant to 40 CFR 52.21(k) and a per-application analysis pursuant to 40 CFR 52.21(m)(1); and
- d. Information required pursuant to 40 CFR 52.21(n) if not provided elsewhere in the application; and
- e. An additional impact analysis including but not limited to analysis of direct and indirect impacts of the proposed emissions increase on soils, vegetation and visibility, pursuant to 40 CFR 52.21(o); and
- f. An analysis of anticipated impacts on a Federal Class I Area if the Facility is located within 63 miles (100 kilometers) of such area pursuant to 40 CFR 52.21(p); and

~~(e)~~ Nonattainment NSR Major Source Application Requirements

- (i) For a Facility which is a new Federal Major Stationary Source or Federal Major Modification, as defined in Rule 1314(C):
  - a. All emission calculations used to determine Rule 1314 applicability.
  - b. The calculations, pursuant to Rule 1314 (E)(2)(b), used to determine the quantity of Offsets required for the new source or modification.
  - c. Identification of existing Emission Reduction Credits or identification of internal emission reductions, including related emission calculations and proposed permit Modifications required to ensure emission reductions meet the Offset integrity criteria of being Real, Surplus, Quantifiable, Permanent and Federally Enforceable.

(f) Determination of Application Completeness-

- (i) The APCO shall determine whether the application is complete not later than 30 calendar days after receipt of the application, or after such longer time as both the applicant and the APCO may agree in writing.

~~(g)~~ Trade Secret Information-

- (i) The confidentiality of trade secrets contained in an application shall be considered in accordance with Government Code §6254.7 and 18 U.S.C. §1905.
  - (ii) Any information claimed by an applicant to be trade secret or otherwise confidential shall be clearly marked as such.
- (2) Notifications Regarding Applications-
- (a) After the determination of completeness has been made, the APCO shall transmit a written determination of completeness or incompleteness immediately to the applicant at the address indicated on the application.
    - (i) If the application is determined to be incomplete, the determination shall specify which parts of the application are incomplete and how they can be made complete.
      - a. Upon receipt by the APCO of information required to render an application complete or upon resubmittal of the entire application, a new 30-day period in which the APCO must determine completeness, shall begin.
    - (ii) When an application subject to the provisions of District Rule 1700 is determined to be complete the APCO shall transmit a copy of the written completeness determination to USEPA and, upon request, provide USEPA with a copy of the application.
    - (iii) If the application contains an analysis of anticipated visibility impacts on a Mandatory Federal Class I Area, the APCO shall, within 30 calendar days after receipt of the application, notify USEPA and the Federal Land Manager of the affected Mandatory Federal Class I Area.
      - a. The APCO shall include in ~~such~~this notification a copy of the application and the analysis of the anticipated impacts on the affected Mandatory Federal Class I Area.
  - (b) When the application has been determined to be complete the APCO shall then commence the analysis process detailed in section (C) below.
  - (c) In the alternative, the APCO may complete the issuance of the ATC(s) within the 30 calendar days after receipt of the application so long as all the applicable analysis required pursuant to ~~subsection (C)~~below has been performed and the provisions of ~~subsection (C)(7)(e)~~below applies.
- (3) Effect of Complete Application-
- (a) After an application is determined to be complete, the APCO shall not subsequently request of an applicant any new or additional information which was not required pursuant to ~~subsection (B)(1)~~above or by a determination of incompleteness pursuant to ~~subsection (B)(2)(a-)~~above.



- (b) Notwithstanding the above, the APCO may, during the processing of the application, require an applicant to clarify, amplify, correct or otherwise supplement the information required at the time the complete application was received.
  - (c) A request by the APCO for clarification pursuant to ~~subsection~~ (B)(3)(b) above does not waive, extend, or delay the time limits in this rule for final action on the completed application, except as the applicant and the APCO may both agree in writing.
- (4) Fees-
- (a) The APCO shall not perform any analysis as set forth in ~~section~~ (C) below unless all applicable fees, including but not limited to the Project Evaluation Fee for Complex Sources as set forth in ~~District~~ Rule 301, have been paid.
- (C) Analysis-
- (1) Determination of Emissions-Rule 1314 Applicability and Requirements
    - (a) The APCO shall analyze commence a New Source Review Document (NSR Document) to record the application to determine the specific pollutants, amount, and change (if any) in emissions analysis.
    - (b) The APCO shall review the Rule 1314 applicability analysis submitted pursuant to the provisions of District Rules 1304 and 1700. (B)(1)(a)(iv) above to determine if the proposed new or Modified Facility is, or is not, a Federal Major Stationary Source or a Federal Major Modification, as defined in Rule 1314(C).
  - ~~(2) Determination of Requirements.~~
    - ~~(a) After determining the emissions change (if any),c) If the APCO shall determine if any of the provisions of District Rule 1303 apply to the proposed new or modified Modified Facility.~~
    - ~~(b) If none of the provisions of District Rule 1303 apply to the new is not a Federal Major Stationary Source or modified facility, then a Federal Major Modification, the APCO shall continue the analysis at subsection (C)(42) below.~~
    - ~~(ed) If subsection (A) is the only provision of District Rule 1303 applicable to the APCO determines that the proposed new or modified Modified Facility is a new Federal Major Stationary Source or a Federal Major Modification, then the APCO shall:~~

- ~~(i)~~ (i) Evaluate compliance with all Rule 1314(D) requirements; and
- (ii) Develop and include conditions to implement BACT on any proposed ATC or PTO required for each new or Modified Emission Unit(s) subject to implement BACT the provisions of Rule 1314(D)(1)(a); and
- (iii) Calculate the amount of Offsets required on a pollutant-by-pollutant basis pursuant to the provisions of Rule 1314(E)(2); and
- (iv) Notify the applicant in writing of the specific amount of Offsets required. The applicant shall comply with the provisions of (C)(3) below; and
- (v) Develop and include conditions on any proposed ATC or PTO to ensure compliance with the requirements of Rule 1314 for all new or modified Emissions Modified Emission Unit(s) at the Facility; and
- ~~(vi)~~ Continue the analysis at subsection (C)(4) below.

~~(d)(2)~~ Determination of Rule 1303 Applicability and Requirements

- (a) The APCO shall commence or add to the NSR Document to record the application analysis.
- (b) The APCO shall review the Rule 1303 applicability analysis submitted pursuant to (B)(1)(a)(v) above, pursuant to the provisions of Rule 1304(B), to determine if the proposed new or Modified Facility is subject to the Rule 1303 BACT or Offset requirements.
- (c) If ~~subsection (B) none of District~~ the provisions of Rule 1303 apply to the new or modified Modified Facility, then the APCO shall continue the analysis at (C)(4) below.
- (d) If Rule 1303(A) is the only provision applicable to the new or Modified Facility then the APCO shall:
  - (i) Develop and include conditions in any proposed ATC or PTO to implement BACT on all new or Modified Emission Unit(s) at the Facility; and
  - (ii) Continue the analysis at (C)(4) below.
- (e) If Rule 1303(A) and (B) apply to the new or Modified Facility then the APCO shall:
  - (i) Commence a Facility engineering analysis; and

- (ii) Develop and include conditions to implement BACT on any proposed ATC or PTEPTO required for each new or Modified Emission Unit(s) subject to the provisions of ~~District~~ Rule 1303(A); and
- (iii) ~~Continue the analysis at subsection (C)(3) below.~~

~~(3) Determination of Offsets.~~

- ~~(a) If the provisions of District Rule 1303(B) apply to the new or modified Facility, then the APCO shall calculate~~Calculate the amount of Offsets required on a pollutant-by-pollutant basis pursuant to the applicable provisions of ~~District Rules 1304(B)(2) and Rule 1305-(B).~~ All Offsets shall meet the requirements of Rule 1305(C).
- ~~(i) The APCO shall thereafter notify~~(iv) Notify the applicant in writing of the specific amount of Offsets- required. The applicant shall comply with the provisions of (C)(3) below.
- ~~(v) Develop and include conditions on any proposed ATC or PTO to implement the requirements of Rule 1303 and all other applicable requirements of the District's rules and regulations for all new or Modified Emission Unit(s) at the Facility.~~
- ~~(vi) Continue the analysis at (C)(4) below.~~

(3) Offset Requirements

- (a) Upon receipt of the notification, the applicant shall provide to the APCO a proposed Offset package which contains evidence of a sufficient quantity of Offsets eligible for use pursuant to the provisions of ~~District~~ Rule 1305 or Rule 1314, as applicable.
- ~~(b)~~ The APCO shall analyze the proposed Offset package to determine if an Adjustment in the value of such Offsets is required and apply the applicable ~~offset~~Offset ratio (if any) pursuant to the provisions of ~~District~~ Rule 1305 or Rule 1314, as applicable.
  - ~~(i)~~ a. For Rule 1305 compliance,
    - a. If the Offset package includes Mobile, Area, or Indirect Source ERCs pursuant to ~~District~~ Rule 1305(C)(3) or proposes the use of interpollutant Offsets pursuant to ~~District~~ Rule 1305(C)(6), the APCO shall notify USEPA by sending a copy of the application, the proposed Offset package and all relevant information thereto.
    - ~~(ii)~~b. The APCO shall disallow the use of any Offsets which were created by the ~~shutdown, modification~~Shutdown,

Modification or limitation of existing Emissions~~Emission~~ Unit(s) when ~~such~~:

i. Such Offsets:

~~a. Are are~~ not in compliance with the applicable provisions of ~~District~~ Rule ~~1305~~1309 or 40 CFR 51.165(a)(3)(ii)(C); or

~~b.ii.~~ USEPA has disapproved the applicable implementation plan for the District, or USEPA has made a finding of a failure to submit for the District of all or a portion of an applicable implementation plan.

~~(iii)~~ After determining that the ~~Offsets are Real, Enforceable, Surplus, Permanent and Quantifiable; proposed Offset package meets all applicable requirements and~~ that a sufficient quantity of Offsets have been provided, and after any permit modifications required pursuant to ~~District Rules 1305~~ Rule 1309 or ~~1309~~1314 have been made, the APCO shall approve the use of the Offsets.

~~a. For a new or Modified Major Facility or a Major Modification which is located in a Federal Nonattainment Area the~~ The APCO's approval shall be subject to review and comment by CARB and USEPA pursuant to ~~subsection~~ (D)(2) below.

~~(iii)~~ The Offsets must be identified and Federally Enforceable prior to ATC or PTO issuance.

~~(iv)~~ The Offsets must be ~~obtained prior to times~~surrendered before the new or Modified Facility Begins Actual Construction.

~~(v)~~ The emission reductions relied upon as Offsets must be in effect before the new or Modified Facility commences operation.

(c) After the determination of the amount of pollutant specific ~~offsets~~Offsets required and ~~approval of~~ the Offset package has been approved, the APCO shall continue the analysis at ~~subsection~~ (C)(4) below.

(4) Stack Height Analysis:

(a) If the application contains a determination showing that the stack height exceeds Good Engineering Practice the APCO shall:

(i) Provide that the degree of ~~emission limitation~~Emission Limitation required of the new or ~~modified~~Modified Facility or Emission Unit(s) is not affected by ~~so much of~~ the stack height that exceeds Good Engineering Practice or by any other Dispersion Technique; and

(ii) Notify the public of the availability of the demonstration study and provide opportunity for a public hearing pursuant to the provisions of ~~subsection~~ (C)(7)(b)(~~ii~~) below, before an ATC is issued; and

(iii) Ensure any field study or fluid model used to demonstrate Good Engineering ~~Practiew~~Practice stack height and any determination

concerning ~~excessive concentration~~Excessive Concentration is approved by the EPA and the ~~Control Officer~~APCO prior to any emission limit being established.

- (b) The provisions of this subsection do not restrict, in any manner, the actual stack height of any Facility.
  - (c) The APCO shall continue the analysis at ~~subsection (C)(5)~~ below.
- (5) Determination of Requirements for Toxic Air Contaminants:
- (a) The APCO shall also determine if any of the provisions of ~~District~~Rule 1401 apply to the new or ~~modified~~Modified Facility.
  - (b) If any of the provisions of ~~District~~Rule 1401 apply to the new or ~~modified~~Modified Facility the APCO shall:
    - (i) Require the Facility to comply with the applicable provisions of ~~those Rules prior to proceeding with any further analysis or processing of an application pursuant to this Regulation~~Rule 1401; and
    - (ii) Add any conditions to the applicable permits required to implement any provisions of ~~those Rules~~Rule 1401.
  - (c) After determining which, if any, Rule 1401 requirements ~~of District Rule 1401~~ apply, and any necessary actions taken, the APCO shall continue the analysis at ~~subsection (C)(6)~~ below.
  - (d) This subsection is not submitted to USEPA and is not intended to be ~~include~~included as part of the California State Implementation Plan (SIP).
- (6) Determination of Rule 1700 Requirements ~~for Prevention of Significant Deterioration (PSD)~~:
- (a) The APCO shall ~~review~~ ~~commence or add to~~ the PSD ~~applicability~~Document to record the application analysis ~~submitted pursuant to subsection (B)(1)(c)~~.
  - ~~(b) If the APCO determines that the proposed new or modified Facility is or is not a Major PSD Facility or a Major PSD Modification as defined in District Rule 1700, then the APCO shall:~~
  - ~~(b) If the APCO determines that proposed new or modified Facility is a Major PSD Facility or a Major PSD Modification then the APCO shall:~~
    - (i) Perform the analysis required pursuant to the provisions of ~~District~~Rule 1700(D)(2); and

- (ii) ~~Either complete the PSD permit issuance pursuant to the provisions of District Rule 1700(D) or combine the appropriate analysis adding any~~ Add necessary conditions ~~in conjunction with those required~~ pursuant to ~~this~~ Regulation XIII; and
    - (iii) Continue the analysis at ~~subsection~~-(C)(7) below.
  - (c) If none of the provisions of ~~District~~ Rule 1700 apply, the APCO shall continue the analysis at ~~subsection~~-(C)(7) below.
- (7) Determination of Notice Requirements-
- (a) The APCO shall determine the type of notice required for the proposed new or ~~modified~~Modified Facility.
  - (b) **Major NSR/PSD Notice:**- If the new or Modified Facility is subject to any of the following, then the APCO shall implement the applicable provisions of section (D) below prior to the issuance of the ATC(s) or modification of the PTO(s).
    - (i) The provisions of ~~District~~ Rule 1303(B); or
    - (ii) The provisions of ~~subsection~~-(C)(4) above regarding stack height greater than Good Engineering Practice; or
    - (iii) The provisions of ~~District~~ Rule 1700; or-
    - (iv) The provisions of ~~District~~Rule 1314(D)(1)(b), or
    - (v) The provisions of Regulation XXX and the action involves the issuance, renewal or Significant Modification of the Federal Operating Permit.
  - (c) **Toxic NSR Notice:** -If any proposed new or modified Emissions Units~~Emission Unit(s)~~ at the new or modified Facility ~~require~~requires public notification pursuant to the provisions of ~~District~~ Rule 1401(E)(3)(e)(iii) or (F)(2)(b) then the APCO shall:
    - (i) Provide the notice specified by the applicable provision(s) of ~~District~~ Rule 1401 in addition to any other required notice; or
    - (ii) Provide notice pursuant to the provisions of ~~subsection~~-(D)(3)(a) below ensuring that such notice contains any additional information required pursuant to the applicable provision(s) of ~~District~~ Rule 1401.
    - (iii) This subsection is not submitted to USEPA and is not intended to be included as part of the California State Implementation Plan (SIP).
  - (d) **Minor NSR Notice:** If the new or ~~modified~~Modified Facility is not subject to any of the provisions listed in ~~subsections~~-(~~C~~)(7)(b) or (c) above, but is subject to any of the following, then the APCO shall commence the issuance of the ATC(s) or modification of the PTO(s)

pursuant to the provisions of ~~District~~ Regulation II and provide notice pursuant to the provisions of ~~subsection (D)(3)(a)(ii)-) below:~~

- (i) The emissions change for any Regulated Air Pollutant as calculated under ~~subsection (C)(1)Rule 1304(B)(3)~~ is greater than any of the following:
  - (a.) 20 tpy or more of VOC, 20 tpy or more of NOx, 12 tpy or more of PM10, or 80% of the ~~Major Facility Offset~~ Threshold Amounts for any other Nonattainment Air Pollutant as set forth in ~~District~~ Rule 1303(B); or
  - (b.) 8 tpy or more of any Hazardous Air Pollutant or 20 tpy of any combination of Hazardous Air Pollutants or 80% of a lesser quantity of a Hazardous Air Pollutant as the USEPA may establish by rule; or
  - (c.) The Federal Significance Level for a Regulated Air Pollutant as defined in 40 CFR 52.21(b)(23).
- (e) **Permit Issuance Notice:** -If the new or modified Facility is not subject to any of the provisions listed in ~~subsection-(C)(7)(b), (c) or (d) above,~~ then the APCO shall commence with the issuance of the ATC(s) or modification of the PTO(s) pursuant to the provisions of District Regulation II and ~~subsection-(D)(3)(a)(iii)-) below.~~

#### (D) Permit Issuance Procedure-

- (1) Preliminary Decision-
- (a) After all required analyses have been completed, the APCO shall issue a preliminary decision as to whether the ~~New Source Review Document~~proposed ATC(s) should be approved, conditionally approved, or disapproved and whether ATC(s) should be issued to the new or Modified Facility.
- (b) The preliminary decision shall include:
  - (i) A succinct written analysis of the proposed approval, conditional approval or disapproval; and
  - (ii) If approved or conditionally approved, proposed permit conditions for the ATC(s) or modified PTO(s) and the reasons for imposing such permit conditions; and
  - (iii) A ~~Draft~~draft Permit.
- (c) The preliminary decision and draft NSR Document may also be combined with the draft PSD Document, if any applicable, and any document(s) produced pursuant to District Regulation XXX. -In such case, the preliminary decision, ~~draft NSR Document~~ and draft PSD

~~Document~~Documents shall conform to the applicable provisions of ~~District~~Regulation XXX ~~and, 40 CFR 70.6(a)-(g), and 70.7(a)-(b)),~~ and will serve as the draft Statement of Legal and Factual Basis and draft Federal Operating Permit.

- (2) CARB, USEPA, Federal Land Manager, and Affected State Review:
- (a) If notice is required pursuant to ~~the provisions~~any provision of ~~subsection (C)(7)(b)-(d) above,~~ the APCO shall, concurrently with the publication required pursuant to ~~subsection (D)(3) below,~~ send a copy of the preliminary decision, the draft permit, and any underlying analysis to CARB, USEPA and any Affected State.
  - (b) CARB, USEPA and any Affected State shall have 30 days from the date of publication of the notice pursuant to ~~subsection (D)(3) below~~ to submit comments and recommendations regarding the preliminary decision.
    - (i) If the permitting action involves the issuance, renewal, Minor Modification or Significant Modification of the Federal Operating Permit and that action is being performed concurrently with the actions pursuant to this Regulation, then CARB, USEPA, and any Affected State shall have 45 days from the date of publication of the notice to submit comments.
  - (c) Upon receipt of any comments and/or recommendations from CARB, USEPA and/or any Affected State, the APCO shall either:
    - (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; or
    - (ii) Reject such comments and/or recommendations, notify CARB, USEPA, and/or the Affected State of the rejection and the reasons for such rejection.
  - (d) For applications containing an analysis of anticipated visibility impacts on a Federal Class I Area pursuant to ~~subsection (B)(1)(c) or (B)(1)(d)(i)-(e-f.)~~ above, the APCO, upon receipt of any comments from USEPA or the Federal Land Manager of the affected Federal Class I Area, shall:
    - (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; or
    - (ii) Reject such comments and/or recommendations, notify CARB, USEPA, and/or the Federal Land Manager of the affected Federal Class I Area of the rejection and the reasons for such rejection.
  - (e) For applications containing an Offset package submitted pursuant to ~~subsection (C)(3)(b))~~ above, where the Offset package includes Mobile, Area, or Indirect source ERCs pursuant to ~~District~~Rule 1305(C)(3) or



proposes the use of interpollutant Offsets pursuant to ~~District~~ Rule 1305(C)(6), the APCO, upon receipt of comments from USEPA, shall:

- (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; and
- (ii) Require changes to the Offset package by the applicant if such are necessary.

(3) Public Review and Comment:

(a) Public Notice.

- (i) **~~Major NSR/PSD~~ Notice and Toxic NSR Notice:** -If notice is required pursuant to the provisions of ~~subsections (C)(7)(b); and/or (C)(7)(c) above,~~ or (D)(4)(d) below then, within 10 days of the issuance of the preliminary determination, the APCO shall:
  - a. Produce a notice containing all the information set forth in ~~subsection (D)(3)(b)(i);~~ below; and
  - b. Publish a notice by posting the notice and draft permit on the District's website for, at a minimum, the duration of the public comment period; and
  - c. Send a copy of the notice containing the information set forth in ~~subsection (D)(3)(b)(i)~~ below to the applicant; CARB; USEPA; Affected State(s); the City and County where the proposed Facility or Modification is located; any State or Federal Land Manager or Indian governing body who's lands might be affected by emissions from the proposed Facility or Modification; and to all persons who have requested such notice and/or are on a list of persons requesting notice of actions pursuant to this regulation generally on file with the District; and
  - d. Provide notice by other reasonable means, if such notice is necessary to assure fair and adequate notice to the public.
- (ii) **Minor NSR Notice:** -If notice of permit issuance is required pursuant to the provisions of ~~subsection (C)(7)(d) above,~~ within 10 days of the issuance of the ~~engineering analysis~~ Facility engineering analysis the APCO shall:
  - a. Produce a notice containing the information set forth in ~~subsection (D)(3)(b)(ii)~~ below; and
  - b. Publish the notice and the draft permit by posting on the District's website for, at a minimum, the duration of the comment period; and
  - c. Send a copy of the notice to the applicant; CARB; USEPA; Affected State(s); and all persons who have requested such notice and/or are on a list of persons requesting notice of

actions pursuant to this regulation generally on file with the District.

(iii) **Permit Issuance Notice:** -If the provisions of ~~subsection (C)(7)(e) above~~ apply then the APCO shall issue the permit pursuant to the provisions of ~~District~~ Regulation II ~~and post the final permit on the District's website.~~

(b) Notice Content Requirements-

(i) **Major-NSR/PSD Notice Contents:** -The notice required pursuant to ~~subsection (D)(3)(a)(i) above~~ shall include:

- a. The Facility number, name and ~~location~~address of the Facility, including the name and address of the applicant if different; ~~and~~
- b. A statement indicating the availability, conclusions of the preliminary decision and a location where the public may obtain or inspect the preliminary decision and supporting documentation; and
- c. A statement providing at least 30 days from the date of publication of the notice for the public to submit written comments on the preliminary decision; and
- d. A brief description of the specific comment procedures and deadlines; and
- e. Information regarding obtaining review of the permit issuance decision by the District Hearing Board pursuant to the provisions of California Health & Safety Code §42302.1.
- f. If the APCO has determined that the Stack Height exceeds Good Engineering Practice then the notice shall also contain notice of the opportunity to request a public hearing on the proposed demonstration produced pursuant to ~~subsection (C)(4)(a)(i).~~ above.
- g. If the provisions of ~~District~~ Rule 1700(C) apply, then the notice shall also contain: the degree of increment, consumption, and notice of the opportunity to request a public hearing regarding the air quality impact, control technology or other appropriate considerations of the preliminary determination for the Major PSD Facility or Major PSD Modification.
- h. If the provisions of ~~District~~ Regulation XXX apply, and the action involves the issuance, renewal or Significant Modification of the Federal Operating Permit, and the Federal Operating Permit is being issued concurrently, then the notice shall also contain notice of the opportunity to request a public hearing on the proposed Federal Operating Permit pursuant to District Rule 3007(A)(1)(d).

- i. If the APCO has rejected comments regarding anticipated visibility impacts on a Federal Class I Area, the notice shall also contain a notation of the availability of the reasons for such rejection.
- (ii) **Minor NSR Notice Contents:** -The notification required pursuant to ~~subsection~~(D)(3)(a)(ii) above shall include:
  - a. ~~Identification-The Facility number, name and address of the Facility;~~ including the name, ~~address and Facility number;~~ and address of the applicant if different; and
  - b. Identification of the permit(s) involved including permit number, and ~~aaa~~ brief description of the action taken; and
  - c. Where a copy of the application and preliminary decision may be obtained; and
  - d. Provide at least 30 days from the date of publication of the notice for the public to submit written comments on the preliminary decision; and
  - e. A brief description of the specific comment procedures and deadlines; and
  - f. Information regarding obtaining review of the permit issuance decision by the District Hearing Board pursuant to the provisions of California Health & Safety Code §42302.1.

(c) ~~Availability of Documents:~~

- (i) At the time of publication of any notice required ~~above,~~ the APCO shall make available for public inspection at the ~~offices of the~~ District office or in another prominent place: ~~the~~
  - a. The application and any other information submitted by the applicant;
  - b. The NSR ~~document, the~~and/or PSD Document
  - c. The preliminary decision to grant or deny the ATC, including any proposed permit conditions and ~~the~~
  - d. The reasons therefore; and the supporting analysis for the preliminary decision.
- (ii) Notwithstanding the above, the APCO is not required to release confidential information. -Information shall be considered confidential when:
  - a. The information is a trade secret or otherwise confidential pursuant to California Government Code 6254.7(d)~~),~~ or
  - b. The information is entitled to confidentiality pursuant to 18 U.S.C. §1905; and
  - c. Such information is clearly marked or otherwise identified by the applicant as confidential.

- (d) The APCO shall accept and consider all relevant comment(s) submitted to the District in writing during the 30 day public comment period provided pursuant to ~~subsection (D)(3)(b)(i) or (ii)-)~~ above.
  - (e) The APCO shall, if requested pursuant to the provisions provided for in the published notice, hold a public hearing regarding the proposed preliminary determination as provided pursuant to subsection (D)(3)(b)(i)~~(f.-h.)~~ above.
    - (i) Such hearing shall be scheduled no less than 30 days after the publication of a notice of public hearing is published pursuant to the provisions set forth in ~~subsection (D)(3)(a)-)~~ above.
  - (f) The APCO shall keep a record of any oral and written comments received during the public comment period or at any public hearing and shall retain copies of such comments and the District's written responses to such comments in the District files for the particular Facility.
  - (g) If any substantive changes are made to the preliminary decision as a result of comments received from the public, CARB, USEPA or any Affected State(s), the APCO shall send a copy of the proposed changes to CARB and USEPA for review.
  - (h) Nothing in this subsection shall be interpreted to limit the availability of documents pursuant to the California Public Records Act (California Government Code §§6250 et seq.) as effective upon the date of the request for such documents.
- (4) ~~Final Action-~~
- (a) After the conclusion of the comment period and consideration of the comments, the APCO shall produce a final NSR and/or PSD Document, based on the draft Document.
  - (b) Thereafter, the APCO shall take final action to issue, issue with conditions or decline to issue the ATCs or PTOs pursuant to ~~subsection (D)(6) below~~ based on the final NSR ~~document~~and/or PSD Document.
    - (i) Such final action shall take place no later than 180 days after the application has been determined to be complete.
    - (ii) The APCO shall not take final action to issue the final NSR Document if either of the following occurs:
      - a. USEPA objects to such issuance in writing; or
      - b. USEPA has determined, as evidenced by a notice published in the Federal Register, that the applicable implementation plan is not being adequately implemented in the Federal

Nonattainment Area in which the new or Modified Facility is located.

- (c) The APCO shall provide written notice of the final action to the applicant, USEPA and CARB.
  - (d) If substantive changes have been made to the preliminary determination or other documents after the opening of the public comment period which ~~are substantial enough to require~~ changes to the underlying requirements or which result in a less stringent BACT determination, then, the APCO shall ~~cause to be published~~ publish a notice ~~substantially~~ similar in content to the notice required by ~~subsection (D)-(D)(3) above and start a new 30-day public comment period.~~
  - (e) The final NSR Document may be combined with a final PSD ~~document~~ Document produced pursuant to ~~District~~ Rule 1700(D).
  - (f) The final NSR and/or PSD Document and all supporting documentation shall remain available for public inspection at the offices of the District for a minimum period of 5 years.
- (5) Issuance of ATC(s);
- (a) In conjunction with final action on the final NSR Document the APCO shall issue ATC(s) for the new or Modified Facility pursuant to the provisions of ~~District~~ Regulation II. Such ATC(s) shall contain, at a minimum, the following conditions:
    - (i) All conditions regarding ~~construction~~ Construction, operation and other matters as set forth in the final NSR and/or PSD Document; and
    - (ii) If a new or Modified Facility is a replacement, in whole or in part, for an existing Facility or ~~Emissions~~ Emission Unit(s) on the same or contiguous property, a condition allowing up to 180 days ~~or another reasonable start up period as agreed to by the District, USEPA and CARB,~~ for simultaneous operation of the new or Modified Facility and the existing Facility or ~~Emissions~~ Emission Unit;(s); and
    - (iii) A condition requiring the Facility to be operated in accordance with the conditions contained ~~on~~ in the ATC(s);
    - (iv) A condition requiring that the ~~offsets~~ Offsets must be ~~obtained prior to the commencement of construction on the new or Modified Facility, Enforceable, and~~ in effect by the time the new or ~~modified~~ Modified Facility commences operation.

