

Antelope Valley Air Quality Management District Governing Board Regular Meeting

Agenda

PURSUANT TO GOVERNOR'S ORDER

N-29-20

TUESDAY, JUNE 15, 2021

10:00 A.M.

BOARD MEMBERS

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

THIS MEETING IS BEING HELD IN ACCORDANCE WITH THE BROWN ACT AS CURRENTLY IN EFFECT UNDER THE STATE EMERGENCY SERVICES ACT, THE GOVERNOR'S EMERGENCY DECLARATIONS RELATED TO COVID-19, AND THE GOVERNOR'S EXECUTIVE ORDER N-29-20 ISSUED ON MARCH 17, 2020 THAT ALLOWS ATTENDANCE BY MEMBERS OF THE DISTRICT, DISTRICT STAFF, AND THE PUBLIC TO PARTICIPATE AND CONDUCT THE MEETING BY TELECONFERENCE, VIDEOCONFERENCE, OR BOTH.

JOIN BY PHONE, DIAL US: +1.701.802.5348; ENTER ACCESS CODE: 5765772

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 TELEPHONICALLY OR OTHERWISE ELECTRONICALLY AT, OR PRIOR TO, THE PUBLIC HEARING.

DUE TO TIME CONSTRAINTS AND THE NUMBER OF PERSONS WISHING TO PROVIDE PUBLIC COMMENTS, PUBLIC COMMENTS ARE LIMITED TO FIVE MINUTES PER COMMENT.

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 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

CONSENT CALENDAR

The following consent items are expected to be routine and non-controversial and will be acted upon by the Board at one time without discussion unless a Board Member requests an item be held for discussion under DEFERRED ITEMS.

1. [Approve Minutes from Regular Governing Board Meeting of May 18, 2021.](#)
2. [Monthly Grant Funding Summary. Receive and file. Presenter: Bret Banks, Executive Director/APCO.](#)
3. [Monthly Activity Report. Receive and file. Presenter: Bret Banks, Executive Director/APCO.](#)
4. [Approve payments to MDAQMD in the amount of \\$145,698.42 for April 2021 expenditures. Presenter: Bret Banks, Executive Director/APCO.](#)
5. [Receive and file the Financial Report. The Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at April 30, 2021. The Financial Reports for April provide financial and budget performance information for the District for the period referenced. Presenter: Bret Banks, Executive Director/APCO.](#)
6. [1\) Authorize the acceptance of Community Air Protection Program Implementation Funds and submission of the Grant Agreement to the California Air Resources Board \(CARB\) for expenses necessary for the implementation of Assembly Bill 617 \(C. Garcia, Chapter 136, Statutes of 2017\); 2\) Authorize the acceptance of funds allocated and awarded to the District; and 3\) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form. Presenter: Julie McKeehan, Grants Analyst.](#)
7. [1\) Authorize the acceptance of AB 197 Emission Inventory District Grant Program Funding; 2\) Accept the terms and conditions for the funds; and 3\) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form, and carry out related activities to meet the requirements of AB 197. Presenter: Julie McKeehan, Grants Analyst.](#)

8. 1) Governing Board to acknowledge that funds awarded to Boething Treeland Farms at the May 18, 2021 meeting was intended for the use of Carl Moyer Program funds as presented; and 2) Authorize the Executive Director/APCO and staff to make any necessary corrections and execute an agreement approved as to legal form by the Office of District Counsel. Presenter: Julie McKeehan, Grants Analyst.

ITEMS FOR DISCUSSION

DEFERRED ITEMS

NEW BUSINESS

9. Conduct Continued Public Hearing to consider the proposed AVAQMD Budget for FY 2021-22: a. Re-Open the continued public hearing; b. Receive supplemental staff report and/or staff update; c. Receive public testimony; d. Close public hearing; e. Adopt a resolution approving and adopting the budget for FY 2021-2022. Presenter: Laquita Cole, Finance Manager.
10. Conduct a public hearing to consider the amendment of Rule 219 – Equipment Not Requiring a Permit: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule and directing staff. Presenter: Bret Banks, Executive Director/APCO.
11. Conduct a public hearing to consider the amendment of Regulation XIII – New Source Review, amendment of Regulation XVII – Prevention of Significant Deterioration, making conforming changes to Rule 1401 – New Source Review for Toxic Air Contaminants: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule and directing staff. Presenter: Bret Banks, Executive Director/APCO.
12. Reports: Governing Board Counsel, Executive Director/APCO, Staff.
13. Board Member Reports and Suggestions for Future Agenda Items.
14. Adjourn to Regular Governing Board Meeting of Tuesday, July 20, 2021.

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 x22. Notification received 48 hours prior to the meeting will enable the District to make reasonable accommodations. 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 72 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 or by contacting Deanna Hernandez at 760.245.1661 x6244 or by email at dhernandez@mdaqmd.ca.gov.

Mailed & Posted on: Tuesday, June 8, 2021.

Deanna Hernandez

Deanna Hernandez

The following page(s) contain the backup material for Agenda Item: [Approve Minutes from Regular Governing Board Meeting of May 18, 2021.](#)

Please scroll down to view the backup material.

**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
GOVERNING BOARD MEETING
TUESDAY, MAY 18, 2021
ANTELOPE VALLEY DISTRICT OFFICE
LANCASTER, CA**

Draft Minutes

Board Members Present:

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

Board Members Absent:

CALL TO ORDER

Chair **CRIST** called the meeting to order at 10:01 a.m. Chair **CRIST** waived the Pledge of Allegiance. Roll call was taken.

PUBLIC COMMENT

- ❖ No public comment was made in person, telephonically or electronically.

CONSENT CALENDAR

Agenda Item #1 – Approve Minutes from Regular Governing Board Meeting of April 20, 2021.

Upon Motion by **HAWKINS**, seconded by **MANN**, and carried unanimously, the Board **Approved** Minutes from Regular Governing Board Meeting of April 20, 2021.

Agenda Item #2 – Monthly Grant Funding Summary. Receive and file.

Presenter: Bret Banks, Executive Director/APCO.

Upon Motion by **HAWKINS**, seconded by **MANN**, and carried unanimously, the Board **Received and Filed** Monthly Grand Funding Summary.

Agenda Item #3 – Monthly Activity Report. Receive and file.

Presenter: Bret Banks, Executive Director/APCO.

Upon Motion by **HAWKINS**, seconded by **MANN**, and carried unanimously, the Board **Received and Filed** Monthly Activity Report.

Agenda Item #4 – Approve payment to MDAQMD in the amount of \$140,570.80 for March 2021 expenditures.

Presenter: Bret Banks, Executive Director/APCO.

Upon Motion by **HAWKINS**, seconded by **MANN**, and carried unanimously, the Board, **Approved** payment to MDAQMD in the amount of \$140,570.80 for March 2021 expenditures.

Agenda Item #5 – Receive and file the Financial Report. This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at March 31, 2021.

Presenter: Bret Banks, Executive Director/APCO.

Upon Motion by HAWKINS, seconded by MANN, and carried unanimously, the Board, **Received and filed** the Financial Report. This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at March 31, 2021.

Agenda Item #6 – Set date of June 15, 2021 to conduct a public hearing to consider the amendment of Rule 219 – Equipment Not Requiring a Permit and approve the appropriate California Environmental Quality Act (CEQA) documentation. Presenter: Bret Banks, Executive Director/APCO.

Upon Motion by HAWKINS, seconded by MANN, and carried unanimously, the Board, **Set the date** of June 15, 2021 to conduct a public hearing to consider the amendment of Rule 219 – *Equipment Not Requiring a Permit* and approve the appropriate California Environmental Quality Act (CEQA) documentation.

Agenda Item #7 – Set date of June 15, 2021 to conduct a public hearing to consider the amendment of Regulation XIII – New Source Review, amendment of Regulation XVII – Prevention of Significant Deterioration, making conforming changes to Rule 1401 – New Source Review for Toxic Air Contaminants, and approve the appropriate California Environmental Quality Act (CEQA) documentation.

Presenter: Bret Banks, Executive Director/APCO

Upon Motion by HAWKINS, seconded by MANN, and carried unanimously, the Board, **Set the date** of June 15, 2021 to conduct a public hearing to consider the amendment of Regulation XIII – *New Source Review*, amendment of Regulation XVII – *Prevention of Significant Deterioration*, making conforming changes to Rule 1401 – *New Source Review for Toxic Air Contaminants*, and approve the appropriate California Environmental Quality Act (CEQA) documentation.

ITEMS FOR DISCUSSION

DEFERRED ITEMS

None.

NEW BUSINESS

Agenda Item #8 – Conduct Public Hearing to consider the proposed AVAQMD Budget for FY 2021-22: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Continue to the meeting of June 15, 2021 for adoption.

Presenter: Laquita Cole, Finance Manager.

Chair Crist opened the public hearing. Laquita Cole, Finance Manager, presented the staff report and answered questions from the Board. Chair Crist called for public comment, hearing none via in-person, electronically and or telephonically, Chair Crist closed the public hearing and continued item to the meeting of June 15, 2021 for adoption.

Agenda Item #9 – Presentation: Project to Add Air Quality Instruments on AVTA’s Electric Buses.

Presenter: Alex Spataru, CEO, The Adept Group, Inc.

Alex Spataru, CEO, The Adept Group, Inc., presented the presentation and answered questions from the Board. No Governing Board action required as this item is informational only.

Agenda Item #10 – 1) Award an amount not to exceed \$42,000 in Mobile Source Emission Reductions Program (AB 923) funds to Angels Touch Towing for the replacement of an older diesel forklift with new, cleaner technology; and 2) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details, and execute an agreement, approved as to legal form by the Office of District Counsel.

Presenter: Julie McKeehan, Grants Analyst.

Julie McKeehan, Grants Analyst, presented the background information and answered questions from the board. After discussion and upon motion by **HOFBAUER**, seconded by **MANN**, and carried with six **AYES** votes by Board Members, **MARVIN CRIST, NEWTON CHELETTE, HOWARD HARRIS, RON HAWKINS, STEVEN HOFBAUER and KEN MANN** with Board Member **AUSTIN BISHOP** recusing, the Board, 1) **Awarded** an amount not to exceed \$42,000 in Mobile Source Emission Reductions Program (AB 923) funds to Angels Touch Towing for the replacement of an older diesel forklift with new, cleaner technology; and 2) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details, and execute an agreement, approved as to legal form by the Office of District Counsel.

Agenda Item #11 – 1) Award an amount not to exceed \$98,648 in Mobile Source Emission Reductions Program (AB 923) funds to Boething Treeland Farms to replace an older heavy-duty diesel equipment with new, clean technology; and 2) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details, and execute an agreement, approved as to legal form by the Office of District Counsel.

Presenter: Julie McKeehan, Grants Analyst.

Julie McKeehan, Grants Analyst, presented the background information and answered questions from the board. After discussion and as discussed, motion approved as presented to award an amount not to exceed \$98,648 in Carl Moyer Program funds and with specific compliance provision to be included in the agreement by **BISHOP**, seconded by **HARRIS**, and carried unanimously, the Board, 1) **Awarded** an amount not to exceed \$98,648 in Carl Moyer Program funds to Boething Treeland Farms to replace an older heavy-duty diesel equipment with new, clean technology; and 2) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details, and execute an agreement to include specific compliance provision, approved as to legal form by the Office of District Counsel.

Agenda Item #12 – 1) Award an amount not to exceed \$9,060 in Mobile Source Emission Reductions Program (AB 923) funds to California Compaction toward the purchase and installation of an Electric Vehicle Charging Station; and 2) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel.

Presenter: Julie McKeehan, Grants Analyst.

Julie McKeehan, Grants Analyst, presented the background information and answered questions from the board. After discussion and upon motion by **CHELETTE**, seconded by **HARRIS**, and carried unanimously, the Board, 1) **Awarded** an amount not to exceed \$9,060 in Mobile Source Emission Reductions Program (AB 923) funds to California Compaction toward the purchase and installation of an Electric Vehicle Charging Station; and 2) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel.

Agenda Item #13 – 1) Award an amount not to exceed \$500,000 in Community Air Protection Program (AB 134) funds to Waste Management dba Antelope Valley Hauling (WM) toward the replacement of older liquified natural gas (LNG) refuse trucks; and 2) Authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel.

Presenter: Julie McKeehan, Grants Analyst.

Julie McKeehan, Grants Analyst, presented the background information and answered questions from the board. After discussion and upon motion by **HAWKINS**, seconded by **HOFBAUER**, and carried with six **AYES** votes by Board Members, **MARVIN CRIST, AUSTIN BISHOP, NEWTON CHELETTE, HOWARD HARRIS, RON HAWKINS, and STEVEN HOFBAUER** with Board Member **KEN MANN** recusing, the Board, 1) **Awarded** an amount not to exceed \$500,000 in Community Air Protection Program (AB 134) funds to Waste Management dba Antelope Valley Hauling (WM) toward the replacement of older liquified natural gas (LNG) refuse trucks; and 2) **Authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel.

Agenda Item #14 – Reports.

Governing Board Counsel –

- No report.

Executive Director/APCO –

- Barbara Lods, Operations Manager, commented on Antelope Valley Transit Authority's passing a new electric milestone, five million miles of zero-emission bus operations.

Staff –

- No report.

Agenda Item #15 – Board Member Reports and Suggestions for Future Agenda Items.

- None.

Agenda Item #16 – Adjourn to Regular Governing Board Meeting of Tuesday, June 15, 2021.

Being no further business, the meeting adjourned at 10:56 a.m. to the next regularly scheduled Governing Board Meeting of Tuesday, June 15, 2021.

The following page(s) contain the backup material for Agenda Item: [Monthly Grant Funding Summary. Receive and file. Presenter: Bret Banks, Executive Director/APCO.](#)
Please scroll down to view the backup material.

Item #2 – Grant Funds Project Summary

June 2021

AB 2766 (\$4 DMV Fee)

\$599,000 Annually by Monthly Distribution

These fees fund the District’s Mobile Source Emission Reductions (MSER) Grant Program. The funds must be used “to reduce air pollution from motor vehicles and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of the California Clean Air Act of 1988”.

Funding Limits: No surplus emission reductions or cost-effectiveness limit requirements.

Current Balance: \$285,620.00

PROPOSED PROJECTS

<u>Action Date</u>	<u>Project Description</u>	<u>Grant Award</u>	<u>Status</u>
-	-	-	-
BALANCE PENDING APPROVAL		\$ 285,620.00	

AB 2766 – Most Recent Approved Funding Awards			
<u>Action Date</u>	<u>Project Description</u>	<u>Grant Award</u>	<u>Status</u>
Apr-20	AFV Program Add'l Funds	11,500.00	paid
Apr-20	Jack O'Connor Construction	30,000.00	paid
Apr-20	AV Fair Assoc. – Implementation of MSERP	36,093.00	paid
Oct-20	AFV Program Funds	85,000.00	paid
Jan-21	2021 Lawn and Garden Exchange	15,000.00	paid
Feb-21	AFV Program Add'l Funds	125,000.00	paid
Apr-21	2021 Lawn and Garden Exchange	54,417.00	paid

AB 923 (\$2 DMV Fee)

\$609,500 Annually by Monthly Distribution

These fees fund the District’s Mobile Source Emission Reductions (MSER) Grant Program. The funds must be used to remediate air pollution harms created by motor vehicles.

Funding Limits: Carl Moyer eligible projects; unregulated agriculture vehicles and equipment; school bus projects; light-duty vehicle retirement program; and alternative fuel and electric infrastructure projects. Surplus emission reductions required. Subject to cost-effectiveness limit.

Current Balance: \$952,707.00

PROPOSED PROJECTS

<u>Action Date</u>	<u>Project Description</u>	<u>Grant Award</u>	<u>Status</u>
-	-	-	-
BALANCE PENDING APPROVAL		\$	0.00

AB 923 Approved Funding Awards			
<u>Action Date</u>	<u>Project Description</u>	<u>Grant Award</u>	<u>Status</u>
Apr-20	2020 Lawn and Garden Exchange	9,570.00	paid
July-20	Pacific Auto Recycling Center CNG Project	146,252.00	paid
Sept-20	Vehicle Retirement (VAVR) Add'l Funding	60,000.00	paid
Jan-21	2021 Lawn and Garden Exchange	5,000.00	paid
Jan-21	AV Farming Baler Project	73,106.00	paid
Jan-21	Crystalaire Country Club ICE Project	67,000.00	pending
Apr-21	2021 Lawn and Garden Exchange	20,810.00	paid
May-21	Angels Touch Towing Forklift Replacement Project	42,000.00	pending
May-21	California Compaction EV Charging Project	9,060	pending

Carl Moyer Program**\$701,500 Annually**

Carl Moyer Program (CMP) funds provide incentives to gain early or extra emission reductions by retrofitting, repowering, or replacing older more polluting engines with newer, cleaner engines including zero and near zero emission technologies. CMP funding categories include on-road heavy-duty vehicles, off-road equipment, locomotives, marine vessels, light-duty passenger vehicles, lawn mower replacement and alternative fuel infrastructure projects. Surplus emission reductions required. Subject to cost-effectiveness limit.

Current Balance: \$ 5,844.00

PROPOSED PROJECTS

<u>Action Date</u>	<u>Project Description</u>	<u>Grant Award</u>	<u>Status</u>
-	-	-	-
BALANCE PENDING APPROVAL		\$	0.00

Carl Moyer Program Approved Funding Awards			
<u>Action Date</u>	<u>Project Description</u>	<u>Grant Award</u>	<u>Status</u>
July-20	IM Masonry Forklift Replacement Project	51,733.00	paid
Sept-20	Villa Del Sol Sweet Cherry Farms ERP	30,688.00	paid
Nov-20	Volta Industries Vons EV Charging Project	32,394.00	pending
Nov-20	Webb Builders Equipment Replacement Project	28,861.00	paid
Dec-20	Gene Wheeler Farms ERP	226,389.00	paid
Jan-21	AV Farming Tractor & Baler Project	164,369.00	partial paid
Jan-21	Five Star Contractors ERP	63,742.00	paid

AB 134 Community Air Protection (CAP) Projects

\$1,088,281 FY 19/20 Allocation

The purpose of AB 134 funds is to implement projects under the Carl Moyer Program specifically for projects that meet the goals of AB 617. These funds are focused on replacing older polluting engines operating in disadvantaged and low-income communities with newer, cleaner engines prioritizing zero-emission projects. CMP funding categories include on-road heavy-duty vehicles, off-road equipment, locomotives, marine vessels, light-duty passenger vehicles, lawn mower replacement and alternative fuel infrastructure projects. Surplus emission reductions required. Subject to cost-effectiveness limit.

Current Balance: \$422,285.00

PROPOSED PROJECTS

<u>Action Date</u>	<u>Project Description</u>	<u>Grant Award</u>	<u>Status</u>
-	-	-	-
BALANCE PENDING APPROVAL		\$	0.00

AB 134 CAP Projects Approved Funding Awards			
<u>Action Date</u>	<u>Project Description</u>	<u>Grant Award</u>	<u>Status</u>
Apr-20	Waste Management CNG Fueling Station	349,515.00	pending
Apr-20	Lancaster Choice Energy - EV Charging Stations Project	150,000.00	pending
Aug-20	ETP Pumping On-road Replacement Project	60,000.00	partial paid
Nov-20	Volta Industries Kohls EV Charging	32,893.00	pending
Dec-20	AV Fair Association EV Charging/Solar Project	400,000.00	pending
Apr-21	AB 134 CAP Funds Yr. 3 FY 2019-20	+ 855,673.00	received
May-21	Waste Management CNG Refuse Truck Project	500,000.00	pending

The following page(s) contain the backup material for Agenda Item: [Monthly Activity Report. Receive and file. Presenter: Bret Banks, Executive Director/APCO.](#)
Please scroll down to view the backup material.



Agenda Item #3

Date: June 1, 2021

Subject: May Operations Activity Report

Permit Inspections - 125

Notices of Violation (NOV) Issued – 0

Vapor Recovery Tests Witnessed – 2

Complaints - 0

Complaint Investigations – 0

Asbestos Notifications – 9

Asbestos Project Inspections - 1

Active Companies - 278

Active Facilities - 529

Active Permits - 1125

Certificate of Occupancy/Building Permit Reviews - 3

CEQA Project Comment Letters - 4

State or Local Air Monitoring Stations (SLAMS) Network Air Monitoring Site:

Lancaster Site (full meteorology, CO, NO_x, O₃, PM₁₀, PM_{2.5})

Full meteorology (exterior temperature, wind speed, wind direction, exterior pressure and relative humidity)

Community Sensors:

13 **PurpleAir** particulate sensors (Del Sur School, Leona Valley Elementary, Anaverde Hills, Esperanza Elementary School, Joe Walker Middle School, Desert Willow Middle School, Amargosa Creek, Eastside High School, Littlerock High School, Knight High School, Westside School District Offices, (2) Wilsona School District.

AVAQMD CEQA PROJECTS						
BOARD MEETING						
6/15/2021						
Date Rec'd	Location	Project Name	Description	Comment	Date Due	Date Sent
5/3/2021	LA County	Estrella Solar	Administrative Draft Initial Study – Mitigated Negative Declaration (ADIS-MND) Consultation for the Estrella Solar project. The project site is bounded by West Avenue A-8 on the south, West Avenue A on the north, 95 th Street West on the west and 90 th Street West on the east, encompassing approximately 148.8 acres of previously disturbed agricultural land. The project site is located within two identified County Assessor's Parcel Numbers 3262-006-002 and 3262-006-003	Concur with Draft Initial Study	5/29/2021	5/17/2021
5/7/2021	Palmdale	Single Family Residential Project	Pre-Application 21-014 Conceptual Review for the request to subdivide 41.68 acres into 243 single-family lots with three (3) detention basin lots located at the southwest corner of Rancho Vista Boulevard and Tilbury Drive (APNs: 3001-003-160, 3001-003-163, 3001-003-164)	Dust Control Plan CARB Equipment	5/24/2021	5/17/2021
5/13/2021	Palmdale	Townhomes	Pre-Application 21-014 Conceptual Review for the request to subdivide 11.7 acres into 27 multiple-family buildings (townhomes) located on the north side of Avenue S, west of 43 rd Street East (APNs: 3023-007-012, 3023-007-014, 3023-007-015, 3023-007-043)	Dust Control Plan CARB Equipment	6/1/2021	5/17/2021
5/24/2021	Palmdale	Industrial Building	Pre-Application 21-016 Conceptual Review requesting to develop a 21.27 acre parcel with an industrial building totaling 250,750 square feet and an office use building totaling 12,000 square feet located at the southwest corner of Pearblossom Highway and Barrel Spring Road (APN: 3053-023-002).	Dust Control Plan CARB Equipment	6/10/2021	5/27/2021

The following page(s) contain the backup material for Agenda Item: [Approve payments to MDAQMD in the amount of \\$145,698.42 for April 2021 expenditures. Presenter: Bret Banks, Executive Director/APCO.](#)

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #4

DATE: June 15, 2021

RECOMMENDATION: Approve payments to MDAQMD in the amount of \$145,698.42 for April 2021 expenditures.

SUMMARY: The District contracts for services with MDAQMD; an invoice for services is presented for payment.

BACKGROUND: Key Expenses: Staffing costs \$126,696.76.

REASON FOR RECOMMENDATION: The AVAQMD Governing Board must authorize all payments to the MDAQMD.

REVIEW BY OTHERS: This item was reviewed by Allison Burns, Special Counsel as to legal form; and by Bret Banks, Executive Director/APCO, on or before May 27, 2021.

FINANCIAL DATA: The contract and direct expenditure amounts are part of the approved District budget for FY21. No change in appropriations is anticipated as a result of the approval of this item.

PRESENTER: Bret Banks, Executive Director/APCO



Mojave Desert AQMD
 14306 Park Avenue
 Victorville, CA 92392
 760.245.1661

Due Date **DUE UPON RECEIPT**
 Invoice Date **4/30/2021**
 Invoice Number **42986**

INVOICE

Bill To :
ANTELOPE VALLEY AQMD 43301 DIVISION ST. SUITE 206 LANCASTER, CA 93535
Company ID 10193

FY21 - April 2021		Amount
Program Staff	Program Staff	126,696.76
OVERHEAD	OVERHEAD	17,892.79
Office Expenses	Office Expenses	337.85
Vehicles Expenses	Vehicles Expenses	218.02
Professional Services	Professional Services	553.00
<p>TO INSURE PROPER CREDIT - PLEASE INCLUDE A COPY OF THE INVOICE WITH YOUR PAYMENT</p> <p>FOR CREDIT CARD PAYMENTS PLEASE VISIT www.mdaqmd.ca.gov</p>		
		Invoice Total 145,698.42
MAKE CHECKS PAYABLE TO MOJAVE DESERT AQMD		Amount Paid 0.00
PLEASE INCLUDE THE INVOICE NUMBER ON THE CHECK		Balance Due 145,698.42

The following page(s) contain the backup material for Agenda Item: [Receive and file the Financial Report. The Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at April 30, 2021. The Financial Reports for April provide financial and budget performance information for the District for the period referenced. Presenter: Bret Banks, Executive Director/APCO.](#)

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #5

DATE: June 15, 2021

RECOMMENDATION: Receive and file.

SUMMARY: This Preliminary Financial Report is provided to the Governing Board for information concerning the fiscal status of the District at [April 30, 2021](#).

BACKGROUND: The Financial Reports for [April](#) provide financial and budgetary performance information for the District for the period referenced.

BALANCE SHEET. The balance sheet summarizes the District's financial position on [April 30, 2021](#).

STATEMENT OF REVENUES & EXPENDITURES. A summary of all District revenue and related expenditures incurred in the day to day administration of District Operations.

STATEMENT OF ACTIVITY. The target variance for [April](#) is 84%.

District Wide reports details revenue and expenses for the District's operating account and grant funds. *Contracted Services* reports the expenses made by the (MDAQMD) and passed through to the District. *Report Recap* is consolidates both reports.

BANK REGISTERS. This report details the Districts bank activity.

DISTRICT CARDS. This report details purchases made using the District's credit cards.

REASON FOR RECOMMENDATION: Receive and file.

REVIEW BY OTHERS: This item was reviewed by Allison Burns, Special Counsel as to legal form and by Bret Banks, Executive Director/APCO (AVAQMD) on or about [June 1, 2021](#).

PRESENTER: Bret Banks, Executive Director/APCO.

Antelope Valley AQMD
Balance Sheet - Governmental Funds
As of April 30, 2021

Financial Report

	<u>General Fund</u>	<u>AB2766 Mobile Emissions</u>	<u>AB923 Mobile Emissions</u>	<u>Carl Moyer</u>	<u>Total</u>
Assets					
Current Assets					
Cash	4,744,070.57	435,158.81	1,420,259.98	475,749.97	7,075,239.33
Cash Held For Other Fund	(186,004.79)	37,107.80	47,621.99	101,275.00	0.00
Receivables	89,598.16	0.00	0.00	0.00	89,598.16
Pre-Paid	17,055.21	0.00	0.00	0.00	17,055.21
Total Current Assets	4,664,719.15	472,266.61	1,467,881.97	577,024.97	7,181,892.70
Total Assets	4,664,719.15	472,266.61	1,467,881.97	577,024.97	7,181,892.70
Liabilities and Net Position					
Current Liabilities					
Payables	312,349.79	14,663.04	0.00	0.00	327,012.83
Accruals	2,658.80	0.00	0.00	0.00	2,658.80
Due to Others	1,625.00	0.00	0.00	0.00	1,625.00
Unearned Revenue	0.00	0.00	0.00	501,173.85	501,173.85
Total Current Liabilities	316,633.59	14,663.04	0.00	501,173.85	832,470.48
Restricted Fund Balance	0.00	456,250.57	1,223,524.71	76,803.84	1,756,579.12
Cash Reserves	487,785.00	0.00	0.00	0.00	487,785.00
Unassigned Fund Balance	3,182,025.76	0.00	0.00	0.00	3,182,025.76
Pre-Paid	12,962.15	0.00	0.00	0.00	12,962.15
Change in Net Position	665,312.65	1,353.00	244,357.26	(952.72)	910,070.19
Total Liabilities & Net Position	4,664,719.15	472,266.61	1,467,881.97	577,024.97	7,181,892.70

Antelope Valley AQMD
Statement of Revenues & Expenditures
For the Period Ending April 30, 2021

Financial Report

	<u>General</u> <u>Fund</u>	<u>AB2766 Mobile</u> <u>Emissions</u> <u>Program</u>	<u>AB923 Mobile</u> <u>Emissions</u> <u>Program</u>	<u>Carl</u> <u>Moyer</u> <u>Program</u>	<u>Total</u> <u>Governmental</u> <u>Funds</u>
Revenues					
Application and Permit Fees	55,780.70	0.00	0.00	0.00	55,780.70
AB 2766 and Other Program Revenues	174,571.98	52,037.39	52,037.39	0.00	278,646.76
Fines	741.96	0.00	0.00	0.00	741.96
Investment Earnings	(299.17)	1.49	10.01	(982.12)	(1,269.79)
Federal and State	855,672.86	0.00	0.00	0.00	855,672.86
Miscellaneous Income	9,707.84	0.00	0.00	0.00	9,707.84
Total Revenues	1,096,176.17	52,038.88	52,047.40	(982.12)	1,199,280.33
Expenditures					
Program Staff	126,696.76	0.00	0.00	0.00	126,696.76
Services and Supplies	34,615.49	49,863.20	14,040.00	0.00	98,518.69
Contributions to Other Participants	0.00	0.00	0.00	0.00	0.00
Capital Outlay Improvements and Equipment	0.00	0.00	0.00	0.00	0.00
Total Expenditures	161,312.25	49,863.20	14,040.00	0.00	225,215.45
Excess Revenue Over (Under) Expenditures	934,863.92	2,175.68	38,007.40	(982.12)	974,064.88

Antelope Valley AQMD
Statement of Activity - MTD, MTM and YTD
For 4/30/2021

00 District Wide

	M-T-D Actual	Y-T-D Actual	Y-T-D Budget	% Budget to Actual
Revenues				
Permitting	50,255.43	950,289.44	1,024,500.00	(0.93)
Programs	278,646.76	1,981,693.88	2,667,385.00	(0.74)
Revenue - Other	9,707.84	19,337.84	0.00	0.00
Application Fees	6,069.00	58,059.00	41,500.00	(1.40)
State Revenue	855,672.86	1,058,681.38	169,500.00	(6.25)
Fines & Penalties	252.96	17,292.87	10,000.00	(1.73)
Interest Earned	(1,269.79)	15,177.13	58,000.00	(0.26)
Adjustments to Revenue	(54.73)	(41,402.95)	0.00	0.00
Total Revenues	1,199,280.33	4,059,128.59	3,970,885.00	(1.02)
Expenses				
Office Expenses	5,811.76	79,773.67	97,475.00	0.82
Communications	1,233.25	31,551.31	18,500.00	1.71
Vehicles	(522.67)	4,459.95	5,500.00	0.81
Program Costs	67,153.20	1,639,038.20	2,036,085.00	0.80
Travel	0.00	3,503.00	12,150.00	0.29
Professional Services				
Payroll Contract	0.00	401.20	0.00	0.00
Research Studies	0.00	0.00	6,000.00	0.00
Consulting Fees	2,480.00	2,480.00	3,000.00	0.83
Stipends	700.00	6,700.00	8,400.00	0.80
Maintenance & Repairs	225.00	2,287.21	6,500.00	0.35
Non-Depreciable Inventory	0.00	1,112.21	1,000.00	1.11
Dues & Subscriptions	850.00	11,846.03	46,100.00	0.26
Legal	1,617.10	22,004.28	19,000.00	1.16
Miscellaneous Expense	0.00	(41,665.67)	1,000.00	(41.67)
Suspense	0.00	(1,210.45)	0.00	0.00
Capital Expenditures	0.00	31,342.53	85,000.00	0.37
Total Expenses	79,547.64	1,793,623.47	2,345,710.00	0.76
Program Staff				
Excess Revenue Over (Under) Expenditures	1,119,732.69	2,265,505.12	1,625,175.00	(1.39)

Antelope Valley AQMD
Statement of Activity - MTD, MTM and YTD
For 4/30/2021

10 Contracted Services

	M-T-D Actual	Y-T-D Actual	Y-T-D Budget	% Budget to Actual
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Revenues**Expenses**

Office Expenses	307.24	3,810.45	0.00	0.00
Vehicles	218.02	346.78	0.00	0.00
Professional Services				
Payroll Contract	0.00	65.34	0.00	0.00
Financial Audit & Actuarial Svcs	18,445.79	174,606.34	200,000.00	0.87
Non-Depreciable Inventory	0.00	162.41	0.00	0.00
Total Expenses	18,971.05	178,991.32	200,000.00	0.89
<u>Program Staff</u>				
Program Staff	126,696.76	1,176,443.61	1,425,175.00	0.83
Total Program Staff	126,696.76	1,176,443.61	1,425,175.00	0.83
Excess Revenue Over (Under) Expenditures	(145,667.81)	(1,355,434.93)	(1,625,175.00)	(0.83)

Antelope Valley AQMD
Statement of Activity - MTD, MTM and YTD
For 4/30/2021

Report Recap

	M-T-D Actual	Y-T-D Actual	Y-T-D Budget	% Budget to Actual
Revenues				
Permitting	50,255.43	950,289.44	1,024,500.00	(0.93)
Programs	278,646.76	1,981,693.88	2,667,385.00	(0.74)
Revenue - Other	9,707.84	19,337.84	0.00	0.00
Application Fees	6,069.00	58,059.00	41,500.00	(1.40)
State Revenue	855,672.86	1,058,681.38	169,500.00	(6.25)
Fines & Penalties	252.96	17,292.87	10,000.00	(1.73)
Interest Earned	(1,269.79)	15,177.13	58,000.00	(0.26)
Adjustments to Revenue	(54.73)	(41,402.95)	0.00	0.00
Total Revenues	1,199,280.33	4,059,128.59	3,970,885.00	(1.02)
Expenses				
Office Expenses	6,119.00	83,584.12	97,475.00	0.86
Communications	1,233.25	31,551.31	18,500.00	1.71
Vehicles	(304.65)	4,806.73	5,500.00	0.87
Program Costs	67,153.20	1,639,038.20	2,036,085.00	0.80
Travel	0.00	3,503.00	12,150.00	0.29
Professional Services				
Payroll Contract	0.00	466.54	0.00	0.00
Financial Audit & Actuarial Svcs	18,445.79	174,606.34	200,000.00	0.87
Research Studies	0.00	0.00	6,000.00	0.00
Consulting Fees	2,480.00	2,480.00	3,000.00	0.83
Stipends	700.00	6,700.00	8,400.00	0.80
Maintenance & Repairs	225.00	2,287.21	6,500.00	0.35
Non-Depreciable Inventory	0.00	1,274.62	1,000.00	1.27
Dues & Subscriptions	850.00	11,846.03	46,100.00	0.26
Legal	1,617.10	22,004.28	19,000.00	1.16
Miscellaneous Expense	0.00	(41,665.67)	1,000.00	(41.67)
Suspense	0.00	(1,210.45)	0.00	0.00
Capital Expenditures	0.00	31,342.53	85,000.00	0.37
Total Expenses	98,518.69	1,972,614.79	2,545,710.00	0.77
Program Staff				
Program Staff	126,696.76	1,176,443.61	1,425,175.00	0.83
Total Program Staff	126,696.76	1,176,443.61	1,425,175.00	0.83
Excess Revenue Over (Under) Expenditures	974,064.88	910,070.19	0.00	0.00

Antelope Valley AQMD
Bank Register from 4/01/2021 to 4/30/2021
General Fund P6A LA County

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	4/01/2021	Interest Earned	0.00	1,136.57	2,622,318.22
0000001	4/13/2021	Daily Deposit	0.00	31,266.63	2,653,584.85
R21-28	4/15/2021		175,255.29	0.00	2,478,329.56
R21-26	4/20/2021		51,763.98	0.00	2,426,565.58
R21-27	4/20/2021		48,533.58	0.00	2,378,032.00
0000001	4/20/2021	Daily Deposit	0.00	14,288.29	2,392,320.29
R21-29	4/23/2021		5,927.27	0.00	2,386,393.02
0000001	4/27/2021	Daily Deposit	0.00	1,140,336.65	3,526,729.67
0000001	4/28/2021	Daily Deposit	0.00	31,037.27	3,557,766.94
R21-30	4/29/2021		133,840.52	0.00	3,423,926.42
0082873	4/30/2021	System Error - Double Entry	1,437.87	0.00	3,422,488.55
Total for Report:			416,758.51	1,218,065.41	

Antelope Valley AQMD
Bank Register from 4/01/2021 to 4/30/2021
Wells Fargo Operating

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0004448	4/01/2021	[10006] BANK OF THE WEST-Credit Card Statement 02/20/2021-03/19/2021 Card # -1481	45.89	0.00	258,342.94
0004449	4/01/2021	[10012] CAPCOA-2021 Membership Dues	850.00	0.00	257,492.94
0004450	4/01/2021	[10971] SHREDS UNLIMITED INC-Shredding Service	170.00	0.00	257,322.94
0004451	4/01/2021	[10483] STREAMLINE-F7C1BDDC-0005 - Web Hosting - April 2021	200.00	0.00	257,122.94
0000001	4/01/2021	Credit Card Transaction - Plant 42	0.00	1,050.00	258,172.94
0000001	4/01/2021	Credit Card Transaction - City of Lancaster	0.00	505.91	258,678.85
0004452	4/08/2021	[10024] LOS ANGELES COUNTY FARM BUREAU-2021 Membership Dues	195.00	0.00	258,483.85
0004453	4/08/2021	[10071] QUADIANT LEASING-Postage Meter Lease 04/02/21-05/01/21	78.17	0.00	258,405.68
0004454	4/08/2021	[10043] SOCALGAS-Gas 03/01/21-03/30/21	162.70	0.00	258,242.98
0004455	4/08/2021	[00069] SOUTHERN CALIFORNIA EDISON-Electric Bill - 02/12/21 - 03/16/21	137.81	0.00	258,105.17
0004456	4/08/2021	[10039] SPARKLETTS-Water Service 03/2021	30.53	0.00	258,074.64
0004457	4/08/2021	[10483] STREAMLINE-Inv F7C1BDDC-003 - Web Hosting - February 2021	200.00	0.00	257,874.64
0004458	4/08/2021	[10046] VERIZON CALIFORNIA - NJ-Long Distance 03/28/21-04/27/21	34.92	0.00	257,839.72
0000001	4/09/2021	Credit Card Transaction - Ukani Enterprise	0.00	525.00	258,364.72
0004459	4/15/2021	[10562] AGZA-CONSULTING FEES FOR GREEN ZONE IMPLEMENTATION	3,250.00	0.00	255,114.72
0004460	4/15/2021	[01148] ANTELOPE VALLEY PRESS-Public Notice-Lockheed Title V	453.56	0.00	254,661.16
0004461	4/15/2021	[10006] BANK OF THE WEST-Credit Card Statement #-1628 03/05/2021-04/04/2021	147.60	0.00	254,513.56
0004462	4/15/2021	[10006] BANK OF THE WEST-Credit Card Statement #-1465 03/05/2021-04/04/2021	173.17	0.00	254,340.39
0004463	4/15/2021	[10260] QCS BUILDING SERVICES-Janitorial Service 04/2021	225.00	0.00	254,115.39
0004464	4/15/2021	[10455] STRADLING YOCCA CARLSON & RAUTH-Legal Service for period ending 02/28/2021	1,250.00	0.00	252,865.39
0004465	4/15/2021	[10045] VERIZON BUSINESS-VOIP 04/01/21-04/30/21	427.94	0.00	252,437.45
0000001	4/15/2021	Credit Card Transaction - Fiedler Group	0.00	1,050.00	253,487.45
R21-28	4/15/2021	Operating Fund Replenishment #16	0.00	175,255.29	428,742.74
0000001	4/19/2021	Credit Card Transaction - Progressive Fuel	0.00	525.00	429,267.74
0000001	4/22/2021	Credit Card Transactions - Ace Environmental - Golden State Water	0.00	2,128.92	431,396.66
0004466	4/22/2021	[10518] AUSTIN BISHOP-Attendance Governing Board Meeting Tuesday, April 20, 2021.	100.00	0.00	431,296.66
0004467	4/22/2021	[10405] CANON FINANCIAL SERVICES-COPIER LEASE 05/01/2021	276.18	0.00	431,020.48
0004468	4/22/2021	[10055] NEWTON CHELETTE-Attendance Governing Board Meeting Tuesday, April 20, 2021.	100.00	0.00	430,920.48
0004469	4/22/2021	[10057] MARVIN CRIST-Attendance Governing Board Meeting Tuesday, April 20, 2021.	100.00	0.00	430,820.48
0004470	4/22/2021	[10019] FEDERAL EXPRESS CORPORATION-Courier Service 04/09/2021	18.90	0.00	430,801.58
0004471	4/22/2021	[10599] HOWARD HARRIS-Attendance Governing Board Meeting Tuesday, April 20, 2021.	100.00	0.00	430,701.58
0004472	4/22/2021	[10058] RONALD HAWKINS-Attendance Governing Board Meeting Tuesday, April 20, 2021.	100.00	0.00	430,601.58

Antelope Valley AQMD
Bank Register from 4/01/2021 to 4/30/2021
Wells Fargo Operating

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0004473	4/22/2021	[10503] STEVEN D HOFBAUER-Attendance Governing Board Meeting Tuesday, April 20, 2021.	100.00	0.00	430,501.58
0004474	4/22/2021	[10054] KENNETH MANN-Attendance Governing Board Meeting Tuesday, April 20, 2021.	100.00	0.00	430,401.58
0004475	4/22/2021	[10026] MOJAVE DESERT AQMD-FY21	127,355.61	0.00	303,045.97
0004476	4/22/2021	[10592] SPECTRUM BUSINESS-FIBER 04/08/2021-05/07/2021	770.00	0.00	302,275.97
0004477	4/22/2021	[10050] WOELFL FAMILY TRUST-Lease Payment - May 2021	4,719.83	0.00	297,556.14
0000001	4/23/2021	Credit Card Transaction - Holliday Rock	0.00	546.06	298,102.20
0000001	4/23/2021	Credit Card Transactions - Vulcan	0.00	1,050.00	299,152.20
R21-29	4/23/2021	Operating Fund Replenishment #17	0.00	5,927.27	305,079.47
0000001	4/26/2021	Credit Card Transaction - Total Air Analysis	0.00	489.00	305,568.47
0004478	4/29/2021	[00069] SOUTHERN CALIFORNIA EDISON-Electricity Service - 03/16/21 - 04/13/21	426.05	0.00	305,142.42
R21-30	4/29/2021	Operating Fund Replenishment #18	0.00	133,840.52	438,982.94
Total for Report:			142,298.86	322,892.97	

Antelope Valley AQMD
Bank Register from 4/01/2021 to 4/30/2021
WF AB2766

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0022232	4/01/2021	[11137] RICK BIERBOWER-AB2766 GRANT	500.00	0.00	424,421.20
0022233	4/01/2021	[11134] KENNETH BRANDT-AB2766 GRANT	500.00	0.00	423,921.20
0022234	4/01/2021	[11136] CELSO CAMPILLO-AB2766 GRANT	500.00	0.00	423,421.20
0022235	4/01/2021	[11135] GLADYS G. DE LA TORRE-AB2766 GRANT	500.00	0.00	422,921.20
0022236	4/01/2021	[11138] GARTH ERDRICH-AB2766 GRANT	500.00	0.00	422,421.20
0022237	4/01/2021	[11133] STEVEN C HATCHER-AB2766 GRANT	500.00	0.00	421,921.20
0022238	4/01/2021	[11132] GEORGE BRYCE HODGINS-AB2766 GRANT	1,000.00	0.00	420,921.20
0022239	4/01/2021	[11131] JASON JACOBO-AB2766 GRANT	1,000.00	0.00	419,921.20
0022240	4/01/2021	[11130] EDWIN DAVID LANDAVERDE-AB2766 GRANT	1,000.00	0.00	418,921.20
0022241	4/01/2021	[10440] JULIE MCKEEHAN-AB2766 GRANT	500.00	0.00	418,421.20
0022242	4/01/2021	[10784] NIKKI SIENNA SANORIA-AB2766 GRANT	500.00	0.00	417,921.20
	4/01/2021	Interest Earned	0.00	0.90	417,922.10
0022243	4/15/2021	[11142] MICHAEL BANALES-AB2766 GRANT	1,000.00	0.00	416,922.10
0022244	4/15/2021	[11145] JUAN CALITO-AB2766 GRANT	500.00	0.00	416,422.10
0022245	4/15/2021	[11139] EMILY ANN DOROSKY-AB2766 GRANT	500.00	0.00	415,922.10
0022246	4/15/2021	[11140] ANDREW EDGELL-AB2766 GRANT	500.00	0.00	415,422.10
0022247	4/15/2021	[11141] KAREN ENOMOTO-AB2766 GRANT	500.00	0.00	414,922.10
0022248	4/15/2021	[11143] ABRAN PIMENTAL OROZCO-AB2766 GRANT	500.00	0.00	414,422.10
0022249	4/15/2021	[11146] MIA R. REDD-AB2766 GRANT	2,500.00	0.00	411,922.10
0022250	4/15/2021	[11144] KA YUE-AB2766 GRANT	500.00	0.00	411,422.10
R21-26	4/20/2021	Transfer AB2766 - January 2021	0.00	51,763.98	463,186.08
0022251	4/22/2021	[11151] KEVIN ALBENO-AB2766 GRANT	500.00	0.00	462,686.08
0022252	4/22/2021	[11150] LIANNA HARUTYUNYAN-AB2766 GRANT	2,500.00	0.00	460,186.08
0022253	4/22/2021	[11152] LEONARD MARQUEZ III-AB2766 GRANT	1,000.00	0.00	459,186.08
0022254	4/22/2021	[11153] CLARISSA T MENA-AB2766 GRANT	1,000.00	0.00	458,186.08
0022255	4/22/2021	[10737] JASMIN NAZARIAN-AB2766 GRANT	500.00	0.00	457,686.08
0022256	4/22/2021	[11154] NICOLE SCOTT-AB2766 GRANT	500.00	0.00	457,186.08
0022257	4/22/2021	[11147] DESIREE VELASCO-AB2766 GRANT	500.00	0.00	456,686.08
0022258	4/22/2021	[10468] LASHAWN WILLIAMS-AB2766 GRANT	1,000.00	0.00	455,686.08
0022259	4/29/2021	[10021] THE GREENSTATION-Invoices ,	21,200.16	0.00	434,485.92
Total for Report:			42,200.16	51,764.88	

Antelope Valley AQMD
Bank Register from 4/01/2021 to 4/30/2021
LA County AB2766 U5R

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	4/01/2021	Interest Earned	0.00	0.59	672.89
Total for Report:			0.00	0.59	

Antelope Valley AQMD
Bank Register from 4/01/2021 to 4/30/2021
WF AB923

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	4/01/2021	Interest Earned	0.00	3.13	1,378,199.35
0001033	4/15/2021	[10884] COAST AUTO SALVAGE-VAVR GRANT MARCH 2021	3,600.00	0.00	1,374,599.35
R21-27	4/20/2021	Transfer AB923 - January 2021	0.00	48,533.58	1,423,132.93
0001034	4/29/2021	[10021] THE GREENSTATION-Invoices ,	10,440.00	0.00	1,412,692.93
Total for Report:			14,040.00	48,536.71	

Antelope Valley AQMD
Bank Register from 4/01/2021 to 4/30/2021
LA County AB923

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	4/01/2021	Interest Earned	0.00	6.88	7,567.05
Total for Report:			0.00	6.88	

Antelope Valley AQMD
Bank Register from 4/01/2021 to 4/30/2021
WF Carl Moyer

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	4/01/2021	Interest Earned	0.00	1.78	473,838.07
Total for Report:			0.00	1.78	

Antelope Valley AQMD
Bank Register from 4/01/2021 to 4/30/2021
LA County Carl Moyer U5S

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	4/01/2021	Interest Earned	0.00	2.49	3,884.68
0082873	4/30/2021	System Error - Double Entry	986.39	0.00	2,898.29
Total for Report:			986.39	2.49	

Antelope Valley AQMD
Bank Register from 4/01/2021 to 4/30/2021
WF Special Revenue

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	4/01/2021	Interest Earned	0.00	2.13	879,499.78
Total for Report:			0.00	2.13	

The following page(s) contain the backup material for Agenda Item: [1\) Authorize the acceptance of Community Air Protection Program Implementation Funds and submission of the Grant Agreement to the California Air Resources Board \(CARB\) for expenses necessary for the implementation of Assembly Bill 617 \(C. Garcia, Chapter 136, Statutes of 2017\); 2\) Authorize the acceptance of funds allocated and awarded to the District; and 3\) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form. Presenter: Julie McKeehan, Grants Analyst.](#)

Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #6

DATE: June 15, 2021

RECOMMENDATION: 1) Authorize the acceptance of Community Air Protection Program Implementation Funds and submission of the Grant Agreement to the California Air Resources Board (CARB) for expenses necessary for the implementation of Assembly Bill 617 (C. Garcia, Chapter 136, Statutes of 2017); 2) Authorize the acceptance of funds allocated and awarded to the District; and 3) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form.

SUMMARY: This item formally accepts funds allocated to the District for AB 617 Air District Implementation, approves the District's participation in, and compliance with, the Community Air Protection Program. This grant supports the required and related expenses necessary for the implementation of Assembly Bill 617. In addition, this item authorizes the Executive Director/APCO and staff to execute agreements with CARB which binds the parties to the terms and conditions set forth in the application and the Community Air Protection Program Guidelines.

BACKGROUND: The Program's focus is to reduce exposure in communities most impacted by air pollution. The District will work closely with CARB staff, community groups, community members, environmental organizations, and regulated industries to develop a new community-focused action framework for community air protection.

The Community Air Protection Program (CAP) is the first-of-its-kind statewide effort of community air monitoring and community emissions reduction programs. Legislature appropriates funding to support early actions to address localized air pollution through targeted incentive funding to deploy cleaner technologies in these communities, as well as grants to support community participation. CAP also includes new requirements for accelerated retrofit of pollution controls on industrial sources, increased penalty fees, and greater transparency and availability of air quality and emissions data, which will help advance air pollution control efforts throughout the State. This new authority provides an opportunity to continue to enhance our air quality planning efforts and better integrate community, regional, and State level programs to provide clean air for all Californians.

cc: Laquita Cole
Michelle Powell
Julie McKeehan

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #6

PAGE 2

REASON FOR RECOMMENDATION: The Community Air Protection Program Guidelines require that the Governing Board formally approve District application and authorize the Executive Director/APCO and staff to execute the agreement with CARB.

REVIEW BY OTHERS: This item was reviewed by Allison E. Burns Special Counsel to the Governing Board as to legal form and by Bret Banks, Executive Director/APCO – Antelope Valley Operations on or before June 1, 2021.

FINANCIAL DATA: Community Air Protection Program funds are revenue to the AVAQMD budget.

PRESENTER: Julie McKeehan, Grants Analyst

The following page(s) contain the backup material for Agenda Item: [1\) Authorize the acceptance of AB 197 Emission Inventory District Grant Program Funding; 2\) Accept the terms and conditions for the funds; and 3\) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form, and carry out related activities to meet the requirements of AB 197. Presenter: Julie McKeehan, Grants Analyst.](#)
Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #7

DATE: June 15, 2021

RECOMMENDATION: 1) Authorize the acceptance of AB 197 Emission Inventory District Grant Program Funding; 2) Accept the terms and conditions for the funds; and 3) Authorize the Executive Director/APCO and staff to execute the agreement, approved as to legal form, and carry out related activities to meet the requirements of AB 197.

SUMMARY: This action formally accepts the AB 197 Emission Inventory District Grant Program Funding in the amount of \$8,583.00 to the AVAQMD. This action also accepts the terms and conditions for the funds as appropriated in the Grant Agreement Provisions and approves staff to carry out related activities.

BACKGROUND: On September 8, 2016, the Governor signed into law AB 197. The law creates a legislative committee to oversee regulators, giving lawmakers more say in how climate goals are met. The law pushes the State to take stronger steps to reduce emissions and protect the State's most impacted and disadvantaged communities. This law requires the California Air Resources Board (CARB) to make available, and update annually, on its Internet Web site the emissions of GHG, criteria pollutants, and toxic air contaminants for each facility that reports to CARB and local Air Districts. Emissions data will be based on data provided to CARB by Air Pollution Control and Air Quality Management Districts. AB 197 Emission Inventory District Grant Program provides Air Districts funding for additional resources needed to meet the emission inventory requirements of AB 197.

REASON FOR RECOMMENDATION: CARB requires the Governing Board formally approve District acceptance of the funds and participation in the program.

REVIEW BY OTHERS: This item was reviewed by Allison E. Burns Special Counsel to the Governing Board as to legal form and by Bret Banks, Executive Director/APCO – Antelope Valley Operations on or before June 1, 2021.

FINANCIAL DATA: Community Air Protection Funds are supplementary to the AVAQMD budget.

PRESENTER: Julie McKeehan, Grants Analyst

cc: Laquita Cole
Michelle Powell
Julie McKeehan

The following page(s) contain the backup material for Agenda Item: 1) Governing Board to acknowledge that funds awarded to Boething Treeland Farms at the May 18, 2021 meeting was intended for the use of Carl Moyer Program funds as presented; and 2) Authorize the Executive Director/APCO and staff to make any necessary corrections and execute an agreement approved as to legal form by the Office of District Counsel.
Presenter: Julie McKeehan, Grants Analyst.
Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #8

DATE: June 15, 2021

RECOMMENDATION: 1) Governing Board to acknowledge that funds awarded to Boething Treeland Farms at the May 18, 2021 meeting was intended for the use of Carl Moyer Program funds as presented; and 2) Authorize the Executive Director/APCO and staff to make any necessary corrections and execute an agreement approved as to legal form by the Office of District Counsel.

SUMMARY: This item corrects the funding source for Boething Treeland Farm's tractor replacement project from Mobile Source Emission Reductions Program funds as indicated in the initial Agenda Item to the use of Carl Moyer Program funds as presented and approved by the Governing Board for the replacement of an older heavy-duty diesel with cleaner engine technology certified to the Tier 4 engine standards. In this item, the Governing Board acknowledges the correction from the use of Mobile Source Emission Reductions Program funds to the use of Carl Moyer Program funds in an amount not exceed \$98,648.00.

BACKGROUND: In May 2021 the Governing Board approved Boething Treeland Farm's tractor replacement project with the use of Carl Moyer Program funds as presented. The Agenda Item was initially written for the use of Mobile Source Emission Reductions Program funds; however, the funding source was changed prior to the Governing Board meeting of which changes were not reflected in the Agenda Item.

REASON FOR RECOMMENDATION: Governing Board approval is needed to fund Carl Moyer eligible projects. Additionally, Governing Board authorization is needed for the Executive Director/APCO and staff to negotiate and execute an agreement with the grant recipient.

REVIEW BY OTHERS: This item was reviewed by Allison E. Burns, Special Counsel to the Governing Board, as to legal form and by Bret Banks, Executive Director/APCO – Antelope Valley Operations on or before June 1, 2021.

FINANCIAL DATA: Sufficient funds are available in Carl Moyer Program funds.

PRESENTER: Julie McKeehan, Grants Analyst

cc: Laquita Cole
Michelle Powell
Julie McKeehan

The following page(s) contain the backup material for Agenda Item: [Conduct Continued Public Hearing to consider the proposed AVAQMD Budget for FY 2021-22: a. Re-Open the continued public hearing; b. Receive supplemental staff report and/or staff update; c. Receive public testimony; d. Close public hearing; e. Adopt a resolution approving and adopting the budget for FY 2021-2022. Presenter: Laquita Cole, Finance Manager.](#)
Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM # #9

DATE: June 15, 2021

RECOMMENDATION: Conduct Continued Public Hearing to consider the proposed AVAQMD Budget for FY 2021-22: a. Re-Open the continued public hearing; b. Receive supplemental staff report and/or staff update; c. Receive public testimony; d. Close public hearing; e. Adopt a resolution approving and adopting the budget for FY 2021-2022.

SUMMARY: The AVAQMD Budget for Fiscal Year 2021-2022 is presented to the Governing Board for adoption and implementation beginning July 1, 2021.

BACKGROUND: The budget process includes a presentation to the Governing Board with staff recommendations for programs and projects for the new fiscal year. In addition, opportunity for public comment is incorporated into the process and is required by law.

A proposed budget summary and supporting documentation was prepared and made available in accordance with the 30-day Public Notice Requirement of Health and Safety Code §40131(a)(1). All persons within the Antelope Valley Air Quality Management District jurisdiction who were subject to fees during the prior fiscal year were properly notified of the availability of the information (pursuant to H&S §40131(a)(2)). A Public Hearing for the purpose of reviewing the budget and taking public comment, as required by H&S § 40131(a)(3), was held May 18, 2021 and continued to this meeting.

The budget includes anticipated revenue to be derived from a proposed 5.0% fee increase. The fee increase is well within the provisions of Health & Safety Code §42311(a) and falls within the exemption found in Article XIII C §1(e)(3) of the California Constitution.

REASON FOR RECOMMENDATION: Health and Safety Code §40131 requires that Districts adopt an annual budget. Adoption of the budget will enable the AVAQMD Governing Board to make adequate financial plans and will ensure that the District can administer their respective functions in accordance with such plans.

REVIEW BY OTHERS: This agenda item was approved as to legal form by Allison Burns, Special Counsel on or before May 27, 2021.

FINANCIAL DATA: There is no additional financial impact resulting from this presentation and public hearing.

PRESENTER: Laquita Cole, Finance Manager.

RESOLUTION NO.

A RESOLUTION OF THE GOVERNING BOARD OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT APPROVING AND ADOPTING THE PROPOSED OPERATING BUDGET FOR FISCAL YEAR 2021-22.

On June 15, 2021, on motion by Member _____, seconded by Member _____, and carried, the following resolution is adopted:

WHEREAS, the Air Pollution Control Officer has submitted to the Governing Board an annual budget for the Antelope Valley Air Quality Management District (AVAQMD) for the fiscal year 2021-22; and

WHEREAS, a proposed budget summary and supporting documentation were prepared and made available in accordance with the 30 day Public Notice requirement (Health and Safety Code §40131(a)(1)); and

WHEREAS, all persons within the District area who were subject to fees during the prior fiscal year were properly notified of the availability of the information (Health and Safety Code §40131(a)(2)); and

WHEREAS, a separate Public Hearing for the exclusive purpose of reviewing the budget and taking public comment, as required by Health and Safety Code §40131(a)(3), was held on May 18, 2021 and continued to June 15, 2021; and

WHEREAS, the annual budget contains estimates of the services, activities and programs comprising the budget, and contains expenditure requirements and their resources available to the AVAQMD; and

WHEREAS, the expenses budgeted for all funds for fiscal year 2021-22 are \$5,030,225.00 (Five Million, Thirty Thousand, Two Hundred Twenty-Five); and

WHEREAS, the revenue budgeted from all funds for fiscal year 2021-22 is \$5,034,900.00 (Five Million, Thirty-Four Thousand, Nine Hundred); and

WHEREAS, the annual budget will enable the AVAQMD Governing Board to make adequate financial plans and will ensure that the AVAQMD officers can administer their respective functions in accordance with such plans,

NOW, THEREFORE, BE IT RESOLVED, by the AVAQMD Governing Board, the

RESOLUTION NO.

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following:

The Air Pollution Control Officer, or designee, is authorized and hereby directed to execute the initial and final applications for potential State subvention funds and CAP funds for Fiscal Year 2021-22.

The annual budget for the AVAQMD for the fiscal year 2021-22 is hereby approved and adopted, and the amounts of proposed expenditures, as specified, are appropriate for the account classifications as herein specified.

A. The 2021-22 Budget for expenses is hereby adopted, establishing the following:

<u>ACCOUNT CLASSIFICATION</u>	<u>2021-22 ADOPTED BUDGET</u>
Personnel Expenses	\$1,389,000
Operating Expenses	486,725
Program Expenses	3,104,500
Capital Expenses	<u>50,000</u>
TOTAL EXPENSE BUDGET	\$5,030,225

B. The 2021-22 Budget for revenue is hereby adopted, establishing a revenue base for the expenditures noted above:

<u>ACCOUNT CLASSIFICATION</u>	<u>2021-22 ADOPTED BUDGET</u>
Permit Fees	\$1,047,500
Application Fees	30,500
Fines & Penalties	10,000
Interest Income	17,500
Revenue from (Grant) Programs	2,833,400
State Revenue	<u>1,096,000</u>
TOTAL REVENUE BUDGET	\$5,034,900
Committed Fund Balance for Cash Reserves	\$562,718

Pursuant to Section 53901 of the California Government Code, the Finance Manager shall file a copy of this resolution with the Auditor of the County of Los Angeles, as required.

RESOLUTION NO.

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BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon adoption.

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

AYES:	MEMBER:
NOES:	MEMBER:
ABSENT:	MEMBER:
ABSTAIN:	MEMBER:

STATE OF CALIFORNIA)	
)	
)	ss:
COUNTY OF LOS ANGELES)	

I, Deanna Hernandez, Senior Executive Analyst of the Governing Board of the 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 June 15, 2021.

_____,
Deanna Hernandez
Senior Executive Analyst
Governing Board, Antelope Valley Air Quality Management District

FISCAL YEAR
2021-22



PROPOSED
BUDGET

City of
LANCASTER

City of
PALMDALE

**HIGH
DESERT**
of Los
Angeles
County

661.723.8070

 avaqmd.ca.gov

 [.com/avaqmd](https://www.facebook.com/avaqmd)

 [@avaqmd](https://twitter.com/avaqmd)

July 1, 2021

Antelope Valley Air Quality Management District
43301 Division St., Suite 206
Lancaster, CA 93535-4649

Bret Banks, Executive Director

51 of 617

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Antelope Valley Air Quality Management District

Bret Banks, *Executive Director*

43301 Division St., Antelope Valley, CA 93535-4649

661.723.8070 • www.AVAQMD.ca.gov



April 15, 2021

It is my pleasure to present for your consideration, the Antelope Valley Air Quality Management District's proposed Fiscal Year (FY) 2021-2022 General Fund Budget and Grant Programs. This budget is designed to serve as the financial plan for the District's programs, projects, and policies. It reflects the District's commitment to long-term financial planning, cost-effective services, and fiscal policies that recognize the need to fund future obligations.

The proposed budget for FY2022 is one of cautious optimism. The COVID-19 pandemic took a significant toll on our local economy and changed how we financially prepare for the future. We will continue to monitor the impacts of COVID-19 on revenues and expenditures as new information is made available.

The FY22 consolidated budget is \$5.03 million with a General Fund budget of \$2.93 million up, from FY21, by \$1.1 million dollars from state funded programs. Recommendations include an increase to Regulation III, Fees, by proposing a 5.0% fee increase effective January 1, 2022.

The Antelope Valley AQMD is serviced based with 4 full time equivalents. Additional administrative and technical services are provided by 2.55 FTEs through our contract for services with the Mojave Desert AQMD. As such, the General Budget is composed of Personnel expenses of 54%, Program expenses of 34%, Capital Expenses of 2%, and Operating Expenses of 10%.

A Public Hearing will be held May 18, 2021 to receive public comments concerning this proposed budget and will be continued to June 15, 2021 for adoption July 1, 2021. The FY 2021-22 Budget is balanced through the use of reserves and represents a financial strategy designed to meet this year's obligations and challenges, efficiently and transparently, while maintaining sensitivity towards industry and the general public.

Bret Banks

Air Pollution Control Officer

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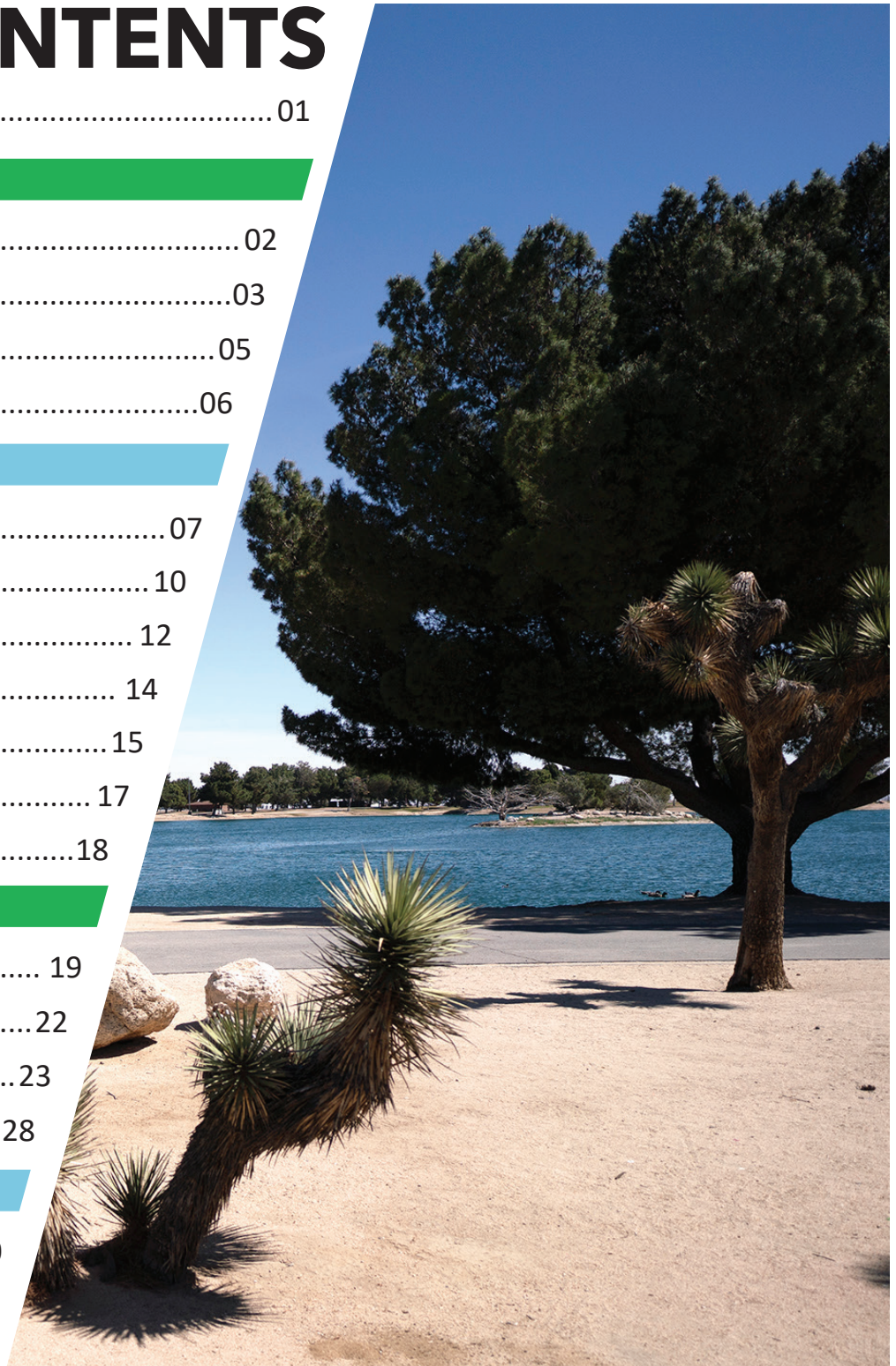
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ABOUT THE AVAQMD

INTRODUCTION

The Antelope Valley Air Quality Management District (AVAQMD) relies on transparency and community involvement to educate industries, businesses and individuals about current air quality regulations and ensure compliance with local, state and federal regulations. through annual inspections.

The District approaches air quality regulations in a manner that is responsive and accessible. Growth and new programs demand that the District continue to strive to streamline government, become more efficient, and conserve resources without limiting or decreasing the service provided to the regulated community.

AVAQMD WEBSITE

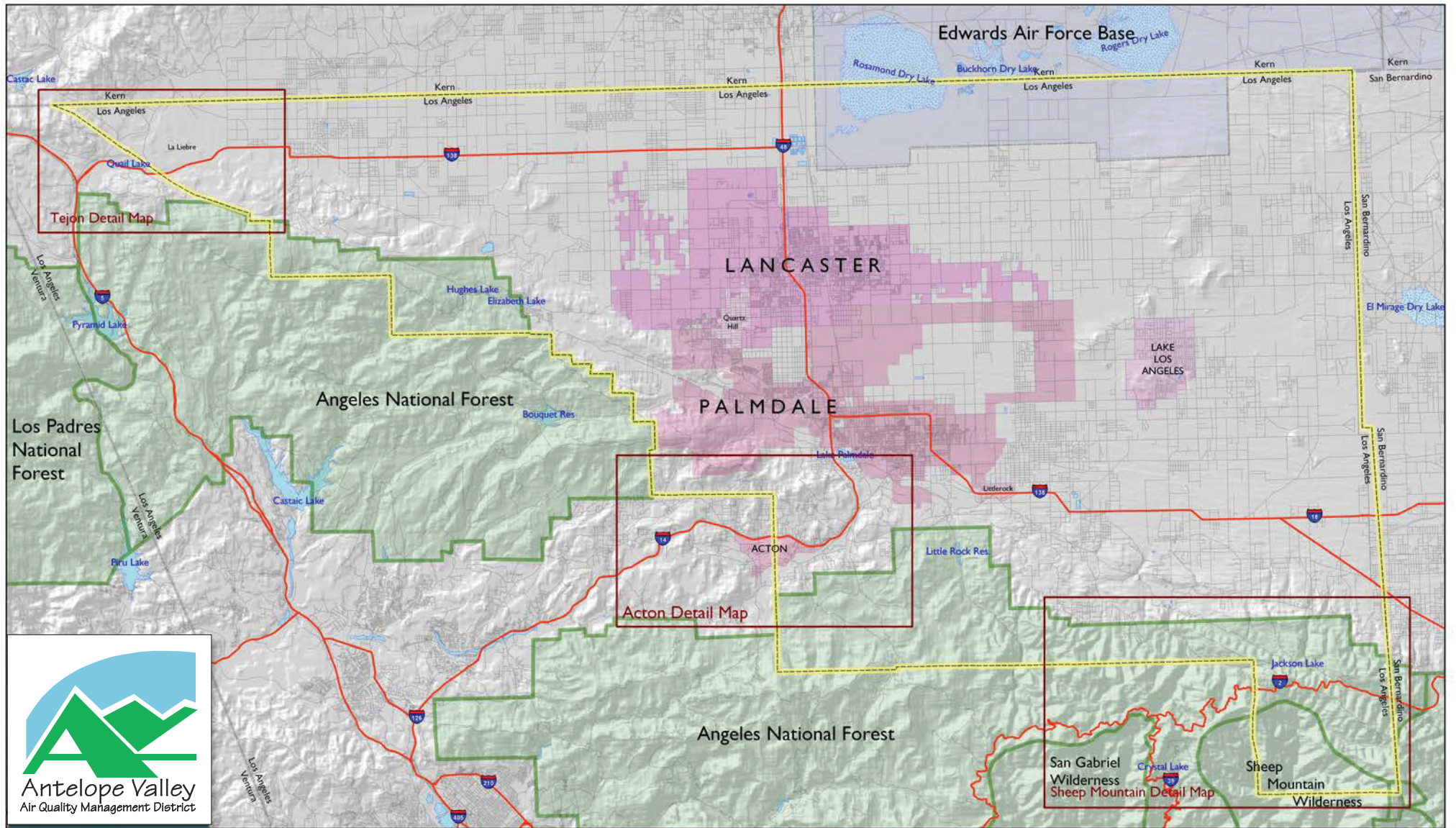
Educating the community is the most important investment the District can make to impact the future of air quality in the region. Using technology and social media the District is able to reach the public with the latest version of the District rulebook, application for permits, various forms, and air quality information – such as forecasts, ozone maps and real time air quality data provided through Purple Air monitoring stations throughout the community

COMMUNITY OUTREACH

The District strives to be known as a partner in the development of a sustainable local economy that values health and environmental conservation. This is achieved by providing information through involvement in community events such as the Antelope Valley Economic Development and Growth Enterprise's Business Outlook Conference, school education programs, attendance at regular meetings held by City Council, local business and organizations.

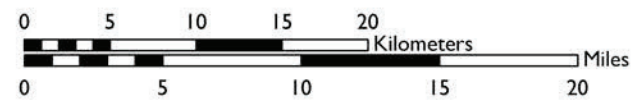


The District lies within the northern part of Los Angeles County. The District boundaries start on the south just outside of Acton, north to the Kern County line, east to the San Bernardino County line, and west to the Quail Lake area. The AVAQMD is located within the Mojave Desert air basin. An air basin is a geographical region to describe an area with a commonly shared air mass, since air pollution does not follow county, city, or political boundaries.



- Edwards Air Force Base
- National Forest
- Air Quality Management District Border
- Bodies of Water
- Dry Lakes
- Highways
- Roads
- County Lines

Antelope Valley Air Quality Management District Boundary



GOVERNING Board

CHAIR



Marvin Crist
City of Lancaster

VICE CHAIR



Austin Bishop
City of Palmdale



Newton Chelette
Public Member



Howard Harris
*Los Angeles County,
Fifth District*



Ron Hawkins
*Los Angeles County,
Fifth District*



Steven Hofbauer
City of Palmdale



Ken Mann
City of Lancaster

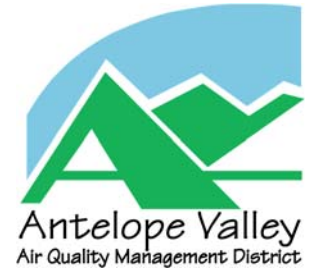


WHAT WE DO

- Adopt rules that limit pollution, issue permits to ensure compliance, and inspect pollution sources.
- Administer agricultural burning and dust plans to preserve the air quality in Antelope Valley, protect public health and safety, and to ensure agricultural activity continues in a safe regulated fashion.
- Inventory and assess the health risks of toxic air emissions.
- Monitor the county's air quality through the use of an air quality monitoring station. Administer the Motor Vehicle Emission Reduction Program funding projects which reduce air pollution from motor vehicles, and for related planning, monitoring, and enforcement.
- Prepare Clean Air Plans to identify how much pollution is in our air, where it comes from, and how to control it most effectively.
- Analyze the air quality impact of new businesses and land development projects. Respond to public complaints and inquiries.
- Work with other government agencies to ensure their decisions & coordinate with good air quality programs.
- Help individuals and businesses understand and comply with federal, state, and local air pollution control laws.
- Inform the public about air quality conditions and health implications.
- Issue permits to build, alter, and operate equipment to companies under our jurisdiction that either cause, contribute to, or control air pollution

Antelope Valley AQMD
ALL FUNDS, Consolidated

	Budget FY 2021	EOY Estimate FY 2021	Budget FY 2022
Revenues			
Permit Fees	1,072,500	1,059,842	1,047,500
Application Fees	30,000	56,057	30,500
Fines & Penalties	9,000	7,250	10,000
Interest Income	22,435	15,985	17,500
Other Revenue	0	79	0
Revenue from Programs	2,570,566	2,301,573	2,833,400
State Revenue	206,305	203,006	1,096,000
Total Revenues	3,910,806	3,643,792	5,034,900
Expenses			
Personnel Expenses			
Program Staff	1,338,000	1,162,435	1,389,000
Total Personnel Expenses	1,338,000	1,162,435	1,389,000
Operating Expenses			
Communications	20,500	33,785	21,050
Dues & Subscriptions	20,500	15,535	46,650
Non-Depreciable Inventory	10,000	1,663	2,300
Legal	19,000	24,550	44,000
Professional Services	217,400	131,413	230,150
Maintenance & Repairs	6,500	2,750	6,500
Training & Travel	10,150	4,500	15,150
Vehicles	10,000	6,900	7,900
Office Expenses	102,575	96,200	110,125
Program Expenses	2,060,266	1,988,090	3,104,500
Miscellaneous Expenses	915	2,925	2,900
Total Operating Expenses	2,477,806	2,308,311	3,591,225
Capital Expenses			
Equipment	40,000	0	25,000
Vehicles	30,000	31,343	0
Software	25,000	0	25,000
Total Capital Expenses	95,000	31,343	50,000
Total Expenses	3,910,806	3,502,089	5,030,225
Cash To (From) Reserves	0	141,703	4,675



COST RECOVERY FISCAL YEAR 2021-2022

BACKGROUND

The District is responsible for protecting public health and the environment by achieving and maintaining health-based national and state ambient air quality standards which help with reducing public exposure to toxic air contaminants within our jurisdiction. Fulfilling this task involves reducing air pollutant emissions from sources of regulated air pollutants, and maintaining these emission reductions over time.

The District regulates and inventories criteria and toxic emissions and conducts regional scale air quality monitoring within our jurisdictional boundaries. The District's air quality programs are primarily funded by revenue from regulatory fees, government grants and subventions.

OBJECTIVES

The cost of programs to address air pollution should be borne by the individuals and businesses that cause air pollution through regulatory and service fees. The primary authority for recovering the cost of District programs and activities related to stationary sources is given in Section 41240 of the Health and Safety Code(HSC). Using this guideline, the District must

- Recover the costs of programs related to permitted stationary sources
- Recover the costs of programs related to area-wide and indirect sources of emissions which are regulated, but for which permits are not issued
- Recover the costs of certain Hearing Board proceedings
- Recover the costs related to programs that regulate toxic air contaminants

STUDY METHODOLOGY

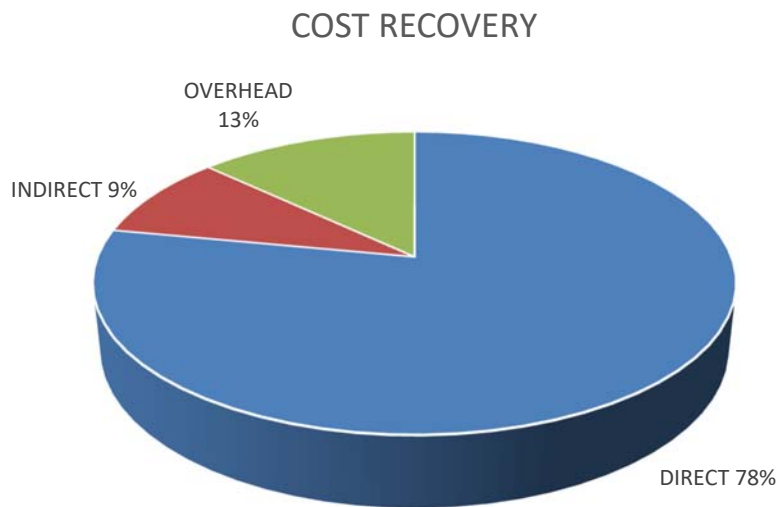
The measure of the revenue that may be recovered through source fees is the full cost of all programs related to these sources, including all direct program costs, a commensurate share of indirect program costs, and overhead unless otherwise funded. It is the District's practice that such fees are valid so long as they do not exceed the reasonable cost of the service or regulatory program for which the fee is charged, and are apportioned such that the costs allocated to each source bears a fair or reasonable relationship to its burden on, and benefits from, the regulatory system.

Cost accounting is the process of ascertaining, accumulating, and assigning the costs of District programs. It begins with a system of accounting that assigns costs directly to their cost centers. By classifying each cost, to its center, we are able to calculate whether program revenues are cover their associated costs.

Costs are classified as direct, indirect or overhead.

Direct costs can be associated directly with a particular program or activity such as permitting activities. Indirect costs are associated indirectly with a particular program or activity such as administrative activities or professional services. Overhead costs are those necessary for the

general operation of the District as a whole and are not directly associated with a particular program or activity such as operating expenses.



Annually, The Districts direct, indirect, and overhead rate are established based on the prior fiscal years audited financial information. These rates are used in determining fairly and conveniently within the boundaries of generally accepted accounting principles, what proportion of costs each program

should bear. For the FY2021-2022 budget, the direct rate is 78%, the indirect rate is 9% and overhead is 13%.

The cost recovery process is designed so that individual program revenue adequately addresses expenses. Through the use of cost accounting, we analyze Permit Revenue and other programs for accuracy, appropriateness, and controls. Further, we evaluate the need for, and calculate the rate for fee increases to our Permitting Program based on 100% cost recovery. Permit Revenue for FY22 is \$1.09M and covers 100% of the cost of permitting.

Antelope Valley AQMD
GENERAL FUND, Consolidated

	Budget FY 2021	EOY Estimates FY 2021	Budget FY 2022
Revenues			
Permit Fees	1,024,500	1,059,842	1,047,500
Application Fees	41,500	56,057	30,500
Fines & Penalties	10,000	7,250	10,000
Interest Income	30,000	14,350	15,000
Other Revenue	0	79	0
Revenue from Programs	659,300	500,965	731,400
State Revenue	169,500	203,006	1,096,000
Total Revenues	1,934,800	1,841,549	2,930,400
Expenses			
Personnel Expenses			
Program Staff	1,425,175	1,162,435	1,389,000
Total Personnel Expenses	1,425,175	1,162,435	1,389,000
Operating Expenses			
Communications	18,500	33,785	21,050
Dues & Subscriptions	46,100	15,535	46,650
Non-Depreciable Inventory	1,000	1,663	2,300
Legal	19,000	24,550	44,000
Professional Services	217,400	131,413	230,150
Maintenance & Repairs	6,500	2,750	6,500
Training & Travel	12,150	4,500	15,150
Vehicles	5,500	6,900	7,900
Office Expenses	97,475	96,200	110,125
Program Expenses	0	475,792	1,000,000
Miscellaneous Expenses	1,000	2,925	2,900
Total Operating Expenses	424,625	796,013	1,486,725
Capital Expenses			
Equipment	40,000	0	25,000
Vehicles	20,000	31,343	0
Software	25,000	0	25,000
Total Capital Expenses	85,000	31,343	50,000
Total Expenses	1,934,800	1,989,791	2,925,725
Cash To (From) Reserves	0	(148,242)	4,675

GENERAL FUND

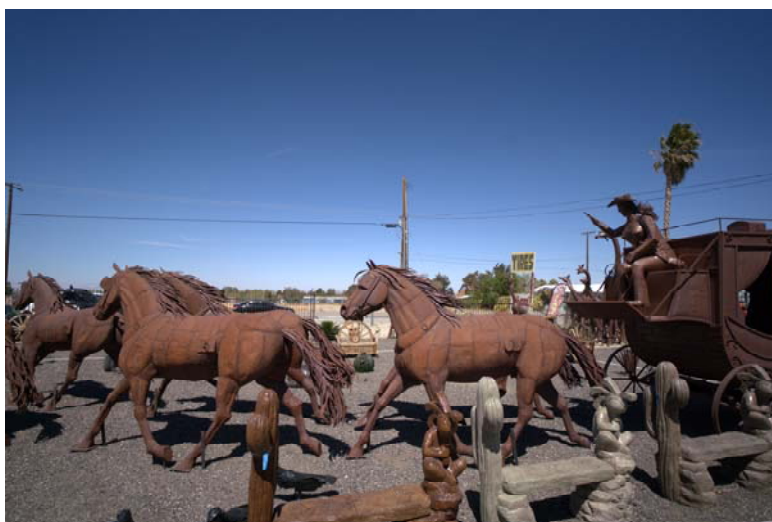


REVENUE

The greatest uncertainties facing Antelope Valley's AQMD's budgetary outlook stem from the potential for major economic disruption due to the COVID-19 global pandemic. We recognize the hardships that many are experiencing. We are making accommodations in many program areas and remain committed to protecting public health and helping business.

Antelope Valley AQMD staff will monitor the financial impacts and, in the event, that there are major changes in the economic landscape, we would make adjustments to the FY 2022 Budget being proposed.