- (b) The APCO shall not issue ATC(s) to a new or Modified Facility pursuant to this regulation unless:
- (i) The new Facility or Modification to an existing Facility is constructed using BACT for each Nonattainment Air Pollutant when the provisions of Rule 1303(A) apply.
  - (ii) Any increase in emissions for each Nonattainment Air Pollutant have been properly ~~offset~~Offset pursuant to the provisions of ~~District~~ Rules 1305, 1309 and/or ~~1309~~1314.
    - a. Such ~~offsets~~Offsets shall be Real, Enforceable, Quantifiable, Surplus and Permanent; and
    - b. The permit(s) of any Facility or Emissions~~Emission~~ Unit(s) which provided ~~offsetting~~Offsetting emissions reductions have been properly modified and/or other actions have been performed pursuant to the provisions of ~~District~~ Rules 1305, 1309 and ~~1309~~1314.
  - (iii) The new or Modified Facility complies with all applicable Federal, State, and District Rules and Regulations ~~of the District~~.
  - (iv) The new or Modified Facility will not interfere with the attainment or maintenance of any National Ambient Air Quality Standard.

(6) Issuance of PTO(s):~~;~~

- (a) After the final action on the NSR Document pursuant to this Regulation and/or the issuance of ATC(s) pursuant to the provisions of ~~District~~ Regulation II, the APCO shall deny the subsequent issuance of PTO(s) unless the APCO determines that:
  - (i) If no ATC was issued, the owner or operator of the new or Modified Facility has complied with all applicable provisions of this Regulation including the provision ~~of offsets~~for Offsets if such were required.
  - (ii) The new or Modified Facility has been Constructed and operated in a manner consistent with the conditions as set forth in the NSR ~~Document and~~Document and the ATC(s); and
  - (iii) ~~That the~~The permit(s) of any Facility or Emissions~~Emission~~ Unit(s) which provided Offsets ~~to~~for the new or Modified Facility ~~have~~has been properly modified ~~and/or valid contracts have been obtained~~ pursuant to the provisions of ~~District~~ Rules 1304, 1305 ~~or~~, 1309 ~~or~~ 1314.
  - (vi) ~~That the~~The Offsets, if required pursuant to ~~District~~ Rule 1303(B):~~;~~ or Rule 1314, were Real, Enforceable, Quantifiable, Surplus and Permanent, prior to the commencement of ~~construction~~Construction of the Facility.
  - (v) That all conditions contained in the ATC(s) requiring performance of particular acts or events by a date specified have occurred on or before such dates.

- (vi) If the actual emissions are greater than those calculated when the ATC was issued:
  - a. That the owner/operator has provided additional ~~offsets~~Offsets to cover the difference between the amount of ~~offsets~~Offsets originally provided and the amount of ~~offsets~~Offsets necessary calculated pursuant to ~~District~~ Rule 1305 or Rule 1314, as applicable, based upon the actual ~~emissions of the facility~~emission change; and
  - b. That such additional ~~offsets~~Offsets were provided within ninety (90) days of the owner/operator being notified by the APCO that such additional ~~offsets~~Offsets are necessary.

[See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]

## Rule 1303

### State New Source Review Requirements

#### (A) Best Available Control Technology:

- (1) Any new PermitEmission Unit ~~which emits, or has the Potential to Emit, 25 pounds per day or more of any Nonattainment Air Pollutant(s)~~ shall ~~be equipped with~~utilize BACT
- ~~(2) Any Modified Permit, where the Emission~~ Unit ~~which(s)~~ emits, or has the Potential to Emit, 25 pounds per day or more of any Nonattainment Air Pollutant.
- ~~(2) Any Modified Emission Unit(s) shall be equipped with~~utilize BACT~~., where the Emission Unit(s) emits, or has the Potential to Emit, 25 pounds per day or more of any Nonattainment Air Pollutant.~~
- (3) Any new or Modified PermitEmission Unit(s) at a Facility ~~which emits, will emit, or shall utilize BACT, if the Facility~~ has the Potential to Emit any Nonattainment Air Pollutant in an amount greater than or equal to ~~the~~any amount listed in subsection (B)(1) below ~~shall be equipped with BACT.~~
- ~~(4) For purposes of determining applicability of this Section, Potential to Emit is calculated pursuant to the provisions of District Rule 1304(E)(3), any Emissions Change is calculated pursuant to the provisions of District Rule 1304(B)(1), and SERs shall not be used in such calculations.~~

#### (B) Offsets ~~Required.~~

- (1) Any new or Modified Facility which ~~emits or~~ has the Potential to Emit a Regulated Air Pollutant in an amount greater than, or equal to, any of the following ~~offset~~Offset threshold amounts of Nonattainment Air Pollutants and their Precursors, ~~as calculated pursuant to District Rule 1304(B) less any SERs as calculated and approved pursuant to District Rule 1304(C),~~ shall obtain Offsets for that pollutant, calculated pursuant to Rule 1305.



### OFFSET THRESHOLD AMOUNTS

POLLUTANT	OFFSET THRESHOLD
PM <sub>10</sub>	15 tpy
Oxides of Nitrogen (NO <sub>x</sub> )	25 tpy
Oxides of Sulfur (SO <sub>x</sub> )	25 tpy
Volatile Organic Compounds (VOC)	25 tpy

- (2) Any Facility which ~~is not a Major Facility but where the Modification is in itself a Major Modification shall obtain Offsets.~~
- ~~(3) Any Facility or modification which emits or has the Potential to Emit a Nonattainment Air Pollutant in an amount greater than the threshold amounts listed in subsection (B)(1) due to a relaxation in any enforcement limitation established after August 7, 1980 on the capacity of the Facility or modification to emit a pollutant (such as a restriction on hours of operation) shall obtain Offsets and be equipped with BACT pursuant to subsection (A)(3) above as if the Facility had not yet Commenced Construction.~~
- ~~(4) Any Facility which has accumulated emissions increases~~emission increase(s) in excess of the ~~offset~~Offset threshold set forth in ~~subsection (B)(1) above,~~ shall ~~offset~~Offset the total emission increase during such period to zero.
- ~~(5) The amount, and eligibility of such offsets~~3) Emission changes shall be ~~determined on a pollutant by pollutant basis~~calculated pursuant to ~~the provisions of District Rules~~Rule 1304, 1305, and 1309. ~~(B).~~

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]

(Adopted: 10/05/79; Amended: 03/07/80; Amended: 09/10/82; Amended: 07/12/85; Amended: 01/10/86; Amended: 08/01/86; Amended: 06/28/90; Amended: 05/03/91; Amended: 06/05/92; Amended: 09/11/92; Amended: 12/07/95; Amended: 06/14/96; Amended: 03/20/01; Amended: 07/20/21 Amended: 07/20/21); Amended xx/xx/xx

## RULE 1304

### State New Source Review Emissions Calculations

#### (A) General

##### (1) Purpose

- (a) This rule provides the procedures and formulas to calculate increases and decreases in emissions of Regulated Air Pollutants for new or Modified Facilities. -The results of such calculations shall be used to:
  - (i) Determine the applicability of the provisions of ~~District~~ Rule 1303.
  - (ii) Calculate SERs generated within the same Facility.
  - ~~(iii) Determine the Potential to Emit (PTE) for emission changes associated with new or Modified Facilities and Emissions Emission Unit(s-) in tpy and lbs/day.~~
  - ~~(iv)~~ (iii) Calculate Simultaneous Emission Reductions (SERs)

##### (2) certain terms used in District Applicability

- (a) The applicability of Rule 1305-1314 shall be determined prior to the provisions of this Rule.
- (b) ~~(v) Calculate emissions decreases~~ If a permit application(s) submission will result in a New Federal Major Stationary Source or Federal Major Modification, as defined in Rule 1314, then the BACT and Offset provisions of Rule 1303 are satisfied.
- (c) If Rule 1314 does not apply to the permit application(s) submission, then the procedures and formulas in this rule shall be used to determine:
  - (i) Rule 1303 BACT applicability, and
  - (ii) Rule 1303 Offset requirements.

#### (B) Calculating Emissions Changes ~~ERCs~~

- (1) Facility Potential to Emit shall be calculated pursuant to the provisions of District Rule 1309 definition in Rule 1301. Potential to Emit in lb/day is determined by dividing PTE in lbs per year by 365 days per year.

#### ~~(B) Calculating Emissions Changes in a Facility~~

- ~~(1) General~~ (2) Emissions Change Calculations for Emission Units

- (a) The emissions change for each new or Modified Emissions ~~Emission~~ Unit(s) that is included in the permit application(s) submission shall be calculated, in pounds per day, by subtracting Historic Actual Emissions (HAE) from the Proposed Emissions (PE) ~~), where the HAE of a new Emissions Unit is zero.~~

$$\text{Emissions Change (EC)} = (\text{PE}) - (\text{HAE})$$

- (b) ~~The~~ Prior to performing the calculation specified in Section (B)(2)(a), the HAE shall be adjusted downward to exclude any:
- (i) non-compliant emissions change that occurred while the emissions unit was operating above an emission limitation that was legally enforceable during the HAE period, and
  - (ii) emissions that would have exceeded an emission limitation with which the emissions unit must currently comply, had such emissions unit been required to comply with such limitations during the HAE period.

(3) Emissions Change Calculations for a project at new or Modified Facility Permit Application(s) Submission

- (a) The Emissions Change for a permit application(s) submission is the sum of all the positive Emissions Changes for each Emissions ~~Emission~~ Unit(s) which occur at in the Facility at the same time or in connection with the same permitting action. permit application

~~(2) Net Emissions Increase Calculations~~

- ~~(a) The Net Emissions Increase for a new or modified Emissions Unit(s) shall be calculated, in pounds per day, by subtracting Historic Actual Emissions (HAE) from Proposed Emissions (PE).~~

$$\text{Net Emissions Increase} = (\text{PE}) - (\text{HAE})$$

- ~~(b) The Net Emissions Increase for a new Facility is the sum of all the Potential Emissions from each Emissions Unit(s) at the Facility.~~
- ~~(c) The Net Emissions Increase for a project at a modified Facility is the sum of all the Net Emissions Increases for each Emissions Unit(s) minus any SERs as calculated and verified pursuant to Section (C) below which occur at the Facility at the same time or in connection with the same permitting actions~~ submission.

(C) Calculating Simultaneous Emissions Reductions: (SERs)

(1) SERs as defined in ~~District~~ Rule 1301(~~UUU~~) may result from ~~thea~~ Modified Facility, a Modification, or shutdown of ~~Existing~~ existing Emission Unit(s), so long as the resulting emission reductions are Federally Enforceable, Real, Surplus, Permanent, Quantifiable and Enforceable, ~~and are reductions in of the Emissions Unit(s).~~

(2) SERs resulting from ~~thea~~ Modified Facility, a Modification, or shutdown of existing Emission Unit(s) ~~within the same Facility~~ shall be calculated ~~as follows:~~

~~(a) For~~ by subtracting Historic Actual Emissions (HAE) from the Proposed Emissions (PE), where the ~~shutdown~~ PE of Emissions Unit(s);

$$\text{SER} = \text{HAE}$$

~~(b) For~~ Modifications or limitations on operations of Emission Unit(s);

$$\text{SER} = (\text{HAE}) - (\text{PE})$$

~~(c) For~~ a shutdown, Modifications or limitations on mobile, area or indirect sources of emissions; Emissions Unit is zero.

~~(i)~~ Any calculation formula and protocol as approved by SER = (PE) - (HAE)

~~(3) Where~~ the District, CARB and USEPA; and

~~(ii)~~ The SERs also comply with the applicable provisions of District Rule 1305(C)(3).

~~(d)~~ In the case of a Modified Major Facility, the HAE for a specific or Emission Unit(s) may be equal to the Potential to Emit for that Emission Unit(s), the particular Emissions Unit have been previously offset in a Offset, as documented in a prior permitting action ~~so long as:~~

~~(i)~~ The, the SERs resulting from the Modified Facility, Modification or shutdown of an existing Emission Unit(s), shall be calculated by subtracting Potential to Emit (PTE for the specific) from Proposed Emissions (PE), where the PE of a shutdown Emission Unit is zero, if the following conditions are also met:

~~(a)~~ The PTE for the Facility or Emission Unit(s) is specified in a Federally Enforceable legally and practicably Enforceable Emissions Limitation; and

~~(b)~~ ~~(ii)~~ The Emission Change resulting Emissions Change from a calculation using this provision is a decrease or not an increase in emissions from the Emissions Facility or Emission Unit(s); and

~~(c)~~ ~~(iii)~~ Any excess SERs generated from a calculation using this provision are not eligible for banking pursuant to the provision of District Regulation XIV Banking.

$$\text{SER} = (\text{PE}) - (\text{PTE})$$

- (4) SERs calculated pursuant to ~~subsection (C)(2) or (C)(3)~~ above, shall thereafter be Surplus adjusted to reflect emissions reductions which are otherwise required by Federal, State or District law, ~~rule~~Rule, order, permit or ~~regulation as follows:~~Regulation.
- (a) ~~SERs shall be adjusted to reflect only the excess reductions beyond those already achieved by, or achievable by, the Emissions Unit(s) using RACT.~~
  - (b) ~~SERs shall be adjusted to reflect only the excess reductions beyond those required by applicable Federal, State or District law, rule, order, permit or regulation.~~
  - (c) ~~SERs shall be adjusted to reflect only the excess reductions beyond those required by any applicable proposed District Rules and Regulations which have been taken to public workshop.~~
  - (d) ~~SERs shall be adjusted to reflect the excess reductions beyond those required by any control measures identified in the District's Air Quality Attainment Plan or contained in the State Implementation Plan of the District and which have not yet been implemented in the form of District Rules and/or Regulations.~~
- (45) SERs calculated pursuant to ~~subsection (C)(2) or (C)(3)~~ above, shall be considered Enforceable when the owner and/or operator of the ~~Emissions Units~~Emission Unit(s) involved has obtained appropriate permits and/or submitted other Enforceable documents as follows:
- (a) If the SERs are the result of a Modification or new limitation on the use of an existing ~~equipment and~~Emission Unit(s), when the owner and/or operator has been issued revised ATCs or PTOs containing Federally Enforceable conditions reflecting the Modification and/or new limitations.
  - (b) If the SERs are the result of a shutdown of ~~a Permit~~an Emission Unit(s), when the owner and/or operator has surrendered the relevant permits and those permits have been voided.
    - (i) The ~~specific Permit Units~~Emission Unit(s) for which the permits were surrendered shall not be ~~repermitted~~re-permitted within the District unless the ~~emissions thereof are completely~~PTE of the Emission Unit(s) is fully Offset ~~pursuant to the provisions of this regulation.~~
  - (c) If the SERs are the result of a Modification of ~~Emissions~~Emission Units(s) which did not have a District permit, when the owner and/or operator has obtained a valid District permit ~~or provided a contract, enforceable by the~~

~~District~~ which contains enforceable limitations on the ~~Emissions~~Emission Unit(s).

- (d) If the SERs are the result of the application of a more efficient control technology to ~~Emissions~~Emission Unit(s), ~~when~~ the owner and/or operator has ~~or obtains~~obtained a valid District ~~PTO~~permit for both the underlying ~~Emissions~~Emission Unit(s) and the new control technology.
- (56) SERs ~~as calculated above~~ may only be used for purposes of ~~calculating Net Emissions Increases determining the base quantity of Offsets required pursuant to subsection (B)(2) or as Offsets pursuant to District Rule 1305(C)(2B)~~.
- (67) Prior to use, SERs must be calculated and approved by the APCO.

~~(D) Calculation of Emission Reduction Credits (ERCs)~~

- ~~(1) ERCs as defined in District Rule 1301(X) may result from the Modification or shutdown of Existing Emissions Unit(s) so long as the resulting reductions are Federally Enforceable, Real, Surplus, Permanent, Quantifiable and Enforceable and are reductions in emissions of the Emissions Unit(s).~~
- ~~(2) ERCs resulting from the Modification or shutdown of existing Emissions Unit(s) shall be initially calculated as follows:~~
  - ~~(a) For the shutdown of an emissions unit;~~
$$\text{ERC} = \text{HAE}$$
  - ~~(b) For Modifications or limitations on operations of an Emission unit(s);~~
$$\text{ERC} = (\text{HAE}) - (\text{PE})$$
  - ~~(c) For Modifications or limitations on mobile, area or indirect sources of emissions;~~
    - ~~(i) For Nonattainment Air Pollutants, a SIP approved calculation method that represents actual emissions reductions from a USEPA approved emissions inventory~~
    - ~~(ii) For other Regulated Air Pollutants, any calculation formula and protocol as approved by the District, CARB and USEPA.~~
- ~~(3) Prior to Banking and issuance of the certificate, ERCs shall be adjusted to reflect emissions reductions which are not otherwise required by Federal, State or District law, rule, order, permit or regulation, as follows:~~
  - ~~(a) ERCs shall be adjusted to reflect only the excess reductions beyond those already achieved by, or achievable by, the emissions unit using RACT.~~

- ~~(b) — ERCs shall be adjusted to reflect only the excess reductions beyond those required by applicable District Rules and Regulations.~~
- ~~(c) — ERCs shall be adjusted to reflect only the excess reductions beyond those required by any applicable proposed District Rules and Regulations which have been taken to public workshop.~~
- ~~(d) — ERCs shall be adjusted to reflect the excess reductions beyond those required by any control measures identified in the District's AQAP or contained in the SIP for the District which have not yet been implemented in the form of District Rules and/or Regulations.~~

~~(4) — Readjustment of ERCs~~

- ~~(a) — ERCs shall be eligible for readjustment when:
  - ~~(i) — The original amount of ERCs as calculated were adjusted based upon a proposed Rule or Regulation, which was not identified in the District's AQAP or SIP and the District has subsequently determined that the Rule or Regulation will not be adopted by the District; or~~
  - ~~(ii) — The original amount of ERCs as calculated were adjusted based upon a control measure which was identified in the District's AQAP or SIP and the control measure has subsequently been removed from either or both documents and no District Rule or Regulation has been adopted for the control measure.~~~~
- ~~(b) — If an ERC is eligible for readjustment the APCO shall calculate the readjustment as if the ERC was being initially issued and thereafter reissue the ERC pursuant to the provisions found in District Rule 1309(E).~~

~~(5) — Discount of ERCs Generated from Military Bases~~

- ~~(a) — ERCs which are calculated from emission reductions created by a military base designated for closure or downward realignment shall be discounted five percent (5%) to improve air quality.~~

~~(E) — Calculation of Terms Used in Rule 1304~~

~~(1) — Proposed Emissions~~

- ~~(a) — For a new or Modified Facility or Emissions Unit(s), the Proposed Emissions shall be equal to the Potential to Emit defined by District Rule 1301(GGG) after modification or construction for that Facility or Emissions Unit(s) and as calculated pursuant to subsection (E)(3) below.~~

~~(2) — Historic Actual Emissions (HAE)~~

~~(a) HAE equal the Actual Emissions of Emissions Unit(s) including Fugitive Emissions directly related to those Emissions Unit(s) if the Facility belongs to one of the Facility categories as listed in 40 CFR 51.165(a)(1)(iv)(C), calculated in pounds per year, as follows:~~

~~(i) The verified Actual Emissions of an Emissions Unit(s), averaged from the 2 year period which immediately proceeds the date of application and which is representative of Facility operations; or~~

~~(ii) The verified Actual Emissions of an Emissions Unit(s), averaged for any 2 years of the 5 year period which immediately precedes the date of application which the APCO has determined is more representative of Facility operations than subsection (E)(2)(a)(i) above.~~

~~(iii) If the Emissions Unit(s) have been in operation for less than one year, the HAE shall be equal to zero.~~

~~(3) Potential to Emit~~

~~(a) The Potential to Emit for a Facility, for the purpose of this Rule, shall be calculated as follows:~~

~~(i) The sum of the Potentials to Emit for all existing Emission Unit(s) as defined pursuant to District Rule 1301(GGG); and~~

~~(ii) Any emissions increases from proposed new or Modified Emissions Unit(s) as calculated pursuant to subsection (B) above; and~~

~~(iii) Any Fugitive Emissions if the Facility belongs to one of the facility categories as listed in 40 CFR 51.165(a)(1)(iv)c.~~

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]



## RULE 1305

### State New Source Review Emissions Offsets

#### (A) General

##### (1) Purpose

- (a) This Rule provides the procedures to calculate the amount of, determine the eligibility of, and determine the use of Offsets required pursuant to the provisions of ~~District~~ Rule 1303(B).

#### ~~(B) Calculation of Amount of Offsets Necessary~~

#### (B) Offset Calculations

- (1) The base ~~amount~~quantity of ~~necessary~~ Offsets required shall be calculated based ~~upon~~on a specific pollutant basis for each State Nonattainment Air Pollutant and its Precursors, and whether the nature of the project is for a new or Modified Facility or Modification.
- (2) The APCO shall first ~~determine~~calculate the resulting Emission Change and SERs pursuant to Rule 1304, and the particular PTE for the Facility or Modification, and calculate the base quantity of Offsets required as follows:
- (a) For a new ~~Major~~ Facility, the base quantity of Offsets shall be equal to the total Proposed Emissions, ~~calculated pursuant to District Rule 1304(E)(1), for the Facility on a pollutant category specific basis for each Nonattainment Air Pollutant.~~
- (b) For a ~~Major Modification to an existing Major Facility~~ the base quantity of Offsets shall be equal to the sum of all Emission Changes and SERs for the Facility and all Emission Unit(s).
- (c) For a Modification to a previously existing non-major Facility located in a Federal Nonattainment Area for the specific Nonattainment Air Pollutant the base quantity of Offsets shall be equal to the total Proposed Emissions, pursuant to District Rule 1304(E)(1), for the Facility on a pollutant category specific basis.
- ~~(e) For a Major Modification to a previously existing non-major Facility located outside a Federal Nonattainment Area for the specific Nonattainment Air Pollutant the base quantity of Offsets shall be equal to~~

~~the amount of the Facility's Proposed Emissions which exceeds the threshold amounts as set forth in District Rule 1303(B) on a pollutant category specific basis for each Nonattainment Air Pollutant.~~

- ~~(d) For a Modification to a previously existing non-major Facility which subsequently results in the Facility becoming a Major Facility **located in a Federal Nonattainment Area** for the specific State Nonattainment Pollutant, the base quantity of Offsets shall be equal to the Facility's Proposed Emissions, pursuant to District Rule 1304(E)(1), for the Facility on a pollutant category specific basis for each Nonattainment Air Pollutant. Potential to Emit.~~
- ~~(e) For a Modification to a previously existing non-major Facility which subsequently results in the Facility becoming a Major Facility **located outside a Federal Nonattainment Area** for the specific Nonattainment Air Pollutant, the base quantity of Offsets shall be equal to the Facility's Proposed Emissions which exceeds the threshold amounts as set forth in District Rule 1303(B) on a pollutant category specific basis for each Nonattainment Air Pollutant.~~
- ~~(f) For a non-major Facility which becomes a Major Facility due to the relaxation of a Federal requirement or a Federally Enforceable requirement **located in a Federal Nonattainment Area** for the specific Nonattainment Pollutant, the base quantity of Offsets shall be equal to the total Proposed Emissions, pursuant to District Rule 1304(E)(1), for the Facility on a pollutant category specific basis for each Nonattainment Air Pollutant.~~
- ~~(g) For a non-major Facility which becomes a Major Facility due to the relaxation of a Federal requirement or a Federally Enforceable requirement **located outside a Federal Nonattainment Area** for the specific Nonattainment Air Pollutant, the base quantity of Offsets shall be equal to the Facility's Proposed Emissions which exceeds the threshold amounts as set forth in District Rule 1303(B) for the Facility on a pollutant category specific basis for each Nonattainment Air Pollutant.~~
- ~~(h) For a Modification to an existing Major Facility the base quantity of Offsets shall be the amount equal to the difference between the Facility's Proposed Emissions and the HAE.~~

~~(d)~~ Additional Requirements for Seasonal Sources

- (i) The base quantity of Offsets for new or Modified Seasonal Sources shall be determined on a quarterly basis.

(ii) Seasonal emissions used for Offsets shall generally occur during the same consecutive monthly period as the new or Modified Seasonal Source operates.

(~~je~~) Offset Adjustment for Various Energy Conservation Projects

(i) If the ~~faeility~~Facility qualifies as a cogeneration technology project, or is otherwise qualified as an energy conservation project pursuant to California Health and Safety Code §§39019.5, 39019.6, 39047.5 and 39050.5 the amount of ~~offsets~~Offsets shall be adjusted to the extent required by the applicable provisions of Health and Safety Code, including but not limited to California Health and Safety Code §§42314, 42314.1, 42314.5, 41601, and 41605.5.

~~(ii) In no case shall such offset adjustment result in an amount of offsets less than those required pursuant to Federal law.~~

(3) After determining the base quantity of Offsets, the APCO shall apply the appropriate Offset ratio and any ~~Adjustments~~adjustments as set forth in ~~section~~ (D) below, ~~dependent upon the location of the Offsets and the location of the proposed new or Modified Facility or Emissions Unit(s).~~

(4) If eligible interpollutant Offsets are being used, the APCO shall apply the appropriate ratio to determine the ~~final~~total amount of Offsets ~~necessary~~required.

(C) Eligibility of Offsets

(1) ERCs are eligible to be used as Offsets ~~when, if they meet the following requirements:~~

~~(a) Such~~The ERCs were issued pursuant to Rule 1309.

~~(b) The ERCs are Real, Surplus, Permanent, Quantifiable, and Enforceable; and have been calculated pursuant to District Rule 1304(E) and issued by the District pursuant to the provisions in District Rule 1309; and.~~

~~(c) The ERCs~~ are obtained from a Facility (or combination of Facilities) which ~~are~~is:

(i) Located within the same Federal Nonattainment, attainment or unclassified area as that where the Offsets are to be used; or

(ii) Located in an area with a Federal designation (in the case of attainment or unclassified areas) or classification (in the case of ~~nonattainment areas~~Nonattainment Areas) which is greater than or equal to the designation or classification of the area where the Offsets are to be used so long as the emissions from that area cause

or contribute to a violation of the Ambient Air Quality Standards in the area in which the Offsets are to be used.

~~(b)(2)~~ ERCs issued in another air District are eligible to be used as Offsets, if they meet the following requirements:

- (a) Such ERCs have been calculated and issued in another air ~~district~~District within the Air Basin under a program developed pursuant to California Health & Safety Code §§40700-40713 so long as the source of such credits is contained within the same ~~air basin~~Air Basin as the District and the use of the ERCs comply with the provisions of ~~subsection~~(C)(4) below; or
- (~~eb~~) Such ERCs have been calculated and issued in another air ~~district~~District outside the Air Basin under a program developed pursuant to California Health & Safety Code §§40709-40713 and the transfer of such credits ~~complies~~comply with the requirements of California Health & Safety Code §40709.6 and the use of the ERCs comply with the provisions of ~~section~~(C)(5) below.

~~(2)~~ SERs are eligible for use as Offsets when:

- ~~(a)~~ They have been calculated, adjusted and meet all the requirements of District Rule 1304(C).
- ~~(b)~~ In no case shall any excess SERs be eligible for Banking pursuant to the provisions of District Rule 1309.

(3) Mobile, Area and Indirect Source Emissions Reductions

- (a) Mobile Source ERCs are eligible to be used as Offsets when:
  - (i) Such Mobile, Area, or Indirect Source ERCs have been calculated and banked pursuant to the provisions of ~~District~~Regulation XVII and ~~District~~ Rule 1309; and
  - (ii) The applicant demonstrates sufficient control over the Mobile Area or Indirect Sources to ensure the claimed reductions are Real, Surplus, Permanent, Quantifiable and Enforceable; and
  - (iii) For Mobile Sources, such Mobile Source ERCs are consistent with Mobile Source emissions reduction guidelines issued by CARB; and
  - (iv) The specific Mobile, Area, or Indirect Source ERCs are approved for use prior to the issuance of the NSR document and the issuance of any ATCs by the APCO in concurrence with CARB; and
  - ~~(v)~~ For a new or Modified Major Facility or a Major Modification which is located in a Federal Nonattainment Area the specific

~~Mobile, Area, or Indirect Source ERCs are calculated and adjusted pursuant to a SIP-approved calculation method and represent Actual Emissions Reductions from a USEPA-approved emissions inventory; and~~

~~(v)~~ Such Mobile, Area, or Indirect Source ERCs comply with the applicable provisions of ~~section~~(C)(1) above.

(4) ERCs Obtained from Other Air Districts and Within the Air Basin

(a) ERCs occurring within the air basin but outside the District are eligible to be used as Offsets upon approval of the APCO as follows:

- (i) For a new or Modified ~~Major~~ Facility or a ~~Major~~ Modification ~~which is located in a Federal Nonattainment Area,~~ the APCO's approval shall be made in consultation with CARB ~~and the USEPA,~~ on a case-by-case basis; and
- (ii) For all other Facilities or Modifications subject to this provision the APCO's approval shall be made in consultation with CARB on a case-by-case basis; and
- (iii) The ERCs are obtained in a ~~nonattainment area~~Nonattainment Area which has a greater or equal nonattainment classification than the area where the Offsets are to be used; and
- ~~(iv)~~ The emissions from the other ~~nonattainment area~~Nonattainment Area contribute to a violation of the Ambient Air Quality Standards in the area where the Offsets are to be used.

(b) Such ~~emissions reductions~~ERCs shall also comply with the applicable requirements of ~~subsection~~(C)(1) above.

(5) ~~Offsets~~ERCs from Other Air Districts and Outside the Air Basin

(a) ERCs from outside the air basin are eligible to be used as Offsets upon approval of the APCO as follows:

- (i) For a new or Modified ~~Major~~ Facility or a ~~Major~~ Modification, ~~which is located in a Federal Nonattainment Area subject to this provision,~~ the APCO's approval shall be made in consultation with CARB ~~and the USEPA,~~ on a case-by-case basis; and
- (ii) ~~For all other Facilities or Modifications subject to this provision the APCO's approval shall be made in consultation with CARB on a case-by-case basis; and~~
- ~~(iii)~~ The ERCs are obtained in a ~~nonattainment area~~Nonattainment Area which has a greater or equal nonattainment classification than the area where the Offsets are to be used; and
- ~~(iv)~~ The emissions from the other ~~nonattainment area contribute to a violation of the Ambient Air Quality Standards in the area where~~

~~the Offsets are to be used. Nonattainment Area overwhelmingly impacts the District's air quality.~~

(b) Such ~~emissions reductions~~ERCs shall comply with the applicable requirements of ~~subsection~~(C)(1) above.

(6) Interpollutant Offsets

(a) Emissions reductions of one type of Air Pollutant may be used as Offsets for another type of Air Pollutant upon approval of the APCO: as follows:

(i) For a new or Modified ~~Major~~ Facility or a ~~Major~~ Modification ~~which is located in a Federal Nonattainment Area,~~ the APCO's approval shall be made in consultation with CARB ~~and with the approval of USEPA~~ pursuant to the provisions of ~~District~~ Rule 1302(D)(2), on a case-by-case basis, as long as the provisions of ~~subsection~~(C)(6)(b) below are met.

(ii) For all other Facilities or Modifications subject to this provision the APCO's approval shall be made in consultation with CARB on a case-by-case basis.

(b) In approving the use of interpollutant ~~offsets~~Offsets the APCO shall determine that:

(i) The trade is technically justified; and

(ii) The applicant has demonstrated, to the satisfaction of the APCO, that the combined effect of the Offsets and emissions increases from the new or Modified Facility will not cause or contribute to a violation of an Ambient Air Quality Standard; ~~and~~

(iii) PM<sub>10</sub> emissions are not used to Offset nitrogen oxide or reactive organic compound emissions within any ozone Nonattainment Areas.

(c) The APCO shall, based upon an air quality analysis, determine the ~~amount~~quantity of Offsets necessary, as appropriate.

~~(d) Interpollutant trades between PM<sub>10</sub> and PM<sub>10</sub> precursors may be allowed on a case by case basis. PM<sub>10</sub> emissions shall not be allowed to Offset Nitrogen Oxides or Volatile Organic Compounds emissions within any ozone nonattainment area.~~

~~(e)(d)~~ Such ERCs comply with the applicable provisions of ~~subsection~~(C)(1) above.

(D) Offset Ratio ~~and Adjustment~~

(1) Offsets for ~~Net Emissions Increases of State~~ Nonattainment Air Pollutants shall be provided on a specific pollutant ~~category specific~~ basis, calculated as provided in

~~section~~ (B) above, and multiplied by the appropriate Offset ratio listed in the following table:

TABLE OF OFFSET RATIOS

<u>POLLUTANT</u>	<u>OFFSET RATIO</u> <del>(Within a Federal for</del> Ozone <del>Nonattainment Area) Precursors</del>	<u>OFFSET RATIO</u> <del>(Within a Federal for</del> PM <sub>10</sub> <del>Nonattainment Area) and</del> <u>PM<sub>10</sub> Precursors</u>
PM <sub>10</sub>	<del>1.0 to 1.0--</del>	1.0 to 1.0
Oxides of Nitrogen (NO <sub>x</sub> )	1.3 to 1.0	1.0 to 1.0
Oxides of Sulfur (SO <sub>x</sub> )	<del>1.0 to 1.0--</del>	1.0 to 1.0
Volatile Organic Compounds (VOC)	1.3 to 1.0	1.0 to 1.0

- ~~(2) If a Facility is located within more than one Federal nonattainment area, the largest applicable Offset ratio for each Nonattainment Air Pollutant shall apply.~~
- ~~(3)~~ (2) The ratio for Offsets obtained from outside the District for any Nonattainment Air Pollutant shall be equal to the ~~offset~~ Offset ratio which would have applied had such Offsets been obtained within the District.
- ~~(4) The APCO shall Adjust any Offsets proposed to be used to reflect any emissions reductions in excess of RACT in effect at the time such Offsets are used if such reductions have not already been reflected in the calculations required pursuant to District Rules 1304(C)(2).~~

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans> \_\_\_\_\_]

## RULE 1309

### Emission Reduction Credit Banking

#### (A) General

##### (1) Purpose

- ~~(a) — The purpose of this Rule is to (a) —~~ To implement those provisions of Division 26, Part 3, Chapter 6 (commencing with §40700) of the California Health & Safety Code which require the establishment of a system by which all reductions in the emission of ~~air contaminants~~Air Contaminants (which are to be used to ~~offset~~Offset certain future increases in emissions) shall be ~~banked~~Banked, prior to use, to ~~offset~~Offset future increases in emissions.
- (b) This Rule is not intended to recognize any preexisting right to emit ~~air contaminants~~Air Contaminants, but to provide a mechanism for the District to recognize the existence of reductions of ~~air contaminants~~Air Contaminants that can be used as Offsets, and to provide greater certainty that such Offsets shall be available for emitting industries.

##### (2) Applicability

- (a) This Rule shall apply to the creation, and Banking of all Emission Reduction Credits (ERCs) within the District.
- (b) Any Person, including the District, may Bank, own, use, sell or otherwise transfer, either in whole or in part, ERCs which are created and owned pursuant to this ~~regulation~~Rule subject to the applicable requirements of Federal, State, or District law, ~~rule~~Rule, order, permit or ~~regulation~~Regulation.

##### (3) Prohibitions

- (a) No reduction in the emission of Regulated Air Pollutants may be used as Offsets for future increases in the emission of Regulated Air Pollutants unless such reductions have been Banked pursuant to this Rule.
- ~~(i) — Notwithstanding the above SERs created in the same permitting action and within the same Facility are not required to be Banked so long as such reductions satisfy all the applicable criteria contained in District Rules 1304(C) and 1305.~~



## (B) Emission Reduction Credit Registry

### (1) Establishment of Emission Reduction Credit Registry:

(a) An Emission Reduction Credit Registry is hereby established for the District.

(i) This shall be known as the Antelope Valley Air Quality Management District Emission Reduction Credit Registry (AVAQMD ERC Registry).

(b) The AVAQMD ERC Registry shall consist of the following:

(i) ERCs created and issued after July 1, 1997, which have met all the following requirements:

- a. A timely and complete application for ERCs has been received pursuant to ~~subsection (C)(1)~~ below; and
- b. The amount of ERCs ~~have been~~ were calculated pursuant to the provisions of ~~District~~ Rule 1304 ~~and approved by the APCO(D), as it existed prior to (insert date of adoption), or calculated~~ pursuant to ~~subsection (C)(3)(D)~~ below; and, on or after (insert date of adoption); and
- c. The amount; and ownership ~~and expiration date if any~~ of the ERCs has been entered into the Registry; and
- d. A Certificate evidencing the amount, type and class of ERCs has been properly issued; and
- e. The ERCs have not yet been used as Offsets ~~or expired~~.

(ii) ERCs ~~banked~~ Banked prior to July 1, 1997, under the applicable Rules of the South Coast Air Quality Management District (SCAQMD) and which meet the following requirements:

- a. The ERCs have been properly transferred to the AVAQMD ERC Registry pursuant to ~~subsection (E)(4)~~ below; and
- b. The ERCs have not yet been used as Offsets ~~or expired~~.

(c) ERCs contained in the AVAQMD ERC Registry are Permanent until:

- (i) They are used by the owner; or
- (ii) They are used by any ~~person~~ Person to whom the ERC has been transferred; ~~or to~~.
- ~~(iii) They expire.~~

- (d) Subsequent changes in District Rules or Regulations to require a type of emission reduction which has previously been Banked pursuant to this Rule, shall not reduce or eliminate an ERC generated from that type of emission reduction if the ERC is used to satisfy the Offset requirements of Rule 1303(B). This provision does not apply to any ERC used as an Offset to satisfy the requirements of Rule 1314.
- (e) Emission reductions are eligible to become ERCs if such reductions are Real, Surplus, Permanent, Quantifiable, and Federally Enforceable; and are calculated and adjusted pursuant to the applicable provisions of District Rule 1304(D) below, and:
- (i) The ~~emission~~emission reduction is the result of a Modification or limitation of use of an existing ~~Emissions~~Emission Unit(s) such that after the reduction is made the ~~Emissions~~Emission Unit(s) remains in service with an authority~~Authority~~ to ~~construct~~Construct or ~~permit~~Permit to ~~operate~~Operate pursuant to Regulation II; or
  - (ii) The emission reduction is the result of a ~~shutdown~~Shutdown of an Emission Unit(s) and there will ~~likely~~ be no replacement Emission Unit(s) at the same Facility ~~unless the emissions from any. If a~~ replacement Emission Unit(s) is installed, the emissions from such unit must be completely ~~offset~~Offset under the provisions of this Regulation.
- (2) Contents of Registry:
- (a) All ERCs contained in the AVAQMD ERC Registry shall be individually listed.
  - (b) The registry entry for each ERC shall contain the following information:
    - (i) The name, address, and telephone number of the owner(s) of the ERC; and
    - (ii) The amount and pollutant of the ~~approved~~ ERC on a pollutant ~~by~~ pollutant basis; and
    - ~~(iii) The expiration date of the approved ERC, if any;~~
    - ~~(iv)~~(iii) Any information regarding liens, encumbrances and other changes of record.
  - (c) The registry shall contain an entry for each ERC until such ERC is used, ~~expires~~ or is otherwise altered by operation of law.
- (3) ERC Certificate:

- (a) All ERCs issued pursuant to this ~~regulation~~Regulation shall be evidenced by ~~aan~~ERC Certificate issued by the District and signed by the APCO.
  - (b) The ERC Certificate shall contain the same information ~~as that~~ is contained in the registry entry for the issued ERC pursuant to ~~subsection~~(B)(2)(b) above.
  - (c) The APCO shall ~~prescribespecify~~ the form of the ERC Certificate.  
*[changed for ease of reading]*
  - (d) ERC Certificates shall not constitute instruments, securities or any other form of property.
- (4) Ownership of ERCs:
- (a) Initial title to ~~approved~~ERCs shall be held by the owner(s) of the ~~Emissions~~Emission Unit(s) which produced the reduction in Regulated Air Pollutants, in the same manner as such owner(s) hold title to the ~~facility~~Facility in which the ~~Emissions~~Emission Unit(s) is located.
  - (b) Title for any ~~approved~~ERC which has been transferred, in whole or in part, by written conveyance or operation of law from one ~~person~~Person to another shall be held by the owner(s) in the manner indicated in the written conveyance or as indicated by the operation of law.
  - (c) The owner(s) of an ERC as listed in the registry and on the ERC Certificate shall have the exclusive right to use such ERCs and/or to authorize such use.

## (C) Issuance of Emission Reduction Credits

- (1) Applications for ERCs:
- (a) ERCs shall be applied for, in writing, by the owner or operator of the ~~Emissions~~Emission Unit(s) from which the emission reduction has occurred or will occur, to the APCO.
  - (b) Applications for ERCs shall be clearly identified as such and shall contain the following:
    - (i) The name, address, and telephone number of the owner(s) of the ~~Emissions~~Emission Unit(s) and a contact ~~person~~Person if necessary; ~~and~~
    - (ii) Information sufficient to identify the source and/or causation of the emission reductions; ~~and~~

- (iii) Information sufficient to allow the calculations set forth in ~~District Rule 1304~~Rule 1309(D) below to be performed.
- (c) No application for ERCs will be processed until the applicable fees as specified in ~~District~~ Rule 301 have been paid.
- (d) Applications for ERCs shall be submitted in a timely manner determined as follows:
  - (i) For emission reductions which occurred after July 1, 1997, an application for ERCs shall be submitted within 6 months after any of the following:
    - a. District issuance of an ATC; or
    - b. District issuance of a ~~modified~~Modified PTO; or
    - c. District cancellation of a previously existing ATC or PTO; or
    - d. ~~for emissions units~~For Emission Unit(s) not subject to permitting requirements, the completion of the Modification or ~~shutdown~~Shutdown and execution of the document(s) required by ~~subsection (D)(E)(3)(c-)~~ below.
  - (ii) Notwithstanding ~~subsection~~ (C)(1)(d)(i) above, a timely application for a Military Base subject to closure or realignment shall be determined pursuant to the provisions of California Health & Safety Code §40709.7.
- (e) Applications for ERCs may be withdrawn at any time by the applicant.
  - (i) An applicant who withdraws an application may be entitled to a partial refund of fees as set forth in ~~District~~ Rule 301.
  - (ii) A withdrawn application for ERCs does not preclude an applicant from later submitting an application for ERCs based upon the same ~~emission~~emission reductions as those contained in the withdrawn application as long as such resubmitted application is timely in accordance with ~~subsection~~ (C)(1)(d) above.
- (f) Information contained in an application for ERCs shall be considered confidential when:
  - (i) The information is a trade secret or otherwise confidential pursuant to California Government Code §6254.7; or
  - (ii) The information is entitled to confidentiality pursuant to 18 U.S.C. §1905; and
  - (iii) The information is clearly marked or otherwise identified by the applicant as confidential.

- (2) Determination of Completeness:
- (a) The APCO shall determine if the application is complete no later than 30 days after the receipt of the application, or after such longer time as both the applicant and the APCO may agree upon in writing.
    - (i) An application is complete when it contains the information required by ~~subsection~~(C)(1)(~~d~~) above.
  - (b) Upon making this determination, the APCO shall notify the applicant, in writing, that the application has been determined to be complete or incomplete.
  - (c) If the application is determined to be incomplete:
    - (i) The notification shall specify which part of the application is incomplete and how it can be made complete; ~~and,~~
    - (ii) The applicant for ~~ERC~~ERCs shall have 30 days to submit the additional information, unless another time period is specified by the APCO in writing.
    - (iii) The applicant for an ~~ERC~~ERCs may request in writing, and the APCO may grant for good cause shown, extension(s) of time for submission of the additional information. ~~Such request and any extension(s) granted shall be in writing.~~
    - (iv) If the applicant does not submit the additional information in writing within the time period specified or extended in writing by the APCO the application shall be deemed withdrawn by the applicant.
    - (v) The APCO shall thereafter notify the applicant in writing that the application has been deemed withdrawn pursuant to this subsection.
  - (d) A determination of incompleteness which results in an application being deemed withdrawn may be appealed to the Hearing Board pursuant to ~~section~~(G) below.
- (3) ~~Calculation of ERCs:~~
- ~~(a) Calculation of the ERCs shall be performed pursuant to the provisions of District Rule 1304(D).~~
- ~~(4) Proposed ERCs:~~
- (a) Within 30 days after the application for ERCs has been determined to be complete, or after such longer time as both the applicant and the APCO

may agree upon in writing, the APCO shall determine, in compliance with the standards set forth in ~~section (D)(E)~~ below, to issue or deny the ERCs.

- (b) The APCO shall notify the applicant in writing of the determination.
  - (i) If the determination is to issue the ERCs, then the notification shall include the amount and type of the ERCs proposed to be issued; or
  - (ii) If the determination is to deny the ERCs, then the notice shall include an explanation of the reason for the denial.
- (c) After the APCO has determined to issue the ERCs, the information submitted by the applicant, the analysis, and determination, shall ~~transmit~~be transmitted to CARB and the USEPA regional office within 10 days or no later than the date of publication of the notice of the preliminary determination, if the amount of the ERCs proposed to be granted are greater than, or equal to, any of the following amounts:

<u>Pollutant</u>	<u>ERC Notification to CARB/USEPA Threshold</u>
NO <sub>x</sub>	<del>14,600</del> <u>10,950</u> lbs/yr <b>or</b> <del>4030</del> lbs/day
SO <sub>x</sub>	21,900 lbs/yr <b>or</b> 60 lbs/day
<del>ROCVOC</del>	10,950 lbs/yr <b>or</b> 30 lbs/day
PM <sub>10</sub>	10,950 lbs/yr <b>or</b> 30 lbs/day
CO	80,300 lbs/yr <b>or</b> 220 lbs/day
H <sub>2</sub> S	20,000 lbs/yr <b>or</b> 54 lbs/day
Pb	1,200 lbs/yr <b>or</b> 3 lbs/day

~~(54)~~ Public Notice and Comment:

- (a) After the APCO has determined to issue ERCs, the APCO shall:
  - (i) Produce a public notice containing all the information contained in ~~subsection (C)(5)(e4)(b)~~ below; and
  - (ii) Publish the notice by posting on the District’s website; and
  - (iii) Send a copy of the notice to all ~~persons~~Persons who are included on a list of ~~persons~~Persons requesting notice, on file with the District;
  - (iv) Provide notice by other reasonable means, if such notice is necessary to ~~assure~~ensure fair and adequate notice to the public.

- (b) The public notice shall ~~provide~~contain the following:
  - (i) The name and address of the applicant and the ~~facility~~Facility generating the ~~emission~~emission reductions, if different; and
  - (ii) The amount of ERCs proposed to be issued on a pollutant ~~by~~ pollutant basis; and
  - (iii) A statement indicating the availability of documents and a location where the public may obtain or inspect the decision and supporting documentation including, but not limited to, the name, address and telephone number of a ~~person~~Person from whom additional information may be obtained; and
  - ~~(iv)~~ A statement providing at least a 30 ~~days~~day period from the date of publication of the notice in which interested ~~persons~~Persons may submit written comments to the District regarding the proposed issuance of the ERCs; and
  - (v) A brief description of the comment procedures and deadlines; and
  - (vi) Information regarding obtaining review of the decision made pursuant to ~~section (G) below; and~~(C)(3)(a) above.
- (c) The APCO shall accept and consider all germanerelevant and ~~nonfrivoloussubstantive~~ comments which are received during the comment period. *[changed for ease of understanding]*
- (d) The APCO shall include all accepted comments with the records regarding the issuance of the ERCs and shall retain such records for a period of at least 5 years.

~~(65)~~ Issuance of ERCs:

- (a) Upon the expiration of the public comment period; after review of comments accepted, if any; and upon payment of the appropriate fee, if any, the APCO shall issue the ERCs by including the appropriate information in the registry and issuing an ERC Certificate.
- (b) The APCO shall provide written notice of the final action to the applicant ~~and to,~~ CARB and USEPA if the preliminary determination was sent to such agencies pursuant to ~~subsection (C)(43)(c)~~ above.

(D) ~~Standards for Granting ERCs~~ERC Calculation Requirements

- (1) ERCs ~~shall be~~may result from the Modification, limitation or Shutdown of an existing Emission Unit(s) so long as the resulting reductions are Real, Surplus, Permanent, Quantifiable; and Federally Enforceable.

(2) ERCs resulting from the Modification, limitation or Shutdown of an existing Emission Unit(s) shall be initially calculated as follows:

(a) For the Shutdown of an Emission Unit(s)

$$\text{ERC} = \text{HAE}$$

(b) For Modifications or limitations on operations of an Emission Unit(s)

$$\text{ERC} = (\text{HAE}) - (\text{PE})$$

J

(c) For Modifications or limitations on mobile, area or indirect sources of emissions;

(i) For Nonattainment Air Pollutants, a SIP approved calculation method that represents Actual Emission reductions from a USEPA approved attainment plan base year emission inventory.

(ii) For other Regulated Air Pollutants, any calculation formula and protocol as approved by the District, CARB and USEPA.

(3) ERC Adjustments

(a) Prior to Banking and issuance of the ERC Certificate, the ERCs shall be adjusted to ensure the emission reductions are Surplus.

(4) Readjustment of ERCs

(a) ERCs shall be eligible for Readjustment when:

(i) The original amount of ERCs as calculated were adjusted based upon a proposed Rule or Regulation, which was not identified in the District's AQAP or SIP, and the District has subsequently determined that the Rule or Regulation will not be adopted by the District; or

(ii) The original amount of ERCs as calculated were adjusted based upon a control measure which was identified in the District's AQAP or SIP and the control measure has subsequently been removed from either or both documents, and no District Rule or Regulation has been adopted for the control measure.

(b) If an ERC is eligible for Readjustment the APCO shall calculate the Readjustment as if the ERC was being initially issued, and thereafter reissue the ERC pursuant to the provisions found in (C) above.



(5) Redeposit of ERCs

(a) If an Emission Unit(s) is fully Offset using Banked ERCs and the Emission Unit(s) is not constructed and the Authority to Construct is surrendered, the ERCs used may be redeposited into the District ERC Registry. A new ERC Certificate will be issued for the redeposited ERCs.

(6) Discount of ERCs Generated from Military Bases

(a) ERCs which are calculated from emission reductions created by a military base designated for closure or downward realignment shall be discounted five percent (5%) to improve air quality.

(E) Standards for Granting ERCs

(1) ERCs shall be Real, Surplus, Permanent, Quantifiable, and Federally Enforceable.

(2) ERCs shall only be granted for ~~emission~~emission reductions which are not otherwise required by Federal, State or District law, rule, order, permit or requirement.

(3) ERCs shall only be granted if the applicable changes to the appropriate permits have occurred or other ~~enforceable~~Enforceable documents have been submitted as follows:

(a) If the proposed ERCs are the result of a Modification or limitation of use of ~~an existing Permit Unit(s);~~ and the owner and/or operator has been issued revised ATCs or PTOs containing Federally Enforceable conditions reflecting the Modification and/or limitations has been issued.

(b) If the proposed ERCs are the result of a ~~shutdown~~Shutdown of ~~a~~ Permit Unit(s); and the owner and/or operator has surrendered the relevant permits and those permits have been ~~voided~~made inactive.

(i) The specific Permit Unit(s) for which the permits were surrendered shall not be ~~repermitted~~re-permitted within the District, unless the emissions thereof are completely ~~offset~~Offset pursuant to the provisions of this Regulation.

(c) If the proposed ERCs are the result of a ~~modification~~Modification of ~~an~~ Emission Unit(s) which did not have a District permit; and the owner and/or operator has obtained a valid District permit ~~or provided a contract enforceable by the District Federally Enforceable limitations on the Emissions Unit(s).~~

- (d) If the proposed ERCs are the result of the application of a more efficient control technology to Emission Unit(s); and the owner and/or operator has or obtains a valid District PTO for both the underlying ~~Emissions~~Emission Unit(s) and the new control technology which contains Federally Enforceable limitations reflecting the reduced emissions.
- (4) If the proposed ERC originates from a previously unpermitted Emission Unit(s), no ERCs may be granted unless the ~~historical emissions~~Historic Actual Emissions from that ~~unit~~Emission Unit(s) are included in the District's emissions inventory.

~~(EF)~~ Transfer, Encumbrance, and Readjustment of ERCs

- (1) ERCs may be transferred in whole or in part by written conveyance or by operation of law from one ~~person~~Person to another in accordance with the provisions contained in this section.
- (2) Voluntary Transfer of Ownership:
  - (a) A voluntary transfer of ownership in whole or in part shall be performed according to the following procedure:
    - (i) The owner(s) of the ERC may file a request for transfer of ownership with the APCO. -Such request shall include:
      - a. Information regarding the new owner of the ERC sufficient for entry ~~into~~ the registry; and
      - b. An executed copy of the instrument transferring the ERC or a memorandum describing the transaction which transfers the ERC, which is signed by all parties to the transaction; and
      - c. The purchase price, if any, of the ERCs in terms of total cost on a pollutant--by--pollutant purchased basis.
    - ~~d.(b)~~ The existing ERC Certificate(s) for the ERCs to be transferred;:
    - ~~(ii)~~ Upon payment of the appropriate fee as set forth in ~~District~~ Rule 301, the APCO shall cancel the existing ERC Certificate(s) and issue new certificate(s) in the name of the new owner and indicate the transfer in the Registry.
- (3) Involuntary Transfer of Ownership
  - (a) An involuntary transfer of ERCs shall be performed pursuant to the following procedure:

- (i) The transferee shall file with the District a certified copy of the document effecting the transfer. ~~The transferee shall certify that the document represents a transfer which is final for all purposes.~~
  - (ii) Upon payment of the appropriate fee as set forth in ~~District~~ Rule 301, the APCO shall demand the original ERC Certificate from the original owner.
    - a. Upon the surrender of the existing ERC Certificate to the District or after 90 days (whichever comes first), the existing ERC Certificate shall be considered cancelled, and the APCO shall issue a new ERC Certificate and indicate the involuntary nature of the transfer in the registry.
  - (iii) The APCO shall thereafter not allow the use or subsequent transfer of the ERC by the original owner.
  
- (4) ~~Transfer of ERCs Banked Prior to July 1, 1997:~~
  - (a) ERCs which were created within the area which is now under the jurisdiction of the District and which were properly ~~banked~~Banked prior to July 1, 1997 pursuant to the applicable ~~rules~~Rules of the SCAQMD may be transferred to the AVAQMD ERC Registry according to the following procedure:
    - (i) The owner of the ERCs shall submit a request to include the ERCs in the AVAQMD ERC Registry by:
      - a. Requesting such inclusion in writing; and
      - b. Surrendering the ERC certificate~~(s)~~ or other evidence of the ERCs obtained from the SCAQMD.
    - (ii) Upon receipt of the request and documentation the APCO shall:
      - a. Notify the SCAQMD in writing of the request, the intent to include such ERCs in the AVAQMD ERC Registry, and request that the SCAQMD remove such ERCs from its ~~bank~~Registry.
      - b. The APCO shall, at the request of the SCAQMD, submit the original certificate and/or documentation which was surrendered to effectuate such removal.
      - c. Within 90 days of such notification, upon the submission of the original certificate and/or documentation or upon receipt of notification from the SCAQMD that such ERCs have been removed from its ~~bank~~Registry, whichever occurs earlier, the APCO shall issue a new certificate(s) in the name of the owner and include the ERCs in the Registry.

(b) ERCs which were created ~~which were~~and properly ~~banked~~Banked prior to July 1, 1997, pursuant to the applicable rules of the SCAQMD and which are owned by an owner/operator located within the jurisdiction of the District, may be transferred to the AVAQMD ERC Registry according to the following procedure:

- (i) The owner of the ERCs shall submit a request to include the ERCs in the AVAQMD ERC Registry by:
  - a. Requesting such inclusion in writing; and
  - b. Surrendering the ERC certificate(s) or other evidence of the ERCs obtained from the SCAQMD; ~~and~~
  - c. Paying the applicable fee contained in ~~District~~ Rule 301.
- (ii) Upon receipt of the request and documentation the APCO shall:
  - a. Notify the SCAQMD in writing of the request, the intent to include such ERCs in the AVAQMD ERC Registry, and request that the SCAQMD remove such ERCs from its ~~bank~~Registry.
  - b. The APCO shall, at the request of the SCAQMD, submit the original certificate and/or documentation which was surrendered to effectuate such removal.
  - c. Within 90 days of such notification, upon the submission of the original certificate and/or documentation or upon receipt of notification from the SCAQMD that such ERCs have been removed from its ~~bank~~Registry, whichever occurs earlier, the APCO shall issue a new certificate(s) in the name of the owner and include the ERCs in the Registry.
  - d. ERCs transferred pursuant to this subsection shall meet all requirements of California Health and Safety Code 40709.6 ~~either at the time of the transfer or upon use.~~

(c) ERCs once transferred to the AVAQMD Registry pursuant to this subsection may not thereafter be utilized within the SCAQMD.