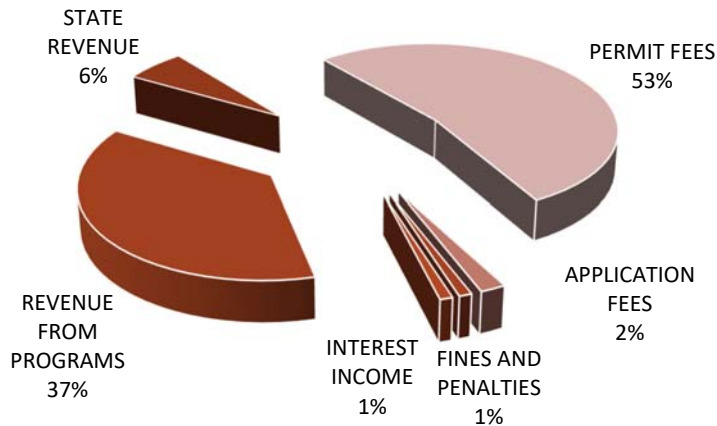
This budget includes a financial summary of all revenues, expenditures and staffing used by each of Antelope Valley AQMD's programs in the delivery of essential services to clean the air and to protect the health of all residents in the South Coast Air District through practical and innovative strategies.



The proposed General Fund budget for FY 2022 is a balanced budget with expenditures and revenues of \$2.93M million and 41 full time equivalents (FTE). The FY 2022 proposed budget is 252% two hundred fifty percent more than the FY 2021 adopted budget of \$1.93M. This is due in part to a 5% increase in fees effective January 1, 2021. Additionally, state funded programs within the general fund are responsible for an additional \$1M in FY2022.

Staff is proposing a balanced budget for FY 2022 that allows the Antelope Valley AQMD programs to operate efficiently, transparently, and in a manner sensitive to public agencies, businesses and the public, while providing continued emission reductions and health benefit improvements.

GENERAL FUND REVENUE



Recommendations include an increase to Regulation III, Fees, by proposing a 5.0% fee increase effective January 1, 2022. Interest projections are conservative to due current market performance. Permit revenue is 53% of general fund revenue. Revenue from programs is 37% while state revenue is 6% of general fund revenue.

EXPENSES

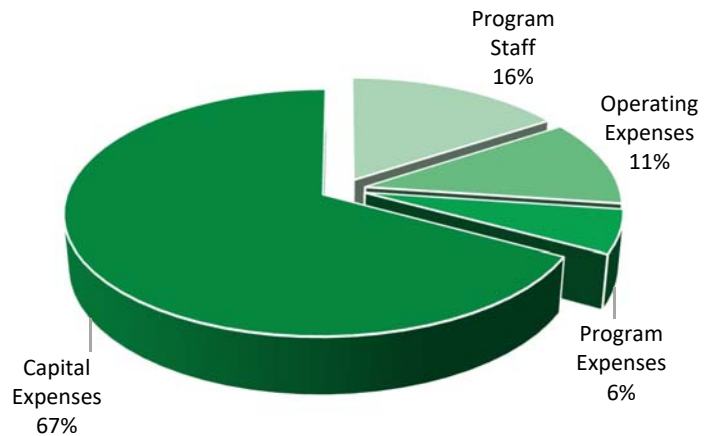
The Antelope Valley Air Quality Management District is in year one of a five year contract for services with the Mojave Desert Air Quality Management District. Administrative

and operational services were contracted in 2002 in order to meet the regulatory responsibilities of an air quality management district for compensation consistent with all applicable laws and regulations.

The Fiscal Year 2022 General Fund expenses are \$2,925M with a Program staff budget of \$1,389M. Operating Expenses are \$486k, Program Expenses are \$1M, and Capital Expenses are \$50k. This is a 250% increase from the FY21 budget of \$425k. The additional revenue is from the AB134 Community Air Protection Grant Program revenue and is received from the California Air Resources Board (CARB).

Program staff is actually 3% less than FY21. Although the FY22 staffing budget for retirement has a historical increase of 4.69%, a COLA of 2.5%, and other miscellaneous benefit increases, the difference can be attributed to staffing decreases of .95 FTE. Staffing costs account for 73% of the General Fund Budget.

GENERAL FUND EXPENSES



Antelope Valley AQMD
GENERAL FUND, Revenue Detail

	<u>Budget FY 2021</u>	<u>EOY Estimate FY 2021</u>	<u>Budget FY 2022</u>
Revenues			
Permit Fees			
Permit Fees Rev	877,000	950,275	900,000
Asbestos Demo/Reno Rev	90,000	90,000	90,000
Title V Rev	4,500	4,000	4,500
Permit Fee Adjustments	0	(41,278)	0
Rule 302	53,000	56,845	53,000
	<u>1,024,500</u>	<u>1,059,842</u>	<u>1,047,500</u>
Application Fees			
ERC Application Fees	0	519	0
New Source Review Fees	0	27,293	0
Permit Application Fees	40,000	27,920	30,000
AG Application Fees	1,500	325	500
	<u>41,500</u>	<u>56,057</u>	<u>30,500</u>
Fines & Penalties			
Notice of Violations Fee	10,000	7,250	10,000
	<u>10,000</u>	<u>7,250</u>	<u>10,000</u>
Interest Income			
Interest Revenue	30,000	14,350	15,000
	<u>30,000</u>	<u>14,350</u>	<u>15,000</u>
Other Revenue			
Other Revenue	0	79	0
	<u>0</u>	<u>79</u>	<u>0</u>
Revenue from Programs			
Administrative Funding	38,000	6,860	100,000
AB2766 Program	620,000	492,605	630,000
Hot Spots	1,300	1,500	1,400
	<u>659,300</u>	<u>500,965</u>	<u>731,400</u>
State Revenue			
PERP Regulation	35,000	43,314	40,000
State Contracts	38,500	61,789	959,000
State Subvention	96,000	97,903	97,000
	<u>169,500</u>	<u>203,006</u>	<u>1,096,000</u>
Total General Fund Revenues	<u>1,934,800</u>	<u>1,841,549</u>	<u>2,930,400</u>



AVAQMD PROGRAMS

PROGRAM DESCRIPTIONS

U.S. Environmental Protection Agency

The sets nationwide air quality and emissions standards and oversees state efforts and enforcement.

California Air Resources Board

Focuses on unique air quality challenges by setting the state's emissions standards for a range of pollution sources including vehicles, fuels and consumer products

COMMUNICATIONS

The Antelope Valley Air Quality Management District conducts public information and education programs in order to educate businesses and residents in the Antelope Valley region about air pollution, its sources, health effects on humans, damage to the environment and the various programs offered by the Districts to reduce air emissions. Education is provided on methods of control and to encourage individual means of reducing pollution.

The programs are targeted to many audiences: academia, the general adult population, elementary to college level students, as well as business and industry. This information uses public workshops, conferences, presentations, social media and other multimedia promotions. In addition, press releases, press conferences and air quality forecasts are provided to the local media on an ongoing basis as a means of keeping the public informed.

AIR QUALITY MONITORING PROGRAM

The District operates an ambient air monitoring and meteorological network that tracks air quality trends within the Antelope Valley region. The station is an active part of the State and Local Air Monitoring System (SLAMS) network.

A computer operated data acquisition system collects daily and real time levels of pollutants. This data is reported to the California Air Resources Board (CARB), Federal Environmental Protection Agency (EPA), regulated industry and the general public. This information is also used to provide pollution episode forecast and notification to school systems and the general population in the event of harmful levels of pollution.

This program provides grants to projects that reduce emissions from mobile sources (and other limited categories). Funding for the grants include AB 2766 funds (four dollars assessed by the District's Governing Board and collected by the California Department of Motor Vehicles on motor vehicle registrations) as may be periodically allocated by the Governing Board and all funds under the Carl Moyer Program. Calls for projects, eligibility determinations, and Governing Board award are all part of the process that makes funds available to the region for qualified emission reducing project

STATIONARY SOURCES

One of the District's primary responsibilities is to process applications for permits in accordance with all applicable local, State, and Federal regulations. These permits are required for projects that propose industrial and/or commercial processes that have the potential to emit specific air contaminants. The wide range of requirements applied depends on the type and size of the proposed project.

District staff provides technical reviews of various documents, such as permit applications, manufacturer's data, test reports, risk assessments, and emission inventory. The District implements and manages:

- Title III & V Programs. The Title III program is the federal toxic program specifically for Title V facilities. Title V (EPA Regulation) is a Federal Operating Permits Program required by the 1990 Clean Air Act. This program requires the District to develop and implement a Federal Permitting Program approved by the Environmental Protection Agency (EPA) for sources of a certain capacity.
- Emissions Inventory. This program maintains an active inventory of the sources of criteria air pollutants within the District and measures progress towards attainment and maintaining compliance with National and State Ambient Air Quality Standards. State and Federal Law require this program.
- Toxic Emissions Inventory. (Air Toxic "Hot Spot" Information and Assessment Act of 1987) This program assesses the amounts, types and health impacts of air toxics produced from stationary sources.

COMPLIANCE

The District's responsibility is to protect the health and welfare of the public by assisting the regulated community in complying with Federal, State and Local regulatory requirements. This responsibility is carried out through various programs and activities:

- Comprehensive annual inspections performed to verify compliance to air quality regulations and permit requirements.
- Investigation of citizen complaints pertaining to air related matters
- Legal case development when necessary to address non-complying situations
- Federal Asbestos Demolition and Renovation Program
- State-mandated Variance Program
- Continuous Emissions Monitoring Programs
- Reporting to the Environmental Protection Agency's AIRS and Significant Violator programs
- Source testing or stack sampling is the process that evaluates the emissions for industrial facilities to determine compliance with permit conditions.

PLANNING & RULE MAKING

The District promulgates rules and plans in accordance with State and Federal planning requirements in order to achieve and maintain regional compliance with the ambient air quality standards.

Planning staff serve as the District liaison with regional, State and Federal governments, ensuring District compliance with applicable requirements. Planning staff also performs California Environmental Quality Act (CEQA) review in the District's role as the expert agency for air quality. Staff in Planning and Rulemaking implement and maintain the following programs:

- California Ambient Air Quality Standards Attainment Planning, in the California Clean Air Act and subsequent state legislation. This program currently focuses on the California ozone standard.
- National Ambient Air Quality Standards (NAAQS) in the Federal Clean Air Act, the Clean Air Act Amendments and subsequent Federal legislation. This program currently focuses on the National eight-hour ozone standard and the National 24-hour annual PM10 and PM 2.5 standards.
- Federal General and Transportation Conformity, entailing regional project review and comment.
- California Environmental Quality Act (CEQA), requiring local and regional project review.

Antelope Valley AQMD
DISTRICT WIDE, Expense Detail

	<u>Budget FY 2021</u>	<u>EOY Estimate FY 2021</u>	<u>Budget FY 2022</u>
Expenses			
Personnel Expenses			
Operating Expenses			
Communications			
Telephones	6,000	5,125	6,000
Long Distance Charges	500	410	500
Video/Teleconference	0	150	150
Internet	10,000	9,250	10,000
Web Hosting	0	1,200	2,400
Tech Support	2,000	1,200	2,000
Computers	0	16,450	0
	<u>18,500</u>	<u>33,785</u>	<u>21,050</u>
Dues & Subscriptions			
Memberships & Sponsorships	45,000	14,770	45,000
Publications & Subscriptions	500	765	800
Professional Dues	600	0	600
	<u>46,100</u>	<u>15,535</u>	<u>46,400</u>
Non-Depreciable Inventory			
Furniture & Fixtures Exp	0	100	100
Machinery & Equipment Exp	0	1,200	1,200
Safety Equipment Exp	1,000	200	1,000
	<u>1,000</u>	<u>1,500</u>	<u>2,300</u>
Legal			
Legal Notices	4,000	1,950	4,000
Legal Services	15,000	22,600	40,000
	<u>19,000</u>	<u>24,550</u>	<u>44,000</u>
Professional Services			
Research Studies	6,000	0	6,000
Consulting Fees	3,000	0	3,000
Stipends	8,400	8,400	8,400
Miscellaneous	0	500	0
	<u>17,400</u>	<u>8,900</u>	<u>17,400</u>
Maintenance & Repairs			
General Bldg. Maintenance	2,000	50	2,000
Custodial Services	3,000	2,700	3,000
Equipment Repair	1,500	0	1,500
	<u>6,500</u>	<u>2,750</u>	<u>6,500</u>
Training & Travel			
Training	4,000	4,500	4,500
Travel	8,000	0	8,000
Mileage	150	0	150
	<u>12,150</u>	<u>4,500</u>	<u>12,650</u>

Antelope Valley AQMD
DISTRICT WIDE, Expense Detail

	<u>Budget FY 2021</u>	<u>EOY Estimate FY 2021</u>	<u>Budget FY 2022</u>
Vehicles			
Vehicle Gas & Oil	1,500	620	1,500
Vehicle Maintenance	1,000	1,895	2,000
Vehicle Repairs	2,000	2,985	3,000
Vehicle Insurance	1,000	1,400	1,400
	<u>5,500</u>	<u>6,900</u>	<u>7,900</u>
Office Expenses			
Software	7,000	1,000	1,300
Utilities	7,000	6,475	8,600
Supplies	2,800	3,000	3,000
Facility Leases	60,000	64,635	60,100
Equipment Lease	5,000	4,285	5,000
Postage	1,000	0	0
Courier	175	150	175
Printing/Shredding Services	1,000	1,285	1,350
Security	500	500	500
Liability Insurance	5,000	1,375	18,100
Meeting Expenses	500	900	1,000
Community Relations	7,500	9,500	9,500
	<u>97,475</u>	<u>93,105</u>	<u>108,625</u>
Program Expenses			
Program Expenditures	0	475,792	900,000
Program Expenditures Administrative	0	0	100,000
	<u>0</u>	<u>475,792</u>	<u>1,000,000</u>
Miscellaneous Expenses			
Bank Fees	1,000	2,925	2,900
	<u>1,000</u>	<u>2,925</u>	<u>2,900</u>
Total Operating Expenses	<u>224,625</u>	<u>670,242</u>	<u>1,269,725</u>
Capital Expenses			
Equipment	40,000	0	25,000
Vehicles	20,000	31,343	0
Software	25,000	0	25,000
Total Capital Expenses	<u>85,000</u>	<u>31,343</u>	<u>50,000</u>
Total Expenses	<u>309,625</u>	<u>701,585</u>	<u>1,319,725</u>



SUPPORT STAFF

EXECUTIVE OFFICE

The Executive Office is responsible to the Governing Board for the general administration and coordination of all District operations and programs, including those programs mandated by the Federal Environmental Protection Agency and the California Air Resources Board. This office monitors state and federal legislation affecting the District and advises the Governing Board on actions required to protect the interests of the District.

The Governing Board, with seven members, meets monthly and members receive \$100.00 stipend per meeting plus travel expenses. The Hearing Board, with six members, meets as needed and members may receive \$100.00 stipend per meeting plus travel expenses. The Rule Development Committee meets periodically with members of District staff and permitted facilities.

LEGAL COUNSEL

Special Counsel to the Governing Board serves as general legal counsel to the Governing Board, the Air Pollution Control Officer and the District, providing general public agency legal services regarding the Brown Act, the Political Reform Act, California Environmental Quality Act, as well the Administrative Code, contracts, personnel matters, civil actions, and related litigation. District Counsel also provides legal advice and opinions on mandates specific to air districts such as the Federal Clean Air Act, California air pollution control laws and air quality rules and regulations. District Counsel exercises authority to bring civil actions in the name of the people of the State of California for violations of various air quality laws and regulations. The District Counsel also represents the District in actions brought before the Hearing Board.

Special Counsel to the Governing Board also analyzes legislative bills proposed in the California Legislature that may impact the District, proposes strategies, and provides information to the Governing Board regarding such legislation.

ADMINISTRATIVE SERVICES

The Administrative Services office provides financial, administrative and personnel management services to the operating divisions of the District. The office prepares the annual budget and controls expenditures by providing information regarding expenditures and the availability of budgeted funds. The office also purchases equipment and supplies. Invoices for a variety of fees are issued, collected, deposited and accounted for through the Compliance and Permit System (CAPS). This office also manages the District's computer information systems, risk management, fleet and facility management, and fixed assets

**Antelope Valley AQMD
CONTRACT, Expense Detail**

	<u>Budget FY 2021</u>	<u>EOY Estimate FY 2021</u>	<u>Budget FY 2022</u>
Expenses			
Personnel Expenses			
Program Staff	1,425,175	1,162,435	1,389,000
Total Personnel Expenses	1,425,175	1,162,435	1,389,000
Operating Expenses			
Communications			
Dues & Subscriptions			
Publications & Subscriptions	0	0	250
	0	0	250
Non-Depreciable Inventory			
Machinery & Equipment Exp	0	163	0
	0	163	0
Legal			
Professional Services			
Payroll Contract	0	0	125
Financial Services	200,000	122,513	212,625
	200,000	122,513	212,750
Maintenance & Repairs			
Training & Travel			
Training	0	0	500
Travel	0	0	2,000
	0	0	2,500

**Antelope Valley AQMD
CONTRACT, Expense Detail**

	<u>Budget FY 2021</u>	<u>EOY Estimate FY 2021</u>	<u>Budget FY 2022</u>
Vehicles			
Office Expenses			
Software	0	3,020	0
Supplies	0	75	500
Postage	0	0	1,000
	<u>0</u>	<u>3,095</u>	<u>1,500</u>
Program Expenses			
Miscellaneous Expenses			
Total Operating Expenses	<u>200,000</u>	<u>125,771</u>	<u>217,000</u>
Capital Expenses			
Total Expenses	<u><u>1,625,175</u></u>	<u><u>1,288,206</u></u>	<u><u>1,606,000</u></u>



THE CONTRACT - MDAQMD

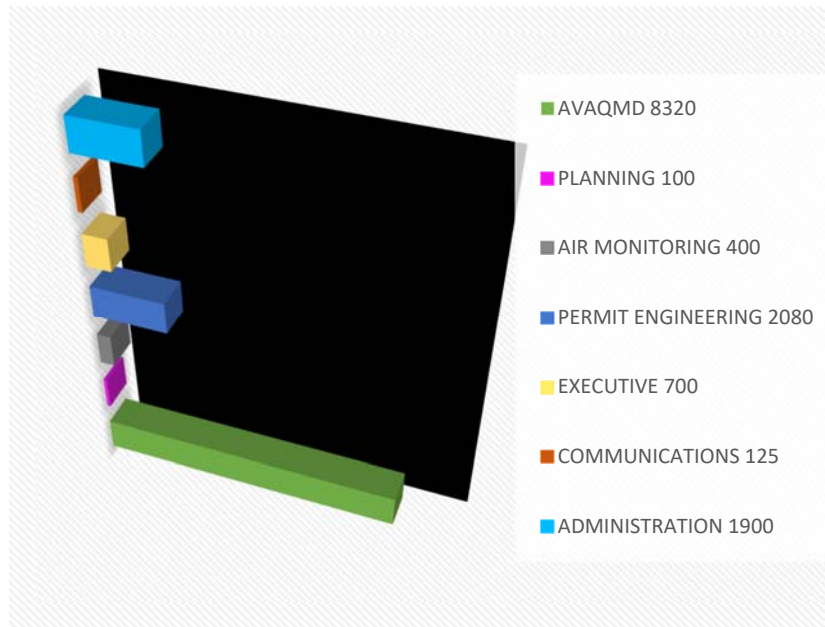
PROGRAM STAFF: 13,625 HOURS • 6.55 FTE • 1,389M

PERIOD JULY 1, 2021 – JUNE 30, 2022

TERMS AND CONDITIONS

The Antelope Valley Air Quality Management District contracts with the Mojave Desert Air Quality Management District for administrative and operations services as necessary to enable AVAQMD to meet the regulatory and legislated responsibilities of an air quality management district for compensation consistent with all applicable laws and regulations. The term of this agreement is five (5) years beginning July 1, 2020 with an option to renew for an additional two (2) years.

This agreement is pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 of the California Government Code (commencing with §6500).



CONTRACT HOURS

The total contracted hours for FY2022 is 13,625. The Antelope Valley AQMD office located in Lancaster, CA is staffed by 4 full time equivalents (FTE).

Additionally, 2.55 FTEs provide administrative, executive, air monitoring, permit engineering, and other technical services. On a monthly basis, the Mojave Desert AQMD shall deliver to the Antelope Valley AQMD an itemized invoice for actual materials and services provided.

AVAQMD PROGRAMS

AB2766

The District's air quality programs are primarily funded by revenue from regulatory fees, government grants and subventions. The AB2766 program is funded through a \$4 (four dollar) assessment by the District's Governing Board, and collected by the California Department of Motor Vehicles on motor vehicle registrations. Calls for projects, eligibility determinations, and Governing Board award are all part of the process that makes funds available to the region for qualified emission reducing projects.

The FY2022 AB2766 Program Budget is \$621k compared to \$623 in FY21; which represents 29% of all program revenue.

AB923

The District regulates and inventories criteria and toxic emissions and conducts regional scale air quality monitoring within our jurisdictional boundaries. Funds collected under AB923 allows air districts in state non-attainment areas to adopt an additional \$2 (two dollar) surcharge on motor vehicle registration fees to be used strictly for incentive-based emission reduction funding programs.



The use of the fees is limited to projects eligible for grants under the Carl Moyer Program, the purchase of school buses under the Lower-Emission School Bus Program, light-duty scrap or repair programs and unregulated agricultural sources. The FY2022 AB923 Program Budget is \$584k compared to \$597 in FY21; which represents 28% of all program revenue.

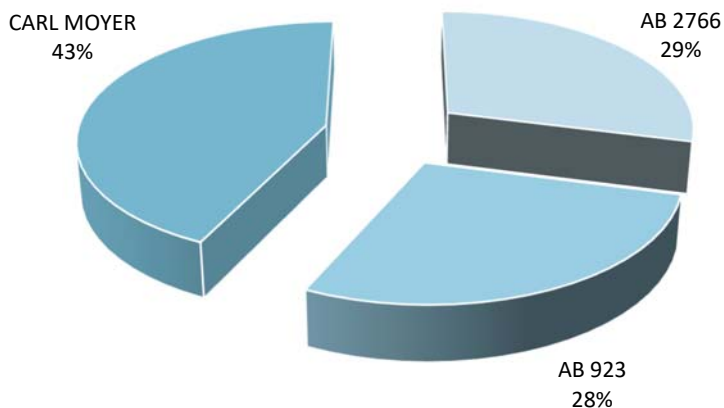
CARL MOYER

The Moyer Program complements California’s regulatory program by providing incentives to obtain early or extra emission reductions, especially from emission sources in minority and low-income communities and areas disproportionately impacted by air pollution. Incentives encourage customers to purchase cleaner technologies, and stimulate the marketplace to manufacture cleaner technologies.

Although the Moyer Program has grown in scope, it retains its primary objective of obtaining cost-effective and surplus emission reductions to be credited toward California’s legally-enforceable obligations in the State Implementation Plan (SIP) – California’s road map for attaining health-based national ambient air quality standards.

Carl Moyer Grant Program Funds are distributed by the California Air Resources Board for projects obligated by the District under this state regulated program.

Projects are awarded to qualifying applicants on a formula basis according to specific criteria and cost effectiveness. The FY2022 Carl Moyer Program Budget is \$901k compared to \$816k in FY21; which represents 43% of all program revenue.



Antelope Valley AQMD
PROGRAM FUNDS, Consolidated

	<u>Budget FY 2021</u>	<u>EOY Estimate FY 2021</u>	<u>Budget FY 2022</u>
<u>Revenues</u>			
Administrative Funding	100,670	123,400	100,000
AB2766 Program	620,000	631,470	620,000
Carl Moyer Program Round 21	705,415	584,013	800,000
AB923 Program	582,000	461,725	582,000
Interest Revenue	28,000	1,635	2,500
	<hr/>	<hr/>	<hr/>
Total Consolidated Program Revenue	2,036,085	1,802,243	2,104,500
<u>Expenses</u>			
Program Expenditures	1,935,415	1,512,298	2,004,500
Program Expenditures Administrative	100,670	0	100,000
	<hr/>	<hr/>	<hr/>
Total Consolidated Program Expense	2,036,085	1,512,298	2,104,500

**Antelope Valley AQMD
PROGRAM FUNDS, AB2766**

	Budget FY 2021	EOY Estimate FY 2021	Budget FY 2022
<u>Revenues</u>			
AB2766 Program	620,000	631,470	620,000
Interest Revenue	3,000	110	500
Total AB2766 Program Revenue	623,000	631,580	620,500
 <u>Expenses</u>			
Program Expenditures	623,000	500,370	620,500
Total AB2766 Program Expense	623,000	500,370	620,500

**Antelope Valley AQMD
PROGRAM FUNDS, AB923**

	<u>Budget FY 2021</u>	<u>EOY Estimate FY 2021</u>	<u>Budget FY 2022</u>
<u>Revenues</u>			
Administrative Funding	0	23,050	0
AB923 Program	582,000	461,725	582,000
Interest Revenue	15,000	1,085	1,500
	<hr/>	<hr/>	<hr/>
Total AB923 Program Revenue	597,000	485,860	583,500
<u>Expenses</u>			
Program Expenditures	597,000	310,540	583,500
	<hr/>	<hr/>	<hr/>
Total AB923 Program Expense	597,000	310,540	583,500

**Antelope Valley AQMD
PROGRAM FUNDS, Carl Moyer**

	<u>Budget FY 2021</u>	<u>EOY Estimate FY 2021</u>	<u>Budget FY 2022</u>
<u>Revenues</u>			
Administrative Funding	100,670	100,350	100,000
Carl Moyer Program	705,415	584,013	800,000
Interest Revenue	10,000	440	500
	<hr/>	<hr/>	<hr/>
Total Carl Moyer Program Revenue	816,085	684,803	900,500
<u>Expenses</u>			
Program Expenditures	715,415	701,388	800,500
	100,670	0	100,000
	<hr/>	<hr/>	<hr/>
Total Carl Moyer Program Expense	816,085	701,388	900,500

Antelope Valley AQMD

ALL FUNDS, Consolidated Historical

	Budget FY 2018	Budget FY 2019	Budget FY 2020	Budget FY 2021	Budget FY 2022
Revenues					
Permit Fees	701,000	792,150	1,019,500	971,500	994,500
Application Fees	51,450	42,000	30,000	41,500	30,500
Fines & Penalties	54,000	59,000	62,000	63,000	63,000
Interest Income	15,900	14,300	22,435	58,000	17,500
Revenue from Programs	2,537,404	2,603,044	2,570,566	2,667,385	2,833,400
State Revenue	129,000	141,500	206,305	169,500	1,096,000
Total Revenues	3,488,754	3,651,994	3,910,806	3,970,885	5,034,900
Expenses					
Personnel Expenses					
Salaries & Wages	1,193,926	1,200,218	1,338,000	1,425,175	1,389,000
Total Personnel Expenses	1,193,926	1,200,218	1,338,000	1,425,175	1,389,000
Operating Expenses					
Communications	43,500	23,500	20,500	18,500	21,050
Dues & Subscriptions	10,500	10,500	20,500	46,100	46,650
Non-Depreciable Inventory	8,000	11,000	10,000	1,000	2,300
Legal	19,000	19,000	19,000	19,000	44,000
Professional Services	221,750	207,650	217,400	217,400	230,150
Maintenance & Repairs	6,575	6,500	6,500	6,500	6,500
Training & Travel	11,000	11,000	10,150	12,150	15,150
Vehicles	10,500	12,000	10,000	5,500	7,900
Office Expenses	94,475	107,425	102,575	97,475	110,125
Program Expenses	1,784,228	1,753,826	2,060,266	2,036,085	3,104,500
Miscellaneous Expenses	800	800	915	1,000	2,900
Total Operating Expenses	2,210,328	2,163,201	2,477,806	2,460,710	3,591,225
Capital Expenses					
Furniture & Fixtures	25,000	25,000	0	0	0
Equipment	12,000	0	40,000	40,000	25,000
Vehicles	25,000	30,000	30,000	20,000	0
Computers	20,000	35,000	0	0	0
Software	2,500	0	25,000	25,000	25,000
Total Capital Expenses	84,500	90,000	95,000	85,000	50,000
Total Expenses	3,488,754	3,453,419	3,910,806	3,970,885	5,030,225

5 YEAR HIGHLIGHTS

BUDGET STRATEGY

The Antelope Valley budget has focused on streamlining many of its operations while still meeting its program commitments despite new federal and state mandates and increased workload complexity. The focus has been, and continues to be, on reducing or maintaining operating expenditure levels in General Fund and maximizing the efficient use of staff resources to enable select vacant positions to remain vacant, be deleted or be unfunded whenever possible.

In FY2019 the District began to receive funding from the California Resource Board under AB 617 to reduce exposure in neighborhoods most impacted by air pollution as well as funding under the AB 134



Community Air Protection Fund. Additionally, the Funding Agricultural Replacement Measures for Emission Reductions (FARMER) Program provides funding through local air districts for agricultural harvesting equipment, heavy-duty trucks, agricultural pump engines, tractors, and other equipment used in agricultural operations.

Permit Revenue is up 32% from FY2018 as a result of fee increases designed to measure the revenue that may be recovered through source fees. The full cost of all programs related to these sources includes all direct program costs, a commensurate share of indirect program costs, and overhead unless otherwise funded. It is the District's practice that such fees are valid so long as they do not exceed the reasonable cost of the service or regulatory program for which the fee is charged, and are apportioned such that the costs allocated to each source bears a fair or reasonable relationship to its burden on, and benefits from, the regulatory system. Revenue from General Fund Programs increased by 7% from FY2018 as a result of a jurisdictional study conducted by finance staff.

Staffing costs are comparative to FY2020 amounts down 3% from the FY2021 budget. Excluding programs, Operating expenses have increased 10% overall since FY2018. This 2% per year average is less than the Consumer Price Index for Los Angeles County. Most of this savings results from staff recommendations for procedural changes to the Districts contract with the Mojave Desert AQMD.

Antelope Valley AQMD
GENERAL FUND, Consolidated Historical

	Budget FY 2018	Budget FY 2019	Budget FY 2020	Budget FY 2021	Budget FY 2022
Revenues					
Permit Fees	701,000	792,150	1,019,500	971,500	994,500
Application Fees	51,450	42,000	30,000	41,500	30,500
Fines & Penalties	54,000	59,000	62,000	63,000	63,000
Interest Income	3,500	4,000	6,435	30,000	15,000
Revenue from Programs	687,000	774,300	611,300	659,300	731,400
State Revenue	129,000	141,500	206,305	169,500	1,096,000
Total Revenues	1,625,950	1,812,950	1,935,540	1,934,800	2,930,400
Expenses					
Personnel Expenses					
Salaries & Wages	1,100,000	1,100,000	1,338,000	1,425,175	1,389,000
Total Personnel Expenses	1,100,000	1,100,000	1,338,000	1,425,175	1,389,000
Operating Expenses					
Communications	43,500	23,500	20,500	18,500	21,050
Dues & Subscriptions	10,500	10,500	20,500	46,100	46,650
Non-Depreciable Inventory	8,000	11,000	10,000	1,000	2,300
Legal	19,000	19,000	19,000	19,000	44,000
Professional Services	221,750	207,650	217,400	217,400	230,150
Maintenance & Repairs	6,575	6,500	6,500	6,500	6,500
Training & Travel	11,000	11,000	10,150	12,150	15,150
Vehicles	10,500	12,000	10,000	5,500	7,900
Office Expenses	94,475	107,425	102,575	97,475	110,125
Program Expenses	15,350	15,000	85,000	0	1,000,000
Miscellaneous Expenses	800	800	915	1,000	2,900
Total Operating Expenses	441,450	424,375	502,540	424,625	1,486,725
Capital Expenses					
Furniture & Fixtures	25,000	25,000	0	0	0
Equipment	12,000	0	40,000	40,000	25,000
Vehicles	25,000	30,000	30,000	20,000	0
Computers	20,000	35,000	0	0	0
Software	2,500	0	25,000	25,000	25,000
Total Capital Expenses	84,500	90,000	95,000	85,000	50,000
Total Expenses	1,625,950	1,614,375	1,935,540	1,934,800	2,925,725

FINANCIAL RESERVES

It is the policy of the Governing Board of the Antelope Valley Air Quality Management District (District) to direct the Air Pollution Control Officer (APCO) to establish and maintain certain fund balances to ensure the sound fiscal management of District resources.

The purposes of the District's fund balance policy include maintaining prudent level of financial resources to protect against reducing service levels or raising fees because of temporary revenue shortfalls or unpredicted one-time expenditures. Another purpose is to reserve funds for unanticipated large expenditures, such as capital expenses; or extraordinary costs associated with defending the District's regulatory activities.

CLASSIFICATION OF FUNDS

Restricted Fund Balance is designated for the specific purposes stipulated by the external source, government code, enabling legislation, or other legal restriction. Following are an example of this classification: Mobile Emission Reduction Revenue (AB 2766), Incentive Based Emission Reduction Funding (AB 923), and Carl Moyer Grant Program Funds. These funds are held in separate trust accounts and are reported separate from the District's General Fund.

Committed Fund Balance is designated by policy and includes amounts that can be used only for the specific purposes determined by a formal action of the Governing Board. Commitments may be changed only by action of the Governing Board. The District's Operating Cash Reserves is an example of this classification. The FY22 Cash Reserves are 30% of the annual operating Budget.

Assigned Fund Balance is used to describe the portion of the fund balance that reflects the intended use of resources; the intent being established by the Governing Board, or the Board's designee. Such fund balance will be allocated and defined in the District's annual adopted budget. The District's Budget Stabilization Reserves is an example of this classification.

REVENUES

Permit Fees

Permit Fees Rev	Operating and Annual Renewal Permit Fees
Asbestos Demo/Reno Rev	Fees for Permits related to Asbestos Removal - Rule 302
Title V Permit Rev	Permit fees for Federal Permit Program

Application Fees

ERC Application Fees	Emission Reduction Credit
New Source Review	Project Evaluation for Complex Source-Rule 301
Permit Application Fees	Filing of new permits and permit changes
Variance Filing Fees	Filing fee for each petition to District Hearing Board -Rule 303
AG Application Fee	

Fine & Penalties

Excess Emissions Fees	Fee charged when a variance is granted by Hearing Board - Rule 303
Notice of Violations Fees	Fee Charged for unpermitted source, or violation of permit condition
Interest Revenue	Interest on funds held on deposit, all funds

Revenue from Programs

Administrative Funding	Program pass thru funds for administration costs of the program
AB2766 Program	Revenue received through DMV vehicle registration
California Clean Air Act Fees	State mandated fee collected on behalf of Carb
Hot Sports	State mandated fee: "Air Toxic "Hot Spot"

State Revenue

PERP State Funds	Portable Engine Registration Program
State Subvention	Funds received from state budget to supplement Permitting and Air Monitoring

EXPENSES

Program Staff

Contracted costs to provide staff for District operations

Operating Expenses

Communications	Telephones, teleconferencing, internet, cable, hosting, tech support
Dues & Subscriptions	District memberships and sponsorships, publications and subscriptions
Non-Depreciable Inventory	Furniture, equipment, machinery, and safety equipment < \$5,000
Legal	Legal services for Governing Board, Hearing Board; publication
Professional Services	Financial services, audit, research studies, consulting fees, stipends
Maintenance & Repairs	General building maintenance, custodial services, and repairs
Training and Travel	Employee training; professional development and related travel
Vehicles	Fuel and oil, maintenance and repair, insurance for District's fleet
Office Expenses	Software, utilities, supplies, leases, postage, courier, printing and shredding services, security, insurance, meeting expenses and community relations

PROGRAM EXPENSES

Expenses attributable to the use of special funds

CAPITAL EXPENSES

Furniture & fixtures, Equipment, vehicles, computers, and software over \$5K

ACRONYMS

AB2766	Enabling legislation for collection of fees for mobile source reduction projects
AIRS	Aerometric Information Retrieval System
APCD	Air Pollution Control District
APCO	Air Pollution Control Officer
AQMD	Air Quality Management District
ARB	Air Resources Board
AVAQMD	Antelope Valley Air Quality Management District
BACT	Best Available Control Technology
CAA	Clean Air Act
CAPCOA	California Air Pollution Control Officers Association
CAPP	Clean Air Patrol Program
CAPS	Compliance and Permit System (permit tracking database)
CARB	California Air Resources Board
CNGVG	California Natural Gas Vehicle Coalition
CRE	Community Relations and Education
CREEC	California Regional Environmental Education Community
CSDA	California Special Districts Association
DAPCO	Deputy Air Pollution Control Officer
EPA	Environmental Protection Agency
ERC	Emission Reduction Credit
FY	Fiscal Year
ICTC	Interstate Clean Transportation Corridor
MACT	Maximum Achievable Control for Toxics
MEEC	Mojave Environmental Education Consortium
MDAQMD	Mojave Desert Air Quality Management District
MOU	Memorandum of Understanding
NAAQS	National Ambient Air Quality Standards
NESHAP	National Emissions Standard for Hazardous Pollutants
NSPS	New Source Performance Standards
OPEB	Other Post Employment Benefits
PARS	Public Agency Retirement Services
PERP	Portable Equipment Registration Program
PSD	Prevention of Significant Deterioration
PTBS	Permit Tracking and Billing System
SDRMA	Special Districts Risk Management Authority
SLAMS	State and Local Air Monitoring Stations
TAC	Technical Advisory Committee
VPN	Virtual Private Network



**NOTICE OF HEARING
PROPOSED BUDGET FOR FISCAL YEAR 2021-2022**

NOTICE IS HEARBY GIVEN that the Governing Board of the Antelope Valley Air Quality Management District (AVAQMD) will conduct a public hearing on May 18, 2021 at 10:00 A.M. to consider the Proposed Budget for Fiscal Year 2021-2022. Comments regarding the Proposed Budget may be submitted in writing before, during, or after the hearing.

SAID HEARING may be conducted, in the interest of public health and safety and in accordance with the guidelines set forth in the Governor's Order N-29-20 of March 17, 2020, via alternative means. Please see the applicable Governing Board Meeting Agenda at <https://avaqmd.ca.gov/governing-board> or call (661) 723-8070 x 23 for participation information. If the Governor's Order has been lifted, the meeting will be conducted in the Governing Board Chambers located at the AVAQMD offices, 43301 Division Street, Suite 206, Lancaster, CA 93535-4649 where all interested persons may be present and be heard.

The proposed Budget for 2021-2022 is posted on the AVAQMD website at www.avaqmd.ca.gov and is also available by request via email at blods@avaqmd.ca.gov or by calling (661) 723-8070 x 23. Copies of the Proposed Budget for 2021-2022 will also be available at the AVAQMD Office at the above address.

Contact Bret Banks at (661) 723-8070 ext 22 for further information.

The following page(s) contain the backup material for Agenda Item: [Conduct a public hearing to consider the amendment of Rule 219 – Equipment Not Requiring a Permit: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act \(CEQA\) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule and directing staff. Presenter: Bret Banks, Executive Director/APCO.](#)
Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #10

DATE: June 15, 2021

RECOMMENDATION: Conduct a public hearing to consider the amendment of Rule 219 – *Equipment Not Requiring a Permit*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule and directing staff actions.

SUMMARY: Rule 219 is proposed for amendment to clarify rule language; address USEPA concerns regarding rule enforceability; and to clarify the interrelationship between this Rule, existing RACT rules and the District’s New Source Review (NSR) Program as contained in District Regulation XIII.

BACKGROUND: USEPA recently provided negative comments to various other air districts, most notably the Mojave Desert Air Quality Management District (MDAQMD) and South Coast Air Quality Management District (SCAQMD), regarding certain provisions of their versions of Rule 219 and has opined that those Rules in their current form are not approvable as a revision to the State Implementation Plan (SIP). As the AVAQMD’s Rule 219 is highly similar to both the MDAQMD’s and SCAQMD’s rules, USEPA has indicated that the same deficiencies are present and thus an amendment is needed. In addition, since Rule 219 is integrated with the AVAQMD’s New Source Review permitting program and the Rule also functions as a list of equipment that is not required to be included on Title V Permits USEPA has indicated that amendments are needed to clarify the integration with those programs.

The proposed amendments include, but are not limited to: clarifications of various exemptions as requested by USEPA, clarification of the interrelationship between Rule 219 and Regulation XIII – *New Source Review*, and the reorganization of some provisions to avoid confusion. In addition, USEPA has requested additional justification for certain exemptions along with explanations regarding the interrelationship between such exemptions and current RACT rules. Such explanations and clarifications will be provided in the Technical Discussion section of the staff report.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #10

The State Implementation Plan (SIP) version of Rule 219 effective within the AVAQMD is the 9/4/1981 version adopted by SCAQMD and approved at 47 FR 29231, 7/6/1982. Amendments subsequent to that date have all been submitted as SIP revisions but were not acted upon by USEPA. This proposed amendment will also be submitted as a SIP revision.

A more detailed overview and answers to frequently asked questions regarding the proposed amendments is attached to this item. Specifics of these amendments and the justifications thereof are provided in the Draft Staff Report and Proposed Amendments published on the District's website.

A Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308) will be prepared 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(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing.

REVIEW BY OTHERS: This item was reviewed by Bret Banks, Executive Director/APCO on or about June 1, 2021.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Bret Banks, Executive Director/APCO

RESOLUTION _____

A RESOLUTION OF THE GOVERNING BOARD OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 219 - *EQUIPMENT NOT REQUIRING A PERMIT* AND DIRECTING STAFF ACTIONS.

On June 15, 2021, 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 Rule 219 – *Equipment Not Requiring a Permit* for inclusion in the current rulebook; and

WHEREAS, this rule sets forth which equipment, processes and operations for which a written permit is not required; and

WHEREAS, USEPA recently provided negative comments to various other air districts, most notably the Mojave Desert Air Quality Management District (MDAQMD) and the South Coast Air Quality Management District (SCAQMD); and

WHEREAS, since the AVAQMD Rule 219 is highly similar to the equivalent rules in MDAQMD and SCAQMD, USEPA has indicated that many of the same alleged deficiencies as noted to those districts are present in the AVAQMD rule; and

WHEREAS, the proposed amendments include clarifications of various exemptions as requested by USEPA; and

WHEREAS, the proposed amendments provide additional explanation regarding the interrelationship between Rule 219 and Regulation XIII – *New Source Review*; and

WHEREAS, the proposed amendments also reorganize provisions to avoid confusion; and

WHEREAS, the United States Environmental Protection Agency (USEPA) has requested additional justification for certain exemptions despite similar justifications having been provided in previous actions on the rule; and

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RESOLUTION _____

1 **WHEREAS**, while the particular exemptions remain unchanged in the rule text, the AVAQMD has
2 provided the requested additional justification in the technical discussion section of the Staff Report
3 associated with this action; and

4 **WHEREAS**, The State Implementation Plan (SIP) version of Rule 219 effective within the
5 AVAQMD is the 9/4/1981 version adopted by SCAQMD and approved at 47 FR 29231, 7/6/1982; and

6 **WHEREAS**, all amendments to the rule subsequent to that date were submitted as SIP revisions
7 but were not acted upon by USEPA; and

8 **WHEREAS**, the provisions of the rule providing that any equipment such as air pollution control
9 equipment, internal combustion engines, and/or heat producing equipment which happens to be associated
10 with otherwise permit exempt equipment must also in and of itself also be exempt to not require a permit
11 have been clarified; and

12 **WHEREAS**, provisions of the rule regarding the interaction of exempt equipment with the
13 requirements of other rules in the District’s rulebook have also been clarified and a statement that materials
14 used by permit exempt equipment must also comply with applicable District rules has been added; and

15 **WHEREAS**, language regarding threshold amounts have been reorganized and specify specific
16 numerical amounts as opposed to providing such amounts by reference; and

17 **WHEREAS**, specific cross references to Regulation XIII – *New Source Review*, and Regulation
18 XVII – *Prevention of Significant Deterioration*, and District Regulation XXX – *Federal Operating Permits*
19 have been provided; and

20 **WHEREAS**, clarifications have been made regarding overarching permitting requirements in case
21 of multiple potentially permit exempt units, provisions have been reformatted for clarity, double negative
22 language has been removed and specific recordkeeping provisions have been added along with other
23 changes for consistency of language; and

24 **WHEREAS**, a complete list of specific clarifications and justifications for exemptions is provided
25 in the technical discussion section of the Staff Report associated with this amendment action; and

26 **WHEREAS**, the proposed amendments to the Rule are necessary to clarify rule language; address
27 USEPA concerns regarding enforceability; and to clarify the interrelationship between this Rule, existing
28 RACT rules and the District’s New Source Review Program as contained in District Regulation XIII

RESOLUTION _____

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

3 **WHEREAS**, the proposed amendments are clear in that the meaning can be easily understood by
4 the persons impacted by the rule; and

5 **WHEREAS**, the proposed amendments are in harmony with, and not in conflict with, or
6 contradictory to existing statutes, court decisions, or State or Federal regulations, and do not interfere with
7 any Federal applicable requirement concerning attainment or Reasonable Further Progress (RFP) pursuant
8 to the Federal Clean Air Act (FCAA) in that the applicable provisions require rule adoption to be properly
9 implemented; and

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

13 **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to H&S Code
14 §40725, concerning the proposed amendments to Rule 219; and

15 **WHEREAS**, a Notice of Exemption, a Categorical Exemption (Class 8, 14 CCR §15308) for the
16 proposed amendments to Rule 219, completed in compliance with the California Environmental Quality
17 Act (CEQA), has been presented to the AVAQMD Board; each member having reviewed, considered and
18 approved the information contained therein prior to acting on the proposed amendments to Rule 219, and
19 the Governing Board of the AVAQMD having determined that the proposed amendments will not have any
20 potential for resulting in any adverse impact upon the environment; and

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

23 **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the AVAQMD finds that
24 the proposed amendments to Rule 219 – *Equipment Not Requiring a Permit* are necessary, authorized, clear,
25 consistent, non-duplicative and properly referenced; and

26 **BE IT FURTHER RESOLVED**, that the Governing Board of the AVAQMD hereby makes a
27 finding that the Class 8 Categorical Exemption (14 CCR §15308) applies and certifies the Notice of
28 Exemption for the proposed amendments to Rule 219; and

RESOLUTION _____

1 **BE IT FURTHER RESOLVED**, that the Governing Board of the AVAQMD does hereby adopt,
2 pursuant to the authority granted by law, the proposed amendments to Rule 219, as set forth in the
3 attachments to this resolution and incorporated herein by this reference; and

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

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

8
9 AYES: MEMBER:
10 NOES: MEMBER:
11 ABSENT: MEMBER:
12 ABSTAIN: MEMBER:

13 STATE OF CALIFORNIA)
14)
15 COUNTY OF LOS ANGELES) SS:
)

16
17 I, Deanna Hernandez, Senior Executive Analyst of the Antelope Valley Air Quality Management
18 District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as the
19 same appears in the Official Minutes of said Governing Board at its meeting of June 15, 2021.

20 _____
21 Senior Executive Analyst,
22 Antelope Valley Air Quality Management District.
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(Adopted: 01/09/76; Amended: 10/08/76; Amended: 01/02/79;
Amended: 10/05/79; Amended: 09/04/81; Amended: 06/08/88;
Amended: 09/11/92; Amended: 08/12/94; Amended: 12/13/96;
Amended: 03/17/98; Amended: 07/21/98; Amended: 01/16/01;
Amended: 11/15/05; Amended: 01/18/11; Amended: 10/18/16;
Amended: 06/15/21)

RULE 219

Equipment Not Requiring a Permit

(A) Purpose

- (1) The purpose of this rule is:
 - (a) To describe equipment that does not require a permit pursuant to District Rules 201 and 203; and
 - (b) To describe equipment which does not need to be listed on an application for a Federal Operating Permit (FOP) or on a FOP issued pursuant to District Regulation XXX – *Title V Permits*.

(B) General Provisions

- (1) The Air Pollution Control Officer (APCO) shall not require an owner/operator to obtain a permit for particular equipment pursuant to District Rules 201 and 203 if all of the following are true:
 - (a) Such equipment is contained in the list of particular Equipment in section (E) below; and
 - (b) Such Equipment does not emit air contaminants in excess of any of the following:
 - (i) 2 tons per year of any Regulated Air Pollutant for which a National Ambient Air Quality Standard has been promulgated;
 - (ii) A de minimis level for a Hazardous Air Pollutant promulgated pursuant to 42 U.S.C. §7412 (FCAA §112).
 - (iii) A significance level defined in 40 CFR 52.21(b)(23)(i);
 - (iv) 0.5 tons per year of a Hazardous Air Pollutant.
 - (c) Such Equipment does not constitute any of the following:
 - (i) A Major Facility as defined in Rule 1301, or
 - (ii) A Major Modification as defined in Rule 1301, or
 - (iii) A Major PSD Facility as defined in Rule 1700, or
 - (iv) A Major PSD Modification as defined in Rule 1700.
 - (d) The owner/operator has not been required to obtain a written permit or registration by the APCO pursuant to subsection (B)(4) below.

- (2) The APCO shall not require an Owner/Operator to list particular equipment on an application for a FOP or require the listing of such equipment within a FOP issued pursuant to District Regulation XXX – *Title V Permits* if:
- (a) Such equipment is described in the list of particular equipment in section (E) below; and
 - (b) Such equipment emits Air Pollutants, in an amount less than the threshold levels set forth in subsection (D)(1) below; and
 - (c) Such equipment is not subject to an Applicable Requirement and information regarding such equipment is not required to determine the applicability of an Applicable Requirement; and
 - (d) Such equipment is not included in section (E) below solely due to size or production rate.
- (3) The APCO shall not require an owner/operator of an Agricultural Facility to obtain a permit for equipment located at such a Facility which would otherwise be subject to permit pursuant to District Rules 201 and 203 if:
- (a) The Agricultural Facility emits Air Contaminants in an amount less than the threshold levels listed in subsection (D)(2)(b); or
 - (b) The Agricultural Facility is a Confined Animal Facility eligible for exclusion under subsection (D)(2)(a); and
 - (c) The Agricultural Facility is or particular agricultural equipment potentially exempt under this subsection is not otherwise:
 - (i) A Major Facility pursuant to District Regulation XIII – *New Source Review* or a Major PSD Facility pursuant to District Regulation XVII – *Prevention of Significant Deterioration*; and
 - (ii) Subject to regulation pursuant to the Federal Clean Air Act (“FCAA”, 42 U.S.C. Sec. 7401 et. seq.).
- (4) Notwithstanding subsections (B)(1), (B)(2), and (B)(3) above, the APCO may require a written permit or registration for equipment listed in section (E) below, making the equipment thereafter subject to District Rules 201 and 203, if:
- (a) Written notification is given to the equipment Owner/Operator; and
 - (b) The APCO determines that:
 - (i) The equipment, process material or Air Contaminant is subject to provisions of District Regulation IX – *Standards of Performance for New Stationary Sources*, or District Regulation X – *National Emissions Standards for Hazardous Air Pollutants*, or District Rule 1401 – *New Source Review for Toxic Air Contaminants*; or

- (ii) The process, article, machine, equipment, other contrivance, process material or Air Contaminant is subject to the emission limitation requirements of the state Air Toxic Control Measure (ATCM), New Source Performance Standards (NSPS) National Emission Standards for Hazardous Air Pollutants (NESHAP), Maximum Available Control Technology (MACT) or any source specific prohibitory rule; or
 - (iii) The process, article, machine, equipment, or other contrivance emits, in quantities determined to be appropriate for review by the APCO, substances identified as Toxic Air Contaminants or which are under review as candidate Toxic Air Contaminants by the California Air Resources Board, or United States Environmental Protection Agency (USEPA); or
 - (iv) The equipment may not operate in compliance with all applicable District Rules and Regulations.
- (5) Nothing in this rule shall be interpreted to exempt the emissions from such equipment from being considered in any emissions calculations required pursuant to District Regulation XIII – *New Source Review*, District Rule 1401 – *New Source Review for Toxic Air Contaminants*; Regulation XVII – *Prevention of Significant Deterioration* and/or Regulation XXX – *Title V Permits* unless such emissions are specifically exempted by the terms of those Regulations.
- (6) Nothing in this rule shall be interpreted to exempt Equipment, materials used by such Equipment and/or associated air pollution Control Equipment from any applicable provisions of any other District Rule or Regulation.
- (7) Nothing in this Rule shall be interpreted to exempt air pollution Control Equipment venting otherwise permit exempt Equipment from obtaining permits. This provision does not apply if all Equipment venting to the Control Equipment is exempt and all relevant provisions of Section (E) specifically exempt such Control Equipment. In no case shall air pollution Control Equipment be used to meet any permit exemption threshold as set forth in Section (E) of this Rule.
- (8) Nothing in this Rule shall be interpreted to exempt internal combustion engines, general combustion equipment, and/or heat transfer Equipment used in conjunction with or to power exempt Equipment unless the internal combustion engine, general combustion, or heat transfer Equipment itself is also exempt pursuant to the applicable provisions of subsection (E)(2). This provision does not apply to Equipment which is exempt pursuant to (E)(1).
- (9) The burden of proof regarding the applicability of this rule to particular equipment shall be upon the Owner/Operator of such equipment. Failure to provide proof of the applicability of this rule to particular Equipment shall be considered a violation of District Rules 201 and/or 203 and may also constitute a violation of District Regulation XII – *Federal Operating Permits*, Regulation XIII – *New Source Review* or Regulation XVI – *Prevention of Significant Deterioration* if applicable.

(C) Definitions

For the purposes of this Rule the definitions contained in District Rules 102 – *Definition of Terms*, 1301 – *New Source Review Definitions*, Section (C) of Rule 1401 – *New Source Review for Toxic Air Contaminants*, Section (B) of Rule 1700 – *Prevention of Significant Deterioration* and 3001 - *Definitions* shall apply unless otherwise defined herein. In case of a conflict the provisions of this Rule shall apply followed by District Rule 1301 then District Rule 1700(B) then District Rule 1401(C) then District Rule 102 unless a definition from another District Rule is specifically referenced.

- (1) “Agricultural Facility” – Any equipment or group of equipment potentially subject to District Rules 201 and 203 used in an Agricultural Operation and which are located on contiguous property under common ownership or control.
- (2) “Agricultural Operation” – The growing and harvesting of crops or the raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution. Agricultural Operations do not include activities involving the processing or distribution of crops or fowl.
- (3) “Confined Animal Facility” – A facility where animals are corralled, penned, or otherwise caused to remain in restricted areas for commercial purposes and primarily fed by a means other than grazing for at least 45 days in any 12-month period.

(D) Threshold Criteria

- (1) Threshold Criteria for Exclusion from Federal Operating Permit
 - (a) To be eligible for exclusion from a FOP pursuant to subsection (B)(2) above, any equipment proposed to be excluded shall not emit Air Pollutants in an amount greater than any of the following:
 - (i) 2 tons per year of any Regulated Air Pollutant for which a National Ambient Air Quality Standard has been promulgated; or
 - (ii) A de minimis level for a Hazardous Air Pollutant promulgated pursuant to 42 U.S.C. §7412(g) (Federal Clean Air Act §112(g));
or
 - (iii) Any significance level defined in 40 CFR 52.21(b)(23)(i); or
 - (iv) 0.5 ton per year of such Hazardous Air Pollutant, whichever is less.
- (2) Threshold Criteria for Agricultural Facilities
 - (a) To be eligible for exclusion from permitting requirements pursuant to subsection (B)(3)(b) a Confined Animal Facility must have, at all times, less than the following numbers of animals:
 - (i) 1,000 milk-producing dairy cows;
 - (ii) 3,500 beef cattle;

- (iii) 7,500 calves, heifers or other cattle;
 - (iv) 650,000 chickens other than laying hens;
 - (v) 650,000 laying hens;
 - (vi) 650,000 ducks;
 - (vii) 100,000 turkeys;
 - (viii) 3,000 swine;
 - (ix) 2,500 horses;
 - (x) 15,000 sheep, lambs, or goats; or
 - (xi) 30,000 rabbits or other animals.
- (b) To be eligible for exclusion from permitting requirements pursuant to subsection (B)(3)(a), an Agricultural Facility must, in aggregate, produce Actual Emissions less than all of the following:
- (i) 12.5 tons per year of NO_x and VOC; or
 - (ii) Fifty (50) tons per year of any other Air Pollutant for which a National Ambient Air Quality Standard has been promulgated; or
 - (iii) 5 tons per year of any Hazardous Air Pollutant; or
 - (iv) 12.5 tons per year of any combination of Hazardous Air Pollutants; or
 - (v) A lesser quantity of a Hazardous Air Pollutant as USEPA has established by rule.

For the purposes of determining permitting applicability, Fugitive Emissions, except Fugitive Dust Emissions, are included in determining Aggregate Emissions.

(E) Specific Equipment Not Requiring a Permit

(1) Vehicles and Transportation Equipment

- (a) Motor Vehicles defined by sections 415 and/or 670 of the California Vehicle Code (as effective on the date of the last amendment of this rule). This exemption does not apply to any article, machine, Equipment, or other contrivance mounted on such Vehicle that would otherwise require a permit under the provisions of these Rules and Regulations.
- (b) Equipment mounted on Vehicles that are used exclusively to transport materials on streets or highways including, but not limited to, cement trucks and Gasoline tanker trucks or if such Equipment does not emit Air Contaminants. This exemption does not apply to asphalt or coal tar pitch roofing kettles.
- (c) Locomotives, airplanes, and watercraft used to transport passengers or freight.

- (2) Combustion and Heat Transfer Equipment
- (a) Internal Combustion Engines and Gas Turbines - Piston type internal combustion engines with a manufacturer's continuous rating of 50 brake horsepower (bhp) or less, or gas turbine engines with a maximum heat input rate of 2,975,000 Btu (749,866 kg cal) per hour at International Standardization Organization (ISO) Standard Day Conditions or less. The ratings of all engines or turbines used in the same process will be aggregated to determine whether this exemption applies.
 - (b) General Combustion Equipment - Boilers, process heaters or any combustion equipment that has a maximum heat input rate of 2,000,000 Btu (504,000 kg cal) per hour (gross) or less and is equipped to be fired exclusively with, Public Utilities Commission regulated natural gas, methanol, liquefied petroleum gas or any combination thereof that does not include piston type internal combustion engines. The ratings of all combustion Equipment used in the same process will be aggregated to determine whether this exemption applies.
 - (c) Fuel cells which use phosphoric acid, molten carbonate, proton exchange membrane or solid oxide technologies.
 - (d) Test cells and test stands used for testing internal combustion engines provided that the internal combustion engines use less than 800 gallons of diesel fuel or 3,500 gallons of gasoline fuel per year, or use other fuels with equivalent or less emissions.
 - (e) Internal combustion engines used exclusively for training at educational institutions.
 - (f) Portable internal combustion engines, including any turbines, qualified as military tactical support equipment, registered pursuant to the California Statewide Portable Engine Registration Program pursuant to Health & Safety Code 41750 et seq. and the regulations promulgated thereunder as in effect on the date of the last amendment of this rule such engines have been determined to be stationary pursuant to the provisions of that program or are otherwise required to have a permit pursuant to the provisions of subsection (B)(4) above.
- (3) Structures and Equipment - General
- (a) Structural changes which cannot change the quality, nature or quantity of Air Contaminant emissions.
 - (b) Repairs or maintenance not involving structural changes to any Equipment for which a permit has been granted.
 - (c) Replacement of floating roof tank seals provided that the replacement seal is of a type and model which the APCO has determined in writing is capable of complying with the requirements of District Rule 463.

- (d) Equipment utilized exclusively in connection with any structure which is designed for and used exclusively as a dwelling for not more than 4 families, and where such Equipment is used by the owner or occupant of such a dwelling.
 - (e) Laboratory testing Equipment, and quality control testing Equipment used exclusively for chemical and physical analysis, and non-production bench scale research Equipment. This exemption does not apply to engine test stands or test cells.
 - (f) Vacuum-producing devices used in laboratory operations or in connection with other Equipment not requiring a written permit.
 - (g) Vacuum-cleaning systems used exclusively for industrial, commercial or residential housekeeping purposes.
 - (h) Hoods, stacks or ventilators.
 - (i) Passive and intermittently operated active venting systems used at and around residential structures to prevent the accumulation of naturally occurring methane and associated gases in enclosed spaces.
- (4) Utility Equipment - General
- (a) Comfort air conditioning or ventilating systems which are not designed or used to remove Air Contaminants generated by, or released from, specific Equipment.
 - (b) Refrigeration units. This exemption does not apply to refrigeration units used as or in conjunction with air pollution Control Equipment.
 - (c) Water-cooling towers and water-cooling ponds in which no chromium compounds are contained. This exemption does not apply to water-cooling towers and water-cooling ponds used for evaporative cooling of water from barometric jets or from barometric condensers.
 - (d) Equipment used exclusively to generate ozone and associated ozone destruction Equipment for the treatment of cooling tower water or for water treatment processes.
 - (e) Equipment used exclusively for steam cleaning.
 - (f) Equipment used exclusively for space heating.
 - (g) Equipment used exclusively to compress or hold Public Utilities Commission regulated natural gas.
 - (h) Emergency ventilation systems used exclusively to scrub ammonia from refrigeration systems during process upsets or Equipment breakdowns.

- (i) Emergency ventilation systems used exclusively to contain and control emissions resulting from the failure of a compressed gas storage system.
 - (j) Refrigerant recovery and/or recycling units. This exemption does not apply to refrigerant reclaiming facilities.
 - (k) Carbon arc lighting Equipment.
 - (l) Passive carbon adsorbers using no mechanical ventilation with a volume of 55 gallons or less, used exclusively for foul air odor control from sanitary sewer systems such as sanitary sewer lines, manholes and pump stations.
- (5) Glass, Ceramic, Metallurgical Processing and Fabrication Equipment
- (a) Crucible-type or pot-type furnaces with a capacity of less than 452 in³ of any molten metal.
 - (b) Crucible furnaces, pot furnaces or induction furnaces with a capacity of 992 pounds or less each, where no sweating or distilling is conducted and where only the following materials are poured or held in a molten state (provided the materials do not contain alloying elements of arsenic, beryllium, cadmium, chromium and/or lead):
 - (i) Aluminum or any alloy containing over 50 percent aluminum by weight. ASTM E34-11 – *Standard Test Methods for Chemical Analysis of Aluminum and Aluminum-based Alloys*.
 - (ii) Magnesium or any alloy containing over 50 percent magnesium by weight.
 - (iii) Tin or any alloy containing over 50 percent tin by weight.
 - (iv) Zinc or any alloy containing over 50 percent zinc by weight. ASTM E536-16 – *Standard Test Methods for Chemical Analysis of Zinc and Zinc Alloys*.
 - (v) Copper. ASTM E34-11 – *Standard Test Methods for Chemical Analysis of Aluminum and Aluminum-based Alloys*.
 - (vi) Precious metals (gold, silver, palladium, and platinum). ATSM E1335-08 – *Standard Test Methods for Determination of Gold in Bullion by Fire Assay Cupellation Analysis*.

Percent by weight of such metals shall be determined by the referenced test method, or an equivalent method approved by CARB, USEPA and the APCO.
 - (c) Molds used for the casting of metals.
 - (d) Inspection Equipment used exclusively for metal, plastic, glass, or ceramic products and Control Equipment exclusively venting such Equipment.
 - (e) Ovens used exclusively for curing potting materials or castings made with epoxy resins.

- (f) Hand-held or automatic brazing and soldering Equipment, and Control Equipment exclusively venting such Equipment, provided that the Equipment uses 1 quart per day or less of material containing Volatile Organic Compounds (VOC). This exemption does not apply to hot oil, hot air, or vapor phase solder leveling Equipment and related Control Equipment.
- (g) Brazing ovens where no materials containing VOC (except flux) are present.
- (h) Welding Equipment, oxygen gaseous fuel-cutting Equipment and control Equipment exclusively venting such Equipment. This exemption does not apply to facilities primarily engaged in the activities listed in 40 CFR 63.11514 using plasma arc-cutting Equipment or laser cutting Equipment to cut stainless steel or alloys containing cadmium, chromium, lead, manganese or nickel or laser cutters that are rated more than 400 W.
- (i) Sintering Equipment used exclusively for the sintering of metal (excluding lead) or glass where no coke or limestone is used, and control equipment exclusively venting such Equipment.
- (j) Mold forming Equipment for foundry sand to which no heat is applied, and where no VOC materials are used in the process, and Control Equipment exclusively venting such Equipment.
- (k) Equipment used exclusively for forging, rolling, or drawing of metals provided that any lubricants used have 50 grams per liter VOC or less, or a VOC composite partial pressure of 0.4 psi or less at 68°F, or Equipment used for heating metals prior to forging, pressing, rolling or drawing.
- (l) Heat treatment Equipment used exclusively for heat treating glass or metals (provided no VOC materials are present), or Equipment used exclusively for case hardening, carburizing, cyaniding, nitriding, carbonitriding, siliconizing or diffusion treating of metal objects.
- (m) Ladles used in pouring molten metals.
- (n) Tumblers used for the cleaning or de-burring of solid materials.
- (o) Die casting machines. This exemption does not apply to die casting machines used for copper base alloys, those with an integral furnace having a capacity of more than 992 pounds.
- (p) Furnaces or ovens used for the curing or drying of porcelain enameling, or vitreous enameling.
- (q) Wax burnout kilns where the total internal volume is less than 7 ft³ or kilns used exclusively for firing ceramic ware.
- (r) Shell-core and shell-mold manufacturing machines.

- (s) Furnaces used exclusively for melting titanium materials in a closed evacuated chamber where no sweating or distilling is conducted.
 - (t) Vacuum metalizing chambers which are electrically heated or heated with equipment that is exempt pursuant to subsection (E)(2)(b). This exemption includes Control Equipment exclusively venting such Equipment so long as the Control Equipment is equipped with a mist eliminator or the vacuum pump used with Control Equipment demonstrates operation with no visible emissions from the vacuum exhaust.
- (6) Abrasive Blasting Equipment
- (a) Blast cleaning cabinets in which a suspension of abrasive in water is used and Control Equipment exclusively venting such Equipment.
 - (b) Glove-box type abrasive blast cabinet, vented to a dust-filter where the total internal volume of the blast section is 53 ft³ or less, and any dust filter exclusively venting such Equipment.
 - (c) Enclosed Equipment used exclusively for shot blast removal of flashing from rubber and plastics at sub-zero temperatures and Control Equipment exclusively venting such Equipment.
 - (d) Shot peening operations, provided no surface material is removed, and Control Equipment exclusively venting such Equipment.
 - (e) Portable sand/water blaster equipment and associated piston type internal combustion engine provided the operation of such Equipment is performed in conformance with the manufacturer's specifications.
- (7) Machining Equipment
- (a) Equipment used exclusively for buffing, polishing, carving, mechanical cutting, drilling, machining, pressing, routing, sanding, surface grinding or turning provided that any lubricants used have 50 grams per liter VOC or less, or a VOC composite partial pressure of 0.4 psi or less at 68°F, and Control Equipment exclusively venting such Equipment. This exemption does not apply to automatic tire buffers, semi-automatic tire buffers, and asphalt pavement grinders.
 - (b) Equipment used exclusively for shredding of wood, or the extruding, handling, or storage of wood chips, sawdust, or wood shavings and control equipment exclusively venting such equipment.
 - (c) Equipment used exclusively to mill or grind Coatings or molding compounds where all materials charged are in the paste form.

- (8) Printing and Reproduction Equipment
- (a) Printing and related Coating and/or laminating Equipment used in Graphic Arts Operations, and associated dryers (provided said dryers are also exempt pursuant to subsection (E)(2)(b)) not emitting more than 3 pounds of VOC emissions per day, or not using more than 6 gallons per day of ultraviolet, electron beam, or plastisols type, including cleanup solvent, or 2 gallons per day of any other graphic arts materials. Graphic arts materials are any Inks, Coatings, Adhesives, fountain solutions (excluding water), thinners (excluding water), retarders, or cleaning solutions (excluding water), used in printing or related Coating or Laminating processes.
 - (b) Photographic process Equipment by which an image is reproduced upon material sensitized by radiant energy and Control Equipment exclusively venting such Equipment.
 - (c) Lithographic printing Equipment which uses laser printing.
 - (d) Printing Equipment used exclusively for training and non-production at educational institutions.
 - (e) Flexographic plate-making and associated processing Equipment.
 - (f) Corona treating Equipment and associated air pollution control equipment used for surface treatment in printing, laminating and coating operations.
 - (g) Hand application of materials used in printing operations including but not limited to the use of squeegees, screens, stamps, stencils and any hand tools.
- (9) Food Processing and Preparation Equipment
- (a) Smokehouses for preparing food in which the maximum horizontal inside cross-sectional area does not exceed 21.5 square feet.
 - (b) Smokehouses exclusively using liquid smoke, and which are completely enclosed with no vents to any Control Equipment or to the atmosphere.
 - (c) Confection cookers where products are edible and intended for human consumption.
 - (d) Grinding, blending or packaging Equipment used exclusively for tea, cocoa, roasted coffee, flavor, fragrance extraction, dried flowers, or spices, and Control Equipment exclusively venting such Equipment.

- (e) Equipment used in eating establishments for the purpose of preparing food for human consumption. This exemption does not apply to commercial direct-fired chain-driven char broilers (regardless of the Btu rating). Direct-fired char broilers include, but are not limited to, gas, electric, wood, or charcoal-fired.
 - (f) Equipment used to convey or process materials in bakeries or used to produce noodles, macaroni, pasta, food mixes or drink mixes where products are edible and intended for human consumption and Control Equipment exclusively venting such Equipment.
 - (g) Cooking kettles where all of the product in the kettle is edible and intended for human consumption. This exemption does not include deep frying Equipment used in facilities other than eating establishments.
 - (h) Coffee roasting Equipment with a maximum capacity of 10 pounds or less per batch.
- (10) Plastics, Composite and Rubber Processing Equipment
- (a) Presses or molds used for curing, post curing or forming rubber products, composite products and plastic products where no VOC or chlorinated blowing agent is present, and Control Equipment exclusively venting these presses or molds.
 - (b) Presses or molds with a ram diameter of less than or equal to 26 inches used for curing or forming rubber products and composite rubber products excluding those operating above 400°F.
 - (c) Ovens used exclusively for the forming of plastics or composite products, which are concurrently being vacuum held to a mold, and where no foam forming or expanding process is involved.
 - (d) Equipment used exclusively for softening or annealing plastics.
 - (e) Extrusion Equipment used exclusively for extruding rubber products or plastics where no organic plasticizer is present, or for pelletizing polystyrene foam scrap. This exemption does not apply to Equipment used to extrude or to pelletize acrylics, polyvinyl chloride, polystyrene, and their copolymers.
 - (f) Injection or blow molding Equipment for rubber or plastics where no blowing agent other than compressed air, water or carbon dioxide is used, and Control Equipment exclusively venting such Equipment.
 - (g) Mixers, roll mills and calendars for rubber or plastics where no material in powder form is added and no organic solvents, diluents or thinners are used.

- (h) Ovens used exclusively for the curing of vinyl plastisols by the closed-mold curing process.
- (i) Equipment used exclusively for conveying and storing plastic materials, provided they are not in powder form.
- (j) Hot wire cutting of expanded polystyrene foam and woven polyester film.
- (k) Photocurable stereolithography Equipment.
- (l) Laser sintering Equipment used exclusively for the sintering of nylon or plastic powders and Control Equipment exclusively venting such Equipment.
- (m) Roller to roller coating systems that create three-dimensional images provided:
 - (i) The VOC emissions from such Equipment (including cleanup) are three (3) pounds per day or less or not to exceed 66 pounds per calendar month; or
 - (ii) The coatings contain 25 grams or less of VOC per liter of material provided that the coating used on such Equipment is 12 gallons per day or less, not to exceed 264 gallons per calendar month; or
 - (iii) The coatings contain 50 grams or less of VOC per liter of material, and exclusively using cleanup solvents containing 25 grams or less of VOC per liter of material, and the total quantity of VOC emissions do not exceed 1 ton per calendar year.

(11) Mixing and Blending Equipment

- (a) Batch mixers which have a capacity of 55 gallons or 7.35 ft³ (0.21 m³) or less.
- (b) Equipment used exclusively for mixing and blending of materials where no VOC containing solvents are used and no materials in powder form are added.
- (c) Equipment used exclusively for mixing and blending of materials to make water emulsions of asphalt, grease, oils or waxes where no materials in powder or fiber form are added.
- (d) Equipment used to blend, grind, mix, or thin liquids to which powders may be added, with a capacity of 251 gallons or less, where no supplemental heat is added and no ingredient charged (excluding water) exceeds 135°F.
- (e) Concrete mixers, with a rated working capacity of 1 yd³ or less.

(12) Miscellaneous Process Equipment

- (a) Equipment, including dryers, used exclusively for dyeing, stripping, or bleaching of textiles where no organic solvents, diluents or thinners are used.
- (b) Equipment used exclusively for bonding lining to brake shoes, where no organic solvents are used and Control Equipment exclusively venting such Equipment.
- (c) Equipment used exclusively to liquefy or separate oxygen, nitrogen, or the rare gases from air.
- (d) Equipment used exclusively for surface preparation, cleaning, passivation, deoxidation, and/or stripping which uses water-based cleaners containing 2 percent or less of VOC by volume (20 grams per liter or less), or containing formic acid, acetic acid, phosphoric acid, sulfuric acid, hydrochloric acid (12 percent or less by weight), alkaline oxidizing agents, hydrogen peroxide, salt solutions, sodium hydroxide and/or water. This exemption does apply to anodizing, hard anodizing, chemical milling, circuit board etching using ammonia-based etchant, or the stripping of chromium, except sulfuric acid anodizing with a bath concentration of 20 percent or less by weight of sulfuric acid and using 10,000 amp-hours per day or less of electricity.
- (e) Equipment used exclusively for the plating, stripping, or anodizing of metals as described below:
 - (i) Electrolytic plating of exclusively brass, bronze, copper, iron, tin, lead, zinc, and precious metals, providing no chromic, hydrochloric or sulfuric acid is used;
 - (ii) Electroless nickel plating, provided that the process is not air-sparged and no electrolytic reverse plating occurs;
 - (iii) The electrolytic stripping of brass, bronze, copper, iron, tin, zinc, and precious metals, provided no chromic, hydrochloric, nitric or sulfuric acid is used;
 - (iv) The non-electrolytic stripping of metals, providing the stripping solution is not sparged and does not contain nitric acid;
 - (v) Anodizing using exclusively sulfuric acid and/or boric acid with a total bath concentration of 20 percent acids or less by weight and using 10,000 amp-hours per day or less of electricity;
 - (vi) Anodizing using exclusively phosphoric acid with a bath concentration of 15 percent or less phosphoric acid by weight and using 20,000 amp-hours per day or less of electricity; or
 - (vii) Water and associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from equipment used for the plating, stripping or anodizing of metals.
- (f) Equipment used exclusively for the packaging of lubricants or greases.

- (g) Equipment used exclusively for tableting vitamins, herbs, dietary supplements, or pharmaceuticals, packaging vitamins, herbs, dietary supplements, or pharmaceuticals and cosmetics, or coating vitamins, herbs, dietary supplements or pharmaceutical tablets, provided no organic solvents are used, and Control Equipment used exclusively to vent such Equipment.
- (h) Equipment used exclusively for coating objects with oils, melted waxes or greases which contain no organic solvents, diluents or thinners.
- (i) Equipment used exclusively for coating objects by dipping in waxes or natural and synthetic resins which contain no organic solvents, diluents or thinners.
- (j) Unheated, non-conveyorized, cleaning or coating equipment:
 - (i) With an open surface area of 10.8 square feet or less and an internal volume of 92.5 gallons or less, having an organic solvent loss of 3 gallons per day or less; or
 - (ii) Using only organic solvents with an initial boiling point of 302°F (150° C) or greater as determined by ASTM D1078-11 *Standard Test Method for Distillation Range of volatile Organic Liquids*; or
 - (iii) Using materials with a VOC content of 2 percent (20 grams per liter) or less by volume.

This exemption does not apply to Equipment with a capacity of more than 2 gallons (7.57 liters), which was designed as a solvent cleaning and drying machine, using solvents that are greater than 5 percent by weight of perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof.

- (k) Batch ovens with 53 ft³ or less internal volume where no melting occurs. This exemption does not apply to ovens used to cure vinyl plastisols or debond brake shoes.
- (l) Batch ovens used exclusively to cure 30 pounds per day or less of powder coatings.
- (m) Equipment used exclusively for the washing and subsequent drying of materials and Control Equipment exclusively venting such Equipment, provided that no VOC are.
- (n) Equipment used exclusively for manufacturing soap or detergent bars, including mixing tanks, roll mills, plodders, cutters, wrappers, where no heating, drying or chemical reactions occur.
- (o) Spray coating equipment operated within permitted Control Equipment.

- (p) Coating or adhesive application or laminating Equipment such as air, airless, air-assisted airless, high volume low pressure (HVLP), and electrostatic spray equipment, and roller coaters, dip coaters, vacuum coaters and flow coaters and spray machines provided that:
 - (i) The VOC emissions from such Equipment (including clean-up) is 3 pounds per day or less; or
 - (ii) The total quantity of UV or electron beam (non-solvent based and non-waterborne) coatings, adhesives and associated VOC containing solvents (including cleanup) used in such Equipment is 6 gallons per day or less.; or
 - (iii) The total quantity of solvent type coating and/or adhesive used is 1 gallon per day or less, including cleanup solvent; or
 - (iv) The total quantity of water reducible or water based type coating and adhesives and associated VOC containing solvents (including clean-up) is 3 gallons per day or less; or
 - (v) The total quantity of polyester resin or gel coat type material and associated VOC containing solvents (including clean-up) is 1 gallon per day or less.

If a combination of the Coatings, Adhesives and polyester resin and gel coat type materials identified in (ii), (iii), (iv) and/or (v) are used in any Equipment, this exemption is only applicable if the operations meet the criteria specified in (i) or (vi), or the total usage of Coatings, Adhesives, polyester resin and gel coat type materials and associated VOC containing Solvents (including cleanup) meets the most stringent applicable limit in (ii), (iii), (iv) or (v). For exemptions based on usage, Solvent-based UV and waterborne UV materials are subject to the usage limits in (iii) and (iv), respectively.

- (q) Spray coating and associated drying equipment and Control Equipment used exclusively for educational purposes in educational institutions.
- (r) Portable coating equipment and pavement stripers used exclusively for the application of architectural coatings according to District Rule 1113.
- (s) Inert gas generators.
- (t) Hammermills used exclusively to process aluminum and/or tin cans, and Control Equipment exclusively venting such Equipment. {
- (u) Heated degreasers with a liquid/vapor interface surface area of 1 square foot or less, or using aqueous cleaning materials with a VOC content of 2 percent (20 grams per liter) or less by volume provided such degreasers have an organic solvent loss of 3 gallons per day or less. This exemption does not apply to heated degreasers with a capacity of more than 2 gallons using solvents that are greater than five (5) percent by weight of perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof.

- (v) Paper shredding and associated conveying systems, baling Equipment.
- (w) Chemical vapor type sterilization Equipment where no Ethylene Oxide is used, and with a chamber volume of 2 ft³ or less used by healthcare facilities.
- (x) Hand application of resins, adhesives, dyes, coatings and solvents using devices such as brushes, daubers, rollers trowels, rags, swabs and squeeze bottles.
- (y) Drying Equipment such as flash-off ovens, drying ovens, or curing ovens associated with coating or adhesive application or laminating Equipment provided the drying equipment is exempt pursuant to paragraph (E)(2)(b), and provided that:
 - (i) The total quantity of VOC emissions from all coating and/or adhesive application, and laminating Equipment that the drying equipment serves is 3 pounds per day or less or not to exceed 66 pounds per calendar month; or
 - (ii) The total quantity of UV or electron beam (non-solvent based and non-waterborne) coatings and adhesives, and associated VOC containing solvents (including clean-up) used in all coating and/or adhesive application, and laminating Equipment that the drying Equipment serves is 6 gallons per day or less or not to exceed 132 gallons per calendar month; or
 - (iii) The total quantity of solvent based coatings and adhesives and associated VOC containing solvents (including clean-up) used in all coating and/or adhesive application, and laminating Equipment that the drying equipment serves is 1 gallon per day or less or not to exceed 22 gallons per calendar month; or
 - (iv) The total quantity of water reducible or waterborne coating and adhesives and associated VOC containing solvents (including clean-up) used in all coating and/or adhesive application, and laminating equipment that the drying Equipment serves is 3 gallons per day or less or not to exceed 66 gallons per calendar month; or
 - (v) The total quantity of polyester resin and gel coat type materials and associated VOC containing solvents (including clean-up) used in all coating, adhesive application, and laminating Equipment that the drying equipment serves is 1 gallon per day or less or not to exceed 22 gallons per calendar month; or
 - (vi) All coatings, adhesives, polyester resin and gel coat type materials and associated VOC containing solvents (excluding cleanup solvents) contain 50 grams or less of VOC per liter of material and all cleanup solvents contain 25 grams or less of VOC per liter of material, and the total quantity of VOC emissions do not exceed 1 ton per calendar year.

If combination of the coatings, adhesives and polyester resin and gel coat type materials identified in (ii), (iii), (iv) and/or (v) are used in any equipment, this exemption is only applicable if the operations meet the criteria specified in (i) or (vi), or the total usage of coatings, adhesives, polyester resin and gel coat type materials and associated VOC containing solvents (including cleanup) meets the most stringent applicable limit in (ii), (iii), (iv) or (v). For exemptions based on usage, solvent based UV and waterborne UV materials are subject to the usage limits in (iii) and (iv), respectively.

- (z) Hot melt adhesive Equipment.
- (aa) Pyrotechnical Equipment, especial effects or fireworks paraphernalia Equipment used for entertainment purposes.
- (bb) Ammunition or explosive testing Equipment.
- (cc) Fire extinguishing Equipment using halons.
- (dd) Industrial wastewater treatment Equipment which only does pH adjustment, precipitation, gravity separation and/or filtration of the wastewater, including equipment used for reducing hexavalent chromium and/or destroying cyanide compounds. This exemption does not apply to treatment processes where VOC and/or toxic materials are emitted, or where the inlet concentration of cyanide salts through the wastewater treatment process prior to pH adjustment exceeds 200 mg per liter.
- (ee) Equipment used exclusively for the packaging of sodium hypochlorite-based household cleaning or pool products.
- (ff) Foam packaging Equipment using 20 gallons per day or less of liquid foam material.
- (gg) Foam application Equipment using 2 component polyurethane foam where no VOC containing blowing agent is used, excluding chlorofluorocarbons or methylene chloride, and Control Equipment exclusively venting this Equipment.
- (hh) Industrial wastewater evaporators treating water generated from on-site processes only, where no VOC and/or toxic materials are emitted.
- (ii) High efficiency particulate air (HEPA) filtration Equipment and negative air machines used in asbestos demolition and/or renovation activities regulated pursuant to District Rule 1403 – *Asbestos Emissions from Demolition/Renovation Activities*.
- (jj) Closed loop solvent recovery systems used for the recovery of waste solvent generated on-site using refrigerated or liquid cooled condenser, or air-cooled (where the solvent reservoir capacity is less than 10 gallons) condenser.

- (kk) Toner refilling and Control Equipment used exclusively to vent such Equipment.
 - (ll) Evaporator used at dry cleaning facilities to dispose of separator wastewater and Control Equipment exclusively venting the Equipment.
 - (mm) Cleaning Equipment using materials with a VOC content of 25 grams of VOC per liter of material or less, and associated dryers exclusively serving these cleaners.
 - (nn) Gravity-type oil water separators with a total air/liquid interfacial area of less than 45 square feet and the oil specific gravity of 0.8251 or higher (40.0 API or lower).
- (13) Storage and Transfer Equipment
- (a) Equipment used exclusively for the storage and transfer of fresh, commercial or purer grades of:
 - (i) Sulfuric acid or phosphoric acid with an acid strength of 99 percent or less (weight by weight) as determined by test method ASTM E223-16 – *Standard Test Methods for Analysis of Sulfuric Acid* or an equivalent method approved by CARB, USEPA and the APCO.
 - (ii) Nitric acid with an acid strength of 70 percent or less (weight by weight) as determined by test method ASTM D891-18 – *Standard Test Methods for Specific Gravity, Apparent, of Liquid Industrial Chemicals* or an equivalent method approved by CARB, USEPA and the APCO.
 - (iii) Water based solutions of salts or sodium hydroxide.
 - (b) Equipment used exclusively for the storage and/or transfer of liquefied gases. This exemption does not apply to LPG storage greater than 19,815 gallons or hydrogen fluoride storage greater than 1,057 gallons.
 - (c) Equipment used exclusively for the transfer of less than 20,000 gallons per day of unheated organic materials, with an initial boiling point of 302°F or greater, or with an organic vapor pressure of 0.1 psia or less at 70°F.
 - (d) Equipment used exclusively for the storage of unheated organic materials with an initial boiling point of 302°F (150° C) or greater, or with an organic vapor pressure of 0.1 psi absolute or less at 70°F. This exemption does not apply to liquid fuel storage greater than 40,000 gallons.
 - (e) Equipment used exclusively for transferring organic liquids, materials containing organic liquids, or compressed gases into containers of less than 60 gallons capacity. This exemption does not apply to Equipment used for transferring more than 1,057 gallons of materials per day with a vapor pressure greater than 0.5 psia at operating conditions.

- (f) Equipment used exclusively for the storage and transfer of liquid soaps, liquid detergents, vegetable oils, fatty acids, fatty esters, fatty alcohols, waxes and wax emulsions.
- (g) Equipment used exclusively for the storage and transfer of refined lubricating oils.
- (h) Equipment used exclusively for the storage and transfer of crankcase drainage oil.
- (i) Equipment used exclusively for organic liquid storage or transfer to and from such storage, of less than 251 gallons (950.13 liters) capacity. This exemption does not apply to asphalt storage.
- (j) Equipment used exclusively for the storage and transfer of "top white" (i.e., Fancy) or cosmetic grade tallow or edible animal fats intended for human consumption and of sufficient quality to be certifiable for United States markets.
- (k) Equipment used exclusively for the storage, holding, melting and transfer of asphalt or coal tar pitch with a capacity of less than 159 gallons.
- (l) Pumps used exclusively for pipeline transport of liquids.
- (m) Equipment used exclusively for the unheated underground storage of 6,077 gallons or less, and equipment used exclusively for the transfer to or from such storage of organic liquids with a vapor pressure of 1.5 psia or less at actual storage conditions as determined by ASTM D2879-10 – *Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope* or an equivalent method approved by CARB, USEPA and the APCO, and Equipment used exclusively for the transfer from such storage.
- (n) Equipment used exclusively for the storage and/or transfer of an asphalt-water emulsion heated to 150°F or less.
- (o) Liquid fuel storage tanks piped exclusively to emergency internal combustion engine-generators, turbines or pump drivers.
- (p) Bins used for temporary storage and transport of material with a capacity of 550 gallons or less.
- (q) Equipment used for material storage where no venting occurs during filling or normal use.
- (r) Equipment used exclusively for storage, blending, and/or transfer of water emulsion intermediates and products, including latex, with a VOC content of 5 percent by volume or less or a VOC composite partial pressure of 0.1 psi absolute or less at 68°F.

- (s) Equipment used exclusively for storage and/or transfer of sodium hypochlorite solution.
- (t) Equipment used exclusively for the storage of organic materials which are stored at a temperature at least 234°F below its initial boiling point, or have an organic vapor pressure of 0.1 psi absolute or less at the actual storage temperature. To qualify for this exemption, the operator shall, if the stored material is heated, install and maintain a device to measure the temperature of the stored organic material. This exemption does not apply to liquid fuel storage greater than 40,000 gallons, asphalt storage, or coal tar pitch storage.
- (u) Stationary equipment used exclusively to store and/or transfer organic compounds that do not contain VOCs.
- (v) Unheated equipment including associated control equipment used exclusively for the storage and transfer of fluorosilicic acid at a concentration of 30 percent or less by weight and a vapor pressure of 0.5 psi or less at 77°F. The hydrofluoric acid concentration within the fluorosilicic acid solution shall not exceed one percent (1%) by weight.

(14) Agricultural Sources

- (a) Orchard wind machines powered by an internal combustion engine with a manufacturer's rating greater than 50 bhp, provided the engine is operated no more than 30 hours per calendar year.
- (b) Orchard heaters approved by the California Air Resources Board to produce no more than one (1) gram per minute of unconsumed solid carbonaceous material.

(F) Recordkeeping

- (1) Any person claiming exemptions under the provisions of this rule shall:
 - (a) Provide, upon District request, adequate records to verify and maintain any exemption. Adequate records can include, but are not limited to, any of the following:
 - (i) Materials Safety Data Sheets (MSDS) or other materials specifications as issued by the manufacturer of such materials containing the data necessary to demonstrate compliance;
 - (ii) Purchase records;
 - (iii) On site inventory records;
 - (iv) Consistently maintained and retained logs of Equipment run time, hours of operation; gallons of fuel used; Control Efficiency of the Control Equipment; and/or amount of materials consumed as applicable for the particular exemption;

- (v) Manufacturer's data plate or similar information indicating size, capacity, Bhp, heat input value and/or other relevant information useful to determine compliance with an exemption.
 - (vi) Control Efficiency of any attached air pollution Control Equipment if such Control Equipment is also exempt pursuant to the particular exemption.
 - (vii) Records of Visual Emissions Evaluations performed pursuant to USEPA Method 9 – *Visual determination of the Opacity of Emissions from Stationary Sources*; and/or USEPA Method 22 - *Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares* as applicable.
 - (viii) Records which are deemed adequate pursuant to the provisions of District Rule 109.
- (b) Any Person claiming an exemption based upon an emissions limitation, including but not limited to those exemptions including but not limited to those found in subsections (E)(8)(a), (E)(10)(i), (E)(10)(iii), (E)(12)(p)(i), (E)(12)(y)(i) and (E)(12)(y)(vi) shall provide the following to verify and maintain such emissions limitation:
- (i) Materials Safety Data Sheets (MSDS) or other materials specifications as issued by the manufacturer of such materials containing the data necessary to demonstrate compliance; and
 - (ii) Consistently maintained use logs indicating the amount of materials used or consumed on a daily, monthly and/or annual basis as applicable. Purchase and inventory records can be used in lieu of use logs so long as such records are maintained and updated on a periodic basis sufficient to show continuous compliance with the specific emissions limitation; and
 - (iii) Any applicable records which are deemed adequate pursuant to the provisions of District Rule 109.
- (2) All records shall be maintained and retained on-site for at least 5 years.
- (3) Any test method used to verify the percentages, concentrations, vapor pressures, etc., as required by this Rule or by any other applicable District Rule or Regulation shall be CARB, USEPA, and District approved.
- (4) Failure to provide records shall be considered a violation of District Rule 201 – *Permit to Construct* and/or Rule 203 – *Permit to Operate* and may also constitute a violation of District Regulation XIII – *New Source Review*, Rule 1401 – *New Source Review for Toxic Air Contaminants*, Regulation XVII – *Prevention of Significant Deterioration*, and/or Regulation XXX – *Title V Permits* if applicable.

(G) Compliance Date

- (1) The Owner/Operator of equipment previously not requiring a permit pursuant to the provisions of this shall comply with the provisions of District Rule 201 – *Permit to Construct* and/or Rule 203 – *Permit to Operate* within 1 year from the date the rule is amended to remove the exemption unless compliance is required before that time by written notification from the APCO.

See SIP Table at www.avaqmd.ca.gov

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Draft

Staff Report

for

Amendment of

Rule 219 — *Equipment Not Requiring a Permit*

For Amendment on

June 15, 2021

**Antelope Valley
Air Quality
Management District**

43301 Division St. Suite 206
Lancaster, CA 93535-4649
(661) 723-8070

www.AVAQMD.ca.gov

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List of Acronyms

APCO	Air Pollution Control Officer
AVAPCD	Antelope Valley Air Pollution Control District (predecessor agency to AVAQMD)
AVAQMD	Antelope Valley Air Pollution Control District
BACT	Best Available Control Technology
BARCT	Best Available Retrofit Control Technology
CARB	California Air Resources Board
CCAA	California Clean Air Act
CEQA	California Environmental Quality Act
FCAA	Federal Clean Air Act
H&S Code	California Health & Safety Code
HAPs	Hazardous Air Pollutants
ICE	Internal Combustion Engine
LAER	Lowest Achievable Emissions Rate
MACT	Maximum Achievable Control Technology Standards (for HAPs)
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
NO _x	Oxides of Nitrogen
NAAQS	National Ambient Air Quality Standards
NESHAP	National Emission Standard for Hazardous Air Pollutants
NSPS	New Source Performance Standard
NSR	New Source Review (aka Regulation XIII)
O ₃	Ozone
PM ₁₀	Particulate Matter less than 10 microns (aka Course Particulate)
PM _{2.5}	Particulate Matter less than 2.5 microns (aka Fine Particulate)
PSD	Prevention of Significant Deterioration (aka Regulation XVII)
PUC	Public Utilities Commission
RACT	Reasonably Available Control Technology
SBCAPCD	San Bernardino County Air Pollution Control District (Predecessor agency to MDAQMD)
SCAQMD	South Coast Air Quality Management District
So.Cal.APCD	Southern California Air Pollution Control District (Predecessor agency to SBCAPCD and SCAQMD)
SIP	State Implementation Plan
SO _x	Oxides of Sulfur
USEPA	U.S. Environmental Protection Agency
VOC	Volatile Organic Compounds

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STAFF REPORT

Rule 219 – *Equipment not Requiring a Permit*

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

The Antelope Valley Air Quality Management District (AVAQMD or District) is proposing to amend Rule 219 – *Equipment Not Requiring a Permit* for inclusion in the current rulebook. This rule sets forth which equipment, processes and operations for which a written permit is not required. Equipment so exempted still remains subject to the provisions of other District rules if provisions of such are applicable to either the equipment or the materials used by such equipment.

USEPA recently provided negative comments to various other air districts, most notably the Mojave Desert Air Quality Management District (MDAQMD) and South Coast Air Quality Management District (SCAQMD) regarding certain provisions of their versions of Rule 219 and has opined that those Rules in their current form are not approvable as a revision to the State Implementation Plan (SIP). As the AVAQMD's Rule 219 is highly similar to both the MDAQMD's and SCAQMD's rules, USEPA has indicated that the same deficiencies are present and thus an amendment is needed. In addition, since Rule 219 is integrated with the AVAQMD's New Source Review permitting program and the Rule also functions as a list of equipment that is not required to be included on Title V Permits USEPA has indicated that amendments are needed to clarify the integration with those programs.

The proposed amendments include, but are not limited to the following: clarifications of various exemptions as requested by USEPA, clarification of the interrelationship between Rule 219 and Regulation XIII – *New Source Review*,¹ and the reorganization of some provisions to avoid confusion. In addition, USEPA has requested additional justification for certain exemptions along with explanations regarding the interrelationship between such exemptions and current RACT rules. Such explanations and clarifications are provided in the Technical Discussion section of this staff report.

¹ Please note that Regulation XIII – *New Source Review*, Regulation XVII – *Prevention of Significant Deterioration* and Rule 1401 – *New Source Review for Toxic Air Contaminants* are also proposed for amendment. All references to these rules will be to the current versions unless otherwise noted.

The State Implementation Plan (SIP) version of Rule 219 effective within the AVAQMD is the 9/4/1981 version adopted by SCAQMD and approved at 47 FR 29231, 7/6/1982. Amendments subsequent to that date have been submitted as SIP revisions but were not acted upon by USEPA. This proposed amendment will also be submitted as a SIP revision.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the AVAQMD amend Rule 219 – *Equipment Not Requiring a Permit* and approve the appropriate California Environmental Quality Act (CEQA) documentation. This action is necessary to clarify rule language; address USEPA concerns regarding rule enforceability; and to clarify the interrelationship between this Rule, existing RACT rules and the District’s New Source Review (NSR) Program as contained in District Regulation XIII.²

² Both as currently existent and as proposed amended.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct adoption of amendments to Rule 219 – *Equipment Not Requiring A Permit*. Each item is discussed, if applicable, in Section V. Copies of related documents are included in the appropriate appendices.

FINDINGS REQUIRED FOR RULES & REGULATIONS:

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

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

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

ELEMENTS OF A FEDERAL SUBMISSION:

- Elements as set forth in applicable Federal law or regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

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

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

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

OTHER:

- Written analysis of existing air pollution control requirements
- Economic Analysis
- 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 amendments to Rule 219 – *Equipment Not Requiring A Permit*. 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 adoption of amendments to Rule 219 – *Equipment Not Requiring A Permit* are necessary to clarify rule language; address USEPA concerns regarding rule enforceability; and to clarify the interrelationship between this Rule, existing RACT rules and the District’s New Source Review Program as contained in District Regulation XIII.³

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 Rule 219 – *Equipment Not Requiring A Permit* are clear in that they are written so that the persons subject to the Rule can easily understand the meaning. Clarifications have been made regarding overarching permitting requirements in case of multiple potentially permit exempt units, provisions have been reformatted for clarity, double negative language has been removed and specific recordkeeping provisions have been added along with other changes for consistency of language.

³ Both as currently existent and as proposed amended.

d. Consistency:

The proposed amendments to Rule 219 – *Equipment Not Requiring A Permit* 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 contaminants⁴ and to ensure that such equipment does not prevent or interfere with the attainment or maintenance of any applicable air quality standard⁵ among other requirements. Rule 219 specifies which particular equipment is not required to obtain a written permit and pay permit fees pursuant to District Rule 301.⁶

Similarly, the Federal Clean Air Act (FCAA) requires areas which have been designated nonattainment with the National Ambient Air Quality Standards (NAAQS) to develop a permitting program to ensure that the preconstruction review requirements for new or modified stationary source of air contaminants are met.⁷ As a part of such preconstruction review program Federal Regulations allow a state (in this case the District) to “identify types and sizes of facilities, buildings, structures, or installations which will be subject to review” and “discuss the basis for determining which facilities will be subject to review.”⁸ The District has been designated nonattainment for O₃⁹ and Rule 219 provides this required specification.

Thirdly, California Law (H&S Code §§42500 et seq.) 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

⁴ H&S Code §42300(a).

⁵ H&S Code §42301(a).

⁶ Please note that just because a particular piece of equipment or activity is not required to have a permit it **does not mean** that such equipment is not otherwise subject to regulation by the District. For examples see: District Rule 114 – *Registration Program for Compression Ignition Engines Used in Small Agricultural Facilities*; Rule 401 – *Visible Emissions*; 402 – *Nuisance*; 403 – *Fugitive Dust*, (4/10/2010); along with specifics contained in the District’s prohibitory rules primarily contained in Regulation IV – *Prohibitions* and Regulation XI – *Source Specific Standards*.

⁷ Federal Clean Air Act §§110(a)(2), 165(a) and 172(b)(5); 42 U.S.C. §§7410(a)(2), 7475(a) and 7502(b)(5)

⁸ 40 CFR 51.160(e). See Also: Federal Clean Air Act §110(a)(2)(C), 42 U.S.C. §7410(a)(2)(C).

⁹ 40 CFR 81.305 (See specifically tables for the O₃ 1-hour Standard, O₃ 1997 8 hour Standard, 8 hour O₃ NAAQS, 2015 8 hour O₃ NAAQS). Please also note that there is a so called “clean data” finding for Southeast Desert Ozone Nonattainment Area, 1 hour O₃ standard at 80 FR 20166, 4/15/2015 but redesignation has not yet occurred.

were in existence as of December 30, 2002.¹⁰ As a part of the AVAQMD's permitting program and due to its interrelationship with the District's NSR program the amendments Rule 219 are also subject to this requirement.

In addition, Title V of the Federal Clean Air Act¹¹ each state (in this case the District) to submit a Title V Permit program to control major stationary sources of air pollution.¹² As part of this program the District is required to include "criteria used to determine insignificant activities or emissions levels for the purposes of determining complete applications."¹³ Rule 219 contains provisions allowing the list of equipment which is written permit exempt to also be used to determine what equipment does not need to be listed in a Title V Permit application or permit.¹⁴

Finally, California SB 700 of 2003 (ch. 479) required the District to require permits for certain Agricultural facilities which emitted or had the potential to emit a certain quantity of air contaminants or were considered "large" confined animal facilities to have permits in the same degree and to the same extent as non-agricultural facilities.¹⁵ Rule 219 was amended on 1/18/2011 to provide thresholds below which a permit was not required for such facilities.¹⁶

Section VI of this staff report contains a detailed discussion of the consistency of each proposed amendment to Rule 219 with the applicable State or Federal requirements.

e. Nonduplication:

The proposed amendments to Rule 219 – *Equipment Not Requiring A Permit* 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 certain programs which require underlying rules and regulations to implement such programs.

¹⁰ H&S Code §42504

¹¹ Federal Clean Air Act §§500 et seq.; 42 U.S.C. §§7661a et seq.

¹² Federal Clean Air Act 502(d)(1); 42 U.S.C. §7661a(d)(1).

¹³ 40 CFR 70.4(b)(2).

¹⁴ AVAPCD, *Final Staff Report Rule 219 – Equipment Not Requiring a Permit*, 3/17/1998

¹⁵ H&S Code §§40724.6, 42301.16, 42301.17 and 42301.18.

¹⁶ AVAQMD, *Final Staff Report Rule 219 – Equipment Not Requiring A Permit as amended 1/18/2011, 2/24/2011*

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 Rule 219 – *Equipment Not Requiring A Permit* was published 5/11/2021. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, 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 elements are required for the proposed amendments to Rule 219 – *Equipment Not Requiring A Permit* and how they were satisfied.

a. Satisfaction of Underlying Federal Requirements:

The Federal Clean Air Act (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). The proposed amendments to Rule 219 are subject to these requirements because a prior version of the Rule is included in the SIP and the AVAQMD will be requesting that this version as amended be included as a SIP revision.

The FCAA also requires that certain large new or modified stationary sources of air pollutants obtain permits prior to construction or modification¹⁷ Such programs must comply with the applicable implementing regulations¹⁸ which include specific requirements. Since Rule 219 specifically identifies the types and sizes of facilities, buildings, structures, or installations which are

¹⁷ Federal Clean Air Act §§110(a)(2), 112(i)(1), 165(a), 172(b)(5), and 502(a)(2)(C); 42 U.S.C. §§7410(a)(2), 7412(i)(1), 7475(a), 7502(b)(5) and 7511a(a)(2)(C).

¹⁸ 40 CFR 51.160 et seq. and 40 CFR 52.21

not subject to certain permitting requirements¹⁹ it must also comply with these provisions.

Please see section VI. for a detailed discussion regarding compliance of certain proposed provisions with applicable Federal requirements.

b. Public Notice and Comment:

Notice for the public hearing for the proposed amendments to Rule 219 – *Equipment Not Requiring A Permit* was published 5/11/2021. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

c. Availability of Document:

Copies of the Notice for the public hearing for the proposed amendments to Rule 219 – *Equipment Not Requiring A Permit* and the accompanying draft staff report was made available to the public on 5/11/2021.

d. Notice to Specified Entities:

Copies of the proposed amendments to Rule 219 – *Equipment Not Requiring A Permit* and the accompanying draft staff report were sent to all affected agencies. The proposed amendments was sent to the California Air Resources Board (CARB) and U.S. Environmental Protection Agency (USEPA) on 5/11/2021

e. Public Hearing:

A public hearing to consider the proposed amendments to Rule 219 – *Equipment Not Requiring A Permit* was set for 6/15/2021.

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

¹⁹ 40 CFR 51.160(e).

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 for modification by the district. Rule 219 is primarily logistical in nature and meant to set forth thresholds and provide a list of equipment which does not require a District permit or permit fees. It does not impose, or for that matter exempt, particular equipment from specifically applicable air pollution control requirements under State or Federal law and the regulations promulgated thereunder or District Rules and Regulations. 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

Despite the multitude proposed changes in rule language, no specific class or category of equipment is added or deleted from the list of permit exempt equipment under proposed section 219(E). In addition, there are no changes to the emissions thresholds set forth in the rule. While there are proposed new specifications regarding recordkeeping, the underlying requirement to keep records adequate to prove that a particular exemption applies remains on the affected facility as previously required. Therefore, the District expects that there will be no economic impact at all from the proposed amendments in that the permitting status of any particular class or category of equipment remains the same.

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_x) or oxides of sulfur (SO_x). 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 Rule 219 – *Equipment Not Requiring A Permit* was determined.

1. The proposed amendments to Rule 219 – *Equipment Not Requiring A Permit* meet the CEQA definition of “project”. It is not a “ministerial” action.

2. The proposed amendments to Rule 219 – *Equipment Not Requiring A Permit* are exempt from CEQA Review because the proposed actions do not result in a change of any thresholds or in the permitting status of any class or category of equipment. Because 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 Rule 219 – *Equipment Not Requiring A Permit* will not cause any impacts because the underlying requirements, namely the thresholds and permit status of various equipment, currently in effect remain unchanged.

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. RULE APPLICABILITY

Rule 219 – *Equipment Not Requiring a Permit* describes equipment that does not require a written permit pursuant to District Rules 201 – *Permits to Construct* and 203 – *Permits to Operate*. Rule 219 is primarily logistical in nature. It is not a prohibitory rule. It does not exempt any equipment from any otherwise applicable requirements including but not limited to those imposed by: District rules regarding preconstruction review of new or

modified stationary sources;²⁰ District prohibitory rules;²¹ California Air Toxic Control Measures (ATCMs);²² New Source Performance Standards (NSPS)²³; National Emissions Standards for Hazardous Air Pollutants (NESHAPs)²⁴; and Maximum Achievable Control Technology Standards (MACTs)²⁵. In short, this rule determines if an owner/operator of a particular piece of equipment is required to pay permit fees pursuant to the provisions of District Rule 301 – *Permit Fees*. Rule 219 also sets forth thresholds and describes equipment which does not need to be listed on a Title V Permit issued pursuant to Regulation XXX.

The proposed amendments to Rule 219 are intended to clarify a number of specific exemptions; reorganize and clarify basic thresholds above which equipment would not be permit exempt; and detail the interrelationship between this rule and other District rules and regulations. Many of the proposed amendments were derived from comments provided by USEPA regarding their review of MDAQMD’s 1/28/2019 rule amendments,²⁶ and a technical review of the MDAQMD’s Regulation XIII – *New Source Review*.²⁷ Since the AVAQMD’s Rules are very similar to those rules USEPA has indicated that many, if not all, of the alleged deficiencies as identified to the MDAQMD also occur in the District’s Rule 219.

The majority of USEPA’s comments to MDAQMD represent a serious misunderstanding of the fundamental nature, purpose, and practical application of Rule 219 and its interrelationship with the New Source Review (NSR) program. However, after review of the recently adopted amendments to MDAQMD’s Rule 219²⁸ and comparison with similar provisions in the AVAQMD’s rule, it has been determined that clarification of certain provisions was warranted.

In addition, USEPA’s failure to timely review rule amendments since the last State Implementation Plan (SIP) approved version,²⁹ despite being included in all portions of the rulemaking process for each and every amendment, has resulted in a significant

²⁰ AVAQMD Regulation XIII – *New Source Review* and Regulation XVII – *Prevention of Significant Deterioration*.

²¹ Primarily located in AVAQMD Regulation IV – *Prohibitions* and Regulation XI – *Source Specific Standards*.

²² California ATCMs provisions are enforceable as local district rules so long as a district has not adopted an equivalent measure H&S Code §39666(d).

²³ As adopted by reference in AVAQMD Regulation IX – *Standards of Performance for New Stationary Sources*.

²⁴ As adopted by reference in AVAQMD Regulation X – *Emissions Standards for Additional Specific Air Contaminants*.

²⁵ Pursuant to H&S Code §39658 emissions standards for Hazardous Air Pollutants (HAPs) adopted by USEPA are implemented as California ATCMs unless the California Air Resources Board (CARB) adopts a more stringent ATCM. Thereafter, such measures become district enforceable pursuant to H&S Code §39666(d).

²⁶ USEPA Email, G. Rios, USEPA Region IX to B. Poiriez, MDAQMD; *EPA Comments on 219*, 3/28/2019 (hereafter “USEPA Comments to MDAQMD on Rule 219 of 3/28/2019”).

²⁷ USEPA Letter, L. Beckham, USEPA Region IX to B. Poiriez, MDAQMD; *Mojave Desert Air Quality Management District New Source Review Program*, 12/19/2019 (hereafter “EPA Letter to MDAQMD of 12/19/2019”).

²⁸ MDAQMD Rule 219 – *Equipment Not Requiring A Permit*, 1/25/2021

²⁹ SCAQMD Rule 219, 9/4/1981 as approved at 47 FR 29231, 7/6/1982

differential between the version contained in the District's rule book and that in the SIP.³⁰ This substantial time gap coupled with the USEPA's recent insistence on viewing the rule as having prohibitory impact has led to USEPA insisting on a Federal Clean Air Act (FCAA) §110(l) (42 U.S.C. §7410(l)) analysis for additions of certain equipment to permit exempt status and upon coordination of permit exempt status to certain exemptions contained in the District's RACT rules to further "ensure" the enforceability of the RACT provisions in such rules.

Furthermore, USEPA has alleged lack of substantive recordkeeping requirements to verify permit exempt status as well as the potential for emissions from permit exempt equipment to somehow "escape" from new source review and other threshold permitting analysis. While the District concedes that some clarification may enhance the usability and enforceability of Rule 219 it is the District's position that USEPA's stated concerns are not substantiated as shown by the actual use of the rule in the District's permitting program.

B. EMISSIONS

Rule 219 – *Equipment Not Requiring a Permit* is primarily a logistical rule setting forth when particular equipment, which may or may not be regulated by other district rules, requires a written permit and thus must pay permit fees. It does not impose specific emissions limitations or conditions on operation other than size and operational limits which would qualify such equipment for a particular exemption. Rule 219 does not exempt any equipment from any other applicable regulatory requirements; it merely indicates that a specific written permit from the AVAQMD is unnecessary. Proposed amendments will clarify existing policies and will not result in any changes in emissions³¹ as reflected in the AVAQMD's emissions inventory.³²

C. CONTROL REQUIREMENTS

Neither the proposed amendments to Rule 219 nor the rule itself imposes any control requirements on any particular equipment or equipment type. Thresholds and size limitations are provided which, if complied with, will result in particular equipment not requiring a permit and thus not having to pay permit fees as required by District Rule 301. Failure to provide proof of meeting these thresholds and/or size limitations would result in a notice of violation and the requirement to obtain a permit for the affected equipment. It must be noted that nothing in Rule 219 changes permitting requirements

³⁰ Since 1981 Rule 219 has been amended as follows: by SCAQMD on 6/8/1988, 9/11/1992, and 12/13/1996; by the AVAPCD (as created by statute effective 7/1/1997 via Former H&S Code §40106, Stats. 1996, Ch. 542) on 3/17/1998, 7/21/1998 and 1/16/20017 and by the AVAPCD (as created by statute effective 1/1/2002, H&S Code §§41300 et seq.) on 11/15/2005 and 10/18/2016. Each of these amendments was submitted as a SIP revision.

³¹ In fact, emissions could potentially be reduced as regulated industry voluntarily limits certain equipment use to meet the requirements of particular exemption and thus avoid having to pay permit fees for such equipment.

³² The most recent emissions inventory and attainment demonstration was submitted with 75 ppb O3 Nonattainment Plan. Please note a *Draft AVAQMD 2017 Actual Emissions Inventory* is currently being prepared. When this document is finalized and released by CARB it will be submitted as part of the forthcoming *AVAQMD 70 ppb O3 Nonattainment Plan* and can also be considered official support for this action upon its adoption and submission to USEPA.

and analysis under District Regulation XIII – *New Source Review*³³, Regulation XVII – *Prevention of Significant Deterioration*³⁴ and/or Regulation XXX – *Title V Permits*. Both current and proposed amended Rule 219 provides that the emissions from permit exempt equipment MUST be included in such calculations.³⁵ Furthermore, it must be noted that Rule 219 also continues to include provisions for the APCO to require a permit due to particular circumstances regardless of such equipment being listed for exemption by the Rule.³⁶

D. INTERRELATIONSHIP BETWEEN RULE 219 AND NEW SOURCE REVIEW

USEPA has expressed concerns that Rule 219 provides an absolute exemption for certain equipment from permitting provisions including the preconstruction review provisions of Regulation XIII – *New Source Review* and Regulation XVII – *Prevention of Significant Deterioration* and certain substantive requirements contained in other District rules. The District acknowledges that this concern, if true, would be a significant problem. However, Rule 219 is primarily an “exemption from fees” rule that has been modified over time to serve additional purposes. It does not create emissions limitations nor impose requirements other than recordkeeping sufficient to show compliance with the particular exemption involved. This is why the rule, by its own terms, states that emissions from permit exempt equipment are required to be included in emissions calculations for other permitting related rules.³⁷ In addition, the District has historically always interpreted its other rules containing substantive requirements to apply to any equipment, materials, or formulations specified in such rules regardless of the permit status of equipment or equipment using the regulated materials.

The underlying basis for the AVAQMD’s permitting programs is found in Regulation II – *Permits*. Rule 201 - *Permits to Construct* and Rule 203 – *Permits to Operate* set forth the scope of the AVAQMD’s jurisdictional and permitting authority under the applicable statutes.³⁸ Regulation XIII was adopted in compliance with the 1990 amendments to the Federal Clean Air Act for approval into the SIP to specify preconstruction review requirements for new or modified stationary sources of air contaminants.³⁹ As a part of such preconstruction review program 40 CFR 51.160(e) allows a state (in this case the District) to “identify types and sizes of facilities, buildings, structures, or installations which will be subject to review” and “discuss the basis for determining which facilities will be subject to review.”⁴⁰

³³ As currently existent and as proposed amended.

³⁴ As currently existent and as proposed amended.

³⁵ Rule 219(B)(5).

³⁶ Rule 219 (B)(4).

³⁷ Rule 219(B)(5) .

³⁸ H&S Code §§39002, 40000 and 42300 et seq.

³⁹ Federal Clean Air Act §§110(a)(2), 165(a) and 172(b)(5); 42 U.S.C. §§7410(a)(2), 7475(a) and 7502(b)(5).

⁴⁰ Federal Clean Air Act §110(a)(2)(C), 42 U.S.C. §7410(a)(2)(C).

Rule 219 was originally adopted⁴¹ primarily as a logistical rule to identify particular equipment which was either too small in terms of emissions and too ubiquitous to justify the time and expense of requiring a permit.⁴² However, it was also submitted as a SIP revision to be used in conjunction with 201 and 203 to indicate what facilities would be subject to preconstruction review.⁴³ This underlying rationale was not adjusted until the 3/17/1998 amendment which added then subsection (B)(4) which specifically stated that emissions from permit exempt equipment were to be included in emissions calculations under both Regulation XIII – *New Source Review* and Regulation XXX – *Title V Permits*. The net effect of this language change required the inclusion of the emissions for permit exempt equipment at a Facility whenever ANY piece of equipment located at that Facility required a permit. The 3/17/1998 language also specified that to be permit exempt equipment not only had to be listed in then subsection (E) but it also had to emit less than 10% of the Title V Major Facility threshold or small amount of HAPs.⁴⁴ This language, with minor adjustments, has been retained in all successive versions of the rule. Thus, since 1998, from the universe of all potential permit exempt units only the emissions from operations consisting solely of permit exempt equipment at low emissions Facilities could “escape” preconstruction review.

The provision in Rule 219 including emissions from permit exempt units in other calculations, however, is potentially contradicted by a cross reference to Regulation II contained in current District Rule 1300(B)(1)(a). The current wording of 1300(B)(1)(a) could be read to imply that the provisions of Regulation XIII would not be applicable to equipment listed in Rule 219. While this has never been the interpretation of the District⁴⁵ the confusion is compounded by the inconsistent use of the terms Emissions Unit and Permit Unit⁴⁶ throughout Regulation XIII. In a separate action, the District is proposing to amend Regulation XIII and adjust the definitions of Emissions Unit and Permit Unit to standardize the use of such terms, and change the applicability reference to refer specifically to Rules 201 and 203 which should help clarify Regulation XIII

⁴¹ Rule 219 was adopted on 1/9/1976 by the Southern California Air Pollution Control District, a Joint Powers Authority covering all of Los Angeles, Orange, Riverside and San Bernardino Counties; a direct predecessor agency to the AVAQMD, MDAQMD and SCAQMD.

⁴² In general, this equipment was too small in emissions to be subject to prohibitory requirements in effect at the time and thus requiring permit fees for what was in effect an “empty” permit was not justifiable.

⁴³ These early versions are the current SIP versions of Rule 219.

⁴⁴ Rule 219(C), 3/17/1998. At the time the limitations were 10% of the Title V facility threshold or 5 tpy of criteria pollutants. HAP levels varied dependent upon the specific pollutant and was defined as the lesser of: the de minimis level pursuant to regulation promulgated by USEPA under FCAA §112(g) (42 U.S.C. §7412(g)), a significance level found in 40 CFR 52.21(b)(23)(i) or .5 tpy. The 7/28/1998 amendments modified the thresholds slightly lowering the criteria pollutant threshold to 2 tpy.

⁴⁵ The District has always construed the provisions of Rule 219 limiting permit exemption to small emitting listed equipment and the requirement to include emissions in calculations to apply despite the overarching reference in 1300(B)(1)(a) using the statutory interpretation principle that the more specific requirements always prevail over the more general.

⁴⁶ In Rule 1301 the definition of “Emissions Unit” does not contain specific language including air pollution control equipment while the implication of the definition of “Permit Unit” does as air pollution control equipment generally requires permits. The District is proposing in a separate action to amend these definitions to clarify that the category of “Permit Units” is a wholly included subset of “Emissions Units” along with standardizing use throughout the rest of Regulation XIII.

applicability to make it abundantly clear that emissions from potentially permit exempt equipment under Rule 219 should be included in NSR, PSD and Title V calculations.

USEPA has also expressed concern regarding how the District would be able to locate any potentially permit exempt units that do not happen to be located at a Facility which has other permitted units. The concern is that Facilities consisting solely of “permit exempt” units would completely escape any regulation including, but not limited to, preconstruction review. Like most air districts in California, the AVAQMD has a number of tools used to locate unpermitted and potentially permit exempt equipment. Permit exempt equipment at an otherwise permitted facility is noted during inspections and qualification for the exemption is checked at that time. The enforcement division personnel are trained to spot potential emitting equipment at any inspected Facility and require justification of exemption when they do so. Occasionally the enforcement division will saturate a particular area and perform a “sweep” for unpermitted equipment which, on many occasions, also locates potentially permit exempt equipment. Complaint investigations likewise uncover both unpermitted and potentially permit exempt equipment. California Environmental Quality Act (CEQA) notifications to the District are also used to determine if permissible or exempt equipment is involved in a particular project. Finally, the land use agencies within the District’s jurisdiction require a form to be filled out and reviewed by the District prior to issuing a certificate of occupancy which serves as an additional method to find both permitted and unpermitted equipment. Upon locating potentially permit exempt equipment the District requests records to ensure that the particular equipment indeed qualifies for exemption. If such records are missing or inadequate a Notice of Violation may be issued and this can also serve as justification for the air pollution control officer to require a permit pursuant to Rule 219(B)(4) for that particular piece of equipment.

E. RECORDKEEPING AND EXEMPTION JUSTIFICATION REQUIREMENTS

USEPA has expressed concerns that a variety of exemptions do not provide sufficient recordkeeping provisions to allow determination of whether or not an exemption applies. These concerns generally fall into three main categories: No specification of what constitutes “adequate” records; No specification regarding methods of tracking emissions-based limitations; and the potential for use of control equipment to comply with listed emissions-based limitations. USEPA is also concerned that enforcement provisions regarding recordkeeping may be inadequate. While AVAQMD Rule 109 – *Recordkeeping for Volatile Organic Compound Emissions* does address many of the stated concerns it only applies to emissions of VOCs. Thus, the recordkeeping for other criteria pollutants and operational parameters are not covered by that rule. The District is planning to address these concerns in regards to non-VOC issues with the proposed amendments.

Initially 219(F) only required a person to provide “adequate” records. By the 8/12/1994 version a cross reference to Rule 109 had been added. A 5-year retention period for records was added in the 1/18/2011 version. Historically the District would accept any official records or combination of records from a Facility that could be reasonably relied upon to determine compliance with the exemption. The proposed amendments add a

partial list of specific types of records considered to be adequate for clarification and retain the cross reference to Rule 109 specifically for recordkeeping involving VOC emissions limitations.⁴⁷ The District is refraining from adding a specific record provision for each and every exception in section (E) as that would not only be cumbersome but also redundant.

Generally, it is obvious from the form of the exemption itself what kinds of records would be necessary to justify compliance with the exemption. Restrictions based on equipment type or purpose such as comfort air conditioning or equipment solely used for transfer and storage of liquid soap⁴⁸ can be easily verified by examining the equipment in question and its contents. Likewise, size and capacity-based limitations such as internal combustion engines less than 50 brake horsepower, batch mixers with less than 55-gallon capacity, and the storage/transfer of organic liquids of less than 251 gallons⁴⁹ may be easily verified by the equipment nameplate, provision of manufacturer's specifications or simple measurement. Materials used based limits⁵⁰ can be shown by maintained logs or other documentation such as purchase records. A few exemptions⁵¹ have limitations based on the amount of VOC emitted due to the wide variation of materials potentially used. These exemptions can be verified by provision of Material Safety Data Sheets for the specific materials and multiplying the VOC content by a use log or even something like purchase records. There is one particular exemption regarding portable sand/water blasting equipment⁵² which must be mentioned separately as its limitation is based on a water mixture percentage which can be verified by watching the equipment being prepared for use. While no specific test or records are useful in this particular case it becomes rather obvious if the water percentage is incorrect because the equipment will either fail to produce a stream of water and sand with sufficient force to perform the job or will simply fail to operate at all. Despite this fact the District has opted to change the wording of this exemption to require operation in accordance with manufacturer's specifications to avoid confusion.

In addition to adding a list of record types in section (F) the proposed amendments also increase the enforceability of the recordkeeping provisions by clarifying the burden of proof provisions via existing subsection (B)(9) in conjunction with proposed subsection (F)(4).⁵³ While the burden of proof remains on the owner/operator of the equipment to verify the applicability of the exemption the proposed amendments add a provision stating that failure to provide adequate proof will be considered a violation of the applicable permitting provisions. This means that in most cases failure to keep and provide records will be not only a violation of District Rules 201 and 203 but may also constitute a violation of one of the preconstruction review rules. The proposed amendments to section (F) working in conjunction with existing provisions strengthen the

⁴⁷ As specifically found in Rule 219(E)(8)(a) , (E)(10)(m) , (E)(12)(j) , (E)(12)(p) , (E)(12)(v) and (E)(12)(z).

⁴⁸ 219(E)(4)(a) and (E)(13)(f).

⁴⁹ 219(E)(2)(a), (E)(11)(a), and (E)(13)(i).

⁵⁰ For example: Graphic Arts equipment less than 2 gallons per day current Rule 219(E)(8)(a) and Polyester resin applications less than 1 gallon per day and 22 gallons per calendar month (219)(E)(12)(z)(v).

⁵¹ Rule 219(E)(8)(a) , (E)(10)(m) , (E)(12)(j) , (E)(12)(p) , (E)(12)(v) and (E)(12)(z) . .

⁵² Current Rule 219(E)(6)(e).

⁵³ Current Rule 219(B)(9).

recordkeeping and enforcement provisions such that USEPA's expressed concerns should be alleviated.

F. APPURTENANT CONTROL DEVICES AND INTERNAL COMBUSTION ENGINE EXEMPTIONS

A concern has also been expressed by USEPA that appears to be based upon a misunderstanding of the status of equipment which is used in conjunction with otherwise permit exempt equipment. Specifically, this concern involves the permit status of control devices, internal combustion engines (ICEs) and general combustion equipment when such are used is used to power or control emissions from otherwise permit exempt equipment. While the District has historically interpreted Rule 219 to only exempt such equipment if it is in and of itself is specified as exempt, USEPA has expressed concern that this interpretation is not fully supported by rule language.

For provisions regarding equipment which could be conceivably powered by a separate ICE or using heat from general combustion equipment, USEPA previously has suggested that language excluding such ICEs be specifically included in the applicable exemptions.⁵⁴ As currently formulated this exclusionary language takes up a large amount of space in the rule. Therefore, the District is proposing an overarching provision in subsection (B)(8) that provides language clarifying that ICE or combustion equipment used to power or is otherwise used in conjunction with any permit exempt equipment must in and of itself be exempt pursuant to the applicable provisions of subsection (E)(2).

Similarly, the District has long considered attached air pollution control equipment to require a permit unless it is specifically mentioned as permit exempt in the applicable exemption provision.⁵⁵ In this situation not only is USEPA concerned about the potential exemption status of particular control equipment but also about the situation where multiple pieces of exempt equipment might be vented to the same control devices.

It must be noted that most of the permit exemptions which include appurtenant air pollution control devices also contain language limiting such devices to those exclusively venting the underlying equipment. The District is proposing amendments to standardize this language and provide it in the few cases where it was inadvertently omitted. In addition, the proposed addition of subsection (B)(7) specifically provides that control equipment is only exempt if all equipment vented to it is also permit exempt pursuant to a specific inclusion of control equipment in the applicable provision of section (E). The net result of the proposed changes are as follows: if any equipment vented to a control device requires a permit then that control device also requires a permit; if any permit

⁵⁴ Such provisions are specifically included in current Rule 219(E)(3)(f), (E)(4)(a), (E)(4)(e), (E)(4)(g), (E)(4)(k), (E)(5)(e), (E)(5)(i), (E)(5)(k), (E)(5)(l), (E)(5)(p), (E)(5)(q), (E)(5)(s), (E)(7)(b), (E)(9)(f), (E)(10)(c), (E)(10)(d), (E)(10)(h), (E)(10)(l), (E)(12)(a), (E)(12)(c), (E)(12)(l), (E)(12)(m), (E)(12)(s), (E)(12)(t), (E)(12)(z), (E)(12)(bb), (E)(12)(jj), and (E)(12)(oo).

⁵⁵ Current provisions containing such exemptions are Rule 219(E)(5)(d), (E)(5)(i), (E)(5)(j), (E)(5)(t), (E)(6)(a), (E)(6)(b), (E)(6)(c), (E)(6)(d), (E)(7)(a), (E)(7)(b), (E)(8)(b), (E)(8)(f), (E)(9)(b), (E)(9)(d), (E)(9)(f), (E)(10)(a), (E)(10)(f), (E)(10)(l), (E)(12)(b), (E)(12)(g), (E)(12)(m), (E)(12)(o), (E)(12)(q), (E)(12)(u), (E)(12)(w), (E)(12)(hh), and (E)(12)(nn).

exempt equipment vented to a control device does not also mention exempting control equipment then the control device would require a permit, and if multiple permit exempt devices are vented to control device all exemptions used must specifically mention that appurtenant control devices are exempt for such a control device to be exempt. The standardization of language and the addition of subsection (B)(7) should completely alleviate USEPA’s concerns.

USEPA has further expressed a concern that certain emissions limitations in a few exemptions might potentially be “met” by the use of a control device which might not require a permit.⁵⁶ The District has historically interpreted Rule 219 limitations to all be determined in an uncontrolled state. If someone wished to use a control device to satisfy a VOC based limitation, for example, that control device in and of itself would require a permit and thus defeat any benefit potentially obtained by the Facility attempting to use the exemption. Despite this interpretation of current rule language the District is proposing to add a specific prohibition into subsection (B)(7) regarding the use of air pollution control equipment to “meet” any thresholds contained in Subsection (E).

G. PROVISIONS EQUIVALENT TO THOSE IN THE SIP

Despite the number of amendments made to District Rule 219 quite a few of the provisions in the current rule are equivalent, if not identical, to provisions contained in the 9/4/1981 SIP version of the rule. For example, current subsections (E)(3)(a) , (E)(3)(b) , (E)(3)(g) and (E)(3)(h) have not been modified since 1981 other than to adjust for changes in outline and numbering formats. Table 1 lists all of the provisions which are either unchanged or substantively equivalent to those contained in the SIP version of the rule.⁵⁷

**Table 1
Current Sections Equivalent to SIP Provisions**

Current Rule 219 Subsection	9/4/1981 Version Subsection	Notes
219(E)(3)(a)	219(c)(1)	Identical.
219(E)(3)(b)	219(c)(2)	Identical.
219(E)(3)(g)	219(c)(6)	Identical.
219(E)(3)(h)	219(c)(7)	Identical.
219(E)(3)(i)	219(c)(8)	“Natural-draft” modifier to hoods, stacks & ventilators was removed as of 8/12/1994
219(E)(4)(a)	219(d)(1)	Cross reference that ICEs and/or combustion equipment also be exempt was included as of 8/12/1994. ⁵⁸
219(E)(4)(b)	219(d)(2)	Identical.

⁵⁶ Of specific concern were direct emissions limitations similar to those contained in Rule 219(E)(8)(a), (E)(10)(m)(i), (E)(10)(m)(iii) , (E)(12)(p)(i) , (E)(12)(z)(i) , and (E)(12)(z)(vi) .

⁵⁷ See: Rule 219 – Equipment Not Requiring a Permit (SIP & Amendments Comparison)

⁵⁸ Proposed Rule 291(B)(8) will make this requirement applicable to all subsections of 219(E).

Current Rule 219 Subsection	9/4/1981 Version Subsection	Notes
219(E)(4)(e)	219(d)(4)	Cross reference that ICEs and/or combustion equipment also be exempt was included as of 8/12/1994.
219(E)(4)(f)	219(d)(5)	Cross reference that ICEs and/or combustion equipment also be exempt was included as of 8/12/1994.
219(E)(5)(a)	219(e)(1)	Identical.
219(E)(5)(c)	219(e)(3)	Identical.
219(E)(5)(d)	219(e)(4)	Identical.
219(E)(5)(e)	219(e)(5)	Cross reference that ICEs and/or combustion equipment also be exempt was included as of 8/12/1994.
219(E)(5)(i)	219(e)(7)	Cross reference that ICEs and/or combustion equipment also be exempt was included as of 8/12/1994.
219(E)(5)(m)	219(e)(11)	Identical.
219(E)(5)(n)	219(e)(12)	Identical.
219(E)(5)(o)	219(e)(13)	Cross reference that ICEs and/or combustion equipment also be exempt was included as of 8/12/1994.
219(E)(6)(a)	219(f)(1)	Identical.
219(E)(6)(c)	219(f)(3)	Identical.
219(E)(6)(d)	219(f)(4)	Identical.
219(E)(7)(b)	219(g)(2)	Cross reference that ICEs and/or combustion equipment also be exempt was included as of 8/12/1994.
219(E)(7)(c)	219(g)(3)	Identical.
219(E)(8)(b)	219(h)(2)	Identical.
219(E)(9)(a)	219(i)(1)	Identical.
219(E)(9)(b)	219(i)(2)	Identical.
219(E)(9)(c)	219(i)(3)	Identical.
219(E)(10)(e)	219(j)(3)	Minor syntax changes over time.
219(E)(10)(g)	219(j)(5)	Identical.
219(E)(10)(h)	219(j)(7)	Cross reference that ICEs and/or combustion equipment also be exempt was included as of 8/12/1994.
219(E)(11)(b)	219(k)(2)	Identical.
219(E)(11)(c)	219(k)(3)	Identical.
219(E)(11)(e)	219(k)(7)	Identical.
219(E)(12)(c)	219(l)(2)	Cross reference that ICEs and/or combustion equipment also be exempt was included as of 8/12/1994.
219(E)(12)(f)	219(l)(6)	Identical.
219(E)(12)(k)	219(l)(11)	Cross reference that ICEs and/or combustion equipment also be exempt was included as of 8/12/1994.
219(E)(12)(h)	219(l)(8)	Identical. ⁵⁹
219(E)(12)(i)	219(l)(9)	Identical.
219(E)(12)(n)	219(l)(13)	Identical.

⁵⁹ USEPA has expressed unofficial concerns about verification methods for this provision as expressed in USEPA Email, L. Yannayon, USEPA Region IX to K. Nowak, MDAQMD; *FW: EPA Comments on SC Rule 219*, Attachment R219.docx and EPA Comments on Rule 219.docx, 7/27/2020;

Current Rule 219 Subsection	9/4/1981 Version Subsection	Notes
219(E)(12)(o)	219(l)(14)	Identical.
219(E)(13)(f)	219(n)(5)	Identical
219(E)(13)(g)	219(n)(6)	Identical.
219(E)(13)(i)	219(n)(8)	Identical.
219(E)(13)(k)	219(n)(10)	Identical.
219(E)(13)(l)	219(n)(11)	Identical.
219(E)(14)(a)	219(o)(1)	Identical. Provision to be removed as no sources of this type within the District.
219(E)(14)(b)	219(o)(2)	Identical. Provision to be removed as no sources of this type within the District.
219(E)(14)(c)	219(o)(3)	Cross reference to exempt engines removed as of 8/12/1994. ⁶⁰
219(E)(14)(d)	219(o)(4)	Minor syntax changes. Provision to be removed as no sources of this type within the District.
219(E)(14)(g)	219(o)(6)	Definitions of “Primary Recovery,” “Community Lease Units,” and “Shipping Tanks” are identical. Provision to be removed as no sources of this type within the District.

H. PROVISIONS MORE STRINGENT TO THOSE IN THE SIP

Similar to the provisions listed in Section G above there are a number of exemptions which have become more restrictive⁶¹ in successive iterations. The most obvious example of this type of change is found in current subsection (E)(2)(a) where the horsepower rating in the SIP version is 500 bhp but the rating had dropped to 50 bhp by the 8/12/1994 version. Table 2 lists these provisions and notes the more restrictive limitations.⁶²

Table 2
Current Sections More Restrictive than SIP Provisions

Current Rule 219 Subsection	9/4/1981 Version Subsection	Notes
219(E)(2)(a)	219(b)(1)	Original limit 500 bhp or 5,950,000 Btu. By 8/12/1994 limit was dropped to 50 bhp or 2,975 Btu.
219(E)(2)(b)	219(b)(2)	Original limit was 20,000,000 Btu. By 8/12/1994 limit was dropped to 2,000,000 Btu.
219(E)(3)(e)	219(c)(4)	By 8/12/1994 an additional restriction that appurtenant equipment for residential structures must be used by the owner/occupant had been added.
219(E)(4)(c)	219(d)(3)	By 8/12/1994 additional requirement that no chromium compounds be added to cooling water had been added.

⁶⁰ Proposed subsection (B)(8) will effectively reinstate this provision.

⁶¹ In that they apply to a smaller set of equipment than the SIP version.

⁶² See: Rule 219 – Equipment Not Requiring a Permit (SIP & Amendments Comparison)

Current Rule 219 Subsection	9/4/1981 Version Subsection	Notes
219(E)(4)(g)	219(d)(6)	Original provision specified “dry natural gas.” By 8/12/1994 the phrase was “purchased quality natural gas.” Proposed amendment will limit to “PUC regulated natural gas.”
219(E)(5)(b)	219(e)(2)	Restrictions added regarding alloys containing arsenic, beryllium, cadmium, chromium and/or lead by 8/12/1994. Lead alloys removed from exemption by 8/12/1994 along with adding glass to the list of exempt materials.
219(E)(5)(f)	219(e)(6)	Emissions limit for VOC added by 8/12/1994 along with exclusion of hot oil, hot air or vapor phase solder leveling. Welding equipment was separated out into its own section.
219(E)(5)(h)	219(e)(6)	Original provision exempted all welding equipment except “plasma arc.” Additional exclusions for activities listed in 40 CFR 63.11514 used to cut alloys containing certain toxic compounds and a rating added in 10/18/2016.
219(E)(5)(j)	219(e)(8)	Restriction of exemption to those using only non-VOC containing materials added by 8/12/1994.
219(E)(5)(k)	219(e)(9)	By 8/12/1994 limitations on VOC content and temperature added.
219(E)(6)(b)	219(f)(1)	Original language applied to all abrasive blast cabinets but by 8/12/1994 exemption limited to “glove-box type” cabinets.
219(E)(7)(a)	219(g)(1)	By 8/12/1994 VOC limitation for lubricants used in buffing had been added.
219(E)(9)(e)	219(i)(5)	Chain-driven char broilers excluded from exemption by 8/12/1994.
219(E)(9)(g)	219(i)(8)	Deep fryers used in facilities other than eating establishments excluded by 8/12/1994 and 12/13/1996.
219(E)(10)(c)	219(j)(2)	By 8/12/1994 provision excluding processes where foam, foaming or expanding processes are involved in the vacuum molding had been added.
219(E)(10)(i)	219(j)(7)	By 8/12/1994 “plastic pellets” has been expanded to “plastic materials” but restricted to non-powdered forms of plastics.
219(E)(12)(d)	219(l)(3)	VOC and materials limitations added by 8/12/1994 with additional limitations added 12/13/1996.
219(E)(12)(e)	219(l)(4) & (5)	Original provisions applied to all electrolytic plating/polishing/stripping and chemical milling with 2.7 sq ft surface area. Specific materials and process limitation added by 8/12/1994 and on 1/18/2011.
219(E)(12)(j)	219(l)(10)	VOC content limitation added by 8/12/1994. Capacity and materials content limitations added in 12/13/1996.
219(E)(12)(t)	219(l)(18)	Atmospheric generators limited to inert gas generators as of 8/12/1994.

Current Rule 219 Subsection	9/4/1981 Version Subsection	Notes
219(E)(13)(b)	219(m)(2)	LPG and Hydrogen fluoride storage >1,057 gallons excluded from exemption as of 8/12/1994.
219(E)(13)(c)	219(n)(3)	Specific fuel oil specifications dropped from exemption as of 8/12/1994.
219(E)(13)(j)	219(n)(9)	Limitation regarding type/grade of fats/tallow added to exemption as of 8/12/1994.
219(E)(13)(m)	219(n)(12)	Size of exempt storage tank reduced to 6,077 gallons as of 8/12/1994.

I. CONFORMANCE OF EXEMPTIONS WITH RACT REQUIREMENTS AND FEDERAL CLEAN AIR ACT 110(L) ANALYSIS

USEPA also expressed concerns to MDAQMD that certain exemptions⁶³ from permit requirements allegedly “back off” prior exemptions causing potential emissions increases, and do not have equivalent exemptions in the District’s prohibitory rules, or are not consistent with similar prohibitory rule provisions already approved into the SIP. Table 3 indicates the equivalent provisions in AVAQMD Rule 219, the equipment type or process involved and the applicable prohibitory rules, if any.⁶⁴

Table 3
AV 219 Sections, Equipment & Related Prohibitory Rules

Current Subsection	Equipment/Process Type	Potentially Applicable Prohibitory Rule(s) (if any)
219(E)(2)(a)	IC Engines & Gas Turbines.	Rule 114 – <i>Registration Program for Compression Ignition Engines Used in Small Agricultural Operations.</i> Rule 474 – <i>Fuel Burning Equipment, Oxides of Nitrogen, .</i> Rule 475 – <i>Electric Power Generating Equipment</i> Rule 1110.2 – <i>Emissions from Stationary, Non-road & Portable Internal Combustion Engines.</i> Rule 1134 - <i>Emissions of Oxides of Nitrogen from Stationary Gas Turbines.</i> Rule 1135 - <i>Emissions of Oxides of Nitrogen from Electric Power Generating Systems</i> Rule 2100 - <i>Registration of Portable Equipment</i>
219(E)(2)(b)	General combustion Equipment	Rule 474 – <i>Fuel Burning Equipment, Oxides of Nitrogen.</i> Rule 475 – <i>Electric Power Generating Equipment.</i> Rule 1121 - <i>Control of Nitrogen Oxides from Residential Type, Natural Gas-Fired Water Heaters</i>

⁶³ USEPA alleged, either directly or impliedly, RACT conformity issues with the exemptions contained in MDAQMD Rule 219(E)(2)(a), (E)(5)(n), (E)(5)(o), (E)(7)(a), (E)(7)(b), (E)(9)(f), (E)(9)(g), (E)(9)(h), (E)(13)(p), (E)(13)(q), (E)(13)(r), (E)(13)(u), (E)(13)(x), (E)(14), (E)(15)(d), and (E)(15)(l).

⁶⁴ A number of additional subsections have been included in this table where there are applicable AVAQMD Rules covering the same equipment.

Current Subsection	Equipment/Process Type	Potentially Applicable Prohibitory Rule(s) (if any)
		<p>Rule 1134 - <i>Emissions of Oxides of Nitrogen from Stationary Gas Turbines.</i></p> <p>Rule 1135 - <i>Emissions of Oxides of Nitrogen from Electric Power Generating Systems.</i></p> <p>Rule 1146 - <i>Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters.</i></p> <p>Rule 1146.1 - <i>Emissions of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters.</i></p>
219(E)(5)(r)	Shell-core & shell-mold manufacturing.	<p>Rule 442 – <i>Usage of Solvents.</i></p> <p>Rule 1162 – <i>Polyester Resin Operations.</i></p>
219(E)(7)(a)	Equipment for buffing, polishing, carving etc.	Rule 442 – <i>Usage of Solvents.</i>
219(E)(7)(b)	Wood shredding/handling.	None.
219(E)(8)(a)	Printing/Laminating.	<p>Rule 442 – <i>Usage of Solvents.</i></p> <p>Rule 1130 – <i>Graphic Arts.</i></p> <p>Rule 1130.1 – <i>Screen Printing Operations.</i></p> <p>Rule 1171 – <i>Solvent Cleaning Operations.</i></p>
219(E)(9)(f)	Bakery related.	Rule 1153 – <i>Commercial Bakery Ovens.</i>
219(E)(12)(g) 219(E)(12)(p)	Coating application in control equipment. Coating applications in general.	<p>Rule 442 – <i>Usage of Solvents.</i></p> <p>Rule 481 – <i>Spray Coating Operations.</i></p> <p>Rule 1104 – <i>Wood Flat Stock Coating Operations.</i></p> <p>Rule 1106.1 – <i>Pleasure Craft Coating Operations.</i></p> <p>Rule 1107 – <i>Coating of Metal Parts and Products.</i></p> <p>Rule 1113 – <i>Architectural Coatings.</i></p> <p>Rule 1124 – <i>Aerospace Assembly and Component Manufacturing Operations.</i></p> <p>Rule 1136 – <i>Wood Products Coating.</i></p> <p>Rule 1145 – <i>Plastic, Rubber and Glass Coating.</i></p> <p>Rule 1151 – <i>Motor Vehicle and Mobile Equipment Coating Operations.</i></p> <p>Rule 1151.1 – <i>Motor Vehicle Assembly Coating Operations.</i></p> <p>Rule 1162 – <i>Polyester Resin Operations.</i></p> <p>Rule 1168 – <i>Adhesive Applications.</i></p> <p>Rule 1171 – <i>Solvent Cleaning Operations.</i></p>
219(E)(12)(s) ⁶⁵	Architectural coating application & pavement striping.	Rule 1113 – <i>Architectural Coatings.</i>

⁶⁵ Proposed renumbered to 219(E)(12)(r).

Current Subsection	Equipment/Process Type	Potentially Applicable Prohibitory Rule(s) (if any)
219(E)(12)(t) ⁶⁶	Inert gas generators	Rule 1175 – <i>Control of Emissions from the Manufacture of Polymeric Cellular (Foam) Products.</i>
219(E)(12)(w) ⁶⁷	Paper shredding & bailing	None
219(E)(12)(y) ⁶⁸	Hand application of resins etc.	Rule 442 – <i>Usage of Solvents.</i> Rule 1162 – <i>Polyester Resin Operations.</i> Rule 1171 – <i>Solvent Cleaning Operations.</i>
219(E)(12)(gg) ⁶⁹	Foam packaging.	Rule 1175 – <i>Control of Emissions from the Manufacture of Polymeric Cellular (Foam) Products.</i>
219(E)(12)(ll) ⁷⁰	Closed loop solvent recovery.	Rule 442 – <i>Usage of Solvents.</i> Rule 1122 – <i>Solvent Degreasers.</i> Rule 1173 - <i>Fugitive Emissions of Volatile Organic Compounds.</i>
219(E)(12)(nn) ⁷¹	Drycleaner separator wastewater	Rule 1102 – <i>Petroleum Solvent Dry Cleaners.</i> Rule 1173 - <i>Fugitive Emissions of Volatile Organic Compounds.</i> Rule 1421 – <i>Control of Perchloroethylene from Dry Cleaning Systems.</i>
219(E)(12)(oo) ⁷²	Cleaning equipment	Rule 1102 – <i>Petroleum Solvent Dry Cleaners.</i> Rule 1122 – <i>Solvent Degreasers.</i> Rule 1171 – <i>Solvent Cleaning Operations.</i>
219(E)(13)(d)	Unheated storage of organic liquids.	Rule 463 – <i>Storage of Organic Liquids.</i> Rule 1173 - <i>Fugitive Emissions of Volatile Organic Compounds.</i>
219(E)(13)(e)	Transfer of organic liquids/gasses	Rule 461 – <i>Gasoline Transfer and Dispensing.</i> Rule 462 – <i>Organic Liquid Loading.</i> Rule 463 – <i>Storage of Organic Liquids.</i> Rule 1173 - <i>Fugitive Emissions of Volatile Organic Compounds.</i>

USEPA opines that the underlying basis for requiring a close match between prohibitory rule provisions and permit exemptions is as follows:

- 40 CFR 51.165 requires a permitting program to be able to enforce the SIP attainment planning requirements and have the ability to stop construction of a Facility (emissions unit(s)) if/when such would cause problems with the SIP attainment progress.

⁶⁶ Proposed renumbered to 219(E)(12)(s).

⁶⁷ Proposed renumbered to 219(E)(12)(v).

⁶⁸ Proposed renumbered to 219(E)(12)(x).

⁶⁹ Proposed renumbered to 219(E)(12)(ff).

⁷⁰ Proposed renumbered to 219(E)(12)(jj).

⁷¹ Proposed renumbered to 219(E)(12)(ll).

⁷² Proposed renumbered to 219(E)(12)(mm).

- Prohibitory Rules providing for RACT (RACT Rules) are required by the Federal Clean Air Act and approved as part of the SIP, thus reductions achieved therefrom are considered essential to the achievement of attainment.
- Exemptions from RACT Rule provisions have been justified during the SIP approval process to represent emissions levels which do not interfere with the planning requirements necessary for attainment of the NAAQS.
- Exemptions from permitting requirements, such as found in Rule 219, could potentially cause issues with achievement of attainment by allowing construction of permit exempt equipment which would not acquire enforceable provisions from the RACT Rules and invalidating emissions reductions to be achieved from enforcement of such rules.

USEPA is asserting that 219 permit exemptions should either closely mirror similar exemptions contained in RACT rules or otherwise show that the potential emissions from the construction of specific equipment not requiring a permit would not cause problems with the attainment/maintenance of the NAAQS. USEPA notes that this justification can be provided by a showing similar to that provided in a 110(l)⁷³ analysis or potentially by imposing more stringent requirements on permitted new construction via Regulation XIII. USEPA has also noted that a similar justification is allegedly necessary when an exemption is expanded to include additional equipment.

While the District understands this rationale, the interrelationship between specific exemptions contained in Rule 219(E) and the provisions of various prohibitory rules is neither as straightforward nor as simple as implied by USEPA. This is especially true when the prohibitory rules in question happen to be based on formulations of materials used by certain equipment rather than direct regulation of the equipment itself. In such cases, the emissions reductions achieved by the prohibitory rules rely on the sale and use prohibitions for certain formulations of materials rather than on specific permit requirements. Thus, in most cases the use of noncompliant materials under such rules would either require extensive recordkeeping under proposed 219(F) or use of a control device the latter of which would clearly require a permit under proposed 219(B)(7).

The District also notes that USEPA's concern regarding emissions from permit exempt equipment somehow impacting the attainment/maintenance of the NAAQS is to a large extent specious. The emissions inventory, upon which all attainment/maintenance planning is based, includes estimated emissions for unpermitted sources. In the inventory development process CARB provides an estimate of emissions in a particular SIC/SEC source category based upon the industrial activity and population of a particular area. This estimate is then reconciled with specific emissions information as obtained by the District from its permitted facilities. The differential between the reported emissions and the estimates clearly represent emissions from unpermitted emissions units. Thus, the entire SIP, including the RACT rules, already includes the emissions from unpermitted

⁷³ Federal Clean Air Act §110(l), 42 U.S.C. 7410(l).

and non-RACT controlled emissions units⁷⁴ and are already factored into attainment/maintenance planning process.

USEPA's final concern regarding the District's alleged inability to enforce RACT provisions also reflects a clear misunderstanding of the enforceability of District Rules and the District's enforcement program as a whole. The District's rules are enforceable regardless of whether or not a particular facility or emissions unit happens to have a permit. Each RACT rule contains specific language regarding enforceability which is not dependent upon permit status. Similarly, proposed Rule 219(B)(9)⁷⁵ by placing the burden of proof on the owner/operator to justify the applicability of any exemption, means that the failure to do so is a violation of the rule.⁷⁶ As mentioned previously, the District has a variety of tools and practices at its disposal to locate unpermitted and potentially permit exempt equipment.⁷⁷ Any equipment located by the District's enforcement division is required to justify via records that it meets not only the RACT rule requirements, if any are applicable, but also that the equipment is properly permit exempt. If such records are not provided or prove to be inadequate a Notice of Violation will be issued alleging violations of the applicable RACT rule, the requirement to have a permit per Rule 201 or 203, the provisions of NSR/PSD, the provisions of the Title V program or any combination thereof. In many cases, in addition to a fine, the settlement of such violation will also include the requirement to obtain and maintain a permit for the underlying emissions unit.⁷⁸

Despite the above, the District has historically provided a justification regarding the amount of emissions change, if any, expected from the addition of specific permit exempt equipment when each provision was added into Rule 219. These justifications were contained in the relevant staff report and provided either analysis or reference to another air district's analysis of the effect of the particular exemption. The District is therefore providing below an additional explanation and analysis for each of the provisions identified (express or implied) where USEPA has indicated there may be an issue.

1. 219(E)(2)(a) – Internal Combustion Engines and Gas Turbines

In several places USEPA has implied that this exemption might be considered a “back off” if other permit exemption provisions were interpreted by the regulated community as including ICEs providing power to permit exempt equipment. This has never been the District's interpretation of Rule 219. However, the proposed addition of subsection (B)(7) should clarify this point beyond all possible doubt.

⁷⁴ Generally, most RACT controlled emissions units either require a permit or require the use of RACT controlled materials regardless of whether a permit is required or not.

⁷⁵ Currently this provision is found in Rule 219(B)(6)

⁷⁶ And now as specifically stated in proposed Rule 219(F)(4).

⁷⁷ See the discussion of district enforcement practices in section VI. D. above.

⁷⁸ The Air Pollution Control Officer often uses the issuance of such NOV's as additional justification to require a permit for particular emissions units pursuant to the current provisions of Rule 219(B)(4).

On a historical note, this particular provision has contracted substantially since its original SIP approved formulation. The 9/4/1981 SIP version⁷⁹ applied to 500 brake horsepower or less and gas turbine engines with heat input values of 1,500,000 Kilogram calories (5,950,000 Btu) per hour or less. The permit exemption level dropped to 50 brake horsepower and 2,975,000 Btu per hour or less by the 8/12/1994 version where it remains today.⁸⁰

This drastic decrease from the SIP version is in conformance with the prohibitory provisions in District Rules 1110.2 – *Emissions from Stationary, Non-Road and Portable Internal Combustion Engines* along with 114 - *Registration Program for Compression Ignition Engines Used in Small Agricultural Operations*. Specifically, Rules 1110.2(A)(2) and 114(A)(2)(a) both contain the 50 brake horsepower applicability level that is consistent with the permit exemption. In addition, such engines may also be subject to NOx limitations pursuant to Rule 474 - *Fuel Burning Equipment - Oxides of Nitrogen*. Rule 474(e)(1) provides that the applicability of the limits in the rule are calculated across multiple permit units operated simultaneously. The District is thus, proposing to echo this aggregation provision in proposed 219(E)(2)(a). While certain types of engines are exempted from some of the prohibitory requirements of Rule 1110.2⁸¹ they still may require monitoring and recordkeeping **AND** require a permit if they do not qualify for permit exemption under 219(E)(2)(a). Please also note that the exemption for engines using the Statewide Portable Equipment Registration Program⁸² are also permit exempt pursuant to 219(E)(2)(f)⁸³ but are still subject to the monitoring and recordkeeping requirements in Rule 2100 - *Registration of Portable Equipment*.⁸⁴

The gas turbine engines exemption has a similar history. Originally the exemption limit was 5,950,000 Btu in the SIP⁸⁵ which was decreased to 2,975,000 Btu by the 8/12/1994 version of 219.⁸⁶ Gas turbines are also potentially subject to Rules 1134 - *Stationary Gas Turbines*, and 1135 - *Emissions of Oxides of Nitrogen from Electric Power Generating Systems* along with the “backstop” Rules 474 - *Fuel Burning Equipment - Oxides of Nitrogen*, and 475 - *Electric Power Generating Equipment*. Rule 1135 by its terms requires a permit for **ANY** electric production facility.⁸⁷ Similarly, Rule 1134 covers gas turbine engines producing 0.3 megawatts or larger.⁸⁸ While the 219(E)(2)(a) provisions are expressed in terms of heat input any gas turbine engine producing 0.3 megawatts

⁷⁹ Rule 219(b)(1), 9/4/1981

⁸⁰ Current Rule 219(E)(2)(a)

⁸¹ Rule 1110.2(H)

⁸² Health & Safety Code §§41750 et seq..

⁸³ Please note that ongoing compliance problems with an engine under the portable equipment program can result in the APCO requiring a District permit pursuant to 219(B)(4) for the specific engine.

⁸⁴ See Also proposed 219(B)(5) regarding applicability of other District Rules to permit exempt equipment.

⁸⁵ Rule 219(b)(1), 9/4/1981.

⁸⁶ Rule 219(b)(1), 8/12/1994

⁸⁷ Rule 1135(a), and (b)(10) .

⁸⁸ Rule 1134(A)(2)(a).

or greater would also end up having a heat input rate of greater than 3,000,000 Btu per hour⁸⁹ and thus require a permit.

It is clear from the analysis above that not only are the proposed 219(E)(2)(a) provision more stringent than the current SIP provisions but also are not contradictory to the other applicable District rules.

2. 219(E)(2)(b) – General Combustion Source

These sources are another place where USEPA alleges that other permit exemption provisions could be interpreted by the regulated community as also including this type of equipment. Once again, this has never been the District's interpretation of Rule 219. However, the proposed addition of subsection (B)(8) should clarify this point beyond all possible doubt.

Equipment which potentially could use this permit exemption is combustion equipment which does not qualify as an internal combustion engine or a gas turbine engine as referenced in subsection (E)(2)(a). This type of equipment, depending upon the specific piece of equipment, could be subject to the provisions of Rules 474 – *Fuel Burning Equipment, Oxides of Nitrogen*, 475 – *Electric Power Generating Equipment*, 1121 - *Control of Nitrogen Oxides From Residential Type, Natural Gas-Fired Water Heaters*, 1134 - *Emissions of Oxides of Nitrogen from Stationary Gas Turbines*, 1135 - *Emissions of Oxides of Nitrogen from Electric Power Generating Systems*, 1146 - *Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters*, or 1146.1 - *Emissions of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters*. It must be noted that the subsection (E)(2)(b) 2,000,000 Btu per hour limitation to qualify for this exemption is lower than the applicability provisions of any the above listed prohibitory rules.⁹⁰ Thus, any equipment regulated by any of the applicable prohibitory would clearly require a permit.

3. 219(E)(5)(r) – Shell-core and Shell-mold Manufacturing Machines.

This permit exemption was contained in the 8/12/1994 version of Rule 219 but is not in the SIP version. Presumably it was added in either 1988 or 1992 to conform Rule 219 to similar provisions in other districts. It is identical to provisions that are SIP approved for Bay Area AQMD, Great Basin AQMD and

⁸⁹ A rough estimate of gas turbine heat input to work efficiency is 33% thus 0.3 megawatts/hour would be equivalent to approximately 3,070,926 Btu per hour. This is easily verifiable by nameplate rating and manufacturer's specifications.

⁹⁰ The applicability limits are as follows: Rule 474(a) >5,550,000 Btu; Rule 475(a), 10 net MW; Rule 1121(a), <75,000 Btu but prohibitions are on sale/installation and certification rather by manufacturer as opposed to permit; Rule 1134(A)(2)(a), 0.3 MW or larger; Rule 1135(a) and (b)(10), any electrical generation under contract to sell power; Rule 1146(b), >5,000,000 Btu except electrical generators, petroleum refinery > 40,000,000 Btu or Sulfur plant reduction boilers; Rule 1146.1(b) > 2,000,000 Btu but < 5,000,000 Btu.

Ventura County APCD.⁹¹ Under the Districts version of 219 currently in the SIP shell-core and shell-mold manufacturing machines, if any such machines existed at the time within the District’s jurisdiction, would have required a permit.

Shell molding processes uses resin infused sand to form a mold which is then used in casting parts and products made of metal. This type of operation has the potential for VOC emissions from the resin used with the sand to create the mold. However, it must be noted that the amount of resin used is minimal and the operation occurs in an enclosed “dump box.”⁹² While the equipment is permit exempt pursuant to this subsection the resin itself is still subject to the provisions of Rule 1162 – *Polyester Resin Operations*. Proposed 219(B)(6) is designed to clearly state that when other District rules, in this case those of Rule 1162, apply to the underlying materials those provisions continue to apply regardless of whether the equipment using such materials happens to be exempt from permitting requirements. Specifically, Rule 1162 provides VOC limitations regarding the monomer content of particular resins along with either a closed mold system or a VOC control system with 90% efficiency.⁹³ In addition, the provisions of Rule 442 – *Usage of Solvents* would also apply to materials used by such operations.

In short, any emissions from shell-core and shell-mold manufacturing machines have therefore been accounted for under the formulation and process limitations in Rule 1162 along with the limits contained in Rule 442. Enforcement of these provisions, especially when specific machinery does not require a permit, would be assessed by determining materials content and analyzing recordkeeping. If control equipment is used to comply with Rule 1162 provisions then such equipment would require a permit as it is not specified as included in the permit exemption under subsection (E)(5)(r). As a practical matter any Facility containing shell-core and/or shell-mold manufacturing machines would be required to provide records indicating the materials used by such machines fully comply with the VOC provisions contained in Rules 1162 and 442.

While technically there might have been a potential for the addition of subsection (E)(5)(r) to cause a de minimis amount of potentially unregulated emissions⁹⁴ the existence of Rule 1162 regulating the VOC content of polyester resins ensures that any remaining emissions from such equipment have been accounted for in the attainment planning process.

⁹¹ BAAQMD Rule 2-1-122, 5/17/2000 as approved 83 FR 23372, 5/21/2018; Great Basin Unified APCD Rule 201, 1/23/2006 as approved 73 FR 74029, 12/5/2008; and Ventura County APCD Rule 23, 11/12/2013 as approved 80 FR 40909, 7/14/2015

⁹² https://thelibraryofmanufacturing.com/shell_mold_casting.html.

⁹³ Rule 1162(c)(1)(A) and (d).

⁹⁴ The differential in emissions between the applicable materials limits in Rule 442 and the actual emissions from the equipment, if any existed in the District at the time.

4. 219(E)(7)(a) – Machining Equipment (Buffers, Polishers etc.)

USEPA was concerned that this category in the MDAQMD Rule 219 had expanded from the current MD SIP language.⁹⁵ The SIP provision for AVAQMD contained similar change in language had been added prior to the 1994 version⁹⁶ so it is assumed that this concern also applies in AVAQMD. Comparing the SIP version and the 1994 makes it blatantly obvious that this category has become substantially more limited over time. The original language excluded all listed equipment regardless of whether lubricants, coolants and/or cutting oils were used in such operations or not. The addition of language restricting the VOC content of lubricating materials is clearly more stringent and any equipment using non-compliant lubricants, coolants and/or cutting oils would be required to obtain a permit. Asphalt pavement grinders, because of their potential emissions, have been excluded from this exemption also narrowing the coverage.

USEPA is also concerned about recordkeeping requirements for this source category. Basic record keeping is required by proposed (B)(9). The VOC content of lubricating materials would be covered under the recordkeeping requirements of District Rule 109 and generally would be show by the provision of MSDS sheets. Both Rule 109 and MSDS sheets are referenced as potential adequate recordkeeping in proposed (F)(1)(a).

5. 219(E)(7)(b) – Machining Equipment (Woodworking etc.)

Once again USEPA was concerned in regards to MDAQMD Rule 219 that this category had been expanded.⁹⁷ This is not a problem for the AVAQMD Rule as the exemption provision itself has not substantively changed from the SIP approved version.⁹⁸ Specific language excluding appurtenant internal combustion engines had been added by 1994⁹⁹ however, due to the proposed addition of subsection (B)(8) which requires that any appurtenant internal combustion engines or combustion equipment must also be exempt in and of themselves, that language is no longer necessary and is proposed for removal. Please note the exclusion of appurtenant control equipment contained in this category is SIP approved. The proposed amendments to subsection (B)(7) clarify that such control equipment would be required to have a permit if it vented other equipment unless such equipment also had a similar exclusion in the applicable subsection of (E).

USEPA has also expressed concern regarding recordkeeping to verify the use of this exemption. Once again, the basic record keeping required by proposed (B)(9)

⁹⁵ MDAQMD 219(g)(1), 2/1/1977.

⁹⁶ AVAQMD Rule 219(g)(1), 8/12/1994

⁹⁷ MDAQMD 219(g)(2), 2/1/1977.

⁹⁸ AVAQMD Rule 219(g)(2), 9/4/1981.

⁹⁹ AVAQMD Rule 219(g)(2), 8/12/1994

coupled with the list of items in Section (F) should be sufficient to enforce this provision.

6. 219(E)(8)(a) – Printing and Laminating Equipment

USEPA has expressed a variety of concerns regarding similar provisions found in MDAQMD Rule 219.¹⁰⁰ Specifically, USEPA was concerned that the similar exemption would allow emissions to “escape” regulation and interfere with NAAQS attainment. USEPA also was concerned about the enforceability of similar exemptions in that an emissions limitation was specified in addition to or instead of a strictly amount used based limit.

This particular exemption was in the rule as of 1994 and only has had minor language adjustments since.¹⁰¹ Printing and laminating operations potentially subject to this exemption would also, depending upon the specifics of the operation in question, potentially be subject to Rules 442 – *Usage of Solvents*; Rule 1130 – *Graphic Arts*; Rule 1130.1 – *Screen Printing Operations*; and Rule 1171 – *Solvent Cleaning Operations*. While this might be a problem if these rules were primarily equipment based; all of these rules are clearly aimed at the formulation and use of the materials involved as opposed to the specific method or equipment used to apply them.¹⁰² Couple this with the provisions of proposed subsection (B)(6) which make it abundantly clear that any applicable RACT requirements and/or exemptions from such requirements contained in these rules still apply regardless of whether or not a particular piece of equipment happened to require a permit. In addition, the expected emissions from exemptions contained in the underlying rules have been fully justified in respect to their effect on NAAQS attainment in the rule adoption/amendment actions for each rule. Thus, the impact of this exemption for purposes of attainment planning has already been considered.

USEPA’s enforceability concern is alleviated by a number of provisions. Specifically, both Rule 1130 and 1130.1 have prohibitions on sale and specification of noncompliant materials.¹⁰³ Most of the underlying rules have robust recordkeeping and reporting provisions¹⁰⁴ and all of them reference Rule 109 for even more specific recordkeeping requirements.¹⁰⁵ It must be noted, however, that even though the underlying rules allow for compliance via use of a control device¹⁰⁶ the provisions of proposed subsection (B)(7) make it clear that such a control device would in and of itself require a permit.

¹⁰⁰ USEPA Comments to MDAQMD on Rule 219 of 3/28/2019.

¹⁰¹ AVAQMD Rule 219(h)(1), 8/12/1994 and Rule 219(h)(1), 12/13/1996

¹⁰² Rule 442 is a backstop material VOC content and use limit. Rules 1130(C), 1130.1(c) and 1171(C) all contain content limits for materials used in their respective operation types.

¹⁰³ AVAQMD Rule 1130(D) and Rule 1130.1(c)(6).

¹⁰⁴ AVAQMD Rule 442(E); Rule 1130(E); and Rule 1171(D).

¹⁰⁵ AVAQMD Rule 442(E)(1); Rule 1130(E) ; Rule 1130.1(c)(5) ; and Rule 1171(D)(1) .

¹⁰⁶ AVAQMD Rule 442(C)(2); Rule 1130(C)(4); Rule 1130.1(d); and Rule 1171(C)(5) .

7. 219(E)(9)(f) – Bakery Processing Equipment

Given USEPA’s concerns regarding comparable exemptions it is highly likely that this particular permit exemption might raise similar issues. The original SIP provision exempted all conveyance and processing equipment in bakeries where such products were edible and intended for human consumption. By 1994 this provision had been clarified to indicate that “bakeries” was intended to include operations producing pasta and expanded to include the production of food and/or drink mixes but not storage bins for any products so produced. Bakeries producing yeast leavened products would be subject to Rule 1153 – *Commercial Bakery Ovens* while the production of pasta, food mixes and drink mixes would not be subject to any specific rule other than the generic “backstop” provisions found in Rule 401 – *Visible Emissions* (4/7/1989), Rule 402 – *Nuisance*, and Rule 403 – *Fugitive Dust*. Once again it must be noted that the impact of the emissions produced by Facilities subject to this exemption have already been accounted for in the District’s emissions inventory development process. Specifically, CARB has provided an estimate of such facilities on a per population basis. The District would provide the reported emissions from any Bakeries or other Facilities in the appropriate SIC/SEC code. The remainder of the estimate would therefore be assigned to unpermitted Facilities in that SIC/SEC code.

8. 219(E)(12)(g) – Spray Coating Equipment Inside Control Equipment.

While the language of this particular provision is unchanged from the SIP version¹⁰⁷, USEPA has expressed concerns that there might be an opportunity for misunderstanding amongst the regulated community regarding the permit status of control equipment and its effect on the permit status of the coating equipment.¹⁰⁸

Historically coating operations of all types have been permitted by the District in a variety of ways. If coating equipment is used within a permitted control device (aka. a paint booth) then the District permits the control device. Any applicable requirements from the coatings rules and certain other rules where product application could potentially be performed with spray coating equipment¹⁰⁹ are referenced on that permit. USEPA was concerned that the current, SIP approved, language might present an opportunity for misunderstanding on the part of the regulated community resulting in inadvertently unpermitted spray coating equipment. This is despite the fact that the District has been permitting spray coating equipment and paint booths in this manner since its inception.¹¹⁰ It is also quite likely such permitting practices were similar, if not identical, under the

¹⁰⁷ AVAQMD Rule 219(I)(14), 9/4/1981.

¹⁰⁸ USEPA Comments to MDAQMD on Rule 219 of 3/28/2019..

¹⁰⁹ Rule 442; Rule 481; Rule 1104; Rule 1106.1; Rule 1107; Rule 1113; Rule 1124; Rule 1130; Rule 1130.1; Rule 1136; Rule 1145; Rule 1151; Rule 1151.1; Rule 1162; Rule 1168; Rule 1171.

¹¹⁰ The AVAPCD was created by statute effective 7/1/1997 via Former H&S Code §40106, Stats. 1996, Ch. 542

predecessor agencies covering the AVAQMD's jurisdiction.¹¹¹ The District is proposing to add the word "permitted" before the term Control Equipment to alleviate USEPA's concern.