~~(45)~~ Other Encumbrances of ERCs

- (a) Other encumbrances may be placed upon ERCs according to the following procedure:
  - (i) The holder of the encumbrance shall file with the District a certified copy of the final document creating the encumbrance.
  - (ii) Upon payment of the appropriate transfer fee as set forth in ~~District~~ Rule 301, the APCO shall indicate the encumbrance in the Registry.

- (b) Thereafter the APCO shall not allow the use or subsequent transfer of the ERC by the owner without receipt of a certified copy of the satisfaction of the encumbrance or by the removal of the ~~incumbrance~~encumbrance by ~~the~~the holder of the encumbrance.

~~(56)~~ Readjustments of ERCs

- (a) Readjustment of ERCs shall be processed as follows:
- (i) The owner of the ERC shall file an application to adjust the ERC.
  - (ii) The APCO shall determine if the adjustment of the ERC is warranted and the amount of such adjustment pursuant to the provisions of ~~District Rule 1304(D)(4);~~ above.
  - ~~(iii)~~ The application will be subject to public notice pursuant to (C)(4) above.
  - (iii) After review, the APCO ~~has determined~~will require the ~~amount of the adjustment, upon~~ surrender of the prior ERC Certificate; the APCO shall issue an adjusted ERC Certificate to the owner.

~~(67)~~ Transfer

- (a) Any transfer of an ERC shall not modify or otherwise alter the requirements contained in a permit ~~or contract~~ which render the ERC Real, Surplus, Permanent, Quantifiable, and Federally Enforceable.

~~(78)~~ Conflicting Interest

- (a) Notwithstanding any other provision of law, conflicting interests in ERCs shall rank in priority according to the time of filing with the District.

~~(F)~~ Utilization of ERCs

- ~~(1)~~ Unexpired ERCs may be used as Offsets in accordance with the provisions of Rule 1305.

(G) Appeal of the Incompleteness, Granting or Denial of ERCs

- (1) If an application for ERCs is deemed withdrawn ~~pursuant to subsection (C)(2)(e)(iv), granted or denied,~~ the applicant or aggrieved Person may; petition the Hearing Board within 30 days of the date that the application is deemed withdrawn, ~~petition the District Hearing Board for a hearing~~granted or denied, on whether the ~~application as submitted~~action was ~~incomplete~~appropriate.

- ~~(2) — An applicant for ERCs may, within 30 days after receipt of the notice of denial of ERCs, petition the District Hearing Board for a hearing on whether the application for ERCs was properly denied.~~
- ~~(3) — Any person who has requested notice or any aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in the ERC action may, within 30 days after the APCO's decision, the mailing of the notice pursuant to subsection (C)(5)(a)(ii), or the publication of the notice pursuant to subsection (C)(5)(a)(i) whichever is applicable, petition the District Hearing Board for a hearing on whether the ERCs were properly issued.~~
- ~~(3)(2)~~ The procedural provisions applicable to such a hearing shall be the same as those used for hearings regarding the denial of a permit application pursuant to California Health & Safety Code §§42302 and or 42302.1 as applicable.

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]

# Rule 1314

## Federal Nonattainment New Source Review For Ozone Precursors

### (A) Purpose

- (1) The purpose of this Rule is to set forth additional requirements and procedures for satisfying Federal New Source Review (NSR) requirements for Federal Major Stationary Sources emitting Ozone Precursors.

### (B) Applicability

- (1) This Rule shall apply to all new or Modified Facilities that propose a Project that will result in a:
  - (a) Federal Major Modification, or
  - (b) New Federal Major Stationary Source.
- (2) At such time that a particular source or Modification becomes a Federal Major Stationary Source or Federal Major Modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or Modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this rule shall apply to the source or Modification as though construction had not yet commenced on the source or Modification.

### (C) Definitions

Notwithstanding any other definitions provided in Rules 1301 or 102, the following definitions shall apply and take precedence:

- (1) **Actual Emissions** - The actual rate of emissions of a Regulated Air Pollutant from an Emission Unit(s), as determined in accordance with paragraphs (a) and (b) of this section, except that this definition shall not apply for calculating whether a Significant Emissions Increase has occurred. Instead, the definitions found in Sections (C)(2) and (C)(11) shall apply for those purposes.
  - (a) In general, Actual Emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The APCO shall allow the use of a different time period upon a determination that it is

more representative of normal source operation. Actual Emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

- (b) For any Emission Unit(s) that has not begun normal operations on the particular date, Actual Emissions shall equal the Potential to Emit of the unit on that date.

(2) **Baseline Actual Emissions** - means the rate of emissions, in tons per year, of a Regulated Air Pollutant, as determined in accordance with sections (a) through (c) of this definition.

- (a) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The APCO shall allow the use of a different time period upon a determination that it is more representative of normal source operation.
  - (i) The average rate shall include Fugitive Emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
  - (ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
  - (iii) For a Regulated Air Pollutant, when a Project involves multiple emissions units, only one consecutive 24-month period must be used to determine the Baseline Actual Emissions for the Emission Unit(s) being changed. A different consecutive 24-month period can be used for each Regulated Air Pollutant.
  - (iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (2)(a)(ii).
- (b) For an Existing Emission Unit(s) (other than an electric utility steam generating unit), Baseline Actual Emissions means the average rate, in tons per year, at which the Emission Unit(s) actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the Project, or the date a complete permit application is received by the APCO for a permit required either under Rule 201 or under a plan approved by the Administrator, whichever is earlier.



- (i) The average rate shall include Fugitive Emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
  - (ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.
  - (iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the Federal Major Stationary Source must currently comply, had such Federal Major Stationary Source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the Baseline Actual Emissions need only be adjusted if the State has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165 (a)(3)(ii)(G).
  - (iv) For a Regulated Air Pollutant, when a project involves multiple Emission Unit(s), only one consecutive 24-month period must be used to determine the Baseline Actual Emissions for the Emission Unit(s) being changed. A different consecutive 24-month period can be used For each Regulated Air Pollutant.
  - (v) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (2)(b)(ii) and (2)(b)(iii).
- (c) For a New Emission Unit(s), the Baseline Actual Emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's Potential to Emit.

(3) **Basic Design Parameters –**

- (a) Means:
  - (i) Except as provided in paragraph (iii) of this section, for a process unit at a steam electric generating Facility, the owner or operator may select as its Basic Design Parameter(s) either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate.
  - (ii) Except as provided in paragraph (iii) of this section, the Basic Design Parameter(s) for any process unit that is not at a steam electric generating Facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel

input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a Basic Design Parameter.

- (iii) If the owner or operator believes the Basic Design Parameter(s) in paragraphs (i) and (ii) of this section is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the APCO an alternative Basic Design Parameter(s) for the source's process unit(s). If the APCO approves of the use of an alternative Basic Design Parameter(s), the APCO shall issue a permit that is legally enforceable that records such Basic Design Parameter(s) and requires the owner or operator to comply with such parameter(s).

(b)

- (i) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the Basic Design Parameter(s) specified in paragraphs (a)(i) and (ii) of this definition.
- (ii) If design information is not available for a process unit, then the owner or operator shall determine the process unit's Basic Design Parameter(s) using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.
- (iii) Efficiency of a process unit is not a Basic Design Parameter.

(4) **Emission Unit** – means any part of a stationary source that emits or would have the Potential to Emit any Regulated Air Pollutant. For purposes of this section, there are two types of Emission Unit(s) as described below.

(a) A **New Emission Unit(s)** is any Emission Unit(s) which is (or will be) newly constructed and which has existed for less than 2 years from the date such Emission Unit(s) first operated.

(b) An **Existing Emission Unit(s)** is any Emission Unit(s) that does not meet the definition of a New Emission Unit(s). A Replacement Unit is an Existing Emission Unit(s).

(5) **Federal Major Modification** – means a physical or operational change at an existing Federal Major Stationary Source for NO<sub>x</sub> or VOC, which results, or may result, in a Significant Emissions Increase and a Significant Net Emissions Increase, or in a Non-De minimis Emissions Increase.

- (a) A physical change or change in the method of operation shall not include:
  - (i) Routine maintenance, repair, and replacement;
  - (ii) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding

legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

- (iii) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;
  - (iv) Use of an alternative fuel at a steam generating unit, to the extent that the fuel is generated from municipal solid waste;
  - (v) Use of an alternative fuel or raw material by a Facility which:
    - (A) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any Federally Enforceable permit condition which was established after December 12, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I; or
    - (B) The source is approved to use under any permit issued under regulations approved pursuant to Regulation XIII.
  - (vi) An increase in the hours of operation or in the production rate, unless such change is prohibited under any Federally Enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR part 51 subpart I;
  - (vii) Any change in ownership at a Facility;
  - (viii) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
    - (A) The State Implementation Plan for the State in which the project is located, and
    - (B) Other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.
- (6) **Federal Major Stationary Source** – Any Emission Unit(s), Project or Facility which has, or will have after issuance of an Authority to Construct or Modified Permit to Operate, an aggregate Potential to Emit equal to or greater than 25 tpy of NO<sub>x</sub> or VOC. Fugitive Emissions shall not be included in determining the aggregate Potential to Emit for purposes of applying this definition unless the Emission Unit(s), Project or Facility, as applicable, belongs to one of the following source categories listed in 40 CFR 51.165 (a)(1)(iv)(C).
- (7) **Net Emissions Increase** –
- (a) Means with respect to any Ozone Precursor emitted by a Federal Major Stationary Source, the amount by which the sum of the following exceeds zero:
    - (i) The increase in emissions from a particular physical change or change in the method of operation at a Federal Major Stationary Source as calculated pursuant to section (E)(1); and

- (ii) Any other increases and decreases in Actual Emissions at the Federal Major Stationary Source that are contemporaneous with the particular change and are otherwise creditable. Baseline Actual Emissions for calculating increases and decreases shall be determined as provided in the definition of Baseline Actual Emissions, except that paragraphs (2)(a)(iii) and (2)(b)(iv) of that definition shall not apply.
- (b) An increase or decrease in Actual Emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs;
- (c) An increase or decrease in Actual Emissions is creditable only if:
  - (i) It occurs within the last 5 consecutive calendar years, including the calendar year in which such increase occurred; and
  - (ii) The District has not relied on it in issuing a permit for the source under Regulations XIII or XVII, which permit is in effect when the increase in Actual Emissions from the particular change occurs; and
  - (iii) As it pertains to an increase or decrease in Fugitive Emissions (to the extent quantifiable), it occurs at an Emission Unit(s) that is part of one of the source categories listed in 40 CFR 51.165 (a)(1)(iv)(C) or it occurs at an Emission Unit(s) that is located at a major stationary source that belongs to one of the listed source categories. Fugitive Emission increases or decreases are not creditable for those Emission Unit(s) located at a Facility whose primary activity is not represented by one of the source categories listed in 40 CFR 51.165(a)(1)(iv)(C) and that are not, by themselves, part of a listed source category.
- (d) An increase in Actual Emissions is creditable only to the extent that the new level of Potential to Emit exceeds the old level.
- (e) A decrease in Actual Emissions is creditable only to the extent that:
  - (i) The old level of Actual Emissions exceeds the new level of Actual Emissions;
  - (ii) It is Enforceable as a practical matter at and after the time that actual construction on the particular change begins; and
  - (iii) The District has not relied on it in issuing any permit under Regulations XIII and XVII or the District has not relied on it in demonstrating attainment or reasonable further progress;
  - (iv) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and
- (f) An increase that results from a physical change at a source occurs when the Emission Unit(s) on which construction occurred becomes operational and begins to emit a particular pollutant. Any Replacement Unit that requires

shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

- (g) The provisions in paragraph (C)(1)(a) of this rule (definition of Actual Emissions) shall not apply for determining creditable increases and decreases or after a change.
- (8) **Non-De minimis Emissions Increase** – means an emissions increase from the proposed Project located in a Serious or Severe ozone Nonattainment Area, including Fugitive Emission increases, aggregated with all other Net Emissions Increases from the Facility that occurred during the last 5 consecutive calendar years, including the calendar year in which such increase occurred, equal to or greater than 25 tpy of NOx or VOC.
- (9) **Ozone Precursors** – means nitrogen oxides (NOx) or volatile organic compounds (VOC), or both.
- (10) **Project** – means an Emission Unit(s) or aggregation of Emission Unit(s) for which an application or combination of applications for one or more Authorities to Construct or Modified Permits to Operate is under District review.
- (11) **Projected Actual Emissions** –
  - (a) Means, the maximum annual rate, in tons per year, at which an Existing Emission Unit(s) is projected to emit a Regulated Air Pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the Project, or in any one of the 10 years following that date, if the project involves increasing the Emission Unit(s) design capacity or its Potential to Emit of that Regulated Air Pollutant and full utilization of the unit would result in a Significant Emissions Increase or a Significant Net Emissions Increase at the Federal Major Stationary Source.
  - (b) In determining the Projected Actual Emissions before Beginning Actual Construction, the owner or operator of the major stationary source:
    - (i) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under the approved plan; and
    - (ii) Shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and
    - (iii) Shall exclude, in calculating any increase in emissions that results from the particular Project, that portion of the unit's emissions

following the Project that an Existing Emission Unit(s) could have accommodated during the consecutive 24-month period used to establish the Baseline Actual Emissions and that are also unrelated to the particular Project, including any increased utilization due to product demand growth; or,

- (iv) In lieu of using the method set out in paragraphs (11)(b)(i) through (iii) of this section, may elect to use the Emission Unit(s) Potential to Emit, in tons per year, as defined in Rule 1302.
- (12) **Replacement Unit** – means an Emission Unit(s) for which all the criteria listed in paragraphs (a) through (d) below are met. No creditable emission reductions shall be generated from shutting down the Existing Emission Unit(s) that is replaced.
- (a) The Emission Unit(s) is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1) or the Emission Unit(s) completely takes the place of an Existing Emissions Unit;
  - (b) The Emission Unit(s) is identical to or functionally equivalent to the replaced Emission Unit(s);
  - (c) The replacement does not alter the basic design parameters of the process unit; and
  - (d) The replaced Emission Unit(s) is permanently removed from the Federal Major Stationary Source, otherwise permanently disabled, or permanently barred from operation by a permit that is Enforceable as a practical matter. If the replaced Emission Unit(s) is brought back into operation, it shall constitute a New Emission Unit(s).
- (13) **Significant Emissions Increase** – means an emissions increase from the proposed project, including Fugitive Emission increases, equal to or greater than 25 tpy of NO<sub>x</sub> or VOC. The emission increase shall be determined according to Section (E)(1)(b).
- (14) **Significant Net Emissions Increase** – means a Net Emissions Increase, including Fugitive Emission increases, equal to or greater than 25 tpy of NO<sub>x</sub> or VOC. The emission increase shall be determined according to Section (E)(1)(b).
- (15) **Volatile Organic Compound** – means the same as defined in 40 CFR 51.100(s).

#### (D) Requirements

- (1) The APCO shall use the calculation procedures in Section (E)(1) to determine if a proposed Project will result in a new Federal Major Stationary Source or a Federal Modification for an Ozone Precursor. If so, then the APCO shall not issue an ATC or PTO, pursuant to Rule 1302 (D)(4)(b), unless the permit ensures compliance with the following requirements:

(a) Best Available Control Technology (BACT)

Each new or Modified Permit Unit shall be equipped with Best Available Control Technology (BACT) for the particular Ozone Precursor.

(b) Offsets

- (i) The emission increases of each Nonattainment Air Pollutant for which the Project results in a new Federal Major Stationary Source or a Federal Major Modification, shall be offset with Federally Enforceable ERCs.
- (ii) The quantity of ERCs required to satisfy the applicable Offset requirement shall be determined in accordance with the procedures specified in Section (E)(2).

(2) Offset Requirements

(a) All Offsets required by Section (D)(1)(b) shall meet the following requirements:

- (i) ERCs from one or more sources may be used in order to satisfy offset requirements.
- (ii) Emissions reductions achieved by shutting down an Emission Unit(s) or curtailing production or operating hours may only be credited for offsets if such reductions are Surplus, Permanent, Quantifiable, and Federally Enforceable.
- (iii) Emission reductions used to satisfy an offset requirement must be Federally Enforceable prior to the issuance of the Authority to Construct, which relies on the emission reductions.
- (iv) Except as provided by paragraph (D)(2)(a)(v), the decrease in actual emissions used to generate ERCs must occur no later than the commencement of operation of the source or sources that comprise the Federal Major Stationary Source or Federal Major Modification.
- (v) Where the New Emission Unit(s) is a replacement for an Emission Unit(s) that is being shut down in order to provide the necessary offsets, the APCO may allow up to one hundred eighty (180) calendar days for shakedown or commissioning of the New Emission Unit(s) before the Existing Emission Unit(s) is required to cease operation.

(3) Emission Reduction Requirements

(a) ERCs used to satisfy an Offset requirement shall be:

- (i) Real, Surplus, Permanent, Quantifiable, and Federally Enforceable; and
- (ii) Surplus at the time of issuance of the Authority to Construct containing the Offset requirements.

- (b) Permitted sources whose emission reductions are used to satisfy Offset requirements must appropriately amend or cancel their Authority to Construct or Permit to Operate to reflect their newly reduced Potential to Emit, including legally and practicably enforceable conditions to limit their Potential to Emit.
- (c) Emission reductions must be obtained from the same Nonattainment Area, however, the APCO may allow emission reductions from another Nonattainment Area if the following conditions are met:
  - (i) The other area has an equal or higher nonattainment classification than the area in which the source is located; and
  - (ii) Emissions from such other area contribute to a violation of the national ambient air quality standard in the Nonattainment Area in which the source is located.
- (d) The use of ERCs shall not provide:
  - (i) Authority for, or the recognition of, any pre-existing vested right to emit any Regulated Air pollutant;
  - (ii) Authority for, or the recognition of, any rights that would be contrary to applicable law; or
  - (iii) An exemption to a Facility from any emission limitations established in accordance with federal, state, or county laws, rules, and regulations.
- (4) Restrictions on Offset Pollutants
  - (a) The emission Offsets obtained shall be for the same Regulated Air Pollutant.
  - (b) In no case shall the compounds excluded from the definition of *Volatile Organic Compounds* be used as Offsets for Volatile Organic Compounds.
  - (c) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except that emissions credit may be allowed for the replacement with those compounds listed as having negligible photochemical reactivity in 40 CFR 51.100(s).

(E) Calculation Procedures

- (1) Emissions: The following provisions shall be used to determine if the proposed Project will result in a new Federal Major Stationary Source or Federal Major Modification.
  - (a) The definition of Federal Major Stationary Source shall be used to determine if a new or Modified Facility is a new Federal Major Stationary Source. Different pollutants, including individual Precursors, are not summed to determine applicability of a major stationary source.



- (b) The provisions set out in paragraphs (i) through (vii) below shall be used to determine if a proposed Project will result in a Federal Major Modification. Different pollutants, including individual precursors, are not summed to determine applicability of a Federal Major Modification. These provisions shall not be used to determine the quantity of Offsets required for a Project subject to the requirements of this rule.
- (i) The procedure for calculating (before Beginning Actual Construction) whether a Significant Emissions Increase will occur depends upon the type of Emission Unit(s) being added or Modified as part of the Project, according to paragraphs (iv) through (vii) of this Section.
  - (ii) The procedure for calculating (before Beginning Actual Construction) whether a Significant Net Emissions Increase will occur at the Federal Major Stationary Source is contained in the definition of Net Emissions Increase.
  - (iii) The procedure for calculating (before Beginning Actual Construction) whether a Non-De minimis Emissions Increase will occur at the Federal Major Stationary Source is contained in the definition of Non-De minimis Emissions Increase.
  - (iv) *Actual-to-Projected-Actual Applicability Test for Projects that Only Involve Existing Emission Unit(s)*. A Significant Emissions Increase of an Ozone Precursor is projected to occur if the sum of the difference between the Projected Actual Emissions and the Baseline Actual Emissions, for each Existing Emission Unit(s), equals or exceeds 25 tpy for that Ozone Precursor.
  - (v) *Actual-to-Potential Test for Projects that Only Involve Construction of a New Emission Unit(s)*. A Significant Emissions Increase of an Ozone Precursor is projected to occur if the sum of the difference between the Potential to Emit from each New Emission Unit(s) following completion of the Project and the Baseline Actual Emissions of these units before the Project equals or exceeds 25 tpy for that Ozone Precursor.
  - (vi) *Hybrid Test for Projects that Involve Multiple Types of Emission Unit(s)*. A Significant emissions increase of a Nonattainment Air Pollutant is projected to occur if the sum of the emissions increases for each Emission Unit(s), using the method specified in paragraphs (c) or (d) of this section, as applicable, with respect to each Emission Unit(s), equals or exceeds 25 tpy for that Ozone Precursor.
  - (vii) The ‘sum of the difference’ as used in paragraphs (iv), (v) and (vi) of this section shall include both increases and decreases in emissions calculated in accordance with these paragraphs.
  - (viii) Regardless of any such preconstruction projections, a Federal Major Modification results if the Project causes a Significant Emissions Increase and a Significant Net Emissions Increase, or a Non-De Minimis Increase.

- (ix) Secondary Emissions shall not be considered in determining whether a Facility would qualify as a Federal Major Stationary Source. If a Facility is subject to this rule on the basis of direct emissions from the Facility, the requirements of Section (D) must also be met for Secondary Emissions.
- (2) Offsets: The quantity of ERCs required to satisfy the Section (D)(1)(b) Offset requirements shall be determined in accordance with the following:
- (a) The unit of measure for Offsets and ERCs shall be tpy. All calculations and transactions shall use emission rate values rounded to the nearest one one-hundredth (0.01) tpy.
  - (b) The quantity of ERCs required shall be calculated as the product of the amount of increased emissions, as determined in accordance with paragraph (E)(2)(c) and the applicable Offset ratio in Table 1 below. The Offset ratio is expressed as a ratio of emissions increases to emission reductions.
  - (c) The amount of increased emissions shall be determined as follows:
    - (i) When offsets are required by the construction of a new Federal Major Stationary Source, the amount of increased emissions shall be the sum of the Potential to Emit of all Emission Unit(s), including Fugitive Emissions if the Facility belongs to one of the source categories as listed in 40 CFR 51.165(a)(1)(iv)(C).
    - (ii) When the Offset are required for a Federal Major Modification of an existing Federal Major Stationary Source, the amount of increased emissions shall be the sum of the differences between the Potential to Emit after the modification and the Actual Emissions before the Modification for each Emission Unit(s).
    - (iii) The amount of increased emissions includes Fugitive Emissions.

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

Area Designation	Pollutant	Offset Ratio
Marginal Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.1
Moderate Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.15
Serious Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.2
Severe Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.3

- (F) ERC Transfer Review
- (a) ERCs Obtained from Other Air Districts and Within the Air Basin
    - (i) ERCs occurring within the air basin but outside the District are eligible to be used as Offsets upon approval of the APCO. The APCO's

approval shall be made in consultation with CARB and the USEPA, on a case-by-case basis.

(ii) The ERCs are obtained in a Nonattainment Area which has a greater or equal nonattainment classification than the area where the Offsets are to be used.

(b) ERCs from Other Air Districts and Outside the Air Basin

(i) ERCs from outside the air basin are eligible to be used as Offsets upon approval of the APCO. The APCO's approval shall be made in consultation with CARB and the USEPA, on a case-by-case basis.

(ii) The ERCs are obtained in a Nonattainment Area which has a greater or equal nonattainment classification than the area where the Offsets are to be used; and

(iii) Emissions from the other Nonattainment Area contribute to a violation of the Ambient Air Quality Standards in the area where the Offsets are to be used.

**Appendix “B”**  
**Public Notice Documents**

1. Draft Proof of Publication – Antelope Valley Press 11/29/2024

## NOTICE OF HEARING

**NOTICE IS HEREBY GIVEN** that the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD) will conduct a public hearing on December 30, 2024, at 10:00 A.M. to consider the proposed amendments to Regulation XIII – *New Source Review*.

**SAID HEARING** will be conducted in the Governing Board Chambers of the AVTA offices located at 42210 6<sup>th</sup> Street West, Lancaster, CA 93534 where all interested persons may be present and be heard, or you may access the meeting via Zoom with the following link:

<https://us06web.zoom.us/j/85460975946?pwd=bqpY4wZeJeawJrxgYbvdvFyQA2gceq.1>

Meeting ID: 854 6097 5946

Passcode: 728121

One tap mobile

+16694449171,,85460975946#,,,\*728121# US

Copies of the staff report for the proposed amendments to Regulation XIII – *New Source Review*, are on file and may be obtained from the AVAQMD Office located at 2551 W Avenue H, Lancaster, CA 93536. Written comments may be submitted to Barbara Lods, Executive Director/APCO at the above office address or by email to [blods@avaqmd.ca.gov](mailto:blods@avaqmd.ca.gov). Written comments should be received no later than December 30, 2024, to be considered. If you have any questions, you may contact Barbara Lods at (661)-723-8070 ext 23 or by email at [blods@avaqmd.ca.gov](mailto:blods@avaqmd.ca.gov) for further information. Traducción esta disponible por solicitud.

The AVAQMD is proposing to amend Regulation XIII – *New Source Review* to provide an approvable set of NSR rules with consideration being given to the disapproval items identified in the July 3, 2023, USEPA decision. The AVAQMD has developed amendments to Regulation XIII which comply with both the Federal regulation and state law. The proposed amendments divide the NSR program into rules which separately address State NSR and Federal Nonattainment NSR (NNSR). The Federal NSR requirements are primarily contained in proposed Rule 1314 and implement the requirements of the Federal regulations.

Changes are proposed to procedural Rule 1302 to implement the two-part analysis to determine either State or Federal rule requirements. The result of the proposed amendments will be that any new facility or modification to a facility will initially be analyzed to determine the emissions change based on calculation procedures in Rule 1314 for Federal NNSR and Rule 1304 for State NSR. The proposed amendments to Rule 1303 and Rule 1304 are specific to State NSR requirements. Rule 1314 incorporates many of the federal requirements outlined in the partial disapproval including the requirement to assess significant net emissions increases and non-de minimis emission increases using historical actual emissions rather than potential to emit.

Pursuant to the California Environmental Quality Act (CEQA) the AVAQMD has determined that a Categorical Exemption (Class 8 – 14 Cal. Code Reg §15308) applies and has prepared a *Notice of Exemption* for this action.

Barbara Lods  
Executive Director/APCO  
Antelope Valley Air Quality Management District

**Appendix “C”**  
**Public Comments and Responses**

None at this time.

**Appendix “D”**  
California Environmental Quality Act  
Documentation

1. Draft Notice of Exemption – County of Los Angeles

## NOTICE OF EXEMPTION

**TO:** Los Angeles County Clerk  
12400 E. Imperial Hwy, #1001  
Norwalk, CA 90650

**FROM:** Antelope Valley Air Quality Management District  
2551 W Avenue H  
Lancaster, CA 93536

**PROJECT TITLE:** Amendment of Regulation XIII – *New Source Review*

**PROJECT LOCATION – SPECIFIC:** Los Angeles County portion of the Mojave Desert Air Basin.

**PROJECT LOCATION – COUNTY:** Los Angeles County

**DESCRIPTION OF PROJECT:** The AVAQMD is proposing to amend Regulation XIII – *New Source Review*, Rule 1301, 1302, 1303, 1304, 1305, 1306 1309 and proposed rule 1314.to provide an approvable set of NSR rules with consideration being given to the disapproval items identified in the July 3, 2023, USEPA decision. The AVAQMD has developed amendments to Regulation XIII which comply with both the Federal regulation and state law. The proposed amendments divide the NSR program into rules which separately address State NSR and Federal Nonattainment NSR (NNSR). The Federal NSR requirements are primarily contained in proposed Rule 1314 and implement the requirements of the Federal regulations.

**NAME OF PUBLIC AGENCY APPROVING PROJECT:** Antelope Valley AQMD

**NAME OF PERSON OR AGENCY CARRYING OUT PROJECT:** Antelope Valley AQMD

**EXEMPT STATUS (CHECK ONE)**

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

X Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

**REASONS WHY PROJECT IS EXEMPT:** The proposed amendments are exempt from CEQA review because the actions do not result in a change of any thresholds or in the permitting status of any class or category of equipment. In addition, the proposed amendments increase the environmental protection in that the result in notice to a wider number of agencies and the general public for a greater amount of time prior to permit issuance.