9. 219(E)(12)(p) – Coating, Adhesive or Laminating Application Equipment

As indicated above the District has historically only permitted coatings application equipment on an applicator basis when such applications equipment is used outside a permitted control device (aka a paint booth). The equivalent SIP provisions provided a permit exemption only for water reducible coatings¹¹² and less than 1 gallon/day use of solvent based coatings.¹¹³ The current formatting and exemptions were added sometime prior to 8/12/1994¹¹⁴ and modified slightly on 12/13/1996,¹¹⁵ 1/18/2011,¹¹⁶ and 10/18/2016.¹¹⁷ Presumably it was included to provide flexibility and encourage the use of high viscosity coatings. It also had the effect of creating clear guidelines for when an applicator used outside a spray booth required a permit regardless of the underlying composition (solvent based, waterborne, UV/EB, etc) of the materials used.¹¹⁸

USEPA is concerned that not only could this provision be considered an expansion of the SIP approved provisions but also that it might cause enforceability issues because certain emissions might somehow escape regulation causing problems with NAAQS attainment.¹¹⁹ While this might be a problem if the underlying coatings and other rules¹²⁰ were primarily equipment based. However, these prohibitory rules are more concerned with the formulation of the materials involved as opposed to the method and equipment used in application. The provisions of proposed subsection (B)(6) makes it abundantly clear that any applicable RACT requirements and/or the exemptions from such requirements would still apply regardless of whether or not a particular piece of equipment happens to obtain a permit. Proposed subsection (B)(9) reinforces this by placing the burden of proof squarely upon the Facility performing the operations in

¹¹¹ The predecessor agencies covering the Antelope Valley area of Los Angeles County are: SCAQMD (from approximately 1/1/1978 to 7/1/1997); the Los Angeles County Air Pollution Control District (from 2/22/1977 to approximately 1/1/1978); the Southern California Air Pollution Control District (from 7/16/1975 to 2/22/1977); and the Los Angeles County Air Pollution Control District (from circa 1954 to 7/16/1975).

¹¹² AVAQMD Rule 219(l)(15), 9/4/1981

¹¹³ AVAQMD Rule 219(l)(16), 9/4/1981

¹¹⁴ AVAQMD Rule 219(l)(15), 8/12/1994

¹¹⁵ AVAQMD Rule 219(l)(16), 12/13/1996

¹¹⁶ AVAQMD Rule 219(E)(12)(p), 1/18/2011

¹¹⁷ AVAQMD Rule 219(E)(12)(p)

¹¹⁸ Unfortunately, the District was unable to obtain copies of the 8/12/1994 and prior SCAQMD Staff Reports. Therefore, the original intent of this provision is somewhat speculative. However, similar provisions in MDAQMD's Rule 219 which were based on the SCAQMD provisions indicated that this was the original intent (MDAQMD *Final Staff Report for Amendment of Rule 219 – Equipment not Requiring a Permit*, 5/23/2016, pg 10-11).

¹¹⁹ USEPA Comments to MDAQMD on Rule 219 of 3/28/2019.

¹²⁰ See footnote 98 for a list of applicable rules.

question along with proposed section (F) specifying recordkeeping requirements to substantiate the use of the exemption.

In the case of coating or adhesive application equipment enforcement of the emissions reductions necessary for the attainment and maintenance of the NAAQS rely on the sale, specification, and use prohibitions of the applicable rule¹²¹ as well as the VOC limitations on formulations of materials rather than on specific permit requirements. Exemptions contained in these rules were fully justified in relation to attainment provisions in each particular rule adoption and are primarily use of materials based as opposed to equipment dependent. Thus, regardless of whether a particular piece of application equipment had a permit or not it would be required to use compliant materials and use of not compliant materials would be a violation of the underlying applicable rule for the operation involved. The only exception to this would be when the rules offer an option for the use of a control device. Once again it is clear from both District permitting practice and the proposed additional provisions of subsection (B)(7) that such device would require a permit. Therefore, the provisions regulating the VOC content of materials used by this equipment, permit exempt or not, along with the attendant specification and sale prohibitions ensures that any emissions from such equipment have been accounted for in the attainment planning process.

USEPA has expressed, in other contexts, a concern about specific recordkeeping for this particular exemption.¹²² Please note that proposed subsection (F)(1)(a) contains a list of potentially adequate types of records. In this particular case it is obvious that showing compliance with this permit exemption could be provided through the provision of use logs and MSDS sheets as listed in the provisions of (F)(1)(a). In addition, where logs are suspect, compliance could be verified by the addition of purchase records and a point in time paint locker inventory.¹²³

10. 219(E)(12)(r)¹²⁴ – Portable coating and pavement Striping Equipment

USEPA has, in relation to similar rule language in other districts, indicated concern that this particular exemption is not adequately defined.¹²⁵ The cross reference to Rule 1113 contained in the existing language should be sufficient for this purpose. Please note, however, due to the proposed definitional precedence provisions in section (C) any applicable definitions in Rule 102 which have not been otherwise defined in Rule 1113 would also apply.

¹²¹ AVAQMD Rule 1106.1(c)(1)(A); Rule 1107(D); Rule 1113(C)(1)(a); Rule 1130(D); Rule 1130.1(c)(6); Rule 1145(c)(1); and Rule 1151(C)(8)

¹²² USEPA Comments to MDAQMD on Rule 219 of 3/28/2019.

¹²³ Please note the District has upon occasion required the submission of purchase records and performed paint locker inventories to verify compliance not only with this rule but also with applicable requirements of the prohibitory rules found in Regulation IV - *Prohibitions* and XI – *Source Specific Standards*.

¹²⁴ Currently Rule 219(E)(12)(s).

¹²⁵ USEPA Comments to MDAQMD on Rule 219 of 3/28/2019.

11. 219(E)(12)(s)¹²⁶ – Inert Gas Generators

This particular provision was originally included in the SIP version as an exemption of all atmospheric generators¹²⁷ but by 1994 it had been reformulated as exempting only inert gas generators.¹²⁸ Primarily inert gas generators are used on container ships and presumably in other applications to create inert gases which are used for fire and explosion suppression.¹²⁹ While USEPA did not express concerns regarding this exemption it appear that such generators may be used in operations covered by Rule 1175 regarding the manufacturing of polymeric foam products and thus would allegedly require a justification to ensure that this exemption would not contradict RACT requirements or interfere with attainment of the NAAQS.¹³⁰ Once again it must be noted that this concern is the result of USEPA’s misunderstanding regarding the interrelationship between Rule 219, the underlying RACT rules and the inventory development process as discussed in Section VI. I. above. Notwithstanding the above, Rule 1175 is primarily a VOC reduction rule focused upon reductions achieved from materials used. It is based on a facility wide reduction from a baseline and in certain cases a VOC content of materials limitation. Thus, whether or not a piece of equipment in such an operation did or did not obtain a permit would have no bearing or impact upon the enforceability or emissions reductions obtained under Rule 1175 pursuant to the provisions of proposed subsection (B)(6) along with the provisions of the underlying rule itself.

12. 219(E)(12)(v)¹³¹ – Paper Bailing and Shredding

While USEPA did not appear to be concerned with similar provisions in SCAQMD Rule 219(p)(10) the provisions of MDAQMD Rule 219(E)(13)(x) as of 2019 were identified as a problem due to the inclusion of appurtenant control equipment in that exemption. Emissions from this type of equipment are primarily PM and the District has not received complaints or other information indicating that this source category is an emissions problem. It is highly possible that District may have several paper baling units that are operating under the exemption in 219, at such locations as grocery stores, hospitals, recycling centers, waste collection facilities, or other types of facilities that handle large amounts of paper and cardboard.

The District has determined that neither paper bailing nor shredding operations create any significant amounts of regulated air pollutants as emissions from such operations tend to produce “chunks” or “pieces” of paper rather than particulate matter. Since this is the case, these operations do not generally use control equipment. The District is proposing to eliminate the control equipment provision

¹²⁶ Currently Rule 219(E)(12)(t).

¹²⁷ AVAQMD Rule 219(l)(18), 9/4/1981

¹²⁸ AVAQMD Rule 219(l)(18), 8/12/1994

¹²⁹ Website: <https://www.marineinsight.com/marine-safety/protection-against-explosion-the-i-g-system/>

¹³⁰ USEPA Comments to MDAQMD on Rule 219 of 3/28/2019.

¹³¹ Currently Rule 219(E)(12)(w).

from this exemption to cover the highly unlikely situation where one of these operations might potentially produce particulate matter and require a permitted control device pursuant to proposed subsection (B)(7). Please also note that the proposed provisions of subsection (B)(8) would apply to any ICE used to power such equipment.

13. 219(E)(12)(x)¹³² – Hand Application

This provision in the SIP was relatively straight forward in that it applied to hand layup, brush, and/or roll up resin operations.¹³³ By 2011 it had been extended to apply not only resins but also to adhesives, dyes, coating and solvents using the normal paraphernalia to apply such substances by hand.¹³⁴ Potential issues regarding this exemption are highly similar to those involved with coatings as discussed in Section VI. I. 9. above. Once again, the underlying applicable rules being primarily materials limits based along with the provisions of proposed subsection (B)(6) ensures that both RACT limits and NAAQS compliance remain assured despite the fact that items such as paint brushes, rollers, trowels, rags, swabs and squeeze bottles are not required to obtain permits.

14. 219(E)(12)(ff)¹³⁵ – Foam Packaging Operations

While the current subsection wording is the same as is contained in the SIP version as there is an underlying RACT rule potentially applicable it is included here as it would allegedly require a justification to ensure that the exemption would not contradict RACT requirements or interfere with attainment of the NAAQS.¹³⁶ Rule 1175 regarding the manufacturing of polymeric foam products is potentially applicable to this exemption but since this rule is primarily a VOC reduction rule based on a facility wide reduction from a baseline and in certain cases a VOC content of materials limitation whether or not a piece of equipment in such an operation did or did not obtain a permit would have no bearing or impact upon the enforceability or emissions reductions obtained under Rule 1175 pursuant to the provisions of proposed subsection (B)(6) along with the provisions of the underlying rule itself.

15. 219(E)(12)(jj)¹³⁷ – Closed Loop Solvent Recovery Operations

This particular exemption was added by amendment on 1/18/2011 to reduce emissions due to the transport of solvent waste.¹³⁸ Solvent waste transported off

¹³² Currently Rule 219(E)(12)(y).

¹³³ Rule 219(l)(23), 8/12/1994

¹³⁴ Rule 219(E)(12)(y), 1/18/2011.

¹³⁵ Currently Rule 219(E)(12)(gg).

¹³⁶ USEPA Comments to MDAQMD on Rule 219 of 3/28/2019.

¹³⁷ Currently Rule 219(E)(12)(ll).

¹³⁸ AVAQMD, *Final Staff Report for Amendment of Rule 219 – Equipment not Requiring a Permit*, 2/24/2011, pg. 12; SCAQMD *Staff Report for Proposed Amended Rule 219 – Equipment Not Requiring a Written Permit Pursuant to Regulation II, July 2003*, 7/11/2003, pg 2-3; and MDAQMD, *Final Staff Report for Amendment of Rule 219 – Equipment not Requiring a Permit*, 1/28/2019, pg. 11.

site with its attendant emissions risks may be reduced by up to 95 percent because the solvent is reclaimed on-site and then effectively reused. The exemption applies to closed loop solvent recovery systems with refrigerated or water-cooled condensers used for recovery of waste-solvent generated on-site, where the solvent reservoir capacity is less than 10 gallons. As these systems themselves are closed this means that the only source of emissions would be from the transfer of solvent laden materials into the recovery unit if such transfer was somehow either a manual process or otherwise exposed to the atmosphere. In 2003, SCAQMD added a similar exemption, and in their analysis estimated that the estimated emissions are well under one (1) pound per day per piece of equipment.¹³⁹ There appear to be no units within the AVAQMD currently using this exemption.

USEPA is primarily concerned about how this particular exemption interacts with Rule 1122 however, Rule 442 and Rule 1173 could potentially apply to this type of equipment. Generally, solvent recovery units would not be covered under Rule 1122. Rule 1122 specifically applies to any Facility engaged in Wipe Cleaning, Cold Solvent Cleaning and/or Vapor Cleaning (Degreasing) operations for metal/non-metal parts/products, which utilize volatile Organic Solvents.¹⁴⁰ Solvent recovery units could, potentially, be part of a cleaning/degreasing operation and if so the interface between the cleaning/degreasing units and the recovery unit (if such a unit was a separate non-integrated system) would normally be covered on the cleaning/degreasing unit permit if the separate recovery unit happened to be exempt. An integrated recovery system would clearly be permitted as part of the cleaning/degreasing unit and a non-exempt solvent recovery unit would have its own permit.¹⁴¹ In addition, this provision does not conflict with the provisions of Rule 1122(c)(2)(F) and (g)(6) as this particular equipment is clearly a recovery/storage system **not** a disposal system. The ultimate disposal of any material would still need to comply with that provision of Rule 1122. However, as these are recovery systems designed to allow solvent to be “cleaned” and “reused” there should be no excess solvent to be disposed as a part of this process.

Similarly Rule 1173 is designed to function as a leak prevention rule. While a closed loop solvent recovery unit could have valves, fittings, pressure relief devices or other components which could leak; the provisions of this rule require inspection, identification, maintenance and recordkeeping regarding potential leak areas the requirements would still apply regardless of whether or not the underlying equipment had a permit or not.¹⁴²

Since Rule 1122 and Rule 1173 might not apply to a particular closed loop solvent recovery systems the back-stop rule, Rule 442 – *Usage of Solvents* would

¹³⁹ SCAQMD Staff Report for Proposed Amended Rule 219 – Equipment Not Requiring a Written Permit Pursuant to Regulation II, July 2003, 7/11/2003, pg. 2.

¹⁴⁰ AVAQMD Rule 1122(a).

¹⁴¹ Currently there are no permits for such units within the AVAQMD.

¹⁴² Proposed 219(B)(6)

be still applicable as such unit clearly “uses” solvent.¹⁴³ Specifically, Rule 442 has an emissions limit of 540 kilograms (1,190 lbs) of VOC per month.¹⁴⁴ As the SCAQMD staff report indicated these systems, because they are closed to the atmosphere, emissions are less than 1 lb per day per piece of equipment. Thus, if such a closed loop system was operated 24 hours a day for an entire month of emissions would be, at worst case, 31 lbs of VOC which is an amount well under the Rule 442 limit.

Once again, as part of the SIP inventory, emissions allowed by both Rule 442, Rule 1122 and Rule 1173 have been factored into the attainment planning process.¹⁴⁵ Therefore, the exemption of closed loop recovery systems in no way will impact the potential attainment or maintenance of the NAAQS regardless of their permitting status.

16. 219(E)(12)(ll)¹⁴⁶ – Drycleaner Separator Wastewater Systems

This particular exemption, like the previous item, was also added in 2011.¹⁴⁷ While such systems would be covered under Rule 1102, Rule 1173, and Rule 1421 there are no units within the District that use this type of equipment. Due to the phase out of perchloroethylene under 17 Cal Code Regs §§93109 et seq. and the resultant technology changes in the dry-cleaning industry, it is highly unlikely that this type of equipment will ever be used in this application in the future. The District has flagged this particular provision for potential removal in a subsequent rule making action.

17. 219(E)(12)(mm)¹⁴⁸ – Cleaning and Degreasing

This exemption was added in the most recent amendment and was designed to complement the requirements of Rule 1102, Rule 1122, and Rule 1171 as well as to be consistent with various Control Techniques Guidelines documents¹⁴⁹ and the Halogenated Solvent Cleaning NESHAP.¹⁵⁰ The current language is highly similar to the SIP approved provisions in Ventura County. It is also substantively similar to provisions as modified by SCAQMD in their 5/19/2000 amendments to their Rule 219.¹⁵¹ District Rule 1122 contains quite a number of equipment specifications some of which apply to all solvent/degreasing operations and others which are only applicable to particular types of operations.¹⁵² Rule 1171 contains VOC limits for solvents used in solvent cleaning along with requirements for

¹⁴³ Rule 442(A)(2)

¹⁴⁴ Rule 442(C)(1)(a)

¹⁴⁵ As discussed in subsection VI. I. above.

¹⁴⁶ Currently Rule 219(E)(12)(nn).

¹⁴⁷ Rule 219(E)(12)(nn), 1/18/2011. .

¹⁴⁸ Currently Rule 219(E)(12)(oo)

¹⁴⁹ *Control of Volatile Organic Emissions from Solvent Metal Cleaning* (EPA-450/2-77-022, Nov. 1977) and *Industrial Cleaning Solvents* (EPA-453/R-06-001, Sept. 2006)

¹⁵⁰ 40 CFR 63, Subpart T (commencing with §63.460).

¹⁵¹ SCAQMD Agenda #41, 5/19/2000, *Amend Rule 219 and Rule 222*, Attachment G, pg. 13-14.

¹⁵² Rule 1122(C).

specified methods and equipment used for such cleaning.¹⁵³ USEPA is concerned that these exemptions do not have analogous provisions in Rule 1122 or Rule 1171 and thus could potentially be constructed without proper emissions analysis potentially jeopardizing the attainment/maintenance of the NAAQS. Once again, as part of the SIP inventory, emissions allowed by all the rules listed above have been factored into the attainment planning process.¹⁵⁴ Therefore, the exemption of low VOC content solvent cleaners in no way will impact the potential attainment or maintenance of the NAAQS regardless of their permitting status.

17. 219(E)(13)(d) – Unheated Storage of Organic Liquids

While this provision is not in the SIP version it was contained in the 1994 version of Rule 219¹⁵⁵ with a change to exclude large fuel storage tanks from exemption occurring in 1996. Underlying district rules which might apply to this type of equipment are Rule 463 and Rule 1173. Rule 463, however, only applies to large above ground tanks¹⁵⁶ and contains specific requirements for storage of organic liquid in such tanks where the vapor pressure is greater than or equal to 0.4 psi absolute, 1.5 psi absolute,¹⁵⁷ and 11 psi absolute.¹⁵⁸ Thus this exemption, which only applies to unheated liquids of less than 0.1 psi absolute, does not affect equipment covered by Rule 463. In fact, tanks not covered by Rule 463 but storing more volatile materials would still require a permit. Rule 1173 is a leak prevention rule. As such, pursuant to the provisions of proposed (B)(6), it's applicable requirement would still apply regardless of the permit exempt nature of a particular storage vessel.

USEPA has expressed concern regarding similar provisions in various other District's rules regards to a lack of specific referenced test methods. The general test method requirement contained in proposed (F)(3) should ensure that appropriate test methods are used to verify compliance.

18. 219(E)(13)(e) – Organic Liquid Transfer

The SIP version of this provision¹⁵⁹ originally applied to transfer of organic liquids to small containers (50 gallons) unless the amount transferred exceeded 1,057 gallons per day of materials with vapor pressure greater than 1.5 psi absolute.¹⁶⁰ By 1994 the container size had increased (60 gallons) but the vapor pressure for excluding equipment transferring organic liquids in large amounts had dropped to 0.5 psi absolute.¹⁶¹ Thus, while the current exemption would apply to more equipment transferring to larger containers more high volume

¹⁵³ Rule 1171(C).

¹⁵⁴ As discussed in subsection VI. I. above.

¹⁵⁵ Rule 219(m)(4), 8/12/1994

¹⁵⁶ Rule 463(a)

¹⁵⁷ Rule 463(c)

¹⁵⁸ Rule 463(d)(5)

¹⁵⁹ Rule 219(n)(4), 9/4/1981

¹⁶⁰ Aka Gasoline.

¹⁶¹ Rule 219(m)(5), 8/12/1994

equipment would be required to have permits because a greater variety of organic liquids would be subject to the high volume exemption.

Please note, this exemption covers equipment and amounts transferred that is much smaller than the amounts and equipment types regulated by Rule 461, Rule 462 and Rule 463. In addition, since Rule 1173 is a leak prevention rule. Pursuant to the provisions of proposed (B)(6), all applicable requirements from the above listed rules would still apply regardless of the permit exempt nature of a particular piece of transfer equipment.

Once again, USEPA has expressed concern regarding similar provisions in other District rules in regards to a lack of specific referenced test methods. The general test method requirement contained in proposed (F)(3) should ensure that appropriate test methods are used to verify compliance.

17. 219(E)(15)(l) – Unheated Solvent Dispensing.

This provision was added in the 11/25/1991 amendment.¹⁶² USEPA is concerned about the recordkeeping aspects, the potential to use control equipment to comply with the exemption and the interrelationship between Rule 1104 – *Organic Solvent Degreasing Operations*. Recordkeeping provisions have been bolstered pursuant to proposed subsections (B)(8) and (F)(1)(a). As this is a simple size limitation compliance can be easily verified by simple measurement and calculation or by provision of the manufacturer’s official specifications. Control equipment issues are covered by the proposed provisions of subsection (B)(6). Rule 1104 technically only applies to this equipment when it is at a facility engaged in wipe cleaning, cold solvent clean and or vapor cleaning/degreasing. However, the District has always required any solvent dispensing units that are unheated and outside a permitted control device to contain solvent that is containing less than 25 g/l of VOC or with composite vapor pressure of 8 mmHg or less at 20 degrees Celsius.¹⁶³

H. PROPOSED RULE AMENDMENT SUMMARY

This section provides a brief overview of the specific proposed amendments to Rule 219 as well as some brief explanation of District interpretation of certain sections. Please note that numerical formatting has been standardized throughout the rule and abbreviations for units of measure have been conformed to ASTM standard. Units of measure referenced as imperial and/or metric conform to either the original SIP provision or the specific prohibitory rule applicable to the particular source category.

1. Section (A) – Purpose

The reference to Regulation II has been changed to specifically cite Rule 201 and Rule 203 to conform with a similar terminology shift in Regulation XIII. It must

¹⁶² SBCAPCD Rule 219(n)(12), 11/25/1991.

¹⁶³ Rule 1104(C)(1).

be noted that “does not require a permit” is not an exemption from any other applicable requirements or provision of District Rules or Regulations, State or Federal Law or any State or Federal regulation promulgated pursuant to such laws.

2. Section (B) – General Provisions

(B)(1) – The Regulation II cross reference here has been shifted to Rule 201 and Rule 203 to conform to proposed changes in Regulation XIII. All the provisions in the subsequent subsections must apply for a particular piece of equipment to be considered permit exempt. Again, please note that the mere exemption from the requirement to have a permit does not exempt the underlying equipment from any other applicable provisions contained in the District’s Rules & Regulations

(B)(1)(b) – An additional “backstop” threshold is proposed to be added in this subsection to cover the unlikely situation where equipment listed in Section (E) is operated to such an extent that it emits air contaminates over the indicated threshold. In general, items contained in Section (E) presumptively meet this threshold under normal operating conditions. If it is determined that a particular piece of equipment violates these limits it would trigger an enforcement action against the Facility involved resulting in a civil penalty and the requirement to obtain a permit. Please note that such a violation could be used as sufficient justification for the APCO to require a permit pursuant to subsection (B)(4) for the particular violating equipment.

(B)(1)(c) – This additional “backstop” provision is proposed to be added to avoid the highly implausible situation where a particular piece of equipment was listed in Section (E), had emissions less than proposed subsection (B)(1)(b) but was none the less a Major Facility or Major Modification under Regulation XIII or happened to be a Major PSD Facility or Major PSD Modification under Regulation XVII. References are to the top level for definitions, namely Rule 1301 and proposed rule 1700(B) respectively, as any future revisions to such provisions could potentially cause renumbering and ultimately a citational error. Once again, Please note that such a violation could be used as sufficient justification for the APCO to require a permit pursuant to subsection (B)(4) for the particular violating equipment.

(B)(3) – This subsection has been modified to conform to current practice. To be considered permit exempt an Agricultural Facility must be either below a particular threshold **OR** be a Confined Animal Facility (CAFO) with less than a specified number of animals **AND** also not be a Major Facility/Major PSD Facility or have equipment with specific requirements under regulations promulgated pursuant to Title I of the Federal Clean Air Act.¹⁶⁴

¹⁶⁴ In all practicality these would be NSPS, NESHAPs or MACT requirements applicable to specific equipment.

(B)(4) – Minor changes have been made to conform cross references to standardize format and include references to Rule 1401 and Regulation XVII.

(B)(5) – This **existing** provision requires emissions from 219 permit exempt equipment to be included in NSR, PSD and Title V calculations unless such emissions are specifically excluded from the calculations in the applicable provision. The language changes are primarily to standardize citation format and add a reference to Regulation XVII.

(B)(6) – This provision is proposed to be added to clarify current practice that regardless of the permit status (permit or no permit) any applicable requirement of any other district Rule or Regulation will still apply to the equipment, any materials used by the equipment, and to any air pollution control devices attached to the equipment. Examples of requirements potentially applicable to permit exempt equipment include, but are not limited to, VOC contents of coatings used, VOC solvent limits, transfer efficiency and recordkeeping.

(B)(7) - This provision has been added to clarify that unless specific air pollution control equipment is listed in the applicable provision of (E) as exempt in addition to the underlying equipment then such air pollution control equipment would require a permit. This provision is also formulated to clarify that if multiple pieces of equipment happen to be vented to a singular air pollution control device such control device would require a permit if any vented equipment required a permit. In the unlikely case where all vented equipment happens to be permit exempt the air pollution control device would still require a permit unless each exemption provision used also included a specific exemption for the attached air pollution control device. Thus, control equipment such as a paint booth would require permits as it is not specifically referenced as permit exempt by the provisions of 219(E)(12)(p). In addition, due to an expressed USEPA concern that an air pollution control device might potentially be used to meet an exemption threshold contained in Section(E), the District has included a proposed limitation on the potential use of air pollution control equipment to comply with a section (E) exemption which happens to be expressed as an emissions limit.

(B)(8) – This provision has been added to clarify that any Internal Combustion Engines (ICE) or general combustion equipment used in connection with exempt equipment must also be in and of itself exempt pursuant to the provisions of subsection (E)(2) in order to be exempt from permit.¹⁶⁵ Mobile equipment, which is exempt pursuant to subsection (E)(1), is excluded from this requirement. Thus, an ICE used to power a hammermill used exclusively to process aluminum cans would only be permit exempt if it was less than 50 brake horsepower pursuant to 219(E)(2)(a) but the hammermill itself would be permit exempt pursuant to proposed 219(E)(12)(t).

¹⁶⁵ Addresses an overall concern expressed in USEPA Comments to MDAQMD on Rule 219 of 3/28/2019 and allows removal of numerous superfluous cross references throughout subsection (E) of the rule.

(B)(9) - This **existing** provision (formerly 219(B)(6)) combined with the requirements in of subsection (F) and the recordkeeping provisions from any otherwise applicable rule provides enforceability in that if a Facility cannot prove the equipment meets the requirements then they are in violation of Rules 201 and/or 203. Language regarding failure to properly keep records as a violation of various permitting rules has been added for clarity. Please see similar language contained in the District’s prohibitory rules regarding recordkeeping for exemptions from particular rule requirements.

3. Section (C) - Definitions

(C) – This provision has been modified to provide an order of precedence for definitions in case of a conflict. Current Rule 102 and the 1995 version of Rule 1301 are in the SIP.¹⁶⁶ Rule 1401 is not and was not intended as a SIP rule. Regulation XVII was part of a delegation agreement between SCAQMD and USEPA which did not carry over to the AVAQMD. The AVAQMD plans to submit proposed Rule 1700 as a SIP submission.

The definitions contained in this section are either not found in Rule 102 or are more specific than definitions found therein. They also are not found in the other listed definitional rules.

4. Section (D) – Threshold Criteria

(D)(1)(a)– This existing threshold provision for exclusion from a Title V Permit remains a hard limit of 2 tons per year. The remainder of the provisions have been renumbered and reorganized for ease of use.

(D)(2)(b) – This existing provision has been shifted from a derived value of “1/2 the major source threshold” to a numerical value as “major source threshold” is not a specifically defined term. These numbers were derived from the Major Facility thresholds of Regulation XXX – *Title V Permits* as the requirement for permitting agricultural Facilities was a direct result of the implementation of the Title V Permit program. District Rule 3001(S) sets forth a Major Facility threshold as follows: 25 tpy NO_x/VOC; 100 tpy for other criteria pollutants; and 10 tons per year or more of any Hazardous Air Pollutant or 25 tons per year or more of any combination of Hazardous Air Pollutants or such lesser quantity as the USEPA may establish by rule. Each provision has been split out as a separate subsection for ease of use.

Please note that any Agricultural Facility which is otherwise a Major Facility pursuant to District Regulations XIII or a Major PSD Facility pursuant to District Regulation XVII would not be eligible for exclusion from permits pursuant to the provisions of subsection (B)(3)(c).

¹⁶⁶ 72 FR 51266, 9/2/2008; and 61 FR 64291, 12/4/1996.

5. Section (E) – Specific Equipment Not Requiring a Permit

(E)(1)(a) – This provision has been reorganized to more closely conform to the Health & Safety Code jurisdictional limitations. Pursuant to USEPA’s general standards as expressed to numerous other Districts, a notation regarding ‘as in effect on’ is required for any directly referenced statutory or regulatory provision. In general, the District considers this date to be implied as the last amendment date of the particular rule in which the reference occurs however we are proposing adding specific language to clarify this. Provisions from former (E)(1)(b) have been relocated and reformatted to eliminate a double negative formulation. The marine vessel provisions are proposed for removal as noted in discussion of section (E)(1)(b) below.

Former (E)(1)(b) – The provisions of this section have been relocated into proposed (E)(1)(a) and reformatted to eliminate a double negative formulation.

(E)(1)(b) - Provisions regarding equipment mounted on vehicles are renumbered and modified for clarification.

(E)(1)(c) – This provision has been modified to more closely track the applicable Vehicle Code sections.

(E)(2)(a) – The District is proposing a heading for clarity and to add a metric conversion as both units of measure are in the current SIP provision. Reference to ISO standard conditions are proposed to increase enforceability. An aggregating provision has been added to ensure that circumvention of permit requirements does not occur by use of numerous small engines to power a single process. USEPA was concerned that the regulated community using other permit exempt equipment might consider appurtenant ICEs providing power to also be automatically exempt.¹⁶⁷ These additions are designed to work in conjunction with subsection (B)(8) to clarify that any ICE providing power to any otherwise exempt equipment must also meet the requirements of this section to be considered exempt.

(E)(2)(b) – A header has been provided for clarity and metric conversion has been added to more closely echo the current SIP provision. There has been a question regarding the term (gross) in relation to heat input in relation to other District rules with similar language. Please note that this language is SIP approved.¹⁶⁸ It appears from the very little historical record available that the intent at the time was to differentiate between actual heat input and nameplate or rated heat input. An aggregating provision has also been added to ensure that circumvention of permit requirements does not occur by use of numerous small pieces of equipment to power a single process.

¹⁶⁷ USEPA Comments to MDAQMD on Rule 219 of 3/28/2019

¹⁶⁸ AVAQMD Rule 219(b)(2), 9/4/1981

(E)(2)(d) – While there is no change to this provision a question has been raised regarding the meaning of the phrase “or use other fuels with equivalent or less emissions” in Districts with similar phrasing. This language was not in the AV SIP version but is was included in the Rule by 1994.¹⁶⁹ It is presumed that this provision was to allow test stands to be used to test a variety of alternative fuel fired internal combustion engines such as LNG, propane or hydrogen so long as the emissions from such stands were equivalent or less than those that would have occurred using the fuel amounts noted.

(E)(2)(f) – A citation has been added to the California Portable Equipment Registration Program along with an additional ‘as in effect on’ notation. Additional language is also included to clarify that an ICE may still be required to have a permit if it has been declared ineligible for the program or the APCO requires it to obtain a permit pursuant to subsection (B)(4).

Former (E)(3)(c) – This provision has been removed as it is not technically an exemption and is otherwise covered by the Rule 1301 definition of Modification. It appears that the original purpose of this provision was to allow a Facility to avoid an application fee when a functionally identical replacement unit was swapped out for an existing emissions unit.¹⁷⁰

(E)(3)(c) – A requirement that the APCO’s determination of exemption for a specific type and model of floating roof tank seal be in writing has been added. This is to ensure that there is an accessible list of specific exempt equipment for this permit exemption. Please note however that there is currently no such equipment potentially subject to this exemption as there are no floating roof tanks located within the jurisdiction of the AVAQMD.

(E)(3)(e) – Slight change in language to remove double negative formulation implied by the phrase “does not include...” and to remove the reference to ICE as permitting requirements for appurtenant engines are now found in subsection (B)(8).

(E)(4)(a) – Language regarding equipment exempt pursuant to (E)(2)(b) has been removed as this provision now is contained in subsection (B)(8).

(E)(4)(b) – Current wording inadvertently creates a double negative. Provision modified to include a new sentence commencing with “This exemption does not apply to...”.

(E)(4)(c) – This provision has been reworded for clarity. Exclusion from this exemption has been relocated to a separate sentence.

¹⁶⁹ Rule 219(b)(4), (8/12/1994).

¹⁷⁰ Please note that fees in SCAQMD are in effect ‘front end loaded’ with high application fees, lower annual permit fees and emissions fees. The AVAQMD does not have this fee structure.

(E)(4)(e) - Provision is modified and reformatted to remove ICE and general combustion equipment reference as the exemption requirements for same are now found in proposed subsection (B)(8) and (E)(2)(a) and (b).

(E)(4)(f) – Removes references to ICE and/or general combustion equipment as exclusion requirements for such equipment are now covered by subsection (B)(8) and (E)(2)(a) and (b).

(E)(4)(g) – The term “purchased quality natural gas” has been replaced with Public Utilities Commission regulated natural gas as that term is self-defining and commonly used. ICE reference provisions removed as the exclusion is now provided by subsection (B)(8).

(E)(4)(j) – Minor rephrasing to remove double negative formulation.

(E)(4)(k) – The ICE exclusion provisions have been removed as they are covered by subsection (B)(8).

(E)(5)(a) – The term “brimful” has been removed as superfluous.

(E)(5)(b) – Specific test methods as well as the potential for alternative test methods have been added to this provision along with removal of the general combustion equipment reference as such exclusionary requirements are now found in proposed subsection (B)(8). Please note that uses limit will be rendered enforceable by the provisions contained in section (F).

(E)(5)(e) - This provision is modified to remove the general combustion equipment reference as such exclusion from the exemption is now provided by subsection (B)(8).

(E)(5)(f) – While this provision remains functionally unchanged the 1 quart per day limit will be rendered enforceable by the provisions contained in section (F). Minor rephrasing to avoid double negative formulation has also been provided.

(E)(5)(g) - This provision is modified to remove general combustion reference language which is now covered under subsection (B)(8).

(E)(5)(h) – While this provision remains functionally unchanged the determination of alloy composition would be pursuant to test methods as approved under subsection (F)(3).

(E)(5)(i) – The provision is modified to remove the general combustion equipment reference as such requirements are now found in proposed subsection (B)(8).

(E)(5)(k) – General combustion equipment reference has been removed as exemption requirements are now covered by subsections (B)(8) and (E)(2)(b).

(E)(5)(l) – Provision modified to remove general combustion equipment reference as such requirements are now found in proposed subsection (B)(8) and (E)(2)(b).

(E)(5)(o) – The term “brimful” has been removed as superfluous. Language is modified to remove double negative formulation along with removal of general combustion equipment reference now covered by subsection (B)(8).

(E)(5)(p) - This provision is modified to remove general combustion reference language which is now covered under subsection (B)(8).

(E)(5)(q) - General combustion equipment reference has been removed as exemption requirements are now covered by subsections (B)(8) and (E)(2)(b).

(E)(5)(r) – Provision remains unchanged but see discussion in subsection VI. I. 3. above addressing USEPA’s concerns regarding a similar provision in MDAQMD.
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(E)(5)(s) – This provision is modified to remove general combustion reference language which is now covered under subsection (B)(8).

(E)(5)(t) – The general combustion equipment cross reference is retained in this provision for clarity. The language regarding control equipment has been modified to remove a potential double negative formulation. Please also note that visual emissions observations records may be required to be kept for certain equipment under this exemption.

(E)(6)(e) – The substantive portions of this provision are unchanged however USEPA has expressed concern regarding similar language in similar rules for other Districts. Specifically, USEPA would like to know if there is a test method for determining the percentage of water in a slurry mixture used by such portable sand/water blasting equipment. Whether or not such a test method exists is irrelevant as compliance can be easily determined because such equipment will cease to work if the water to sand percentage is outside a very limited range. Despite this the language has been modified to require, instead of a percentage water, that the equipment be operated in accordance with manufacturer’s specifications. Language regarding internal combustion engines is removed as those provisions are now covered by the addition of subsection (B)(8).

(E)(7)(a) - This provision has been modified to remove a double negative. Otherwise the provision remains unchanged.

(E)(7)(b) –This provision has been modified to remove language excluding ICEs unless otherwise exempt as such is now covered by proposed subsection (B)(8). It has also been modified to remove the potential double negative formulation.

¹⁷¹ USEPA Comments to MDAQMD on Rule 219 of 3/28/2019, Comment 2.2.

(E)(8)(a) – Provision revised for clarity to differentiate Graphic Arts related printing/laminating equipment from equipment used in painting operations. Provision regarding general combustion equipment has been retained for clarity in that dryers can be in and of themselves combustion equipment.

(E)(9)(e) – Reworded to removed double negative formulation.

(E)(9)(f) – Removes cross reference to combustion equipment as such is now covered by proposed subsection (B)(8).

(E)(9)(h) – Notation has been added to indicate that the size limitation is on a batch basis.

(E)(10)(c) - This provision is modified to standardize language regarding combustion equipment under subsection (B)(8).

(E)(10)(e) – Provision modified to remove double negative.

(E)(10)(h) – Language regarding internal combustion engines is removed as those provisions are now covered by the addition of subsection (B)(8).

(E)(10)(l) - Modified to remove general combustion reference language which is now covered under subsection (B)(8).

(E)(10)(m) – All provisions regarding recordkeeping and test methods have been relocated to section (F).

(E)(11)(a) - While there is no substantive change to this provision a question has been raised regarding the difference between “brimful capacity” and “capacity.” The SIP approved is substantially similar referring to “rated working capacity”.¹⁷² The change to “brimful capacity” occurred in the 11/25/1991 amendments. It appears from the very little historical record available that the intent at the time was to use the manufacturer’s terminology for volume measurement with the volumetric measurements adjusted accordingly. Despite this, however the AVAQMD has agreed to drop the term “brimful” as it is confusing.

(E)(11)(b) – No changes have been made to this provision however USEPA is concerned regarding sufficient recordkeeping to justify the use of this exemption. Please see section (F) for enhanced recordkeeping proposals.

(E)(11)(c) – USEPA is concerned about recordkeeping sufficient to show that no fiber or power is added to the materials mixed or blended. This concern is unfounded as not only would MSDS sheets for materials mixed would be required under proposed section (F) but also a simple inspection of the Facility would

¹⁷² 219(k)(1) of 2/1/1977.

clearly reveal the use of such materials. The District is therefore not modifying this subsection.

(E)(12)(a) - Provision regarding general combustion equipment removed as it is now covered by proposed subsection (B)(8).

(E)(12)(c) - Removes cross reference to combustion equipment as such is now covered by proposed subsection (B)(8).

(E)(12)(d) – Minor amendment to remove double negative formulation

(E)(12)(h) – Once again USEPA’s concern regarding adequate recordkeeping has been expressed in relation to similar provisions in other District’s rules. The proposed provisions in section (F) alleviate this concern such that no change is necessary.

(E)(12)(j) – A specific test method has been added to this provision for better enforceability.

(E)(12)(k) – Cross reference to (E)(2)(b) removed as unnecessary due to addition of proposed subsection (B)(8). Minor revision to remove double negative formulation.

(E)(12)(l) - Removes cross reference to combustion equipment as such is now covered by proposed subsection (B)(8).

(E)(12)(m) - Provision regarding general combustion equipment removed as it is now covered by proposed subsection (B)(8).

(E)(12)(o) – Modified to specify that such equipment is exempt only if operated inside permitted Control Equipment to alleviate USEPA concern and conform with provisions in proposed subsection (B)(7).

(E)(12)(p) – While this provision is only modified slightly for format standardization USEPA has expressed concerns regarding recordkeeping based upon emissions limitations.¹⁷³ Proposed provisions of subsection (F)(2) are provided to alleviate this concern. A provision clarifying what happens if more than one subsection applies has been added to this provision to echo language contained in proposed subsection (E)(12)(y).

Former (E)(12)(r) – This small paint booth using hand layup operations only has been removed as unenforceable. In addition, there are no known paint booths of this size in the District.

¹⁷³ USEPA Comments to MDAQMD on Rule 219 of 3/28/2019, Comment 1.2.

(E)(12)(r) – Renumbered and provision regarding general combustion equipment removed as it is now covered by proposed subsection (B)(8).

(E)(12)(s) - Removes cross reference to combustion equipment as such is now covered by proposed subsection (B)(8).

(E)(12)(v) – Removes control equipment venting paper baling/shredding equipment from exemption as most paper baling/shredding equipment does not have control equipment.

(E)(12)(y) - Cross reference to (E)(2)(b) removed as unnecessary due to addition of proposed subsection (B)(8). Also deletes requirements regarding recordkeeping and test methods as such are provided in proposed section (F).

(E)(12)(aa) - Removes cross reference to combustion equipment as such is now covered by proposed subsection (B)(8).

Former (E)(12)(ii) – This provision is removed as it appears to shift the permitting responsibility for rental equipment from the owner of such equipment to the lessee. Most rule provisions are expressed in terms of owner/operator and it is District policy to not impede the contractual rights of and between lessee's and lessor's. In enforcement situations involving rental equipment it is current District policy to issue NOVs to all parties involved as the District does not have staff, expertise, or authority to adjudicate contractual disputes between the parties involved.

(E)(12)(ii) - Cross reference to (E)(2)(b) removed as unnecessary due to addition of proposed subsection (B)(8).

(E)(12)(kk) – This provision is modified slightly to standardize the language regarding control equipment. Please also see discussion of USEPA's concerns¹⁷⁴ found in subsection VI. I. 15. above.

(E)(12)(nn) - Removes cross reference to combustion equipment as such is now covered by proposed subsection (B)(8).

(E)(12)(oo) – Provision regarding oil water separators moved from (14)(f).

(E)(13)(a) – Specific test methods added for improved enforceability.

(E)(13)(b) – Slightly reworded to remove double negative formulation and clarify that the exemption does not apply to LPG storage over a certain size.

¹⁷⁴ USEPA Comments to MDAQMD on Rule 219 of 3/28/2019, Comment 2.4.

(E)(13)(d) – Subsection slightly modified to remove double negative. Please note that concerns regarding testing methods are alleviated by provisions of proposed subsection (F)(3).

(E)(13)(e) – Concerns regarding appropriate test methods are relieved by proposed subsection (F)(3). Wording revised to remove double negative.

(E)(13)(i) – Modified to remove double negative and standardize formatting.

(E)(13)(j) – USEPA is concerned about similar provisions and verification of concentration amounts. Subsection (F) provides adequate recordkeeping requirements to justify the use of this exemption.

Former (E)(14) – The majority of this subsection has been removed as there are no Natural Gas or Crude Oil production facilities within the AVAQMD.¹⁷⁵

Former (E)(14)(f) – This type of equipment, while most commonly occurring in oil and gas production, also is used in other applications. Thus, the District has chosen to retain this exemption and move it to subsection (E)(12)(oo).

(E)(14) – This provision has been renumbered but otherwise remains unchanged.

6. Section (F) - Recordkeeping

(F) – Provision has been revised for clarity and to provide examples of potentially adequate records which may be used to justify compliance with the provisions of this rule.

(F)(1)(b) – This provision has been added at USEPA’s request to specify particular recordkeeping requirements for those exemptions based upon an emissions limitation as opposed to equipment size or amount of materials used.

(F)(4) – Provision is added to reinforce the enforcement provisions set forth in subsection (B)(8).

I. SIP HISTORY AND ANALYSIS

The original air district for the Antelope Valley region was the Los Angeles County APCD¹⁷⁶ that had a jurisdiction covering the entire County of Los Angeles. In 1975, the Southern California APCD, a joint powers authority that had a jurisdiction covering all of the counties of Los Angeles, Orange, Riverside and San Bernardino, was created. The South Coast Air Quality Management District (SCAQMD) came into existence pursuant to statute on February 1, 1976 and originally covered only the areas within South Coast Air Basin (SCAB)¹⁷⁷ which had formerly been included in the Southern California APCD. The legislation was thereafter amended to allow non-SCAB areas to “opt in”.

¹⁷⁵ 40 CFR 52.222(a)(6); 65 FR 31267, 5/17/2000 and 7/1/2011 76 FR 38572.

¹⁷⁶ This entity was originally formed in the 1950’s.

¹⁷⁷ H&S Code §§41400 et seq.

Los Angeles County exercised this option and thus the Antelope Valley became a part of SCAQMD. On July 1, 1997 the Antelope Valley Air Pollution Control District (AVAPCD) replaced the SCAQMD as the agency with jurisdiction over the Los Angeles County portion of the Mojave Desert Air Basin (MDAB).¹⁷⁸ On January 1, 2002 the AVAPCD was replaced by the AVAQMD.¹⁷⁹ Pursuant to both statutory changes, the rule and regulations of the predecessor district were retained until the Governing Board adopted, amended or rescinded them. At the first meeting of the both the AVAPCD and the AVAQMD, the respective Governing Boards reaffirmed all the rules and regulations in effect at the time the agency changed.

The jurisdiction of the AVAPCD and the AVAQMD were specified in the statutes as the portion of the Los Angeles County contained within the MDAB. The MDAB was formerly known as the Southeast Desert Air Basin (SEDAB). In 1997 the SEDAB was split into the MDAB and the Salton Sea Air Basin. Descriptions of these air basins can be found in 17 Cal. Code Regs. §§60109 and §60144. Since USEPA adopts SIP revisions in California as effective within jurisdictional boundaries of local air districts, when the local air district boundaries change the SIP as approved by USEPA for that area up to the date of the change remains as the SIP in that particular area. Thus, upon creation of the AVAPCD on July 1, 1997 the AVAPCD acquired the SIP applicable to the Antelope Valley portion of the SCAQMD that was effective as of June 30, 1997. Likewise, the AVAQMD acquired the SIP that was effective in the jurisdiction of the AVAPCD as of December 31, 2000. Therefore, the SIP history for this region is based upon the rules adopted, effective, and approved for the Antelope Valley by SCAQMD.

Rule 219 was originally adopted by the Southern California APCD on 1/9/1976 and amended on 10/8/1976. This is the rule SCAQMD acquired, pursuant to statute, upon its creation. SCAQMD thereafter amended Rule 219 on 1/2/1979, 10/5/1979, 9/4/1981, 6/8/1988, 9/11/1992, 8/12/1994, and 12/13/1996. It appears that the original 1/9/1976 version was approved into the SIP as well as the 10/8/1976 version at 43 FR 52237, 11/9/1978.¹⁸⁰ Each of the subsequent SCAQMD amendments were submitted in turn as SIP revisions but the only one acted upon by USEPA was the 9/4/1981 version which was approved into the SIP at 47 FR 29231, 7/6/1982.¹⁸¹ The AVAPCD and its successor agency the AVAQMD continued to amend and submit as SIP revisions Rule 219¹⁸² and USEPA did not act upon any of these submissions. Thus, the version of 219 in the SIP effective within the AVAQMD is the 9/4/1981 version as adopted by SCAQMD.

Rule 219 is primarily a logistical rule. It only indicates when a permit is not required. Non-permitted equipment is still required to abide by all other applicable provisions of District rules including but not limited to provisions of prohibitory rules and the necessary monitoring, recordkeeping and reporting required to obtain any exemptions as required under those rules. In addition, Rule 219 clearly places the burden of proof on

¹⁷⁸ Former H&S Code §40106(e); Stats. 1996 Ch. 542, section 1

¹⁷⁹ H&S Code §§41300 et seq.

¹⁸⁰ 40 CFR 52.220(c)(31)(vi)(C) and 40 CFR 52.220(c)(39)(vi)(B) respectively.

¹⁸¹ 40 CFR 52.220(c)(103)(xviii)(A)

¹⁸² Rule 219 was amended by the AVAPCD on 3/17/1998, 7/21/1998, and 1/16/2001; and by the AVAQMD on 11/15/2005, 1/18/2011 and 10/18/2016.

the person claiming any permit exemption to show by records and other evidence that they meet the requirements to avoid obtaining a permit. Furthermore, the presence or lack of a permit does not inhibit enforcement of any District Rule requirements. Applicable requirements may still be enforced regardless of whether or not a particular piece of equipment happens to have a permit or not.

Given the above the AVAQMD is requesting the following SIP related actions be taken:

- Approve Rule 219 as amended 6/15/2021 as a part of the SIP.
- Withdraw all previous outstanding SIP submissions as follows:
 - The SCAQMD amendments of 1/2/1979, 10/5/1979, 6/8/1988, 9/11/1992, 8/12/1994, and 12/13/1996 as effective for the jurisdiction of the AVAQMD if such have not already been withdrawn.
 - The AVAPCD amendments of 3/17/1998, 7/21/1998, and 1/16/2001; and the AVAQMD amendments of 11/15/2005, 1/18/2011 and 10/18/2016 if such have not already been withdrawn.
- Remove all prior versions of the rule from the SIP as in effect within the jurisdiction of the AVAQMD specifically:
 - The Southern California APCD 1/9/1976 and 10/8/1976 versions as approved at 43 FR 52237, 11/9/1978 (40 CFR 52.220(c)(31)(vi)(C) and 40 CFR 52.220(c)(39)(vi)(B)) as effective for the jurisdiction of the AVAQMD.
 - The SCAQMD 9/4/1981 version as approved at 47 FR 29231, 7/6/1982 (40 CFR 52.220(c)(103)(xviii)(A)) as effective for the jurisdiction of the AVAQMD.
- Update the USEPA SIP table and CFR citations to reflect the above changes.

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Appendix “A”
Rule [Rule #] – [Rule Title] Iterated Version

The iterated version 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.

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(Adopted: 01/09/76; Amended: 10/08/76; Amended: 01/02/79;
Amended: 10/05/79; Amended: 09/04/81; Amended: 06/08/88;
Amended: 09/11/92; Amended: 08/12/94; Amended: 12/13/96;
Amended: 03/17/98; Amended: 07/21/98; Amended: 01/16/01;
Amended: 11/15/05; Amended: 01/18/11; Amended: 10/18/16;
Amended: mm/dd/yy)

RULE 219

Equipment Not Requiring a Permit

(A) Purpose

- (1) The purpose of this rule is:
 - (a) To describe equipment that does not require a permit pursuant to ~~Regulation H~~District Rules 201 and 203; and [Revised for clarity and consistency with current policy. Conforms with terminology shift in Regulation XIII.]
 - (b) To describe equipment which does not need to be listed on an application for a Federal Operating Permit (FOP) or on a FOP issued pursuant to District Regulation XXX – Title V Permits. [Standardization of language and cross references.]

(B) General Provisions

- (1) The Air Pollution Control Officer (APCO) shall not require an owner/operator to obtain a permit for particular equipment pursuant to ~~Regulation H~~District Rules 201 and 203 if all of the following are true: [Revised for clarity and consistency with current policy. Conforms with terminology shift in Regulation XIII.]
 - (a) Such equipment is ~~described~~contained in the list of particular ~~e~~Equipment in section (E) below; and
 - (b) Such Equipment does not emit air contaminants in excess of any of the following:
 - (i) 2 tons per year of any Regulated Air Pollutant for which a National Ambient Air Quality Standard has been promulgated; [Excludes HAPs by reference to the NAAQS. HAP thresholds are called out separately below.]
 - (ii) A de minimis level for a Hazardous Air Pollutant promulgated pursuant to 42 U.S.C. §7412 (FCAA §112).
 - (iii) A significance level defined in 40 CFR 52.21(b)(23)(i); [PSD significance levels]
 - (iv) 0.5 tons per year of a Hazardous Air Pollutant. [Provides an overall “backstop” emissions limit for Equipment listed in subsection (E) in the highly unlikely case that such equipment is operated in a manner to produce excess emissions.]

(c) Such Equipment does not constitute any of the following:

(i) A Major Facility as defined in Rule 1301, or

(ii) A Major Modification as defined in Rule 1301, or

(iii) A Major PSD Facility as defined in Rule 1700, or

(iv) A Major PSD Modification as defined in Rule 1700.

[Provides additional backstop and tie-in to NSR and PSD Regulation to avoid exemption of equipment with emissions large enough to trigger such program requirements.]

(bd) The owner/operator has not been required to obtain a written permit or registration by the APCO pursuant to subsection (B)(4) below.

(2) The APCO shall not require an ~~e~~Owner/~~e~~Operator to list particular equipment on an application for a FOP or require the listing of such equipment within a FOP issued pursuant to District Regulation XXX – Title V Permits if: [Standardization of Language]

(a) Such equipment is described in the list of particular equipment in section (E) below; and

(b) Such equipment emits Air Pollutants, in an amount less than the threshold levels set forth in subsection (D)(1) below; and

(c) Such equipment is not subject to an Applicable Requirement and information regarding such equipment is not required to determine the applicability of an Applicable Requirement; and

(d) Such equipment is not included in section (E) below solely due to size or production rate.

(3) The APCO shall not require an owner/operator of an Agricultural Facility to obtain a permit for equipment located at such a Facility which would otherwise be subject to permit pursuant to District Rules 201 and 203 if:

(a) The Agricultural Facility emits Air Contaminants in an amount less than the threshold levels listed in subsection (D)(2)(b); ~~and or~~

(b) The Agricultural Facility is: a Confined Animal Facility eligible for exclusion under subsection (D)(2)(a) ~~or, is otherwise eligible for exclusion under subsection (D)(2)(b);~~ and [Removed as duplicative of (B)(3)(a) above.]

(c) The Agricultural Facility is or particular agricultural equipment potentially exempt under this subsection is not otherwise:

- (i) ~~A~~ Major Facility pursuant to District Regulation XIII – New Source Review or a Major PSD Facility pursuant to District Regulation XVII – Prevention of Significant Deterioration; and [Harmonizes provisions with subsection (D)(2)(b) below.]
 - (dii) ~~The particular equipment potentially exempt under this subsection is not otherwise s~~Subject to regulation pursuant to the Federal Clean Air Act (“FCAA”, 42 U.S.C. Sec. 7401 et. seq.).
- (4) Notwithstanding subsections (B)(1), (B)(2), and (B)(3) above, the APCO may require a written permit or registration for equipment listed in section (E) below, making the equipment thereafter subject to District Rules 201 and ~~Rule~~ 203, if: [Standardization of Language and cross references]
- (a) Written notification is given to the equipment ~~o~~Owner/~~O~~perator; and [Standardization of language.]
 - (b) The APCO determines that:
 - (i) The equipment, process material or Air Contaminant is subject to provisions of District Regulation IX – Standards of Performance for New Stationary Sources, or District Regulation X – National Emissions Standards for Hazardous Air Pollutants, or District Rule 1401 – New Source Review for Toxic Air Contaminants; or [Standardization of language and cross references.]
 - (ii) The process, article, machine, equipment, other contrivance, process material or Air Contaminant is subject to the emission limitation requirements of the state Air Toxic Control Measure (ATCM), New Source Performance Standards (NSPS) National Emission Standards ~~For~~for Hazardous Air Pollutants (NESHAP), Maximum Available Control Technology (MACT) or any source specific prohibitory rule; or
 - (iii) The process, article, machine, equipment, or other contrivance emits, in quantities determined to be appropriate for review by the APCO, substances identified as Toxic Air Contaminants or which are under review as candidate Toxic Air Contaminants by the California Air Resources Board, or United States Environmental Protection Agency (USEPA); or
 - (iv) The equipment may not operate in compliance with all applicable District Rules and Regulations.
- (5) Nothing in this rule shall be interpreted to exempt the emissions from such equipment from being considered in any emissions calculations required pursuant to District Regulation XIII – New Source Review, ~~Regulation XIV~~District Rule 1401 – New Source Review for Toxic Air Contaminants; Regulation XVII – Prevention of Significant Deterioration and/or Regulation XXX – Title V Permits unless such emissions are specifically exempted by the terms of those

Regulations. [Derived from MDAQMD 219(B)(4). See USEPA Preliminary Comment to MD219, 3/28/2019]

- (6) Nothing in this rule shall be interpreted to exempt Equipment, materials used by such Equipment and/or associated air pollution Control Equipment from any applicable provisions of any other District Rule or Regulation. [Derived from MDAQMD 219(B)(5). See USEPA Preliminary Comment to MD219, 3/28/2019]
- (7) Nothing in this Rule shall be interpreted to exempt air pollution Control Equipment venting otherwise permit exempt Equipment from obtaining permits. This provision does not apply if all Equipment venting to the Control Equipment is exempt and all relevant provisions of Section (E) specifically exempt such Control Equipment. In no case shall air pollution Control Equipment be used to meet any permit exemption threshold as set forth in Section (E) of this Rule. [Derived from MDAQMD 219(B)(6). See USEPA Preliminary Comment to MD219, 3/28/2019.]
- (8) Nothing in this Rule shall be interpreted to exempt internal combustion engines, general combustion equipment, and/or heat transfer Equipment used in conjunction with or to power exempt Equipment unless the internal combustion engine, general combustion, or heat transfer Equipment itself is also exempt pursuant to the applicable provisions of subsection (E)(2). This provision does not apply to Equipment which is exempt pursuant to (E)(1). [Derived from MDAQMD 219(B)(7). See USEPA Preliminary Comment to MD219, 3/28/2019.]
- (9) The burden of proof regarding the applicability of this rule to particular equipment shall be upon the ~~o~~Owner/~~o~~Operator of such equipment. Failure to provide proof of the applicability of this rule to particular Equipment shall be considered a violation of District Rules 201 and/or 203 and may also constitute a violation of District Regulation XII – Federal Operating Permits, Regulation XIII – New Source Review or Regulation XVI – Prevention of Significant Deterioration if applicable. [Added as a backstop for proposed section (F)]

(C) Definitions

For the purposes of this Rule the definitions contained in District Rules 102 – Definition of Terms, 1301 – New Source Review Definitions, Section (C) of Rule 1401 – New Source Review for Toxic Air Contaminants, Section (B) of Rule 1700 – Prevention of Significant Deterioration and 3001 - Definitions shall apply unless otherwise defined herein. In case of a conflict the provisions of this Rule shall apply followed by District Rule 1301 then District Rule 1700(B) then District Rule 1401(C) then District Rule 102 unless a definition from another District Rule is specifically referenced. [Provides cross reference to allow use of applicable definitions and provides order of definitional precedence.]

- (1) “Agricultural Facility” – Any equipment or group of equipment potentially subject to District Rules 201 and 203 used in an Agricultural Operation and which are located on contiguous property under common ownership or control.

- (2) “Agricultural Operation” – The growing and harvesting of crops or the raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution. Agricultural Operations do not include activities involving the processing or distribution of crops or fowl.
- (3) “Confined Animal Facility” – A facility where animals are corralled, penned, or otherwise caused to remain in restricted areas for commercial purposes and primarily fed by a means other than grazing for at least 45 days in any ~~12 month~~12-month period.

(D) Threshold Criteria

(1) Threshold Criteria for Exclusion from Federal Operating Permit

- (a) To be eligible for exclusion from a FOP pursuant to subsection (B)(2) above, any equipment proposed to be excluded shall not emit Air Pollutants in an amount greater than any of the following:
 - (i) ~~10 percent of the applicable threshold for determination of a Major Facility pursuant to District Rule 3001(S); or two (2) tons per year of any Regulated Air Pollutant whichever amount is less for which a National Ambient Air Quality Standard has been promulgated;~~ or [Shifts threshold to numerical value as Regulation XXX has programmatic as opposed to SIP approval. Excludes HAPs by NAAQS reference. HAP thresholds provided below.]
 - (ii) ~~Any~~ de minimis level for a Hazardous Air Pollutant promulgated pursuant to 42 U.S.C. §7412(g) (Federal Clean Air Act §112(g));;
or
 - (iii) -aAny significance level defined in 40 CFR 52.21(b)(23)(i);;
 - (iv) 0.5 ton per year of such Hazardous Air Pollutant, whichever is less.
[Modified for consistency with other threshold provisions.]

(2) Threshold Criteria for Agricultural Facilities

- (a) To be eligible for exclusion from permitting requirements pursuant to subsection (B)(3)(b) a Confined Animal Facility must have, at all times, less than the following numbers of animals:
 - (i) 1,000 milk-producing dairy cows;
 - (ii) 3,500 beef cattle;
 - (iii) 7,500 calves, heifers or other cattle;
 - (iv) 650,000 chickens other than laying hens;
 - (v) 650,000 laying hens;
 - (vi) 650,000 ducks;
 - (vii) 100,000 turkeys;
 - (viii) 3,000 swine;

- (ix) 2,500 horses;
- (x) 15,000 sheep, lambs, or goats; or
- (xi) 30,000 rabbits or other animals.

(b) To be eligible for exclusion from permitting requirements pursuant to subsection (B)(3)(a), an Agricultural Facility must, in aggregate, produce ~~a~~Actual ~~e~~Emissions less than all of the following: ~~one half (1/2) of the major source thresholds.~~

- (i) 12.5 tons per year of NOx and VOC; or [Shifts threshold to numerical amount. Set as 1/2 the amount in 3001(S)(2)]
- (ii) Fifty (50) tons per year of any other Air Pollutant for which a National Ambient Air Quality Standard has been promulgated; or [Shifts threshold to numerical amount. Set as 1/2 the amount in 3001(S)(1)]
- (iii) 5 tons per year of any Hazardous Air Pollutant; or [Shifts threshold to numerical amount. Set as 1/2 the amount in 3001(S)(3).]
- (iv) 12.5 tons per year of any combination of Hazardous Air Pollutants; or [Shifts threshold to numerical amount. Set as 1/2 the amount in 3001(S)(3).]
- (v) A lesser quantity of a Hazardous Air Pollutant as USEPA has established by rule. [Shifts threshold to numerical amount. Set as 1/2 the amount in 3001(S)(3).]

~~-~~For the purposes of determining permitting applicability, ~~f~~Fugitive ~~e~~Emissions, except ~~f~~Fugitive ~~d~~Dust ~~e~~Emissions, are included in determining ~~a~~Aggregate ~~e~~Emissions.

(E) Specific Equipment Not Requiring a Permit

- (1) ~~Mobile~~Vehicles and Transportation Equipment [Clarity.]
 - (a) Motor Vehicles Equipment defined ~~as follows:~~ by sections 415 and/or 670 of the California Vehicle Code (as effective on the date of the last amendment of this rule). This exemption does not apply to any article, machine, Equipment, or other contrivance mounted on such Vehicle that would otherwise require a permit under the provisions of these Rules and Regulations. [Derived from MDAQMD (E)(1)(a). Conforms to Health & Safety Code jurisdictional provisions for air districts. Provides statutory effective date per USEPA policy. Removes double negative formulation.]
 - (i) ~~Motor vehicle or vehicle as defined by the California Vehicle Code §415; or~~
 - (ii) ~~Marine vessel as defined by Health and Safety Code Section 39037.1; or [Removed as AVAQMD does not have any marine vessels as defined operating within its jurisdiction.]~~

- ~~(iii) — A motor vehicle or a marine vessel that uses one internal combustion engine to propel the motor vehicle or marine vessel and also operate other equipment mounted on the motor vehicle or marine vessel; or~~
[Reformatted for clarity. References to marine vessels removed]
- ~~(ivb)~~ Equipment which is mounted on a vehicle that are used exclusively to transport materials on streets or highways including, but not limited to, cement trucks and Gasoline tanker trucks or motor vehicle or marine vessel if such equipment does not emit Air Contaminants. This exemption does not apply to asphalt or coal tar pitch roofing kettles.
[Derived from MDAQMD Rule 219(E)(1)(b)].
- ~~(b) — This subsection does not apply to equipment which emits Air Contaminants and which is mounted and operated on a motor vehicle, marine vessel, mobile hazardous material treatment systems, mobile day tankers except those carrying solely fuel oil, and pavement heating machines.~~
[Moved to subsection (E)(1)(a) sentence 2 above.]
- (c) Locomotives, airplanes, and watercraft used to transport passengers or freight.
[Derived from MDAQMD Rule 219(E)(1)(c)]

(2) Combustion and Heat Transfer Equipment

- (a) Internal Combustion Engines and Gas Turbines - Piston type internal combustion engines with a manufacturer's continuous rating of 50 brake horsepower (bhp) or less, or gas turbine engines with a maximum heat input rate of 2,975,000 Btu (749,866 kg cal) per hour at International Standardization Organization (ISO) Standard Day Conditions or less. The ratings of all engines or turbines used in the same process will be aggregated to determine whether this exemption applies. *[Derived from MDAQMD 219(E)(2)(a). Clarifies existing policy that avoids circumvention by use of multiple small engines in series.]*
- (b) General Combustion Equipment - Boilers, process heaters or any combustion equipment that has a maximum heat input rate of 2,000,000 Btu (504,000 kg cal) per hour (gross) or less and is equipped to be heated fired exclusively with, Public Utilities Commission regulated natural gas, methanol, liquefied petroleum gas or any combination thereof that does not include piston type internal combustion engines. The ratings of all combustion Equipment used in the same process will be aggregated to determine whether this exemption applies. *[Derived from MDAQMD 219(E)(2)(b). Clarifies existing policy that avoids circumvention by use of multiple pieces of small equipment in series.]*
- (c) Fuel cells which use phosphoric acid, molten carbonate, proton exchange membrane or solid oxide technologies.

- (d) Test cells and test stands used for testing internal combustion engines provided that the internal combustion engines use less than 800 gallons of diesel fuel or 3,500 gallons of gasoline fuel per year, or use other fuels with equivalent or less emissions.
 - (e) Internal combustion engines used exclusively for training at educational institutions.
 - (f) Portable internal combustion engines, including any turbines, qualified as military tactical support equipment, registered pursuant to the California Statewide Portable Engine Registration Program pursuant to Health & Safety Code 41750 et seq. and the regulations promulgated thereunder as in effect on the date of the last amendment of this rule such engines have been determined to be stationary pursuant to the provisions of that program or are otherwise required to have a permit pursuant to the provisions of subsection (B)(4) above. [Derived from MDAQMD 219(E)(2)(d). Citations added for clarity regarding interrelationship of the programs. Includes date reference pursuant to USEPA policy for statutory cross references.] :-
- (3) Structures and Equipment - General
- (a) Structural changes which cannot change the quality, nature or quantity of Air Contaminant emissions.
 - (b) Repairs or maintenance not involving structural changes to any eEquipment for which a permit has been granted.
 - ~~(c) Identical replacement in whole or in part of any equipment where a permit to operate had previously been granted for such equipment under District Rule 203, except seals for external or internal floating roof storage tanks. [Removed as covered by Rule 1301 Definition of "Modification." Original provision was intended to allow avoidance of application fees for functionally identical replacement units.]~~
 - ~~(dc)~~ Replacement of floating roof tank seals provided that the replacement seal is of a type and model which the APCO has determined in writing is capable of complying with the requirements of District Rule 463. [Revised per USEPA request.]
 - ~~(ed)~~ Equipment utilized exclusively in connection with any structure which is designed for and used exclusively as a dwelling for not more than ~~four~~ (4) families, and where such eEquipment is used by the owner or occupant of such a dwelling.
 - ~~(fe)~~ Laboratory testing eEquipment, and quality control testing eEquipment used exclusively for chemical and physical analysis, and non-production bench scale research eEquipment. Laboratory testing equipment This

~~exemption~~ does not ~~include-apply to~~ engine test stands or test cells ~~unless such equipment is also exempt pursuant to subsection (E)(2)(d)~~. *[Removes double negative formulation. Language regarding exemption of ICEs/combustion equipment relocated to (B)(8).]*

- (~~g~~f) Vacuum-producing devices used in laboratory operations or in connection with other ~~e~~Equipment not requiring a written permit.
- (~~h~~g) Vacuum-cleaning systems used exclusively for industrial, commercial or residential housekeeping purposes.
- (~~h~~) Hoods, stacks or ventilators.
- (~~j~~i) Passive and intermittently operated active venting systems used at and around residential structures to prevent the accumulation of naturally occurring methane and associated gases in enclosed spaces.

(4) Utility Equipment - General

- (a) Comfort air conditioning or ventilating systems which are not designed or used to remove Air Contaminants generated by, or released from, specific ~~e~~Equipment units, ~~provided such systems are exempt pursuant to subsection (E)(2)(b)~~. *[Language regarding exemption of air pollution control equipment relocated to (B)(7)]*
- (b) Refrigeration units. ~~This exemption does not apply to refrigeration units except those~~ used as or in conjunction with air pollution ~~e~~Control ~~e~~Equipment. *[Removes double negative.]*
- (c) ~~Water-cooling towers and water-cooling~~water-cooling ponds ~~not used for evaporative cooling of process water or not used for evaporative cooling of water from barometric jets or from barometric condensers, and~~ in which no chromium compounds are contained. ~~This exemption does not apply to water-cooling towers and water-cooling ponds used for evaporative cooling of water from barometric jets or from barometric condensers.~~ *[Revised per USEPA request]*
- (d) Equipment used exclusively to generate ozone and associated ozone destruction ~~e~~Equipment for the treatment of cooling tower water or for water treatment processes.
- (e) Equipment used exclusively for steam cleaning ~~provided such equipment is also exempt pursuant to subsection (E)(2)(b)~~. *[Language regarding exemption of ICEs/combustion equipment relocated to (B)(8)]*
- (f) Equipment used exclusively for space heating ~~provided such equipment is exempt pursuant to subsection (E)(2)(b)~~. *[Language regarding exemption of ICEs/combustion equipment relocated to (B)(8)]*

- (g) Equipment used exclusively to compress or hold ~~purchased quality~~ Public Utilities Commission regulated natural gas, ~~except internal combustion engines not exempted pursuant to subsection (E)(2)(a).~~ [Revised per USEPA request. Language regarding exemption of ICEs/combustion equipment relocated to (B)(8)]
 - (h) Emergency ventilation systems used exclusively to scrub ammonia from refrigeration systems during process upsets or ~~e~~Equipment breakdowns.
 - (i) Emergency ventilation systems used exclusively to contain and control emissions resulting from the failure of a compressed gas storage system.
 - (j) Refrigerant recovery and/or recycling units. This exemption does not ~~include~~ apply to refrigerant reclaiming facilities. [Removes double negative]
 - (k) Carbon arc lighting ~~e~~Equipment, ~~provided such equipment is exempt pursuant to subsection (E)(2)(a).~~ [Language regarding exemption of ICEs/combustion equipment relocated to (B)(8)]
 - (l) Passive carbon adsorbers using no mechanical ventilation with a volume of 55 gallons or less, used exclusively for foul air odor control from sanitary sewer systems such as sanitary sewer lines, manholes and pump stations.
- (5) Glass, Ceramic, Metallurgical Processing and Fabrication Equipment
- (a) Crucible-type or pot-type furnaces with a ~~brimful~~ capacity of less than 452 ~~cubic inches~~³ of any molten metal. [[Revised for clarity and standardization.]]
 - (b) Crucible furnaces, pot furnaces or induction furnaces with a capacity of 992 pounds or less each, where no sweating or distilling is conducted; ~~provided such equipment is exempt pursuant to subsection (E)(2)(b),~~ and where only the following materials are poured or held in a molten state (provided the materials do not contain alloying elements of arsenic, beryllium, cadmium, chromium and/or lead):
 - (i) Aluminum or any alloy containing over 50 percent aluminum by weight. ASTM E34-11 – Standard Test Methods for Chemical Analysis of Aluminum and Aluminum-based Alloys.;
 - (ii) Magnesium or any alloy containing over 50 percent magnesium by weight.;
 - (iii) Tin or any alloy containing over 50 percent tin by weight.;
 - (iv) Zinc or any alloy containing over 50 percent zinc by weight. ASTM E536-16 – Standard Test Methods for Chemical Analysis of Zinc and Zinc Alloys.;

- (v) ~~Copper, or any alloy containing over 50 percent copper. ASTM E34-11 – Standard Test Methods for Chemical Analysis of Aluminum and Aluminum-based Alloys.~~
- (vi) Precious metals (gold, silver, palladium, and platinum). ATSM E1335-08 – Standard Test Methods for Determination of Gold in Bullion by Fire Assay Cupellation Analysis.; and
- ~~(vii) Glass.~~

Percent by weight of such metals shall be determined by the referenced test method, or an equivalent method approved by CARB, USEPA and the APCO. [Derived from MDAQMD 219(E)(5)(b). Adds clarification and test methods. Language regarding ICE/general combustion equipment moved to (B)(8)]

- (c) Molds used for the casting of metals.
- (d) Inspection ~~e~~Equipment used exclusively for metal, plastic, glass, or ceramic products and ~~e~~Control ~~e~~Equipment ~~venting~~ exclusively venting such ~~e~~Equipment. [Standardization of language.]
- (e) Ovens used exclusively for curing potting materials or castings made with epoxy resins, ~~provided such ovens are exempt pursuant to subsection (E)(2)(b).~~ [Language regarding ICEs/general combustion equipment moved to (B)(8)]
- (f) Hand-held or automatic brazing and soldering ~~e~~Equipment, and ~~e~~Control ~~e~~Equipment ~~that~~ exclusively venting such ~~e~~Equipment, provided that the ~~e~~Equipment uses ~~one~~ (1) quart per day or less of material containing Volatile Organic Compounds (VOC). This exemption does not ~~include~~ apply to hot oil, hot air, or vapor phase solder leveling ~~e~~Equipment and related ~~e~~Control ~~e~~Equipment. [Removes double negative formulation.]
- (g) Brazing ovens where no materials containing VOC (except flux) are present, ~~provided such ovens are exempt pursuant to subsection (E)(2)(b).~~ [Language regarding ICEs/general combustion equipment moved to (B)(8)]
- (h) Welding ~~e~~Equipment, oxygen gaseous fuel-cutting ~~e~~Equipment and control ~~e~~Equipment exclusively venting such ~~e~~Equipment. This exemption does not ~~include~~ apply to facilities primarily engaged in the activities listed in 40 CFR 63.11514 using plasma arc-cutting ~~e~~Equipment or laser cutting ~~e~~Equipment to cut stainless steel or alloys containing cadmium, chromium, lead, manganese or nickel or laser cutters that are rated more than 400 W watts or more. [Standardization of language. Test methods to determine alloy content must comply with proposed (F)(3).]

- (i) Sintering eEquipment used exclusively for the sintering of metal (excluding lead) or glass where no coke or limestone is used, and control equipment exclusively venting such eEquipment, ~~provided such equipment is exempt pursuant to subsection (E)(2)(b).~~ *[Language regarding ICEs/general combustion equipment moved to (B)(8). Note language regarding exempt Control Equipment is found in (B)(7).]*
- (j) Mold forming eEquipment for foundry sand to which no heat is applied, and where no VOC materials are used in the process, and eControl eEquipment exclusively venting such eEquipment.
- (k) ~~Forming~~ eEquipment used exclusively for forging, rolling, or drawing of metals provided that any lubricants used have 50 grams per liter VOC or less, or a VOC composite partial pressure of 0.4 psi or less at 68°F, or eEquipment used for heating metals prior to forging, pressing, rolling or drawing, ~~provided such heaters are exempt pursuant to subsection (E)(2)(b).~~ *[Language regarding ICEs/general combustion equipment moved to (B)(8)]*
- (l) Heat treatment eEquipment used exclusively for heat treating glass or metals (provided no VOC materials are present), or eEquipment used exclusively for case hardening, carburizing, cyaniding, nitriding, carbonitriding, siliconizing or diffusion treating of metal objects, ~~provided any combustion equipment involved is exempt pursuant to subsection (E)(2)(b).~~ *[Language regarding ICEs/general combustion equipment moved to (B)(8)]*
- (m) Ladles used in pouring molten metals.
- (n) Tumblers used for the cleaning or de-burring of solid materials.
- (o) Die casting machines, ~~except those used for~~ This exemption does not apply to die casting machines used for copper base alloys, those with an integral furnace having a ~~brimful~~ capacity of more than 992 pounds, ~~or those using a furnace not exempt pursuant to subsection (E)(2)(b).~~ *[Revised for Clarity and removes double negative. Language regarding ICEs/general combustion equipment moved to (B)(8)]*
- (p) Furnaces or ovens used for the curing or drying of porcelain enameling, or vitreous enameling ~~provided such furnaces or ovens are exempt pursuant to subsection (E)(2)(b).~~ *[Language regarding ICEs/general combustion equipment moved to (B)(8)]*
- (q) Wax burnout kilns where the total internal volume is less than ~~seven (7)~~ cubic feet³ or kilns used exclusively for firing ceramic ware, ~~provided such kilns are exempt pursuant to subsection (E)(2)(b).~~ *[Provide metric*

equivalent. Language regarding ICEs/general combustion equipment moved to (B)(8)]

- (r) Shell-core and shell-mold manufacturing machines. *[See proposed (B)(6) regarding compliance with other District Rules and (B)(8) regarding ICEs/general combustion equipment compliance. See USEPA Preliminary Comment 2.2 to MD219, 3/28/2019]*
 - (s) Furnaces used exclusively for melting titanium materials in a closed evacuated chamber where no sweating or distilling is conducted, ~~provided such furnaces are exempt pursuant to subsection (E)(2)(b).~~ *[Language regarding ICEs/general combustion equipment moved to (B)(8)]*
 - (t) Vacuum metalizing chambers which are electrically heated or heated with equipment that is exempt pursuant to subsection (E)(2)(b). ~~This exemption includes and eControl eEquipment exclusively venting such eEquipment, provided so long as the eControl eEquipment is equipped with a mist eliminator or the vacuum pump used with eControl eEquipment demonstrates operation with no visible emissions from the vacuum exhaust.~~ *[Removes potential confusion.]*
- (6) Abrasive Blasting Equipment
- (a) Blast cleaning cabinets in which a suspension of abrasive in water is used and eControl eEquipment exclusively venting such eEquipment.
 - (b) Glove-box type abrasive blast cabinet, vented to a dust-filter where the total internal volume of the blast section is 53 ~~cubic feet~~^{ft³} or less, and any dust filter exclusively venting such eEquipment.
 - (c) Enclosed eEquipment used exclusively for shot blast removal of flashing from rubber and plastics at sub-zero temperatures and eControl eEquipment exclusively venting such eEquipment.
 - (d) Shot peening operations, provided no surface material is removed, and eControl eEquipment exclusively venting such eEquipment.
 - (e) Portable sand/water blaster equipment and associated piston type internal combustion engine provided the ~~water content in the mixture is maintained at or above 66 percent by volume during~~ operation of such eEquipment is performed in conformance with the manufacturer's specifications. ~~Internal combustion engines must be exempt pursuant to subsection (E)(2)(a).~~ *[Revised to alleviate potential recordkeeping/testing issues. Language regarding ICEs/general combustion equipment moved to (B)(8)]*
- (7) Machining Equipment

- (a) Equipment used exclusively for buffing (~~except tire buffers~~), polishing, carving, mechanical cutting, drilling, machining, pressing, routing, sanding, surface grinding or turning provided that any lubricants used have 50 grams per liter VOC or less, or a VOC composite partial pressure of 0.4 psi or less at 68°F, and eControl eEquipment exclusively venting such eEquipment. This exemption does not ~~include apply to automatic tire buffers, semi-automatic tire buffers, and~~ asphalt pavement grinders. [Provide metric/imperial equivalents. Removes double negative formulation. See USEPA Preliminary Comment 1.5 to MD219, 3/28/2019]
 - (b) Equipment used exclusively for shredding of wood, or the extruding, handling, or storage of wood chips, sawdust, or wood shavings and control equipment exclusively venting such equipment. ~~This exemption does not include piston type internal combustion engines over 50 bhp which are used to supply power to such equipment.~~ [Language regarding ICEs/general combustion equipment moved to (B)(8). See USEPA Preliminary Comment 1.5 to MD219, 3/28/2019]
 - (c) Equipment used exclusively to mill or grind Coatings or molding compounds where all materials charged are in the paste form.
- (8) Printing and Reproduction Equipment
- (a) Printing and related Coating and/or laminating Equipment used in Graphic Arts Operations, and associated dryers (provided said dryers are also exempt pursuant to subsection (E)(2)(b)) not emitting more than ~~three (3)~~ three (3) pounds of VOC emissions per day, or not using more than ~~six (6)~~ six (6) gallons per day of ultraviolet, electron beam, or plastisols type, including cleanup solvent, or ~~two (2)~~ two (2) gallons per day of any other graphic arts materials ~~provided such dryers are exempt pursuant to subsection (E)(2)(b).~~ Graphic arts materials are any Iinks, Coatings, ~~a~~ Adhesives, fountain solutions (excluding water), thinners (excluding water), retarders, or cleaning solutions (excluding water), used in printing or related eCoating or H laminating processes. [Revised for clarity. Cross referene to (E)(2)(b) retained as dryers often contain integrated combustion sources.]
 - (b) Photographic process eEquipment by which an image is reproduced upon material sensitized by radiant energy and eControl eEquipment exclusively venting such eEquipment.
 - (c) Lithographic printing eEquipment which uses laser printing.
 - (d) Printing eEquipment used exclusively for training and non-production at educational institutions.
 - (e) Flexographic plate-making and associated processing eEquipment.

- (f) Corona treating ~~e~~Equipment and associated air pollution control equipment used for surface treatment in printing, laminating and coating operations.
 - (g) Hand application of materials used in printing operations including but not limited to the use of squeegees, screens, stamps, stencils and any hand tools.
- (9) Food Processing and Preparation Equipment
- (a) Smokehouses for preparing food in which the maximum horizontal inside cross-sectional area does not exceed 21.5 square feet.
 - (b) Smokehouses exclusively using liquid smoke, and which are completely enclosed with no vents to ~~either any e~~Control ~~device~~Equipment or to the atmosphere. *[See USEPA Preliminary Comment 3.1 to MD219, 3/28/2019]*
 - (c) Confection cookers where products are edible and intended for human consumption.
 - (d) Grinding, blending or packaging ~~e~~Equipment used exclusively for tea, cocoa, roasted coffee, flavor, fragrance extraction, dried flowers, or spices, and ~~e~~Control ~~e~~Equipment exclusively venting such ~~e~~Equipment.
 - (e) Equipment used in eating establishments for the purpose of preparing food for human consumption. *This exemption does not apply to, excluding* commercial direct-fired chain-driven char broilers (regardless of the Btu rating). Direct-fired char broilers include, but are not limited to, gas, electric, wood, or charcoal-fired. *[Removes double negative formulation.]*
 - (f) Equipment used to convey or process materials in bakeries or used to produce noodles, macaroni, pasta, food mixes or drink mixes where products are edible and intended for human consumption and ~~e~~Control ~~e~~Equipment exclusively venting such ~~e~~Equipment. *~~This exemption does not include storage bins located outside buildings, or equipment not exempt pursuant to subsection (E)(2)(b).~~ [Language regarding ICEs/general combustion equipment moved to (B)(8)]*
 - (g) Cooking kettles where all of the product in the kettle is edible and intended for human consumption. This exemption does not include deep frying ~~e~~Equipment used in facilities other than eating establishments.
 - (h) Coffee roasting ~~e~~Equipment with a maximum capacity of 10 pounds or less per batch. *[Revised for clarity]*
- (10) Plastics, Composite and Rubber Processing Equipment

- (a) Presses or molds used for curing, post curing or forming rubber products, composite products and plastic products where no VOC or chlorinated blowing agent is present, and ~~e~~C~~ontrol~~ ~~e~~E~~quipment~~ exclusively venting these presses or molds.
- (b) Presses or molds with a ram diameter of less than or equal to 26 inches used for curing or forming rubber products and composite rubber products excluding those operating above 400°F.
- (c) Ovens used exclusively for the forming of plastics or composite products, which are concurrently being vacuum held to a mold, and where no foam forming or expanding process is involved, ~~provided such equipment is exempt pursuant to subsection (E)(2)(b). [Language regarding ICEs/general combustion equipment moved to (B)(8)]~~
- (d) Equipment used exclusively for softening or annealing plastics, ~~provided such equipment is exempt pursuant to subsection (E)(2)(b). [Language regarding ICEs/general combustion equipment moved to (B)(8)]~~
- (e) Extrusion ~~e~~E~~quipment~~ used exclusively for extruding rubber products or plastics where no organic plasticizer is present, or for pelletizing polystyrene foam scrap. ~~This exemption does not apply to, except~~ ~~e~~E~~quipment~~ used to extrude or to pelletize acrylics, polyvinyl chloride, polystyrene, and their copolymers. [Removes double negative formulation.]
- (f) Injection or blow molding ~~e~~E~~quipment~~ for rubber or plastics where no blowing agent other than compressed air, water or carbon dioxide is used, and ~~e~~C~~ontrol~~ ~~e~~E~~quipment~~ exclusively venting such ~~e~~E~~quipment~~.
- (g) Mixers, roll mills and calendars for rubber or plastics where no material in powder form is added and no organic solvents, diluents or thinners are used.
- (h) Ovens used exclusively for the curing of vinyl plastisols by the closed-mold curing process, ~~provided such ovens are exempt pursuant to subsection (E)(2)(b). [Language regarding ICEs/general combustion equipment moved to (B)(8)]~~
- (i) Equipment used exclusively for conveying and storing plastic materials, provided they are not in powder form.
- (j) Hot wire cutting of expanded polystyrene foam and woven polyester film.
- (k) Photocurable stereolithography ~~e~~E~~quipment~~.
- (l) Laser sintering ~~e~~E~~quipment~~ used exclusively for the sintering of nylon or plastic powders and ~~e~~C~~ontrol~~ ~~e~~E~~quipment~~ exclusively venting such

~~e~~Equipment, ~~providing such equipment is exempt pursuant to subsection (E)(2)(b).~~ [Language regarding ICES/general combustion equipment moved to (B)(8)]

- (m) Roller to roller coating systems that create three-dimensional images provided:
- (i) The VOC emissions from such ~~e~~Equipment (including cleanup) are three (3) pounds per day or less or not to exceed 66 pounds per calendar month; or
 - (ii) The coatings contain 25 grams or less of VOC per liter of material provided that the coating used on such ~~e~~Equipment is 12 gallons per day or less, not to exceed 264 gallons per calendar month; or
 - (iii) The coatings contain 50 grams or less of VOC per liter of material, and exclusively using cleanup solvents containing 25 grams or less of VOC per liter of material, and the total quantity of VOC emissions do not exceed ~~one~~(1) ton per calendar year.

~~The owner/operator shall provide applicable information to the District, in a format determined by the APCO, which provides a description of the materials, sufficient data as necessary to estimate emissions from the source, and to determine compliance with applicable rules and regulations.~~ [Moved to subsection (F)]

~~VOC emissions shall be determined using test methods approved by the District, CARB and USEPA. In the absence of approved test methods, the applicant can submit VOC calculation procedures acceptable to the District.~~ [Moved to subsection (F)(3)]

(11) Mixing and Blending Equipment

- (a) Batch mixers which have a ~~brimful~~ capacity of 55 gallons or 7.35 ft³ (0.21 m³) or less. [Revised for clarity.]
- (b) Equipment used exclusively for mixing and blending of materials where no VOC containing solvents are used and no materials in powder form are added.
- (c) Equipment used exclusively for mixing and blending of materials to make water emulsions of asphalt, grease, oils or waxes where no materials in powder or fiber form are added.
- (d) Equipment used to blend, grind, mix, or thin liquids to which powders may be added, with a capacity of 251 gallons or less, where no supplemental heat is added and no ingredient charged (excluding water) exceeds 135°F.

- (e) Concrete mixers, with a rated working capacity of ~~one (1)~~ cubic yard³ or less.

(12) Miscellaneous Process Equipment

- (a) Equipment, including dryers, used exclusively for dyeing, stripping, or bleaching of textiles where no organic solvents, diluents or thinners are used, ~~provided such equipment is also exempt pursuant to subsection (E)(2)(b).~~ [Language regarding ICEs/general combustion equipment moved to (B)(8)]
- (b) Equipment used exclusively for bonding lining to brake shoes, where no organic solvents are used and ~~e~~Control ~~e~~Equipment exclusively venting such ~~e~~Equipment.
- (c) Equipment used exclusively to liquefy or separate oxygen, nitrogen, or the rare gases from air, ~~provided that equipment is exempt pursuant to subsections (E)(2)(a) or (E)(2)(b).~~ [Language regarding ICEs/general combustion equipment moved to (B)(8)]
- (d) Equipment used exclusively for surface preparation, cleaning, passivation, deoxidation, and/or stripping which uses water-based cleaners containing ~~two (2)~~ percent or less of VOC by volume (20 grams per liter or less), or containing formic acid, acetic acid, phosphoric acid, sulfuric acid, hydrochloric acid (12 percent or less by weight), alkaline oxidizing agents, hydrogen peroxide, salt solutions, sodium hydroxide and/or water. This exemption does ~~not include~~apply to anodizing, hard anodizing, chemical milling, circuit board etching using ammonia-based etchant, or the stripping of chromium, except sulfuric acid anodizing with a bath concentration of 20 percent or less by weight of sulfuric acid and using 10,000 amp-hours per day or less of electricity. [Standardization of language.]
- (e) Equipment used exclusively for the plating, stripping, or anodizing of metals as described below:
 - (i) Electrolytic plating of exclusively brass, bronze, copper, iron, tin, lead, zinc, and precious metals, providing no chromic, hydrochloric or sulfuric acid is used;
 - (ii) Electroless nickel plating, provided that the process is not air-sparged and no electrolytic reverse plating occurs;
 - (iii) The electrolytic stripping of brass, bronze, copper, iron, tin, zinc, and precious metals, provided no chromic, hydrochloric, nitric or sulfuric acid is used;
 - (iv) The non-electrolytic stripping of metals, providing the stripping solution is not sparged and does not contain nitric acid;

- (v) Anodizing using exclusively sulfuric acid and/or boric acid with a total bath concentration of 20 percent acids or less by weight and using 10,000 amp-hours per day or less of electricity;
 - (vi) Anodizing using exclusively phosphoric acid with a bath concentration of 15 percent or less phosphoric acid by weight and using 20,000 amp-hours per day or less of electricity; or
 - (vii) Water and associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from equipment used for the plating, stripping or anodizing of metals.
- (f) Equipment used exclusively for the packaging of lubricants or greases.
 - (g) Equipment used exclusively for tableting vitamins, herbs, dietary supplements, or pharmaceuticals, packaging vitamins, herbs, dietary supplements, or pharmaceuticals and cosmetics, or coating vitamins, herbs, dietary supplements or pharmaceutical tablets, provided no organic solvents are used, and ~~e~~Control ~~e~~Equipment used exclusively to vent such ~~e~~Equipment.
 - (h) Equipment used exclusively for coating objects with oils, melted waxes or greases which contain no organic solvents, diluents or thinners.
 - (i) Equipment used exclusively for coating objects by dipping in waxes or natural and synthetic resins which contain no organic solvents, diluents or thinners.
 - (j) Unheated, non-conveyorized, cleaning or coating equipment:
 - (i) With an open surface area of 10.8 square feet or less and an internal volume of 92.5 gallons or less, having an organic solvent loss of ~~three (3)~~ gallons per day or less; or
 - (ii) Using only organic solvents with an initial boiling point of 302°F (150° C) or greater as determined by ASTM D1078-11 Standard Test Method for Distillation Range of volatile Organic Liquids; or
 - (iii) Using materials with a VOC content of ~~two (2)~~ percent (20 grams per liter) or less by volume. [Adds specific test method.]

This exemption does not ~~include-apply to e~~Equipment with a capacity of more than ~~two (2)~~ gallons (7.57 liters), which was designed as a solvent cleaning and drying machine, using solvents that are greater than ~~five (5)~~ percent by weight of perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof. [Standardizes language.]

- (k) Batch ovens with 53 ~~cubic feet~~^{ft³} or less internal volume where no melting occurs, ~~provided such equipment is exempt pursuant to subsection (E)(2)(b)~~. This exemption does not ~~include-apply to~~ ovens used to cure

vinyl plastisols or debond brake shoes. *[Standardizes language. Language regarding ICEs/general combustion equipment moved to (B)(8)]*

- (l) Batch ovens used exclusively to cure 30 pounds per day or less of powder coatings, ~~provided that such equipment is exempt pursuant to subsection (E)(2)(b).~~ *[Language regarding ICEs/general combustion equipment moved to (B)(8)]*
- (m) Equipment used exclusively for the washing and subsequent drying of materials and ~~air pollution e~~Control ~~e~~Equipment exclusively venting such ~~e~~Equipment, provided that no VOC are ~~emitted and the equipment is exempt pursuant to subsection (E)(2)(b).~~ *[Standardizes language. Language regarding ICEs/general combustion equipment moved to (B)(8)]*
- (n) Equipment used exclusively for manufacturing soap or detergent bars, including mixing tanks, roll mills, plodders, cutters, wrappers, where no heating, drying or chemical reactions occur.
- (o) Spray coating equipment operated within ~~permitted e~~Control ~~enclosures~~Equipment. *[Clarifies current policy that control equipment not otherwise exempted per (B)(7) would require a permit. See USEPA Preliminary Comment 1.1 to MD219, 3/28/2019]*
- (p) Coating or adhesive application or laminating ~~e~~Equipment such as air, airless, air-assisted airless, high volume low pressure (HVLP), and electrostatic spray equipment, and roller coaters, dip coaters, vacuum coaters and flow coaters and spray machines provided that:
 - (i) The VOC emissions from such ~~e~~Equipment (including clean-up) is ~~three (3)~~ pounds per day or less; or
 - (ii) The total quantity of UV or electron beam (non-solvent based and non-waterborne) coatings, adhesives and associated VOC containing solvents (including cleanup) used in such ~~e~~Equipment is ~~six (6)~~ gallons per day or less.; or
 - (iii) The total quantity of solvent type coating and/or adhesive used is ~~one (1)~~ gallon per day or less, including cleanup solvent; or
 - (iv) The total quantity of water reducible or water based type coating and adhesives and associated VOC containing solvents (including clean-up) is ~~three (3)~~ gallons per day or less; or
 - (v) The total quantity of polyester resin or gel coat type material and associated VOC containing solvents (including clean-up) is ~~one (1)~~ gallon per day or less. *[See USEPA Preliminary Comment 1.1 to MD219, 3/28/2019]*

If a combination of the Coatings, Adhesives and polyester resin and gel coat type materials identified in (ii), (iii), (iv) and/or (v) are used in any Equipment, this exemption is only applicable if the operations meet the criteria specified in (i) or (vi), or the total usage of Coatings, Adhesives, polyester resin and gel coat type materials and associated VOC containing Solvents (including cleanup) meets the most stringent applicable limit in (ii), (iii), (iv) or (v). For exemptions based on usage, Solvent-based UV and waterborne UV materials are subject to the usage limits in (iii) and (iv), respectively. [Added per USEPA request. Derived from proposed subsection (E)(12)(y)]

- (q) Spray coating and associated drying equipment and ~~e~~Control ~~en~~losures ~~Equipment~~ used exclusively for educational purposes in educational institutions.
- ~~(r) Control enclosures with an internal volume of eight (8) cubic feet or less, provided that aerosol cans, air brushes, or hand work are used exclusively. [Removed as unenforceable and because no equipment of this size exists within the District]~~
- ~~(s) Portable coating equipment and pavement strippers used exclusively for the application of architectural coatings according to District Rule 1113, and associated internal combustion engines provided such equipment is exempt pursuant to section (B) or subsection (E)(2)(b). [Language regarding ICEs/general combustion equipment moved to (B)(8). See USEPA Preliminary Comment 4.1 to MD219, 3/28/2019]~~
- ~~(t) Inert gas generators, except equipment not exempt pursuant to subsection (E)(2)(b). [Language regarding ICEs/general combustion equipment moved to (B)(8)]~~
- ~~(u) Hammermills used exclusively to process aluminum and/or tin cans, and eControl eEquipment exclusively venting such eEquipment. [See USEPA Preliminary Comment 2.1 to MD219, 3/28/2019]~~
- ~~(v) Heated degreasers with a liquid/vapor interface surface area of ~~one~~(1) square foot or less, or using aqueous cleaning materials with a VOC content of ~~two~~(2) percent (20 grams per liter) or less by volume provided such degreasers have an organic solvent loss of ~~three~~(3) gallons per day or less. This exemption does not ~~include~~ apply to heated degreasers with a capacity of more than ~~two~~(2) gallons using solvents that are greater than five (5) percent by weight of perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof. [Standardize language.]~~

- (~~wv~~) Paper shredding and associated conveying systems, baling ~~e~~Equipment, ~~and control equipment venting such equipment.~~ [See USEPA Preliminary Comment 1.2 to MD219, 3/28/2019]
- (~~xw~~) Chemical vapor type sterilization ~~e~~Equipment where no Ethylene Oxide is used, and with a chamber volume of ~~two (2) cubic feet~~^{ft³} or less used by healthcare facilities.
- (~~yx~~) Hand application of resins, adhesives, dyes, coatings and solvents using devices such as brushes, daubers, rollers trowels, rags, swabs and squeeze bottles.
- (~~zy~~) Drying ~~e~~Equipment such as flash-off ovens, drying ovens, or curing ovens associated with coating or adhesive application or laminating ~~e~~Equipment provided the drying equipment is exempt pursuant to paragraph (E)(2)(b), and provided that: [Language regarding general combustion equipment retained here as Dryers are often integrated with combustion equipment.]
 - (i) The total quantity of VOC emissions from all coating and/or adhesive application, and laminating ~~e~~Equipment that the drying equipment serves is ~~three (3)~~ pounds per day or less or not to exceed 66 pounds per calendar month; or
 - (ii) The total quantity of UV or electron beam (non-solvent based and non-waterborne) coatings and adhesives, and associated VOC containing solvents (including clean-up) used in all coating and/or adhesive application, and laminating ~~e~~Equipment that the drying ~~e~~Equipment serves is ~~six (6)~~ gallons per day or less or not to exceed 132 gallons per calendar month; or
 - (iii) The total quantity of solvent based coatings and adhesives and associated VOC containing solvents (including clean-up) used in all coating and/or adhesive application, and laminating ~~e~~Equipment that the drying equipment serves is ~~one (1)~~ gallon per day or less or not to exceed 22 gallons per calendar month; or
 - (iv) The total quantity of water reducible or waterborne coating and adhesives and associated VOC containing solvents (including clean-up) used in all coating and/or adhesive application, and laminating equipment that the drying ~~e~~Equipment serves is ~~three (3)~~ gallons per day or less or not to exceed 66 gallons per calendar month; or
 - (v) The total quantity of polyester resin and gel coat type materials and associated VOC containing solvents (including clean-up) used in all coating, adhesive application, and laminating ~~e~~Equipment that the drying equipment serves is ~~one (1)~~ gallon per day or less or not to exceed 22 gallons per calendar month; or
 - (vi) All coatings, adhesives, polyester resin and gel coat type materials and associated VOC containing solvents (excluding cleanup solvents) contain 50 grams or less of VOC per liter of material and

all cleanup solvents contain 25 grams or less of VOC per liter of material, and the total quantity of VOC emissions do not exceed ~~one (1)~~ ton per calendar year.

~~The owner/operator shall provide applicable information to the District, in a format determined by the APCO, which provides a description of the materials, sufficient data as necessary to estimate emissions from the source, and to determine compliance with applicable rules and regulations. [Removed covered by section (F)]~~

If combination of the coatings, adhesives and polyester resin and gel coat type materials identified in (ii), (iii), (iv) and/or (v) are used in any equipment, this exemption is only applicable if the operations meet the criteria specified in (i) or (vi), or the total usage of coatings, adhesives, polyester resin and gel coat type materials and associated VOC containing solvents (including cleanup) meets the most stringent applicable limit in (ii), (iii), (iv) or (v). For exemptions based on usage, solvent based UV and waterborne UV materials are subject to the usage limits in (iii) and (iv), respectively. ~~VOC emissions shall be determined using test methods approved by the District, CARB and USEPA. In the absence of approved test methods, the applicant can submit VOC calculation procedures acceptable to the District. [Provision moved to (F)(3)]~~

- (~~aa~~z) Hot melt adhesive ~~e~~Equipment.
- (~~baa~~a) Pyrotechnical ~~e~~Equipment, especial effects or fireworks paraphernalia ~~e~~Equipment used for entertainment purposes, ~~provided such equipment is exempt pursuant to subsection (E)(2). [Language regarding ICEs/general combustion equipment moved to (B)(8)]~~
- (~~ebb~~b) Ammunition or explosive testing ~~e~~Equipment.
- (~~dcc~~c) Fire extinguishing ~~e~~Equipment using halons.
- (~~edd~~d) Industrial wastewater treatment ~~e~~Equipment which only does pH adjustment, precipitation, gravity separation and/or filtration of the wastewater, including equipment used for reducing hexavalent chromium and/or destroying cyanide compounds. This exemption does not ~~include~~ apply to treatment processes where VOC and/or toxic materials are emitted, or where the inlet concentration of cyanide salts through the wastewater treatment process prior to pH adjustment exceeds 200 ~~milligrams-mg~~ per liter.
- (~~fee~~e) Equipment used exclusively for the packaging of sodium hypochlorite-based household cleaning or pool products.
- (~~gff~~f) Foam packaging ~~e~~Equipment using 20 gallons per day or less of liquid foam material.

- (~~hhg~~) Foam application ~~e~~Equipment using ~~two~~(2) component polyurethane foam where no VOC containing blowing agent is used, excluding chlorofluorocarbons or methylene chloride, and ~~e~~Control ~~e~~Equipment exclusively venting this ~~e~~Equipment. [Standardizes language.]
- (~~ii~~) ~~Rental equipment operated by a lessee and which is not located more than 12 consecutive months at any one (1) facility in the District provided that the owner of the equipment has a permit to operate issued by the District and that the lessee complies with the terms and conditions of the permit to operate. [Removed as unnecessary. Prohibitory provisions are generally in terms of owner/operator. Who pays or receives permits and/or keeps records of exemption is generally pursuant to specific contract between owner of the equipment and/or operator.]~~
- (~~jjh~~) Industrial wastewater evaporators treating water generated from on-site processes only, where no VOC and/or toxic materials are emitted ~~and provided that the equipment is exempt pursuant to subsection (E)(2)(b).~~ [Language regarding ICEs/general combustion equipment moved to (B)(8)]
- (~~kkii~~) High efficiency particulate air (HEPA) filtration ~~e~~Equipment and negative air machines used in asbestos demolition and/or renovation activities regulated pursuant to District Rule 1403 – *Asbestos Emissions* ~~From~~Demolition/Renovation Activities.
- (~~Hjj~~) Closed loop solvent recovery systems used for the recovery of waste solvent generated on-site using refrigerated or liquid cooled condenser, or air-cooled (where the solvent reservoir capacity is less than 10 gallons) condenser. [See USEPA Preliminary Comment 2.4 to MD219, 3/28/2019]
- (~~mmk~~) Toner refilling and ~~associated e~~Control ~~e~~Equipment used exclusively to vent such Equipment. [Standardization.]
- (~~mll~~) Evaporator used at dry cleaning facilities to dispose of separator wastewater and ~~e~~Control ~~e~~Equipment exclusively venting the ~~e~~Equipment. [Standardizes Language]
- (~~omm~~) Cleaning ~~e~~Equipment using materials with a VOC content of 25 grams of VOC per liter of material or less, and associated dryers exclusively serving these cleaners, ~~provided such equipment is also exempt pursuant to (E)(2)(b).~~ [Language regarding ICEs/general combustion equipment moved to (B)(8)]
- (~~nn~~) Gravity-type oil water separators with a total air/liquid interfacial area of less than 45 square feet and the oil specific gravity of 0.8251 or higher (40.0 API or lower). [Moved from former (E)(14)(f).]

(13) Storage and Transfer Equipment

219-24

- (a) Equipment used exclusively for the storage and transfer of fresh, commercial or purer grades of:
 - (i) Sulfuric acid or phosphoric acid with an acid strength of 99 percent or less (weight by weight) as determined by test method ASTM E223-16 – Standard Test Methods for Analysis of Sulfuric Acid or an equivalent method approved by CARB, USEPA and the APCO.
 - (ii) Nitric acid with an acid strength of 70 percent or less (weight by weight) as determined by test method ASTM D891-18 – Standard Test Methods for Specific Gravity, Apparent, of Liquid Industrial Chemicals or an equivalent method approved by CARB, USEPA and the APCO.
 - (iii) Water based solutions of salts or sodium hydroxide. [Adds specific test methods.]
- (b) Equipment used exclusively for the storage and/or transfer of liquefied gases. This exemption does, not including apply to LPG storage greater than 19,815 gallons or hydrogen fluoride storage greater than 1,057 gallons. [Removes double negative.]
- (c) Equipment used exclusively for the transfer of less than 20,000 gallons per day of unheated organic materials, with an initial boiling point of 302°F or greater, or with an organic vapor pressure of 0.1 psia absolute or less at 70°F.
- (d) Equipment used exclusively for the storage of unheated organic materials with an initial boiling point of 302°F (150° C) or greater, or with an organic vapor pressure of 0.1 psi absolute or less at 70°F. This exemption does not include-apply to liquid fuel storage greater than 40,000 gallons. [Standardization of language.]
- (e) Equipment used exclusively for transferring organic liquids, materials containing organic liquids, or compressed gases into containers of less than 60 gallons capacity. This exemption does not apply to ,except eEquipment used for transferring more than 1,057 gallons of materials per day with a vapor pressure greater than 0.5 psia absolute at operating conditions. [Removes double negative.]
- (f) Equipment used exclusively for the storage and transfer of liquid soaps, liquid detergents, vegetable oils, fatty acids, fatty esters, fatty alcohols, waxes and wax emulsions.
- (g) Equipment used exclusively for the storage and transfer of refined lubricating oils.
- (h) Equipment used exclusively for the storage and transfer of crankcase drainage oil.

- (i) Equipment used exclusively for organic liquid storage or transfer to and from such storage, of less than 251 gallons (950.13 liters) capacity. This exemption does not apply to include asphalt storage. [Standardizes language.]
- (j) Equipment used exclusively for the storage and transfer of "top white" (i.e., Fancy) or cosmetic grade tallow or edible animal fats intended for human consumption and of sufficient quality to be certifiable for United States markets.
- (k) Equipment used exclusively for the storage, holding, melting and transfer of asphalt or coal tar pitch with a capacity of less than 159 gallons.
- (l) Pumps used exclusively for pipeline transport of liquids.
- (m) Equipment used exclusively for the unheated underground storage of 6,077 gallons or less, and equipment used exclusively for the transfer to or from such storage of organic liquids with a vapor pressure of 1.5 psia ~~absolute~~ or less at actual storage conditions as determined by ASTM D2879-10 – Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope or an equivalent method approved by CARB, USEPA and the APCO, and Equipment used exclusively for the transfer from such storage. [Derived from MDAQMD 219(E)(15)(f). Adds specific test method.]
- (n) Equipment used exclusively for the storage and/or transfer of an asphalt-water emulsion heated to 150°F or less.
- (o) Liquid fuel storage tanks piped exclusively to emergency internal combustion engine-generators, turbines or pump drivers.
- (p) Bins used for temporary storage and transport of material with a capacity of 550 gallons or less.
- (q) Equipment used for material storage where no venting occurs during filling or normal use.
- (r) Equipment used exclusively for storage, blending, and/or transfer of water emulsion intermediates and products, including latex, with a VOC content of ~~five (5)~~ percent by volume or less or a VOC composite partial pressure of 0.1 psi absolute or less at 68°F.
- (s) Equipment used exclusively for storage and/or transfer of sodium hypochlorite solution.
- (t) Equipment used exclusively for the storage of organic materials which are stored at a temperature at least 234°F below its initial boiling point, or have an organic vapor pressure of 0.1 psi absolute or less at the actual

storage temperature. To qualify for this exemption, the operator shall, if the stored material is heated, install and maintain a device to measure the temperature of the stored organic material. This exemption does not ~~include~~ apply to liquid fuel storage greater than 40,000 gallons, asphalt storage, or coal tar pitch storage. *[Standardize language.]*

- (u) Stationary equipment used exclusively to store and/or transfer organic compounds that do not contain VOCs.
- (v) Unheated equipment including associated control equipment used exclusively for the storage and transfer of fluorosilicic acid at a concentration of 30 percent or less by weight and a vapor pressure of 0.5 psi or less at 77°F. The hydrofluoric acid concentration within the fluorosilicic acid solution shall not exceed one percent (1%) by weight.

~~(14) Natural Gas and Crude Oil Production Equipment:~~

- ~~(a) Well heads and well pumps.~~
- ~~(b) Crude oil and natural gas pipeline transfer pumps.~~
- ~~(c) Gas, hydraulic or pneumatic re-pressurizing equipment.~~
- ~~(d) Equipment used exclusively as water boilers, water or hydrocarbon heaters, and closed heat transfer systems (does not include steam generators used for oilfield steam injection) that have:
 - ~~(i) A maximum heat input rate of 2,000,000 Btu per hour or less; and~~
 - ~~(ii) Been equipped to be fired exclusively with purchased quality natural gas, liquefied petroleum gas, produced gas which contains less than 10 part per million hydrogen sulfide, or any combination thereof.~~~~
- ~~(e) The following equipment used exclusively for primary recovery, and not associated with community lease units:
 - ~~(i) Gas separators and boots.~~
 - ~~(ii) Initial receiving, dehydrating, storage, washing and shipping tanks with an individual capacity of 9,000 gallons or less.~~
 - ~~(iii) Crude oil tank truck loading facilities (does not include a loading rack), and gas recovery systems exclusively serving tanks exempted under subsection (E)(14)(e)(ii).~~
 - ~~(iv) Produced gas dehydrating equipment. *[Removed as unnecessary. No such equipment within District, covered by Federal Negative Declaration.]*~~~~

~~(f) Gravity type oil water separators with a total air/liquid interfacial area of less than 45 square feet and the oil specific gravity of 0.8251 or higher (40.0 API or lower). [Move provisions to (E)(12)(nn)]~~

~~(g) The following definitions will apply only to subsection (E)(14) above:~~

~~(i) "Primary Recovery" Crude oil or natural gas production from "free flow" wells or from well units where only water, produced gas or purchased quality gas is injected to repressurize the production zone.~~

~~(ii) "Community Lease Units" Facilities used for multiple well units (three or more wells), whether for a group of wells at one location or for separate wells on adjoining leases.~~

~~(iii) "Shipping Tanks" Fixed roof tanks which operate essentially as "run down" tanks for separated crude oil where the holding time is 72 hours or less.~~

~~"Wash Tanks" Fixed roof tanks which are used for gravity separation of produced crude oil/water, including single tank units which are used concurrently for receipt, separation, storage and shipment. [Removed as unnecessary. No such equipment within District, covered by Federal Negative Declaration.]~~

(154) Agricultural Sources

(a) Orchard wind machines powered by an internal combustion engine with a manufacturer's rating greater than 50 bhp, provided the engine is operated no more than 30 hours per calendar year.

(b) Orchard heaters approved by the California Air Resources Board to produce no more than one (1) gram per minute of unconsumed solid carbonaceous material.

(F) Recordkeeping

(1) Any person claiming exemptions under the provisions of this rule shall:

~~(a) Provide, upon District request, adequate records pursuant to District Rule 109 and any applicable Material Safety Data Sheets (MSDS), to verify and maintain any exemption. Adequate records can include, but are not limited to, any of the following:~~

~~(i) Materials Safety Data Sheets (MSDS) or other materials specifications as issued by the manufacturer of such materials containing the data necessary to demonstrate compliance;~~

~~(ii) Purchase records;~~

~~(iii) On site inventory records;~~

- (iv) Consistently maintained and retained logs of Equipment run time, hours of operation; gallons of fuel used; Control Efficiency of the Control Equipment; and/or amount of materials consumed as applicable for the particular exemption;
- (v) Manufacturer's data plate or similar information indicating size, capacity, Bhp, heat input value and/or other relevant information useful to determine compliance with an exemption.
- (vi) Control Efficiency of any attached air pollution Control Equipment if such Control Equipment is also exempt pursuant to the particular exemption.
- (vii) Records of Visual Emissions Evaluations performed pursuant to USEPA Method 9 – *Visual determination of the Opacity of Emissions from Stationary Sources*; and/or USEPA Method 22 - *Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares* as applicable.
- (viii) Records which are deemed adequate pursuant to the provisions of District Rule 109. *[Moved from precatory language]*

(b) Any Person claiming an exemption based upon an emissions limitation, including but not limited to those exemptions including but not limited to those found in subsections (E)(8)(a), (E)(10)(i), (E)(10)(iii), (E)(12)(p)(i), (E)(12)(y)(i) and (E)(12)(y)(vi) shall provide the following to verify and maintain such emissions limitation:

- (i) Materials Safety Data Sheets (MSDS) or other materials specifications as issued by the manufacturer of such materials containing the data necessary to demonstrate compliance; and
- (ii) Consistently maintained use logs indicating the amount of materials used or consumed on a daily, monthly and/or annual basis as applicable. Purchase and inventory records can be used in lieu of use logs so long as such records are maintained and updated on a periodic basis sufficient to show continuous compliance with the specific emissions limitation; and
- (iii) Any applicable records which are deemed adequate pursuant to the provisions of District Rule 109. *[Moved from precatory language]*

[Added to ensure proper recordkeeping for emissions limitations. Derived from MDAQMD Rule 219(F)(1).]

(2) All ~~Such~~ records shall be maintained and retained on-site for at least ~~five~~ (5) years.

(3) Any test method used to verify the percentages, concentrations, vapor pressures, etc., as required by this Rule or by any other applicable District Rule or Regulation shall be CARB, USEPA, and District approved.

(4) Failure to provide records shall be considered a violation of District Rule 201 – Permit to Construct and/or Rule 203 – Permit to Operate and may also constitute a violation of District Regulation XIII – New Source Review, Rule 1401 – New Source Review for Toxic Air Contaminants, Regulation XVII – Prevention of Significant Deterioration, and/or Regulation XXX – Title V Permits if applicable. [Derived from MDAQMD Rule 219(F)(4)]

(G) Compliance Date

- (1) The Owner/Operator of equipment previously not requiring a permit pursuant to ~~Rule 219~~the provisions of this shall comply with the provisions of District Rule 201 – Permit to Construct and/or Rule 203 – Permit to Operate within ~~one~~(1) year from the date the rule is amended to remove the exemption unless compliance is required before ~~this~~that time by written notification ~~by~~from the APCO.

See SIP Table at www.avaqmd.ca.gov

Appendix “B”
Public Notice Documents

1. Proof of Publication – AV Press 5/11/2021

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AFFIDAVIT OF PUBLICATION

(2015.5 C.C.P.)

The space above for file stamp only

STATE OF CALIFORNIA }
County of Los Angeles } ss

**NOTICE OF HEARING
RULE 219 - EQUIPMENT NOT REQUIRING A
PERMIT**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the **Antelope Valley Press**, a newspaper of general circulation, printed and published **daily** in the city of **Palmdale**, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gazette, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 224545; also operating as the Desert Mailer News, formerly known as the South Antelope Valley Foothill News, adjudicated a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the **City of Lancaster**, State of California on January 26, 1990, Case Number NOC10714, Modified October 22, 1990; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

May 12, 2021

I certify (or declare) under penalty of perjury that the fore-going is true and correct.



Signature

Dated May 12, 2021

Executed at Palmdale, California



37404 SIERRA HWY., PALMDALE CA 93550
Telephone (661)267-4112/Fax (661)947-4870

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 June 15, 2021 at 10:00 A.M. to consider the proposed amendments to Rule 219 - Equipment Not Requiring a Permit.

SAID HEARING will be held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declarations related to Covid-19, and the Governor's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by members of the District, District staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both. Copies of the proposed amendments to Rule 219 - Equipment Not Requiring a Permit and the Staff Report are on file and may be obtained from the AVAQMD Offices or the AVAQMD website rule development page (<https://avaqmd.ca.gov/rule-plan-development>). Written comments may be submitted to Bret Banks, Executive Director/APCO at the above office address or via email to tbanks@avaqmd.ca.gov. Written comments must be received no later than June 10, 2021 to be considered. If you have any questions you may contact Karen K. Nowak at (760) 245-1661 x6810 for further information.

The proposed amendments to Rule 219 - Equipment Not Requiring a Permit will clarify rule language; address USEPA concerns regarding rule enforceability; and clarify the interrelationship between this rule, existing RACT rules and the District's New Source Review (NSR) Program as contained in District Regulation XIII.

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.

AVAQMD

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Appendix “C”
Public Comments and Responses

1. None

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Appendix “D”
California Environmental Quality Act
Documentation

1. Notice of Exemption – County of Los Angeles

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NOTICE OF EXEMPTION

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

FROM: Antelope Valley Air Quality Management District
43301 Division Street, Suite 206
Lancaster, CA 93535-4649

PROJECT TITLE: Amendment of Rule 219 – *Equipment Not Requiring a Permit.*

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

PROJECT LOCATION – COUNTY: Los Angeles County

DESCRIPTION OF PROJECT: The proposed amendments to Rule 219 clarifies various exemptions as requested by USEPA; explains the interrelationship between Rule 219 and Regulation XIII – *New Source Review*; and clarifies and reorganizes of some provisions to avoid confusion. At USEPA’s request additional justification for certain other exemptions, which otherwise are unchanged, are provided in the staff report.

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 to Rule 219 are exempt from CEQA review because they will not create any adverse impacts on the environment. Rule 219 is primarily a logistical rule setting forth when particular equipment, which may or may not be regulated by other district rules, requires a written permit. It does not impose emissions limitations or conditions on operation. It merely sets a threshold based upon operational or equipment specific parameters over which a specific permit is required. Rule 219 does not exempt this equipment from any other applicable regulatory requirements; it merely indicates that a specific written permit from the AVAQMD is unnecessary.

LEAD AGENCY CONTACT PERSON: Bret Banks **PHONE:** (661) 723-8070

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** June 15, 2021

DATE RECEIVED FOR FILING:

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¹⁸³ Current AVAQMD Rulebook Rules are listed as AVAQMD Rule ### regardless of adoption date/agency as they are AV rules pursuant to operation of statute. Noncurrent rules are listed by adopting agency based upon the date of adoption.

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Local Approvals & Supporting Documentation:

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USEPA Letter, L. Beckham, USEPA Region IX to B. Poiriez, MDAQMD; *Mojave Desert Air Quality Management District New Source Review Program* (12/19/2019)
Website: https://thelibraryofmanufacturing.com/shell_mold_casting.html
Website: <https://www.marineinsight.com/marine-safety/protection-against-explosion-the-i-g-system/>

NOTICE OF EXEMPTION

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

FROM: Antelope Valley Air Quality Management District
43301 Division Street, Suite 206
Lancaster, CA 93535-4649

PROJECT TITLE: Amendment of Rule 219 – *Equipment Not Requiring a Permit.*

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

PROJECT LOCATION – COUNTY: Los Angeles County

DESCRIPTION OF PROJECT: The proposed amendments to Rule 219 clarifies various exemptions as requested by USEPA; explains the interrelationship between Rule 219 and Regulation XIII – *New Source Review*; and clarifies and reorganizes of some provisions to avoid confusion. At USEPA’s request additional justification for certain other exemptions, which otherwise are unchanged, are provided in the staff report.

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 to Rule 219 are exempt from CEQA review because they will not create any adverse impacts on the environment. Rule 219 is primarily a logistical rule setting forth when particular equipment, which may or may not be regulated by other district rules, requires a written permit. It does not impose emissions limitations or conditions on operation. It merely sets a threshold based upon operational or equipment specific parameters over which a specific permit is required. Rule 219 does not exempt this equipment from any other applicable regulatory requirements; it merely indicates that a specific written permit from the AVAQMD is unnecessary.

LEAD AGENCY CONTACT PERSON: Bret Banks **PHONE:** (661) 723-8070

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** June 15, 2021

DATE RECEIVED FOR FILING:

Frequently Asked Questions
Proposed Amendments to AVAQMD
Rule 219 – Equipment Not Requiring a Permit

Why is AVAQMD Proposing to Amend Rule 219?

USEPA recently provided negative comments to various other air districts, most notably the Mojave Desert AQMD and SCAQMD, regarding certain provisions of their versions of Rule 219 and has opined that those Rules in their current form are not approvable as a revision to the State Implementation Plan (SIP). As the AVAQMD's Rule 219 is derived from and is highly similar to both the MDAQMD's and SCAQMD's rules, USEPA has indicated that the same deficiencies are present in the AVAQMD's rules and thus an amendment is needed. In addition, since Rule 219 also is integrated with the AVAQMD's New Source Review permitting program and the Rule functions as a list of equipment that is not required to be included on Federal Operating Permits USEPA has indicated that amendments are needed to clarify the integration with those programs.

What is Proposed to Be Changed?

- Certain emissions thresholds will be shifted to a numerical value as opposed to a cross-reference for ease of use.
- Clarification will be provided regarding the applicability of other District Rules to equipment or materials used regardless of whether certain equipment is permit exempt or not.
- General clarifications will be added regarding the need for air pollution control equipment, internal combustion engines, heat transfer and/or general combustion equipment used in conjunction with permit exempt equipment must itself meet certain requirements to also be considered permit exempt.
- Reiteration of current District policy that failure to prove compliance with particular provisions is considered a violation of the District's permitting rules will be specifically stated.
- Various other changes to standardize language formulation throughout the rule.
- A sample list of records that the District would consider adequate for showing compliance with provisions will be provided.

How Do I Learn More?

A redline version indicating specific language changes in underline/strikeout format and containing *[bracketed and italicized]* notations regarding the reason for each change along with a Draft Staff Report is available for download on the AVAQMD website at <https://avaqmd.ca.gov/rule-plan-development>. Further information can be obtained by contacting either Bret Banks – bbanks@avaqmd.ca.gov or Karen K. Nowak – k2nowak@mdaqmd.ca.gov.

How Can I Participate in the Rule Development Process?

You may submit comments via email to the addresses above or in writing to the District Offices at 43301 Division Street, Ste 206, Lancaster, CA, 93535-4649. You may also participate in Governing Meetings where the proposed amendments will be discussed. An informative "Set Date" item has been placed on the May 18, 2021 Governing Board Agenda and the Public Hearing on the amendment has been scheduled for June 15, 2021. Further meeting information may be obtained at <https://avaqmd.ca.gov/governing-board>.

Proposed Amendments to Rule 219 - *Equipment Not Requiring a Permit*

Presentation to the AVAQMD Governing Board

July 15, 2021

About Rule 219 - *Equipment Not Requiring A Permit*

- ▶ Rule 219 sets out what specific equipment does not need a written permit from the District and thus does not need to pay permit fees.
 - ▶ Small in emissions.
 - ▶ Limited numbers.
 - ▶ Does not have many requirements (if any at all).
- ▶ Indicates what equipment does not need to be listed on a Federal Operating Permit.
- ▶ Sets thresholds for permitting of agricultural operations.

Why Amend Rule 219?

- ▶ An old version of Rule 219 is in the State Implementation Plan (SIP).
 - ▶ USEPA must approve any amendments to rules in the SIP.
 - ▶ District (and its predecessor agencies) has amended and submitted Rule 219 multiple times but USEPA has not acted on any of the older amendments.
 - ▶ USEPA has provided negative comments to neighboring air districts regarding certain provisions currently in the Rule.
- ▶ Rule 219 is integrated with the New Source Review (NSR) permitting program.
 - ▶ The NSR Program is also scheduled to be amended later in this meeting and 219 must be updated to conform.

Major Issues Raised by USEPA

- ▶ Emissions from permit exempt equipment under 219 would somehow “escape” preconstruction review (NSR and PSD) requirements.
- ▶ Requirements for recordkeeping and justification of exemptions could not be fully enforced.
- ▶ Appurtenant air pollution control devices and/or equipment powering permit exempt equipment would “escape” permitting requirements.
- ▶ Certain exemptions “back off” requirements because they do not have equivalent exemptions in the District’s prohibitory rules.

Permit Exempt Emissions “Escaping” Preconstruction Review

- ▶ Primarily a misunderstanding on USEPA’s part of how exactly Regulation XIII - *New Source Review* and Regulation XII - *Federal Operating Permits* work in conjunction with 219.
- ▶ Current Rule language and permitting practice specifically includes emissions of Rule 219 permit exempt in NSR and Federal Operating Permit calculations.
 - ▶ Language is expanded to include Regulation XVI - *Prevention of Significant Deterioration* as it addresses the attainment pollutants portion of Preconstruction Review.
 - ▶ NSR language will be amended to make it absolutely clear that emissions from Rule 219 permit exempt equipment is included in calculations.

Enforceability of Recordkeeping and Permit Exemption Justification

- ▶ Current language places burden of proof to justify use of a particular permit exemption directly on the Owner/Operator claiming the exemption.
 - ▶ Language is added to indicate that failure to justify the exemption is a violation of the District's permit requirements (Rules 201 and 203) and potentially the preconstruction review rules (Regulations XIII and XVI) and/or the Federal Operating Permit rules (Regulation XII).
 - ▶ A list of potential types of records used to justify an exemption is provided.
 - ▶ Language is added to indicate that failure to provide records is a violation of other District Rules.

Attached Air Pollution Control Devices & Power/Heat Devices “Escape” Permitting.

- ▶ Current permitting practices and limits in current exemptions ensure that this does not happen.
 - ▶ Specific language is added indicating that the provisions of other District Rules and regulations still apply especially in regards to materials (paint, solvents etc.) used by permit exempt equipment.
 - ▶ Specific language is added to indicate that air pollution control devices attached to permit exempt equipment generally require a permit.
 - ▶ Specific language is added to indicate that power and heating devices attached to permit exempt equipment require a permit unless they meet specific exemption requirements themselves.

“Back Offs” and Conformance With Other District Rules

- ▶ Partially based on a misunderstanding that “permit exempt” does not mean “exempt from other rule requirements.”
 - ▶ Especially when the equipment might be exempt BUT the materials used by such equipment would still need to meet the formulation requirements in other district rules.
- ▶ Partially based on USEPA’s failure to act on previous Rule 219 submissions.
 - ▶ The version in the SIP is dated 1981.
- ▶ Despite the misunderstanding USEPA has insisted on a highly technical analysis required for each identified “back off” and/or nonconformance issue.
 - ▶ Analysis of each identified issue is provided in the Technical Discussion of the Staff Report.

What is being changed?

- ▶ Clarifications in language as specifically requested by USEPA.
- ▶ Adds a specific statement that any applicable provisions of other District Rules still apply even if a particular piece of equipment is permit exempt.
- ▶ Clarifies that equipment appurtenant to permit exempt equipment may require a permit in many situations.
- ▶ Adds specific enforcement provisions.
- ▶ Standardizes language throughout the list of exemptions.
- ▶ Adds a list of record types that may be adequate to show compliance with an exemption.
- ▶ Removes problematic Oil and Gas production exemptions as there are no sources within the District.

What Doesn't Change

- ▶ The thresholds all remain the same.
- ▶ The list of permit exempt equipment (excluding the oil and gas production equipment) remains the same.
- ▶ The requirements on Facilities to keep records and/or otherwise justify falling within the exemption remain the same.

Questions?

The following page(s) contain the backup material for Agenda Item: [Conduct a public hearing to consider the amendment of Regulation XIII – New Source Review, amendment of Regulation XVII – Prevention of Significant Deterioration, making conforming changes to Rule 1401 – New Source Review for Toxic Air Contaminants: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act \(CEQA\) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rule and directing staff. Presenter: Bret Banks, Executive Director/APCO.](#)
Please scroll down to view the backup material.

**MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA**

AGENDA ITEM #11

DATE: June 15, 2021

RECOMMENDATION: Set date of June 15, 2021 to conduct a public hearing to consider the amendment of Regulation XIII – *New Source Review*, amendment of Regulation XVII – *Prevention of Significant Deterioration*, and make conforming changes to Rule 1401 – *New Source Review for Toxic Air Contaminants*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending the Rules and directing staff actions.

SUMMARY: Regulation XIII, Regulation XVII and Rule 1401 are proposed for amendment 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 United States Environmental Protection Agency (USEPA) in their review of previously submitted versions; to address USEPA concerns expressed about similar rules and regulations in other air districts; to clarify the interrelationship between these rules and Rule 219 – *Equipment Not Requiring a Permit*; to remove unused and unnecessary rules and provisions; and provide reorganization of provisions for additional clarity.

BACKGROUND: In 2015, pursuant to requirements of the Federal Clean Air Act (FCAA), the 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 designation of nonattainment

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under the NAAQS. As the effective non-attainment designation date for the AVAQMD was 8/3/2018 the NSR certification submission is due to USEPA on or before 8/3/2021.

In response to the December 2018 implementation rule the AVAQMD developed the *70 ppb Ozone Standard Implementation Evaluation: RACT SIP Analysis; Federal Negative Declarations; and, Emission Statement Certification (70 ppb O₃ Evaluation)* which was originally designed to submit many of the required SIP elements including the NSR certification. In a letter to the Mojave Desert Air Quality Management District (MDAQMD) USEPA indicated that their NSR certification could not be made due to then unspecified major deficiencies identified in the MDAQMD's current NSR Rules. USEPA has indicated that since the AVAQMD NSR rules are highly similar to those in the MDAQMD the same alleged deficiencies would also preclude an NSR certification for AVAQMD. As a result, the AVAQMD adopted 70 ppb O₃ Evaluation on 7/21/2020 without the NSR certification.

On 12/19/2019 USEPA provided commentary to the MDAQMD via letter regarding the alleged deficiencies in MDAQMD NSR program. Once again USEPA indicated orally that the AVAQMD NSR rules suffered from the same deficiencies. The MDAQMD subsequently embarked upon a substantive overhaul of the NSR program to address USEPA's concerns and adopted a revised NSR Rule on 3/22/2021. The ongoing efforts with the MDAQMD rules, involving the MDAQMD, USEPA and California Air Resources Board (CARB) staff, has resulted in a series of amendments which are easily translatable into similar revisions to the AVAQMD NSR Rules. Such amendments, with one notable exception, should be acceptable to USEPA as they are highly similar to changes USEPA indicated were acceptable in the MDAQMD NSR Rules.

The AVAQMD is therefore proposing to: amend Regulation XIII – *New Source Review* and Regulation XVII – *Prevention of Significant Deterioration*; and make conforming changes to Rule 1401 – *New Source Review for Toxic Air Contaminants*. The large majority of the proposed amendments are simply clarifications along with explanatory language codifying current District permitting practices. Applicability thresholds, in the main, remain the same as those currently in the District's Rulebook. Substantive proposed amendments include the following: addition of a variety of definitions; addition of a Stack Height Analysis as required by 40 CFR 51.164, addition of a 30 day notification period prior to issuance for certain "Minor NSR" permitting actions, the bifurcation of threshold BACT and Major Facility applicability calculations from calculations involving the amount of offsets which may be necessary in certain permitting actions, adjustment of the BACT and Major Facility threshold calculations, the removal of Rule 1310 as such rule was practically ineffective and completely unused; and a shift of Regulation XVII – *Prevention of Significant Deterioration* to an adoption by reference format. The proposed amendments will also enable the AVAQMD to request delegation of not only PSD permitting authority but also enhanced Title V permitting authority which, when granted, will allow the AVAQMD to process and issue PSD permits Title V permits and permit changes; and

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Air Toxics determinations at the same time and in the same action as the applicable NSR evaluation if the applicant so wishes.

A more detailed overview and answers to frequently asked questions regarding the proposed amendments is attached to this item. Specifics of these amendments and the justifications thereof are provided in the Draft Staff Report and Proposed Amendments published on the District's website.

A Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308) will be prepared 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(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing.

REVIEW BY OTHERS: This item was reviewed by Bret Banks, Executive Director/APCO on or about June 1, 2021.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Bret Banks, Executive Director/APCO

RESOLUTION _____

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*, AMENDMENT OF REGULATION XVII – *PREVENTION OF SIGNIFICANT DETERIORATION*, AND MAKING CONFORMING CHANGES TO RULE 1401 – *NEW SOURCE REVIEW FOR TOXIC AIR CONTAMINANTS* AND DIRECTING STAFF ACTIONS.

On June 15, 2021, 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*, amendment of Regulation XVII – *Prevention of Significant Deterioration*, and make conforming changes to Rule 1401 – *New Source Review for Toxic Air Contaminants*; and

WHEREAS, these rules provide the regulatory basis for the programs required under the Federal Clean Air Act involving the preconstruction review of new and modified stationary sources of air contaminants; and

WHEREAS, the primary ozone National Ambient Air Quality Standard (NAAQS) was lowered in 2015 from 75 parts per billion (ppb) to 70 ppb (80 FR 65292 10/1/2015, Effective 10/26/2015); and

WHEREAS, to implement this change USEPA promulgated a rule in 2018 (83 FR 62998, 12/6/2018) specifying timeline requirements for submissions of mandatory elements into the State Implementation Plan (SIP); and

WHEREAS, the AVAQMD has been designated as non-attainment for ozone and classified Severe-15 and thus the District is required to submit specific elements including a certification that the District’s Nonattainment New Source Review program (NSR) meets or exceeds various requirements as set forth in the Federal Clean Air Act and the regulations promulgated thereunder; and

WHEREAS, the deadline for this submission under the implementation rule is 3 years from the designation of nonattainment under the NAAQS; and

WHEREAS, USEPA has indicated the NSR certification using the current SIP approved AVAQMD Rules could not be made due to alleged major deficiencies identified in similar rules in the

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1 Mojave Desert Air Quality Management District (MDAQMD) where were also present in both the current
2 rules and more recent, but as yet unacted upon, NSR rule submissions for the AVAQMD; and

3 **WHEREAS**, the proposed amendments to Regulation XIII – *New Source Review*, amendment of
4 Regulation XVII – *Prevention of Significant Deterioration*, and conforming changes to Rule 1401 – *New*
5 *Source Review for Toxic Air Contaminants* are designed to address a variety of the issues identified by
6 USEPA in their review of previously submitted versions; and

7 **WHEREAS**, the proposed actions also clarify the interrelationship between these rules and Rule
8 219 – *Equipment Not Requiring a Permit*; and

9 **WHEREAS**, the proposed actions additionally remove unused and unnecessary rules and
10 provisions from the regulations; and

11 **WHEREAS**, the proposed actions provide reorganization of provisions along with language
12 codifying currently implemented permitting practices for additional clarity; and

13 **WHEREAS**, specifically the proposed actions add a variety of definitions, a Stack Height Analysis
14 provision as required by 40 CFR 51.164, a 30-day notification period prior to issuance for certain “Minor
15 NSR” permitting actions, and

16 **WHEREAS**, the proposed actions also specifically provide for the bifurcation of threshold BACT
17 and Major Facility applicability calculations from calculations involving the amount of offsets which may
18 be necessary in certain permitting actions along with a minor adjustment of the BACT and Major Facility
19 threshold calculations; and

20 **WHEREAS**, the proposed actions specifically remove Rule 1310 as such rule was effectively
21 unused along with the removal of an unused and practically unusable de minimis modification provision
22 found in Rule 1303; and

23 **WHEREAS**, USEPA has also requested additional justification for so called “Minor NSR Notice;”
24 and

25 **WHEREAS**, such justification is provided in the technical discussion section of the Staff Report
26 associated with this action; and

27 **WHEREAS**, the SIP version of Regulation XIII is version as it existed 12/4/1996 and approved 61
28 FR 64291, 12/4/1996; and

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1 **WHEREAS**, subsequent amendments were submitted to USEPA as SIP revisions but were not
2 acted upon; and

3 **WHEREAS**, Regulation XVII – *Prevention of Significant Deterioration* is not currently in the SIP;
4 and

5 **WHEREAS**, Regulation XVII – *Prevention of Significant Deterioration* is proposed to be amended
6 to be included in the SIP or otherwise serve as a basis for USEPA to delegate the authority for this program
7 to the AVAQMD; and

8 **WHEREAS**, Rule 1401 – *New Source Review for Toxic Air Contaminants* is not currently in the
9 SIP and is not intended as a SIP revision; and

10 **WHEREAS**, a complete list of specific amendments, clarifications, and justifications for the
11 proposed amendments are provided in the technical discussion section of the Staff Report associated with
12 this amendment action; and

13 **WHEREAS**, the proposed amendments to Regulation XIII – *New Source Review*, amendment of
14 Regulation XVII – *Prevention of Significant Deterioration*, and conforming changes to Rule 1401 – *New*
15 *Source Review for Toxic Air Contaminants* are necessary to allow certification of the AVAQMD’s NSR
16 program in response to the 2015 70 ppb Ozone Standard and address a variety of approvability issues as
17 identified by USEPA; and

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

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

25 **WHEREAS**, the proposed amendments are in harmony with, and not in conflict with, or
26 contradictory to existing statutes, court decisions, or state or federal regulations, and do not interfere with
27 any federal applicable requirement concerning attainment or Reasonable Further Progress (RFP) pursuant
28 to the Federal Clean Air Act (FCAA) in that the applicable provisions require specific rule adoptions in

RESOLUTION _____

1 order for the requirements to be properly implemented; and

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

5 **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to H&S Code
6 §40725, concerning the proposed actions; and

7 **WHEREAS**, a Notice of Exemption, a Categorical Exemption (Class 8, 14 CCR §15308) for the
8 proposed amendments to Regulation XIII – *New Source Review*, amendment of Regulation XVII –
9 *Prevention of Significant Deterioration*, and conforming changes to Rule 1401 – *New Source Review for*
10 *Toxic Air Contaminants*, completed in compliance with the California Environmental Quality Act (CEQA),
11 has been presented to the AVAQMD Board; each member having reviewed, considered and approved the
12 information contained therein prior to acting on the proposed actions, and the Governing Board of the
13 AVAQMD having determined that the proposed amendments will not have any potential for resulting in
14 any adverse impact upon the environment; and

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

17 **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the AVAQMD finds that
18 the proposed amendments to Regulation XIII – *New Source Review*, amendment of Regulation XVII –
19 *Prevention of Significant Deterioration*, and conforming changes to Rule 1401 – *New Source Review for*
20 *Toxic Air Contaminants* are necessary, authorized, clear, consistent, non-duplicative and properly
21 referenced; and

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

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

28 //

RESOLUTION _____

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

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

5 AYES: MEMBER:

6 NOES: MEMBER:

7 ABSENT: MEMBER:

8 ABSTAIN: MEMBER:

9
10 STATE OF CALIFORNIA)
11)
12 COUNTY OF LOS ANGELES) SS:
13

14 I, Deanna Hernandez, Senior Executive Analyst of the Antelope Valley Air Quality Management
15 District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as the
16 same appears in the Official Minutes of said Governing Board at its meeting of June 15, 2021.

17 _____
18 Senior Executive Analyst,
19 Antelope Valley Air Quality Management District.
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RULE 1300

New Source Review General

(A) Purpose

- (1) The purpose of this Regulation is to:
 - (a) Set forth the requirements for the preconstruction review of all new or Modified Facilities.
 - (b) Ensure that the Construction, or Modification of Facilities subject to this Regulation does not interfere with the attainment and maintenance of Ambient Air Quality Standards.
 - (c) Ensure that there is no net increase in the emissions of any Nonattainment Air Pollutants from new or Modified Major Facilities which emit or have the Potential to Emit any Nonattainment Air Pollutant in an amount greater than or equal to the amounts set forth in District Rule 1303(B)(1).
 - (d) Implement the provisions of California Health & Safety Code §§40709, 40709.5, 40709.6, 40710, 40711, 40712 and 40713 regarding a system by which all reductions in the emissions 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.
 - (e) Ensure that the Construction or Modification of Facilities subject to this Regulation comply with the preconstruction review requirements as set forth in District Rule 1401 – *New Source Review for Toxic Air Contaminants*.
 - (f) Ensure that the Construction or Modification of Facilities subject to this Regulation or District Regulation XVII – *Prevention of Significant Deterioration* comply with the preconstruction review requirements as set forth in District Rule 1700.

(B) Applicability

- (1) The provisions of this Regulation shall apply to any new or Modified Facility or Emissions Unit which is subject to the provisions of District Rules 201 or 203.

- (2) The provisions of this Regulation regarding Emission Reduction Credits (ERCs) shall apply to the creation, banking, ownership and use of ERCs within the District.

(C) Violations

- (1) Failure to comply with the provisions of this Regulation shall result in enforcement action under applicable provisions of Division 26, Part 4, Chapter 4 of the California Health and Safety Code (commencing with §42300) and or applicable provisions of the Federal Clean Air Act (42 U.S.C. §§ 7401 et.seq.)

(D) Exemptions

- (1) Change of Ownership or Operator

- (a) Any Facility which is a continuing operation, shall be exempt from the provisions of this Regulation when:

- (i) A new permit to operate is required solely because of permit renewal, change in ownership or a change in facility operator; and
- (ii) There is no Modification or change in operating conditions at the Facility.

- (2) Change in Rule 219

- (a) Any Facility which is a continuing operation, shall be exempt from the provisions of this Regulation when:

- (i) A new permit to operate is required solely because of a change to Rule 219 - *Equipment Not Requiring a Permit*; and
- (ii) There is no Modification or other change in operating conditions at the Facility.

(E) Interaction with Other Federal, State and District Requirements

- (1) Interaction with Other District Rules

- (a) ATC(s) and PTO(s) issued pursuant to this Regulation shall also comply with the applicable provisions of District Regulation II.

- (2) Prevention of Significant Deterioration (PSD)
- (a) Nothing in this Regulation shall be construed to exempt a Facility or an Emissions Unit located in an area designated by USEPA as attainment or unclassified for a Regulated Air Pollutant from complying with the applicable provisions of Title I, Part C of the Federal Clean Air Act (42 U.S.C. §§7470-7492, Prevention of Significant Deterioration of Air Quality), the regulations promulgated thereunder and the provisions of District Rule 1700.
- (3) Other Federal Requirements
- (a) Nothing in this Regulation shall be construed to exempt a Facility or an Emissions Unit from complying with all other applicable Federal Requirements including, but not limited to, the following:
- (i) Any standard or other requirement contained in the applicable implementation plan for the District, and any amendments thereto, approved or promulgated pursuant to the provisions of Title I of the Federal Clean Air Act (42 U.S.C. §§7401-7515).
- (ii) Any standard or other requirement under 42 U.S.C. §7411, Standards of Performance for New Stationary Sources (Federal Clean Air Act §111); 42 U.S.C. §7412, Hazardous Air Pollutants (Federal Clean Air Act §112) or the regulations promulgated thereunder.
- (iii) Any standard or other requirement under Title IV of the Federal Clean Air Act (42 U.S.C. §§7651-7651o, Acid Rain) or the regulations promulgated thereunder.
- (iv) Any standard or other requirement under Title V of the Federal Clean Air Act (42 U.S.C. §§7661a - 7661f, Permits), the regulations promulgated or the District program approved thereunder.
- (v) Any standard or other requirement of the regulations promulgated under Title VI of the Federal Clean Air Act (42 U.S.C. §§7671-7671q, Stratospheric Ozone Protection) or the regulations promulgated thereunder.
- (vi) Any national Ambient Air Quality Standard or increment or visibility requirement promulgated pursuant to part C of Title I of the Federal Clean Air Act (42 U.S.C. §7401-7515).

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

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(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: 06/15/21)

RULE 1301

New Source Review Definitions

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

- (A) Actual Emissions - The actual rate of emissions of a Regulated Air Pollutant which accurately represent the emissions from Emissions 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 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 (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 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 at Facilities as indicated below:
- (1) For a new or Modified Major Facility as defined below the most stringent of:
 - (a) The most stringent emission limit or control technique which has been achieved in practice, for such Permit Unit, class or category of source; or
 - (b) LAER as defined below; 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 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 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 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 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 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) Emissions Limitation - One or a combination of Federally Enforceable permit conditions specific to a Permit Unit 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) Emissions 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) Emissions Unit - 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 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 shall apply, and is incorporated herein by this reference.
- (CC) Facility - Any structure, building, Emissions Unit, combination of Emissions 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 practically 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;
 - (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 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 Actual Emissions of an existing Emissions Unit or combination of Emissions Units, including Fugitive Emissions directly related to the 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 pursuant to the provisions of District Rule 1304(E)(2).
- (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 a Facility that would result in a Significant Net Emissions Increase of any Regulated Air Pollutant as defined below.
- (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 Emissions 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 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 increase will cause the maximum design capacity of the Emission Unit to be exceeded; or
 - (ii) Such 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 Emissions Unit(s) where the following requirements are met:
 - (i) The replacement unit is functionally identical as the original Emissions Unit(s) being replaced; and
 - (ii) The maximum rating of the replacement Emissions Unit(s) will not be greater than that of the Emissions Unit(s) being replaced; and
 - (iii) The Potential to Emit for any Regulated Air Pollutant will not be greater from the replacement Emissions Unit(s) than from the original Emissions Unit(s) when the replacement Emissions Unit(s) is operated at the same permitted conditions as the original Emissions 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 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 _x)	100 pounds per day
Sulfur Oxides (SO _x)	150 pounds per day
Particulate Matter (PM ₁₀)	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 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) New Source Review Document (NSR Document) - A document issued by the APCO pursuant to the procedures of District Rule 1302 for a Facility subject to the provisions of District Rule 1303(B) 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).
- (WW) 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*.
- (XX) 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*.

- (YY) 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).
- (ZZZ) 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.
- (AAA) 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 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.
- (BBB) 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.
- (CCC) 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 Permit Unit. An ATC may function as a temporary PTO pursuant to the provisions of District Rule 202.
- (DDD) Permit Unit - Any Emissions Unit which is required to have a PTO pursuant to the provisions of District Rule 203.
- (EEE) 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.
- (FFF) PM₁₀ - Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers.
- (GGG) Potential to Emit (PTE) - The maximum capacity of a Facility or Emissions 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 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.

- (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 Air Pollutants shall not be included in the calculations of a Facility or Emissions Unit(s) Potential to Emit unless the Facility 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 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 ₁₀
Hydrocarbons and substituted hydrocarbons (Volatile Organic Compounds)	a) Photochemical oxidant (ozone) b) The organic fraction of PM ₁₀ c) PM _{2.5}
Nitrogen dioxide (NO ₂)	a) PM _{2.5}
Nitrogen oxides (NO _x)	a) Nitrogen dioxide (NO ₂) b) The nitrate fraction of PM ₁₀ c) Photochemical oxidant (ozone)
Sulfur dioxide (SO ₂)	a) PM _{2.5}
Sulfur oxides (SO _x)	a) Sulfur dioxide (SO ₂) b) Sulfates (SO ₄) c) The sulfate fraction of PM ₁₀

(III) Proposed Emissions - the Potential to Emit for a new or post-modification Emissions Unit(s), or a new or post-modification Facility as constructed or modified, including Fugitive Emissions directly related to the 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 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 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 Facility or Major Modification to a Facility but which do not come from the Facility or the Major Modification itself.

- (1) These emissions must be specific, well defined, quantifiable, and impact the same general area as the 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 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 Emissions Unit(s); or
- (2) The surrender of Emissions 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.

<u>POLLUTANT</u>	<u>EMISSION RATE</u> (Within a Severe Federal ozone nonattainment area)	<u>EMISSION RATE</u> (Within a moderate PM ₁₀ nonattainment area)
Carbon Monoxide (CO)	100 tpy	100 tpy
Lead (Pb)	0.6 tpy	0.6 tpy
Oxides of Nitrogen (NO _x)	25 tpy	40 tpy
PM10	N/A	15 tpy
Reactive Organic Compounds (ROC)	25 tpy	40 tpy
Sulfur Dioxide (SO ₂)	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 Enforceable reduction in the emissions of an existing Emissions Unit(s), calculated pursuant to the provisions of District Rule 1304(C), which occurs 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).

(VVV) 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).

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

(XXX) 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 shall apply, and is incorporated herein by this reference.

- (YYY) 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.
- (ZZZ) 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).
- (AAAA) Total Organic Compounds - Compounds of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates and ammonium carbonate.
- (BBBB) United States Environmental Protection Agency (USEPA) - The United States Environmental Protection Agency, the Administrator of the USEPA and their authorized representative.
- (CCCC) 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 those compounds listed in 40 CFR 51.100(s)(1).

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

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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: 06/15/21)

RULE 1302

New Source Review Procedure

(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, and operation of the new or modified Facility or Emissions 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 Unit(s); the amount of potential emissions from such new or modified Emissions Unit(s); information sufficient to determine all rules, regulations or other requirements applicable to such Emissions 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 Inventory. If a Facility has a current approved Comprehensive Emissions Inventory on file with the District such Facility may, upon written request and approval of the APCO, update the Comprehensive Emissions Inventory to reflect the addition, deletion or modification of all Emission Unit(s) affected by the application.
 - (iii) A District Regulation XVII 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 District Rule 1700(B), using the applicability procedures adopted by reference in District Rule 1700.
 - (iv) 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 District Rule 1303(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 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 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 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) 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.
- (f) 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 notification a copy of the application and the analysis of 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) has been performed and the provisions of subsection (C)(7)(e) 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) or by a determination of incompleteness pursuant to subsection (B)(2)(a).
- (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.

- (a) The APCO shall analyze the application to determine the specific pollutants, amount, and change (if any) in emissions pursuant to the provisions of District Rules 1304 and 1700.

(2) Determination of Requirements.

- (a) After determining the emissions change (if any), the APCO shall determine if any of the provisions of District Rule 1303 apply to the new or modified Facility.
- (b) If none of the provisions of District Rule 1303 apply to the new or modified facility, then the APCO shall continue the analysis at subsection (C)(4) below.
- (c) If subsection (A) is the only provision of District Rule 1303 applicable to the new or modified Facility then the APCO shall:

- (i) Develop and include conditions on any proposed ATC or PTO to implement BACT on all new or modified Emissions Unit(s) at the Facility; and
 - (ii) Continue the analysis at subsection (C)(4) below.
 - (d) If subsection (B) of District Rule 1303 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 PTE 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 the amount of Offsets required on a pollutant by pollutant basis pursuant to the provisions of District Rules 1304(B)(2) and 1305.
 - (i) The APCO shall thereafter notify the applicant in writing of the specific amount of Offsets.
 - (b) 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.
 - (i) 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 District Rule 1305.
 - 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) The APCO shall disallow the use of any Offsets which were created by the shutdown, modification or limitation of existing Emissions Unit(s) when such Offsets:
 - a. Are not in compliance with the applicable provisions of District Rule 1305 or 40 CFR 51.165(a)(3)(ii)(C); or
 - b. 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; that a sufficient quantity have been provided; and after any permit modifications required pursuant to District Rules 1305 or 1309 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 APCO's approval shall be subject to review and comment by CARB and USEPA pursuant to subsection (D)(2) below.
- (iv) The Offsets must be obtained prior to time the new or Modified Facility Begins Actual Construction.
- (c) After determination of the amount of pollutant specific offsets required and approval of the Offset package 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 required of the new or 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) before an ATC is issued; and
 - (iii) Ensure any field study or fluid model used to demonstrate Good Engineering Practicw stack height and any determination concerning excessive concentration is approved by the EPA and the Control Officer 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 Facility.
 - (b) If any of the provisions of District Rule 1401 apply to the new or 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; and

- (ii) Add any conditions to the applicable permits required to implement any provisions of those Rules.
 - (c) After determining which, if any, 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 as part of the California State Implementation Plan (SIP).
- (6) Determination of Requirements for Prevention of Significant Deterioration (PSD).
- (a) The APCO shall review the PSD applicability analysis submitted pursuant to subsection (B)(1)(a)(iii) to determine if 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.
 - (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 necessary conditions in conjunction with those required pursuant to this Regulation; 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 Facility.
 - (b) **Major NSR 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) 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) regarding stack height greater than Good Engineering Practice; or
 - (iii) The provisions of District Rule 1700; or
 - (iv) The provisions of District 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 at the new or modified Facility require 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) 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 Facility is not subject to any of the provisions listed in subsections (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):
 - (i) The emissions change for any Regulated Air Pollutant as calculated under subsection (C)(1) is greater than any of the following:
 - 20 tpy or more of VOC, 20 tpy or more of NO_x, 12 tpy or more of PM₁₀, or 80% of the Major Facility Threshold for any other Nonattainment Air Pollutant as set forth in District Rule 1303(B); or
 - 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
 - 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 (7)(b), (c) or (d) above, 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 subsection (D)(3)(a)(iii).

(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

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 any, and any document(s) produced pursuant to District Regulation XXX. In such case the preliminary decision, draft NSR Document and draft PSD Document shall conform to the applicable provisions of District Regulation XXX and 40 CFR 70.6(a)-(g), 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 of subsection (C)(7)(b)-(d) 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 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) 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 Notice and Toxic NSR Notice:** If notice is required pursuant to the provisions of subsections (C)(7)(b), (C)(7)(c) or (D)(4)(d) 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); 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) 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 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) then, within 10 days of the issuance of the 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 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) 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 Notice Contents:** The notice required pursuant to subsection (D)(3)(a)(i) shall include:
 - a. The name and location of the Facility, including the name and address of the applicant if different.
 - 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).
 - 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) shall include:
- a. Identification of the Facility; including the name, address and Facility number; 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 above the APCO shall make available for public inspection at the offices of the District or in another prominent place: the application and any other information submitted by the applicant; The NSR document, the preliminary decision to grant or deny the ATC, including any proposed permit conditions and 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).
 - (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.
 - (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).
 - (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 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) based on the NSR 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 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 a notice substantially similar in content to the notice required by subsection (D).
 - (e) The final NSR Document may be combined with a final PSD document produced pursuant to District Rule 1700(D).
 - (f) The final NSR 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 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, operation and other matters as set forth in the NSR Document; and
 - (ii) If a new or Modified Facility is a replacement, in whole or in part, for an existing Facility or Emissions Unit on the same or contiguous property, a condition allowing 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 Unit; and
 - (iii) A condition requiring the Facility to be operated in accordance with the conditions contained on the ATC(s);
 - (iv) A condition requiring that the 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 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 District Rules 1305 and/or 1309.
 - a. Such offsets shall be Real, Enforceable Quantifiable, Surplus and Permanent; and
 - b. The permit(s) of any Facility or Emissions Unit(s) which provided offsetting emissions reductions have been

properly modified and/or other actions have been performed pursuant to the provisions of District Rules 1305 and 1309.

- (iii) The new or Modified Facility complies with all applicable 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 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) That the permit(s) of any Facility or Emissions Unit(s) which provided Offsets to the new or Modified Facility have been properly modified and/or valid contracts have been obtained pursuant to the provisions of District Rules 1304, 1305 or 1309.
 - (vi) That the Offsets, if required pursuant to District Rule 1303(B), 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 District Rule 1305 as based upon the actual emissions of the facility; 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>]

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(Adopted: 10/05/79; Amended: 03/07/80; Amended: 09/10/82;
Amended: 07/12/85; Amended: 08/01/86; Amended: 06/28/90;
Amended: 05/03/91; Amended: 12/07/95; Amended: 05/10/96;
Amended: 03/20/01; Amended: 06/15/21)

Rule 1303

New Source Review Requirements

(A) Best Available Control Technology.

- (1) Any new Permit Unit which emits, or has the Potential to Emit, 25 pounds per day or more of any Nonattainment Air Pollutant shall be equipped with BACT
- (2) Any Modified Permit Unit which emits, or has the Potential to Emit, 25 pounds per day or more of any Nonattainment Air Pollutant shall be equipped with BACT.
- (3) Any new or Modified Permit Unit at a Facility which emits, will emit, or has the Potential to Emit any Nonattainment Air Pollutant in an amount greater than or equal to the 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 the following 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.

OFFSET THRESHOLD AMOUNTS

<u>POLLUTANT</u>	<u>OFFSET THRESHOLD</u>
PM ₁₀	15 tpy
Oxides of Nitrogen (NO _x)	25 tpy
Oxides of Sulfur (SO _x)	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 in excess of the offset threshold set forth in subsection (B)(1) above shall offset the total emission increase during such period to zero.
- (5) The amount, and eligibility of such offsets shall be determined on a pollutant by pollutant basis pursuant to the provisions of District Rules 1304, 1305, and 1309.

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

(Adopted: 10/05/79; Amended: 03/07/80; Amended: 09/10/82;
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Amended: 09/11/92; Amended: 12/07/95; Amended: 06/14/96;
Amended: 03/20/01; Amended: 06/15/21)

RULE 1304

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 new or Modified Facilities and Emissions Unit(s).
 - (iv) Calculate certain terms used in District Rule 1305.
 - (v) Calculate emissions decreases used to determine ERCs pursuant to the provisions of District Rule 1309.

(B) Calculating Emissions Changes in a Facility

(1) General Emissions Change Calculations

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

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

- (b) The emissions change for a project at new or Modified Facility is the sum of all the positive Emissions Changes for each Emissions Unit(s) which occur at the Facility at the same time or in connection with the same permitting action.

(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 action.

(C) Calculating Simultaneous Emissions Reductions.

- (1) SERs as defined in District Rule 1301(UUU) may result from the Modification or shut down of Existing Emission Unit(s) so long as the resulting reductions are Federally Enforceable, Real, Surplus, Permanent, Quantifiable and Enforceable, and are reductions in of the Emissions Unit(s).
- (2) SERs resulting from the Modification or shutdown of existing Emission Unit(s) within the same Facility shall be calculated as follows:

- (a) For the shutdown 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 shutdown, Modifications or limitations on mobile, area or indirect sources of emissions;

- (i) Any calculation formula and protocol as approved by 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 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 documented prior permitting action so long as:
 - (i) The PTE for the specific Emissions Unit is specified in a Federally Enforceable Emissions Limitation; and
 - (ii) The resulting Emissions Change from a calculation using this provision is a decrease in emissions from the Emissions Unit(s) and
 - (iii) Any excess SERs generated from a calculation using this provision are not eligible for banking pursuant to the provision of District Regulation XIV.

- (3) SERs calculated pursuant to subsection (C)(2) above shall thereafter be adjusted to reflect emissions reductions which are otherwise required by Federal, State or District law, rule, order, permit or regulation as follows:
 - (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.

- (4) SERs calculated pursuant to subsection (C)(2) above shall be considered Enforceable when the owner and/or operator of the Emissions Units involved has obtained appropriate permits and/or submitted other Enforceable documents as follows:

- (a) If the SERs are the result of a Modification or limitation on the use of existing equipment and the owner and/or operator has been issued revised ATCs or PTOs containing Federally Enforceable conditions reflecting the Modification and/or limitations.
- (b) If the SERs are the result of a shutdown of a Permit Unit(s) the owner and/or operator has surrendered the relevant permits and those permits have been voided.
 - (i) The specific Permit Units 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 SERs are the result of a Modification of Emissions Units(s) which did not have a District permit, 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 Unit(s).
- (d) If the SERs are the result of the application of a more efficient control technology to Emissions Unit(s) the owner and/or operator has or obtains a valid District PTO for both the underlying Emissions Unit and the new control technology.
- (5) SERs as calculated above may only be used for purposes of calculating Net Emissions Increases pursuant to subsection (B)(2) or as Offsets pursuant to District Rule 1305(C)(2).
- (6) Prior to use, SERs must be 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>]

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1304-8

AVAQMD Rule 1304
NSR Emissions Calculations

RULE 1305

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

- (1) The base amount of necessary Offsets shall be calculated based upon the nature of the Facility or Modification.

- (2) The APCO shall first determine the particular 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 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.
- (c) 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 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.
- (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.
 - (i) 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.
 - (j) 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.
 - (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 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 amount of Offsets necessary.

(C) Eligibility of Offsets

- (1) ERCs are eligible to be used as Offsets when:

- (a) Such 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 are obtained from a Facility (or combination of Facilities) which are:
- (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.
- (b) Such ERCs have been calculated and issued in another air district 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 subsection (C)(4) below.
- (c) Such ERCs have been calculated and issued in another air district under a program developed pursuant to California Health & Safety Code §§40709-40713 and the transfer of such credits complies 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
 - (vi) 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 which has a greater or equal nonattainment classification than the area where the Offsets are to be used; and
 - (ii) 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 emissions reductions shall also comply with the applicable requirements of subsection (C)(1) above.
- (5) Offsets 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 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 which has a greater or equal nonattainment classification than the area where the Offsets are to be used; and
 - (vi) 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 emissions reductions shall comply with the applicable requirements of subsection (C)(1) above.
- (6) Interpollutant Offsets¹
 - (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.
 - (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 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.
 - (c) The APCO shall, based upon an air quality analysis, determine the amount of Offsets necessary, as appropriate.
 - (d) Interpollutant trades between PM₁₀ and PM₁₀ precursors may be allowed on a case by case basis. PM₁₀ emissions shall not be allowed to Offset Nitrogen Oxides or Volatile Organic Compounds emissions within any ozone nonattainment area.
 - (e) Such ERCs comply with the applicable provisions of subsection (C)(1) above.

¹ Use of this subsection subject to the Ruling in Sierra Club v. USEAP 985 F.3d 1055 (D.C. Cir, 2021) and subsequent guidance as issued by USEPA.

(D) Offset Ratio and Adjustment

- (1) Offsets for Net Emissions Increases of Nonattainment Air Pollutants shall be provided on a 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> (Within a Federal Ozone Nonattainment Area)	<u>OFFSET RATIO</u> (Within a Federal PM ₁₀ Nonattainment Area)
PM ₁₀	1.0 to 1.0	1.0 to 1.0
Oxides of Nitrogen (NO _x)	1.3 to 1.0	1.0 to 1.0
Oxides of Sulfur (SO _x)	1.0 to 1.0	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) 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.
- (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> _____]

(Adopted: 10/05/79; Amended: 03/07/80; Amended: 09/10/82;
Amended: 12/03/82; Amended: 07/12/85; Amended: 08/01/86;
Amended: 09/05/86; Amended: 07/28/90; Amended: 05/03/91;
Amended: 12/07/95; Amended: 07/14/96; Amended: 03/20/01;
Amended: 06/15/21)

RULE 1306

New Source Review for Electric Energy Generating Facilities

(A) General

- (1) This Rule shall apply to all EEGF proposed to be constructed in the District and for which an NOI or AFC has been accepted by the CEC, as such terms are defined in District Rule 1301(V), (YY), (G) and (M) respectively.
- (2) If any provision of this Rule conflicts with any other provision of this Regulation, the provisions contained in this Rule shall control.

(B) Intent to Participate

- (1) Notification of Intent to Participate (NOI)
 - (a) Within 14 days of receipt of an NOI, the APCO shall notify CARB and the CEC of the District's intent to participate in the NOI proceeding.
- (2) Preliminary Report
 - (a) If the District chooses to participate in the NOI proceeding, the APCO shall prepare and submit a preliminary report to CARB and the CEC prior to the conclusion of the nonadjudicatory hearings specified in California Public Resources Code §25509.5 as it exists on the date of the last amendment of this rule.
 - (b) The Preliminary Report shall include, at a minimum:
 - (i) A preliminary specific definition or description of BACT for the proposed Facility; and
 - (ii) A preliminary discussion of whether there is a substantial likelihood that the requirements of this Regulation and all other District Rules can be satisfied by the proposed Facility; and

(iii) A preliminary list of conditions which the proposed Facility must meet in order to comply with this Regulation and any other applicable District Rules.

(c) The preliminary determination shall be as specific as practicable within the constraints of the information contained in the NOI

(C) Applications

(1) Application for New Source Review

(a) The APCO shall consider the AFC to be equivalent to an application pursuant to District Rule 1302(B) during the Determination of Compliance review, and shall apply all applicable provisions of District Rule 1302 to the application.

(b) If the information contained in the AFC does not meet the requirements which would otherwise comprise a complete application pursuant to District Rule 1302(B)(1), the APCO shall, within 20 calendar days of receipt of the AFC, specify the information needed to render the application complete and so inform the CEC.

(2) Requests for Additional Information

(a) The APCO may request from the applicant any information necessary for the completion of the Determination of Compliance review.

(b) If the APCO is unable to obtain the information, CARB or the APCO may petition the presiding committee of the CEC for an order directing the applicant to supply such information.

(D) Determination of Compliance Review

(1) Upon receipt of an AFC for an EEGF, the APCO shall conduct a Determination of Compliance review. This Determination shall consist of a review identical to that required pursuant to District Rule 1302(C).

(E) Permit Issuance Procedure

(1) Preliminary Decision

- (a) Within 150 days of accepting an AFC as complete and after the determination of compliance review has been completed, the APCO shall make a preliminary determination of compliance containing the following:
 - (i) A determination whether the proposed EEGF meets the requirements of this Regulation and all other applicable District Rules; and
 - (ii) In the event of compliance with all applicable District Rules and Regulations, what permit conditions will be required, including the specific BACT requirements.

(2) Public Notice Requirements

- (a) The preliminary determination of compliance decision shall be treated as a preliminary decision under Rule 1302(D)(1) and shall be finalized by the APCO only after being subject to the public notice and comment requirements of Rule 1302(D)(2-3).

(3) Determination of Compliance

- (a) Within 210 days of accepting an AFC as complete and after the notice provisions have been completed, the APCO shall issue and submit to the CEC either of the following:
 - (i) A final determination of compliance; or,
 - (ii) If such a determination of compliance cannot be issued, an explanation regarding why such determination of compliance cannot be issued.
- (b) A determination of compliance shall confer the same rights and privileges as the new source review document and ATC(s) if and when the CEC approves the AFC, and the CEC certificate includes all conditions contained in the determination of compliance.

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

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(Adopted: 09/10/82; Amended: 12/03/82; Amended: 07/12/85;
Amended: 06/28/90; Amended: 05/03/91; Amended: 08/13/93;
Amended: 12/07/95; Amended: 03/20/01; Amended: 06/15/21)

RULE 1309

Emission Reduction Credit Banking

(A) General

(1) Purpose

- (a) The purpose of this Rule is 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 regulation 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.
 - (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 calculated pursuant to the provisions of District Rule 1304 and approved by the APCO pursuant to subsection (C)(3) below; and
 - c. The amount, 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 prior to July 1, 1997 under the applicable Rules of the 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 to whom the ERC has been transferred; or
 - (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.
 - (e) Emission reductions are eligible to become ERCs if such reductions are Real, Surplus, Permanent, Quantifiable, and Enforceable; and are calculated pursuant to the provisions of District Rule 1304(D) and:
 - (i) The emissions reduction is the result of a Modification or limitation of use of existing Emissions Unit(s) such that after the reduction is made the Emissions 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 Emission Unit(s) and there will likely be no replacement Emission Unit(s) at the same Facility unless the emissions from any replacement Emission Unit(s) is 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;
 - (ii) The amount and pollutant of the approved ERC on a pollutant by pollutant basis;
 - (iii) The expiration date of the approved ERC, if any;
 - (iv) 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 shall be evidenced by a Certificate issued by the District and signed by the APCO.

- (b) The Certificate shall contain the same information as is contained in the registry entry for the issued ERC pursuant to subsection (B)(2)(b) above.
 - (c) The APCO shall prescribe the form of the Certificate.
 - (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 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 Emissions 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 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 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 Unit(s) and a contact person if necessary.
 - (ii) Information sufficient to identify the source and/or causation of the emission reductions.
 - (iii) Information sufficient to allow the calculations set forth in District Rule 1304(D) 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 PTO; or
 - c. District cancellation of a previously existing ATC or PTO; or
 - d. for emissions units not subject to permitting requirements, the completion of the Modification or shutdown and execution of the document(s) required by subsection (D)(3)(c).
 - (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 emissions 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 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 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) 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 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 ERCs, the information submitted by the applicant, the analysis, and determination shall transmit 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 ERCs proposed to be granted are greater than any of the following amounts:

<u>Pollutant</u>	<u>ERC Notification to CARB/USEPA Threshold</u>
NO _x	14,600 lbs/yr or 40 lbs/day
SO _x	21,900 lbs/yr or 60 lbs/day
ROC	10,950 lbs/yr or 30 lbs/day
PM ₁₀	10,950 lbs/yr or 30 lbs/day
CO	80,300 lbs/yr or 220 lbs/day
H ₂ S	20,000 lbs/yr or 54 lbs/day
Pb	1,200 lbs/yr or 3 lbs/day

(5) Public Notice and Comment:

- (a) After the APCO has determined to issue ERCs, the APCO shall:
 - (i) Produce a notice containing all the information contained in subsection (C)(5)(c) 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 assure fair and adequate notice to the public.
- (b) The notice shall provide the following:
- (i) The name and address of the applicant and the facility generating the emissions reductions, if different;
 - (ii) The amount of ERCs proposed to be issued on a pollutant by pollutant basis;
 - (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 days 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.
 - (v) A brief description of the comment procedures and deadlines; and
 - (vi) Information regarding obtaining review of the decision pursuant to section (G) below; and
- (c) The APCO shall accept and consider all germane and nonfrivolous 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.
- (6) 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 a 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)(4)(c) above.