**LEAD AGENCY CONTACT PERSON:** Barbara Lods **PHONE:** (661) 723-8070

**SIGNATURE:** \_\_\_\_\_ **TITLE:** Executive Director **DATE:** December 30, 2024

**DATE RECEIVED FOR FILING:**



## Appendix “E” Bibliography

88 FR 42621, 07/03/2023

(Adopted: 10/05/79; Amended: 03/07/80; Amended: 07/11/80;  
Amended: 09/10/82; Amended: 07/12/85; Amended: 08/01/86;  
Amended: 12/02/88; Amended: 06/28/90; Amended: 05/03/91;  
Amended: 12/07/95; Amended: 03/20/01; Amended: 07/20/21;  
Amended: 12/30/24

## RULE 1301

### New Source Review Definitions

The definitions contained in each specific District Rule shall apply unless the term is otherwise defined herein. As applicable, defined terms in the singular include the plural and the plural defined terms include the singular.

- (A) Actual Emissions - The actual rate of emissions of a Regulated Air Pollutant which accurately represents the emissions from Emission Unit(s). Such emissions shall be Real, Quantifiable and calculated using the verified actual operating hours; production rates; and types of materials processed, stored or combusted as applicable.
- (B) Affected State - Any State or local air pollution control agency whose air quality may be affected by the granting of a permit to a Facility or Emission Unit(s) and which is contiguous to the District; or any State which is located within 50 miles of the Facility.
- (C) Air Pollutant - Any air pollution agent or combination of such agents, including any physical, chemical, biological, or radioactive (including source material, special nuclear material and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air.
- (D) Air Pollution Control Officer (APCO) - The person appointed to the position of Air Pollution Control Officer of the District pursuant to the provisions of California Health & Safety Code §40750, and his or her designee.
- (E) Air Quality Attainment Plan (AQAP) - A planning document submitted and periodically revised by the District pursuant to the provisions of the California Health & Safety Code §§40910 et seq. and approved by CARB. Also known as Air Quality Management Plan.
- (F) Ambient Air Quality Standards - Any National Ambient Air Quality Standard promulgated pursuant to the provisions of 42 U.S.C. §7409 (Federal Clean Air Act §109) or any State Ambient Air Quality Standard promulgated to California Health & Safety Code §39606, unless the particular Ambient Air Quality Standard (either National or State) is specified.
- (G) Application for Certification (AFC) - A document submitted to the CEC requesting certification of an EEGF.

- (H) Authority to Construct Permit (ATC) - A District permit required pursuant to the provisions of Rule 201 which must be obtained prior to the building, erecting, installation, alteration or replacement of any Permit Unit. Such permit may act as a temporary PTO pursuant to the provisions of Rule 202.
- (I) Banking (Bank, Banked) - The process of recognizing and certifying emissions reductions of Regulated Air Pollutants pursuant to the provisions of Rule 1309 which results in the issuance of an ERC Certificate and recordation of the ERC in the Registry.
- (J) Begin Actual Construction - The general initiation of physical on-site construction activities on Emission Unit(s) which are of a permanent nature. Actual construction activities include, but are not limited to, the following:
- (1) Installation of building supports and foundations;
  - (2) Laying of underground pipe work;
  - (3) Construction of permanent storage structures; and
  - (4) With respect to a change in operating method, those on-site activities, other than preparatory activities, which mark the initiation of the change.
- (K) Best Available Control Technology (BACT) - For Emission Unit(s) at Facilities as indicated below:
- (1) For a new or Modified Major Facility as defined in this rule, the most stringent of:
    - (a) The most stringent emission limit or control technique which has been achieved in practice, for such Emission Unit(s), class or category of source; or
    - (b) LAER as defined in this rule; or
    - (c) Any other emission limitation or control technique, and/or different fuel demonstrated in practice to be technologically feasible and cost-effective by the APCO or by CARB.
  - (2) For a new or modified non-major facility:
    - (a) The most stringent emission limit or control technique which has been achieved in practice for such category or class of source. Economic and technical feasibility may be considered in establishing the class or category of source; or

- (b) Any other emission limit or control technique found by the APCO to be technologically feasible and cost effective for such class or category of source.
- (3) Under no circumstances shall BACT be determined to be less stringent than the emission limit or control technique contained in any State Implementation Plan as approved by USEPA unless the applicant demonstrates to the satisfaction of the APCO that such limitation or control technique is not achievable.
- (4) In no event shall the application of BACT result in the emissions of any Regulated Air Pollutant which exceeds the emissions allowed by any applicable standard or other requirement under 42 U.S.C. §7411, Standards of Performance for New Stationary Sources (Federal Clean Air Act §111) or 42 U.S.C. §7412, Hazardous Air Pollutants (Federal Clean Air Act §112) or the regulations promulgated thereunder.
- (L) California Air Resources Board (CARB) - The California State Air Resources Board, the powers and duties of which are described in Part 2 of Division 26 of the California Health & Safety Code (commencing with §39500).
- (M) California Energy Commission (CEC) - The California Energy Commission, the powers and duties of which are described in Division 15 of the California Public Resources Code (commencing with §25000).
- (N) Cogeneration Project - A project which:
  - (1) Makes sequential use of exhaust steam, waste steam, heat or resultant energy from an industrial, commercial or manufacturing plant or process for the generation of electricity; or
  - (2) Makes sequential use of exhaust steam, waste steam, or heat from a thermal power plant, in an industrial, commercial, or manufacturing plant or process; and
  - (3) Such “industrial, commercial or manufacturing plant or process” is not a thermal power plant or portion thereof; and
  - (4) Does not consist of steam or heat developed solely for electrical power generation; and
  - (5) The processes listed in subsections (N)(1) and (N)(2) above must meet the conditions set forth in the California Public Resources Code §25134.
- (O) Class I Area – Any area listed as Class I in 40 CFR 81.405 – California, or an area otherwise specified as Class I in legislation that creates a national monument, a national

primitive area, a national preserve, a national recreation area, a national wild and scenic river, a national wildlife refuge or a national lakeshore or seashore.

- (P) Commence Construction - When the owner or operator of a new Facility or of a Facility undergoing a Major Modification has obtained all necessary preconstruction approvals and/or permits pursuant to the provisions of this Regulation, and Rules 1314 and 1700, if applicable, and has either:
- (1) Begun, or caused to begin, a continuous program of actual on-site construction to be completed within a reasonable time; or
  - (2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the Facility or Emission Unit(s) to be completed within a reasonable time.
- (Q) Comprehensive Emission Inventory – A plan and report prepared pursuant to the most recently published District *Comprehensive Emissions Inventory Guidelines* which consists of numerical representations of the existing and proposed emissions from a Facility and the methods utilized to determine such data.
- (R) Construction - Any physical change or change in the method of operation in a Facility (including fabrication, erection, installation, demolition, or modification of Emission Unit(s) which would result in a change in Actual Emissions.
- (S) Contiguous Property - Two or more parcels of land with a common boundary or separated solely by a public or private roadway, or other public or private right-of-way.
- (T) Dispersion Technique – For purposes of determining whether a stack height exceeds good engineering practices, the definition contained in 40 CFR 51.100(hh) in effect on 12/30/2024 shall apply and is incorporated herein by this reference.
- (U) District - The Antelope Valley Air Quality Management District created pursuant to Chapter 14, Part 3 of Division 26 of the California Health & Safety Code (commencing with §41300), the geographical area of which is described in Rule 103.
- (V) Electrical Energy Generating Facility (EEGF) - Any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto.
- (1) Exploratory, development, and production wells, resource transmission lines and other related facilities used in connection with a geothermal exploratory project or a geothermal field development project are not appurtenant facilities for the purposes of this Regulation.

- (2) EEGF does not include any wind, hydroelectric or solar photovoltaic electrical generating facility.
- (W) Emission Limitation - One or a combination of legally and practicably Enforceable permit conditions specific to an Emission Unit(s) which restricts its maximum daily emissions, in pounds per day or other appropriate unit of measure, at or below the emissions associated with the maximum design capacity.
- (X) Emission Reduction Credit (ERC) - A credit for an amount and type of emissions reductions of Regulated Air Pollutant(s) granted by the District pursuant to the provisions of Rule 1309 which is evidenced by recordation in the Registry and by an ERC Certificate.
- (Y) Emission Unit(s) - Any article, machine, equipment, contrivance or combination thereof which emits or has the Potential to Emit any Regulated Air Pollutant, including any associated air pollution control equipment.
- (Z) Enforceable – Verifiable, legally binding, and practically enforceable.
- (AA) ERC Certificate - A certificate evidencing ownership of an ERC issued pursuant to the provisions of Rule 1309.
- (BB) Excessive Concentration – For purposes of determining whether a stack height exceeds good engineering practices, the definition contained in 40 CFR 51.100(kk) in effect 12/30/2024 shall apply and is incorporated herein by this reference.
- (CC) Facility - Any structure, building, Emission Unit, combination of Emission Units, or installation which emits or may emit, a Regulated Air Pollutant, and which are:
- (1) Located on one or more Contiguous or adjacent properties within the District;
  - (2) Under the control of the same person (or by persons under common control); and
  - (3) Belong to the same industrial grouping, as determined by being within the same two-digit Standard Industrial Classification Code (SICC).
  - (4) For the purpose of this regulation, such above-described grouping, remotely located but connected only by land carrying a pipeline, shall not be considered one Facility.
- (DD) Federal Class I Area – Any Federal land that is classified or reclassified as a Class I Area.
- (EE) Federal Land Manager - With respect to any lands in the United States, the Secretary of the department with authority over such lands and their designee.

- (FF) Federally Enforceable - Any limitation and/or condition which is set forth in permit conditions or in Rules or Regulations that are legally and practicably enforceable by USEPA, citizens and the District; including, but not limited to:
- (1) Requirements developed pursuant to 42 U.S.C. §7411 - *Standards of Performance for New Stationary Sources* (Federal Clean Air Act §111) or 42 U.S.C. §7412 - *Hazardous Air Pollutants* (Federal Clean Air Act §112) or the regulations promulgated thereunder;
  - (2) Requirements within any applicable SIP; and
  - (3) Permit requirements established pursuant to 40 CFR 52.21; 51.160-166; or under regulations approved pursuant to 40 CFR 51, subpart I, including operating permits issued under a USEPA approved program that is incorporated into the State Implementation Plan and expressly requires adherence to any permit issued under such program.
- (GG) Fugitive Emissions - Those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.
- (HH) Good Engineering Practice – For purposes of determining whether a stack height exceeds good engineering practices, the definition contained in 40 CFR 51.100(ii) in effect on 12/30/2024 shall apply and is incorporated herein by reference.
- (II) Halocarbons - For the purpose of this rule, halocarbons are 1,1,1-trichloroethane, trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (CFC-23), methylene chloride, trichlorotrifluoroethane (CFC-113), dichlorotetrafluoroethane (CFC-114), and chloropentafluoroethane (CFC-115).
- (JJ) Historic Actual Emissions (HAE) - The verified Actual Emissions of an existing Emission Unit or combination of Emission Units, including Fugitive Emissions directly related to the Emission Unit(s), if the Facility belongs to one of the Facility categories as listed in 40 CFR 51.165(a)(1)(iv)(C), calculated as follows:
- (1) The Actual Emissions of an Emission Unit(s), averaged from the 2-year period which immediately proceeds the date of application, and which is representative of Facility operations; or
  - (2) The Actual Emissions of an Emission Unit(s), averaged for any 2 years of the 5 year period which immediately precedes the date of application which the APCO has determined is more representative of Facility operations than subsection (JJ)(1) above.
  - (3) If the Emission Unit(s) have been in operation for less than one year, the HAE shall be equal to zero.

- (KK) Lowest Achievable Emissions Rate (LAER) - The rate of emissions which is not in excess of the amount allowable under the applicable New Source Performance Standards as found in 40 CFR 60 and which reflects the most stringent emissions limitation which is:
- (1) Contained in the SIP of any State for such class or category of source, unless the owner/operator of the source demonstrates that such limitations are not achievable; or
  - (2) Achieved in practice by such class or category of source.
- (LL) Major Facility - Any Facility which emits or has the Potential to Emit any Regulated Air Pollutant or its Precursors in an amount greater than or equal to the amounts set forth in Rule 1303(B)(1).
- (1) Any Modification at a Facility which, by itself, would emit or have the Potential to Emit any Regulated Air Pollutant or its Precursors in an amount greater than or equal to the amounts listed in Rule 1303(B)(1), shall also constitute a Major Facility.
  - (2) The Fugitive Emissions of a Facility shall not be included in the determination of whether a Facility is a Major Facility unless the Facility belongs to one of the categories of Facilities as listed in 40 CFR 51.165(a)(1)(iv)(C).
- (MM) Major Modification – Any Modification at a Facility that would result in a Federal Major Modification as defined in Rule 1314 or a Major PSD Modification as defined in Rule 1700.
- (NN) Mandatory Class I Federal Area or Mandatory Federal Class I Area – Any area identified in 40 CFR 81, Subpart D (commencing with 81.400) specifically 40 CFR 81.405 – California.
- (OO) Military Base Designated for Closure or Realignment - A military base designated for closure or downward realignment pursuant to the Defense Base Closure and Realignment Act of 1988 (PL 100-526) or the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. §§2687 et seq.).
- (PP) Mobile Source - A device by which any person or property may be propelled, moved, or drawn upon the surface, waterways, or through the atmosphere, and which emits air contaminants. For the purpose of this Regulation, mobile source includes registered Motor Vehicles which are licensed or driven on the public roadways of the state of California.



- (QQ) Modeling - An air quality simulation model based on specific assumptions and data; which comply with the most current version of 40 CFR Appendix W or an alternative method approved by USEPA after an opportunity for public notice and comment; and which have been approved in advance and in writing by the APCO.
- (RR) Modification (Modified) - Any physical or operational change to a Facility or a Permit Unit to replace equipment, expand capacity, revise methods of operation, or modernize processes by making any physical alteration or change, change in method of operation, addition to an existing Permit Unit and/or change in hours of operation which result in an emission change as calculated pursuant to the provisions of Rule 1304(B)(2)(a) of any Regulated Air Pollutant or which result in the emission of any Regulated Air Pollutant not previously emitted.
- (1) A physical or operational change shall not include:
- (a) Routine maintenance, repair and/or replacement; or
  - (b) A change in ownership of an existing Facility with valid PTO(s); or
  - (c) An increase in the production rate, unless:
    - (i) Such an increase will cause the maximum design capacity of the Emission Unit(s) to be exceeded; or
    - (ii) Such an increase will exceed a previously imposed Federally Enforceable limitation contained in a permit condition.
  - (d) An increase in the hours of operation, unless such increase will exceed a previously imposed Federally Enforceable limitation contained in a permit condition.
  - (e) The alteration or replacement of an Emission Unit(s) where the following requirements are met:
    - (i) The replacement unit is functionally identical as the original Emission Unit(s) being replaced; and
    - (ii) The maximum rating of the replacement Emission Unit(s) will not be greater than that of the Emission Unit(s) being replaced; and
    - (iii) The Potential to Emit for any Regulated Air Pollutant will not be greater from the replacement Emission Unit(s) than from the original Emission Unit(s) when the replacement Emission Unit(s) is operated at the same permitted conditions as the original Emission Unit(s) and as if current BACT had been applied; and
    - (iv) The replacement does not occur at a Major Facility and is not a Major Modification.

- (v) Emission Unit(s) shall not be considered a functionally identical replacement if USEPA objects to such determination on a case-by-case basis.
- (f) The relocation of an existing Facility, utilizing existing equipment where the following requirements are met:
  - (i) The relocation does not result in an increase in emissions from the Facility; and
  - (ii) The relocation is to a site within 10 miles of the original Facility location; and
  - (iii) The relocation is to a site which is not in actual physical contact with the original site and the sites are not separated solely by a public roadway or other public right-of-way.
  - (iv) The relocation is to a site within a Federal designation which is less than or equal to the designation or classification of the original site; and
  - (v) The relocation occurs within 1 year of the Facility ceasing operations at its original location; and
  - (vi) The relocation does not occur at a Major Facility and is not a Major Modification; and
  - (vii) Any new or replacement equipment associated with the relocation complies with the applicable provisions of this Rule.
- (g) The periodic movement of internal combustion engines and gas turbines within a Facility because of the nature of their operation provided that all of the following conditions are met:
  - (i) The engine or turbine is used to remediate soil or groundwater contamination as required by federal, state, or local law or by a judicial or administrative order; or for flight-line operations.
  - (ii) The engine or turbine is not periodically moved solely for the purpose of qualifying for this exemption.
  - (iii) Emissions from the engine, by itself, do not cause an exceedance of any Ambient Air Quality Standard.
  - (iv) Emissions from the engine do not exceed the following:

Volatile Organic Compounds (VOC)	75 pounds per day
Nitrogen Oxides (NO <sub>x</sub> )	100 pounds per day
Sulfur Oxides (SO <sub>x</sub> )	150 pounds per day
Particulate Matter (PM <sub>10</sub> )	150 pounds per day

Carbon Monoxide (CO)	550 pounds per day
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- (SS) Motor Vehicle - Any self-propelled Vehicle, including, but not limited to cars, trucks, buses, golf carts, vans, motorcycles, recreational Vehicles, tanks, and armored personnel carriers as defined in California Vehicle Code §415 and/or §670 (as in effect on the most recent amendment date of this Rule) including, but not limited to, any Motor Vehicles which are registered, licensed, or driven on the public roadways of the State of California
  
- (TT) Nearby – For purposes of determining whether a stack height exceeds good engineering practices, the definition contained in 40 CFR 51.100(jj) in effect on 12/30/2024 shall apply and is incorporated herein by this reference.
  
- (UU) New Source Review Document (NSR Document) - A document issued by the APCO pursuant to the procedures of Rule 1302(D) for a Facility subject to the provisions of Rules 1303, 1314 and/or 1700, which includes, but is not limited to, all analysis relating to the project, Offsets required for the project, and proposed conditions for any required ATC(s) or PTO(s).
  
- (VV) Nonattainment Air Pollutant - Any Regulated Air Pollutant for which the District, or a portion thereof, has been designated nonattainment as codified in 40 CFR 81.305, or for which has been designated nonattainment by the CARB pursuant to California Health and Safety Code §39607. A pollutant for which the District is designated nonattainment by USEPA shall be referred to in this regulation as a *Federal Nonattainment Pollutant* while a pollutant for which the District is designated nonattainment by CARB shall be referred to as a *State Nonattainment Pollutant*.
  
- (WW) Nonattainment Area – Any area within the jurisdiction of the District which has been designated nonattainment by USEPA as exceeding a National Ambient Air Quality Standard as codified in 40 CFR 81.305 or which has been designated nonattainment by CARB as exceeding a State Ambient Air Quality Standard pursuant to California Health & Safety Code §39607. An area designated nonattainment by USEPA shall be referred to in this regulation as a *Federal Nonattainment Area* while an area designated nonattainment by CARB shall be referred to as a *State Nonattainment Area*.
  
- (XX) Notice of Intention (NOI) - A notice regarding an EEGF produced pursuant to the provisions of Division 15 of the California Public Resources Code (commencing with §25000).
  
- (YY) Off-road Vehicle - Any vehicle which is not licensed for use on the public roadways in the State of California and is used exclusively at the Facility
  
- (ZZ) Offset Emission Reductions (Offsets) - Emission Reduction Credits (ERCs) when used to offset emission increases of Regulated Air Pollutants on a pollutant-by-pollutant basis.

- (AAA) Permanent - Continuing or enduring without fundamental marked change. As used for the purposes of Offset Emissions Reductions, a reduction that is Federally Enforceable via changes in permits or other means for the life of the corresponding increase in emissions.
- (BBB) Permit to Operate (PTO) - A District permit required pursuant to the provisions of Rule 203 which must be obtained prior to operation of an Emission Unit(s). An ATC may function as a temporary PTO pursuant to the provisions of Rule 202.
- (CCC) Permit Unit - Any Emission Unit(s) which is required to have a PTO pursuant to the provisions of Rule 203.
- (DDD) Person - Includes but is not limited to any individual, firm, association, organization, partnership, business trust, corporation, limited liability company, company, proprietorship, trust, joint venture, government, political subdivision of a government, or other entity or group of entities.
- (EEE) PM<sub>10</sub> - Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers. Gaseous emissions which condense to form PM<sub>10</sub> at ambient temperatures shall also be counted as PM<sub>10</sub>.
- (FFF) PM<sub>2.5</sub> - Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers. Gaseous emissions which condense to form PM<sub>2.5</sub> at ambient temperatures shall also be counted as PM<sub>2.5</sub>.
- (GGG) Potential to Emit (PTE) - The maximum capacity of a Facility or Emission Unit(s) to emit any Regulated Air Pollutant under its physical and operational design.
- (1) Any physical or operational limitation on the capacity of the Facility or Emission Unit(s) to emit an Air Pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processes, shall be treated as part of its design only if the limitation or the effect it would have on emissions is legally and practicably Enforceable.
  - (2) Fugitive Emissions of Hazardous Air Pollutants shall be included in the calculation of a Facility's or Emission Unit(s) Potential to Emit.
  - (3) Fugitive Emissions of a Stationary Source Criteria Air Pollutant shall not be included for any of the purposes of this paragraph to determine whether it is a Major Stationary Source, unless the source belongs to one of the categories listed in 40 CFR 51.165(a)(1)(iv)(C).
  - (4) Secondary Emissions shall not be included in the calculations of a Facility or Emission Unit(s) Potential to Emit.

(HHH) Precursor - A substance which, when released to the atmosphere, forms or causes to be formed or contributes to the formation of a Regulated Air Pollutant. These include, but are not limited to the following:

<u>Precursors</u>	<u>Secondary Pollutants</u>
Ammonia	a) PM <sub>2.5</sub>
Hydrocarbons and substituted hydrocarbons (Volatile Organic Compounds)	a) Photochemical oxidant (ozone) b) The organic fraction of PM <sub>10</sub> c) The organic fraction of PM <sub>2.5</sub>
Nitrogen oxides (NO <sub>x</sub> )	a) Nitrogen dioxide (NO <sub>2</sub> ) b) Photochemical oxidant (ozone) c) The nitrate fraction of PM <sub>10</sub> d) The nitrate fraction of PM <sub>2.5</sub>
Sulfur oxides (SO <sub>x</sub> )	a) Sulfur dioxide (SO <sub>2</sub> ) b) Sulfates (SO <sub>4</sub> ) c) The sulfate fraction of PM <sub>10</sub> d) The sulfate fraction of PM <sub>2.5</sub>

(III) Proposed Emissions - The Potential to Emit for new or post-modification Emission Unit(s), or a new or post-modification Facility as constructed or modified, including Fugitive Emissions directly related to the Emission Unit(s) if the Facility belongs to one of the Facility categories as listed in 40 CFR 51.165(a)(1)(iv)(C).

(JJJ) Quantifiable - Capable of being determined. As used for the purposes of Offset Emissions Reductions a reliable, replicable and accurate basis for calculating the amount, rate, nature and characteristic of an emissions reduction by adhering to a protocol that is established considering USEPA, CARB and District policies and procedures. The same method of calculating emissions should generally be used to quantify the emission levels before and after any reduction in emissions.

(KKK) Readjustment - The process of revising the amount of AERs and ERCs issued due to changes in control measures identified in the District's AQAP or SIP.

(LLL) Real - Actually occurring, implemented and not artificially devised.

(MMM) Reasonably Available Control Technology (RACT) - Any device, system, process modification, apparatus, technique or combination of the above which results in the lowest emissions rate and which is reasonably available considering technological and economic feasibility.

(NNN) Reduced Sulfur Compounds - Hydrogen sulfide, carbon disulfide and carbonyl sulfide.

(OOO) Registry (ERC Registry) - The document established by Rule 1309(B) which lists all ERCs, their amounts, owners and serves as evidence of ownership of an ERC.

(PPP) Regulated Air Pollutant - Any of the following Air Pollutants:

- (1) Any Air Pollutant, and its Precursors, for which an Ambient Air Quality Standard has been promulgated.
- (2) Any Air Pollutant that is subject to a standard under 42 U.S.C. §7411 - *Standards of Performance for New Stationary Sources* (Federal Clean Air Act §111) or the regulations promulgated thereunder.
- (3) Any substance which has been designated a Class I or Class II substance under 42 U.S.C. §7671a (Federal Clean Air Act §602) or the regulations promulgated thereunder.
- (4) Any Air Pollutant subject to a standard or other requirement established pursuant to 42 U.S.C. §7412 - *Hazardous Air Pollutants* (Federal Clean Air Act §112) or the regulations promulgated thereunder.

(QQQ) Seasonal Source - Any Facility or Emission Unit(s) with more than seventy-five percent (75%) of its annual emissions within a consecutive 120-day period.

(RRR) Secondary Emissions - Emissions which would occur as a result of the Construction or operation of a Major Facility or Major Modification to a Facility, but which do not come from the Major Facility or the Major Modification itself.

- (1) These emissions must be specific, well defined, quantifiable, and impact the same general area as the Major Facility or the Major Modification which causes the Secondary Emissions.
- (2) Secondary Emissions shall include emissions from any offsite support Facility which would not be constructed or increase its emissions except as the result of the construction or operation of the Major Facility or Major Modification.
- (3) Secondary Emissions shall not include any emissions which come directly from a Mobile Source.

(SSS) Shutdown - The earlier of either:

- (1) The permanent cessation of emissions from Emission Unit(s); or
- (2) The surrender of Emission Unit(s) operating permit.

- (TTT) Simultaneous Emission Reduction (SER) - An Enforceable reduction in the emissions of an existing Emission Unit(s), calculated and adjusted pursuant to the provisions of Rule 1304(C), which occur in the same permitting action as when such SERs are used pursuant to this Regulation.
- (UUU) South Coast Air Quality Management District (SCAQMD) – The air district created pursuant to Division 26, Part 3, Chapter 5.5 of the Health & Safety Code (commencing with §40400).
- (VVV) Stack – Any point in a Facility or Emission Unit(s) designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.
- (WWW) Stack in Existence - For purposes of determining whether a stack height exceeds good engineering practices, the definition contained in 40 CFR 51.100(gg) in effect on 12/30/2024 shall apply and is incorporated herein by this reference.
- (XXX) State Implementation Plan (SIP) - A plan for the reduction of Regulated Air Pollutants created by the District and CARB and approved by USEPA pursuant to the provisions of Title I of the Federal Clean Air Act (42 U.S.C. §§7401 et seq.) and the regulations promulgated thereunder.
- (YYY) Surplus – As used for the purposes of Offset Emissions Reductions, the amount of emissions reductions that are, at the time of generation, not otherwise required by Federal, State or District law, rule, order, permit or regulation; not required by any legal settlement or consent decree; and not relied upon to meet any requirement related to the California State Implementation Plan (SIP); or any control measures identified in the District’s Air Quality Attainment Plan (AQAP) or contained in the State Implementation Plan (SIP) for the District and which have not yet been implemented in the form of District Rules and/or Regulations.
- (ZZZ) Total Organic Compounds - Compounds of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates and ammonium carbonate.
- (AAAA) United States Environmental Protection Agency (USEPA) - The United States Environmental Protection Agency, the Administrator of the USEPA and their authorized representative.
- (BBBB) Volatile Organic Compounds (VOC) – Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions; and excluding those organic compounds listed in 40 CFR 51.100(s)(1) that have been determined to have negligible photochemical reactivity.

[See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans> ]



(Adopted: 10/05/79; Amended: 03/07/80; Amended: 07/11/80;  
Amended: 09/10/82; Amended: 07/12/85; Amended: 08/01/86;  
Amended: 12/02/88; Amended: 06/28/90; Amended: 05/03/91;  
Amended: 12/07/95; Amended: 03/20/01; Amended: 8/15/06;  
Amended: 07/20/21; Amended: 12/30/24

## RULE 1302

### New Source Review Procedures

#### (A) Applicability

- (1) This rule shall apply to all new or Modified Facilities

#### (B) Applications

- (1) Any application for an ATC or modification to a PTO, submitted pursuant to the procedures of District Regulation II, shall be analyzed to determine if such application is complete. An application shall be deemed complete when it contains the following, as applicable:
  - (a) General Application Requirements
    - (i) Enough information regarding the location, design, Construction, and operation of the new or modified Facility or Emission Unit(s) to allow all the applicable analysis and calculations required under this Regulation to be made, including but not limited to: identification of all new or modified Emission Unit(s); the amount of potential emissions from such new or modified Emission Unit(s); information sufficient to determine all rules, regulations or other requirements applicable to such Emission Unit(s); a determination of whether stack height exceeds Good Engineering Practice; and any necessary air quality modeling consistent with the most recent USEPA guidance, including but not limited to, the requirements contained in 40 CFR 51 Appendix W, modeling protocols and the results of such modeling.
    - (ii) A Comprehensive Emission Inventory. If a Facility has a current approved Comprehensive Emission Inventory on file with the District such Facility may, upon written request and approval of the APCO, update the Comprehensive Emission Inventory to reflect the addition, deletion or modification of all Emission Unit(s) affected by the application.
    - (iii) Rule 1700 applicability analysis sufficient to determine whether the Facility or Modification, is or is not, a Major PSD Facility or a Major PSD Modification as defined in Rule 1700(B), using the applicability procedures adopted by reference in Rule 1700.
    - (iv) A Rule 1314 applicability analysis sufficient to determine whether the Facility or Modification is, or is not, a Federal Major Stationary Source or a Federal Major Modification as defined in Rule 1314(C)(5), using the calculation procedures in Rule 1314(E).