(D) Standards for Granting ERCs

- (1) ERCs shall be Real, Surplus, Permanent, Quantifiable, and Enforceable.
- (2) ERCs shall only be granted for emissions 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 existing Permit Unit(s), the owner and/or operator has been issued revised ATCs 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 Permit Unit(s), the owner and/or operator has surrendered the relevant permits and those permits have been voided.
 - (i) The specific Permit Unit(s) for which the permits were surrendered shall not be repermited 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 Emission Unit(s) which did not have a District permit, 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), the owner and/or operator has or obtains a valid District PTO for both the underlying Emissions Unit 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 from that unit are included in the District's emissions inventory.

(E) 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 in the registry.
 - 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.
 - c. The purchase price, if any, of the ERCs in terms of total cost on a pollutant by pollutant purchased basis.
 - d. 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 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 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.
 - 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, 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 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 or other evidence of the ERCs obtained from the SCAQMD.
 - 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.
 - 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, 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

(4) 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

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the encumbrance or by the removal of the incumbrance by its holder of the encumbrance.

(5) 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).
- (iii) After the APCO has determined the amount of the adjustment, upon surrender of the prior ERC Certificate, the APCO shall issue an adjusted ERC Certificate to the owner.

(6) 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 Enforceable.

(7) 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)(c)(iv) the applicant may, within 30 days of the date the application is deemed withdrawn, petition the District Hearing Board for a hearing on whether the application as submitted was incomplete.
- (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) 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 1401

New Source Review for Toxic Air Contaminants

(A) Purpose

- (1) The purpose of this Rule is to:
 - (a) Set forth the requirements for preconstruction review of all new, Modified, Relocated or Reconstructed Facilities which emit or have the potential to emit any Hazardous Air Pollutant, Toxic Air Contaminant, or Regulated Toxic Substance; and
 - (b) Ensure that any new, Modified, or Relocated Emissions Unit is required to control the emissions of Toxic Air Contaminants as required pursuant to Chapter 3.5 of Part 1 of Division 26 of the California Health and Safety Code (commencing with §39650); and
 - (c) Ensure that any proposed new or Reconstructed Facility or Emissions Unit is required to control the emissions of Hazardous Air Pollutants as required under 42 U.S.C. §7412(g).
- (2) This Rule is not submitted to USEPA and is not intended to be included as part of the California State Implementation Plan.

(B) Applicability

- (1) General Applicability
 - (a) The provisions of this rule shall be applicable to:
 - (i) Applications for new, Modified or Relocated Facilities or Emissions Unit(s) which were received by the District on or after June 1, 1990.
 - (ii) Any Permit Unit(s) installed without a required Authority to Construct Permit shall be subject to this rule, if the application for a permit to operate such equipment was submitted after June 1, 1990.
 - (iii) Applications shall be subject to the version of the District Rules that are in effect at the time the application is received.
- (2) State Toxic New Source Review Program (State T-NSR) Applicability
 - (a) The provisions of Subsection (E) of this Rule shall apply to any new or Modified Emissions Unit which:
 - (i) Emits or has the potential to emit a Toxic Air Contaminant; or

- (ii) Is subject to an Airborne Toxic Control Measure.
- (3) Federal Toxic New Source Review Program (Federal T-NSR) Applicability
- (a) The provisions of Subsection (F) of this Rule shall apply to any new or Reconstructed Facility or new or Modified Emissions Unit(s) which:
 - (i) Emits or has the potential to emit 10 tons per year or more of any single HAP; or
 - (ii) Emits or has the potential to emit 25 tons per year or more of any combination of HAPs; or
 - (iii) Has been designated an Air Toxic Area Source by USEPA pursuant to the provisions of 42 U.S.C. §7412 and the regulations promulgated thereunder.

(C) Definitions

The definitions contained in District Rule 1301 shall apply unless the term is otherwise defined herein.

- (1) Air Toxic Area Source – Any Facility or Emissions Unit(s) of Hazardous Air Pollutants that emits or has the potential to emit less than ten (10) tons per year of any single HAP or twenty-five (25) tons per year of any combination of HAPs and which has been designated as an area source by USEPA pursuant to the provisions of 42 U.S.C. §7412.
- (2) Airborne Toxic Control Measure (ATCM) – Recommended methods or range of methods that reduce, avoid, or eliminate the emissions of a TAC promulgated by CARB pursuant to the provisions of California Health and Safety Code §39658.
- (3) Best Available Control Technology for Toxics (T-BACT) –The most stringent emissions limitation or control technique for Toxic Air Contaminants or Regulated Toxic Substances which:
 - (a) Has been achieved in practice for such permit unit category or class of source; or
 - (b) Is any other emissions limitation or control technique, including process and equipment changes of basic and control equipment, found by the APCO to be technologically feasible for such class or category of sources, or for a specific source.
- (4) Cancer Burden - The estimated increase in the occurrence of cancer cases in a population resulting from exposure to carcinogenic air contaminants.
- (5) Case-by-Case Maximum Achievable Control Technology Standard (Case-by-Case MACT) – An emissions limit or control technology that is applied to a new or Relocated Facility or Emissions Unit(s) where USEPA has not yet promulgated a MACT standard pursuant to 42 U.S.C. §7412(d)(3) (FCAA §112(d)(3)). Such

limit or control technique shall be determined pursuant to the provisions of 40 CFR 63.43.

- (6) Contemporaneous Risk Reduction - Any reduction in risk resulting from a decrease in emissions of Toxic Air Contaminants at the facility which is real, enforceable, quantifiable, surplus and permanent.
- (7) Hazard Index (HI) – The acute or chronic non-cancer Hazard Quotient for a substance by toxicological endpoint.
- (8) Hazard Quotient (HQ) – The estimated ambient air concentration divided by the acute or chronic reference exposure for a single substance and a particular endpoint.
- (9) Hazardous Air Pollutant (HAP) – Any air pollutant listed pursuant to 42 U.S.C. §7412(b) (Federal Clean Air Act §112(b)) or in regulations promulgated thereunder.
- (10) Health Risk Assessment (HRA) – A detailed and comprehensive analysis prepared pursuant to the most recently published District *Health Risk Assessment Guidelines* to evaluate and predict the dispersion of Toxic Air Contaminants and Regulated Toxic Substances in the environment, the potential for exposure of human population and to assess and quantify both the individual and population wide health risks associated with those levels of exposure. Such document shall include details of the methodologies and methods of analysis which were utilized to prepare the document.
- (11) High Priority – A Facility or Emissions Unit(s) for which any Prioritization Score for cancer, acute non-cancer health effects or chronic non-cancer health effects is greater than or equal to ten (10).
- (12) Intermediate Priority – A Facility or Emissions Unit (s) for which any Prioritization Score for cancer, acute non-cancer health effects or chronic non-cancer health effects is greater than or equal to one (1) and less than ten (10).
- (13) Low Priority – A Facility or Emissions Unit(s) for which all Prioritization Scores for cancer, acute non-cancer health effects or chronic non-cancer health effects are less than one (1).
- (14) Maximum Achievable Control Technology Standard (MACT) – The maximum degree of reduction in emissions of HAPs, including prohibitions of such emissions where achievable, as promulgated by USEPA pursuant to 42 U.S.C. §7412(d)(3) (Federal Clean Air Act §112(d)(3)).
- (15) Maximum Individual Cancer Risk (MICR) – The estimated probability of a potential maximally exposed individual contracting cancer as a result of exposure to carcinogenic air contaminants over a period of 70 years for residential locations and 46 years for worker receptor locations or other periods of time as promulgated by OEHHA.

- (16) Moderate Risk – A classification of a Facility or Emission Unit for which the HRA Report indicates the MICR is greater than one (1) in one million (1×10^{-6}) at the location of any receptor.
- (17) Modification (Modified) – Any physical or operational change to a Facility or an Emissions Unit to replace equipment, expand capacity, revise methods of operation, or modernize processes by making any physical change, change in method of operation, addition to an existing Emissions Unit(s) and/or change in hours of operation, including but not limited to any change which results in the emission of any Hazardous Air Pollutant, Toxic Air Contaminant, or Regulated Toxic Substance or which results in the emission of any Hazardous Air Pollutant, Toxic Air Contaminant, or Regulated Toxic Substance not previously emitted.
- (a) A physical or operational change shall not include:
- (i) Routine maintenance or repair; or
 - (ii) A change in the owner or operator of an existing Facility with valid PTO(s); or
 - (iii) An increase in the production rate, unless:
 - a. Such increase will cause the maximum design capacity of the Emission Unit to be exceeded; or
 - b. Such increase will exceed a previously imposed enforceable limitation contained in a permit condition.
 - (iv) An increase in the hours of operation, unless such increase will exceed a previously imposed enforceable limitation contained in a permit condition.
 - (v) An Emission Unit replacing a functionally identical Emission Unit, provided:
 - a. There is no increase in maximum rating or increase in emissions of any HAP, TAC or Regulated Toxic Substance; and
 - b. No ATCM applies to the replacement Emission Unit.
 - (vi) An Emissions Unit which is exclusively used as emergency standby equipment provided:
 - a. The Emissions Unit does not operate more than 200 hours per year; and
 - b. No ATCM applies to the Emissions Unit.
 - (vii) An Emissions Unit which previously did not require a written permit pursuant to District Rule 219 provided:
 - a. The Emissions Unit was installed prior to the amendment to District Rule 219 which eliminated the exemption; and
 - b. A complete application for a permit for the Emission Unit is received within one (1) year after the date of the amendment to District Rule 219 which eliminated the exemption.
 - (viii) An Emissions Unit replacing Emissions Unit(s) provided that the replacement causes either a reduction or no increase in the cancer burden, MICR, or acute or chronic HI at any receptor location.

- (b) Any applicant claiming exemption from this rule pursuant to the provisions of subsection (C)(17)(a) above:
 - (i) Shall provide adequate documentation to substantiate such exemption; and
 - (ii) Any test or analysis method used to substantiate such exemption shall be approved by the APCO.
- (18) Office of Environmental Health Hazard Assessment (OEHHA) – A department within the California Environmental Protection Agency that is responsible for evaluating chemicals for adverse health impacts and establishing safe exposure levels.
- (19) Prioritization Score – The numerical score for cancer health effects, acute non-cancer health effects or chronic non-cancer health effects for a Facility or Emissions Unit(s) as determined by the District pursuant to California Health and Safety Code §44360 in a manner consistent with the most recently approved CAPCOA *Facility Prioritization Guidelines*; the most recently approved OEHHA Unit Risk Factor for cancer potency factors; and the most recently approved OEHHA Reference Exposure Levels for non-cancer acute factors, and non-cancer chronic factors.
- (20) Receptor – Any location outside the boundaries of a Facility at which a person may be impacted by the emissions of that Facility. Receptors include, but are not limited to residential units, commercial work places, industrial work places and sensitive sites such as hospitals, nursing homes, residential care facilities, schools and day care centers.
- (21) Reconstruction (Reconstructed) – The replacement of components at an existing process or Emissions Unit(s) that in and of itself emits or has the Potential to Emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever:
 - (a) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and
 - (b) It is technically and economically feasible for the reconstructed major source to meet the applicable MACT Standard for new sources.
- (22) Reference Exposure Level (REL) – The ambient air concentration level expressed in microgram/cubic meter (μm^3) at or below which no adverse health effects are anticipated for a specified exposure.
- (23) Regulated Toxic Substance – A substance which is not a Toxic Air Contaminant but which has been designated as a chemical substance which poses a threat to public health when present in the ambient air by CARB pursuant to California Health and Safety Code §44321.

- (24) Relocation (Relocated) – The removal of an existing permit unit from one location in the District and installation at another location. The removal of a permit unit from one location within a Facility and installation at another location within the same Facility is a relocation only if an increase in MICR in excess of one in one million (1×10^{-6}) occurs at any receptor location.
- (25) Significant Health Risk – A classification of a Facility for which the HRA Report indicates that the MICR is greater than or equal to ten (10) in a million (1×10^{-5}) or that the HI is greater than or equal to one (1).
- (26) Significant Risk – A classification of a Facility or Emissions Unit(s) for which the HRA Report indicates that the MICR is greater than or equal to one hundred (100) in a million (1×10^{-4}) or that the HI is greater than or equal to ten (10).
- (27) Toxic Air Contaminant (TAC) – An air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health and has been identified by CARB pursuant to the provisions of California Health and Safety Code §39657, including but not limited to, substances that have been identified as HAPs pursuant to 42 U.S.C. Sec. 7412(b) (Federal Clean Air Act §112(b)) and the regulations promulgated thereunder.
- (28) Toxics Emission Inventory Report – An emissions inventory report for TAC and Toxic Substances prepared for a Facility or Emissions Unit(s) pursuant to the District’s *Comprehensive Emission Inventory Guidelines*.
- (29) “Unit Risk Factor” (URF) – The theoretical upper bound probability of extra lifetime cancer risk occurring from the chemical when the air concentration is expressed in exposure units of per microgram/cubic meter ($(\mu/m^3)^{-1}$).

(D) Initial Applicability Analysis

- (1) The APCO shall analyze the Comprehensive Emissions Inventory Report or Comprehensive Emissions Inventory Report Update which was submitted pursuant to District Rule 1302(B)(1)(a)(ii) within thirty (30) days of receipt or after such longer period as the APCO and the applicant agree to in writing, to determine if the new, Modified, Relocated or Emissions Unit(s); or Reconstructed Facility is subject to provisions (E) or (F) of this rule.
 - (a) If the Facility or Emissions Unit is subject to the State T-NSR pursuant to Section (B)(2), then the APCO shall perform the analysis required pursuant to Section (E).
 - (b) If the Facility is subject to the Federal T-NSR pursuant to Section (B)(3), then the APCO shall perform the analysis required pursuant to Section (F).
 - (c) If the Facility or Emissions Unit is subject to both the State T-NSR pursuant to Section (B)(2) and the Federal T-NSR pursuant to Section

(B)(3) then the APCO shall perform the analysis required pursuant to Section (E) followed by the analysis pursuant to Section (F).

- (d) If the provisions of this Rule are not applicable to the Facility or Emissions Unit(s) then the APCO shall continue the permit analysis process commencing with the provisions of District Rule 1302(C)(6).

(E) State Toxic New Source Review Program Analysis (State T-NSR)

(1) ATCM Requirements

- (a) The APCO shall analyze the application and Comprehensive Emission Inventory Report for the new or modified Emission Unit(s) within thirty (30) days of receipt or after such longer period as the APCO and the applicant agree to in writing, and determine if any currently enforceable ATCM applies to the Emissions Unit(s).
- (b) If an ATCM applies to the new or modified Emission Unit(s) the APCO shall:
 - (i) Add the requirements of the ATCM or of any alternative method(s) submitted and approved pursuant to Health & Safety Code §39666(f) to any ATC or PTO issued pursuant to the provisions of this Regulation or District Regulation II whichever process is utilized to issue the permit(s); and
 - (ii) Continue the analysis with Section (E)(2).
- (c) If no ATCM applies to the proposed new or modified Emissions Unit(s) the APCO shall continue the analysis with Section (E)(2).

(2) Emissions Unit(s) Prioritization Score

- (a) The APCO shall analyze the application and Comprehensive Emission Inventory Report for the Emission Unit(s) and calculate three (3) prioritization scores for each new or modified Emission Unit.
 - (i) Prioritization Scores shall be calculated for carcinogenic effects, non-carcinogenic acute effects and non-carcinogenic chronic effects.
 - (ii) Prioritization Scores shall be calculated utilizing the most recently approved CAPCOA *Facility Prioritization Guidelines*; the most recently approved OEHHA Unit Risk Factor for cancer potency factors; and the most recently approved OEHHA Reference Exposure Levels for non-cancer acute factors, and non-cancer chronic factors.
 - (iii) Prioritization Scores may be adjusted utilizing any or all of the following factors if such adjustment is necessary to obtain an accurate assessment of the Facility.

- a. Multi-pathway analysis
 - b. Method of release.
 - c. Type of Receptors potentially impacted.
 - d. Proximity or distance to any Receptor.
 - e. Stack height.
 - f. Local meteorological conditions.
 - g. Topography of the proposed new or Modified Facility and surrounding area.
 - h. Type of area.
 - g. Screening dispersion modeling.
- (b) If all Prioritization Scores indicate that the Emissions Unit(s) is categorized as Low or Intermediate Priority, the APCO shall:
- (i) Determine if the Facility is subject to Federal T-NSR pursuant to subsection (B)(3) and continue the analysis with Section (F).
 - (ii) If the Facility or Emissions Unit(s) is not subject to Federal T-NSR, continue the permit analysis process commencing with the provisions of District Rule 1302(C)(6).
- (c) If any Prioritization Score indicates that the Emission Unit is categorized as High Priority, the APCO shall continue the analysis pursuant to subsection (E)(3).
- (3) Emissions Unit(s) Health Risk Assessment
- (a) The APCO shall notify the applicant in writing that the applicant is required to prepare and submit an HRA for the new or Modified Emission Units(s).
- (i) The applicant shall prepare the HRA for the new or Modified Emissions Units(s) in accordance with the District's most recently issued *Health Risk Assessment Plan and Report Guidelines*.
 - (ii) The HRA for the Emissions Unit(s) shall be submitted by the applicant no later than thirty (30) days after receipt of the written notification from the APCO or after such longer time that the applicant and the APCO may agree to in writing.
 - (iii) The HRA may include a demonstration of Contemporaneous Risk Reduction pursuant to subsection (E)(4).
- (b) The APCO shall approve or disapprove the HRA for the new or Modified Emission Units(s) within thirty (30) days of receipt of the HRA from the applicant or after such longer time that the applicant and the APCO may agree to in writing.
- (c) After the approval or disapproval of the HRA for the new or Modified Emission Units(s) the APCO shall transmit a written notice of the approval or disapproval of the HRA immediately to the applicant at the address indicated on the application.

- (i) If the HRA for the new or Modified Emission Units(s) was disapproved the APCO shall specify the deficiencies and indicate how they can be corrected.
 - a. Upon receipt by the District of a resubmitted HRA a new thirty (30) day period in which the APCO must determine the approval or disapproval of the HRA shall begin.
- (d) The APCO shall analyze the HRA for the new or Modified Emission Unit(s) to determine the cancer burden for each Emissions Unit(s).
 - (i) If the cancer burden is greater than 0.5 in the population subject to a risk of greater than or equal to one in one million (1×10^{-6}) the APCO shall immediately notify the applicant that the application will be denied in its current form unless the applicant submits a revised application which reduces the cancer burden to equal or below 0.5 within thirty (30) days of receipt of the notice or after such longer time as both the applicant and the APCO may agree to in writing.
 - a. If the applicant does not submit a revised application within the time period specified, the APCO shall notify the applicant in writing that the application has been denied.
 - b. If the applicant submits a revised application, the analysis process shall commence pursuant to District Rule 1302 as if the application was newly submitted.
 - (ii) If the cancer burden is less than or equal to 0.5 in the population subject to a risk of greater than or equal to one in one million (1×10^{-6}) the APCO shall continue with the analysis pursuant to subsection (E)(3)(e).
- (e) The APCO shall analyze the HRA for the new or Modified Emissions Unit(s) and determine the risk for each Emissions Unit(s).
 - (i) If the HRA indicates that the Emissions Unit(s) are less than a Moderate Risk then the APCO shall continue the analysis pursuant to section (E)(3)(f).
 - (ii) If the HRA indicates that the Emissions Unit(s) are a Moderate Risk but less than a Significant Health Risk then the APCO shall:
 - a. Add requirements for each Emissions Unit sufficient to ensure T-BACT is applied to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
 - b. Continue with the analysis pursuant to subsection (E)(3)(f).
 - (iii) If the HRA indicates that the Emission Unit(s) is a Significant Health Risk but less than a Significant Risk then the APCO shall:
 - a. Add requirements for each Emissions Unit sufficient to ensure T-BACT is applied to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or

- Regulation II whichever process is utilized to issue the permit(s); and
 - b. Require the Facility to perform a public notification pursuant to the District's *Public Notification Guidelines*; and
 - c. Continue with the analysis pursuant to subsection (E)(3)(f).
 - (iv) If the HRA indicates that the Emissions Unit(s) is a Significant Risk then the APCO shall immediately notify the applicant that the application will be denied in its current form unless the applicant submits a revised application which reduces the risk below that of Significant Risk within thirty (30) days of receipt of the notice or after such longer time as both the applicant and the APCO may agree to in writing.
 - (f) If the HRA Report indicates that all new or Modified Emission Unit(s) are less than a Significant Risk then the APCO shall determine if the Facility or Emissions Unit(s) is subject to Federal T-NSR pursuant to subsection (B)(3).
 - (i) If the Facility or Emission Unit is subject to the Federal T-NSR, continue the analysis with Section (F).
 - (ii) If the Facility or Emission Unit is not subject to the Federal T-NSR, continue the permit analysis process commencing with the provisions of District Rule 1302(C)(6).
- (4) Contemporaneous Risk Reduction
- (a) Applicant may, as a part of an HRA required pursuant to subsection (E)(3), provide Contemporaneous Risk Reduction to reduce the Facility risk from the new or modified Emissions Units.
 - (b) Contemporaneous Risk Reductions shall be:
 - (i) Real, enforceable, quantifiable, surplus and permanent; and
 - (ii) Calculated based on the actual average annual emissions as determined by the APCO based upon verified data for the two year period immediately preceding the date of application; and
 - (iii) Accompanied by an application for modification of the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
 - (c) The APCO shall analyze the Contemporaneous Risk Reduction and determine if any receptor will experience a total increase in MICR due to the cumulative impact of the Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
 - (i) The APCO shall deny a Contemporaneous Risk Reduction when such an increase occurs unless:

- a. The Contemporaneous Risk Reduction is:
 - 1. Within 328 feet (100 meters) of the new or modified Emission Unit(s); or
 - 2. No receptor location will experience a total increase in MICR of greater than one in one million (1.0×10^{-6}) due to the cumulative impact of the Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction
 - b. T-BACT is applied to any Emissions Unit which is a Moderate Risk or greater.
 - (d) The APCO shall analyze the Contemporaneous Risk Reduction and determine if any receptor will experience an increase in total acute or chronic HI due to the cumulative impact of the new or modified Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
 - (i) The APCO shall deny a Contemporaneous Risk Reduction when such an increase occurs unless:
 - a. The Contemporaneous Risk Reduction is:
 - 1. Within 328 feet (100 meters) of the new or modified Emission Unit(s); or
 - 2. No receptor location will experience an increase in total acute or chronic HI of more than .1 due to the cumulative impact of the new or modified Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
 - (e) Any Contemporaneous Risk Reduction must occur before the start of operations of the Emissions Unit(s) which increase the risk.
- (F) Federal Toxic New Source Review Program Analysis (Federal T-NSR)
- (1) MACT Standard Requirements
 - (a) The APCO shall analyze the application and Comprehensive Emission Inventory and determine if any currently enforceable MACT standard applies to the new or Reconstructed Facility or Emissions Unit(s).
 - (b) If a MACT standard applies to the new or Reconstructed Facility or Emissions Unit(s) the APCO shall:
 - (i) Add the requirements of the MACT standard to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
 - (ii) Continue the analysis with District Rule 1302(C)(6).

- (c) If no MACT standard applies to the new or Reconstructed Facility or Emissions Unit(s) the APCO shall continue the analysis with Section (G)(2).
- (2) Case-by-Case MACT Standards Requirements
- (a) The APCO shall determine if a Case-by-Case MACT standard applies to the proposed new or Reconstructed Facility or Emissions Unit(s).
 - (b) If a Case-by-Case MACT standard applies to the new or Reconstructed Facility or Emissions Unit(s) the APCO shall:
 - (i) Notify the applicant in writing that the applicant is required to prepare and submit a Case-by-Case MACT application.
 - a. The applicant shall prepare the Case-by-Case MACT application in accordance with the provisions of 40 CFR 63.43(e).
 - b. The Case-by-Case MACT application shall be submitted no later than thirty (30) days after receipt of the written notification from the APCO or after such longer time that the applicant and the APCO may agree to in writing.
 - (ii) Preliminarily approve or disapprove the Case-by-Case MACT application within 30 days after receipt of the application or after such longer time as the applicant and the APCO may agree to in writing.
 - (iii) After the approval or disapproval of the Case-by-Case MACT application the APCO shall transmit a written notice of the approval or disapproval to the applicant at the address indicated on the application.
 - a. If the Case-by-Case MACT application is disapproved the APCO shall specify the deficiencies, indicate how they can be corrected and specify a new deadline for submission of a revised Case-by-Case MACT application.
 - (iv) The APCO shall review and analyze the Case-by-Case MACT application and submit it to USEPA along with any proposed permit conditions necessary to enforce the standard.
 - (v) Provide public notice and comment of the proposed Case-by-Case MACT standard determination pursuant to the procedures in 40 CFR 63.42(h).
 - a. Such notice may be concurrent with the notice required under District Rule 1302(D)(3) if notice is required pursuant to that provision.
 - (vi) Add the approved Case-by-Case MACT standard requirements or conditions to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
 - (vii) Continue the analysis with District Rule 1302(C)(6).

- (c) If a Case-by-Case MACT standard does not apply to the new or Reconstructed Facility or Emissions Unit(s) the APCO shall continue the analysis with District Rule 1302(C)(6).

(G) Most Stringent Emission Limit or Control Technique

- (1) If a Facility or Emission Unit(s) is subject to more than one emission limitation pursuant to sections (E) or (F) of this rule the most stringent emission limit or control technique shall be applied to the Facility or Emission Unit(s).
 - (a) Notwithstanding the above, if a Facility or Emission Unit(s) is subject to a published MACT standard both the MACT standard and the emissions limit or control technique, if any, required pursuant to sections (E) shall apply unless the District has received delegation from USEPA for that particular MACT standard pursuant to the provisions of 42 U.S.C. §7412(l) (FCAA §112(l)).

(H) Interaction with District Rule 1402

- (1) Nothing in this Rule shall be construed to exempt an existing Facility from compliance with the provisions of District Rule 1402.

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Rule 1700

Prevention of Significant Deterioration (PSD)

(A) General

(1) Purpose

(a) The purpose of this Rule is to:

- (i) Set forth the requirements for preconstruction review of all new Major PSD Facilities and Major PSD Modifications which emit or have the potential to emit a PSD Air Pollutant; and
- (ii) Incorporate applicable provisions of the Federal Prevention of Significant Deterioration (PSD) Rule as found in 40 CFR 52.21 by reference; and
- (iii) Ensure that the construction or modification of Facilities subject to this Rule comply with the provisions of 40 CFR 52.21 as incorporated by reference in this Rule.

(2) Applicability

- (a) This Rule is applicable to any Facility and the owner/operator of any Facility subject to any requirement pursuant to 40 CFR 52.21 as incorporated by reference in this Rule.
- (b) The provisions of this Rule apply to emissions or potential emissions of PSD Air Pollutants and their precursors as defined in subsection (B) below.
- (c) The provisions of this Rule, specifically 40 CFR 52.21(j)-(r) as incorporated by reference below shall not apply to a Major PSD facility or Major PSD Modification with respect to a particular pollutant if the Major PSD Facility or Major PSD Modification is located in an area designated as nonattainment pursuant to 40 CFR 81.305 for the particular pollutant.

(3) Incorporation by Reference

- (a) The requirements and provisions contained in 40 CFR 52.21 in effect on June 15, 2021 are incorporated herein by reference with the exception of the following:
 - (i) 40 CFR 52.21(a)(1), (b)(55-58), (f), (g), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z), and (cc).
 - (ii) The phrase “paragraph (q) of this section” in 40 CFR 52.21(p)(1) shall read as follows: the public notice and comment provisions contained in subsection (D)(2)(c) of this Rule.

- (iii) The term “Best Available Control Technology” or “BACT” as defined in 40 CFR 52.21(b)(12) shall read “PSD Best Available Control Technology” or “PSD BACT.”
- (iv) The term “Major Modification” as defined in 40 CFR 52.21(b)(2) shall read “Major PSD Modification.”
- (v) The term “Major Stationary Source” as defined in 40 CFR 52.21(b)(1) shall read “Major PSD Facility.”
- (vi) The term “Regulated NSR Pollutant” as defined in 40 CFR 52.21(b)(50) shall read “PSD Air Pollutant.”
- (vii) The term “Stationary Source” as defined in 40 CFR 52.21(b)(5) shall read “Facility.”

(B) Definitions

For the purpose of this Rule the definitions contained in 40 CFR 52.21(b), excluding (b)(55), (b)(56), (b)(57) and (b)(58), shall apply unless the term is otherwise defined herein.

- (1) Administrator – Either the administrator of USEPA or the Air Pollution Control Officer as follows:
 - (a) For the provisions of 40 CFR 52.21(b)(17), (b)(37), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (l)(2), and (p)(2), the administrator of USEPA;
 - (b) For all other provisions of 40 CFR 52.21 as incorporated by reference in this Rule, the Air Pollution Control Officer.
- (2) 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.
- (3) 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.
- (4) District – The Antelope Valley Air Quality Management District the geographical area of which is described in District Rule 103.
- (5) Major PSD Facility – A Major Stationary Source as defined in 40 CFR 52.21(b)(1) for a PSD Air Pollutant.
- (6) Major PSD Modification – A Major Modification as defined in 40 CFR 52.21(b)(2) for an PSD Air Pollutant.
- (7) 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 Permit Unit. An ATC may function as a temporary PTO pursuant to the provisions of District Rule 202.

- (8) Permit Unit – Any Emissions Unit which is required to have a PTO pursuant to the provisions of District Rule 203.
- (9) PSD Air Pollutant – A Regulated NSR Pollutant as defined in 40 CFR 52.21(b)(50).
- (10) PSD Best Available Control Technology (PSD BACT) – Best Available Control Technology as defined in 40 CFR 52.21(b)(12).
- (11) PSD Document – A document issued by the APCO pursuant to the provisions of this Rule including but not limited to: all analysis relating to the new Major PSD Facility or Facility with Major PSD Modification; notices; any engineering analysis or other necessary analysis; and proposed conditions for any required ATC(s) or PTO(s).

(C) Requirements

- (1) An owner/operator of any new Major PSD Facility, a Facility with a Major PSD Modification, or a Major PSD Facility requesting or modifying a Plantwide Applicability Limitation (PAL) shall obtain a Prevention of Significant Deterioration (PSD) permit pursuant to this Rule before beginning actual construction of such Facility or modification.
- (2) Notwithstanding the provisions of any other District Rule or Regulation, the APCO shall require compliance with this Rule prior to issuing a PSD permit as required by Section 165 of the Federal Clean Air Act (42 USC §7475).
- (3) Greenhouse gas emissions shall not be subject to the requirements of subsections (k) or (m) of 40 CFR Part 52.21.
- (4) An owner/operator of a Major PSD Facility seeking to obtain a PAL shall also comply with the provisions of 40 CFR 52.21 (aa)(1-15).

(D) Procedure

- (1) General
 - (a) The provisions of District Rule 1302 shall apply unless otherwise specified herein.
 - (b) For Electrical Energy Generating Facilities (EEGFs) as defined in District Rule 1301(V) the provisions of this Rule shall apply in addition to the provisions of District Rule 1306.
- (2) Analysis
 - (a) After the application has been determined to be complete pursuant to the provisions of District Rule 1302(B)(1)(e) and all applicable notifications required pursuant to District Rule 1302 (B)(2) have been sent the APCO shall:

- (i) Analyze the information to determine if the application complies with the provisions of 40 CFR 52.21 as incorporated by reference; and
 - (ii) Make a PSD BACT determination pursuant to the provisions of 40 CFR 52.21(j);
 - (b) The APCO shall not perform any analysis unless all applicable fees, including but not limited to Project Evaluation Fees for Complex Sources, as set forth in District Rule 301, have been paid.
 - (c) Such PSD analysis may be conducted concurrently with any analysis required pursuant to District Rules 1302, 1306, and/or 1401.
- (3) Permit Issuance Procedure
- (a) Preliminary Decision
 - (i) After the analysis has been completed the APCO shall issue a preliminary decision as to whether the PSD Document should be approved, conditionally approved or disapproved and whether the ATC(s) or PTO(s) should be issued to the Major PSD Facility or Major PSD Modification.
 - (ii) The preliminary decision shall include an analysis of the approval, conditional approval or disapproval and the draft PSD Document.
 - (iii) The preliminary decision and draft PSD Document may be combined with any engineering analysis or draft NSR Document produced pursuant to the provisions of District Rule 1302.
 - (b) USEPA and Federal Land Manager Review.
 - (i) If USEPA and the Federal Land Manager were notified pursuant to the provisions of District Rule 1302 (B)(2)(a)(iii) then the APCO shall, upon completion of the preliminary decision and concurrently with the publication required pursuant to subsection (D)(2)(c) below, send a copy of the preliminary decision and any underlying analysis to USEPA and any Federal Land Manager so notified.
 - (ii) The provisions of District Rule 1302 (D)(2) shall apply to the review by USEPA and the Federal Land Manager.
 - (iii) This review may be combined with any other review required pursuant to District Rule 1302.
 - (c) Public Review, Comment and Availability of Documents
 - (i) Upon completion of the preliminary decision the APCO shall provide for public review and comment in the same manner and using the same procedures as set forth in District Rule 1302(D)(3).

- (ii) Such public notice and comment may be combined with any other public notice and comment required pursuant to District Rule 1302.
- (d) Public Hearing
- (i) If any person requests a public hearing pursuant to the provisions of District Rule 1302(D)(3)(b)(i) f., g., or h. the APCO shall hold a public hearing and notify the appropriate agencies and the general public using the procedures set forth in District Rule 1302(D)(3)(a).
- (e) Final Action
- (i) Within one (1) year of the notification that the application has been deemed complete pursuant to District Rule 1302(B)(2), or after such longer time as both the applicant and the APCO may agree in writing, the APCO shall take final action to issue, issue with conditions or decline to issue the final PSD Document.
 - (ii) The APCO shall produce a final PSD Document after the conclusion of the comment period; the public hearing, if any is held; and upon consideration of comments received.
 - (iii) The APCO shall provide written notice of the final action to the applicant and USEPA.
 - (iv) If substantive changes have been made to the preliminary decision or PSD Document after the opening of the public comment period, the APCO shall re-publish a notice of the final PSD determination pursuant to the provisions of District Rule 1302(D)(3).
 - (v) If substantive changes are made to the preliminary decision or PSD Document which are substantial enough to require changes to the underlying requirements or which result in a less stringent BACT determination, then the APCO shall reissue and renotece the preliminary decision and draft PSD document pursuant to the provisions of District Rule 1302(D).
 - (vi) The final PSD Document and all supporting documentation shall remain available for public inspection at the offices of the District.
 - (vii) The final PSD Document may be combined with a final NSR Document produced pursuant to District Rule 1302(D)(4).
- (f) Issuance of ATC(s) and or PTO(s)
- (i) In conjunction with the final action on the PSD Document the APCO shall issue ATC(s), or PTO(s), if applicable, for any Permit Units associated with a new Major PSD Facility and/or any Permit Units modified as a part of the Major PSD Modification
 - (ii) The ATC(s) or PTO(s) as issued shall contain all conditions regarding construction, operation and other matters as set forth in the PSD Document.

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Draft

Staff Report

for

Amendment of

Regulation XIII – New Source Review

Regulation XVII – Prevention of Significant Deterioration

And

Rule 1401 – New Source Review for Toxic Air Contaminants.

For Amendment on

June 15, 2021

**Antelope Valley
Air Quality
Management District**

43301 Division St. Suite 206
Lancaster, CA 93535-4649
(661) 723-8070

www.AVAQMD.ca.gov

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STAFF REPORT
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Regulation XVII – Prevention of Significant Deterioration and
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List of Acronyms

APCO	Air Pollution Control Officer
BACT	Best Available Control Technology
BARCT	Best Available Retrofit Control Technology
CARB	California Air Resources Board
CCAA	California Clean Air Act
CEQA	California Environmental Quality Act
FCAA	Federal Clean Air Act
FOP	Federal Operating Permit (aka Regulation XII)
H&S Code	California Health & Safety Code
HAPs	Hazardous Air Pollutants
ICE	Internal Combustion Engine
LAER	Lowest Achievable Emissions Rate
MACT	Maximum Achievable Control Technology Standards (for HAPs)
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
NO _x	Oxides of Nitrogen
NAAQS	National Ambient Air Quality Standards
NESHAP	National Emission Standard for Hazardous Air Pollutants
NSPS	New Source Performance Standard
NSR	New Source Review (aka Regulation XIII)
O ₃	Ozone
PM ₁₀	Particulate Matter less than 10 microns (aka Course Particulate)
PM _{2.5}	Particulate Matter less than 2.5 microns (aka Fine Particulate)
PSD	Prevention of Significant Deterioration (aka Regulation XVI)
PUC	Public Utilities Commission
RACT	Reasonably Available Control Technology
SBCAPCD	San Bernardino County Air Pollution Control District (Predecessor agency to MDAQMD)
SCAQMD	South Coast Air Quality Management District
So.Cal.APCD	Southern California Air Pollution Control District (Predecessor agency to SBCAPCD)
SIP	State Implementation Plan
SO _x	Oxides of Sulfur
USEPA	U.S. Environmental Protection Agency
VOC	Volatile Organic Compounds

STAFF REPORT
Regulation XIII – *New Source Review*
Regulation XVII – *Prevention of Significant Deterioration and*
Rule 1401 – *New Source Review for Toxic Air Contaminants*

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

In 2015, pursuant to requirements under the Federal Clean Air Act (FCAA),¹ 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.² In 2018 USEPA promulgated a final implementation rule³ 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 NSR⁴) 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 designation of nonattainment under the NAAQS.⁵ As the effective non-attainment designation date for that area of the AVAQMD was 8/3/2018 the NSR certification submission is due to USEPA on or before 8/3/2021.

In response to the December 2018 implementation rule the AVAQMD developed the *70 ppb Ozone Standard Implementation Evaluation: RACT SIP Analysis; Federal Negative Declarations; and, Emission Statement Certification (70 ppb O₃ Evaluation)* which was originally designed to submit many of the required SIP elements including the NSR certification. In a letter to the Mojave Desert Air Quality Management District (MDAQMD) USEPA indicated that their NSR certification could not be made due to then unspecified major deficiencies

¹ 42 U.S.C. §§7401 et seq.

² 80 FR 65292, 10/1/2015, Effective 10/26/2015.

³ 83 FR 62998, 12/6/2018.

⁴ Technically the Prevention of Significant Deterioration (PSD) program is also considered part of Federal NSR as it covers preconstruction review of attainment air pollutants. In general use however, the term NSR is used to refer to Nonattainment NSR provisions only.

⁵ 83 FR 62998, 63000, 12/6/2018.

identified in the MDAQMD's current NSR Rules contained in the SIP along with the more recent, but as yet unacted upon, NSR rule submissions.⁶ USEPA has indicated that since the AVAQMD NSR rules are highly similar to those in the MDAQMD the same alleged deficiencies would also preclude an NSR certification for AVAQMD. As a result, the AVAQMD adopted 70 ppb O₃ Evaluation on 7/21/2020 without the NSR certification.⁷

On 12/19/2019 USEPA provided commentary to the MDAQMD via letter⁸ regarding the alleged deficiencies in that District's pending NSR Rule submissions⁹ as well as the NSR program as contained in the SIP.¹⁰ Once again USEPA indicated orally that the AVAQMD NSR rules suffered from the same deficiencies. The MDAQMD subsequently embarked upon a substantive overhaul of the NSR program to address USEPA's concerns¹¹ and adopted a revised NSR Rule on 3/22/2021.¹² The ongoing efforts with the MDAQMD rules, involving the MDAQMD, USEPA and California Air Resources Board (CARB) staff, has resulted in a series of amendments which are easily translatable into similar revisions to the AVAQMD NSR Rules. Such amendments, with one notable exception¹³, should be acceptable to USEPA as they are highly similar to changes USEPA indicated were acceptable in the MDAQMD NSR Rules.

The AVAQMD is therefore proposing to: amend Regulation XIII – *New Source Review* and Regulation XVII – *Prevention of Significant Deterioration*; and make conforming changes to Rule 1401 – *New Source Review for Toxic Air Contaminants*. The large majority of the proposed amendments are simply clarifications along with explanatory language codifying current District permitting practices. Applicability thresholds, in the main, remain the same as those currently in the District's Rulebook. Substantive proposed amendments include the following: addition of a variety of definitions; addition of a Stack Height Analysis as required by 40 CFR 51.164, addition of a 30 day notification period prior to issuance for certain "Minor NSR" permitting actions, the bifurcation of threshold BACT and Major Facility applicability calculations from calculations involving the amount of offsets which may be necessary in certain permitting actions, adjustment of the BACT and Major Facility threshold calculations, the removal of Rule 1310 as such rule was practically ineffective and completely unused; and a shift of Regulation XVII – *Prevention of Significant Deterioration* to an adoption by reference format.¹⁴ The proposed amendments will also enable the AVAQMD to request delegation of not only PSD permitting authority but also enhanced Title V permitting authority which, when granted, will allow the AVAQMD to process and issue PSD permits Title V permits and permit

⁶ USEPA Letter, G. Rios to B. Poiriez, *2019 Certification of SIP Approved Nonattainment New Source Review*, 10/10/2019 (Hereafter, *USEPA Letter of 10/10/2019*)

⁷ AVAQMD Governing Board Agenda Item #8, 7/21/2020; Resolution 20-08, 7/21/2020; AVAQMD, 70 ppb O₃ Evaluation Final Staff Report, 7/21/2020.

⁸ USEPA Letter L. Beckham to B. Poiriez – *MDAQMD New Source Review Program*, 12/19/2019 (Hereafter, *USEPA Letter of 12/19/2019*)

⁹ MDAQMD Regulation XIII – *New Source Review* as amended on 9/24/2001, 8/28/2006, and 8/22/2016.

¹⁰ MDAQMD Regulation XIII, 3/25/1996 and approved at 61 FR 58133, 11/13/1996.

¹¹ See Appendix C, Response to Comments #1, pgs C23-C28

¹² MDAQMD Governing Board Agenda Item #12, 3/22/2021; MDAQMD Resolution 21-03, 3/22/2021; and MDAQMD Final Staff Report, 3/22/2021.

¹³ USEPA Letter of 12/19/2019, Comment 1.2.2.c.

¹⁴ The PSD program is to a certain degree entwined with Regulation XIII and conforming changes would be necessary in any case.

changes; and Air Toxics determinations at the same time and in the same action as the applicable NSR evaluation if the applicant so wishes.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the AVAQMD amend Regulation XIII – *New Source Review*, amend Regulation XVII – *Prevention of Significant Deterioration*, make conforming changes to Rule 1401 – *New Source Review for Toxic Air Contaminants*, 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 versions; to clarify the interrelationship between these rules and Rule 219 – *Equipment Not Requiring a Permit* as proposed for amendment elsewhere in the agenda; to remove unused and unnecessary rules and provisions; and to provide reorganization 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*, Regulation XVII – *Prevention of Significant Deterioration* and Rule 1401 – *New Source Review for Toxic Air Contaminants*. 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*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants*. 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 adoption of amendments to Regulation XIII – *New Source Review*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* 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, allow the AVAQMD to request PSD permitting authority, and to allow the AVAQMD to request enhanced NSR authorization to allow Title V permits and permit changes to be addressed in the same NSR action if the applicant so wishes.

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*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* 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 particular existing practices. Some provisions have been reorganized and renumbered to conform to other, similar, rule provisions as well as to remove unused and unusable provisions. A few additions have

been made to conform with FCAA requirements. Furthermore, the Minor Facility notice requirements and bifurcation of the applicability calculations from the calculations required to determine the amount of offsets have been designed to lessen confusion regarding use of these provisions.

d. Consistency:

The proposed amendments to Regulation XIII – *New Source Review*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* 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 contaminants¹⁵ and to ensure that such equipment does not prevent or interfere with the attainment or maintenance of any applicable air quality standard.¹⁶ 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.¹⁷ The District has been designated Federal nonattainment for O₃.¹⁸ 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 Law¹⁹ 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, 2002.²⁰

¹⁵ H&S Code §42300(a).

¹⁶ H&S Code §42301(a).

¹⁷ Federal Clean Air Act §§110(a)(2), 165(a) and 172(b)(5); 42 U.S.C. §§7410(a)(2), 7475(a) and 7502(b)(5)

¹⁸ 40 CFR 81.305 (See specifically the tables for O₃ 1-hour Standard, O₃ 1997 8 hour Standard, 8 hour O₃ NAAQS and 2015 8 hour O₃ NAAQS). Please also note that there is a so called “clean data” finding for the 1 hour O₃ standard in 80 FR 20166, 4/15/2015 for the Southeast Desert Ozone Nonattainment Area (which includes the jurisdiction of the AVAQMD) but redesignation has not yet occurred.

¹⁹ H&S Code §§42500 et seq.

²⁰ H&S Code §42504.

Finally, Title V of the FCAA²¹ provides that each state (or in this case the District) to submit a Federal Operating Permit (FOP) program to control major stationary sources of air pollution.²² Under the applicable regulations²³ the AVAQMD can request delegation of “Enhanced NSR” status to allow the issuance of and modifications to Title V permits to be performed in conjunction with and using the same notice provisions as the NSR permitting actions. The proposed amendments have been designed to allow the AVAQMD to request this delegation.

Section VI 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*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* 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*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* was published on 5/11/2021. 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

²¹ Federal Clean Air Act §§501 et seq., 42 U.S.C. §§7661 et seq.

²² Federal Clean Air Act 502(d)(1), 42 U.S.C. §7661a(d)(1).

²³ 40 CFR 70.7(d)(1)(v).

are required for the proposed amendments to Regulation XIII – *New Source Review*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* 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 modification²⁴ The program covering nonattainment pollutants is commonly referred to as NSR or NANSR while the program for attainment pollutants referred to as PSD. Such programs must be included in the applicable SIP and comply with the implementing regulations as promulgated and adopted by USEPA.²⁵ 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

²⁴ Federal Clean Air Act §§110(a)(2), 112(i)(1), 165(a), 172(b)(5), and 502(a)(2)(C); 42 U.S.C. §§7410(a)(2), 7412(i)(1), 7475(a), 7502(b)(5) and 7661a(a)(2)(C).

²⁵ 40 CFR 51.160 et seq. and 40 CFR 52.21

provisions implementing the FCAA in effect as of December 30, 2002.²⁶ 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 revision²⁷ and thus is required to submit either revised programmatic elements or a certification that the currently existing elements meet or exceeds the specific requirements.²⁸ As the AVAQMD has been informed that the current NSR Rules cannot, in USEPA's opinion, be certified the AVAQMD is required to upgrade its NSR rules to correct identified alleged deficiencies.²⁹ Please see section VI. for a detailed discussion as to how the particular 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 XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* was published 5/11/2021 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*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* and the accompanying draft staff report were made available to the public on 5/11/2021.

d. Notice to Specified Entities:

Copies of the proposed amendments to Regulation XIII – *New Source Review*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* and the accompanying draft staff report were sent to

²⁶ H&S Code §§42500 et seq.

²⁷ 40 CFR 81.305

²⁸ 83 FR 62998, 12/6/2018.

²⁹ USEPA oral comments indicating deficiencies identified in *USEPA Letter of 12/19/2019* to MDAQMD also exist in the AVAQMD NSR Rules.

all affected agencies. The proposed amendments were officially sent to CARB and USEPA on 5/11/2021.

e. Public Hearing:

A public hearing to consider the proposed amendments to Regulation XIII – *New Source Review*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* has been set for 6/15/2021.

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 for modification by the District. Regulation XIII – *New Source Review*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* are primarily logistical in nature and meant to ensure that all necessary analysis and notices for proper permit issuance are performed. While they do require the imposition of Best Available Control Technology (BACT) on certain new or modified equipment it does not specify what particular equipment or emissions level would satisfy the requirement as BACT must be determined on an equipment by equipment basis as part of the permitting process. Similarly, while the Regulations do require the provision of offsetting emissions reductions in certain cases the specific reductions must be approved as part of the permitting process itself. Specifically, since such BACT and Offset determinations are governed by other District Rules, Regulations as well as State and Federal Law, regulations and guidance documents. 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

Despite the multitude proposed changes in rule language, the District expects that there will be little to no economic impact from the proposed amendments. This is due to the fact that the proposed amendments primarily affect the functions and analysis performed by the District as opposed to requirements imposed upon Facilities. In fact, the potential for the AVAQMD to obtain “Enhanced NSR” status could result in a cost savings as Title V permit modification would not need to be noticed separately from the underlying NSR action.

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_x) or oxides of sulfur (SO_x). As a procedural rule, which does not require specific control measures this analysis is not required.

This analysis is primarily intended for source specific prohibitory rules rather than procedural rules. However, the proposed amendments and new rule do require BACT to be placed upon certain new or modified emissions units. While this might technically be considered the imposition of BARCT or “all feasible measures” the specific controls required for a particular piece of equipment will need to be analyzed on a case by case basis as applications are submitted. The particular equipment involved in each application will be subject to the provisions of the applicable State, Federal and/or District rules governing the particular source category involved. Due to the necessity of an application to specify BACT this analysis, if such is even applicable, is too speculative to be performed at this time. Please note the imposition of specific BARCT or “all feasible measures” by any new or modified prohibitory rule will require an incremental cost analysis upon adoption/amendment.

D. ENVIRONMENTAL ANALYSIS (CEQA)

Through the process described below the appropriate CEQA process for the proposed amendments to Regulation XIII – *New Source Review*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* was determined.

1. The proposed amendments to Regulation XIII – *New Source Review*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New*

Source Review for Toxic Air Contaminants meets the CEQA definition of “project.” It is not a “ministerial” action.

2. The proposed amendments to Regulation XIII – *New Source Review*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* 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*, Regulation XVII – *Prevention of Significant Deterioration*, and Rule 1401 – *New Source Review for Toxic Air Contaminants* will not cause any impacts because the underlying requirements currently in effect remain primarily unchanged.

In addition, the proposed amendments are procedural in nature and designed to enhance the review process under NSR and PSD programs. While these programs do not in and of themselves require specific control technologies or compliance methodologies on particular Facilities or source categories they do ensure that compliance with other source category specific rules and regulations are included in the ultimate permit. The only substantive requirements on Facilities contained in the rule is that of BACT on new or modified equipment. BACT is highly dependent on the nature and type of equipment involved and therefore the analysis of specific impacts from the imposition of BACT on a particular project is too speculative to be performed on a generalized basis. It must be noted, however, that any new or modified Facility will in and of itself be required to undergo CEQA review when proposed and thus specific potential environmental impacts caused by the imposition of requirements such as BACT will end up being analyzed 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. RULE APPLICABILITY

The proposed amendments to Regulation XIII – *New Source Review* and Regulation XVII – *Prevention of Significant Deterioration* will affect all applications for a new or modified permit within the AVAQMD. This is because all applications, regardless of size, are at least partially subject to the provisions of Regulation XIII.³⁰ This is to ensure that all appropriate and applicable analysis are performed prior to permit issuance regardless of the size or nature of the permitting action. Exactly which analyses are applicable to a particular Facility or Emissions Unit are based upon the proposed unit itself, the underlying Facility and the resultant emissions change, if any. In some cases, the proposed permit(s) or modification to permit(s) will not require much analysis at all and the permit will be issued pursuant to the provisions of Regulation II - *Permits*. In other cases, the proposed permit(s) or modification to permit(s) will require substantial analysis and a variety of procedural activities prior to permit issuance. The procedural steps which determine the nature and amount of analysis for a particular proposed permit or modification to a permit are located in Rule 1302 – *New Source Review Procedure*. Specific requirements, calculation methods and thresholds are located elsewhere in Regulation XIII.

1. Applicability Thresholds

The basic applicability threshold for criteria air pollutants³¹ in Regulation XIII are not changed by the proposed amendments. Proposed Rule 1300 – *New Source Review General*, continues to state that the provisions of Regulation XIII apply to any new or modified Facility or Emissions Unit. Proposed Rule 1303 – *New Source Review Requirements* continues to require BACT and offsetting emissions reductions when such a new or modified Facility or Emissions Unit has emissions of a nonattainment air pollutant over a threshold level.³²

Currently the AVAQMD has been designated nonattainment with the NAAQS for Ozone (O₃)³³ and classified Severe. For purposes of the California Ambient Air Quality Standards (CAAQS) the AVAQMD is nonattainment for O₃ and PM₁₀ Districtwide³⁴. Therefore, the nonattainment pollutants subject to threshold

³⁰ Current Rule 1300(B) .

³¹ Those air pollutants for which an Ambient Air Quality Standard (either State or Federal) has been promulgated by the appropriate authority.

³² Proposed Rule 1300(B) and Rule 1303(A) and (B).

³³ 40 CFR 81.305 (See specifically the tables for O₃ 1-hour Standard, O₃ 1997 8 hour Standard, 8 hour O₃ NAAQS and 2015 8 hour O₃ NAAQS). Please also note that there is a so called “clean data” finding for the 1 hour O₃ standard in 80 FR 20166, 4/15/2015 for the Southeast Desert Ozone Nonattainment Area (which includes the jurisdiction of the AVAQMD) but redesignation has not yet occurred.

³⁴ 17 CCR §§60201, and 60208 respectively.

analysis under Regulation XIII are O₃; its precursors NO_x and VOC; and PM₁₀. Toxic Air Contaminants (TAC) and Hazardous Air Pollutants (HAP) are covered by the provisions of current Rule 1401 – *New Source Review for Toxic Air Contaminants* and Regulated Air Pollutants for which the District is in attainment are covered by the provisions of Regulation XVII – *Prevention of Significant Deterioration*. Each of these programs have their own thresholds and requirements. The existing criteria pollutant thresholds and associated requirements are not changed by these proposed amendments and are summarized in Table 1 below.

**Table 1
Applicability Thresholds and Requirements
(Rule 1303(A) & (B))**

Source Category	Threshold	Requirements
New Minor Facility	Facility Proposed Emissions are: <25 tpy of NO _x /VOC <15 tpy of PM ₁₀	●BACT on all new/modified equipment with Proposed Emissions > 25 lbs/day.
Minor Facility with Minor Modification	Facility Proposed Emissions as Modified are: <25 tpy of NO _x /VOC <15 tpy of PM ₁₀	●BACT on all new/modified equipment with Proposed Emissions > 25 lbs/day.
Minor Facility with a Significant Modification ³⁵	Facility Proposed Emissions as Modified are: <25 tpy of NO _x /VOC <15 tpy of PM ₁₀ AND has a Significant emissions increase.	●See: Minor Facility with Modification that makes it a Major Facility below.
Minor Facility with Modification that makes it Major	Facility Proposed Emissions as Modified are: >25 tpy of NO _x /VOC >15 tpy of PM ₁₀	●BACT on all new/modified equipment. ³⁶ ●Offset each Nonattainment Air Pollutant’s Proposed Emissions as Modified which is over the threshold back to 0 applying applicable offset ratio.

³⁵ While “Significant” modifications under the FCAA only occur at Major Facilities, the current AVAQMD language provides that any “Significant” change as defined in proposed Rule 1301(TTT) will be greater than the “Major Facility” threshold as set forth in the proposed Rule 1303(B)(1) table and therefore such a Facility would therefore automatically become a Major Facility.

³⁶ The BACT requirement for Major Facilities as found in proposed Rule 1303(A)(3) will be changed to be set at the Major Facility threshold in the table of proposed Rule 1303(B)(1). As this is threshold is larger than the 25 lbs/day BACT requirement found in proposed Rule 1303(A)(1) and (2), most equipment would already have been subject to BACT.

Source Category	Threshold	Requirements
New Major Facility	Facility Proposed Emissions are: >25 tpy of NO _x /VOC >15 tpy of PM ₁₀	<ul style="list-style-type: none"> ●BACT on all new/modified equipment. ●Offset all amounts of each Nonattainment Air Pollutant for which Facility is Major using the applicable offset ratio.
Major Facility with any sized Modification	Facility Proposed Emissions are: >25 tpy of NO _x /VOC >15 tpy of PM ₁₀	<ul style="list-style-type: none"> ●BACT on all new/modified equipment. ●Offset all increases of each Nonattainment Air Pollutant for which Facility is Major using the applicable offset ratio.

TAC and HAP applicability requiring an analysis and the imposition of potential requirements are determined differently under Rule 1401 but they are also unchanged by the proposed amendments. Specifically, State Toxics NSR (State T-NSR) requirements apply to any new or modified Emissions Unit emitting or having the potential to emit a TAC or which is subject to an Airborne Toxic control Measure (ATCM). For Federal Toxic NSR (Federal T-NSR) the applicability thresholds are as follows:

- Proposed Emissions (New or Modified Emissions Unit) > 10 tpy or more of single HAP
- Proposed Emissions (New or Modified Emissions Unit) > 25 tpy or more of a combination of HAPs
- Proposed Emissions (New or Modified) in a lesser amount as established by USEPA pursuant to a promulgated rule.³⁷
- The Emissions Unit was designated an Air Toxic Area Source by USEPA pursuant to promulgated rule.

Rule 1401 provides requirements that an applicant provide certain specified information regarding TACs and HAPs as well as requiring various analysis, if such is needed, as procedural steps to obtain a permit. This step is included in Regulation XIII primarily to ensure that this analysis is not inadvertently skipped in the permitting process. The provisions of Rule 1401 are not required to be in the SIP and language has been added to Regulation XIII in appropriate places to indicate this.

Rule 1302 requires submission of items necessary to determine PSD program applicability, items necessary to perform the relevant analysis under that program and requires placement of necessary conditions on any resultant permit.³⁸ These requirements are, once again, primarily included in Regulation XIII to ensure that the analysis is not inadvertently skipped in the permitting process as well as to ensure that the notice and comment requirements for the PSD program are properly performed. Thresholds for applicability are currently provided in Regulation XVII remain unchanged by these proposed amendments (despite the shift in formulation to proposed Rule 1700

³⁷ This provision is proposed to be added to Rule 1302 but it already applied via the provisions of the Federal Operating Permit Program pursuant to District Regulation XXX – *Title V Permits*.

³⁸ See Regulation XVII – *Prevention of Significant Deterioration*.

which adopts by reference most of the provisions of 40 CFR 52.21). For general reference these thresholds are as follows:³⁹

- A Major PSD Facility⁴⁰ belonging to one of the categories listed in FCAA §169 (42 U.S.C. §7479)⁴¹ emitting or having the potential to emit 100 tpy or more⁴² of a PSD Air Pollutant⁴³.
- A Major PSD Facility not belonging to one of the listed categories emitting or having the potential to emit 250 tpy or more⁴⁴ of a PSD Air Pollutant.
- A new Facility which is a Major PSD Facility for at least one PSD Air Pollutant and has a “significant⁴⁵” emissions increase for any other PSD Air Pollutant.
- A modified Facility which is an existing Major PSD Facility when both the potential increase in emissions **and** the resulting net emissions increase for PSD Pollutants are “significant.”⁴⁶

2. Applicability Integration with Regulation II – *Permits*

District Regulation XIII is in part based on as well as integrally tied to Regulation II. The base requirements for permits are found in District Rules 201 and 203 and apply to all non-vehicular equipment emitting, potentially emitting, or used to control air contaminants.⁴⁷ Regulation II also includes a variety of basic permit requirements regarding applications, issuance, cancellations, denials, and appeals.⁴⁸ Once a permit is issued it is required to be posted or maintained on site and operation under the permit is deemed to be acceptance of the permit conditions.⁴⁹ There are two rules specific to requirements of the Federal Operating Permit (Title V) program⁵⁰ and two rules with provisions regarding sampling and stack monitoring.⁵¹ Regulation II also contains a list of equipment which might otherwise require a permit but has been determined by the District to have emissions too small to impact attainment or maintenance of the Ambient

³⁹ The thresholds listed here are primarily for general reference only. Specific applicability will need to be determined upon a case by case basis.

⁴⁰ To avoid terminology confusion with existing District Rules, proposed Rule 1700(B)(6) defines Major PSD Facility as equivalent to the “Major Stationary Source” definition as found in 40 CFR 52.21(b)(1).

⁴¹ 40 CFR 51.166(b)(1)(iii) and 40 CFR 52.21(b)(1)(iii) which includes the “catch all” provisions for stationary sources regulated under FCAA §§111 and 112 (42 U.S.C. §§7411 and 7412).

⁴² 40 CFR 52.21(b)(1)(i)(a).

⁴³ To avoid terminology confusion with existing District Rules, proposed Rule 1700(B)(9) defines PSD Air Pollutant as equivalent to the “Regulated Air Pollutant” definition found in 40 CFR 52.21(b)(50). In general, this means any attainment air pollutant and its precursor.

⁴⁴ 40 CFR 52.21(b)(1)(i)(b).

⁴⁵ The list of “significant” amounts by pollutant may be found in 40 CFR 52.21(b)(23).

⁴⁶ 40 CFR 52.21(B)(2). Once again to avoid confusion with other District Rules, proposed Rule 1700(B)(6) defines this term as “Major PSD Modification.”

⁴⁷ The “non-vehicular” limitation is found in H&S Code §§39002 and 40000 and echoed in both current and proposed Rule 219(E)(1)

⁴⁸ Rules 201, 202, 203, 205, 206, 207, 208, 209, 210, 212, 214, 215, 216, and 220.

⁴⁹ Rules 206 and 204.

⁵⁰ Rules 225, and 226.

⁵¹ Rule 217, 218, and Rule 218.1.

Air Quality Standards and which are, for a variety of reasons, difficult or impossible to adequately permit.⁵²

USEPA has expressed concern that equipment deemed exempt from permitting requirements under District Rule 219 – *Equipment Not Requiring a Permit* would somehow “escape” either regulation under other District Rules or that the emissions from such equipment would not be adequately “counted” in Regulation XIII calculations⁵³. While this as a practical matter has not and has never been the case on an operational basis within the AVAQMD permitting program a closer integration between Regulation II, specifically Rule 219, and the Regulation XIII requirements is wise for complete clarity. For this reason, the proposed amendments to Regulation XIII will be submitted in conjunction with the proposed amendments to Rule 219.⁵⁴

Rule 219 lists equipment that has emissions too small to be permitted or otherwise included in a variety of programs. It not only includes a list but also threshold levels for such exclusion such that a particular piece of equipment would need to have emissions less than a threshold AND be on the list of equipment specified in subsection (E) of the rule to qualify.⁵⁵ While such equipment may not need a permit per-se it’s emissions, however, are specifically required to be included in emissions calculations for Regulation XIII purposes.⁵⁶ This directly ties into the applicability provisions of Regulation XIII as found in Rule 1300. The current provisions of Rule 1300(B)(1) were not as clear as the Rule 219(B)(5) provisions and could potentially have been interpreted to exclude Rule 219 permit exempt equipment. The proposed amendments to Regulation XIII rectify this issue and clarify that all Emissions Units subject to Rules 201 or 203 are also subject to the provisions of Regulation XIII. For specific discussions regarding proposed amendments to Rule 219 please see the applicable staff report for that rule.⁵⁷

3. Permit Unit vs. Emissions Unit and Regulation XIII Applicability

Regulation XIII applicability, as well as many of the other requirements, has always been expressed in terms of Emissions Unit. The definition of “Emission Unit” in Current Rule 1301(BB) does not specifically mention air pollution control equipment which is regulated under the provisions of District Rules 201 and 203. A “Permit Unit” on the other hand is anything that is not specifically exempt pursuant to Rule 219.⁵⁸ This causes a bit of confusion with the definition of “Permit Unit” in Current Rule 1301(CCC) which specifically references Rule 203 and thus includes air pollution control equipment. The

⁵² Rule 219

⁵³ USEPA Letter of 12/19/2019, Comments 1.1.1.a. and 1.3.2.

⁵⁴ Rule 219 is also proposed for amendment at the same time in a separate action on the AVAQMD’s Governing Board Agenda.

⁵⁵ The burden of proof to show that particular equipment is less than the designated thresholds is, pursuant to proposed Rule 219(B)(9), placed on the Facility and that any Facility claiming such exemption is required to keep records sufficient to enable the District to determine such compliance under proposed Rule 219(F).

⁵⁶ In both current and proposed Rule 219(B)(5).

⁵⁷ AVAQMD, *Draft Staff Report Amendment of Rule 219 – Equipment Not Requiring a Permit for amendment on 6/15/2021 (219 Draft Staff Report)*.

⁵⁸ The APCO has authority, pursuant to Rule 219(B)(4), to require a permit for any otherwise listed equipment thereby making such specifically identified equipment a “Permit Unit.”

original intent for these two definitions was that “Permit Unit” should have been a wholly contained subset of “Emissions Unit.” While in practical terms the current definitional structure does not result in problems it does result in a legal anomaly in that “Permit Unit” as a category simultaneously includes both more (includes air pollution control equipment) and less (excludes Rule 219 exempt equipment) than the category “Emissions Unit.”

The proposed amendments have adjusted the definition of “Emissions Unit” to specifically reference the inclusion of air pollution control equipment as well as to reference Rules 201 and 203. Therefore, “Emissions Unit” as proposed would include all equipment subject to the AVAQMD’s jurisdiction that either emits, has the potential to emit, or controls emissions. In addition, the entire Regulation XIII was examined and each use of the terms “Emissions Unit” and “Permit Unit” were examined to determine if the proper term was used in each instance. Specific explanations for use of a particular term, either “Emissions Unit” or “Permit Unit”, when such was unclear in the current Regulation may be found in Section VI. I. below.

4. Applicability Requirements for Federal Major Facilities and Federal Major Modifications – Rescission of Rule 1310

Current Rule 1310– *Federal Major Facilities and Federal Major Modifications* was adopted as part of the 8/15/2006 amendments to Regulation XIII. During the 2006 Regulation XIII amendment process the AVAQMD was “strongly encouraged” to change its NSR rules to comply with USEPA’s revised NSR Reform provisions which had been promulgated at 67 FR 80187, 12/31/2002. Several of the provisions had been vacated by the court in *State of New York, et. al. v USEPA et al.* (413 F3d 3, D.C. Cir 2005) but the “Plantwide Applicability Limitations” (PAL) provisions, baseline actual emissions timeframe and post project emissions calculation methodology were retained. Since the AVAQMD was designated Federal nonattainment for Ozone it was required by USEPA to submit a revised NSR program in compliance with those remaining portions of the NSR Reform provisions.

At the same time the AVAQMD was also required to ensure that any amendments to its NSR program complied with H&S Code §§42500 et. seq.⁵⁹ This legislation was a direct response to certain provisions of USEPA’s 2002 so called “NSR Reform.” The primary purpose of the legislation was to prohibit California air districts from revising certain portions of their existing New Source Review rules to less stringent measures than those in place on December 30, 2002. H&S Code §42504(a) is generally a prohibition against “weakening” any pre-NSR Reform provisions. In addition, H&S Code §42504(b) specifically prohibits revisions which would exempt, relax or reduce any of the following requirements: Applicability determination for NSR; definitions of modification, major modification, routine maintenance, repair or replacement; Calculation methodologies; Thresholds; Requirements to obtain NSR or other permits prior to commencing construction; BACT requirements; Air quality impact analysis requirements; Recordkeeping and reporting requirements that makes the recordkeeping less

⁵⁹ Commonly referred to as SB288 (SB288 of 2003, ch 467) and codified as H&S Code §§42500 et seq.

representative or publicly accessible; Requirements for regulation of pollutants covered by NSR; and Requirements for public participation.

The AVAQMD 2006 amendments met these two conflicting requirements by adding an additional analysis in current Rule 1302 that was only applicable to Major Facilities and Major Modifications. All new or modified facilities would first undergo a State NSR analysis be subject to BACT and Offset requirements, if any were applicable.⁶⁰ Then, if a new or modified facility was considered to be a “Federal Major Facility,” using a slightly different calculation method than State level analysis, such a Facility would be exempt from providing an alternative site analysis⁶¹ and could apply for a Plant-wide Applicability Limit (PAL) pursuant to the provisions of Current Rule 1310, if the applicant chose to do so⁶². Since the modifications retained the necessity of all new or modified Facilities to first comply with the State level requirements the MDAQMD determined that the amendments did not violate the provisions of H&S Code §§42500 et seq.⁶³

Subsequently to the AVAQMD’s rule amendments USEPA Region IX opined that the provisions of FCAA §116 (42 U.S.C. §7416), which allowed States and their political subdivisions to be more stringent than FCAA requirements, was applicable to the NSR Reform Provisions. Since California in general required BACT and Offsets at a significantly lower level⁶⁴ than that required under the FCAA, USEPA determined that implementation of the NSR Reforms would, in most cases, not result in any additional regulatory flexibility for those projects determined to be “Federal Major Modifications.” In short, the same level of control would be required whether or not the NSR Reform provisions were implemented and the resulting program would still be more stringent than the Federal requirements under the FCAA.

Since the provisions of Rule 1310 were not in place as of 12/30/2002 along with the fact that the AVAQMD’s 2006 amendments to Regulation XIII retained the existing stringency in accordance with H&S Code §§42500 et. seq the removal of Rule 1310 will also comply with those provisions. Specifically, the proposed rescission of Rule 1310 will not weaken or otherwise change any requirements that existed in the AVAQMD’s New Source Review program as it existed on 12/30/2002. In fact, the only effect of this proposed rescission will be to remove the unused PAL provisions from Regulation XIII.⁶⁵

⁶⁰ Proposed Rule 1302(C)(1-3) for analysis. The applicable BACT and Offset thresholds are found in Rule 1303(A) and (B).

⁶¹ In actual practice the alternative site analysis exemption was not utilized extensively as most Facilities which could utilize Rule 1310 also were subject to provisions of CEQA (Public Resources Code §§21000 et seq) and ended up doing an analysis substantially more comprehensive than the alternative site analysis otherwise required under FCAA.

⁶² Rule 1302(C)(4). Since its adoption in 2006 no Facility has chosen to use the Plant-wide Applicability Limit provisions of Rule 1310.

⁶³ AVAQMD, *Staff Report Proposed Amendments to Regulation XIII (Specifically Rules 1302 – Procedure and 1305 – Emissions Offsets) and Adoption of New Rule 1310 – Federal Major Facilities and Federal Major Modifications for adoption on 8/15/2006*, pgs. 14-15.

⁶⁴ H&S Code §40918(a)(1).

⁶⁵ The AVAQMD has historically addressed the flexibility that USEPA was attempting to provide with the PAL provisions via Federally enforceable permit provisions across multiple permits. In addition, the AVAQMD, on a

The proposed amendments additionally remove all references and provisions solely applicable to Rule 1310 from proposed Rule 1302.

5. Minor Facility Notice Requirements

In a technical review of other district's NSR rules, specifically the MDAQMD's 2016 version of Regulation XIII, USEPA indicated most programs were not approvable as they did not provide a full 30-day notice and comment period for a certain subset of Minor Facilities and modifications subject to New Source Review.⁶⁶ The AVAQMD Regulation XIII also suffers from this defect in that there are no specific Minor Facility notice and comment provisions in the current version.

USEPA indicated that while 40 CFR 51.160-164, including the full notice requirements, apply to any action subject to preconstruction review that 40 CFR 51.160(e) allowed exclusion of certain sources or activities so long as a proper demonstration that the excluded sources were inconsequential to the attainment and/or maintenance of the NAAQS.⁶⁷ USEPA has also asserted that the notice levels for Minor Facilities must be adequately justified citing prior NSR approvals for Tribal areas⁶⁸ and Technical Support Documents (TSDs) for USEPA actions on Sacramento Metropolitan Air Quality Management District's NSR Rules.⁶⁹ USEPA has asserted that while there was no specific percentage of emissions that would be allowable to be excluded from NSR notice requirements it would use the "rational approach" as outlined in *Alabama Power Co. v Costle*, 636 F.2d 323 (D.C. Cir, 1979) and the concept of "tailoring" the public participation as found in the Federal Operating Permit (Title V) regulation adoption documents⁷⁰ to determine the sufficiency of any justification.⁷¹

The proposed amendments add thresholds for Minor Facility NSR notice expressed in absolute numerical terms as opposed to percentages and types of activities. The proposed rules require Minor Facility NSR notice for emissions changes equal to or greater than any of the following:

- 20 tpy of NO_x or VOC.
- 12 tpy of PM₁₀.
- 8 tpy of any single Hazardous Air Pollutant.
- 20 tpy of a combination of Hazardous Air Pollutants.

case-by-case basis, uses "process line" permitting where multiple Emissions Units (usually one main Permit Unit with a variety of sub-emissions points) are regulated with a singular emissions limitation for the entire process regardless on the number of permits issued to the process.

⁶⁶ USEPA Letter of 12/19/2019, Comments 1.1.2.a and 1.1.2.b.

⁶⁷ USEPA, Email, K. Nguyen to K. Nowak – MDAQMD NSR Logistics Call, 2/28/2020 (Hereafter USEPA Email of 2/28/2020) attachment titled 02-28-20 Initial EPA Response to MDAQMD Letter Dated January 28, Clarification #2.

⁶⁸ 76 FR 38748, 7/1/2011.

⁶⁹ TSD for SMAQMD Rule 214, 5/06/2011, Docket #EPA-R09-OAR-2013-0064-002 and TSD for SMAQMD Rule 214/217, 1/23/2013, Docket #EPA-R09-OAR-2013-0064-002.

⁷⁰ 60 FR 45530, 8/21/1995.

⁷¹ USEPA Region IX, however, has insisted in oral commentary that only less than 5% of the total inventory "escaping" a full 30-day notice is unacceptable without specific mitigating circumstances.

- 80% of any lower amount of a Hazardous Air Pollutant as established by USEPA rulemaking.
- The significance level for Regulated Air Pollutants as listed in 40 CFR 52.21(b)(23).

The justification for the Minor Facility NSR Notice Thresholds are contained in Section VI. D. below

6. BACT Requirement Applicability

The proposed amendments *clarify but do not substantively change the applicability thresholds for BACT and Offsets*. The term “Permit Unit” is retained in proposed 1303(A) as subsections (1) and (2) are based upon the state requirements for BACT found in H&S Code §40918(a)(1). The “Permit Unit” terminology is also retained in Proposed 1303(A)(3) in part because to create a fully enforceable BACT requirement an Emissions Unit would end up requiring a permit. This provision ties into the ability of the APCO under Rule 219(B)(4) to require a permit to ensure compliance with District Rules and Regulations. Proposed Rule 1303(A)(3) is also clarified to indicate that each new or Modified permit unit at a new or modified Major Facility will need BACT. Please also note that as a practical matter any new or modified Permit Unit is extremely likely to be required to have BACT pursuant to Rule 1303(A)(1) or (2) regardless of the status of the underlying Facility be it Major or Minor.

As currently implemented the Rule 1303(A)(3) 25 tpy across the board BACT trigger for Facility level analysis creates a slight anomaly with the Major Facility threshold in regards to PM₁₀. As noted in Rule 1303(B)(1) the PM₁₀ Major Facility threshold is 15 tpy. This differential could potentially result in the situation where a Facility could require PM₁₀ offsets but not BACT.⁷² The proposed amendments revise the threshold in 1303(A)(3) to correspond with the Major Facility threshold for ease of use.

The proposed amendments reformat the table in 1303(B)(1) to only show Nonattainment pollutants in accordance with the textual provisions of subsection (B)(1) removing Carbon Monoxide and Lead from the table.⁷³ In addition, the term Reactive Organic Compounds (ROCs) has been changed to Volatile Organic Compounds (VOCs) in accordance with a definitional shift in Rule 1301. The original dichotomy between ROC and VOC in Regulation XIII arose when the Federal definition of VOC⁷⁴ was slightly different from the State definition of ROC⁷⁵ with the State definition being more restrictive. Since this difference has been resolved the District has adjusted the terminology. Please also note that *the 15 tpy threshold for PM₁₀ Major Facility status remains unchanged*. This threshold was added in the 2001 amendments to Regulation

⁷² Once again due to the 25 lb/day BACT requirement threshold of 1303(A)(1)) and (A)(2)) this situation has never occurred since the 15 tpy PM₁₀ threshold was added in 2001 as 1303(B)(1) .

⁷³ SO_x remains on the table as it is a precursor to the particulate fraction of PM₁₀ for which the District is State nonattainment.

⁷⁴ 40 CFR 51.100(s).

⁷⁵ 17 CCR §94501(m) and §94508(a)(138). See also: CARB Webpage, *Definitions of VOC and ROG (Revised January 2009)* at https://ww3.arb.ca.gov/ei/speciate/voc_rog_dfn_1_09.pdf for an explanation of the differences in terminology.

XIII.⁷⁶ This threshold was derived from the definitions of the term Significant⁷⁷ and was part of the shift from an aggregate threshold used across multiple nonattainment classifications in SCAQMD to straight compliance with the applicable FCAA thresholds for the specific nonattainment classification of the AVAQMD.

B. EMISSIONS

The proposed amendments to Regulation XIII are not expected to change emissions reductions from those achieved under the current regulation as the thresholds triggering control or other emissions related requirements, save one,⁷⁸ are not changed. The major proposed change is the addition of a threshold for public notification for certain minor facilities which is primarily procedural in nature and should not affect emissions. In addition, most of the other proposed amendments are clarifications of rule language to conform with existing requirements in other District Rules and current District practices. For explanations of specific changes please see the *[bracketed italicized]* notes in Exhibit A and Section VI. I. below.

C. CONTROL REQUIREMENTS

Once again, the proposed amendments to Regulation XIII are primarily procedural in nature. There is expected to be no significant change from current practice involving which New or Modified Facilities require what level of control equipment. Proposed changes to specific requirements have been designed to clarify and conform language with District practices and provisions of other District Rules. For explanations of specific changes please see the *[bracketed italicized]* notes in Exhibit A and Section VI. I. below.

D. MINOR FACILITY NOTICE THRESHOLD ANALYSIS

Rule 1302 was substantially reorganized in 2001 to provide a standardized procedure for nonattainment NSR actions as well to allow PSD and Toxic Air Contaminant analysis to be performed in conjunction with and included in the issuance of the resultant permit if such concurrent issuance was desired. The 2006 amendments to Rule 1302 clarified a few issues and added an analysis for Rule 1310. Both sets of changes were also intended to allow the District to eventually apply for “Enhanced NSR” status for the purposes of Federal Operating Permits to allow certain permitting activities at Major Facilities to proceed and issue concurrently if the Facility wished to do so.

In subsequent guidance USEPA has indicated that FCAA §110(a)(2)(C) (42 USC §7410(a)(2)(C)) mandated the provisions of 40 CFR 51.160-164 be applied not only to Major Facilities but also to any stationary source necessary to assure attainment and

⁷⁶ AVAQMD, *Agenda Item 11*, 3/20/2001; AVAQMD, *Resolution 01-03 – Reg XIII*, 3/20/2001; and AVAQMD, *Final Staff Report Amendments to Regulation XIII – New Source Review*, 3/20/2001.

⁷⁷ 40 CFR 51.165(a)(1)(x)(A) and 51.166(b)(23)(i). See also current Rule 1301(GGG).

⁷⁸ The only threshold change proposed in this action is to align the PM₁₀ BACT threshold with the Major Facility threshold of 15 tpy which is technically more restrictive and would potentially result in less emissions due to the application of additional BACT. Once again note that on a practical level this will not result in many additional emissions reductions as most new or modified equipment would be required to apply BACT pursuant to proposed Rule 1303(A)(1) and (2).

maintenance of the NAAQS.⁷⁹ This “Minor New Source Review” notice requirement, as discussed in subsection VI. A. 5. above, could exclude a small percentage of emissions from notice so long as an adequate justification could be made⁸⁰ and certain other provisions were specifically included.⁸¹

The AVAQMD is proposing to add notice provisions specifically to cover the so called “Minor New Source Review” activities. Labels for each type of notice will be provided for clarity. The proposed notice types and thresholds for particular actions are summarized as follows:

**Table 2
Notice Thresholds and Requirements**

Permitting Action/Threshold	Type of Notice	Notice Procedure	Contents/Requirements
Action will require offsets per 1303(B).	Major NSR Notice	°Produce a Notice containing required information.	°Facility and action information.
Facility stack height is greater than Good Engineering Practice.	Major NSR Notice	°Publish Notice on District Website for duration of comment period.	°Location and availability of Documents.
Facility is a Major PSD Facility or has a Major PSD Modification. ⁸²	Major NSR Notice	°Send notice (and other items) to CARB, USEPA & Affected States.	°30-day comment period & procedures for comments.
Facility has a Federal Operating Permit and action also involves the issuance, renewal or Significant Modification to the Federal Operating Permit. ⁸³	Major NSR Notice	°Send notice to applicant, city &/or county where located, Federal Land Manager potentially affected, Indian Tribe potentially affected and any on list requesting notice.	°Hearing Board review availability and procedures °Ability to request public hearing and procedures (Stack height, PSD and FOP related only). °Increment consumption (PSD only). °Information on rejected comments related to Federal Class I area (if applicable).

⁷⁹ USEPA Memo, J. McCabe, Principal Deputy Assistant Administrator, Office of Air and Radiation, *Minor New Source Review Program Public Notice Requirements under 40 CFR 51.161(b)(3)*, 4/17/2012

⁸⁰ MDAQMD attempted such a justification in its 2016 amendments and USEPA in *USEPA Letter of 12/19/2019*, Comment 1.1.2.b. indicated that the justification was inadequate as the percentage of non-noticed emissions in relation to the total inventory was too high. Please note that percentages USEPA cited as “approvable” all were 5% or less (See Footnotes 92 and 93 below).

⁸¹ *USEPA Letter of 12/19/2019*, Comment 1.1.2.a.

⁸² The AVAQMD currently has only 2 Facilities with potential to emit in amounts which might require a PSD permit.

⁸³ A “Significant Modification” for Federal Operating Permit Purposes is most often triggered by the necessity of a case-by-case emissions determination pursuant to Rule 3001(T)(3) and (BB). BACT is a case-by-case emissions determination and is required for all new/modified Permit Units at a Major Facility under Rule 1303(A)(3). Currently all Major Facilities within the AVAQMD are also Title V Facilities under Regulation XXX – *Title V Permits*.

Permitting Action/Threshold	Type of Notice	Notice Procedure	Contents/Requirements
Provisions from Toxic NSR analysis require notice per Rule 1320.	Toxic NSR Notice	°Add provisions required from Rule 1320 to whichever notice type is otherwise applicable to the action if Facility requests it. °Send notice to anyone extra not already on the list for underlying notice type	See additional requirements in Rule 1320.
Action will result in an emissions change ≥ 20 tpy NO_x or VOC, ≥ 12 tpy PM_{10} , or 80% of any other Nonattainment Air Pollutant (none at present).	Minor NSR Notice	°Produce a Notice containing required information. °Publish Notice on District Website for duration of comment period.	°Facility and action information. °Location and availability of Documents °30-day comment period & procedures for comments. °Hearing Board review availability and procedures.
Action will result in an emissions change ≥ 8 tpy any single Hazardous Air Pollutant, ≥ 20 tpy any combination of Hazardous Air Pollutants, or 80% of a lesser quantity of Hazardous Air Pollutants set forth in EPA rule.	Minor NSR Notice	°Send notice (and other items) to CARB, USEPA & Affected States. Send notice to anyone on list requesting notice.	
Action will result in an emissions change \geq the significance level listed in 40 CFR 52.21(b)(23) ⁸⁴ .	Minor NSR Notice		
Action doesn't meet any of the above thresholds.	Permit Issuance Notice	°Post action and permit on website.	°Information on Facility, Permit, and action taken. °Hearing Board review availability and procedures.