- (v) A Rule 1303 applicability analysis sufficient to determine whether the provisions of Rule 1303 apply to the proposed new or Modified Facility.
  - (vi) Any other information specifically requested by the District.
- (b) Application Requirements for Facilities Requiring Offsets
- (i) For all new and modified Facilities requiring Offsets pursuant to Rule 1303(B) or Rule 1314(D)(1)(b):
    - a. An alternative siting analysis including an analysis of alternative sites, sizes and production processes pursuant to 42 U.S.C. §7503(a)(5) (Federal Clean Air Act §173(a)(5)). Such analysis shall be functionally equivalent to that required pursuant to Division 13 of the California Public Resources Code (commencing with §21000.)
    - b. A statewide compliance certification stating that all Facilities which are under the control of the same person (or persons under common control) in the State of California are in compliance with all applicable Emission Limitations and standards under the Federal Clean Air Act and the applicable implementation plan for the air district in which the other Facilities are located.
- (c) Mandatory Federal Class I Area Visibility Protection Application Requirements
- (i) An application for a new or Modified Major Facility or a Facility with a Federal Major Modification which may have an impact upon visibility in any Mandatory Federal Class I Area, shall include in its application an analysis of any anticipated impacts on visibility within that Mandatory Federal Class I Area. Such analysis shall include, but is not limited to, an analysis of the factors found in 40 CFR 51.307(a).
- (d) Prevention of Significant Deterioration (PSD) Application Requirements
- (i) For a Facility which is a Major PSD Facility or Major PSD Modification as defined in Rule 1700(B):
    - a. A modeling protocol consistent with the most recent USEPA guidance including but not limited to the requirements contained in 40 CFR 51 Appendix W, as approved by the APCO. Such a protocol shall also be submitted to USEPA and, if applicable, the Federal Land Manager(s) of any potentially impacted area; and
    - b. A control technology review pursuant to 40 CFR 52.21(j); and
    - c. A source impact analysis, including but not limited to analysis pursuant to 40 CFR 52.21(k) and a per-application analysis pursuant to 40 CFR 52.21(m)(1); and

- d. Information required pursuant to 40 CFR 52.21(n) if not provided elsewhere in the application; and
  - e. An additional impact analysis including but not limited to analysis of direct and indirect impacts of the proposed emissions increase on soils, vegetation and visibility, pursuant to 40 CFR 52.21(o); and
  - f. An analysis of anticipated impacts on a Federal Class I Area if the Facility is located within 63 miles (100 kilometers) of such area pursuant to 40 CFR 52.21(p); and
- (e) Nonattainment NSR Major Source Application Requirements
- (i) For a Facility which is a new Federal Major Stationary Source or Federal Major Modification, as defined in Rule 1314(C):
    - a. All emission calculations used to determine Rule 1314 applicability.
    - b. The calculations, pursuant to Rule 1314 (E)(2)(b), used to determine the quantity of Offsets required for the new source or modification.
    - c. Identification of existing Emission Reduction Credits or identification of internal emission reductions, including related emission calculations and proposed permit Modifications required to ensure emission reductions meet the Offset integrity criteria of being Real, Surplus, Quantifiable, Permanent and Federally Enforceable.
- (f) Determination of Application Completeness
- (i) The APCO shall determine whether the application is complete not later than 30 calendar days after receipt of the application, or after such longer time as both the applicant and the APCO may agree in writing.
- (g) Trade Secret Information
- (i) The confidentiality of trade secrets contained in an application shall be considered in accordance with Government Code §6254.7 and 18 U.S.C. §1905.
  - (ii) Any information claimed by an applicant to be trade secret or otherwise confidential shall be clearly marked as such.
- (2) Notifications Regarding Applications
- (a) After the determination of completeness has been made, the APCO shall transmit a written determination of completeness or incompleteness immediately to the applicant at the address indicated on the application.

- (i) If the application is determined to be incomplete, the determination shall specify which parts of the application are incomplete and how they can be made complete.
    - a. Upon receipt by the APCO of information required to render an application complete or upon resubmittal of the entire application, a new 30-day period in which the APCO must determine completeness shall begin.
  - (ii) When an application subject to the provisions of District Rule 1700 is determined to be complete the APCO shall transmit a copy of the written completeness determination to USEPA and, upon request, provide USEPA with a copy of the application.
  - (iii) If the application contains an analysis of anticipated visibility impacts on a Mandatory Federal Class I Area, the APCO shall, within 30 calendar days after receipt of the application, notify USEPA and the Federal Land Manager of the affected Mandatory Federal Class I Area.
    - a. The APCO shall include in this notification a copy of the application and the analysis of the anticipated impacts on the affected Mandatory Federal Class I Area.
- (b) When the application has been determined to be complete the APCO shall then commence the analysis process detailed in section (C) below.
  - (c) In the alternative, the APCO may complete the issuance of the ATC(s) within the 30 calendar days after receipt of the application so long as all the applicable analysis required pursuant to (C) below has been performed and the provisions of (C)(7)(e) below applies.
- (3) Effect of Complete Application
- (a) After an application is determined to be complete, the APCO shall not subsequently request of an applicant any new or additional information which was not required pursuant to (B)(1) above or by a determination of incompleteness pursuant to (B)(2)(a) above.
  - (b) Notwithstanding the above, the APCO may, during the processing of the application, require an applicant to clarify, amplify, correct or otherwise supplement the information required at the time the complete application was received.
  - (c) A request by the APCO for clarification pursuant to (B)(3)(b) above does not waive, extend, or delay the time limits in this rule for final action on the completed application, except as the applicant and the APCO may both agree in writing.
- (4) Fees

- (a) The APCO shall not perform any analysis as set forth in (C) below unless all applicable fees, including but not limited to the Project Evaluation Fee for Complex Sources as set forth in Rule 301, have been paid.

(C) Analysis

(1) Determination of Rule 1314 Applicability and Requirements

- (a) The APCO shall commence a New Source Review Document (NSR Document) to record the application analysis.
- (b) The APCO shall review the Rule 1314 applicability analysis submitted pursuant to (B)(1)(a)(iv) above to determine if the proposed new or Modified Facility is, or is not, a Federal Major Stationary Source or a Federal Major Modification, as defined in Rule 1314(C)
- (c) If the APCO determines that the proposed new or Modified Facility is not a Federal Major Stationary Source or a Federal Major Modification, the APCO shall continue the analysis at (C)(2) below.
- (d) If the APCO determines that the proposed new or Modified Facility is a new Federal Major Stationary Source or a Federal Major Modification, then the APCO shall:
  - (i) Evaluate compliance with all Rule 1314(D) requirements; and
  - (ii) Develop and include conditions to implement BACT on any proposed ATC or PTO required for each new or Modified Emission Unit(s) subject to the provisions of Rule 1314(D)(1)(a); and
  - (iii) Calculate the amount of Offsets required on a pollutant-by-pollutant basis pursuant to the provisions of Rule 1314(E)(2); and
  - (iv) Notify the applicant in writing of the specific amount of Offsets required. The applicant shall comply with the provisions of (C)(3) below; and
  - (v) Develop and include conditions on any proposed ATC or PTO to ensure compliance with the requirements of Rule 1314 for all new or Modified Emission Unit(s) at the Facility; and
  - (vi) Continue the analysis at (C)(4) below.

(2) Determination of Rule 1303 Applicability and Requirements

- (a) The APCO shall commence or add to the NSR Document to record the application analysis.

- (b) The APCO shall review the Rule 1303 applicability analysis submitted pursuant to (B)(1)(a)(v) above, pursuant to the provisions of Rule 1304(B), to determine if the proposed new or Modified Facility is subject to the Rule 1303 BACT or Offset requirements.
- (c) If none of the provisions of Rule 1303 apply to the new or Modified Facility, then the APCO shall continue the analysis at (C)(4) below.
- (d) If Rule 1303(A) is the only provision applicable to the new or Modified Facility then the APCO shall:
  - (i) Develop and include conditions in any proposed ATC or PTO to implement BACT on all new or Modified Emission Unit(s) at the Facility; and
  - (ii) Continue the analysis at (C)(4) below.
- (e) If Rule 1303(A) and (B) apply to the new or Modified Facility then the APCO shall:
  - (i) Commence a Facility engineering analysis; and
  - (ii) Develop and include conditions to implement BACT on any proposed ATC or PTO required for each new or Modified Emission Unit(s) subject to the provisions of Rule 1303(A); and
  - (iii) Calculate the amount of Offsets required on a pollutant-by-pollutant basis pursuant to the applicable provisions of Rule 1305(B). All Offsets shall meet the requirements of Rule 1305(C).
  - (iv) Notify the applicant in writing of the specific amount of Offsets required. The applicant shall comply with the provisions of (C)(3) below.
  - (v) Develop and include conditions on any proposed ATC or PTO to implement the requirements of Rule 1303 and all other applicable requirements of the District's rules and regulations for all new or Modified Emission Unit(s) at the Facility.
  - (vi) Continue the analysis at (C)(4) below.

(3) Offset Requirements

- (a) Upon receipt of the notification, the applicant shall provide to the APCO a proposed Offset package which contains evidence of a sufficient quantity of Offsets eligible for use pursuant to the provisions of Rule 1305 or Rule 1314, as applicable.
- (b) The APCO shall analyze the proposed Offset package to determine if an Adjustment in the value of such Offsets is required and apply the applicable Offset ratio (if any) pursuant to the provisions of Rule 1305 or Rule 1314, as applicable.
  - (i) For Rule 1305 compliance,

- a. If the Offset package includes Mobile, Area, or Indirect Source ERCs pursuant to Rule 1305(C)(3) or proposes the use of interpollutant Offsets pursuant to Rule 1305(C)(6), the APCO shall notify USEPA by sending a copy of the application, the proposed Offset package and all relevant information thereto.
- b. The APCO shall disallow the use of any Offsets which were created by the Shutdown, Modification or limitation of existing Emission Unit(s) when:
  - i. Such Offsets are not in compliance with the applicable provisions of Rule 1309 or 40 CFR 51.165(a)(3)(ii)(C); or
  - ii. USEPA has disapproved the applicable implementation plan for the District, or USEPA has made a finding of a failure to submit for the District of all or a portion of an applicable implementation plan.
- (ii) After determining that the proposed Offset package meets all applicable requirements and that a sufficient quantity of Offsets have been provided, and after any permit modifications required pursuant to Rule 1309 or 1314 have been made, the APCO shall approve the use of the Offsets. The APCO's approval shall be subject to review and comment by CARB and USEPA pursuant to (D)(2) below.
- (iii) The Offsets must be identified and Federally Enforceable prior to ATC or PTO issuance.
- (iv) The Offsets must be surrendered before the new or Modified Facility Begins Actual Construction.
- (v) The emission reductions relied upon as Offsets must be in effect before the new or Modified Facility commences operation.
- (c) After the determination of the amount of pollutant specific Offsets required and the Offset package has been approved, the APCO shall continue the analysis at (C)(4) below.

(4) Stack Height Analysis

- (a) If the application contains a determination showing that the stack height exceeds Good Engineering Practice the APCO shall:
  - (i) Provide that the degree of Emission Limitation required of the new or Modified Facility or Emission Unit(s) is not affected by the stack height that exceeds Good Engineering Practice or by any other Dispersion Technique; and
  - (ii) Notify the public of the availability of the demonstration study and provide opportunity for a public hearing pursuant to the provisions of (C)(7)(b) below, before an ATC is issued; and
  - (iii) Ensure any field study or fluid model used to demonstrate Good Engineering Practice stack height and any determination

concerning Excessive Concentration is approved by the EPA and the APCO prior to any emission limit being established.

- (b) The provisions of this subsection do not restrict, in any manner, the actual stack height of any Facility.
  - (c) The APCO shall continue the analysis at (C)(5) below.
- (5) Determination of Requirements for Toxic Air Contaminants
- (a) The APCO shall also determine if any of the provisions of Rule 1401 apply to the new or Modified Facility.
  - (b) If any of the provisions of Rule 1401 apply to the new or Modified Facility the APCO shall:
    - (i) Require the Facility to comply with the applicable provisions of Rule 1401; and
    - (ii) Add any conditions to the applicable permits required to implement any provisions of Rule 1401.
  - (c) After determining which, if any, Rule 1401 requirements apply, and any necessary actions taken, the APCO shall continue the analysis at (C)(6) below.
  - (d) This subsection is not submitted to USEPA and is not intended to be included as part of the California State Implementation Plan (SIP).
- (6) Determination of Rule 1700 Requirements
- (a) The APCO shall commence or add to the PSD Document to record the application analysis.
  - (b) If the APCO determines that the proposed new or Modified Facility is a Major PSD Facility or a Major PSD Modification, then the APCO shall:
    - (i) Perform the analysis required pursuant to the provisions of Rule 1700(D)(2); and
    - (ii) Add necessary conditions pursuant to Regulation XIII; and
    - (iii) Continue the analysis at (C)(7) below.
  - (c) If none of the provisions of Rule 1700 apply, the APCO shall continue the analysis at (C)(7) below.
- (7) Determination of Notice Requirements
- (a) The APCO shall determine the type of notice required for the proposed new or Modified Facility.



- (b) **NSR/PSD Notice:** If the new or Modified Facility is subject to any of the following, then the APCO shall implement the applicable provisions of section (D) below prior to the issuance of the ATC(s) or modification of the PTO(s).
- (i) The provisions of Rule 1303(B); or
  - (ii) The provisions of (C)(4) above regarding stack height greater than Good Engineering Practice; or
  - (iii) The provisions of Rule 1700; or
  - (iv) The provisions of Rule 1314(D)(1)(b), or
  - (v) The provisions of Regulation XXX and the action involves the issuance, renewal or Significant Modification of the Federal Operating Permit.
- (c) **Toxic NSR Notice:** If any proposed new or modified Emission Unit(s) at the new or modified Facility requires public notification pursuant to the provisions of Rule 1401(E)(3)(e)(iii) or (F)(2)(b) then the APCO shall:
- (i) Provide the notice specified by the applicable provision(s) of Rule 1401 in addition to any other required notice; or
  - (ii) Provide notice pursuant to the provisions of (D)(3)(a) below ensuring that such notice contains any additional information required pursuant to the applicable provision(s) of Rule 1401.
  - (iii) This subsection is not submitted to USEPA and is not intended to be included as part of the California State Implementation Plan (SIP).
- (d) **Minor NSR Notice:** If the new or Modified Facility is not subject to any of the provisions listed in (C)(7)(b) or (c) above, but is subject to any of the following, then the APCO shall commence the issuance of the ATC(s) or modification of the PTO(s) pursuant to the provisions of Regulation II and provide notice pursuant to the provisions of (D)(3)(a)(ii) below:
- (i) The emissions change for any Regulated Air Pollutant as calculated under Rule 1304(B)(3) is greater than any of the following:
    - (a.) 20 tpy or more of VOC, 20 tpy or more of NO<sub>x</sub>, 12 tpy or more of PM<sub>10</sub>, or 80% of the Offset Threshold Amounts for any other Nonattainment Air Pollutant as set forth in Rule 1303(B); or
    - (b.) 8 tpy or more of any Hazardous Air Pollutant or 20 tpy of any combination of Hazardous Air Pollutants or 80% of a lesser quantity of a Hazardous Air Pollutant as the USEPA may establish by rule; or
    - (c.) The Federal Significance Level for a Regulated Air Pollutant as defined in 40 CFR 52.21(b)(23).
- (e) **Permit Issuance Notice:** If the new or modified Facility is not subject to any of the provisions listed in (C)(7)(b), (c) or (d) above, then the APCO

shall commence with the issuance of the ATC(s) or modification of the PTO(s) pursuant to the provisions of District Regulation II and (D)(3)(a)(iii) below.

(D) Permit Issuance Procedure

(1) Preliminary Decision

- (a) After all required analyses have been completed, the APCO shall issue a preliminary decision as to whether the proposed ATC(s) should be approved, conditionally approved, or disapproved and whether ATC(s) should be issued to the new or Modified Facility.
- (b) The preliminary decision shall include:
  - (i) A succinct written analysis of the proposed approval, conditional approval or disapproval; and
  - (ii) If approved or conditionally approved, proposed permit conditions for the ATC(s) or modified PTO(s) and the reasons for imposing such permit conditions; and
  - (iii) A draft Permit.
- (c) The preliminary decision and draft NSR Document may also be combined with the draft PSD Document, if applicable, and any document(s) produced pursuant to District Regulation XXX. In such case, the preliminary decision, and draft Documents shall conform to the applicable provisions of Regulation XXX, 40 CFR 70.6(a)-(g), and 70.7(a)-(b), and will serve as the draft Statement of Legal and Factual Basis and draft Federal Operating Permit.

(2) CARB, USEPA, Federal Land Manager, and Affected State Review

- (a) If notice is required pursuant to any provision of (C)(7)(b-d) above, the APCO shall, concurrently with the publication required pursuant to (D)(3) below, send a copy of the preliminary decision, the draft permit, and any underlying analysis to CARB, USEPA and any Affected State.
- (b) CARB, USEPA and any Affected State shall have 30 days from the date of publication of the notice pursuant to (D)(3) below to submit comments and recommendations regarding the preliminary decision.
  - (i) If the permitting action involves the issuance, renewal, Minor Modification or Significant Modification of the Federal Operating Permit and that action is being performed concurrently with the actions pursuant to this Regulation, then CARB, USEPA, and any Affected State shall have 45 days from the date of publication of the notice to submit comments.

- (c) Upon receipt of any comments and/or recommendations from CARB, USEPA and/or any Affected State, the APCO shall either:
    - (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; or
    - (ii) Reject such comments and/or recommendations, notify CARB, USEPA, and/or the Affected State of the rejection and the reasons for such rejection.
  
  - (d) For applications containing an analysis of anticipated visibility impacts on a Federal Class I Area pursuant to (B)(1)(c) or (B)(1)(d)(i)(e.-f.) above, the APCO, upon receipt of any comments from USEPA or the Federal Land Manager of the affected Federal Class I Area, shall:
    - (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; or
    - (ii) Reject such comments and/or recommendations, notify CARB, USEPA, and/or the Federal Land Manager of the affected Federal Class I Area of the rejection and the reasons for such rejection.
  
  - (e) For applications containing an Offset package submitted pursuant to (C)(3) above, where the Offset package includes Mobile, Area, or Indirect source ERCs pursuant to Rule 1305(C)(3) or proposes the use of interpollutant Offsets pursuant to Rule 1305(C)(6), the APCO, upon receipt of comments from USEPA, shall:
    - (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; and
    - (ii) Require changes to the Offset package by the applicant if such are necessary.
- (3) Public Review and Comment
- (a) Public Notice.
    - (i) **NSR/PSD Notice and Toxic NSR Notice:** If notice is required pursuant to the provisions of (C)(7)(b) and/or (C)(7)(c) above, or (D)(4)(d) below then, within 10 days of the issuance of the preliminary determination, the APCO shall:
      - a. Produce a notice containing all the information set forth in (D)(3)(b)(i) below; and
      - b. Publish a notice by posting the notice and draft permit on the District's website for, at a minimum, the duration of the public comment period; and
      - c. Send a copy of the notice containing the information set forth in (D)(3)(b)(i) below to the applicant; CARB; USEPA; Affected State(s); the City and County where the proposed Facility or Modification is located; any State or Federal Land Manager or Indian governing body who's

lands might be affected by emissions from the proposed Facility or Modification; and to all persons who have requested such notice and/or are on a list of persons requesting notice of actions pursuant to this regulation generally on file with the District; and

- d. Provide notice by other reasonable means, if such notice is necessary to assure fair and adequate notice to the public.
- (ii) **Minor NSR Notice:** If notice of permit issuance is required pursuant to the provisions of (C)(7)(d) above then, within 10 days of the issuance of the Facility engineering analysis the APCO shall:
- a. Produce a notice containing the information set forth in (D)(3)(b)(ii) below; and
  - b. Publish the notice and the draft permit by posting on the District's website for, at a minimum, the duration of the comment period; and
  - c. Send a copy of the notice to the applicant; CARB; USEPA; Affected State(s); and all persons who have requested such notice and/or are on a list of persons requesting notice of actions pursuant to this regulation generally on file with the District.
- (iii) **Permit Issuance Notice:** If the provisions of (C)(7)(e) above apply then the APCO shall issue the permit pursuant to the provisions of Regulation II

(b) Notice Content Requirements

- (i) **NSR/PSD Notice Contents:** The notice required pursuant to (D)(3)(a)(i) above shall include:
- a. The Facility number, name and address of the Facility, including the name and address of the applicant if different; and
  - b. A statement indicating the availability, conclusions of the preliminary decision and a location where the public may obtain or inspect the preliminary decision and supporting documentation; and
  - c. A statement providing at least 30 days from the date of publication of the notice for the public to submit written comments on the preliminary decision; and
  - d. A brief description of the specific comment procedures and deadlines; and
  - e. Information regarding obtaining review of the permit issuance decision by the District Hearing Board pursuant to the provisions of California Health & Safety Code §42302.1.
  - f. If the APCO has determined that the Stack Height exceeds Good Engineering Practice then the notice shall also contain notice of the opportunity to request a public hearing

on the proposed demonstration produced pursuant to (C)(4)(a)(i) above.

- g. If the provisions of Rule 1700(C) apply, then the notice shall also contain the degree of increment, consumption, and notice of the opportunity to request a public hearing regarding the air quality impact, control technology or other appropriate considerations of the preliminary determination for the Major PSD Facility or Major PSD Modification.
- h. If the provisions of Regulation XXX apply, and the action involves the issuance, renewal or Significant Modification of the Federal Operating Permit, and the Federal Operating Permit is being issued concurrently, then the notice shall also contain notice of the opportunity to request a public hearing on the proposed Federal Operating Permit pursuant to District Rule 3007(A)(1)(d).
- i. If the APCO has rejected comments regarding anticipated visibility impacts on a Federal Class I Area, the notice shall also contain a notation of the availability of the reasons for such rejection.

(ii) **Minor NSR Notice Contents:** The notification required pursuant to (D)(3)(a)(ii) above shall include:

- a. The Facility number, name and address of the Facility, including the name and address of the applicant if different; and
- b. Identification of the permit(s) involved including permit number, and a brief description of the action taken; and
- c. Where a copy of the application and preliminary decision may be obtained; and
- d. Provide at least 30 days from the date of publication of the notice for the public to submit written comments on the preliminary decision; and
- e. A brief description of the specific comment procedures and deadlines; and
- f. Information regarding obtaining review of the permit issuance decision by the District Hearing Board pursuant to the provisions of California Health & Safety Code §42302.1.

(c) Availability of Documents

- (i) At the time of publication of any notice required, the APCO shall make available for public inspection at the District office or in another prominent place:
  - a. The application and any other information submitted by the applicant
  - b. The NSR and/or PSD Document
  - c. The preliminary decision to grant or deny the ATC, including any proposed permit conditions and

- d. The reasons therefore and the supporting analysis for the preliminary decision.
    - (ii) Notwithstanding the above, the APCO is not required to release confidential information. Information shall be considered confidential when:
      - a. The information is a trade secret or otherwise confidential pursuant to California Government Code 6254.7(d), or
      - b. The information is entitled to confidentiality pursuant to 18 U.S.C. §1905; and
      - c. Such information is clearly marked or otherwise identified by the applicant as confidential.
  - (d) The APCO shall accept and consider all relevant comment(s) submitted to the District in writing during the 30 day public comment period provided pursuant to (D)(3)(b)(i) or (ii) above.
  - (e) The APCO shall, if requested pursuant to the provisions provided for in the published notice, hold a public hearing regarding the proposed preliminary determination as provided pursuant to subsection (D)(3)(b)(i)(f.-h.) above.
    - (i) Such hearing shall be scheduled no less than 30 days after the publication of a notice of public hearing is published pursuant to the provisions set forth in (D)(3)(a) above.
  - (f) The APCO shall keep a record of any oral and written comments received during the public comment period or at any public hearing and shall retain copies of such comments and the District's written responses to such comments in the District files for the particular Facility.
  - (g) If any substantive changes are made to the preliminary decision as a result of comments received from the public, CARB, USEPA or any Affected State(s), the APCO shall send a copy of the proposed changes to CARB and USEPA for review.
  - (h) Nothing in this subsection shall be interpreted to limit the availability of documents pursuant to the California Public Records Act (California Government Code §§6250 et seq.) as effective upon the date of the request for such documents.
- (4) Final Action
  - (a) After the conclusion of the comment period and consideration of the comments, the APCO shall produce a final NSR and/or PSD Document, based on the draft Document.

- (b) Thereafter, the APCO shall take final action to issue, issue with conditions or decline to issue the ATCs or PTOs pursuant to (D)(6) below based on the final NSR and/or PSD Document.
    - (i) Such final action shall take place no later than 180 days after the application has been determined to be complete.
    - (ii) The APCO shall not take final action to issue the final NSR Document if either of the following occurs:
      - a. USEPA objects to such issuance in writing; or
      - b. USEPA has determined, as evidenced by a notice published in the Federal Register, that the applicable implementation plan is not being adequately implemented in the Federal Nonattainment Area in which the new or Modified Facility is located.
  - (c) The APCO shall provide written notice of the final action to the applicant, USEPA and CARB.
  - (d) If substantive changes have been made to the preliminary determination or other documents after the opening of the public comment period which require changes to the underlying requirements or which result in a less stringent BACT determination, then, the APCO shall publish a notice similar in content to the notice required by (D)(3) above and start a new 30-day public comment period.
  - (e) The final NSR Document may be combined with a final PSD Document produced pursuant to Rule 1700(D).
  - (f) The final NSR and/or PSD Document and all supporting documentation shall remain available for public inspection at the offices of the District for a minimum period of 5 years.
- (5) Issuance of ATC(s)
- (a) In conjunction with final action on the final NSR Document the APCO shall issue ATC(s) for the new or Modified Facility pursuant to the provisions of Regulation II. Such ATC(s) shall contain, at a minimum, the following conditions:
    - (i) All conditions regarding Construction, operation and other matters as set forth in the final NSR and/or PSD Document; and
    - (ii) If a new or Modified Facility is a replacement, in whole or in part, for an existing Facility or Emission Unit(s) on the same or contiguous property, a condition allowing up to 180 days for simultaneous operation of the new or Modified Facility and the existing Facility or Emission Unit(s); and
    - (iii) A condition requiring the Facility to be operated in accordance with the conditions contained in the ATC(s)

- (iv) A condition requiring that the Offsets must be in effect by the time the new or Modified Facility commences operation.
- (b) The APCO shall not issue ATC(s) to a new or Modified Facility pursuant to this regulation unless:
- (i) The new Facility or Modification to an existing Facility is constructed using BACT for each Nonattainment Air Pollutant when the provisions of Rule 1303(A) apply.
  - (ii) Any increase in emissions for each Nonattainment Air Pollutant have been properly Offset pursuant to the provisions of Rules 1305, 1309 and/or 1314.
    - a. Such Offsets shall be Real, Enforceable, Quantifiable, Surplus and Permanent; and
    - b. The permit(s) of any Facility or Emission Unit(s) which provided Offsetting emissions reductions have been properly modified and/or other actions have been performed pursuant to the provisions of Rules 1305, 1309 and 1314.
  - (iii) The new or Modified Facility complies with all applicable Federal, State, and District Rules and Regulations.
  - (iv) The new or Modified Facility will not interfere with the attainment or maintenance of any National Ambient Air Quality Standard.
- (6) Issuance of PTO(s)
- (a) After the final action on the NSR Document pursuant to this Regulation and/or the issuance of ATC(s) pursuant to the provisions of Regulation II, the APCO shall deny the subsequent issuance of PTO(s) unless the APCO determines that:
    - (i) If no ATC was issued, the owner or operator of the new or Modified Facility has complied with all applicable provisions of this Regulation including the provision for Offsets if such were required.
    - (ii) The new or Modified Facility has been Constructed and operated in a manner consistent with the conditions as set forth in the NSR Document and the ATC(s); and
    - (iii) The permit(s) of any Facility or Emission Unit(s) which provided Offsets for the new or Modified Facility has been properly modified pursuant to the provisions of Rules 1304, 1305, 1309 or 1314.
    - (vi) The Offsets, if required pursuant to Rule 1303(B) or Rule 1314, were Real, Enforceable, Quantifiable, Surplus and Permanent, prior to the commencement of Construction of the Facility.
    - (v) That all conditions contained in the ATC(s) requiring performance of particular acts or events by a date specified have occurred on or before such dates.



- (vi) If the actual emissions are greater than those calculated when the ATC was issued:
  - a. That the owner/operator has provided additional Offsets to cover the difference between the amount of Offsets originally provided and the amount of Offsets necessary calculated pursuant to Rule 1305 or Rule 1314, as applicable, based upon the actual emission change; and
  - b. That such additional Offsets were provided within ninety (90) days of the owner/operator being notified by the APCO that such additional Offsets are necessary.

[See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]

## Rule 1303

### State New Source Review Requirements

#### (A) Best Available Control Technology

- (1) Any new Emission Unit(s) shall utilize BACT, where the Emission Unit(s) emits or has the Potential to Emit, 25 pounds per day or more of any Nonattainment Air Pollutant.
- (2) Any Modified Emission Unit(s) shall utilize BACT, where the Emission Unit(s) emits, or has the Potential to Emit, 25 pounds per day or more of any Nonattainment Air Pollutant.
- (3) Any new or Modified Emission Unit(s) at a Facility shall utilize BACT, if the Facility has the Potential to Emit any Nonattainment Air Pollutant in an amount greater than or equal to any amount listed in subsection (B)(1) below.

#### (B) Offsets

- (1) Any new or Modified Facility which has the Potential to Emit a Regulated Air Pollutant in an amount greater than, or equal to, any of the following Offset threshold amounts of Nonattainment Air Pollutants and their Precursors, shall obtain Offsets for that pollutant, calculated pursuant to Rule 1305.

#### OFFSET THRESHOLD AMOUNTS

<u>POLLUTANT</u>	<u>OFFSET THRESHOLD</u>
PM <sub>10</sub>	15 tpy
Oxides of Nitrogen (NO <sub>x</sub> )	25 tpy
Oxides of Sulfur (SO <sub>x</sub> )	25 tpy
Volatile Organic Compounds (VOC)	25 tpy

- (2) Any Facility which has accumulated emission increase(s) in excess of the Offset threshold set forth in (B)(1) above, shall Offset the total emission increase during such period to zero.
- (3) Emission changes shall be calculated pursuant to Rule 1304(B).

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]

## RULE 1304

### State New Source Review Emissions Calculations

#### (A) General

##### (1) Purpose

- (a) This rule provides the procedures and formulas to calculate increases and decreases in emissions of Regulated Air Pollutants for new or Modified Facilities. The results of such calculations shall be used to:
  - (i) Determine the applicability of the provisions of Rule 1303.
  - (ii) Calculate emission changes associated with new or Modified Emission Unit(s) in tpy and lbs/day.
  - (iii) Calculate Simultaneous Emission Reductions (SERs)

##### (2) Applicability

- (a) The applicability of Rule 1314 shall be determined prior to the provisions of this Rule.
- (b) If a permit application(s) submission will result in a New Federal Major Stationary Source or Federal Major Modification, as defined in Rule 1314, then the BACT and Offset provisions of Rule 1303 are satisfied.
- (c) If Rule 1314 does not apply to the permit application(s) submission, then the procedures and formulas in this rule shall be used to determine:
  - (i) Rule 1303 BACT applicability, and
  - (ii) Rule 1303 Offset requirements.

#### (B) Calculating Emissions Changes

- (1) Facility Potential to Emit shall be calculated pursuant to the definition in Rule 1301. Potential to Emit in lb/day is determined by dividing PTE in lbs per year by 365 days per year.
- (2) Emissions Change Calculations for Emission Units
  - (a) The emissions change for each new or Modified Emission Unit(s) that is included in the permit application(s) submission shall be calculated, in pounds per day, by subtracting Historic Actual Emissions (HAE) from the Proposed Emissions (PE), where the HAE of a new Emissions Unit is zero.

$$\text{Emissions Change (EC)} = (\text{PE}) - (\text{HAE})$$

- (b) Prior to performing the calculation specified in Section (B)(2)(a), the HAE shall be adjusted downward to exclude any:

- (i) non-compliant emissions that occurred while the emissions unit was operating above an emission limitation that was legally enforceable during the HAE period, and
  - (ii) emissions that would have exceeded an emission limitation with which the emissions unit must currently comply, had such emissions unit been required to comply with such limitations during the HAE period.
- (3) Emissions Change Calculations for Permit Application(s) Submission
- (a) The Emissions Change for a permit application(s) submission is the sum of all Emissions Changes for each Emission Unit(s) in the permit application(s) submission.

**(C) Calculating Simultaneous Emissions Reductions (SERs)**

- (1) SERs as defined in Rule 1301 may result from a Modified Facility, a Modification, or shutdown of existing Emission Unit(s), so long as the resulting emission reductions are Surplus, Permanent, Quantifiable and Enforceable.
- (2) SERs resulting from a Modified Facility, a Modification, or shutdown of existing Emission Unit(s) shall be calculated by subtracting Historic Actual Emissions (HAE) from the Proposed Emissions (PE), where the PE of a shutdown Emissions Unit is zero.

$$\text{SER} = (\text{PE}) - (\text{HAE})$$

- (3) Where the Facility or Emission Unit(s) have been previously Offset, as documented in a prior permitting action, the SERs resulting from the Modified Facility, Modification or shutdown of an existing Emission Unit(s), shall be calculated by subtracting Potential to Emit (PTE) from Proposed Emissions (PE), where the PE of a shutdown Emission Unit is zero, if the following conditions are also met:
  - (a) The PTE for the Facility or Emission Unit(s) is specified in a legally and practicably Enforceable Emissions Limitation; and
  - (b) The Emission Change resulting from this provision is not an increase in emissions from the Facility or Emission Unit(s); and
  - (c) Any excess SERs generated from this provision are not eligible for Banking.
$$\text{SER} = (\text{PE}) - (\text{PTE})$$

- (4) SERs calculated pursuant to (C)(2) or (C)(3) above, shall thereafter be Surplus adjusted to reflect emissions reductions which are otherwise required by Federal, State or District law, Rule, order, permit or Regulation.

- (5) SERs calculated pursuant to (C)(2) or (C)(3) above, shall be considered Enforceable when the owner and/or operator of the Emission Unit(s) involved has obtained appropriate permits and/or submitted other Enforceable documents as follows:
- (a) If the SERs are the result of a Modification or new limitation on the use of an existing Emission Unit(s), when the owner and/or operator has been issued revised ATCs or PTOs containing Federally Enforceable conditions reflecting the Modification and/or new limitations.
  - (b) If the SERs are the result of a shutdown of an Emission Unit(s), when the owner and/or operator has surrendered the relevant permits and those permits have been voided.
    - (i) The Emission Unit(s) for which the permits were surrendered shall not be re-permitted within the District unless the PTE of the Emission Unit(s) is fully Offset.
  - (c) If the SERs are the result of a Modification of Emission Units(s) which did not have a District permit, when the owner and/or operator has obtained a valid District permit which contains enforceable limitations on the Emission Unit(s).
  - (d) If the SERs are the result of the application of a more efficient control technology to Emission Unit(s), when the owner and/or operator has obtained a valid District permit for both the underlying Emission Unit(s) and the new control technology.
- (6) SERs may only be used for purposes of determining the base quantity of Offsets required pursuant to Rule 1305(B).
- (7) Prior to use, SERs must be calculated and approved by the APCO.

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]

## RULE 1305

### State New Source Review Emissions Offsets

#### (A) General

##### (1) Purpose

- (a) This Rule provides the procedures to calculate the amount of, determine the eligibility of, and determine the use of Offsets required pursuant to the provisions of Rule 1303(B).

#### (B) Offset Calculations

- (1) The base quantity of Offsets required shall be calculated based on a specific pollutant basis for each State Nonattainment Air Pollutant and its Precursors, and whether the project is for a new or Modified Facility.
- (2) The APCO shall first calculate the resulting Emission Change and SERs pursuant to Rule 1304, and the PTE for the Facility or Modification, and calculate the base quantity of Offsets required as follows:
  - (a) For a new Facility, the base quantity of Offsets shall be equal to the total Proposed Emissions.
  - (b) For a Modification to an existing Major Facility the base quantity of Offsets shall be equal to the sum of all Emission Changes and SERs for the Facility and all Emission Unit(s).
  - (c) For a Modification to a previously existing non-major Facility which results in the Facility becoming a Major Facility for the specific State Nonattainment Pollutant, the base quantity of Offsets shall be equal to the Facility's Potential to Emit.
  - (d) Additional Requirements for Seasonal Sources
    - (i) The base quantity of Offsets for new or Modified Seasonal Sources shall be determined on a quarterly basis.
    - (ii) Seasonal emissions used for Offsets shall generally occur during the same consecutive monthly period as the new or Modified Seasonal Source operates.
  - (e) Offset Adjustment for Various Energy Conservation Projects

- (i) If the Facility qualifies as a cogeneration technology project, or is otherwise qualified as an energy conservation project pursuant to California Health and Safety Code §§39019.5, 39019.6, 39047.5 and 39050.5 the amount of Offsets shall be adjusted to the extent required by the applicable provisions of Health and Safety Code, including but not limited to California Health and Safety Code §§42314, 42314.1, 42314.5, 41601, and 41605.5.
- (3) After determining the base quantity of Offsets, the APCO shall apply the appropriate Offset ratio and any adjustments as set forth in (D) below.
- (4) If eligible interpollutant Offsets are being used, the APCO shall apply the appropriate ratio to determine the total amount of Offsets required.

(C) Eligibility of Offsets

- (1) ERCs are eligible to be used as Offsets, if they meet the following requirements:
  - (a) The ERCs were issued pursuant to Rule 1309.
  - (b) The ERCs are Real, Surplus, Permanent, Quantifiable, and Enforceable.
  - (c) The ERCs are obtained from a Facility (or combination of Facilities) which is:
    - (i) Located within the same Federal Nonattainment, attainment or unclassified area as that where the Offsets are to be used; or
    - (ii) Located in an area with a Federal designation (in the case of attainment or unclassified areas) or classification (in the case of Nonattainment Areas) which is greater than or equal to the designation or classification of the area where the Offsets are to be used so long as the emissions from that area cause or contribute to a violation of the Ambient Air Quality Standards in the area in which the Offsets are to be used.
- (2) ERCs issued in another air District are eligible to be used as Offsets, if they meet the following requirements:
  - (a) Such ERCs have been calculated and issued in another air District within the Air Basin under a program developed pursuant to California Health & Safety Code §§40700-40713 so long as the source of such credits is contained within the same Air Basin as the District and the use of the ERCs comply with the provisions of (C)(4) below; or
  - (b) Such ERCs have been calculated and issued in another air District outside the Air Basin under a program developed pursuant to California Health & Safety Code §§40709-40713 and the transfer of such credits comply with

the requirements of California Health & Safety Code §40709.6 and the use of the ERCs comply with the provisions of (C)(5) below.

- (3) Mobile, Area and Indirect Source Emissions Reductions
  - (a) Mobile Source ERCs are eligible to be used as Offsets when:
    - (i) Such Mobile, Area, or Indirect Source ERCs have been calculated and banked pursuant to the provisions of Regulation XVII and Rule 1309; and
    - (ii) The applicant demonstrates sufficient control over the Mobile Area or Indirect Sources to ensure the claimed reductions are Real, Surplus, Permanent, Quantifiable and Enforceable; and
    - (iii) For Mobile Sources, such Mobile Source ERCs are consistent with Mobile Source emissions reduction guidelines issued by CARB; and
    - (iv) The specific Mobile, Area, or Indirect Source ERCs are approved for use prior to the issuance of the NSR document and the issuance of any ATCs by the APCO in concurrence with CARB; and
    - (v) Such Mobile, Area, or Indirect Source ERCs comply with the applicable provisions of (C)(1) above.
- (4) ERCs Obtained from Other Air Districts and Within the Air Basin
  - (a) ERCs occurring within the air basin but outside the District are eligible to be used as Offsets upon approval of the APCO as follows:
    - (i) For a new or Modified Facility or a Modification, the APCO's approval shall be made in consultation with CARB on a case-by-case basis; and
    - (ii) For all other Facilities or Modifications subject to this provision the APCO's approval shall be made in consultation with CARB on a case-by-case basis; and
    - (iii) The ERCs are obtained in a Nonattainment Area which has a greater or equal nonattainment classification than the area where the Offsets are to be used; and
    - (iv) The emissions from the other Nonattainment Area contribute to a violation of the Ambient Air Quality Standards in the area where the Offsets are to be used.
  - (b) Such ERCs shall also comply with the applicable requirements of (C)(1) above.
- (5) ERCs from Other Air Districts and Outside the Air Basin
  - (a) ERCs from outside the air basin are eligible to be used as Offsets upon approval of the APCO as follows:



- (i) For a new or Modified Facility or a Modification subject to this provision, the APCO's approval shall be made in consultation with CARB on a case-by-case basis; and
- (ii) The ERCs are obtained in a Nonattainment Area which has a greater or equal nonattainment classification than the area where the Offsets are to be used; and
- (iii) The emissions from the other Nonattainment Area overwhelmingly impacts the District's air quality.

(b) Such ERCs shall comply with the applicable requirements of (C)(1) above.

(6) Interpollutant Offsets

(a) Emissions reductions of one type of Air Pollutant may be used as Offsets for another type of Air Pollutant upon approval of the APCO as follows:

- (i) For a new or Modified Facility or a Modification, the APCO's approval shall be made in consultation with CARB pursuant to the provisions of Rule 1302(D)(2), on a case-by-case basis, as long as the provisions of (C)(6)(b) below are met.
- (ii) For all other Facilities or Modifications subject to this provision the APCO's approval shall be made in consultation with CARB on a case-by-case basis.

(b) In approving the use of interpollutant Offsets the APCO shall determine that:

- (i) The trade is technically justified; and
- (ii) The applicant has demonstrated, to the satisfaction of the APCO, that the combined effect of the Offsets and emissions increases from the new or Modified Facility will not cause or contribute to a violation of an Ambient Air Quality Standard; and
- (iii) PM<sub>10</sub> emissions are not used to Offset nitrogen oxide or reactive organic compound emissions within any ozone Nonattainment Areas.

(c) The APCO shall, based upon an air quality analysis, determine the quantity of Offsets necessary, as appropriate.

(d) Such ERCs comply with the applicable provisions of (C)(1) above.

(D) Offset Ratio

(1) Offsets for State Nonattainment Air Pollutants shall be provided on a specific pollutant basis, calculated as provided in (B) above, and multiplied by the appropriate Offset ratio listed in the following table:

TABLE OF OFFSET RATIOS

<u>POLLUTANT</u>	<u>OFFSET RATIO</u> for Ozone Precursors	<u>OFFSET RATIO</u> for PM <sub>10</sub> and PM <sub>10</sub> Precursors
PM <sub>10</sub>	--	1.0 to 1.0
Oxides of Nitrogen (NO <sub>x</sub> )	1.3 to 1.0	1.0 to 1.0
Oxides of Sulfur (SO <sub>x</sub> )	--	1.0 to 1.0
Volatile Organic Compounds (VOC)	1.3 to 1.0	1.0 to 1.0

- (2) The ratio for Offsets obtained from outside the District for any Nonattainment Air Pollutant shall be equal to the Offset ratio which would have applied had such Offsets been obtained within the District.

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans> \_\_\_\_\_]

## RULE 1309

### Emission Reduction Credit Banking

#### (A) General

##### (1) Purpose

- (a) To implement those provisions of Division 26, Part 3, Chapter 6 (commencing with §40700) of the California Health & Safety Code which require the establishment of a system by which all reductions in the emission of Air Contaminants (which are to be used to Offset certain future increases in emissions) shall be Banked, prior to use, to Offset future increases in emissions.
- (b) This Rule is not intended to recognize any preexisting right to emit Air Contaminants, but to provide a mechanism for the District to recognize the existence of reductions of Air Contaminants that can be used as Offsets, and to provide greater certainty that such Offsets shall be available for emitting industries.

##### (2) Applicability

- (a) This Rule shall apply to the creation, and Banking of all Emission Reduction Credits (ERCs) within the District.
- (b) Any Person, including the District, may Bank, own, use, sell or otherwise transfer, either in whole or in part, ERCs which are created and owned pursuant to this Rule subject to the applicable requirements of Federal, State, or District law, Rule, order, permit or Regulation.

##### (3) Prohibitions

- (a) No reduction in the emission of Regulated Air Pollutants may be used as Offsets for future increases in the emission of Regulated Air Pollutants unless such reductions have been Banked pursuant to this Rule.

#### (B) Emission Reduction Credit Registry

##### (1) Establishment of Emission Reduction Credit Registry

- (a) An Emission Reduction Credit Registry is hereby established for the District.

- (i) This shall be known as the Antelope Valley Air Quality Management District Emission Reduction Credit Registry (AVAQMD ERC Registry).
- (b) The AVAQMD ERC Registry shall consist of the following:
  - (i) ERCs created and issued after July 1, 1997, which have met all the following requirements:
    - a. A timely and complete application for ERCs has been received pursuant to (C)(1) below; and
    - b. The amount of ERCs were calculated pursuant to the provisions of Rule 1304(D), as it existed prior to 12/30/2024, or calculated pursuant to (D) below, on or after 12/30/2024; and
    - c. The amount and ownership of the ERCs has been entered into the Registry; and
    - d. A Certificate evidencing the amount, type and class of ERCs has been properly issued; and
    - e. The ERCs have not yet been used as Offsets.
  - (ii) ERCs Banked prior to July 1, 1997, under the applicable Rules of the South Coast Air Quality Management District (SCAQMD) and which meet the following requirements:
    - a. The ERCs have been properly transferred to the AVAQMD ERC Registry pursuant to (E)(4) below; and
    - b. The ERCs have not yet been used as Offsets.
- (c) ERCs contained in the AVAQMD ERC Registry are Permanent until:
  - (i) They are used by the owner; or
  - (ii) They are used by any Person to whom the ERC has been transferred to.
- (d) Subsequent changes in District Rules or Regulations to require a type of emission reduction which has previously been Banked pursuant to this Rule, shall not reduce or eliminate an ERC generated from that type of emission reduction if the ERC is used to satisfy the Offset requirements of Rule 1303(B). This provision does not apply to any ERC used as an Offset to satisfy the requirements of Rule 1314.
- (e) Emission reductions are eligible to become ERCs if such reductions are Real, Surplus, Permanent, Quantifiable, and Federally Enforceable; and are calculated and adjusted pursuant to the applicable provisions of (D) below, and:
  - (i) The emission reduction is the result of a Modification or limitation of use of an existing Emission Unit(s) such that after the reduction

is made the Emission Unit(s) remains in service with an Authority to Construct or Permit to Operate pursuant to Regulation II; or

- (ii) The emission reduction is the result of a Shutdown of an Emission Unit(s) and there will be no replacement Emission Unit(s) at the same Facility. If a replacement Emission Unit(s) is installed, the emissions from such unit must be completely Offset under the provisions of this Regulation.

(2) Contents of Registry

- (a) All ERCs contained in the AVAQMD ERC Registry shall be individually listed.
- (b) The registry entry for each ERC shall contain the following information:
  - (i) The name, address, and telephone number of the owner(s) of the ERC; and
  - (ii) The amount and pollutant of the ERC on a pollutant-by-pollutant basis; and
  - (iii) Any information regarding liens, encumbrances and other changes of record.
- (c) The registry shall contain an entry for each ERC until such ERC is used or is otherwise altered by operation of law.

(3) ERC Certificate

- (a) All ERCs issued pursuant to this Regulation shall be evidenced by an ERC Certificate issued by the District and signed by the APCO.
- (b) The ERC Certificate shall contain the same information that is contained in the registry entry for the issued ERC pursuant to (B)(2)(b) above.
- (c) The APCO shall specify the form of the ERC Certificate.
- (d) ERC Certificates shall not constitute instruments, securities or any other form of property.

(4) Ownership of ERCs

- (a) Initial title to ERCs shall be held by the owner(s) of the Emission Unit(s) which produced the reduction in Regulated Air Pollutants, in the same manner as such owner(s) hold title to the Facility in which the Emission Unit(s) is located.
- (b) Title for any ERC which has been transferred, in whole or in part, by written conveyance or operation of law from one Person to another shall

be held by the owner(s) in the manner indicated in the written conveyance or as indicated by the operation of law.

- (c) The owner(s) of an ERC as listed in the registry and on the ERC Certificate shall have the exclusive right to use such ERCs and/or to authorize such use.

## (C) Issuance of Emission Reduction Credits

### (1) Applications for ERCs

- (a) ERCs shall be applied for, in writing, by the owner or operator of the Emission Unit(s) from which the emission reduction has occurred or will occur, to the APCO.
- (b) Applications for ERCs shall be clearly identified as such and shall contain the following:
  - (i) The name, address, and telephone number of the owner(s) of the Emission Unit(s) and a contact Person if necessary; and
  - (ii) Information sufficient to identify the source and/or causation of the emission reductions; and
  - (iii) Information sufficient to allow the calculations set forth in Rule 1309(D) below to be performed.
- (c) No application for ERCs will be processed until the applicable fees as specified in Rule 301 have been paid.
- (d) Applications for ERCs shall be submitted in a timely manner determined as follows:
  - (i) For emission reductions which occurred after July 1, 1997, an application for ERCs shall be submitted within 6 months after any of the following:
    - a. District issuance of an ATC; or
    - b. District issuance of a Modified PTO; or
    - c. District cancellation of a previously existing ATC or PTO; or
    - d. For Emission Unit(s) not subject to permitting requirements, the completion of the Modification or Shutdown and execution of the document(s) required by (E)(3)(c) below.
  - (ii) Notwithstanding (C)(1)(d)(i) above, a timely application for a Military Base subject to closure or realignment shall be determined pursuant to the provisions of California Health & Safety Code §40709.7.

- (e) Applications for ERCs may be withdrawn at any time by the applicant.
    - (i) An applicant who withdraws an application may be entitled to a partial refund of fees as set forth in Rule 301.
    - (ii) A withdrawn application for ERCs does not preclude an applicant from later submitting an application for ERCs based upon the same emission reductions as those contained in the withdrawn application as long as such resubmitted application is timely in accordance with (C)(1)(d) above.
  - (f) Information contained in an application for ERCs shall be considered confidential when:
    - (i) The information is a trade secret or otherwise confidential pursuant to California Government Code §6254.7; or
    - (ii) The information is entitled to confidentiality pursuant to 18 U.S.C. §1905; and
    - (iii) The information is clearly marked or otherwise identified by the applicant as confidential.
- (2) Determination of Completeness
- (a) The APCO shall determine if the application is complete no later than 30 days after the receipt of the application, or after such longer time as both the applicant and the APCO may agree upon in writing.
    - (i) An application is complete when it contains the information required by (C)(1) above.
  - (b) Upon making this determination, the APCO shall notify the applicant, in writing, that the application has been determined to be complete or incomplete.
  - (c) If the application is determined to be incomplete:
    - (i) The notification shall specify which part of the application is incomplete and how it can be made complete.
    - (ii) The applicant for ERCs shall have 30 days to submit the additional information, unless another time period is specified by the APCO in writing.
    - (iii) The applicant for an ERCs may request in writing, and the APCO may grant for good cause shown, extension(s) of time for submission of the additional information. Such request and any extension(s) granted shall be in writing.
    - (iv) If the applicant does not submit the additional information in writing within the time period specified or extended in writing by

the APCO the application shall be deemed withdrawn by the applicant.

(v) The APCO shall thereafter notify the applicant in writing that the application has been deemed withdrawn pursuant to this subsection.

(d) A determination of incompleteness which results in an application being deemed withdrawn may be appealed to the Hearing Board pursuant to (G) below.

(3) Proposed ERCs

(a) Within 30 days after the application for ERCs has been determined to be complete, or after such longer time as both the applicant and the APCO may agree upon in writing, the APCO shall determine, in compliance with the standards set forth in (E) below, to issue or deny the ERCs.

(b) The APCO shall notify the applicant in writing of the determination.

(i) If the determination is to issue the ERCs, then the notification shall include the amount and type of the ERCs proposed to be issued; or

(ii) If the determination is to deny the ERCs, then the notice shall include an explanation of the reason for the denial.

(c) After the APCO has determined to issue the ERCs, the information submitted by the applicant, the analysis, and determination, shall be transmitted to CARB and the USEPA regional office within 10 days or no later than the date of publication of the notice of the preliminary determination, if the amount of the ERCs proposed to be granted are greater than, or equal to, any of the following amounts:

<u>Pollutant</u>	<u>ERC Notification to CARB/USEPA Threshold</u>
NO <sub>x</sub>	10,950 lbs/yr <b>or</b> 30 lbs/day
SO <sub>x</sub>	21,900 lbs/yr <b>or</b> 60 lbs/day
VOC	10,950 lbs/yr <b>or</b> 30 lbs/day
PM <sub>10</sub>	10,950 lbs/yr <b>or</b> 30 lbs/day
CO	80,300 lbs/yr <b>or</b> 220 lbs/day
H <sub>2</sub> S	20,000 lbs/yr <b>or</b> 54 lbs/day
Pb	1,200 lbs/yr <b>or</b> 3 lbs/day



(4) Public Notice and Comment

- (a) After the APCO has determined to issue ERCs, the APCO shall:
  - (i) Produce a public notice containing all the information contained in (C)(4)(b) below; and
  - (ii) Publish the notice by posting on the District's website; and
  - (iii) Send a copy of the notice to all Persons who are included on a list of Persons requesting notice, on file with the District.
  - (iv) Provide notice by other reasonable means, if such notice is necessary to ensure fair and adequate notice to the public.
- (b) The public notice shall contain the following:
  - (i) The name and address of the applicant and the Facility generating the emission reductions, if different; and
  - (ii) The amount of ERCs proposed to be issued on a pollutant-by-pollutant basis; and
  - (iii) A statement indicating the availability of documents and a location where the public may obtain or inspect the decision and supporting documentation including, but not limited to, the name, address and telephone number of a Person from whom additional information may be obtained; and
  - (iv) A statement providing at least a 30-day period from the date of publication of the notice in which interested Persons may submit written comments to the District regarding the proposed issuance of the ERCs; and
  - (v) A brief description of the comment procedures and deadlines; and
  - (vi) Information regarding obtaining review of the decision made pursuant to (C)(3)(a) above.
- (c) The APCO shall accept and consider all relevant and substantive comments which are received during the comment period.
- (d) The APCO shall include all accepted comments with the records regarding the issuance of the ERCs and shall retain such records for a period of at least 5 years.

(5) Issuance of ERCs

- (a) Upon the expiration of the public comment period; after review of comments accepted, if any; and upon payment of the appropriate fee, if any, the APCO shall issue the ERCs by including the appropriate information in the registry and issuing an ERC Certificate.

- (b) The APCO shall provide written notice of the final action to the applicant, CARB and USEPA if the preliminary determination was sent to such agencies pursuant to (C)(3)(c) above.

(D) ERC Calculation Requirements

- (1) ERCs may result from the Modification, limitation or Shutdown of an existing Emission Unit(s) so long as the resulting reductions are Real, Surplus, Permanent, Quantifiable and Federally Enforceable.
- (2) ERCs resulting from the Modification, limitation or Shutdown of an existing Emission Unit(s) shall be initially calculated as follows:

- (a) For the Shutdown of an Emission Unit(s)

$$\text{ERC} = \text{HAE}$$

- (b) For Modifications or limitations on operations of an Emission Unit(s)

$$\text{ERC} = (\text{HAE}) - (\text{PE})$$

J

- (c) For Modifications or limitations on mobile, area or indirect sources of emissions;
  - (i) For Nonattainment Air Pollutants, a SIP approved calculation method that represents Actual Emission reductions from a USEPA approved attainment plan base year emission inventory.
  - (ii) For other Regulated Air Pollutants, any calculation formula and protocol as approved by the District, CARB and USEPA.

(3) ERC Adjustments

- (a) Prior to Banking and issuance of the ERC Certificate, the ERCs shall be adjusted to ensure the emission reductions are Surplus.

(4) Readjustment of ERCs

- (a) ERCs shall be eligible for Readjustment when:
  - (i) The original amount of ERCs as calculated were adjusted based upon a proposed Rule or Regulation, which was not identified in the District's AQAP or SIP, and the District has subsequently determined that the Rule or Regulation will not be adopted by the District; or
  - (ii) The original amount of ERCs as calculated were adjusted based upon a control measure which was identified in the District's AQAP or SIP and the control measure has subsequently been removed from either or both documents,

and no District Rule or Regulation has been adopted for the control measure.

- (b) If an ERC is eligible for Readjustment the APCO shall calculate the Readjustment as if the ERC was being initially issued, and thereafter reissue the ERC pursuant to the provisions found in (C) above.

(5) Redeposit of ERCs

- (a) If an Emission Unit(s) is fully Offset using Banked ERCs and the Emission Unit(s) is not constructed and the Authority to Construct is surrendered, the ERCs used may be redeposited into the District ERC Registry. A new ERC Certificate will be issued for the redeposited ERCs.