The proposed amendments also shift the publication requirement for both Major NSR Notice and Minor NSR Notice away from publication in a Newspaper of general circulation and to website notification as provided for in recent USEPA and CARB Guidance.⁸⁵ In addition, the proposed amendments require a 30-day comment period not only for Major NSR Notice as current practice but also for Minor NSR Notice.⁸⁶ Other provisions are optimized to reflect the order of operations elsewhere in proposed Rule 1302.

The AVAQMD justification for Minor NSR Notice are based on the 2017 Emissions Inventory data set. This inventory was chosen because it was more granular in nature than earlier inventories and thus is easier to segregate out non-stationary emissions.⁸⁷ In

⁸⁴ On a practical basis this will only apply to attainment pollutants as the “significance level” as listed for nonattainment pollutants is greater than the Major Facility threshold found in Rule 1303(B)(1).

⁸⁵ USEPA Memo, J. McCabe, Principal Deputy Assistant Administrator, Office of Air and Radiation, *Minor New Source Review Program Public Notice Requirements under 40 CFR 51.161(b)(3)*, 4/17/2012 and CARB Advisory #299, *Air District New Source Review Rules Regarding Electronic Notice*, 06/2018.

⁸⁶ USEPA has issued draft guidance regarding what actions may be taken by a Facility at its own risk during this 30-day comment period. USEPA Memo (Draft for Public Review and Comment), A. Idsal, Principal Deputy Assistant Administrator, *Interpretation of “Begin Actual Construction” under the New Source Review Preconstruction Permitting Regulations*, 3/25/2020. Current indications are that this guidance will not be finalized.

⁸⁷ AVAQMD, *2017 AV Actual Emissions Noticing Breakdown Adjusted.xlsx*

addition it does not suffer from incorrect identification of PM fugitive emissions as stationary sources.⁸⁸ Table 3 below provides the results of this analysis for nonattainment pollutants in the AVAQMD.

Table 3
Minor NSR Notice Threshold Analysis
(Numerical Values in Tons per Year)

	NO _x	SO _x ⁸⁹	VOC	PM ₁₀
Minor NSR Notice Threshold	20	N/A	20	12
Nonattainment Major Facility Threshold ⁹⁰	25	N/A	25	15 ⁹¹
2017 Emissions Inventory Data				
Total Emissions from Inventory	3960	55	10235	6305
Area	344	9	1369	5413
Non-Anthropogenic	2	1	4582	6
Off-Road	829	15	715	102
On-Road	2278	17	882	241
Stationary	507	13	2687	544
Stationary Emissions Breakdown				
Stationary Permitted	498	11	2178	258
Stationary Unpermitted	9	2	509	286
Stationary Permitted Noticed	427	9	1043	37
Stationary Permitted Not-Noticed	71	2	1135	221
Percentages of Total Emissions Inventory				
%Stationary/Total	13%	24%	26%	9%
%Stationary Permitted/Total	13%	20%	21%	4%
%Stationary Unpermitted/Total	0.2%	3%	5%	5%
%Stationary Permitted Noticed/Total	11%	16%	10%	1%
%Stationary Permitted Not-Noticed/Total	2%	4%	11%	4%
Percentages of Stationary Inventory				
%Stationary Permitted/Stationary	98%	87%	81%	47%
%Stationary Unpermitted/Stationary	2%	13%	19%	53%
%Stationary Permitted Noticed/Stationary	84%	68%	39%	7%
%Stationary Permitted Not-Noticed/Stationary	14%	18%	42%	41%

As indicated above the amount of emissions from Stationary Permitted Emissions Units which would not receive notice is 4% of the total emissions with the exception of VOC. A closer examination of the base inventory data indicates that the source of the high percentage of unnoticed VOC emissions is the direct result of the AVAQMD's overall emissions profile. In short, the AVAQMD has a large number of very small facilities

⁸⁸ Fugitive emissions should only be considered as "stationary" if they are located at a Facility on the list of specific source categories contained in 40 CFR 51.165(a)(1)(iv)(C)

⁸⁹ SO_x data is included for informational use as it is a precursor to the sulfate fraction of PM₁₀

⁹⁰ As set forth in current and proposed Rule 1303(B).

⁹¹ The FCAA Major Source Threshold for PM₁₀ in the MDAQMD is 100 tpy. However, the SIP approved threshold for offsets and Major Facility status is 4 tpy (AVAQMD Rule 1304(d), 6/14/1996) based on an SCAQMD.

such as gasoline dispensing stations and only 2 Facilities which are subject to the Title V program due to emissions.⁹² Thus, the fact that the largest amount of permitted yet not-noticed emissions in the inventory happens to be fugitive emissions from gasoline transfer and dispensing skews the percentage and does not reflect the actual amount of notice given for such Facilities. While a gasoline dispensing facility might not require notice under the proposed levels set forth in proposed 1302(C)(7)(d) the facility, dependent upon proximity to residential or other receptors, could very well need be noticed under Rule 1401 as an emitter of Benzene, a HAP. If the purpose of the Minor NSR Notice requirements is to ensure public input on potentially impactful Facilities then the Toxic NSR provisions will, working in concert with the NSR provisions, ensure that notice is provided in such circumstances. It is interesting to note that if the fugitive emissions from gasoline dispensing facilities are excluded from the calculations above the non-noticed VOC emissions drops to only 3% of the emissions inventory. It is also interesting to note that due to the small size of the inventory and the lack of mid-range emitting Facilities reducing the Minor NSR notice trigger level for VOC would not significantly change the percentage of non-noticed VOC emissions.

In the Tribal NSR approval USEPA indicated that 1% of total emissions inventory being “exempt from NSR review⁹³” on a pollutant by pollutant basis was adequate.⁹⁴ Similarly, USEPA’s approval of Sacramento Metropolitan AQMD’s Minor NSR Notice Threshold indicated that less than 5% of the total emissions inventory being not subject to public notice (excluding SO₂ which was justified differently) was also acceptable.⁹⁵ Given the percentages, the AVAQMD does not expect that the number of not-noticed Permit Units to affect the AVAQMD’s ability to attain and/or maintain the NAAQS. Please also note that so called “non-noticed” Permit Units are still publicly posted upon issuance, the background documentation is available, and the issuance/renewal of such permits may be appealed pursuant to the provisions of H&S Code §42302.1.

In addition to the above justification, the unique situation of the AVAQMD in regards to its nonattainment pollutants must also be considered. The AVAQMD is overwhelmingly impacted by transported air pollution primarily from the South Coast Air Basin and the San Joaquin Air Basin.⁹⁶ This results a significant impact on the nonattainment status and design values within the AVAQMD. It must be noted that the design values have shown a distinct downward trend over the years. Unfortunately, as is indicated by previous attainment planning and modeling for the region, the AVAQMD can never completely attain or maintain the NAAQS throughout its entire jurisdiction regardless of

⁹² There are actually 4 Title V Facilities in the AVAQMD but 2 of them are landfills which are required to have Title V permits pursuant to regulation regardless of the amount of emissions.

⁹³ Please Note: “Exempt from NSR Review” as referenced by USEPA is NOT necessarily the same as receiving minimal notice in the current MDAQMD regulations. Due to the MDAQMD’s inclusion of at least a minimal analysis under Regulation XIII of all Emissions Units at a particular Facility and the extremely low California BACT threshold of **25 lbs/day** most, if not all Emissions Units can be said to “undergo NSR review.”

⁹⁴ 40 CFR 49.153(c); 76 FR 38748, 38758, 7/1/2011.

⁹⁵ *TSD for SMAQMD Rule 214/217*, 1/23/2013, pg. 6-7; Docket #EPA-R09-OAR-2013-0064-002

⁹⁶ 17 Cal Code Regs. §70500(c).

the stringency of New Source Review unless and until the upwind neighboring air basins also achieve attainment.

E. BACT AND OFFSETS; REQUIREMENTS AND CALCULATIONS

USEPA has expressed a variety of concerns to other air districts regarding the specific requirements for the calculation of emissions which determines the imposition of BACT and Offsets on a particular new or modified facility as well as concerns regarding the calculation and use of Offsets within Regulation XIII as such are set out in Rules 1304 and 1305.⁹⁷ In its comments to the MDAQMD the specifically enumerated concerns included:

- Language regarding “permit units” and cross references to Regulation II equipment exempt from permit will somehow allow emissions from such units to “escape” the calculation process in Rule 1304 and thus result in BACT and/or Offsets not being required.⁹⁸
- Terms used in assessing the validity of offsets for use, such as “Surplus,” “Permanent,” and “Quantifiable,” are not defined and thus do not provide adequate support for Air Pollution Control Officer determination of offset adequacy.⁹⁹
- “Offsets” obtained from shutdown or modification of unpermitted emissions units were not properly enforceable as they could potentially result in “demand shifting” where removed unpermitted emissions units would be simply be replaced with other unpermitted emissions units.¹⁰⁰
- Nontraditional offset provisions do not specify that a SIP approved calculation method is required to ensure that such offsets are real, surplus, permanent, quantifiable and enforceable.¹⁰¹
- The calculation methodology in Rules 1304 and 1305 applies a “potential to potential” calculation to determine the applicability of BACT and Offsets along with the determination of the amount of offsets needed allegedly in violation of 40 CFR 51.165(a)(2)(ii)(c).¹⁰²
- The offset inclusion of “previously banked offsets” in the calculation methodology results in a similar “potential to potential” test allegedly in violation of 40 CFR 51.165(a)(2)(ii)(c).¹⁰³
- The applicable rules do not address the necessity for BACT and Offsets in the situation when a facility relaxes a previously applied enforceable emissions limitation and because of such relaxation becomes a Major Facility or when the relaxation itself happens to be a major modification.¹⁰⁴

⁹⁷ USEPA Letter of 12/19/2019.

⁹⁸ USEPA Letter of 12/19/2019, Comment 1.1.1.a. and Comment 1.3.2.

⁹⁹ USEPA Letter of 12/19/2019, Comment 1.2.2.a.1. and 1.2.2.a.4.

¹⁰⁰ USEPA Letter of 12/19/2019, Comment 1.2.2.a.2.

¹⁰¹ USEPA Letter of 12/19/2019, Comment 1.2.2.a.3.

¹⁰² USEPA Letter of 12/19/2019, Comment 1.2.2.b.

¹⁰³ USEPA Letter of 12/19/2019, Comment 1.2.2.c.

¹⁰⁴ USEPA Letter of 12/19/2019, Comment 1.2.2.d.

- The interpollutant “trading” provisions allegedly do not comply with 40 CFR 51.165(a)(11).¹⁰⁵

It must be noted, however, that most if not all of these enumerated alleged deficiencies are present in the current SIP adopted rule provisions¹⁰⁶ while others are included in subsequent amendments. Specifically, the provisions impacted by USEPA’s concerns are as follows:

- The concern about Rule 219 emissions of exempt equipment “escaping” appears to be the result of a confusion regarding the interrelationships between the applicability provision in current Rule 1300(B)(1)(a) referencing the entirety of Regulation II¹⁰⁷, the provisions of Rule 1304(B)(1)(a) requiring all “Emissions Units” to be included in applicability calculations¹⁰⁸ and the provisions of Rule 219(B)(5) specifically stating that emissions from 219 permit exempt equipment are required to be included in NSR calculations.
- The AVAQMD has long considered the current dictionary definitions of the terms Real, Surplus, Permanent, Quantifiable and Enforceable as generally adequate for use in rulemaking like they are in underlying State and Federal legislation. However, the terms “Real” and “Surplus” were not specifically defined in the SIP version¹⁰⁹ even though they all occur in the current version of Rule 1301¹¹⁰
- Use of offsets derived from unpermitted emissions units as modified or shutdown appear to have been allowed pursuant to interactions between the SIP versions of Rules 1304, 1306 and 1309. By 2006 such use was specifically allowed under Rule 1305(B)(2)(a)(ii)c. but were specifically required to be enforceable via permit or contract.
- Mobile source emissions reductions are the only nontraditional offsets mentioned in the SIP approved version of Rule 1309 and were required to comply with the provisions in SCAQMD Regulation XVI – *Mobile Source Offset Programs*.

¹⁰⁵ USEPA Letter of 12/19/2019, Comment 1.2.2.e.

¹⁰⁶ SCAQMD Regulation XIII was approved into the SIP at 61 FR 64291, 12/4/1996 and included Rule actions of the SCAQMD Board on 12/7/1995 (Rules 1301, 1302, 1309, 1309.1, 1310 and 1313), 5/10/1996 (Rule 1303) and 6/14/1996 (Rules 1304 and 1306). The AVAPCD (the direct predecessor to the AVAQMD) acquired the SCAQMD rule book as applicable within its jurisdiction as of 6/30/1997 pursuant to statute (Former H&S Code §40106(e); Stats. 1996 Ch. 542, section 1) and the AVAQMD subsequently acquired the AVAPCD rule book as of 12/31/2001 pursuant to statute (H&S Code §41320(c)). USEPA has indicated that SIP changes where formal action by USEPA has not occurred at the time a jurisdictional change is effective are no longer active SIP submittals and any subsequent approval is not effective within the changed jurisdiction (USEPA Letter, D. Jordan Director Air Division USEPA Region IX to R. Corey, Executive Officer, CARB, 4/1/2015). Thus, since the SIP approval for Regulation XIII occurred before 7/1/1977 these rules are in the SIP for the AVAQMD.

¹⁰⁷ The comparable SIP provision in SCAQMD Rule 1301(b) of 12/7/1995 uses the term “Source” as opposed to “Emissions Unit” for applicability. SCAQMD Rule 1302(gg) of 12/7/1995 defines “Source” primarily in terms of “Permit Unit” and thus is somewhat unclear regarding units which might not require a permit pursuant to then applicable SCAQMD Rule 219 of 8/12/1994.

¹⁰⁸ The SIP version of this provision, SCAQMD Rule 1306 of 6/14/1996 also uses the term “Source” and thus has the same problem detailed in footnote 105 above.

¹⁰⁹ “Permanent”, “Quantifiable Emissions” and “Federally Enforceable” are defined in SCAQMD Rule 1302(w), (cc) and (n) respectively

¹¹⁰ Current Rule 1301(GG), (AAA), (III), (LLL), and (WWW).

Once again pursuant to current Rule 1305(C)(3) such offsets were specifically required to be Real, Surplus, Permanent, Quantifiable and Enforceable and required to be approved on a case-by case basis prior to the issuance of the NSR document by both CARB and EPA. The specific form of such approval was left unspecified.¹¹¹

- SIP approved 1304(c)(2) in conjunction with 1304(e) and 1306(d)(2) appear to have allowed the use of previously offset emissions in certain calculations. The current versions of Rule 1304(B)(1) and (D)(3) provided a potential emissions (as modified) to fully previously offset potential emissions calculation methodology.
- The SIP approved provisions of 1306 appear to have included “previously banked offsets¹¹² in certain calculations. Regardless of this the current provisions of 1304(D)(4)(a)(iii) and 1305(E)(3)(a)(iv) included “previously banked offsets” in the calculations of a Facilities total emissions.
- Relaxation of previously applied emissions limitations is covered by current Rule 1303(B)(3) and 1305(A)(2)(b)(ii)c. and specifically required offsets for such eventuality. In addition, current Rule 1303(A)(3) requires BACT at any new or modified Major Facility regardless of how such modification occurred.
- Interpollutant trading provisions were provided in SIP approved Rule 1309(g). This provision eventually became current Rule 1305(B)(6) and required approval of both CARB and USEPA.
-

The AVAQMD understands that interpretations of FCAA act requirements, along with their underlying regulatory implementation, have been revised since 1996. It is clear that such revisions will, by necessity, require some adjustments in the District’s NSR rules.¹¹³ Nevertheless, the FCAA §116 (42 U.S.C. §7416) specifically allows the adoption and implementation of more stringent controls on air pollution than that required under the FCAA. Therefore, any SIP requirement¹¹⁴ where the ultimate result is more stringent than that achieved under the applicable FCAA provision should be approvable as a SIP revision.

At its most basic, the FCAA requires the adoption of a SIP after the promulgation or revision of a NAAQS for a pollutant which the area is designated nonattainment.¹¹⁵ The general SIP requirements are set forth in Title I, Part D, Subpart 1 of the FCAA¹¹⁶ with specific requirements for Ozone nonattainment areas contained in Subpart 2,¹¹⁷ and specific requirements for Particulate Matter nonattainment areas in Subpart 4.¹¹⁸ Since

¹¹¹ Potential approval mechanisms at the time included, but were not limited to, SIP approved calculation rule, case-by-case SIP approval in addition to approval of the NSR permit action itself.

¹¹² Referred to as an “NSR Balance.”

¹¹³ The AVAQMD revised Regulation XIII on 3/20/2001 and 8/15/2006 in part pursuant to USEPA’s request to address changes in interpretations. USEPA fully participated in those rulemaking actions.

¹¹⁴ With the exception of those specifically called out in 42 U.S.C. §7416 dealing with certain mobile sources of air pollution, NSPS and NESHAPs requirements.

¹¹⁵ FCAA §110 (42 U.S.C. §7410).

¹¹⁶ FCAA §§171 et seq. (42 U.S.C. §§7501 et seq.)

¹¹⁷ FCAA §§181 et seq. (42 U.S.C. §§7511 et seq.)

¹¹⁸ FCAA §§188 et seq. (42 U.S.C. §§7513 et seq.)

the AVAQMD has been designated nonattainment for Ozone¹¹⁹ only the general provisions and subpart 2 requirements apply. In terms of BACT and Offset requirements this means that the AVAQMD is required to have a nonattainment new source review permitting program that applies to new or modified facilities emitting or having the potential to emit 25 tpy of VOC or NO_x.¹²⁰ This NANSR permitting program is required to impose BACT¹²¹ on such facilities as well as ensure that such facilities provide offsetting emissions reductions or offsets.¹²² Due to the District's O₃ nonattainment status the offsetting ratio for O₃ precursors is set at 1.3 to 1.¹²³ As discussed below the proposed amendments to Regulation XIII, as did their predecessor regulations, provide equivalent or greater stringency in terms of BACT and Offsets than what is required under the FCAA.

1. Permit Exempt Emissions Units in Calculation Methodology

While USEPA's underlying concerns, as expressed in the 12/19/2019 Letter to MDAQMD, specifically comments 1.1.1.a. and 1.3.2., regarding the potential for emissions from units which happen to be AVAQMD permit exempt pursuant to District Rule 219 to somehow "escape" NSR review arises from a misinterpretation of current language, the District is proposing to modify certain provisions to avoid any potential future confusion. Historically, the applicability language in Rule 1300(B)(1) and its predecessor rules was interpreted to include all emissions units subject to the regulatory powers of the District under state law¹²⁴ regardless of permitting status. Since the jurisdictional provisions of the H&S Code are implemented by the terms of District Rules 201 and 203 the provisions of proposed 1300(B)(1) are proposed to be modified to directly reference these two rules.¹²⁵ In addition, to further clarify that all emissions need to be included in the applicable calculations the definitions and use of the terms "Permit Unit" and "Emissions Unit" have been clarified and adjusted when necessary throughout the remainder of the regulation.¹²⁶ Furthermore, the proposed amendments have been updated to standardize the inclusion of fugitive emissions in calculations for only the specified list of sources listed in 40 CFR 51.165(a)(1)(iv)(C).¹²⁷ These proposed changes will ensure that the emissions included in the calculations are, at a minimum, as stringent as those required under the FCAA. In addition, it must be noted that the both the current version

¹¹⁹ 40 CFR 81.305. Specifically, the MDAQMD is classified Severe-17 for the O₃ 1hr standard in the Southeast Desert Modified AQMD and classified Severe -15 for the O₃ 1997/2008/2015 8 hr standards in a portion of San Bernardino County and unclassifiable for the remainder.

¹²⁰ FCAA §172(c)(5) (42 U.S.C. §7502(c)(5)); FCAA §182(d) (42 U.S.C. §7511a(d)) ; 40 CFR 51.165(a)(1)(iv).

¹²¹ FCAA §173(a)(2) (42 U.S.C. §7503(a)(2)). Due to specific definitional provisions, BACT in California is, in general equivalent to Federal Lowest Achievable Emissions Rate (LAER).

¹²² FCAA §173(a)(1)(A) and (c) (42 U.S.C. §7503(a)(1)(A) and (c)).

¹²³ FCAA §182(d)(2) (42 U.S.C. §7511a(d)(2)).

¹²⁴ As set forth in California Health & Safety Code §§39002 and 40000.

¹²⁵ See also discussion in Section VI. A. 2. above.

¹²⁶ Proposed Rule 1301(Y) and (DDD). See also discussion in Section VI. A. 3. above.

¹²⁷ Proposed Rules 1301(GG), (JJ), (GGG), (III); 1304(E)(2)(a) and 1304(E)(3)(a)(iii)

and proposed changes to Rule 219,¹²⁸ specifically the clarification of subsection (B)(5), will serve as a backstop for the changes proposed to Regulation XIII.

2. Real, Surplus, Permanent, Quantifiable and Enforceable Definitions

In general, the AVAQMD prefers not to include definitions that are the substantially similar, if not identical, to the formulations found in any reputable dictionary. USEPA insists in the 12/19/2019 Letter to MDAQMD, specifically in Comments 1.2.2.a.1 and 1.2.2.a.4,¹²⁹ that such terms be specifically defined. Given this, the District requested and USEPA provided definitional language that they considered approvable for the terms Real, Surplus, Permanent, Quantifiable, and Enforceable. The District has included this language in the proposed amendments to Rule 1301.¹³⁰

3. Enforceability of Reductions from Unpermitted Emissions Units

In comment 1.2.2.a.2. to MDAQMD of 12/19/2019, USEPA indicated that they believed “offsets” derived from the “shutdown” or “modification” of previously unpermitted units were not approvable as they could not be properly enforceable. The expressed concern appears to be that even though actual reductions would be obtained by removing or modifying an unpermitted unit such activities could potentially just “shift the demand” by replacing it with one or more other unpermitted (aka Rule 219 exempt) emissions units. In such a case the Facility might “escape” the need for additional offsets as the emissions from such permit exempt units would not be part of a permit application and thus not be “counted” for NSR purposes.

While the overarching concern regarding emissions from Rule 219 exempt equipment “escaping” from inclusion in emissions calculations has been resolved¹³¹ this remains a legitimate concern. In short, current Rule 1305(B)(2)(a)(ii)c. allows the use of Simultaneous Emissions Reductions (SERs) from shutdown or modification of unpermitted emissions units so long as the owner/operator obtains a permit or has a contract containing Federally enforceable limitations (emphasis added). USEPA is concerned that this provision would allow a Facility to “sneak” a set of Rule 219 exempt units in “under the radar” by only adding or making changes to unpermitted units in a particular action.

This provision has not been used rarely since the 2001 reformulation of Regulation XIII. On a practical basis the stated concern by USEPA has not proven problematic. It is true that if only Rule 219 exempt equipment happened to be involved in a particular change at a Facility it would not be initially detected by the District. However, such a change would inevitably end up being

¹²⁸ *Rule 219 Draft Staff Report*

¹²⁹ *USEPA Letter of 12/19/2019*

¹³⁰ Proposed Rule 1301(Z), (BBB), (JJJ), (LLL) and (ZZZ)

¹³¹ See discussion in Section VI. E. 1. above.

discovered on the next inspection. At that point there would be a good case for issuance of a Notice of Violation alleging circumvention of District Rules.

Despite the lack of historical problems, the AVAQMD agrees with USEPA that using unpermitted unit shutdowns to create SERs are problematic. The only way to make such a provision enforceable would be to require all similar equipment at a Facility to get permits with appropriate conditions which would be cumbersome for the District and cost prohibitive for the Facility. Thus, the District is proposing to remove the word “shutdown” from the unpermitted equipment SER provision in proposed 1304(C)(4)(c).¹³² This will be done in conjunction with the proposed shift of all the SER provisions into 1304 to clearly distinguish the calculation and use off SERs from Emissions Reduction Credits (ERCs).¹³³ Creating SERs from modifications of previously permit exempt equipment do not result in the same enforcement issues as the equipment in question is required to obtain a permit pursuant to proposed 1304(C)(4)(c) and Rule 219(B)(4).

On a similar note USEPA also indicates that there may be a similar problem with the banking provisions. In AVAQMD the equivalent provision is found in Rule 1309(D)(3)(c) which seems to allow the banking of unpermitted emissions from shutdowns in certain situations. The District is proposing to remove the word “shutdown” from this provision as well to ensure that emissions reductions resulting from the shutdown of unpermitted Emissions Units are not banked.

4. Nontraditional Offset Calculations

USEPA’s Comment 1.2.2.a.3. of 12/19/2019 to the MDAQMD indicates that any use of “non-traditional offsets” (aka mobile, area and indirect offsets) requires additional specificity regarding what procedural steps would be necessary to obtain USEPA approval of such offsets. USEPA also notes that a SIP approved ERC generation rule would be necessary and that any offsets created would need to meet the general offset integrity criteria; namely be real, surplus, quantifiable, permanent and enforceable. In its 2/28/2020 response to MDAQMD questions¹³⁴ regarding the specifics of case-by-case approval of such offsets USEPA cited a variety of SIP approved “nontraditional ERC” rules¹³⁵ along with a January 2001 Document titled *Improving Air Quality with Economic Incentive Programs*.¹³⁶ This response implies that the only method of obtaining USEPA approval of

¹³² Currently this provision is located in Rule 1305(B)(2)(a)(ii)c.

¹³³ ERCs are defined in proposed Rule 1301(X) as emissions reductions which have been previously banked pursuant to Rule 1309.

¹³⁴ USEPA, *Email of 2/28/2020 attachment titled 02-28-20 Initial EPA Response to MDAQMD Letter Dated January 28, Clarification #2.*

¹³⁵ San Diego County APCD, Rule 27.1 – *Federal Requirements for Alternative Mobile Source Emission Reduction Program*, 8/6/2008; Placer County APCD, Rule 515 - *Stationary Rail Yard Control Emission Reduction Credits*, 2/19/2015; Placer County APCD, Rule 516 – *Rice Straw Emission Reduction Credits*, 12/19/2009; Feather River AQMD, Rule 10.9, - *Rice Straw Emission Reduction Credits and Banking*, 10/6/2014, Butte County APCD Rule 433 - *Rice Straw Emission Reduction Credits*, 4/24/2014 and Yolo-Solano APCD, Rule 3.21 - *Rice Straw Emission Reduction Credits*, 12/10/2008

¹³⁶ USEPA Document EPA-452/R-01-01, January 2001.

“non-traditional offsets” would be via the adoption of an ERC calculation rule that was subsequently SIP approved. Such a rule would be appropriately included in the District’s Regulation XIV – *Mobile Source Offset Programs*.¹³⁷

Once again USEPA appears to misunderstand the underlying purpose of Rule 1305 and its interrelationship with the banking provisions in Rule 1309. Rule 1305 is an offset USE rule as opposed to an ERC creation rule. ERCs are created and banked under Rule 1309 and calculation of such ERCs are performed pursuant to the provisions of Rule 1304(D).¹³⁸ Nontraditional ERCs are currently calculated pursuant to a calculation formula approved by the District, CARB and USEPA¹³⁹ and the District has always assumed that a SIP approval was one way to obtain such approval. The District agrees that clearly reiterating the requirement that non-traditional offsets be calculated via a SIP approved rule in both proposed Rule 1304(D)(2)(c) and adding a similar provision or cross reference in 1305(C)(3) is a good idea to help ensure that all ERCs meet the general integrity criteria.

Upon examining the current provisions for nontraditional offsets the District determined that many of the specific requirements for the use of mobile, area, and indirect source offsets are identical with a few additional provisions specific to mobile sources. The District has thus proposed to combine current Rule 1305(B)(3)(a-d) into a single subsection for ease of use. In addition, the District is proposing that all such offsets will be required to be banked prior to use.¹⁴⁰ This will ensure that any mobile, area and indirect ERCs to be used as offsets will be calculated pursuant to a SIP approved rule. Furthermore, USEPA’s expressed concern regarding specific procedural steps for approval of any offset package containing these nontraditional ERCs will be specifically addressed in the CARB, USEPA, Federal Land Manager review provisions of proposed Rule 1302(D)(2).

5. BACT and Offset Applicability Comparison Between MDAQMD Provisions and Federal Requirements

In its 12/19/2019 Letter to MDAQMD, USEPA Comment 1.2.2.b. notes that current rule provisions¹⁴¹ allows HAE to equal PTE if all the prior emissions have been previously offset in a permitting action. USEPA indicates that this is not approvable as it might allow certain projects¹⁴² to avoid the application of LAER to certain units as required by 40 CFR 51.165(a)(2)(ii)(C).

¹³⁷ Please note that none of the rules currently in District Regulation XIV have been SIP approved for the AVAQMD.

¹³⁸ Pursuant to current Rule 1309(C)(3).

¹³⁹ Current Rule 1304(D)(2)(c).

¹⁴⁰ This in effect means that SERs cannot be created via the use of mobile, area or indirect sources.

¹⁴¹ The equivalent provisions in AVAQMD are found in current Rule 1304(E)(2)(a)(iv)

¹⁴² As opposed to specific emissions units.

The language EPA references involves the calculation of applicability for existing emissions units specifically being determined by

...the sum of the difference between the projected actual emissions (as defined in paragraph (a)(1)(xxviii) of this section) and the baseline actual emissions (as defined in paragraphs (a)(1)(xxv)(A) and (B) of this section, as applicable), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in paragraph (a)(1)(x) of this section).

In its response to a question, USEPA clarified in its February 28, 2020 response to MDAQMD stating that California BACT was in general equivalent to Federal LAER¹⁴³ and thus the District's BACT requirements, so long as they were not circumvented, would count for purposes of 40 CFR 51.165. The underlying concern, as stated by USEPA, is the potential for some Emissions Units somehow "getting out" of BACT and/or Offset requirements especially when such avoidance may occur at Major Facilities or when a Major Modification occurs.

Initially it must be noted that the BACT/Offset applicability determination concern expressed by USEPA is not an issue for PM₁₀. This is due to the fact that not only is the AVAQMD Federally unclassified for this pollutant but also the Major Facility threshold in the District for State purposes is 15 tpy. This amount is, of course, much lower than the 100 tpy moderate nonattainment threshold for PM₁₀ and the PSD thresholds for attainment air pollutants specified in the FCAA.¹⁴⁴ Therefore, the following discussion regarding applicability calculations deal primarily with O₃ and its precursors NO_x and VOC. Please also see Table 4 below for a point by point comparison of the AVAQMD BACT and Offset requirements with the associated Federal requirements.

a. BACT Applicability Comparison

Current Rule 1303(A)(1) and (2) require BACT on all permit units that emit or have the potential to emit more than **25 lbs** per day of nonattainment air contaminants. In addition, current Rule 1303(A)(3) impliedly requires that any new or modified permit unit at a Major Facility requires BACT regardless of size. In comparison BACT/LAER is required Federally in the following situations:

- Existing Major Facility where the proposed emissions are "significant".
- Existing Major Facility where the proposed emissions are nonsignificant BUT are NOT de minimis.

¹⁴³ USEPA, Email of 2/28/2020 attachment titled 02-28-20 Initial EPA Response to MDAQMD Letter Dated January 28, Clarification #2.

¹⁴⁴ The PM₁₀ major stationary source threshold is found in FCAA §302(j) (42 U.S.C. §7602(j)) and the PSD thresholds are located in FCAA §169 (42 U.S.C. §7479(1)).

- Existing Major Facility where the proposed emissions ARE de minimis BUT the proposed emissions are also “significant.”¹⁴⁵
- New Major Facilities
- Existing Minor Facility where the proposed emissions are > Major Facility threshold (regardless of whether or not the change is de minimis).
- Existing Minor Facility where relaxation of federally enforceable requirement makes the Facility a Major Facility. NOTE: Only requires BACT on new units AND units that had the enforceable requirement.

Thus, the provisions of current District rules require BACT in the following additional situations:

- Existing Major Facilities where the proposed emissions ARE de minimis AND are not significant.¹⁴⁶
- Existing Minor Facility where relaxation of federally enforceable requirement makes the Facility a Major Facility.¹⁴⁷
- Existing Minor Facility where the proposed emissions are < Major Facility threshold. District requires BACT on any new or modified permit unit emitting > **25 lbs/day**.¹⁴⁸
- New Minor Facility. District requires BACT on any permit unit emitting > **25 Lbs/day**.¹⁴⁹

In short, the current AVAQMD Rule formulation means that BACT is required on many more pieces of equipment within the AVAQMD than it would be under the FCAA provisions. Any equipment, regardless of the size of Facility at which it is located, must meet BACT if it emits or has the potential to emit **25 lbs/day** or more of a nonattainment air contaminant. Under the applicable FCAA provisions for a Severe O₃ nonattainment area, BACT would never be required if a new facility was considered a Minor Facility¹⁵⁰ and would not be required if the proposed project at an existing minor facility did not result in the total potential to emit

¹⁴⁵ Can’t happen in the AVAQMD because de minimis threshold would be a change that is < Major source threshold over 5 years...aka 25 tpy NOx/VOC and the “Significant” threshold is 40 tpy NOx/VOC.

¹⁴⁶ The District requires BACT on all new/modified permit units at a Major Facility regardless of the project type or size pursuant to Rule 1303(A)(3) .

¹⁴⁷ The District requires BACT on all new/modified permit units once a Facility becomes a Major Facility regardless of relationship of units to the relaxed requirement. Rule 1303(A)(3).

¹⁴⁸ Rule 1303(A)(1) and (A)(2) .

¹⁴⁹ Rule 1303(A)(1) and (A)(2) .

¹⁵⁰ A Minor Facility under AVAQMD rules is one which emits or has the potential to emit less than 25 tpy NOx or VOC or 15 tpy PM₁₀. Rule 1303(B)(1). The FCAA the PM₁₀ minor facility threshold for a moderate nonattainment area is a facility emitting or having the potential to emit less than 100 tpy pursuant to FCAA §302(j) (42 U.S.C. §7602(j)) and the PSD major emitting facility threshold is 100 tpy for certain listed Facilities and 250 tpy for all unlisted Facility types (FCAA §169 (42 U.S.C. §7479(1))).

from the facility (after the project) exceeding the threshold to be a Major Facility.¹⁵¹ Furthermore, BACT would not be Federally required when a Minor Facility proposes a minor modification yet such modification ultimately ends up with overall emissions that are greater than the Major Facility threshold in direct contrast to current AVAQMD rules which require BACT on anything new or modified once the Facility has exceeded or will exceed the Major Facility threshold regardless of the nature of the action causing such exceedance.¹⁵² Figure 1 below contains a flow chart regarding the analysis to determine if BACT is required for a particular permit unit within the AVAQMD.

Given the fact that the District's BACT requirements are so much more stringent than the base requirement imposed by the FCAA and USEPA's admission that Federal LAER in general is California BACT¹⁵³ it is clear that the AVAQMD provisions on BACT applicability are more stringent than the FCAA. This is especially true due to the provision of current 1303(A)(4) which specifically states that SERs cannot be used to reduce potential emissions (aka proposed emissions) in determining applicability of BACT requirements. That said, the AVAQMD acknowledges that current Rule 1303(A)(3) should be more explicit in its requirements to apply BACT to any new or modified permit unit¹⁵⁴ at any Major Facility regardless of whether it is a completely new Major Facility, an existing Major Facility with a modification of any size or a previously Minor Facility where a change has resulted in it becoming a Major Facility. The AVAQMD also realizes that the 1303(A)(4) provisions specifically excluding SERs from the applicability determination of BACT also needs to be echoed in the SER provisions proposed for Rule 1304.

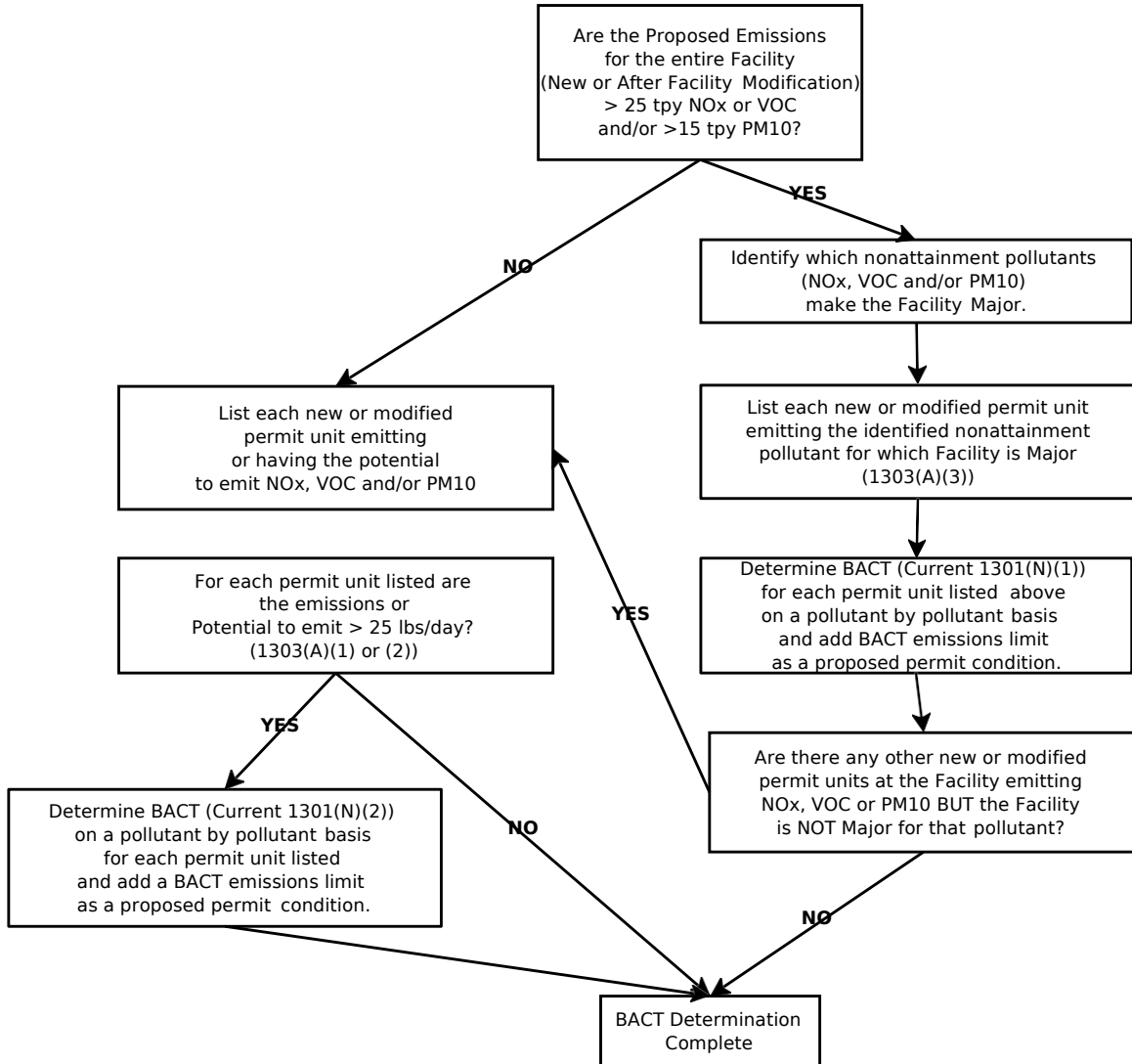
¹⁵¹ With emissions or potential to emit > 25 tpy NO_x or VOC and/or 100 tpy PM₁₀.

¹⁵² Rule 1303(A)(3).

¹⁵³ Rule 1301(N) which has the LAER definition (no economic component) for Major Facilities and the CA BACT (economic component) for Minor Facilities and the current Rule 1301(KK) definition of LAER. See also *USEPA, Email of 2/28/2020* attachment titled *02-28-20 Initial EPA Response to MDAQMD Letter Dated January 28, Clarification #2*.

¹⁵⁴ Please note that BACT for extremely small units is often already applied by the manufacturer "out of the box" if such unit is new.

**Figure 1
AVAQMD BACT Analysis Flow Chart**



b. Offset Applicability Comparison

Technically the District requires offsets in a greater number of situations and to a greater extent than is required by the FCAA. However, the use of a different calculation method in the case of certain situations at existing Major Facilities (PTE as modified to Previously Offset Emissions) has led USEPA to incorrectly conclude that overall the District ends up with less total offsetting emissions reductions than are required by the FCAA. The extra stringency of offsets required for PM₁₀ is obvious in that the AVAQMD is unclassified for this pollutant and thus no offsets would be required under Federal law. The offsets required by the

AVAQMD Rules are the result of a State nonattainment designation for PM₁₀.¹⁵⁵

The extra stringency of the offset requirements for O₃ and its precursors is a bit more opaque. Within a Severe O₃ nonattainment area a Federal Major Source is defined as 25 tpy of NO_x or VOC or greater.¹⁵⁶ While the AVAQMD Major Facility threshold is the same it applies whenever there is an emissions increase at an existing Major Facility,¹⁵⁷ and to any Minor Facility that exceeds the Major Facility threshold regardless of the reason for the increase.¹⁵⁸

Federally, offsets are required when there is an:

- Existing Major Facility where the proposed emissions are “significant”.
- Existing Major Facility where the proposed emissions are nonsignificant BUT are NOT de minimis.
- Existing Major Facility where the proposed emissions ARE de minimis BUT the proposed emissions are also “significant.”¹⁵⁹
- New Major Facility.
- Existing Minor Facility where the proposed emissions are > Major Facility threshold (regardless of whether or not the change is de minimis).¹⁶⁰
- Existing Minor Facility where relaxation of federally enforceable requirement makes the Facility a Major Facility.¹⁶¹

Under current District rules the last two bullet points above not only require offsets of the emissions increase but the offsets would need to cover ALL the emissions of the Facility. In addition, since there is no “de minimis” provisions in the AVAQMD rules even small changes at a Major Facility have often required offsetting emissions reductions.

¹⁵⁵ 17 Cal Code Regs. §60208

¹⁵⁶ FCAA §182(d) (42 U.S.C. §7511a(d)) and 40 CFR 51.165(a)(1)(iv)(A)(1)(iii) and (a)(1)(iv)(A)(2)(v).

¹⁵⁷ There are no De Minimis provisions in the AVAQMD Regulation XIII rules.

¹⁵⁸ Please note that in the case of a Minor Facility exceeding the Major Facility threshold the amount of offsets required is significantly greater than required Federally as such a Facility would need to offset its entire emissions not just the increase that caused it to exceed the threshold.

¹⁵⁹ This scenario is mathematically impossible within the MDAQMD because the de minimis threshold is < Major source threshold over 5 years (aka 25 tpy NO_x/VOC over 5 years) and the Significant threshold is 40 tpy NO_x/VOC.

¹⁶⁰ FCAA only requires offsets of the emissions increase caused by the project.

¹⁶¹ FCAA only requires offsets of the emissions increase caused by the project.

**Table 4
Comparison of BACT and Offset Requirements**

Facility Type & Change	AV Nonattainment Pollutant Threshold (Federal Thresholds)	AV Requirements	Federal Requirements	Differences (AV vs. Federal)
New Minor Facility	New Facility PE is: <25 tpy of NOx/VOC (Federal = same) <15 tpy of PM ₁₀ (Federal = 100/250 tpy*).	<ul style="list-style-type: none"> ●BACT on New equipment with PE > 25 LBS/day. ●No Offsets Required. 	<ul style="list-style-type: none"> ●NO BACT ●No Offsets Required 	AV requires BACT on more equipment. AV requires offsets for PM ₁₀ .
Existing Minor Facility** Facility PE after change < Major Facility Threshold	Entire Facility PE after modification is: <25 tpy of NOx/VOC (Federal = same) <15 tpy of PM ₁₀ (Federal = 100/250 tpy*).	<ul style="list-style-type: none"> ●BACT on New or Modified equipment with PE > 25 LBS/day. ●No Offsets Required. 	<ul style="list-style-type: none"> ●NO BACT ●No Offsets Required 	AV requires BACT on more equipment. AV requires offsets for PM ₁₀ .
Existing Minor Facility** Proposed Project emissions (by themselves) < Major Facility Threshold, BUT Facility PE after change > Major Facility Threshold	Project PE is: <25 tpy of NOx/VOC (Federal = same) <15 tpy of PM ₁₀ (Federal = 100/250 tpy*) BUT Entire Facility PE after change is: >25 tpy of NOx/VOC (Federal = same) >15 tpy of PM ₁₀ (Federal threshold = 100/250 tpy*)	Facility is now a <u>Major Facility</u> <ul style="list-style-type: none"> ●BACT on all New or Modified equipment. ●Offsets Required: Offset back to 0 for each nonattainment pollutant over threshold @ applicable offset ratio. 	<ul style="list-style-type: none"> ●NO BACT ●No Offsets Required (Note: this Federally this is a Minor Facility making a Minor Modification and is treated same as the above)	AV requires BACT AV Requires Offsets AV requires PM ₁₀ offsets. (Note: AV treats all Minor Facilities becoming Major the same to satisfy H&S Code "No Net Increase" requirements. ¹⁶²)
Existing Minor Facility** Proposed Project emissions (by themselves) > Major Facility Threshold	Project PE is: <25 tpy of NOx/VOC (Federal = same) <15 tpy of PM ₁₀ (Federal = 100/250 tpy*)	Facility is now a <u>Major Facility</u> <ul style="list-style-type: none"> ●BACT on New or Modified ●Offsets Required: Offset back to 0 for each nonattainment pollutant over threshold @ applicable offset ratio. 	<ul style="list-style-type: none"> ●BACT on New or Modified Equipment. ●Offsets Required: Offset any nonattainment emissions <u>increase</u> caused by project. 	Same BACT AV requires more offsets in nonattainment area (back to 0 vs just offset increases Federally). AV requires PM ₁₀ offsets.
Existing Minor Facility** Proposed project emissions are Significant*** Entire Facility PE after change > Major Facility Threshold	Project PE > a listed amount in 40 CFR 51.21(b)(23) for any pollutant on the list. Entire Facility PE after change is: >25 tpy of NOx/VOC(Federal = same) >15 tpy of PM ₁₀ (Federal = 100/250 tpy*).	Facility is now a <u>Major Facility</u> Same requirements as above AND need to check PSD applicability requirements.	Technically you can't have a Significant Change at a Minor Facility in nonattainment NSR under Federal Law.	Same differences as above. AV uses this as an additional reminder to check PSD applicability.

¹⁶² H&S Code §40918(a)(1).

Facility Type & Change	AV Nonattainment Pollutant Threshold (Federal Thresholds)	AV Requirements	Federal Requirements	Differences (AV vs. Federal)
Existing Minor Facility** Relaxation in emissions limit makes Facility PE after emissions limit change > Major Facility Threshold	Project contains a relaxation of a Federally enforceable limit taken to make the Facility Minor AND Facility PE after modification are: > 25 tpy of NOx/VOC (Federal = same) >15 tpy of PM ₁₀ (Federal = 100/250 tpy*).	<u>Facility is now a Major Facility</u> ●BACT on New or Modified equipment ●Offsets Required: Offset back to 0 for each nonattainment pollutant over threshold @ applicable offset ratio.	●BACT on any New equipment. ●BACT on any existing equipment subject to the Federally enforceable limit that was changed. ●Offsets Required: Offset all nonattainment pollutant emissions from increase + any existing equipment subject to the federally enforceable limit that was changed @ applicable offset ratio.	AV requires more BACT (any new/modified vs. new/affected by changed limit) AV requires more offsets in nonattainment area (back to 0 vs just offset increases Federally). AV requires PM ₁₀ offsets.
Existing Minor Facility** Facility PE after change > Major Facility Threshold	Facility PE after modification is: > 25 tpy of NOx/VOC (Federal = same) >15 tpy of PM ₁₀ (Federal = 100/250 tpy*).	<u>Facility is now a Major Facility</u> ●BACT on New or Modified equipment ●Offsets Required: Offset back to 0 for each nonattainment pollutant over threshold @ applicable offset ratio.	●BACT for any New or modified equipment. ●Offsets Required: Offset any nonattainment emissions increase caused by project at appropriate offset ratio	Same BACT AV requires more BACT (any new/modified vs. new/affected by changed limit) AV requires more offsets in nonattainment area (back to 0 vs just offset increases Federally). AV requires PM ₁₀ offsets.
New Major Facility	Facility PE is: > 25 tpy of NOx/VOC (Federal = same) >15 tpy of PM ₁₀ (Federal = 100/250 tpy*).	●BACT on New equipment ●Offsets Required: Offset back to 0 for each nonattainment pollutant over threshold @ applicable offset ratio.	●BACT for all New Equipment. ●Offsets Required: Offset back to 0 any nonattainment pollutant emissions at appropriate offset ratio.	Same BACT. Same Offsets for O ₃ precursors. AV requires PM ₁₀ offsets.
Existing Major Facility Proposed project emissions are De minimis** Proposed project emissions NOT Significant***	Facility Current PTE > Major Facility Threshold Project PE + emissions from any modifications in last 5 years are: <25 tpy of NOx/VOC (Federal = same) >15 tpy of PM ₁₀ (Federal = 100/250 tpy*) AND Project PE < amounts in 40 CFR 51.21(b)(23).	●BACT on New or Modified equipment. ●Offsets Required: Any increase in each nonattainment pollutant for which the Facility is Major @ applicable offset ratio.	●NO BACT ●No Offsets Required	AV requires more BACT (any new/modified vs. none) AV requires more offsets (any increase vs. none) AV requires PM ₁₀ offsets.
Existing Major Facility Proposed project emissions are De minimis** Proposed project emissions are Significant***	Facility Current PTE > Major Facility Threshold Project PE + emissions from any modifications in last 5 years are: <25 tpy of NOx/VOC (Federal = same) >15 tpy of PM ₁₀ (Federal = 100/250 tpy*) AND Project PE > amounts in 40 CFR 51.21(b)(23).	●BACT on New or Modified equipment with PE > 25 LBS/day. ●Offsets Required: Any increase in each nonattainment pollutant for which the Facility is Major @ applicable offset ratio.	●PSD BACT requirements are triggered. ●No Offsets Required	AV requires NSR BACT in addition to PSD BACT. AV requires offsets of NOx/VOC and PM ₁₀ (vs. no offsets required Federally)

Facility Type & Change	AV Nonattainment Pollutant Threshold (Federal Thresholds)	AV Requirements	Federal Requirements	Differences (AV vs. Federal)
Existing Major Facility Proposed project emissions NOT De minimis** Proposed project emissions NOT Significant***	Facility Current PTE > Major Facility Threshold Project PE + emissions from any modifications in last 5 years are: >25 tpy of NOx/VOC (Federal = same) >15 tpy of PM ₁₀ (Federal = 100/250 tpy*) AND Project PE < amounts in 40 CFR 51.21(b)(23).	●BACT on New or Modified equipment ●Offsets Required: Any increase in each nonattainment pollutant for which the Facility is Major @ applicable offset ratio.	●BACT on new or modified equipment. ●Offsets Required: Offset any nonattainment emissions increase caused by project @ applicable offset ratio.	Same BACT Same Offsets for O ₃ precursors. AV requires PM ₁₀ offsets. [Note: Using SERs from previously offset equipment may decrease the amount of offsets required]
Existing Major Facility Propose project emissions NOT De minimis** Proposed project emissions are Significant***	Facility Current PTE > Major Facility Threshold Project PE + emissions from any modifications in last 5 years are: >25 tpy of NOx/VOC (Federal = same) >15 tpy of PM ₁₀ (Federal = 100/250 tpy*) AND Project PE > amounts in 40 CFR 51.21(b)(23).	●BACT on New or Modified equipment ●Offsets Required: Any increase in each nonattainment pollutant for which the Facility is Major @ applicable offset ratio.	●BACT on new or modified equipment. PSD BACT requirements are triggered. ●Offsets Required: Offset any nonattainment emissions increase caused by project @ applicable offset ratio.	AV requires NSR BACT in addition to PSD BACT Same Offsets for O ₃ precursors. AV requires PM ₁₀ offsets.

* PSD Major Source threshold

** De Minimis provisions only apply to Major Facilities and are only applicable Federally. There are no De Minimis provisions in AVAQMD Regulation XIII

*** Significance test is a PSD requirement. AVAQMD includes it here as an additional cross check for PSD applicability.

c. Proposed Adjustments to BACT/Offset Applicability Determination

The AVAQMD understands that under the current District rules there is a perceived potential for certain modifications to somehow “escape” the requirement to impose BACT and/or Offsets in certain situations. To avoid this perception the AVAQMD is proposing to substantively restructure Rules 1304 and 1305 to clearly bifurcate the calculations used to determine the applicability of the BACT and/or Offset requirements from the calculation of how many offsetting emissions reductions are needed in a particular action. In short, all calculations will be moved into Rule 1304 while Rule 1305 will deal solely with the use of offsets. As a practical matter this bifurcation of the applicability calculations from the offset amount calculations will result in an initial calculation of Emissions Change ignoring any reductions from SERs for applicability purposes and then a recalculation of Net Emissions Change which includes SERs to determine the base amount of offsets necessary. Please note that this may result in a situation where the Emissions Change calculation produces a result indicating offsets will be needed but the Net Emissions Change calculation results in the amount of such offsets being 0. It could also result in a situation when a

previously Minor Facility will end up technically becoming a Major Facility and requiring offsets but when the Net Emissions Change is calculated the Facility emissions remain in Minor Facility status.¹⁶³

Please see Figures 2 and 3 in Subsection VI. E. 6. below for a flow chart of current and proposed BACT/Offset applicability and amount determinations.

6. Offset Amount Comparison Between AVAQMD and Federal Calculation Methods

USEPA's Comment 1.2.2.c.¹⁶⁴ to MDAQMD cites 40 CFR 51.165(a)(3)(ii)(J) as disallowing anything except a "potential emissions" to "actual emissions" calculation methodology for the determination of the amount of offsets unless some unspecified "additional flexibility" is included. The applicable language referenced states that the amount to be offsets from a "major modification" must be determined

...by summing the difference between the allowable emissions after the modification (as defined by paragraph (a)(1)(xi) of this section) and the actual emissions before the modification (as defined in paragraph (a)(1)(xii) of this section) for each emissions unit.

This issue and its practical impacts has long been the subject of differing interpretations by and between USEPA and many California Air Districts. While the AVAQMD welcomes the time and effort expended by USEPA staff on this issue it does not appreciate the constant and incessant implications by USEPA that the AVAQMD is not fully committed to protecting air quality within its jurisdiction. It must be noted that the AVAQMD and all of its predecessor agencies have been working on improving air quality since the formation of the very first air quality agency, the Los Angeles County Air Pollution Control District, in the early 1950's. Despite USEPA's insistence that the AVAQMD's offset calculation methods are somehow ineffective the evidence is quite clear that substantial reductions in air pollution have been, and continue to be made, under the current rule formulation.

In the course of discussions regarding definitional language USEPA referenced the TSD for a limited disapproval of Bay Area Air Quality Management District's (BAAQMD) "PTE" to "PTE" calculation methods in it 12/19/2012 NSR Rules

¹⁶³ Technically in this situation the District would need to apply BACT to the Minor Facility as if it were Major and then reclassify it as Minor after the Net Emissions Calculation. As a practical matter this BACT application would in most cases have no impact because generally any Emissions Units involved in such a change would have acquired BACT due to having a PTE of > 25 lbs/day under Rule 1303(A)(1) or (2) .

¹⁶⁴ USEPA Letter of 12/19/2019

amendment.¹⁶⁵ That particular TSD itself cited previous USEPA actions regarding the San Joaquin Valley Air Pollution Control District (SJVAPCD) NSR rules¹⁶⁶ and the Sacramento Metropolitan Air Quality Management District (SMAQMD) NSR rules.¹⁶⁷ Also referenced in these discussions were EPA’s discussion and analysis of different types of “tests” for NSR *applicability* purposes as contained in USEPA’s 2002 NSR Reform Package.¹⁶⁸

EPA approved the SJVAPCD “potential to potential” test conditioned on a showing of annual “equivalency” between the Federal methodology and the actual amount of offsets obtained under the District’s test.¹⁶⁹ A similar suggestion regarding including provisions for an equivalency demonstration for the difference between Federal and District offset amounts was suggested and implemented for BAAQMD.¹⁷⁰ EPA also noted that a limitation for the “potential to potential” test, such as was included in the SMAQMD rules, to “highly used” previously offset emissions was also approvable. Specifically, the SMAQMD rules limit the use of this test to situations where 80% or greater of the previously offset PTE were reflected in actual emissions and that such prior offsets had been provided within the previous 5 years of the proposed modification.

a. History and Rational of the AVAQMD Previously Offset PTE Provisions

The current version of AVAQMD Regulation XIII in the SIP is the 6/14/1996 version.¹⁷¹ After that approval the Antelope Valley area became its own air district, the AVAPCD, but acquired the SCAQMD rules in effect in its jurisdiction as of that date.¹⁷² In 2001 the AVAPCD became the AVAQMD and the statutory provisions similarly applied the former AVAPCD rule book to the new agency.¹⁷³ Thereafter, the AVAQMD reorganized and amended the entire Regulation XIII in 2001 primarily to shift the

¹⁶⁵ BAAQMD Regulation 2 – *New Source Review*, 12/19/2012; *Technical Support Document Notice of Proposed Rulemaking for Revisions to the California State Implementation Plan Bay Area Air Quality Management District Regulation 2, Rule 1 – Permits, General Requirements, Regulation 2, Rule 2 – Permits, New Source Review*, 8/19/2015 (*TSD for BAAQMD NSR of 8/19/2015*), Docket Number EPA–R09–OAR–2015–0280.

¹⁶⁶ SJVUAPCD Rule 2201 - *New and Modified Stationary Source Review Rule*, 4/21/2011.

¹⁶⁷ SMAQMD Rule 214 – *Federal New Source Review*, 7/23/2012 as approved at 78 FR 53270, 8/29/2013 (Docket #EPA–R09–OAR–2013–0064).

¹⁶⁸ USEPA Webpage, *New Source Review (NSR) Permitting, NSR Regulatory Actions*: <https://www.epa.gov/nsr/nsr-regulatory-actions>, 1/5/2021.

¹⁶⁹ 79 FR 55637, 9/17/2014

¹⁷⁰ *TSD for BAAQMD NSR of 8/19/2015*, pg 119.

¹⁷¹ 61 FR 64291, 12/4/1996.

¹⁷² Former H&S Code §40106(e); Stats. 1996 Ch. 542, section 1

¹⁷³ H&S Code §41320(c)

offset threshold away from an aggregated threshold¹⁷⁴ and to a threshold based upon the actual nonattainment classification of the area.¹⁷⁵ The subsequent 2006 amendment¹⁷⁶ primarily involved the addition of the then mandatory provisions of NSR reform.¹⁷⁷ Because USEPA has indicated that SIP changes where formal action by USEPA has not occurred at the time a jurisdictional change is effective are no longer active SIP submittals and any subsequent approval is not effective within the changed jurisdiction¹⁷⁸ the 6/14/1996 SCAQMD rules remain the SIP version within the jurisdiction of the AVAQMD.

The SIP version of Rule 1306 specifically allowed the use of the permitted or allowable pre-modification potential to emit in the determination of BACT applicability and the amount of offsets needed for a modification of an existing source.¹⁷⁹ This ability was narrowed to apply to only the offset determination in the 2001 version¹⁸⁰ Specifically, The 2001 version of Rule 1304(B)(1) used the following as the emissions change calculation:

$$\text{Emissions Change} = \text{Proposed Emissions} - \text{Historic Potential Emissions}$$

Historic Potential Emissions were calculated as:

- 0 for a new emissions unit;¹⁸¹ OR
- Historic Actual Emissions (HAE) using the average last 2 years¹⁸² or most representative of normal operations 2 of the last 5 years;¹⁸³; OR

¹⁷⁴ The area within SCAQMD's jurisdiction contained multiple O₃ nonattainment classifications and in effect "traded" a lower threshold districtwide to escape the FCAA 1.5 to 1 offset ration required of an Extreme O₃ area by FCAA §182(e)(1) (42 U.S.C. §7511a(e)(1)).

¹⁷⁵ AVAQMD, *Final Staff Report Amendments to Regulation XIII – New Source Review*, 3/20/2001, Pgs. 9-10, 22-23, and 31.

¹⁷⁶ AVAQMD Regulation XIII, 8/15/2006.

¹⁷⁷ 67 FR 80187, 12/31/2002; AVAQMD, *Staff Report Proposed Amendments to Regulation XIII (Specifically Rules 1302 – Procedure and 1305 – Emissions Offsets) and Adoption of New Rule 1310 – Federal Major Facilities and Federal Major Modifications for adoption on 8/15/2006*, pgs. 14-15.

¹⁷⁸ USEPA Letter, D. Jordan Director Air Division USEPA Region IX to R. Corey, Executive Officer, CARB, 4/1/2015

¹⁷⁹ Rule 1306(d)(2). Please note that under this particular iteration of the rules, any Facility which had not undergone NSR (and thus presumably provided offsets) would be required to use actual emissions in the BACT/Offset calculation.

¹⁸⁰ Rule 1303(A)(4) was changed to provide that SERs could not be used to determine BACT applicability. Please note fully offset PTE was in actuality only used in calculations of SERs to reduce the potential for offset applicability despite the rule language which might have indicated other potential uses.

¹⁸¹ Rule 1304(E)(2)(iii).

¹⁸² Rule 1304(E)(2)(i).

¹⁸³ Rule 1304(E)(2)(ii).

- The Potential to Emit for the Emissions Unit so long as there was a Federally Enforceable limit and offsets had been fully provided in a documented prior permitting action.¹⁸⁴

This particular calculation was primarily designed as a way to reduce the amount of offsets needed for changes within a Facility. Please note that in actual permitting actions the only time fully offset PTE was used was when a previously offset Major Facility created Simultaneous Emissions Reductions (SERs) to in effect “fund” a change elsewhere within the Facility.

The AVAQMD acknowledges that the current language is not the clearest reflection of actual use of these provisions. Such language erroneously references 1304(B) and wrongly implies that SERs can be used to reduce “proposed emissions” in the base emissions change calculation as opposed to its use as an offset reduction strategy. However, it must be noted that the fully offset PTE formulation can only be used in a very limited situation due to the following:

- New or Existing Minor Facilities (emissions less than the 1303(B) threshold) do not have “previously fully offset NSR actions” therefore any emissions change would not qualify and thus straight HAE would be used.
- New Major Facilities would likewise not have any “previously fully offset NSR actions” and the HAE would be equal to 0 as the emissions units were new.
- Existing Major Facilities may or may not have “previously fully offset NSR actions” and thus could use this provision internally to “fund” other changes. Please note that current Rule 1305(B)(2)(b) specifically provides that any “leftovers” from such a transaction could not be banked under Rule 1309.

The rationale behind the use of “previously fully offset PTE” was, in part, to ensure that Major Facilities had flexibility to upgrade processes and emissions units without offsetting the same emissions multiple times. It also was an attempt to encourage the upgrading of older equipment for newer less polluting equipment and to discourage “emissions spiking.”¹⁸⁵ In addition, there is a severe lack of available Emissions Reductions Credits (ERCs) within the AVAQMD and thus modifications at Major Facilities in general are often “self-funded” via the use of SERs.

¹⁸⁴ Rule 1304(E)(2)(iv)..

¹⁸⁵ “Emissions Spiking” as used by the AVAQMD is the practice of running an Emissions Unit or process line at its absolute maximum capacity to inflate the HAE of the emissions unit prior to a modification.

Currently an existing Facility has a variety of choices when considering modifications, especially when such modification involves previously fully offset emissions units:

1. Obtain Offsets: This is an expensive, and due to the dearth of ERCs within the AVAQMD, often an unviable option. The cost of NO_x ERCs varies widely ranging within California from a high of \$240,844.21 in SCAQMD to a low of \$2,487.49 in ICAPCD.¹⁸⁶ The last monetary (as opposed to in kind or internally created) offset transaction of NO_x within the Mojave Desert Air Basin occurred in 2014 in the MDAQMD at a cost of \$17.50 per pound (\$35,000 per ton).¹⁸⁷
2. Simultaneous Emissions Reductions (SERs): Modify or shutdown other existing units within the Facility to obtain emissions reductions. This in effect self-funds any emissions increases caused by the proposed modification. If the Facility has fully offset Emissions Units it may in effect “reuse” its previously provided offsets in a different capacity.¹⁸⁸ Please note however, that additional emissions reductions will still occur in such a situation because any new or Modified Emissions Unit(s) at a Major Facility will require BACT¹⁸⁹ including such units which are modified to create SERs. Historically most modifications at Major Facilities have used this option.
3. Replacement: Exchange the old Emissions Unit(s) with exactly the same unit as a functionally identical replacement.¹⁹⁰ While this would not be considered a Modification (no offsets needed) it also results in no emissions change and no potential improvement in air quality within the District. It also tends to discourage modifications that would increase overall Facility efficiency with resultant decreases in emissions as the changes would be limited to identical replacement emissions units.
4. Status Quo: Don’t replace any Emissions Unit(s) unless and until absolutely necessary. This results in extra years of equipment emissions at the current emissions rate and no potential for air quality improvement within the District.
5. Emissions Spiking: Run the affected Emissions Unit(s) as much as possible for two to five years prior to the change to

¹⁸⁶ CARB Webpage, *Emissions Reductions Offset Transaction Cost Summary Report*, May 2020, <https://ww2.arb.ca.gov/new-source-review-emission-reduction-credit-offsets>.

¹⁸⁷ If the amount of offsets needed is calculated using the HAE of the emissions unit(s) involved many Facilities view this as a taking of property (namely the previously allowed PTE that was fully offset) without just compensation.

¹⁸⁸ Once again, many Facilities view the permitted emissions limit (PTE) as an asset and thus removal of the value of that asset by discounting it to HAE as a taking of property.

¹⁸⁹ Rule 1303(A)(3).

¹⁹⁰ Such a unit must meet the requirements of current Rule 1301(QQ)(5), 3/20/2001.

ensure that the HAE is as high as possible before the modification. The overall result of increased actual emissions (although such increased actual emissions would still be required to remain under the permitted limit for the unit) followed by continued increased actual emissions from the replacement unit(s) even when such replacement units are equipped with BACT.

b. Other Air District's Previously Offset PTE Provisions

BAAQMD's NSR Rules: In 2012 BAAQMD amended its NSR rules¹⁹¹ and thereafter submitted them as a SIP revision to USEPA. As part of the rules they used a PTE as proposed modified to fully offset PTE calculation method for determining whether and how many offsets were needed for existing facilities when the existing facility had been previously fully offset.¹⁹² In its TSD¹⁹³ supporting the limited approval/disapproval of BAAQMD's permitting rules¹⁹⁴, USEPA noted that this provision did not meet either 40 CFR 51.165(a)(3)(ii)(J) as it applied to Federal Major Modification and FCAA §173(c)(1) (42 U.S.C. §7503(c)(1)) in that it did not calculate offsets based on actual emissions.¹⁹⁵ While USEPA did admit that the term "actual emissions" did not specify whether such emissions were meant to reflect actual emissions at the time of the proposed modification or not¹⁹⁶ it did conclude that the BAAQMD formulation using fully offset PTE was not approvable. However, USEPA did indicate that a potential "fix" for this deficiency was for BAAQMD to include in its proposed equivalency procedure Rule 2-2-412 a calculation of "additional offsets" necessary and include such as a "debit" in its determination of equivalency.¹⁹⁷ USEPA also noted that this equivalency showing would only need to be done for Federal Major Sources and Federal Major Modifications as the BAAQMD rule required offsets for not only those sources but for smaller sources as well.¹⁹⁸

¹⁹¹ BAAQMD Governing Board Item 6, *Continuation of the Public Hearing to Consider Adoption of Proposed Amendments to Air District New Source Review (NSR) and Title V permitting regulations (Regulations 2, Rule 1, 2, 4 and 6) and Adoption of a California Environmental Quality Act (CEQA) Environmental Impact Report (EIR)*, 12/19/2012

¹⁹² BAAQMD Rule 2-2-206.2

¹⁹³ *TSD for BAAQMD NSR of 8/19/2015*.

¹⁹⁴ 80 FR 52236, 8/28/2015

¹⁹⁵ *TSD for BAAQMD*, 8/19/2015, pg. 118.

¹⁹⁶ *TSD for BAAQMD*, 8/19/2015.

¹⁹⁷ *TSD for BAAQMD*, 8/19/2015, pg. 119.

¹⁹⁸ *TSD for BAAQMD*, 8/19/2015, pg. 120.

USEPA finalized the limited approval/disapproval of BAAQMDs 2012 version of the rule on 8/1/2016 at 81 FR 50339.¹⁹⁹ BAAQMD subsequently amended its rules on 12/6/2017 which USEPA ultimately approved on 5/21/2018 at 83 FR 23372. In short, the 2017 amendments to the provisions of BAAQMD Rule 2-2-412 adjusted the existing annual demonstration of equivalence to show that overall the amount of offsets obtained under the BAAQMD's calculations was greater than the amount of offsets required for Major Sources under the USEPA interpreted methodology.²⁰⁰ The 2017 amendments also went into a high degree of detail regarding exactly how this equivalence demonstration was to be made. At the end of each year BAAQMD would determine which permitting actions occurred at Facilities which would be subject to offsets under USEPA's interpreted methodology (identified in the rule as "Federal Major NSR Sources") and compare the number of offsets actually provided under BAAQMD's Rule with what would have been provided under USEPA's methodology. Any shortfall would then be compared against the amount of offsets provided for non-Federal Major NSR Sources (identified in the rule as "Equivalence Credits") along with so called "orphan reductions" from Facilities that shut down but did not bank emissions reduction credits²⁰¹ and used to make up the shortfall. The 2017 amendments also provided a "backstop" measure in the form of a new provision 2-2-415 which would require offsets to be calculated pursuant to USEPA's methodology unless and until any shortfall in a year was eliminated.

San Joaquin's NSR Rules: Similar to the situation in the BAAQMD, the New Source Review Rules in San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD)²⁰² contain a PTE as modified to fully offset PTE calculation to determine if offsets are required and for a new or modified stationary source and if so how many are needed.²⁰³ SJVUAPCD Rule 2201 also contains an offset equivalency tracking provision in subsection 7 of the rule. The SIP version of SJVUAPCD's rule currently appears to be the 4/21/2011 version.²⁰⁴ The 12/8/2008 version obtained Limited Approval/Limited Disapproval²⁰⁵ and the

¹⁹⁹ See also the conditional approval of BAAQMD's banking provisions on 12/4/2017 at 82 FR 57133

²⁰⁰ BAAQMD Staff Report, *Proposed Technical and Administrative Amendments to New Source Review and Title V Permit Programs (BAAQMD NSR Staff Report 2017)*, 10/2017, pg. 21.

²⁰¹ *BAAQMD NSR Staff Report 2017* at pgs. 22-23.

²⁰² SJVUAPCD Rule 2201- *New and Modified Stationary Source Review Rule*, 8/15/2019.

²⁰³ SJVUAPCD Rule 2201- *New and Modified Stationary Source Review Rule*, 4/21/2011, 3.8.1.3.

²⁰⁴ 79 FR 55637, 9/17/2014.

²⁰⁵ 75 FR 26102, 5/11/2010.

12/19/2002 version appears to have had full approval²⁰⁶ although this approval was revoked by USEPA's action on the 2008 version. The PTE as modified to fully offset PTE calculation provisions appear to go back as far as SJVUAPCD's 8/20/1998 version which received a Limited Approval/Limited Disapproval in 2001.²⁰⁷ In all of these actions USEPA appears to have been concerned about the PTE as modified to fully offset PTE calculation but ultimately was satisfied by the provision of an offset tracking system.²⁰⁸ It must be noted, however, that a recent CARB audit of SJVUAPCD's Offset Banking system has resulted in USEPA's questioning the adequacy and efficacy of the offset tracking system.²⁰⁹

Sacramento's NSR Rules: Sacramento Metropolitan Air Quality Management District (SMAQMD) took a slightly different approach with its PTE as modified to fully offset PTE calculation provisions. SMAQMD Rule 214's²¹⁰ calculation provisions in subsection 411 are all phrased in terms of Historic Potential Emissions (HPE). However, when you look at the subsection 225 definition of HPE it states that HPE is as follows:

- For New Units HPE = 0 (SMAQMD 214:225.1)
- For non-major modification HPE = permitted emissions limit (SMAQMD 214:225.2)
- For any other modification HPE can use the permitted emissions limit if either
 - Actuals are 80% of HPE
 - PTE was fully offset within last 5 years (SMAQMD 214:225.3(a))
- Any other modification that can't use the permitted emissions limit must use Historic Actual Emissions (SMAQMD 214:225.3(b))

The current version of SMAQMD's Rule 214 is in the SIP.²¹¹ The 7/20/2011 was also approved²¹² as was its previous version, Rule 202.²¹³

²⁰⁶ 69 FR 27827, 5/17/2004.

²⁰⁷ 66 FR 37587, 7/19/2001.

²⁰⁸ *TSD for SJVUAPCD Rule 2020, Exemptions, 2201, New and Modified Stationary Source Review Rule*, 11/15/2011 pgs. 14-16. Details of the original tracking system are allegedly found in an 8/24/1999 agreement between the SJVUAPCD and USEPA.

²⁰⁹ CARB, *Review of the SJVUAPCD Emission Reduction Credit System*, June 2020.

²¹⁰ SMAQMD Rule 214 – *Federal New Source Review*, 7/23/2012

²¹¹ 78 FR 53270, 8/29/2013.

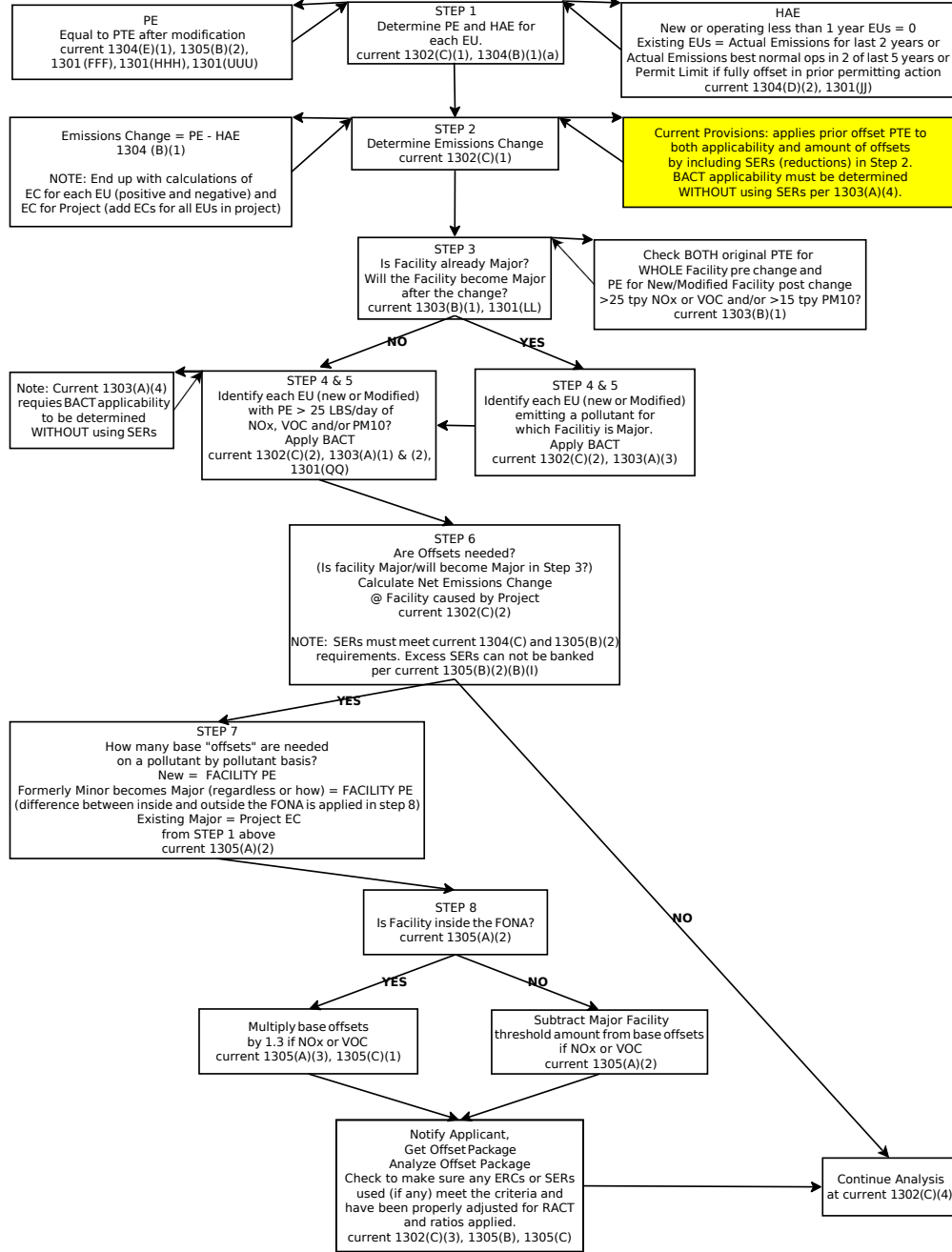
²¹² 76 FR 43183, 7/20/2011.

²¹³ 50 FR 25417, 6/19/1985.

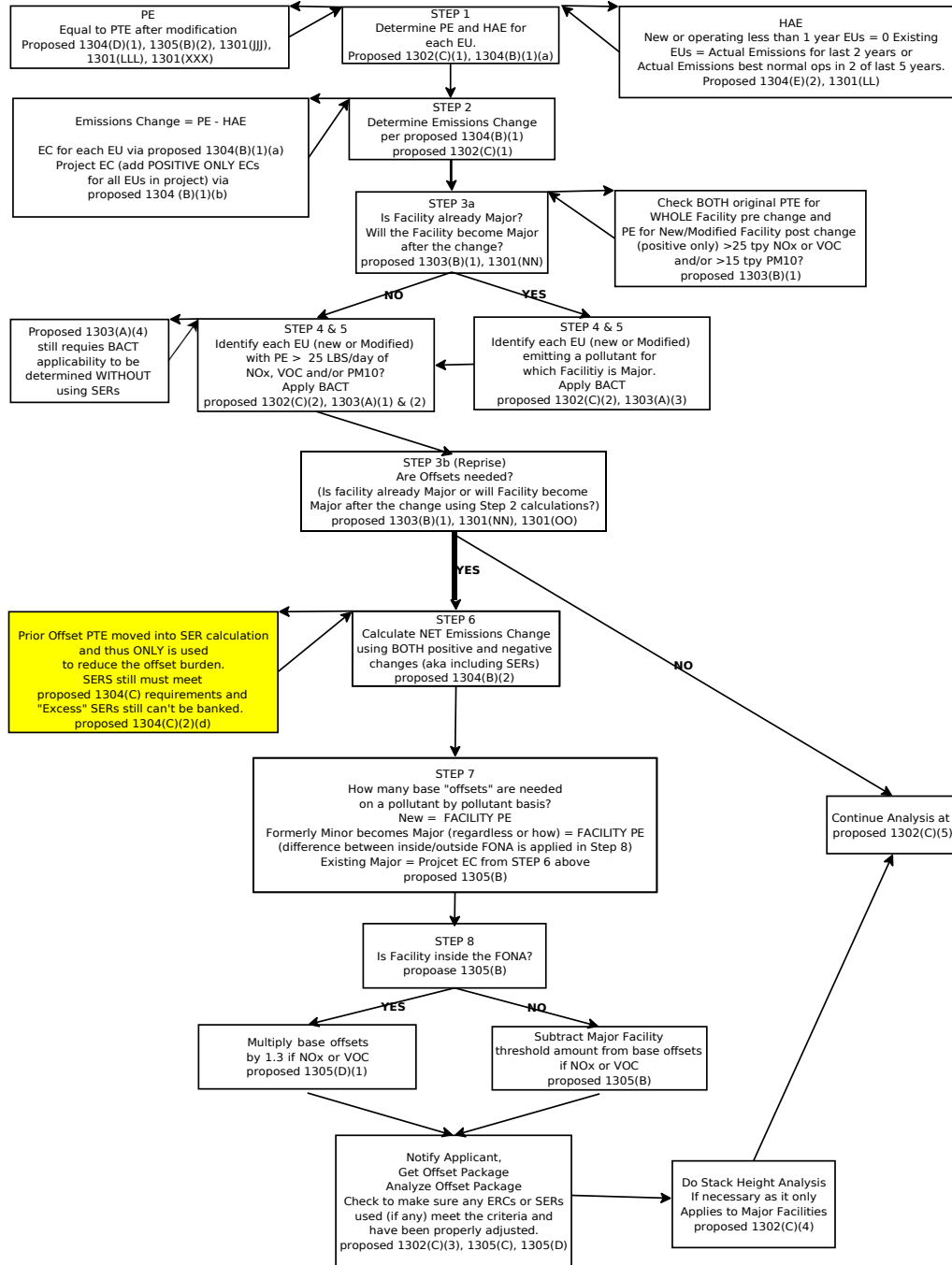
c. AVAQMD's Proposed Calculation Amendments

As noted in section VI. E. 5. c. the AVAQMD is proposing to bifurcate the calculations used to determine the applicability of Rule 1303 provisions from the base offset amount calculations required by proposed Rule 1305. Figure 2 shows the flow of the current calculations used to determine both applicability of BACT and Offsets and to determine the number of offsets necessary. Figure 3 shows the same calculation flow under proposed Rule 1304. The areas highlighted in yellow indicate the proposed shift in location of the PTE to fully offset PTE calculation provisions.

**Figure 2
Current NSR BACT/Offset Calculation Flow Chart**



**Figure 3
Proposed NSR BACT/Offset Calculation Flow Chart**



As a practical effect this shift merely formalizes the current, SIP approved, method of reducing the offset burden for Major Facilities with Modifications. As noted earlier, the only time the PTE to fully offset PTE calculation was ever used is in the situation when a previously offset Emissions Unit located at an existing Major Facility is modified to create SERs to “fund” a

change elsewhere at the Facility. Tables 5 and 6 provide hypothetical situations to illustrate the differences between the current and proposed calculation methodologies.