(6) Discount of ERCs Generated from Military Bases

- (a) ERCs which are calculated from emission reductions created by a military base designated for closure or downward realignment shall be discounted five percent (5%) to improve air quality.

(E) Standards for Granting ERCs

- (1) ERCs shall be Real, Surplus, Permanent, Quantifiable, and Federally Enforceable.
- (2) ERCs shall only be granted for emission reductions which are not otherwise required by Federal, State or District law, rule, order, permit or requirement.
- (3) ERCs shall only be granted if the applicable changes to the appropriate permits have occurred or other Enforceable documents have been submitted as follows:
  - (a) If the proposed ERCs are the result of a Modification or limitation of use of an existing Permit Unit(s) and the owner and/or operator has been issued revised ATCs or PTOs containing Federally Enforceable conditions reflecting the Modification and/or limitations has been issued.
  - (b) If the proposed ERCs are the result of a Shutdown of a Permit Unit(s) and the owner and/or operator has surrendered the relevant permits and those permits have been made inactive.
    - (i) The specific Permit Unit(s) for which the permits were surrendered shall not be re-permitted within the District unless the emissions thereof are completely Offset pursuant to the provisions of this Regulation.

- (c) If the proposed ERCs are the result of a Modification of an Emission Unit(s) which did not have a District permit and the owner and/or operator has obtained a valid District permit
  - (d) If the proposed ERCs are the result of the application of a more efficient control technology to Emission Unit(s) and the owner and/or operator has or obtains a valid District PTO for both the underlying Emission Unit(s) and the new control technology which contains Federally Enforceable limitations reflecting the reduced emissions.
- (4) If the proposed ERC originates from a previously unpermitted Emission Unit(s), no ERCs may be granted unless the Historic Actual Emissions from that Emission Unit(s) are included in the District's emissions inventory.

**(F) Transfer, Encumbrance, and Readjustment of ERCs**

- (1) ERCs may be transferred in whole or in part by written conveyance or by operation of law from one Person to another in accordance with the provisions contained in this section.
- (2) Voluntary Transfer of Ownership
- (a) A voluntary transfer of ownership in whole or in part shall be performed according to the following procedure:
    - (i) The owner(s) of the ERC may file a request for transfer of ownership with the APCO. Such request shall include:
      - a. Information regarding the new owner of the ERC sufficient for entry into the registry; and
      - b. An executed copy of the instrument transferring the ERC or a memorandum describing the transaction which transfers the ERC, which is signed by all parties to the transaction; and
      - c. The purchase price, if any, of the ERCs in terms of total cost on a pollutant-by-pollutant purchased basis.
    - (b) The existing ERC Certificate(s) for the ERCs to be transferred:
      - (i) Upon payment of the appropriate fee as set forth in Rule 301, the APCO shall cancel the existing ERC Certificate(s) and issue new certificate(s) in the name of the new owner and indicate the transfer in the Registry.
- (3) Involuntary Transfer of Ownership
- (a) An involuntary transfer of ERCs shall be performed pursuant to the following procedure:

- (i) The transferee shall file with the District a certified copy of the document effecting the transfer. The transferee shall certify that the document represents a transfer which is final for all purposes.
  - (ii) Upon payment of the appropriate fee as set forth in Rule 301, the APCO shall demand the original ERC Certificate from the original owner.
    - a. Upon the surrender of the existing ERC Certificate to the District or after 90 days (whichever comes first), the existing ERC Certificate shall be considered cancelled, and the APCO shall issue a new ERC Certificate and indicate the involuntary nature of the transfer in the registry.
  - (iii) The APCO shall thereafter not allow the use or subsequent transfer of the ERC by the original owner.
- (4) Transfer of ERCs Banked Prior to July 1, 1997
- (a) ERCs which were created within the area which is now under the jurisdiction of the District and which were properly Banked prior to July 1, 1997 pursuant to the applicable Rules of the SCAQMD may be transferred to the AVAQMD ERC Registry according to the following procedure:
    - (i) The owner of the ERCs shall submit a request to include the ERCs in the AVAQMD ERC Registry by:
      - a. Requesting such inclusion in writing; and
      - b. Surrendering the ERC certificate(s) or other evidence of the ERCs obtained from the SCAQMD.
    - (ii) Upon receipt of the request and documentation the APCO shall:
      - a. Notify the SCAQMD in writing of the request, the intent to include such ERCs in the AVAQMD ERC Registry, and request that the SCAQMD remove such ERCs from its Registry.
      - b. The APCO shall, at the request of the SCAQMD, submit the original certificate and/or documentation which was surrendered to effectuate such removal.
      - c. Within 90 days of such notification, upon the submission of the original certificate and/or documentation or upon receipt of notification from the SCAQMD that such ERCs have been removed from its Registry, whichever occurs earlier, the APCO shall issue a new certificate(s) in the name of the owner and include the ERCs in the Registry.
  - (b) ERCs which were created and properly Banked prior to July 1, 1997, pursuant to the applicable rules of the SCAQMD and which are owned by an owner/operator located within the jurisdiction of the District, may be transferred to the AVAQMD ERC Registry according to the following procedure:

- (i) The owner of the ERCs shall submit a request to include the ERCs in the AVAQMD ERC Registry by:
      - a. Requesting such inclusion in writing; and
      - b. Surrendering the ERC certificate(s) or other evidence of the ERCs obtained from the SCAQMD; and
      - c. Paying the applicable fee contained in Rule 301.
    - (ii) Upon receipt of the request and documentation the APCO shall:
      - a. Notify the SCAQMD in writing of the request, the intent to include such ERCs in the AVAQMD ERC Registry, and request that the SCAQMD remove such ERCs from its Registry.
      - b. The APCO shall, at the request of the SCAQMD, submit the original certificate and/or documentation which was surrendered to effectuate such removal.
      - c. Within 90 days of such notification, upon the submission of the original certificate and/or documentation or upon receipt of notification from the SCAQMD that such ERCs have been removed from its Registry, whichever occurs earlier, the APCO shall issue a new certificate(s) in the name of the owner and include the ERCs in the Registry.
      - d. ERCs transferred pursuant to this subsection shall meet all requirements of California Health and Safety Code 40709.6.
  - (c) ERCs once transferred to the AVAQMD Registry pursuant to this subsection may not thereafter be utilized within the SCAQMD.
- (5) Other Encumbrances of ERCs
- (a) Other encumbrances may be placed upon ERCs according to the following procedure:
    - (i) The holder of the encumbrance shall file with the District a certified copy of the final document creating the encumbrance.
    - (ii) Upon payment of the appropriate transfer fee as set forth in Rule 301, the APCO shall indicate the encumbrance in the Registry.
  - (b) Thereafter the APCO shall not allow the use or subsequent transfer of the ERC by the owner without receipt of a certified copy of the satisfaction of the encumbrance or by the removal of the encumbrance by the holder of the encumbrance.
- (6) Readjustments of ERCs
- (a) Readjustment of ERCs shall be processed as follows:
    - (i) The owner of the ERC shall file an application to adjust the ERC.

- (ii) The APCO shall determine if the adjustment of the ERC is warranted and the amount of such adjustment pursuant to the provisions of (D)(4) above.
- (iii) The application will be subject to public notice pursuant to (C)(4) above.
- (iii) After review, the APCO will require the surrender of the prior ERC Certificate; the APCO shall issue an adjusted ERC Certificate to the owner.

(7) Transfer

- (a) Any transfer of an ERC shall not modify or otherwise alter the requirements contained in a permit which render the ERC Real, Surplus, Permanent, Quantifiable, and Federally Enforceable.

(8) Conflicting Interest

- (a) Notwithstanding any other provision of law, conflicting interests in ERCs shall rank in priority according to the time of filing with the District.

(G) Appeal of the Incompleteness, Granting or Denial of ERCs

- (1) If an application for ERCs is deemed withdrawn, granted or denied, the applicant or aggrieved Person may petition the Hearing Board within 30 days of the date that the application is deemed withdrawn, granted or denied, on whether the action was appropriate.
- (2) The procedural provisions applicable to such a hearing shall be the same as those used for hearings regarding the denial of a permit application pursuant to California Health & Safety Code §§42302 and or 42302.1 as applicable.

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]

# Rule 1314

## Federal Nonattainment New Source Review For Ozone Precursors

### (A) Purpose

- (1) The purpose of this Rule is to set forth additional requirements and procedures for satisfying Federal New Source Review (NSR) requirements for Federal Major Stationary Sources emitting Ozone Precursors.

### (B) Applicability

- (1) This Rule shall apply to all new or Modified Facilities that propose a Project that will result in a:
  - (a) Federal Major Modification, or
  - (b) New Federal Major Stationary Source.
- (2) At such time that a particular source or Modification becomes a Federal Major Stationary Source or Federal Major Modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or Modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this rule shall apply to the source or Modification as though construction had not yet commenced on the source or Modification.

### (C) Definitions

Notwithstanding any other definitions provided in Rules 1301 or 102, the following definitions shall apply and take precedence:

- (1) **Actual Emissions** - The actual rate of emissions of a Regulated Air Pollutant from an Emission Unit(s), as determined in accordance with paragraphs (a) and (b) of this section, except that this definition shall not apply for calculating whether a Significant Emissions Increase has occurred. Instead, the definitions found in Sections (C)(2) and (C)(11) shall apply for those purposes.
  - (a) In general, Actual Emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The APCO shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual Emissions shall be calculated using the



unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

- (b) For any Emission Unit(s) that has not begun normal operations on the particular date, Actual Emissions shall equal the Potential to Emit of the unit on that date.

(2) **Baseline Actual Emissions** - means the rate of emissions, in tons per year, of a Regulated Air Pollutant, as determined in accordance with sections (a) through (c) of this definition.

- (a) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The APCO shall allow the use of a different time period upon a determination that it is more representative of normal source operation.
  - (i) The average rate shall include Fugitive Emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
  - (ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
  - (iii) For a Regulated Air Pollutant, when a Project involves multiple emissions units, only one consecutive 24-month period must be used to determine the Baseline Actual Emissions for the Emission Unit(s) being changed. A different consecutive 24-month period can be used for each Regulated Air Pollutant.
  - (iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (2)(a)(ii).
- (b) For an Existing Emission Unit(s) (other than an electric utility steam generating unit), Baseline Actual Emissions means the average rate, in tons per year, at which the Emission Unit(s) actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the Project, or the date a complete permit application is received by the APCO for a permit required either under Rule 201 or under a plan approved by the Administrator, whichever is earlier.
  - (i) The average rate shall include Fugitive Emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
  - (ii) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above

an emission limitation that was legally enforceable during the consecutive 24-month period.

- (iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the Federal Major Stationary Source must currently comply, had such Federal Major Stationary Source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the Baseline Actual Emissions need only be adjusted if the State has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165 (a)(3)(ii)(G).
  - (iv) For a Regulated Air Pollutant, when a project involves multiple Emission Unit(s), only one consecutive 24-month period must be used to determine the Baseline Actual Emissions for the Emission Unit(s) being changed. A different consecutive 24-month period can be used For each Regulated Air Pollutant.
  - (v) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs (2)(b)(ii) and (2)(b)(iii).
- (c) For a New Emission Unit(s), the Baseline Actual Emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's Potential to Emit.

(3) **Basic Design Parameters –**

(a) Means:

- (i) Except as provided in paragraph (iii) of this section, for a process unit at a steam electric generating Facility, the owner or operator may select as its Basic Design Parameter(s) either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate.
- (ii) Except as provided in paragraph (iii) of this section, the Basic Design Parameter(s) for any process unit that is not at a steam electric generating Facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a Basic Design Parameter.
- (iii) If the owner or operator believes the Basic Design Parameter(s) in paragraphs (i) and (ii) of this section is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the APCO an alternative Basic Design Parameter(s) for the source's

process unit(s). If the APCO approves of the use of an alternative Basic Design Parameter(s), the APCO shall issue a permit that is legally enforceable that records such Basic Design Parameter(s) and requires the owner or operator to comply with such parameter(s).

- (b)
  - (i) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the Basic Design Parameter(s) specified in paragraphs (a)(i) and (ii) of this definition.
  - (ii) If design information is not available for a process unit, then the owner or operator shall determine the process unit's Basic Design Parameter(s) using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.
  - (iii) Efficiency of a process unit is not a Basic Design Parameter.

(4) **Emission Unit** – means any part of a stationary source that emits or would have the Potential to Emit any Regulated Air Pollutant. For purposes of this section, there are two types of Emission Unit(s) as described below.

- (a) A **New Emission Unit(s)** is any Emission Unit(s) which is (or will be) newly constructed and which has existed for less than 2 years from the date such Emission Unit(s) first operated.
- (b) An **Existing Emission Unit(s)** is any Emission Unit(s) that does not meet the definition of a New Emission Unit(s). A Replacement Unit is an Existing Emission Unit(s).

(5) **Federal Major Modification** – means a physical or operational change at an existing Federal Major Stationary Source for NO<sub>x</sub> or VOC, which results, or may result, in a Significant Emissions Increase and a Significant Net Emissions Increase, or in a Non-De minimis Emissions Increase.

- (a) A physical change or change in the method of operation shall not include:
  - (i) Routine maintenance, repair, and replacement;
  - (ii) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.
  - (iii) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;
  - (iv) Use of an alternative fuel at a steam generating unit, to the extent that the fuel is generated from municipal solid waste;
  - (v) Use of an alternative fuel or raw material by a Facility which:
    - (A) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any

Federally Enforceable permit condition which was established after December 12, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I; or

- (B) The source is approved to use under any permit issued under regulations approved pursuant to Regulation XIII.
  - (vi) An increase in the hours of operation or in the production rate, unless such change is prohibited under any Federally Enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR part 51 subpart I;
  - (vii) Any change in ownership at a Facility;
  - (viii) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
    - (A) The State Implementation Plan for the State in which the project is located, and
    - (B) Other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.
- (6) **Federal Major Stationary Source** – Any Emission Unit(s), Project or Facility which has, or will have after issuance of an Authority to Construct or Modified Permit to Operate, an aggregate Potential to Emit equal to or greater than 25 tpy of NO<sub>x</sub> or VOC. Fugitive Emissions shall not be included in determining the aggregate Potential to Emit for purposes of applying this definition unless the Emission Unit(s), Project or Facility, as applicable, belongs to one of the following source categories listed in 40 CFR 51.165 (a)(1)(iv)(C).
- (7) **Net Emissions Increase** –
- (a) Means with respect to any Ozone Precursor emitted by a Federal Major Stationary Source, the amount by which the sum of the following exceeds zero:
    - (i) The increase in emissions from a particular physical change or change in the method of operation at a Federal Major Stationary Source as calculated pursuant to section (E)(1); and
    - (ii) Any other increases and decreases in Actual Emissions at the Federal Major Stationary Source that are contemporaneous with the particular change and are otherwise creditable. Baseline Actual Emissions for calculating increases and decreases shall be determined as provided in the definition of Baseline Actual Emissions, except that paragraphs (2)(a)(iii) and (2)(b)(iv) of that definition shall not apply.
  - (b) An increase or decrease in Actual Emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs;
  - (c) An increase or decrease in Actual Emissions is creditable only if:

- (i) It occurs within the last 5 consecutive calendar years, including the calendar year in which such increase occurred; and
  - (ii) The District has not relied on it in issuing a permit for the source under Regulations XIII or XVII, which permit is in effect when the increase in Actual Emissions from the particular change occurs; and
  - (iii) As it pertains to an increase or decrease in Fugitive Emissions (to the extent quantifiable), it occurs at an Emission Unit(s) that is part of one of the source categories listed in 40 CFR 51.165 (a)(1)(iv)(C) or it occurs at an Emission Unit(s) that is located at a major stationary source that belongs to one of the listed source categories. Fugitive Emission increases or decreases are not creditable for those Emission Unit(s) located at a Facility whose primary activity is not represented by one of the source categories listed in 40 CFR 51.165(a)(1)(iv)(C) and that are not, by themselves, part of a listed source category.
- (d) An increase in Actual Emissions is creditable only to the extent that the new level of Potential to Emit exceeds the old level.
- (e) A decrease in Actual Emissions is creditable only to the extent that:
- (i) The old level of Actual Emissions exceeds the new level of Actual Emissions;
  - (ii) It is Enforceable as a practical matter at and after the time that actual construction on the particular change begins; and
  - (iii) The District has not relied on it in issuing any permit under Regulations XIII and XVII or the District has not relied on it in demonstrating attainment or reasonable further progress;
  - (iv) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and
- (f) An increase that results from a physical change at a source occurs when the Emission Unit(s) on which construction occurred becomes operational and begins to emit a particular pollutant. Any Replacement Unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- (g) The provisions in paragraph (C)(1)(a) of this rule (definition of Actual Emissions) shall not apply for determining creditable increases and decreases or after a change.
- (8) **Non-De minimis Emissions Increase** – means an emissions increase from the proposed Project located in a Serious or Severe ozone Nonattainment Area, including Fugitive Emission increases, aggregated with all other Net Emissions Increases from the Facility that occurred during the last 5 consecutive calendar years, including the calendar year in which such increase occurred, equal to or greater than 25 tpy of NO<sub>x</sub> or VOC.

- (9) **Ozone Precursors** – means nitrogen oxides (NO<sub>x</sub>) or volatile organic compounds (VOC), or both.
- (10) **Project** – means an Emission Unit(s) or aggregation of Emission Unit(s) for which an application or combination of applications for one or more Authorities to Construct or Modified Permits to Operate is under District review.
- (11) **Projected Actual Emissions** –
- (a) Means, the maximum annual rate, in tons per year, at which an Existing Emission Unit(s) is projected to emit a Regulated Air Pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the Project, or in any one of the 10 years following that date, if the project involves increasing the Emission Unit(s) design capacity or its Potential to Emit of that Regulated Air Pollutant and full utilization of the unit would result in a Significant Emissions Increase or a Significant Net Emissions Increase at the Federal Major Stationary Source.
- (b) In determining the Projected Actual Emissions before Beginning Actual Construction, the owner or operator of the major stationary source:
- (i) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under the approved plan; and
- (ii) Shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and
- (iii) Shall exclude, in calculating any increase in emissions that results from the particular Project, that portion of the unit's emissions following the Project that an Existing Emission Unit(s) could have accommodated during the consecutive 24-month period used to establish the Baseline Actual Emissions and that are also unrelated to the particular Project, including any increased utilization due to product demand growth; or,
- (iv) In lieu of using the method set out in paragraphs (11)(b)(i) through (iii) of this section, may elect to use the Emission Unit(s) Potential to Emit, in tons per year, as defined in Rule 1302.
- (12) **Replacement Unit** – means an Emission Unit(s) for which all the criteria listed in paragraphs (a) through (d) below are met. No creditable emission reductions shall be generated from shutting down the Existing Emission Unit(s) that is replaced.
- (a) The Emission Unit(s) is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1) or the Emission Unit(s) completely takes the place of an Existing Emissions Unit;

- (b) The Emission Unit(s) is identical to or functionally equivalent to the replaced Emission Unit(s);
  - (c) The replacement does not alter the basic design parameters of the process unit; and
  - (d) The replaced Emission Unit(s) is permanently removed from the Federal Major Stationary Source, otherwise permanently disabled, or permanently barred from operation by a permit that is Enforceable as a practical matter. If the replaced Emission Unit(s) is brought back into operation, it shall constitute a New Emission Unit(s).
- (13) **Significant Emissions Increase** – means an emissions increase from the proposed project, including Fugitive Emission increases, equal to or greater than 25 tpy of NO<sub>x</sub> or VOC. The emission increase shall be determined according to Section (E)(1)(b).
- (14) **Significant Net Emissions Increase** – means a Net Emissions Increase, including Fugitive Emission increases, equal to or greater than 25 tpy of NO<sub>x</sub> or VOC. The emission increase shall be determined according to Section (E)(1)(b).
- (15) **Volatile Organic Compound** – means the same as defined in 40 CFR 51.100(s).

(D) Requirements

- (1) The APCO shall use the calculation procedures in Section (E)(1) to determine if a proposed Project will result in a new Federal Major Stationary Source or a Federal Modification for an Ozone Precursor. If so, then the APCO shall not issue an ATC or PTO, pursuant to Rule 1302 (D)(4)(b), unless the permit ensures compliance with the following requirements:
- (a) Best Available Control Technology (BACT)
 

Each new or Modified Permit Unit shall be equipped with Best Available Control Technology (BACT) for the particular Ozone Precursor.
  - (b) Offsets
    - (i) The emission increases of each Nonattainment Air Pollutant for which the Project results in a new Federal Major Stationary Source or a Federal Major Modification, shall be offset with Federally Enforceable ERCs.
    - (ii) The quantity of ERCs required to satisfy the applicable Offset requirement shall be determined in accordance with the procedures specified in Section (E)(2).
- (2) Offset Requirements
- (a) All Offsets required by Section (D)(1)(b) shall meet the following requirements:

- (i) ERCs from one or more sources may be used in order to satisfy offset requirements.
  - (ii) Emissions reductions achieved by shutting down an Emission Unit(s) or curtailing production or operating hours may only be credited for offsets if such reductions are Surplus, Permanent, Quantifiable, and Federally Enforceable.
  - (iii) Emission reductions used to satisfy an offset requirement must be Federally Enforceable prior to the issuance of the Authority to Construct, which relies on the emission reductions.
  - (iv) Except as provided by paragraph (D)(2)(a)(v), the decrease in actual emissions used to generate ERCs must occur no later than the commencement of operation of the source or sources that comprise the Federal Major Stationary Source or Federal Major Modification.
  - (v) Where the New Emission Unit(s) is a replacement for an Emission Unit(s) that is being shut down in order to provide the necessary offsets, the APCO may allow up to one hundred eighty (180) calendar days for shakedown or commissioning of the New Emission Unit(s) before the Existing Emission Unit(s) is required to cease operation.
- (3) Emission Reduction Requirements
- (a) ERCs used to satisfy an Offset requirement shall be:
    - (i) Real, Surplus, Permanent, Quantifiable, and Federally Enforceable; and
    - (ii) Surplus at the time of issuance of the Authority to Construct containing the Offset requirements.
  - (b) Permitted sources whose emission reductions are used to satisfy Offset requirements must appropriately amend or cancel their Authority to Construct or Permit to Operate to reflect their newly reduced Potential to Emit, including legally and practicably Enforceable conditions to limit their Potential to Emit.
  - (c) Emission reductions must be obtained from the same Nonattainment Area, however, the APCO may allow emission reductions from another Nonattainment Area if the following conditions are met:
    - (i) The other area has an equal or higher nonattainment classification than the area in which the source is located; and
    - (ii) Emissions from such other area contribute to a violation of the national ambient air quality standard in the Nonattainment Area in which the source is located.
  - (d) The use of ERCs shall not provide:
    - (i) Authority for, or the recognition of, any pre-existing vested right to emit any Regulated Air pollutant;
    - (ii) Authority for, or the recognition of, any rights that would be contrary to applicable law; or



- (iii) An exemption to a Facility from any emission limitations established in accordance with federal, state, or county laws, rules, and regulations.
- (4) Restrictions on Offset Pollutants
  - (a) The emission Offsets obtained shall be for the same Regulated Air Pollutant.
  - (b) In no case shall the compounds excluded from the definition of *Volatile Organic Compounds* be used as Offsets for Volatile Organic Compounds.
  - (c) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except that emissions credit may be allowed for the replacement with those compounds listed as having negligible photochemical reactivity in 40 CFR 51.100(s).
- (E) Calculation Procedures
  - (1) Emissions: The following provisions shall be used to determine if the proposed Project will result in a new Federal Major Stationary Source or Federal Major Modification.
    - (a) The definition of Federal Major Stationary Source shall be used to determine if a new or Modified Facility is a new Federal Major Stationary Source. Different pollutants, including individual Precursors, are not summed to determine applicability of a major stationary source.
    - (b) The provisions set out in paragraphs (i) through (vii) below shall be used to determine if a proposed Project will result in a Federal Major Modification. Different pollutants, including individual precursors, are not summed to determine applicability of a Federal Major Modification. These provisions shall not be used to determine the quantity of Offsets required for a Project subject to the requirements of this rule.
      - (i) The procedure for calculating (before Beginning Actual Construction) whether a Significant Emissions Increase will occur depends upon the type of Emission Unit(s) being added or Modified as part of the Project, according to paragraphs (iv) through (vii) of this Section.
      - (ii) The procedure for calculating (before Beginning Actual Construction) whether a Significant Net Emissions Increase will occur at the Federal Major Stationary Source is contained in the definition of Net Emissions Increase.
      - (iii) The procedure for calculating (before Beginning Actual Construction) whether a Non-De minimis Emissions Increase will occur at the Federal Major Stationary Source is contained in the definition of Non-De minimis Emissions Increase.
      - (iv) *Actual-to-Projected-Actual Applicability Test for Projects that Only Involve Existing Emission Unit(s)*. A Significant Emissions Increase of an Ozone Precursor is projected to occur if the sum of the difference between the Projected Actual Emissions and the Baseline

- Actual Emissions, for each Existing Emission Unit(s), equals or exceeds 25 tpy for that Ozone Precursor.
- (v) *Actual-to-Potential Test for Projects that Only Involve Construction of a New Emission Unit(s).* A Significant Emissions Increase of an Ozone Precursor is projected to occur if the sum of the difference between the Potential to Emit from each New Emission Unit(s) following completion of the Project and the Baseline Actual Emissions of these units before the Project equals or exceeds 25 tpy for that Ozone Precursor.
  - (vi) *Hybrid Test for Projects that Involve Multiple Types of Emission Unit(s).* A Significant emissions increase of a Nonattainment Air Pollutant is projected to occur if the sum of the emissions increases for each Emission Unit(s), using the method specified in paragraphs (c) or (d) of this section, as applicable, with respect to each Emission Unit(s), equals or exceeds 25 tpy for that Ozone Precursor.
  - (vii) The ‘sum of the difference’ as used in paragraphs (iv), (v) and (vi) of this section shall include both increases and decreases in emissions calculated in accordance with these paragraphs.
  - (viii) Regardless of any such preconstruction projections, a Federal Major Modification results if the Project causes a Significant Emissions Increase and a Significant Net Emissions Increase, or a Non-De Minimis Increase.
  - (ix) Secondary Emissions shall not be considered in determining whether a Facility would qualify as a Federal Major Stationary Source. If a Facility is subject to this rule on the basis of direct emissions from the Facility, the requirements of Section (D) must also be met for Secondary Emissions.
- (2) Offsets: The quantity of ERCs required to satisfy the Section (D)(1)(b) Offset requirements shall be determined in accordance with the following:
- (a) The unit of measure for Offsets and ERCs shall be tpy. All calculations and transactions shall use emission rate values rounded to the nearest one one-hundredth (0.01) tpy.
  - (b) The quantity of ERCs required shall be calculated as the product of the amount of increased emissions, as determined in accordance with paragraph (E)(2)(c) and the applicable Offset ratio in Table 1 below. The Offset ratio is expressed as a ratio of emissions increases to emission reductions.
  - (c) The amount of increased emissions shall be determined as follows:
    - (i) When offsets are required by the construction of a new Federal Major Stationary Source, the amount of increased emissions shall be the sum of the Potential to Emit of all Emission Unit(s), including Fugitive Emissions if the Facility belongs to one of the source categories as listed in 40 CFR 51.165(a)(1)(iv)(C).
    - (ii) When the Offset are required for a Federal Major Modification of an existing Federal Major Stationary Source, the amount of increased emissions shall be the sum of the differences between the Potential

to Emit after the modification and the Actual Emissions before the Modification for each Emission Unit(s).

- (iii) The amount of increased emissions includes Fugitive Emissions.

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

Area Designation	Pollutant	Offset Ratio
Marginal Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.1
Moderate Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.15
Serious Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.2
Severe Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.3

(F) ERC Transfer Review

(a) ERCs Obtained from Other Air Districts and Within the Air Basin

- (i) ERCs occurring within the air basin but outside the District are eligible to be used as Offsets upon approval of the APCO. The APCO's approval shall be made in consultation with CARB and the USEPA, on a case-by-case basis.
- (ii) The ERCs are obtained in a Nonattainment Area which has a greater or equal nonattainment classification than the area where the Offsets are to be used.

(b) ERCs from Other Air Districts and Outside the Air Basin

- (i) ERCs from outside the air basin are eligible to be used as Offsets upon approval of the APCO. The APCO's approval shall be made in consultation with CARB and the USEPA, on a case-by-case basis.
- (ii) The ERCs are obtained in a Nonattainment Area which has a greater or equal nonattainment classification than the area where the Offsets are to be used; and
- (iii) Emissions from the other Nonattainment Area contribute to a violation of the Ambient Air Quality Standards in the area where the Offsets are to be used.

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]