**Table 5
Existing Major Facility with Modification Calculation**

Facility 50 tpy NOx PTE as permitted (fully offset); 40 tpy NOx HAE. Proposed Project: New EU = 2 tpy NOx PE 2 Existing EUs each = 2 tpy NOx PTE as permitted, 1 tpy HAE, modified to 0.5 tpy NOx PE 1 Shutdown EU = 2 tpy NOx PTE as permitted, 1 tpy HAE, Shutdown and removed from service.		
	Current AV Calculations	Proposed AV Calculations
1. Determine PE and HAE	Specified above.	Specified above.
2. Determine Emissions Change (EU by EU, and by Project)	EU Change: New EU = 2 PE - 0 HAE = 2 EC Existing EU #1 = 0.5 PE - 1 HAE = -0.5 EC Existing EU #2 = 0.5 PE - 1 HAE = -0.5 EC Shutdown EU = 0 PE - 1 HAE = -1 EC Project Change: 0 EC (add all ECs)	EU Change: New EU = 2 PE - 0 HAE = 2 EC Existing EU #1 = 0.5 PE - 1 HAE = -0.5 EC Existing EU #2 = 0.5 PE - 1 HAE = -0.5 EC Shutdown EU = 0 PE - 1 HAE = -1 EC Project Change: 2 EC (only include positive EC)
3. Is Facility Major or does Project make it Major?	Facility is Existing Major as specified above. BACT is required. Offsets are required.	Facility is Existing Major as specified above. BACT is required. Offsets are required.
4. Are there any new/Modified EUs with PE >25 LBS/day?	If yes add BACT to each EU per 1303(A)(1) or (A)(2)	If yes add BACT to each EU per 1303(A)(1) or (A)(2)
5. Are there any new/Modified EUs as part of the project at the Major Facility?	If yes add BACT to each EU per 1303(A)(3)	If yes add BACT to each EU per 1303(A)(3)
6. Determine Net Emissions Change	Same as 2 above BUT use previously offset PTE instead of HAE. New EU = 2 PE - 0 HAE = 2 EC Existing EU#1 = 0.5 PE - 2 offset PTE = -1.5 EC Existing EU#2 = 0.5 PE - 2 offset PTE = -1.5 EC Shutdown EU = 0 PE - 2 offset PTE = -2 EC Net Emissions Increase = -3	Recalculate 2. Use previously offset PTE as SERs if applicable. New EU = 2 PE - 0 HAE = 2 EC Existing EU#1 = 0.5 PE - 2 offset PTE = -1.5 EC Existing EU#2 = 0.5 PE - 2 offset PTE = -1.5 EC Shutdown EU = 0 PE - 2 offset PTE = -2 EC Net Emission Increase = -3
7. Determine Amount of Offsets Needed	None - Facility NET EC is negative BUT REMEMBER - excess SERs cannot be banked (current 1305(B)(2)(b)(i))	None - Facility NET EC is negative BUT REMEMBER - excess SERs cannot be banked (proposed 1304(C)(2)(d)(iii) and 1305(C)(2)(b))
8. Area is Severe for O₃	N/A	N/A
9. Provide offsets (SERs and/or ERCs)	N/A	N/A
10. End Result	No Offsets needed	No Offsets needed
NOTES:	SERs applied at step 2 to reduce PE. Can't use SERs to get out of BACT (1303(A)(4)) Excess SERs cannot be banked.	SERs applied at step 6 to reduce offset burden. Excess SERs cannot be banked.

**Table 6
Existing Major Facility with Federal Major Modification Calculation**

Existing Major Facility with Federal Major Modification Facility 50 tpy NOx PTE as permitted (20 tpy offset); 40 tpy NOx HAE. Proposed Project: New EU#1 and New EU #2 = 20 tpy NOx PE each 2 Existing Ancient EUs = 15 tpy NOx PTE (never offset) as permitted and 14 tpy HAE, retrofitted to emit 10 tpy NOx PE Shutdown EU = 5 tpy PTE (fully offset), 4 tpy HAE		
Action	Current AV Calculations	Proposed AV Calculations
1. Determine PE and HAE	Specified above.	Specified above.
2. Determine Emissions Change (EU by EU, and by Project)	EU Change: New EU #1 = 20 tpy - 0 HAE = 20 EC New EU #2 = 20 tpy - 0 HAE = 20 EC Existing Ancient EU #1 = 10 PE - 14 HAE = -4 EC Existing Ancient EU #2 = 10 PE - 14 HAE = -4 EC Shutdown EU = 0 PE - 4 HAE = -4 EC Project Change: 28 EC (include all EC)	EU Change: New EU #1 = 20 tpy - 0 HAE = 20 EC New EU #2 = 20 tpy - 0 HAE = 20 EC Existing Ancient EU #1 = 10 PE - 14 HAE = -4 EC Existing Ancient EU #2 = 10 PE - 14 HAE = -4 EC Shutdown EU = 0 PE - 4 HAE = -4 EC Project Change: 40 EC (only include positive EC)
3. Is Facility Major or does Project make it Major?	Facility is Existing Major as specified above. BACT is required. Offsets are required.	Facility is Existing Major as specified above. BACT is required. Offsets are required.
4. Are there any new/Modified EUs with PE >25 LBS/day?	If yes add BACT to each EU per 1303(A)(1) or (A)(2)	If yes add BACT to each EU per 1303(A)(1) or (A)(2)
5. Are there any new/Modified EUs as part of the project at the Major Facility?	If yes add BACT to each EU per 1303(A)(3)	If yes add BACT to each EU per 1303(A)(3)
6. Determine Net Emissions Change	Same as 2 above BUT use previously offset PTE: New EU #1 = 20 tpy - 0 HAE = 20 EC New EU #2 = 20 tpy - 0 HAE = 20 EC Existing Ancient EU #1 = 10 PE - 14 HAE = -4 EC Existing Ancient EU #2 = 10 PE - 14 HAE = -4 EC Shutdown EU = 0 PE - 5 offset PTE = -5 EC Net Emissions Increase: 27 EC	Recalculate 2. Use previously offset PTE if applicable. New EU #1 = 20 tpy - 0 HAE = 20 EC New EU #2 = 20 tpy - 0 HAE = 20 EC Existing Ancient EU #1 = 10 PE - 14 HAE = -4 EC Existing Ancient EU #2 = 10 PE - 14 HAE = -4 EC Shutdown EU = 0 PE - 5 offset PTE = -5 EC Net Emissions Increase: 27 EC
7. Determine Amount of Offsets Needed	Base offsets = 27 (Net Facility Change)	Base offsets = 27 (Net Facility Change)
8. Area is Severe for O₃	Multiply by 1.3	Multiply by 1.3
9. Provide offsets (SERs and/or ERCs)	Provide 35.1 tpy NOx in FONA	Provide 35.1 tpy NOx in FONA
10. End Result	Need 35.1 tpy ERCs	Need 35.1 tpy ERCs
NOTES:	SERs applied at step 2 to reduce PE. Can't use SERs to get out of BACT (1303(A)(4)) Excess SERs cannot be banked (current 1305(B)(2)(b)(i)).	SERs applied at step 6 to reduce offset burden. Excess SERs cannot be banked (proposed 1304(C)(2)(d)(iii) and 1305(C)(2)(b)).

USEPA is concerned that the current SIP approved calculation might conceivably result in an increase in the current emissions inventory District wide and thus potentially jeopardize progress toward attainment with the NAAQS. While the AVAQMD understands this concern the alternative formulations as proposed by USEPA will clearly make actual emissions worse as Facilities refuse to replace aging equipment or run such equipment at high rates to artificially inflate HAE. In addition, an equivalency showing on an annual basis, such as has been approved in BAAQMD and SJVUAPCD, is completely untenable within the AVAQMD due to the fact that any “excess” offsets only occur intermittently when an existing Minor Facility becomes Major and the AVAQMD does not have a so-called “community bank” or other pool of reductions such as those obtained from so called “orphan shutdowns” to make such a showing. Similarly, limiting the use of previously offset PTE to highly used (80% of HPE) and recent (within the last 5 years) as has been approved in SMAQMD does not result in encouragement of modernization of ancient equipment. In short, the application of USEPA’s current policies regarding offset calculations will result in an almost complete cessation of ANY and ALL upgrades which reduce emissions at existing Major Facilities within the AVAQMD.

The underlying disagreement with USEPA boils down to whether or not the AVAQMD’s NSR program, including the calculation methodology for offsets, is at least as, if not more stringent than that required by the Federal Clean Air Act. As noted elsewhere in this Staff Report there are numerous provisions where the AVAQMD is significantly more stringent than the corresponding Federal requirements. The 25 lbs/day BACT threshold is the obvious place where this occurs. What is not quite so obvious in regards to stringency, is the effect of the overall structure of Regulation XIII. The AVAQMD does not, and has never had, a De Minimis provision as allowed under the FCAA. This means that each and every permitting action is in effect “trued up” to the PTE involved each and every time a Modification is made for all Major Facilities. This means that any allegedly “uncaptured” emissions resulting from the AVAQMD’s offset calculation method are more than compensated for by the additional stringency as evidenced by the air quality measurements.

For Example: An existing major facility has a potential to emit of 150 tons per year (, but typically never exceeds 120 tons of actual emissions (80% of their permitted value). If this facility was never previously offset, the rules provision in question does not apply and the point is moot. If the facility was fully offset in a previously documented permitting action, USEPA’s position is that

the facility's actual emissions of 120 tons should be used as a baseline to determine whether any changes at the facility trigger control technology or additional offsets, without regard to the previous use of offsets. Current and proposed AVAQMD New Source Review differs and considers the previous use of offsets still valid, for the purposes of further offset requirements at existing Major Facilities only but also requires BACT for all new and modified equipment at the Facility.

Under Federal law and regulation, however, the Facility could completely escape BACT and Offsets along with constructively increasing its actual emissions. This is possible due to the Federal De Minimis provisions which provide no BACT or Offsets are required if the emissions increase is less than a De Minimis amount over a rolling 5-year period; in the AVAQMD this amount would be 25 tpy. Thus, the above hypothetical facility could under Federal rules add 10 tpy of NOx emissions in years 1, 3, and 6 and not be required to put BACT on any of the new or modified equipment, no offsets would be needed and by the end of the period the permitted emissions would be 180 tpy NOx (with actual operating emissions of 144 tpy if they continued to run at 80% of permitted value).²¹⁴ In direct contrast, under the AVAQMD current and existing rules this hypothetical Facility would not only be required to place BACT on any new or modified equipment involved in each year but would also be required to obtain offsets and the permitted emissions limit of 150 tpy would NOT change. Of course, due to the dearth of offsets in the AVAQMD Emissions Reduction Credit Bank the cost of such emissions reductions would be extremely prohibitive. Thus, under the AVAQMD rules such a Facility could modify or shut down other existing emissions units to create SERs. Such modified units would also be required to acquire BACT. At the end of the 6-year period while no offsets might have been provided under the AVAQMD calculations the ultimate result is a lower overall potential to emit limit on the Facility as well as cleaner more efficient equipment.

There is also a fundamental issue of fairness. The emissions reductions, in the case of both ERCs and SERs, must be "Permanent" to be used. Once used this permanence is reflected as an upper emissions limit (PTE) on the permit. If only historic actual emissions are used in subsequent actions the Facility ends up "double offsetting" the differential between the HAE and the previously existing (and fully offset) limit each and every time a modification requiring offsets is made. To make matters worse a

²¹⁴ Please note in this situation the year 1 increase would not be added to determine if the 25 tpy De Minimis over a rolling 5 years applied.

1.3 to 1 offset ratio is applied for O₃ precursors due to the nonattainment status of the AVAQMD. The FCAA partially mitigates this burden by allowing De Minimis changes²¹⁵ over a rolling 5-year period and exempting such activities from BACT. Unfortunately, due to CARB’s interpretation of the “no net increase” provisions of the Health & Safety Code²¹⁶ coupled with the provisions of SB 288²¹⁷ this option is not available to the AVAQMD.

Furthermore, please note that the most recent Milestone Compliance/Reasonable Further Progress determination as transmitted to USEPA by CARB²¹⁸ shows an incredible amount of emissions reductions over and above that necessary for ultimate compliance with the 75 ppb 8-hour O₃ standard from the 2011 baseline year.²¹⁹ Not all of these reductions can be attributed to the sharp decline in vehicular traffic due to COVID-19 in 2020 as much of it appears to be a continuation of year over year decline in the relevant emissions inventories. If USEPA’s concern regarding emissions inventory increases due to the AVAQMD’s current calculation formulation were valid you would expect to see some sort of impact in this report. As it is, there is no such impact which provides strong evidence that the AVAQMD’s NSR rules as currently implemented are producing overall at least as many emissions reductions as those postulated by USEPA’s preferred formulation.

7. Relaxation of Emissions Limitations Resulting in Major Facility Status

USEPA’s Comment 1.2.2.d.²²⁰ to MDAQMD expresses a concern regarding the potential for a Facility to somehow “escape” BACT and or Offsets when it takes a Federally Enforceable limitation to make it a so called “Synthetic Minor Facility” but then requests changes to that limit resulting in an emissions increase. If such increase results in such a Facility becoming a Major Facility the equipment involved in the emissions limit change would be subject to BACT and would require offsets for any such emissions increases as if the Facility had not yet commenced construction.²²¹

²¹⁵ In the Federal Ozone Nonattainment Area of the District this would be 25 tpy of NO_x or VOC.

²¹⁶ H&S Code §40918

²¹⁷ H&S Code §§42500 et seq (SB288 of 2003, ch 467)

²¹⁸ CARB Letter, R. Corey, CARB to D. Jordan, USEPA Region IX (3/30/2021).

²¹⁹ CARB, *California 2020 Milestone Compliance Demonstration for the 75 Parts per Billion National Ambient Air Quality Standard for Ozone*, (3/30/2021).

²²⁰ USEPA Letter of 12/19/2019.

²²¹ 40 CFR 51.165(a)(5)(ii).

The provisions of current Rule 1303(B)(3) already requires BACT and Offsets in such a situation. Under current rule provisions the AVAQMD would treat such an occurrence in the same manner as any other existing Minor Facility which modified in any manner such that the Major Facility threshold was exceeded. In short, BACT would not only be required pursuant to Rule 1303(A)(2) but also under Rule 1303(A)(3)²²² and the newly Major Facility would need offsets pursuant to Rule 1303(B)(3). If the increase was for NOx or VOC then the Facility would end up needing to offset its entire emissions, not just the emissions increase(s) resulting from the change in the limit, at an offset ratio of 1.3 to 1.²²³ Despite this, the District is proposing to modify Rule 1303(B)(3) to more closely conform to the language found in 40 CFR 51.165(a)(5)(ii). It is not expected that these proposed changes will cause any differences in permitting for affected Facilities.

8. Interpollutant Trading Provisions

In USEPA's Comment 1.2.2.e.²²⁴ to MDAQMD, USEPA indicated that all interpollutant trading needs to comply with the new provisions of 40 CFR 51.165(a)(11).²²⁵ This provision requires an "approved" area-specific default ratio as established by regulation in a plan, a default interpollutant trading ratio "established in advance" by the air agency or provide a case-by-case formulation process and by its own terms primarily applies to NO_x and VOC. On January 29, 2021 the U.S. Court of Appeals, D.C. Circuit issued an opinion vacating such interpollutant trades.²²⁶

Given the uncertainty surrounding this provision the AVAQMD is proposing to leave proposed Rule 1305(C)(6)²²⁷ primarily unchanged with the exception of a footnote citing the court decision. The District will review the provision once the status of interpollutant offsets becomes more certain.

F. RULE 1401 – NEW SOURCE REVIEW FOR TOXIC AIR CONTAMINANTS

There are no substantive changes proposed for Rule 1401. It is included in this action due to the need to update the cross references to Rule 1302.

²²² Please note that if such a Minor Facility was built or modified after 1993 odds are it would have already acquired BACT on most if not all of its equipment pursuant to Rule 1303(A)(1) or (A)(2). Thus, such a Facility would only need to upgrade to current BACT on the equipment involved if the technology had changed in the interim.

²²³ Rule 1305(C)(1)

²²⁴ USEPA Letter of 12/19/2019.

²²⁵ 83 FR 62998, 12/6/2018.

²²⁶ *Sierra Club et al. vs. USEPA*, 985 F.3d 1055 (D.C. Cir., 1/29/2021).

²²⁷ Current Rule 1305(B)(6).

G. REGULATION XVII – PREVENTION OF SIGNIFICANT DETERIORATION

Regulation XVII as originally adopted by SCAQMD in 1988 and amended in 1989 was intended to allow SCAQMD to fully implement the PSD program within the District’s jurisdiction. As was common at the time the regulations were not included as SIP revisions but instead USEPA and SCAQMD entered into an agreement where SCAQMD would analyze and issue the PSD permits. This agreement was not carried over upon the creation of the AVAQMD in 1997. Therefore, from July 1, 1997 to the present all actions required by the PSD permitting program has been performed by USEPA for the AVAQMD despite the existence of Regulation XVII.

The District is proposing in this action to remove the multiple rules of current Regulation XVII and replace it with Rule 1700 which adopts the applicable provisions of 40 CFR 52.21 by reference. The primary difference between the provisions of Rule 1700 and both the current set of rules and the provisions of 40 CFR 52.21 is that of terminology. Various PSD related terms are renamed for ease of use and to avoid confusion with existing terminology elsewhere in the District’s rule book. Table 7 indicates the particular terms and changes proposed.

**Table 7
Proposed PSD Terminology Changes**

Citation	Regulatory Term	Proposed Term	Rational
40 CFR 52.21(b)(1)	Major Stationary Source	Major PSD Facility	Avoids confusion caused by use of term “source” ²²⁸
40 CFR 52.21(b)(2)	Major Modification	Major PSD Modification	Avoids confusion with Regulation XIII term “Major Modification”
40 CFR 52.21(b)(50)	Regulated NSR Pollutant	PSD Air Pollutant	Avoids confusion with term “Regulated Air Pollutant” under Regulation XIII
40 CFR 52.21(b)(12)	Best Available Control Technology	PSD Best Available Control Technology	Allows clear identification of underlying BACT requirement.

H. FCAA §110(L), FCAA §193, AND HEALTH & SAFETY CODE §§42500 ET SEQ. ANALYSIS

FCAA §110(l) (42 U.S.C. §7410(l)) requires that any SIP amendment which might potentially be construed as a relaxation of a requirement provide a demonstration that the proposed change will not interfere with any FCAA requirements concerning attainment or Reasonable Further Progress (RFP). In addition, FCAA §193 (42 U.S.C. §7515) requires that any relaxation of a control requirement in effect in a nonattainment area before 11/15/1990 may not be changed without ensuring that there are “equivalent emissions reductions” in place.²²⁹ Furthermore, H&S Code §§42500 et seq. requires an

²²⁸ The term “source” as currently used can refer to a single Emissions Unit, a group of Emissions Units, an entire Facility, particular separate facilities all with the same industrial classification, an area, or even something that tends to attract emitting activities.

²²⁹ Preconstruction review provisions have been held to be “control requirements” under the FCAA in *Hall v. EPA* 273 F3d 1146 (9th Cir., 2001) and *SCAQMD v EPA* 472 F.3d 882 (D.C. Cir., 2006).

analysis when amendments are proposed to a nonattainment NSR program to show that such proposed changes are not less stringent than those in existence as of 12/30/2002.

The proposed amendments to Regulation XIII do not relax any NSR related requirements. Most of the proposed amendments are procedural in nature and merely intended to clarify existing provisions and codify current practices. In general, the remaining proposed amendments as indicated in Table 8 conform the requirements to the stringency required by State and Federal law and the regulations promulgated thereunder.

Table 8
Substantive Proposed Amendments Changing Current Requirements

Proposed Change	Current Requirement	Stringency
Emissions Unit definition adds “control equipment” to the definition and conforming changes are instituted elsewhere in Regulation XIII. (Proposed 1301(Y))	Emissions Unit technically excluded but Permit Unit included “control equipment” in the definition.	Equivalent.
Addition of provisions regarding stack height exceeding Good Engineering Practice from 40 CFR 51.164 and 51.118. ²³⁰ (Proposed 1301(T), (BB), (HH), (TT), (XXX), and 1302(C)(4))	None.	More Stringent.
Addition of language indicating that provisions of 1302(C)(5) are not to be included as a SIP revision ²³¹ . (Proposed 1302(C)(5)(d))	None.	N/A. Provisions not currently in SIP.
Addition of requirement that applications involving Stack Height which exceed Good Engineering Practice receive Major NSR Notice. (Proposed 1302(C)(7)(b)(ii))	None.	More Stringent.
Specification that Regulation XII Federal Operating Permit actions requiring Major NSR Notice are issuance, renewal, and/or Significant Modifications. (Proposed 1302(C)(7)(b)(iv))	Requirement implied via generic references to Regulation XXX in various places throughout Regulation XIII.	Equivalent.
Addition of language indicating that the provisions of 1302(C)(7)(c) are not to be included in the SIP. (Proposed 1302(C)(7)(c)(iii)).	None.	N/A. Provisions not currently in SIP
Add Minor NSR Notice requirements. ²³² (Proposed 1302(C)(7)(d))	None.	More Stringent.

²³⁰ Added solely to comply with FCAA and Regulatory mandate. No stack in the District has the potential to trigger this provision. It is not expected, due to other unrelated construction requirements, that any stack in the future would ever trigger this provision.

²³¹ USEPA has requested that a number of provisions not be included in the SIP as they are State only requirements, not specifically required under the FCAA, or have a different approval process other than that provided by the SIP.

²³² Includes not only a numerical threshold but also a percentage calculation to allow for a “quick fix” if the District becomes nonattainment for additional air contaminants.

Proposed Change	Current Requirement	Stringency
Addition of 45-day review period for USEPA, CARB and Affected States for permitting actions involving Federal Operating Permits. (Proposed 1302(D)(2)(b)(i))	No such requirement in Regulation XIII. Currently required in Regulation XII.	Equivalent. ²³³
Shift the Major NSR Notice publication to website as opposed to newspaper notice. (Proposed 1302(D)(3)(a)(i)b.)	Newspaper Notice.	Equivalent. ²³⁴
Addition of comment procedures and opportunity to request a public hearing in certain cases as part of Major NSR Notice. Addition of request for public hearing regarding visibility protection and stack height exceeding Good Engineering Practice. (Proposed 1302(D)(3)(b))	Comment procedures implied.	More Stringent.
Addition of 30-day public comment period to Minor NSR Notice. (1302(D)(3)(b)(ii))	No specific public comment period for Minor NSR Facility Notice; H&S appeal period implied.	More Stringent.
Addition of specific requirement to retain backup documentation for NSR action for a minimum of 5 years. (Proposed 1302(D)(4)(f))	No specific requirement in Regulation XIII. However, District retention practice keeps Facility records for at least 5 years after ALL permits at a Facility have expired or been canceled.	Equivalent.
Revises threshold for Major Facility BACT requirement to use the levels in 1303(B)(1). (Proposed 1303(A)(3))	Current language places BACT threshold for PM at 25 tpy as opposed to Major Facility/Offset threshold of 15 tpy.	More Stringent. ²³⁵
Removes attainment pollutants from the table in 1303(B)(1).	CO and Lead are currently included in the table despite them being attainment pollutants in the District.	Equivalent.
Move all calculations provisions to Rule 1304.	Currently calculations are in both 1304 and 1305	Equivalent.
Bifurcate calculations in Rule 1304 into two distinct calculations, one for Applicability of Rule 1303(A) and (B) (accounting for increases only) and one to determine amount of offsets required (including SERs).	Current 1304 calculations include emissions increases and decreases for both applicability and amount of offsets needed.	Equivalent.
Reorganize and consolidate provisions of Rule 1305. Move SER provisions to proposed Rule 1304.	Current 1305 contains SER provisions.	Equivalent.
Removal of Rule 1310 and related provisions ²³⁶ .	Separate analysis was required in addition to normal analysis for Federal Major Facilities and Federal Major Modifications. Resulted in use of CEQA documents for alternative site analysis and allowed use of PALs.	Equivalent. ²³⁷

²³³ Addition to NSR provisions required to obtain “Enhanced NSR” certification allowing Federal Operating Permit issuance, renewal and/or Significant Modifications to be processed and noticed concurrently with NSR actions.

²³⁴ 81 FR 71613 10/18/2016 and CARB Advisory 299, *Air District New Source Review Rules Regarding Electronic Notice*, June 2018.

²³⁵ Once again note that as a practical matter this change should not result in many additional units acquiring BACT as most units acquire BACT under Rule 1303(A)(1) and (2) as they emit > 25 lbs per day.

²³⁶ Section VI. A. 4. above.

²³⁷ Rule 1302(B)(1)(b)(i)a. also allows use of CEQA for alternative site analysis.

Proposed Change	Current Requirement	Stringency
Addition of statement that Toxic NSR provisions are not intended as SIP submissions. (Proposed 1401, 1302(C)(5) and 1302(C)(7)(c))	None,	More Stringent.
Shift current rules in Regulation XVII to a single “adopt by reference” style Rule 1700.	Multiple rules providing same requirements.	Equivalent

I. PROPOSED RULE SUMMARY

This section gives an overview of the proposed amendments to Regulation XIII. This section will also contain background information regarding the use of specific terms as well as notations regarding legal and practical implications of certain provisions. Certain wording changes may not be discussed herein if they are adequately documented in the *[bracketed italicized]* notations contained in Appendix A. Additional information and citations regarding the source of proposed changes may also be found in the *[bracketed italicized]* notations.

Please also note that this action is intended to be submitted to USEPA as a SIP revision in conjunction with District Rule 219 – *Equipment Not Requiring A Permit*. While certain interactions between Regulation XIII and Rule 219 will be explained here more detailed explanations regarding items specific to Rule 219 can be found in the Staff Report for that rule.

1. Proposed Amended Rule 1300 – *New Source Review General*

In general, the proposed amendments to Rule 1300 are primarily for clarity with some minor formatting changes.

1300(A)(1)(a) – While this section remains unchanged, the use of the term “requirements” continues to be interpreted to include BACT and Offset requirements along with all the other provisions of Regulation XIII both procedural and substantive.

1300(A)(1)(d) – This section remains unchanged. Please note however, as this cross reference is merely part of a statement of purpose not a specific applicable requirement an additional statement “in effect on [date]” is not required.

1300(A)(1)(e) – Adds a cross reference to Rule 1401 – *New Source Review for Toxic Air Contaminants*. As this is merely part of a statement of purpose no reference to the intention that Rule 1401 not be included in the SIP is required at this place.

1300(A)(1)(f) – Provides a cross reference to Regulation XVII – Prevention of Significant Deterioration and Rule 1700 therein.

1300(B)(1) – The removal of the phrase “requires a permit” and change of reference from Regulation II to Rules 201 and 203 insures the provisions of Rule

219 are not impliedly contradicted by Regulation XIII.²³⁸ Specifically Rule 219(B)(5) requires that the emissions from equipment exempt from permit are to be considered in calculations for not only Regulation XIII – *New Source Review* but also Regulation XII – *Federal Operating Permits* and Regulation XVI – *Prevention of Significant Deterioration* unless the particular regulation specifically excludes such emissions in the calculation methodology.²³⁹ Historically, the current provision has been interpreted by the District to include emissions from permit exempt equipment in the calculations when such are applicable and it is not expected that this proposed change will result in any procedural differences in the implementation of NSR. The text has also been reformatted.²⁴⁰

1300(E)(1) – A minor formatting change is proposed for this subsection. In addition, the cross reference to Regulation II in this subsection is retained, as opposed to the change in subsection (B)(1).²⁴¹ This retention is necessary to ensure compliance with other provisions contained in Regulation II such as, but not limited to, permit posting requirements and prohibitions against permit transfer without an application for change of ownership.²⁴²

1300(E)(2) – Cross reference to Rule 1700 added to conform with rule shift in proposed Regulation XVII.

2. Proposed Amended Rule 1301 – *New Source Review Definitions*

Quotation marks around defined terms have been removed throughout the entire rule, certain terms have been standardized in regards to capitalization of defined terms as well as conditional plurals. Due to the addition and deletion of definitions substantially renumbering of provisions has occurred. In addition, all cross references have been checked and corrected to reflect the proposed amendments elsewhere in the Regulation.

Former 1301(B) – The definition of Actual Emissions Reduction (AER) has been removed as the term is no longer used in the Regulation. All references to AER elsewhere in the regulation have been replaced with more specific references to ERCs and SERs.

Former 1301(C) – The definition of “Adjustment” has been removed as this specific term is not used in the Regulation. All references to adjusted amounts or calculations contain specific notations regarding how such “adjustment” is to be made and thus this definition is confusing.

²³⁸ Proposed Rule 219 and *Rule 219 Draft Staff Report*, Sections VI. A. and VI. D.

²³⁹ For example: the exclusion of fugitive emissions from Potential To Emit (PTE) calculations unless the emissions happen to occur at a Facility belonging to a source category listed in 40 CFR 51.165(a)(1)(iv)(C) as set forth in proposed Rule 1304(E)(2)(a).

²⁴⁰ USEPA Letter of 12/19/2019, Comment 1.1.1.a and 1.3.2.

²⁴¹ USEPA Letter of 12/19/2019, Comment 1.3.2.

²⁴² Rules 206 and 209.

Former 1301(E) – The definition of Allowable Emissions has been removed. The only use of this term was found in the definition of “Permanent.” Since the definition of “Permanent” includes a reference to the term “Federally Enforceable” and all provisions contained in the definition of Allowable Emissions are also contained in “Federally Enforceable” this term is superfluous.

1301(J) – The term Begin Actual Construction has not been modified. The interpretation of this term will continue in accordance with currently applicable USEPA Guidance for Major Facilities and Major Modifications.²⁴³ However, for those Facilities subject to Minor Facility NSR notice requirements only²⁴⁴ the District will generally follow USEPA’s draft guidance as issued 3/25/2020²⁴⁵ until such time as such guidance is either finalized by USEPA via rulemaking or other mechanism, further guidance is issued, or such guidance is otherwise impacted by a ruling of a court of competent jurisdiction. As is current District policy, any construction by a Facility during the comment period prior to issuance of a permit would remain at the Facility’s own risk.

1301(K) – The definition for Best Available Control Technology (BACT) is not modified. However, it must be noted that subsection (L)(4) already complies with provisions of a pending NSR error correction rule.²⁴⁶ Specifically, USEPA is proposing to correct the definition of BACT to include a limitation that it cannot exceed not only NSPS standards under 40 CFR 60 and NESHAPs standards under 40 CFR 61 but also MACT standards under 40 CFR 63. The current language citing appropriate provisions of the FCAA and “regulations promulgated thereunder” already provides this requirement.

Former 1301(O) – The term Best Available Retrofit Control Technology (BARCT) has been removed as it is unused in the regulation.

1301(O) – A definition for Class I Area has been added to clarify the difference between this definition and the definition of Mandatory Federal Class I Area as defined in proposed 1301(OO).²⁴⁷ In short, the difference between these two

²⁴³ USEPA Memo, E. Reich, Director, U.S. EPA Division of Stationary Source Enforcement, to U.S. EPA Enforcement Division Directors, Regions I-X, *Interpretation of "Constructed" as it Applies to Activities Undertaken Prior to Issuance of a PSD Permit*, 12/18/1978; USEPA Memo, E. Reich, Director, U.S. EPA Division of Stationary Source Compliance, to R. DeSpain, Chief, Air Programs Branch, EPA Region VIII, *Construction Activities Prior to Issuance of a PSD Permit with Respect to "Begin Actual Construction,"* 3/28/1986; USEPA Memo, J. Rasnic, Director, U.S. EPA Stationary Source Compliance, Office of Air Quality Planning and Standards, to B. Turlinski, Chief, Air Enforcement Branch, EPA Region III, *Construction Activities at Georgia Pacific*, 5/13/1993; USEPA Memo, D. Howekamp, Director, Air and Toxics Division, EPA Region IX, to all Region IX Air Agency Directors and NSR Contacts, *Preconstruction Review and Cons*, 11/4/1993; USEPA Letter, J. Seitz, Director, EPA Office of Air Quality Planning and Standards, to C. Williams, Commissioner, Minnesota Pollution Control Agency, 12/13/1995; and 61 FR 38250, 38270-28271, 7/23/1996.

²⁴⁴ Proposed Rule 1302(C)(7)(d).

²⁴⁵ USEPA Webpage, *Begin Actual Construction*, https://www.epa.gov/sites/production/files/2020-03/documents/begin_actual_construction_032520_2.pdf

²⁴⁶ This rule as of 1/29/2021 has been signed but not yet published. USEPA Webpage, *Final NSR Error Correction Rule*, <https://www.epa.gov/nsr/nsr-regulatory-actions>.

²⁴⁷ USEPA Letter of 12/19/2019, Comment 2.1.

definitions involves items which may have been designated a Class I Area but are not specifically listed in 40 CFR 81, Subpart D. Mandatory Federal Class I Areas trigger specific requirements regarding Visibility Protection²⁴⁸ while Class I Areas involve impact analysis for PSD purposes.²⁴⁹ A cross reference to the designated Class I Areas found in California²⁵⁰ is provided for ease of use.²⁵¹

1301(P) – Commence Construction has been clarified to cross reference PSD requirements.²⁵² Please note that this definition is initially triggered by permitting actions while “Begin Actual Construction” is solely an activity-based trigger.²⁵³

Former 1301(W) – The term Dedicated Cargo Carrier is removed as it is not used in the Regulation.

1301(T) – A definition for Dispersion Technique has been added to implement stack height provisions of 40 CFR 51.164 and 51.118.²⁵⁴ Since there are no stacks currently in the District which might trigger these provisions the definition is provided by reference to 40 CFR 51.100(hh).

1301(Y) – The Emissions Unit definition has been clarified to include air pollution control equipment.²⁵⁵

1301(Z) – A definition for Enforceable has been added at USEPA’s request. Please note there are additional requirements contained in the definition of Federally Enforceable.²⁵⁶

Former 1301(DD) – The definition of Essential Public Service is removed as it is now provided by reference by Rule 1700(B).

1301(BB) – An Excessive Concentration definition has been added to implement stack height provisions of 40 CFR 51.164 and 51.118.²⁵⁷ Since there are no stacks currently in the District which might trigger these provisions the definition is provided by reference to 40 CFR 51.100(kk).

Former 1301(EE) - The term Executive Officer referring to the Executive Officer of the California Air Resources Board has been removed as the term is no longer used in the Regulation.

²⁴⁸ Proposed Rule 1302(B)(1)(c).

²⁴⁹ Proposed Rule 1302(B)(1)(d).

²⁵⁰ 40 CFR 81.405.

²⁵¹ Cross references to Class I areas in other states are not included as the AVAQMD boundaries are over 100 kilometers from the nearest state line.

²⁵² USEPA Letter of 12/19/2019, Comment 1.2.1.c.

²⁵³ Proposed Rules 1302(D)(5)(a)(iv) and (D)(6)(a)(iv).

²⁵⁴ Proposed Rule 1302(C)(4). See Also: USEPA Letter of 12/19/2019, Comment 1.1.3.a.

²⁵⁵ Subsections VI. A. 3. and VI. E. 1. above. See Also: USEPA Letter of 12/19/2019, Comments 1.1.1.a. and 1.2.1.a.

²⁵⁶ Proposed Rule 1301(FF).

²⁵⁷ Proposed Rule 1302(C)(4). See Also: USEPA Letter of 12/19/2019, Comment 1.2.2.a.1.

1301(DD) – Federal Class I Area has been added pursuant to USEPA’s request. Please see explanation regarding Class I Area definition in proposed Rule 1301(P), above and Mandatory Federal Class I Area definition in proposed Rule 1301(OO).²⁵⁸

1301(EF) – A definition for Federal Land Manager has been added pursuant to USEPA’s request.²⁵⁹

1301(GG) – Fugitive Emissions has been slightly modified to more closely conform with definition in 40 CFR 51.165(a)(1)(ix).²⁶⁰ Previously included language regarding “activities of man” appears to have been the result of industry concern that naturally occurring dust from desert terrain could somehow be included in emissions calculations. Proposed changes elsewhere in the regulation to specifically include in Fugitive Emissions only those emissions “directly related to the Emissions Unit(s)” at Facilities belonging to a category listed in 40 CFR 51.165(a)(1)(iv)(C) renders that prior language unnecessary. Please note that all calculation methods have been relocated to proposed Rule 1304.

1301(HH) – A Good Engineering Practice definition has been added to implement stack height provisions of 40 CFR 51.164 and 51.118.²⁶¹ Since there are no stacks currently in the District which might trigger these provisions the definition is provided by reference to 40 CFR 51.100(ii).

1301(JJ) – Historic Actual Emissions is proposed to be modified to add more specific reference to the list of Facility categories found in 40 CFR 51.165(a)(1)(iv)(C).²⁶² Please note that all calculation methods now are located in Proposed Rule 1304.

1301(NN) – Mandatory Class I Federal Area/Mandatory Federal Class I Area has been added.²⁶³ The term used subsequently in the Regulation is Mandatory Federal Class I Area. Please see explanation under Class I Area definition in proposed Rule 1301(P), above.

1301(QQ) – Modeling definition proposes to add a cross reference to 40 CFR 51 Appendix W at USEPA’s request for clarity.²⁶⁴ References to USEPA’s approval requirements are included to allow use of future revisions to Appendix W without needing to modify this definition.

1301(RR) – Current definition of Modification is circular by using the term internally in the definition in subsection (1)(c). Replacing this term with “alteration” will avoid this problem. In addition, specific references to

²⁵⁸ USEPA Letter of 12/19/2019, Comment 2.1.

²⁵⁹ USEPA Letter of 12/19/2019, Comment 1.2.1.e.

²⁶⁰ USEPA Letter of 12/19/2019, Comment 1.2.1.b.

²⁶¹ USEPA Letter of 12/19/2019, Comment 1.1.3.a.

²⁶² USEPA Letter of 12/19/2019, Comment 1.2.1.a.

²⁶³ USEPA Letter of 12/19/2019, Comment 2.1.

²⁶⁴ USEPA Letter of 12/19/2019, Comment 1.1.1.b.

“replacement Emissions Unit(s)” have been added for clarity and internal definitional language consistency.

Please note that the provisions in Proposed Rule 1301(SS)(1)(c)(iv), while unchanged from previous, are more stringent than those found in 40 CFR 51.165(a)(1)(xxi). That provision limiting replacement units to non-Major Facilities and non-Major Modifications was derived from a USEPA comment²⁶⁵ to the MDAQMD “to allow the retention of the exemption” from Modification. It is also important to note that a particular change to a Permit Unit must result in a Net Emission Increase as calculated pursuant to proposed Rule 1304(B)(2) to qualify as a Modification.

1301(SS) – Definition of Motor Vehicle has been modified to conform with Rule 219 provisions and the relevant sections of the California Vehicle Code.

1301(TT) – Definition of Nearby has been added to implement stack height provisions of 40 CFR 51.164 and 51.118.²⁶⁶ Since there are no stacks currently in the District which might trigger these provisions the definition is provided by reference to 40 CFR 51.100(jj).

Former 1301(SS) – Definition of Net Air Quality Benefit has been removed as the term is no longer used in the regulation.

1301(WW) – Nonattainment Air Pollutant is revised to include a citation to 40 CFR 81.305.²⁶⁷ In addition, language has been added to clarify that pollutants designated under 40 CFR 81.305 are to be referred to as Federal Nonattainment Pollutants while those designated under H&S Code §39607 are referred to as State Nonattainment Pollutants. Please note that the term Regulated Air Pollutant as defined includes precursors so the notation “and their precursors” in this definition is unnecessary. See also definition for Ambient Air Quality Standard as proposed in Proposed Rule 1301(G).

1301(XX) – A definition for Nonattainment Area has been added to correspond with the definition of Nonattainment Air Pollutant and clarify the difference between Federal and State Nonattainment Areas.²⁶⁸

Former 1301(WW) – The term Nonpermitted Exempt Unit has been removed as it is no longer used in the Regulation.

1301(AAA) – The term Offset Emission Reductions (Offsets) definition has been modified to clarify that Offsets are ERCs and SERs as used pursuant to the

²⁶⁵ USEPA Letter, M. Haber to C. Fryxell, 3/10/1995, MDAQMD *Final Staff Report Regulation XIII – New Source Review 3/25/1996*, Appendix C pg C3, 3/25/1996.

²⁶⁶ USEPA Letter of 12/19/2019, Comment 1.1.3.a.

²⁶⁷ USEPA Email, L. Yannayon to K. Nowak, *Re After Action Report*, 3/25/2020 (USEPA Email of 3/25/2020), Attached file *1301 DD 2020 23 Mar + EPA*.

²⁶⁸ USEPA Letter of 12/19/2019, Comment 3.3.

provisions of Proposed Rule 1305. A cross reference to SER calculation procedures in 1304(C) is also added.

1301(BBB) – Definition of Permanent has been modified per request to conform with USEPA’s preferred language.²⁶⁹

1301(FFF) – The citation to an applicable test method has been removed from the PM₁₀ definition pursuant to USEPA’s request.²⁷⁰ The citation in question is used for atmospheric measurement of PM only. Language has been added to clarify that condensable PM is included as part of PM₁₀ for calculations performed on or after 1/1/2011 pursuant to 40 CFR 51.165(a)(1)(xxxvii).²⁷¹

1301(GGG) – The definition of Potential to Emit remains unchanged despite USEPA’s concerns regarding cross references to Regulation II rules.²⁷² The MDAQMD has determined that the cross references contained in this definition are appropriate.

1301(HHH) – The table in the definition of Precursor is modified to include PM_{2.5} for clarity as this pollutant is technically included via the definition of Regulated Air Pollutant in Proposed Rule 1301(SSS).²⁷³ H₂S has been removed from the table as it does not form a secondary air pollutant.

1301(III) – Proposed Emissions has been modified to utilize term post-modification to avoid confusion with the defined term Modified. Also added clarification per USEPA request that this definition specify that Fugitive Emissions for those Facilities belonging to a category listed in 40 CFR 51.165(a)(1)(iv)(C) are included.²⁷⁴

1301(JJJ) – A definition of Quantifiable has been modified to conform to USEPA’s preferred language.²⁷⁵

Former 1301(KKK) - The term Reactive Organic Compound (ROC) has been removed. It was originally included in the Regulation when the Federal definition of Volatile Organic Compound (VOC)²⁷⁶ excluded a slightly different set of non-reactive emissions. Currently the definitions of ROC and VOC are the same and thus this term has been removed from the Regulation.

²⁶⁹ USEPA Letter of 12/19/2019, Comment 1.2.2.a.1.

²⁷⁰ USEPA Email of 3/25/2020, Attached file 1301 DD 2020 23 Mar + EPA.

²⁷¹ USEPA Letter of 12/19/2019, Comment 1.2.1.d.

²⁷² USEPA Letter of 12/19/2019, Comment 1.3.2.

²⁷³ USEPA Letter of 12/19/2019, Comments 1.2.1.d. and 3.1.

²⁷⁴ USEPA Letter of 12/19/2019, Comment 1.2.1.a.

²⁷⁵ USEPA Letter of 12/19/2019, Comment 1.2.2.a.1.

²⁷⁶ Current Rule 1301(ZZZ).

1301(LLL) – The term Real has not been modified as it complies with USEPA’s preferred language.²⁷⁷

1301(OOO) – The term Registry has been expanded to include the term “ERC Registry” as that is the term in common usage within the District.

1301(QQQ) – In the definition of Seasonal Source the term “Permit Unit” has been changed to Emissions Unit in to clarify applicability.²⁷⁸

1301(TTT) – The table in the definition of Significant has been revised to only include Nonattainment Areas and Nonattainment Pollutants.²⁷⁹ Attainment pollutant amounts are incorporated by reference in Proposed Rule 1700(B).²⁸⁰ The classification references have been adjusted to specify “Severe Ozone Federal Nonattainment Area” and “Moderate PM₁₀ Federal Nonattainment Area” for clarity. Please note that the emissions levels as listed in the table have not changed.

1301(VVV) – A definition of the South Coast Air Quality Management District (SCAQMD) has been added as it is referenced in the Regulation, specifically in proposed Rule 1309 regarding ERC’s credited by SCAQMD and held by companies within the AVAQMD.

1301(WWW) – A definition of Stack has been added at USEPA’s request.²⁸¹

1301(XXX) – A Stack In Existence definition has been added to implement stack height provisions of 40 CFR 51.164 and 51.118.²⁸² Since there are no stacks currently in the District which might trigger these provisions the definition is provided by reference to 40 CFR 51.100(gg).

1301(ZZZ) – Surplus has been modified to reflect USEPA’s preferred language. The provision “not otherwise required by Federal, State or District law, rule, order, permit or regulation” is intended to include, but not be limited to, items such as:

- Anything contained in the Federally approved SIP effective within the jurisdiction of the District.
- Any requirement, regulation or measure that the District or the State has included in a legally required and publicly available list of measures scheduled for adoption and would, by its terms, be effective within the jurisdiction of the District.

²⁷⁷ USEPA Letter of 12/19/2019, Comment 1.2.2.a.1.

²⁷⁸ Subsections VI. A. 3. and VI. E. 1. above.

²⁷⁹ USEPA Letter of 12/19/2019, Comment 3.3.

²⁸⁰ 40 CFR 52.21(b)(23).

²⁸¹ USEPA Letter of 12/19/2019, Comment 1.1.3.a.

²⁸² USEPA Letter of 12/19/2019, Comment 1.1.3.a.

- Any requirement, regulation or measure for which the District or the State has issued a public notice of intent to adopt and would, by its terms, be effective within the jurisdiction of the District.
- Any specific regulatory or permitting requirement legally applicable to an Emissions Unit or Facility such as RACT, BACT, LAER, NSPS, NESHAP, and/or BACM.
- Applicable provisions and or supporting documentation regarding attainment or maintenance demonstrations required under the FCAA including assumptions in Reasonable Further Progress demonstrations, milestone demonstrations, proposed control measures identified as potentially having an enforceable near-term emissions reduction, assumptions used in conformity determinations and assumptions used in emissions inventories.²⁸³

1301(BBBB) – The definition of United States Environmental Protection Agency (USEPA) has been modified to include gender neutral terminology.

3. Proposed Amended Rule 1302 – *New Source Review Procedure*

1302(B) – Generally this section has been reformatted and renumbered for clarity and to make certain items, which were impliedly required by existing provisions, explicitly required.

1302(B)(1)(a)(i) – Specific wording requiring information on location, design, construction and operation of the Facility to be included in an application has been added at USEPA’s request. A provision requiring a determination of whether stack height exceeds Good Engineering Practice has been added to ensure that the analysis required under proposed subsection (C)(4) occurs if necessary. A cross reference to 40 CFR 51 Appendix W modeling protocols has been added at USEPA’s request.²⁸⁴

1302(B)(1)(a)(ii) – This provision has been reworded for clarity and duplicate provisions have been removed.

1302(B)(1)(a)(iii) – Added a provision requiring a PSD analysis if such is necessary.

1302(B)(1)(a)(iv) – Added a provision allowing the District to request additional information in an application if such becomes necessary.

1302(B)(1)(b) – This subsection has been substantially reworded for clarity. Provisions regarding former Rule 1310 have been removed.²⁸⁵

²⁸³ Butte County APCD, Rule 432 – *Federal New Source Review*, 4/24/2014, Section 4.45,

²⁸⁴ USEPA Letter of 12/19/2019, Comments 1.1.1.b., 1.1.3.a., and 3.4.

²⁸⁵ USEPA Letter of 12/19/2019, Comment 1.3.1.

1302(B)(1)(c) – Provisions regarding Mandatory Federal Class I Area relating to visibility have been clarified to avoid confusion with the PSD requirements involving Federal Class I Area(s).²⁸⁶ Please see explanation regarding proposed Rule 1301(O), (DD), and (NN), above. In addition, Plantwide Applicability Provisions have been removed as unnecessary as such provisions were never used.

1302(B)(1)(d) – Added specific requirements necessary for PSD analysis. A cross reference to 40 CFR 51 Appendix W modeling protocols has been included at USEPA’s request.²⁸⁷

1302(B)(1)(e) – A provision requiring confidential information to be clearly identified has been added to conform with subsection (D)(3)(c).

1302(B)(2)(a) – Transmission of the determination of completeness “immediately” has been changed to 10 working days so provide a definitive time limit for such transmission.

1302(B)(2)(a)(ii) – A provision is added to require a completeness determination with a PSD component to be transmitted to USEPA.

1302(B)(2)(a)(iii) – A provision requiring a notification and a copy of the application to USEPA and Federal Land Manager when an application contains visibility impacts for NSR or PSD or both has been moved from former Rule 1302(B)(2)(c).²⁸⁸ Once again please note that Federal Class I Area is the term with the larger number of potentially applicable areas thus this reference will cover both the PSD requirements and the NSR requirements related to Mandatory Federal Class I Area(s).²⁸⁹

1302(B)(2)(b) – A provision referencing the next step in the process has been added for consistency in formatting.

1302(B)(2)(c) – Provisions regarding the next step when no additional analysis is necessary have been modified for clarity.

Former 1302(B)(2)(c) – This provision has been moved.

1302(B)(3) – This section has been modified for clarity.

1302(B)(4) – Cross references to the Complex Source Evaluation fee has been added.

²⁸⁶ USEPA Letter of 12/19/2019, Comments 1.3.1 and 2.1.

²⁸⁷ USEPA Letter of 12/19/2019, Comments 1.1.1.b. and 2.1.

²⁸⁸ USEPA Letter of 12/19/2019, Comment 2.1.

²⁸⁹ Proposed Rules 1301(O) and (DD)

1302(C)(1) – The word “type” as referencing pollutants has been replaced with this phrase “specific pollutants” for clarity.²⁹⁰ The provisions referencing Rule 1310 have been removed.

1302(C)(2) – This entire subsection has been reorganized to more closely reflect the formatting and order of later provisions.

1302(C)(2)(c) – This area formerly contained a differentiation between applications proposing to use SERs and those which did not. As Proposed Rule 1304 calculation procedure has been modified to shift the use of SERs to the Net Emissions Increase Calculation, as opposed to their current use in applicability determinations, this distinction is no longer necessary. The provision has also been modified to clarify that SERs are not technically reductions in Potential Emissions but instead used as part of the Net Emissions Increase Calculation.

Please note that USEPA is also concerned about confusion between the term SER and Significant Emissions Rate, also abbreviated SER, as used in PSD regulations.²⁹¹ Given the widespread familiarity by regulated industry within the District with the abbreviation of SER standing for Simultaneous Emissions Reduction and the low potential for use of the term Significant Emissions Rate the AVAQMD has opted to retain its current acronym. Any future use of the term in the PSD context will be spelled out completely.

1302(C)(2)(d) – Provisions regarding engineering analysis document, BACT requirements and reference to the next step in the analysis process has been provided.

Former 1302(C)(2)(b) – Procedural provisions regarding PSD have been relocated to subsection (D)(5)(b)(iv).

1302(C)(3) – This entire provision has been moved and modified from former subsection (C)(5). The notes below indicate changes from original wording in that subsection. This move streamlines the analysis process.

1302(C)(3)(a) – The word “type” as referencing pollutants has been replaced with this phrase “specific pollutants” for clarity.²⁹²

1302(C)(3)(b) – This provision contains changes to conform with USEPA regulations and guidance regarding implementation of FCAA §173(a)(1)(A) (42 U.S.C. §7503(a)(1)(A)).²⁹³ The current wording was heavily influenced by a

²⁹⁰ USEPA Letter of 12/19/2019, Comment 1.3.1.

²⁹¹ USEPA Email, L. Yannayon to K. Nowak, *Re: Notices in 1302, 8/4/2020 (USEPA Email of 8/4/2020)*, Attached File 1302 DD4 2020 13 Jul + EPA

²⁹² USEPA Letter of 12/19/2019, Comment 1.3.1.

²⁹³ 40 CFR 51.165(a)(3)(ii)(C)(1-2); USEPA Memo, J. Seitz, Director Office of Air Quality Planning and Standards to D. Howekamp, Director Region IX, Air and Toxics Division, *Response to Request for Guidance on Use of Pre-1990 ERC's and Adjusting for RACT at Time of Use*, 8/26/1994.

USEPA comment letter of 3/10/1995.²⁹⁴ Minor wording changes to better reflect proposed language changes in Rule 1304 and Rule 1305 have also been provided.

1302(C)(3)(b)(ii) - Please note that the term “Offsets” in this subsection primarily refers to ERCs. However, pursuant to proposed Rule 1305(C)(2) SERs may be used directly as offsetting emissions reductions instead of being used to reduce Net Emissions Increases under proposed Rule 1304(B)(2).²⁹⁵

1302(C)(3)(b)(iii) – 1310 cross references have been removed due to the proposed deletion of Rule 1310.²⁹⁶

1302(C)(3)(b)(iv) and (v) – Use of defined terms allows simplification of requirements.

Former provisions of Rule 1302(C)(4) have been removed as unnecessary due to the deletion of Rule 1310.²⁹⁷

1302(C)(4) – Stack height analysis provisions and requirements²⁹⁸ are proposed to be added pursuant to USEPA’s request. While there are currently no stacks in the District that are subject to this provision it is provided to meet a mandatory regulatory element. Please note that the applicable regulations require full 30-day notice and comment for these provisions and therefore a cross reference to proposed subsection (C)(7)(a)(i) is provided.²⁹⁹ Use of defined terms in proposed Rule 1301 eliminates need for federal regulatory cross references.³⁰⁰

1302(C)(5) – Revised to match formatting of other provisions and to correct cross references. Language added pursuant to USEPA request excluding this provision from the SIP.

Former 1302(C)(5) – Provisions moved to subsection (C)(3).

1302(C)(6) – Provisions added regarding PSD analysis and cross reference to Rule 1700.³⁰¹ Provisions designed to match formatting of previous sections.

1302(C)(7) – This entire subsection has been extensively reworked to create four levels of notice: Major NSR Notice, Toxic NSR Notice, Minor NSR Notice and Permit Issuance Notice. Language has been standardized across various

²⁹⁴ USEPA Letter, M. Haber to C. Fryxell, 3/10/1995, MDAQMD *Final Staff Report Regulation XIII – New Source Review 3/25/1996*, Appendix C Pages C-4 ¶2 and C-5 ¶4.

²⁹⁵ USEPA Letter of 12/19/2019, Comment 1.2.2.a.5.

²⁹⁶ USEPA Letter of 12/19/2019, Comments 1.3.1. and 3.3.

²⁹⁷ USEPA Letter of 12/19/2019, Comment 1.3.1.

²⁹⁸ 40 CFR 51.164 and 51.118.

²⁹⁹ USEPA Letter of 12/19/2019, Comment 1.1.3.a.

³⁰⁰ Proposed Rule 1301(T), (BB), (HH), (TT) and (XXX).

³⁰¹ USEPA Letter of 12/19/2019, Comment 1.3.1.

subsections. The specific subsections themselves are also reorganized to reflect the order of the analysis performed earlier in subsection (C).

1302(C)(7)(b) - Major NSR Notice is required in the following situations: If offsets are necessary pursuant to Rule 1303(B), If the stack height analysis from Rule 1302(C)(4) has been performed, If Rule 1700 PSD requirements apply, or the action involves the issuance, renewal or significant modification of a Federal Operating Permit. The proposed language adds the stack height analysis requirement and clarifies that only Federal Operating Permit issuance, renewal or significant modifications require this level of notice. A generalized reference to subsection (D) is provided, as opposed to a more specific reference, as that subsection provides specific requirements for distinct situations which may apply to multiple notice levels.³⁰²

1302(C)(7)(c) – Toxic NSR Notice applies when there is notice required pursuant to the provisions of Rule 1401. The provision is designed such that the notice can be either performed separately or included in the normal noticing procedure. Language has been added at the request of USEPA to exclude this subsection from the SIP.³⁰³

1302(C)(7)(d) – Minor NSR Notice has been added. The threshold levels are expressed as numbers for ease of use. A “backstop” provision set at 80% of any applicable nonattainment Major Facility threshold is retained to cover the unlikely situation involving the District being designated nonattainment for any additional pollutants.³⁰⁴ Justification for these thresholds may be found in Section VI. D. above.

The Hazardous Air Pollutant thresholds match those found in the Title V, Federal Operating Permit Program.³⁰⁵ The addition of emissions increases exceeding the Federal Significance Level for Regulated Air Pollutants to this level of notice will ensure that Minor NSR Notice will occur in cases where a Facility may not be required to do anything under the PSD provisions of Rule 1700 but is none the less Significant as defined in 40 CFR 52.21(b)(23). Please note, however, that any nonattainment pollutant increase larger than the significance level within the AVAQMD will automatically be larger than the thresholds found in Rule 1303(B) and thus require Major NSR Notice.

1302(C)(7)(e) – Permit Issuance Notice occurs when none of the other notice provisions apply. Please note that this notice will include publication on the District’s website on the District’s website with available access to the underlying analysis documents.³⁰⁶

³⁰² USEPA Letter of 12/19/2019, Comments 1.1.2.b., 1.1.3.a., and 1.3.1.

³⁰³ USEPA Letter of 12/19/2019, Comment 1.3.3.

³⁰⁴ USEPA Letter of 12/19/2019, Comment 1.1.2.b.

³⁰⁵ Regulation XXX – Title V Permits.

³⁰⁶ Proposed Rule 1302(D)(3)(iii).

1302(D)(1)(b) – A slight terminology change has been provided. “Denial” is used to reference a negative final outcome for a permitting action. “Disapproval,” is used to reference the preliminary action taken by the District when a denial is ultimately contemplated. The preliminary determination technically constitutes both the engineering evaluation and a draft permit language.³⁰⁷

1302(D)(1)(c) – Provisions regarding combining the NSR preliminary decision with a PSD document and/or a Title V Permit action have been added to allow such documents to be performed concurrently if the applicant so wishes.

1302(D)(2)(a) – Provisions regarding providing the application to the Federal Land Manager have been deleted as duplicative as such requirement is already provided in proposed subsection (B)(2) along with inclusion in the list of entities requiring notice in proposed subsection (D)(3)(a)(i). Please also note the provisions regarding comments received, if any, from the Federal Land Manager in proposed subsection (D)(2)(d).

1302(D)(2)(b)(i) – To obtain enhanced NSR certification³⁰⁸, allowing Federal Operating Permit changes to be issued concurrently with NSR, the notice and comment period for USEPA must be 45 days. This provision was added to specify that time period.

1302(D)(2)(d) – While certain elements in this section are not technically required, which agencies are notified are coordinated and consolidated with the three main levels of notice for ease of use.³⁰⁹ In effect, this means that the Federal Land Manager will receive an extra notice in a few situations while CARB would receive such additional notice in others.

1302(D)(2)(e) – This section has been added pursuant to USEPA request to allow for additional review if and when Mobile, Area, Indirect or Interpollutant offsets are used.³¹⁰ Please note limitations on use of Mobile, Area, and Indirect Offsets to those calculated by a SIP approved calculation rule as found in proposed Rule 1305(C)(3). Please also see the notation in proposed Rule 1305(C)(6) regarding the current viability of interpollutant offsets.

1302(D)(3) – This provision has been reorganized for clarity to differentiate between the recipients and publication requirements for particular types of notice and the contents of said notices. It has also been revised to coordinate with the threshold levels contained in proposed subsection (C)(7). Please note that “send” as used in this subsection may be accomplished by a variety of methods including but not limited to USPS and Email.

³⁰⁷ Proposed Rule 1302(D)(1); AVAQMD Webpage, Permitting Public Notices, <https://avaqmd.ca.gov/public-notices-advisories>.

³⁰⁸ 40 CFR 70.7(d)(1)(v).

³⁰⁹ USEPA Letter of 12/19/2019, Comment 2.1.

³¹⁰ USEPA Letter of 12/19/2019, Comment 1.3.1.

1302(D)(3)(a)(i)b. – Shifts Major NSR and Toxic NSR notice from newspaper publication to website publication³¹¹ pursuant to changes detailed in the USEPA public noticing regulations³¹² and CARB guidance.³¹³

1302(D)(3)(a)(i)c. – While partially duplicative of requirements in (D)(2)(a) this provision specifies the list of all entities to be notified under Major NSR for ease of use. Toxic NSR notice is included, despite the fact that certain entities on the list are not required to have such notice, to consolidate the number of notification lists into three discreet types.³¹⁴ A cross reference to the Clerk of the Board as the official “keeper” of the list of persons requesting notice has been removed as that task has been assigned to a variety of different personnel over time.

1302(D)(3)(a)(i)d. – Provision partially deleted to conform with provisions regarding electronic notification.³¹⁵

Former Rule 1302(D)(3)(a)(ii) – Provisions regarding contents of particular types of notice have been relocated to proposed subsection (D)(3)(b).

1302(D)(3)(a)(ii)b. – While Minor NSR Notice is currently provided via website without a specific rule reference a provision requiring such notice and that the notice be viewable for the entire duration of the comment period has been added.³¹⁶

1302(D)(3)(a)(iii) – A provision has been added regarding posting the final permit on the District’s website for those actions which do not require either Major NSR Notice or Minor NSR Notice.

1302(D)(3)(b) – The provisions regarding the contents of each type of notice have been separated into their own subsection.

1302(D)(3)(b)(i) – A provision requiring comment procedures to be set forth in Major NSR Notice has been added along with a specific 30-day comment period, and a cross reference to the District Hearing Board review provisions. In addition, a specific notation regarding the ability to request a public hearing has been delineated for permit actions when stack height exceeds Good Engineering Practices; the degree of increment consumption for PSD; Federal Operating Permit issuance, renewal or Significant Modifications; and visibility impacts on a Federal Class I Area.³¹⁷ Each content item has been separated for ease of use, checklist fashion.

³¹¹ USEPA Letter of 12/19/2019, Comment 1.1.2.a.

³¹² 81 FR 71613, 10/18/2016.

³¹³ CARB, Advisory 299, *Air District New Source Review Rules Regarding Electronic Notice*, July 2018.

³¹⁴ Colloquially referred to as the “Big List” the “Small List” and “Website Only.”

³¹⁵ USEPA Letter of 12/19/2019, Comment 1.1.2.a.

³¹⁶ USEPA Letter of 12/19/2019, Comment 1.1.2.a.

³¹⁷ USEPA Letter of 12/19/2019, Comments 1.1.2.b., 1.1.3.a., and 2.1.

1302(D)(3)(b)(ii) – A provision requiring a specific 30-day notice and comment period has been added to Minor NSR Notice along with a requirement to include an explanation of comment procedures.³¹⁸ Once again, each content item has been separated for ease of use.

1302(D)(3)(c) – Provisions in this section have been consolidated and reworked so as to not duplicate items already required to be included pursuant to the notice provisions.

1302(D)(3)(d) – This subsection originally overlapped with former subsection (e). The two sections have been consolidated.

Former Rule 1302(D)(3)(d) – Provisions have been combined with subsection (D)(3)(d).

1302(D)(3)(e) – A specific provision regarding public hearing requests has been added.

1302(D)(3)(h) – A provision regarding availability of documents pursuant to the California Public Records Act has been added.

1302(D)(4)(b) – Wording has been revised slightly to clarify that the final action is the issuance of the permits not the approval of the NSR Document since the NSR Document contains not only the draft permits but also backup analysis and notice documentation.³¹⁹

1302(D)(4)(f) – A provision requiring NSR Documents to be available for 5 years has been added.³²⁰ Please also note that current District records retention policy requires these records to be retained until a minimum of 5 years after ALL the permits for the related Facility have been canceled, expired, surrendered AND any ERCs banked from that Facility have been used. On a practical matter, Facility records tend to be kept indefinitely due to multiple requests from land use agencies and title companies regarding what may have been historically located at a particular site.

1302(D)(5)(a)(iv) – Provision reiterating proposed Rule 1305 requirement that offsets are to be obtained prior to commencement of construction is added.

1302(D)(5)(b) – While this section prohibiting the APCO from issuing permits in certain circumstances is in part duplicative with requirements in other sections it

³¹⁸ USEPA Letter of 12/19/2019, Comments 1.1.2.a. and 1.1.2.b.

³¹⁹ USEPA Letter of 12/19/2019, Comment 3.3.

³²⁰ AVAQMD Governing Board Policy 13-01 – Requests for Inspection and/or Copying Public Records, 3/19/2003. See also: MDAQMD Governing Board Policy 93-2 *Provision and Retention of Public Records*, 2/25/2019; MDAQMD Standard Practice 4-5, 12/10/2019 as MDAQMD provides services by contract for AVAQMD and thus the MDAQMD documents regarding retention control.

has been retained as a final review and cross-check to ensure that those requirements have been met.

1302(D)(5)(b)(ii) – Language regarding modifications to permits and other necessary activities required under proposed Rule 1309 and/or 1305 has been broadened to ensure that no required activities are inadvertently omitted.

1302(D)(6)(a) – Standardization of language and use of defined terms has been added throughout this subsection.

4. Proposed Amended Rule 1303 – *New Source Review Requirements*

1303(A)(1) and (2) – While these provisions are not proposed for modification it must be noted that these requirements are derived from H&S Code §40918(a)(1). Please also note that Rule 219(B)(4) allows the APCO to require a permit for any Emissions Unit if there is a requirement that needs to be fully enforceable. That provision includes any Federal, State or District requirement including those contained in this regulation.

1303(A)(3) – Language has been shifted to match formulation of (A)(1) and (A)(2). Provisions are clarified such that the BACT requirement specific in regards to all new or Modified Permit Units at a Major Facility. Also clarifies that BACT is triggered by Major Facility (greater than the 1303(B)(1) threshold) status not as a flat 25 tpy of a Nonattainment Air Pollutant.

1303(B)(1) – This provision remains unchanged as a Facility based threshold to avoid inadvertently creating a situation which might be construed as a “back-off.”³²¹ Please note that this requirement is a mandate which applies when there is any of the following: An existing (pre-modification) Major Facility, A New Facility with PE > threshold, and any Facility where the post-modification emissions > threshold amounts regardless of the specific situation triggering the emissions increase over the threshold. This means that even if there happens to be no specific physical change, such as modifying a permit limit, and the potential emissions are greater than the threshold then this provision will apply.

Additionally, when this subsection is triggered the calculations pursuant to proposed 1304(B)(2) will need to be performed to determine the initial base quantity of offsets which are needed. In a few cases this will result in the initial emissions change calculation pursuant to proposed 1304(B)(1) resulting in an offset requirement being triggered but when the Net Emissions Increase calculation is performed pursuant to proposed 1304(B)(2) the amount of offsets will be 0 and the resultant emissions limitation as expressed on the permits will result in the Facility as permitted remaining a Minor Facility.

1303(B)(1) Table – Please note that the PM₁₀ offset threshold for the District is much less than not only the Federal Moderate Nonattainment PM₁₀ threshold but also the PSD threshold. For an explanation of the origin of this threshold please

³²¹ H&S Code §§42500 et seq. (SB 288 of 2003, Ch 467); FCAA §110(l), 42 U.S.C. §7410(l).

see Section VI. A. 6. above. Attainment pollutants have been removed from the table as it applies to only nonattainment pollutants. PM₁₀ remains on the table as the AVAQMD is State nonattainment for this pollutant.

1303(B)(3) – Additional language has been added indicating the timing for calculating the Offset burden and BACT when a minor Facility becomes Major due to an increase in a previous permit limitation that kept the Facility as a synthetic minor facility.³²² Please also note that USEPA has indicated that while the FCAA language requires LAER, California BACT is in effect equivalent to the Federal LAER requirement.³²³

1303(B)(4) – Provision language has been clarified to avoid the use of the word “type” at USEPA’s request.³²⁴

5. Proposed Amended Rule 1304 – *New Source Review Emissions Calculations*

In general, Rule 1304 is being revised to include all necessary calculational provisions and Simultaneous Emissions Reductions (SER) provisions leaving offset related provisions in proposed Rule 1305.

1304(A)(1)(a)(ii) – Provision has been reworded to conform with shift in the position of SER use in the calculations. Original calculations used SERs in determining emissions change for both applicability and offset amount calculations. Revisions are proposed to shift SER use to only offset amount calculations.

1304(A)(1)(a)(iv) – Provision is added to provide a cross reference regarding calculation of terms used in proposed Rule 1305 so that all calculation methods will be contained in Rule 1304.

1304(B) – This section has been reorganized to create two distinct calculation methodologies, one relating to applicability determinations and the other relating to offset amount determinations.

1304(B)(1) – While the initial calculation of emissions change remains the same please note that the new provision regarding project emissions change only includes positive emissions changes excluding reductions caused by SERs. Provisions for calculating project level emissions changes are provided in proposed 1304(B)(1)(b). This will be used to determine the applicability of the provisions of proposed Rule 1303. SERs will be applied in the Net Emissions

³²² USEPA Letter of 12/19/2019, Comment 1.2.2.d.

³²³ USEPA, Email of 2/28/2020 attachment titled 02-28-20 Initial EPA Response to MDAQMD Letter Dated January 28

³²⁴ USEPA Letter of 12/19/2019, Comment 1.3.1.

Increase calculations and be used to determine the base amount, if any, of offsetting emissions reductions needed.

1304(B)(2) – This provision, while similar to proposed Rule 1304(B)(1) includes a specific calculation for both new Facilities and projects. Net emissions increase calculations include reductions created by SERs.

1304(C) – Consolidates all SER related provisions into proposed Rule 1304. Provisions are primarily unchanged. The only exception that the use of potential to emit as historic actual emissions when such PTE was fully offset in a prior permitting action is moved from its former location in Rule 1304(D)(2)(a)(iv) into proposed

1304(C)(2)(d). This provision has been moved from 1305(B)(2)(b)(i) and consolidated with former Rule 1304(E)(2)(a)(iv). This provision allows fully offset PTE to be used as HAE in certain specified instances. This subsection also specifies that the change must be an emissions decrease as well as providing that any unused or excess SERs may not be banked pursuant to Rule 1309. Please note that the only time this subsection may be used is when an SER is being created at an existing Major Facility. Please also note that SERs by definition must be created in the same permitting action in which they are used.

1304(C)(4) – These provisions are moved from former Rule 1305(B)(2) with only minor changes for consistency in formatting.

1304(C)(4)(c) – USEPA’s Comment 1.2.2.a.2.³²⁵ requested the removal of Shutdowns of unpermitted units to create SERs. Please see Section VI. E. 3. above for a complete explanation of the rationale for this change.

1304(C)(5) – This provision is modified to reflect the change in use of SERs to the Net Emissions Increase calculation or directly as offsets under the provisions of 1305(C)(2).

1304(D) – This subsection has been modified to match similar provisions elsewhere in proposed 1304.

1304(E) - These terms have all been adjusted to match their 1301 Definitions.³²⁶

1304(E)(1) – These provisions have been consolidated with the provisions of former Rule 1305(E)(2) and former Rule 1304(E)(1)(b) for clarity and to avoid duplication.

1304(E)(2) – The current calculation of PTE includes “banked emissions” but the calculation of HAE does not. To avoid miscounting, such banked emissions

³²⁵ USEPA Letter of 12/19/2019

³²⁶ Proposed Rule 1301(JJ), (GGG) and (III).

would either need to be included in both or excluded in both. The District has chosen to exclude such banked emissions from both calculations.

Former Rule 1304(E)(2)(a)(iv) - This provision is moved to proposed Rule 1304(C)(2)(d) as the only time it is used is in the context of SERs.

1304(D)(3) – This provision has been modified to refer to Emissions Units to conform with proposed Rule 1301. The provision including “banked emissions” has been removed as explained under proposed 1304(D)(2) above. Fugitive emissions have been added to conform with proposed Rule 1301 definitions and Rule 1302 procedural requirements. In addition, the provisions regarding “banked” ERCs have been removed as in order for them to be properly reflected in calculations they would also need to be included in Proposed Emissions which would not change the ultimate calculations one way or another.

6. Proposed Amended Rule 1305 – *New Source Review Offsets*

The primary changes to proposed Rule 1305 involve reformatting and moving the SER and calculation provisions to proposed Rule 1304.

1305(A)(1)(a) – Provisions have been revised to reflect the change in rule focus.

1305(B) – This former subsection (A)(2) has been renumbered to conform to standard formatting.

1305(B)(1) – This subsection has been modified to reflect the fact that offset ratios are not applied until proposed Rule 1305(B)(3) and (4).

1305(B)(2) – This subsection has been reorganized to give each potential offsetting situation its own subset. Please note that unlike under Federal provisions any time a Facility becomes a Major Facility, regardless of the reason or method, offsets are required to a greater or lesser degree under the AVAQMD rules. Please also note that a Major Modification to a Minor Facility will, by mathematical operation result in that Minor Facility becoming Major and thus offsets will apply. Due to the restructuring of proposed Rule 1304 upon occasion a Minor Facility will modify and become Major (acquiring BACT on everything new or modified under proposed 1303(A)(3)) but due to the application of SERs end up with an offset amount of 0 and have a PTE as modified of less than the Major Facility threshold and therefore revert to Minor Facility status.

1305(C) – This provision has been renumbered with minor changes. Requirements that ERCs be Real, Surplus, Permanent, Quantifiable and Enforceable have been added as a backstop to Rule 1304 and 1309 provisions.

Former Rule 1305(B)(1)(b) has been removed as no longer necessary as the provisions for SERs have been moved into proposed 1304.

1305(C)(2) – This section is retained in a truncated form. While SERs will now mostly be used in conjunction with determination of Net Emissions Increase under proposed 1304(B)(2) there may be an occasion where a Facility may wish to use SERs directly as offsetting emissions reductions. Once again, the proposed language reiterates that any excess SERs cannot be banked pursuant to Rule 1309.

Former Rule 1305(B)(2)(a) provisions have been moved to proposed rule 1304(C).

1305(C)(3) – This provision combines former Rule 1305(B)(3)(a-c) into one section to cover all Mobile, Area, and Indirect source offsets as the main provisions involved were identical. A provision is added pursuant to USEPA's request regarding any calculations for these types of offsets be performed pursuant to a SIP approved calculation rule.³²⁷ Such calculation rules would be placed in Regulation XIV – *Mobile Source Offsets* when adopted.

1305(C)(4) – The provisions in this subsection have been reorganized and the cross references to 1310 have been removed.³²⁸

1305(C)(5) – The provisions in this subsection have also been reorganized and the 1310 cross references have been removed.

1305(C)(6) – The 1310 cross references have been removed from this subsection. Due to a recent court decision³²⁹ the validity of these offsets is now in question. Thus, the MDAQMD is choosing to leave this section unchanged despite USEPA's Comment 1.2.2.e. regarding additional protocols necessary to make a case-by-case determination of an interpollutant offset ratio until such time as the issue is fully resolved.

1305(D) Table – This table has been revised to remove attainment pollutants leaving only nonattainment pollutants and their precursors. A conforming language change from ROC to VOC has also been made.

Former 1305(D) has been removed. This provision only applied to attainment pollutants and is now covered by the provisions of Rule 1700.³³⁰

Former 1305(E) has been removed as all term calculations are now contained in proposed Rule 1304(D)

7. Proposed Amended Rule 1306 – *New Source Review for Electric Energy Generating Facilities*

³²⁷ USEPA Letter of 12/19/2019, Comment 1.3.1.

³²⁸ USEPA Letter of 12/19/2019, Comment 1.3.1.

³²⁹ *Sierra Club et al. vs. USEPA*, 985 F.3d 1055 (D.C. Cir., 1/29/2021).

³³⁰ This provision was originally added presumably to provide conformance with provisions of 40 CFR 51.165(f)(4)(iii), (k), (m)(1)(iii) and (s)(2)(iv)(a) as well as 40 CFR 52.21(k).

The primary changes to this rule are to conform citations to reflect changes in other rules. In addition, language has been added to (B)(2)(a) referencing “as in existence” date pursuant to USEPA standard request for citations to state law and regulation.

8. Proposed Amended Rule 1309 – *Emission Reduction Credit Banking*

The primary changes to this rule are to update cross references and to conform provisions to standardized format.

1309(A)(2) – This provision has been slightly modified to reflect the fact that proposed Rule 1305 covers the use of offsets while proposed Rule 1304 covers the base calculations. Proposed rule 1309 is primarily procedural in nature covering the transactions involving placing and removing ERCs in the ERC Registry.

1309(A)(3) – A double negative language formulation has been removed.

1309(B)(1)(b) – While this subsection remains substantively unchanged it must be noted that references to “expired” and “expiration dates” primarily are references to ERCs generated from mobile emissions reductions.

1309(B)(1)(d) – While this provision remains unchanged it must be noted that even though ERCs which have been banked retain their value regardless of changes in underlying laws such ERCs when used would be required to be “adjusted” pursuant to proposed Rule 1305(D) specifically the RACT upon use requirement in subsection (D)(4). As underlying prohibitory rule changes are often driven by shifts in RACT values such ERCs could very easily be substantially discounted when used.

1309(B)(1)(e) – Provisions requiring that emissions reductions be Real, Surplus, Permanent, Quantifiable and Enforceable prior to be placing in the ERC Registry have been added for additional enforceability. A cross reference to Regulation XXX has been removed as all Title V Facilities not only have a Title V permit but also carry state level permits. A cross reference to Rule 1305 has been shifted to reference the entire regulation as offsetting emissions reductions are governed by multiple provisions in multiple rules.

1309(B)(2)(b) – Language has been shifted to avoid used of the word “type” pursuant to USEPA preference.³³¹

1309(C)(1)(d) – Language has been revised to reflect the fact that technically all permits are issued under Regulation II regardless of the amount of analysis required under other District Rules.

³³¹ USEPA Letter of 12/19/2019, Comment 1.3.1.

1309(C)(1)(f) – Provisions regarding confidentiality of information have been conformed to similar provisions in proposed Rule 1302(D)(3)(c)(iii).

1309(C)(5) – Notice provisions have been reworded slightly to conform with similar notice language in proposed Rule 1302(D)(3).

1309(D)(3) – This subsection has been reworked as a backstop provision to proposed Rule 1304 to ensure that ERCs are properly granted.

1309(D)(3)(c) – This provision removes the ability for generation of ERCs from the shutdown of unpermitted emissions units as unenforceable conforming to provisions in proposed Rule 1304(C)(4)(c). This provision also contains the ability to enforce emissions reductions by contract. Such contracts generally would be only used rarely for unusual situations such as parking lot/access road paving, pile management or other items where a permit is not really effective. In such cases the contract and its conditions are referenced on the permit for a related Permit Unit as an additional safeguard.

1309(G) – This section considers the granting of ERCs to be a “permit decision” and thus appealable pursuant to H&S Code §42302.1. A provision has been added to clarify this.

9. Rescission of Rule 1310 – *Federal Major Facilities and Federal Major Modifications*

Please see explanation for removal of this rule in subsection VI. A. 4. above.

10. Proposed Amended Rule 1401 – *New Source Review for Toxic Air Contaminants*

Most changes to this rule are to conform citations to reflect changes in other rules and for internal consistency.

1401(A)(2) – This provision has been added to indicate that the rule is not intended and will not be submitted as a SIP revision.

1401(B)(1)(a)(i) – The term Permit Unit has been changed to Emissions Unit in this subsection to conform with changes to proposed Rule 1300.

11. Proposed Amended Regulation XVII – *Prevention of Significant Deterioration (PSD)*

Rules 1701, 1702, 1703, 1704, 1706, 1710 and the Appendix are proposed for deletion. They are to be replaced with proposed Rule 1700 which adopts the provisions of 40 CFR 52.21 by reference. There are a few terminology changes made to avoid confusion with other District Rules however, this change should allow the AVAQMD to receive PSD delegation if and when it is desired.

H. SIP HISTORY AND ANALYSIS

The original air district for the Antelope Valley region was the Los Angeles County APCD³³² that had a jurisdiction covering the entire County of Los Angeles. In 1975, the Southern California APCD, a joint powers authority that had a jurisdiction covering all of the counties of Los Angeles, Orange, Riverside and San Bernardino, was created. The South Coast Air Quality Management District (SCAQMD) came into existence pursuant to statute on February 1, 1976 and originally covered only the areas within South Coast Air Basin (SCAB).³³³ The legislation was thereafter amended to allow non-SCAB areas to “opt in”. Los Angeles County exercised this option and thus the Antelope Valley became a part of SCAQMD. On July 1, 1997 the Antelope Valley Air Pollution Control District (AVAPCD) replaced the SCAQMD as the agency with jurisdiction over the Los Angeles County portion of the Mojave Desert Air Basin (MDAB).³³⁴ On January 1, 2002 the AVAPCD was replaced by the AVAQMD.³³⁵ Pursuant to both statutory changes, the rule and regulations of the predecessor district were retained until the Governing Board adopted, amended or rescinded them. At the first meeting of the both the AVAPCD and the AVAQMD, the respective Governing Boards reaffirmed all the rules and regulations in effect at the time the agency changed.

The jurisdiction of the AVAPCD and the AVAQMD were specified in the statutes as the portion of the Los Angeles County contained within the MDAB. The MDAB was formerly known as the Southeast Desert Air Basin (SEDAB). In 1997 the SEDAB was split into the MDAB and the Salton Sea Air Basin. Descriptions of these air basins can be found in 17 Cal. Code Regs. §60109 and §60144. Since USEPA adopts SIP revisions in California as effective within jurisdictional boundaries of local air districts, when the local air district boundaries change the SIP as approved by USEPA for that area up to the date of the change remains as the SIP in that particular area. Thus, upon creation of the AVAPCD on July 1, 1997 the AVAPCD acquired the SIP applicable to the Antelope Valley portion of the SCAQMD that was effective as of June 30, 1997. Likewise, the AVAQMD acquired the SIP that was effective in the jurisdiction of the AVAPCD as of December 31, 2000. Therefore, the SIP history for this region is based upon the rules adopted, effective, and approved for the Antelope Valley by SCAQMD.

Regulation XIII was originally adopted by SCAQMD on 10/5/1979 as part of its nonattainment planning efforts and amended several times.³³⁶ After a variety of proposed disapprovals and partial approvals³³⁷ the rules of Regulation XIII as submitted by CARB on 9/8/1980³³⁸ were placed into the SIP for the SEDAB portion of Los Angeles County.³³⁹ SCAQMD continued to amend various rules of Regulation XIII³⁴⁰

³³² This entity was originally formed in the 1950's.

³³³ H&S Code §§41400 et seq.

³³⁴ Former H&S Code §40106(e); Stats. 1996 Ch. 542, section 1

³³⁵ H&S Code §§41300 et seq.

³³⁶ Specifically, various rules of Regulation XIII were amended 3/7/1980 and 7/11/1980.

³³⁷ 45 FR 21271, 4/1/1980; 46 FR 5965, 1/21/1981; 46 FR 30355, 6/8/1981; 47 FR 25013, 6/9/1982.

³³⁸ Presumably this was the version of Regulation XIII as adopted 7/11/1980.

³³⁹ 40 CFR 52.220(c)(68)(i); 52.220(c)(70)(i)(A); and 52.220(c)(87)(v)(A).

³⁴⁰ Specifically, various rules of Regulation XIII were amended on 9/10/1982, 7/12/1985, 8/1/1986, 12/2/1988, 6/28/1990, 5/3/1991, 12/7/1995, 5/10/1996 and 6/14/1996.

up until the AVAQMD was formed. While many of these amendments were submitted as SIP revisions USEPA did not act on any of these rules until 12/4/1996 when it approved the and 6/14/1996 versions³⁴¹ into the SIP.³⁴² The AVAPCD and its successor the AVAQMD subsequently amended Regulation XIII on 3/20/2001 and 8/15/2006. These versions were submitted as SIP revisions but have not been acted upon by USEPA. Therefore, the SIP version of Regulation XIII for the AVAQMD is the 1996 version as adopted by SCAQMD.

Rule 1401 – New Source Review for Toxic Air Contaminants has never been, and is not intended to be a SIP submission.

Regulation XVII – Prevention of Significant Deterioration was originally adopted by SCAQMD on 10/7/1988 and thereafter amended on 1/6/1989. While both versions were submitted as SIP revisions USEPA did not take any action on the submission. It must be noted, however, that USEPA did delegate portions of the PSD program implementation to SCAQMD via some sort of agreement. That agreement did not carry over to the AVAQMD upon its formation in 1997 even though the rules used to implement the agreement became AVAQMD rules pursuant to statute. This means that while the AVAQMD has PSD rules in its rulebook it does not have the delegated authority from USEPA to implement the program.

Given the above the AVAQMD is requesting that CARB submit the current amendments as a SIP revision and request the following specific actions:

- Request that USEPA act to approve Regulation XIII and Rule 1700 as amended into the SIP for the AVAQMD.
 - Request that USEPA either specifically find that the AVAQMD’s New Source Review program as amended meets or exceeds the FCAA requirements for purposes of complying with the requirements arising from the nonattainment designation of a portion of the MDAQMD under the 2015 O₃ NAAQS or indicate, with full and complete technical and legal justification, why it does not do so.
- Request that USEPA certify the AVAQMD’s New Source Review program as meeting the requirements of 40 CFR 70.7(d)(1)(v) as an “Enhanced NSR” program and specifically delegate the ability to the MDAQMD to perform Federal Operating Permit (Title V) modifications concurrently with NSR review if requested to do so by the applicant.
- Request that USEPA delegate authority for the AVAQMD to implement the Prevention of Significant Deterioration program or indicate, in writing with specific actionable steps, regarding how such delegation can be obtained.

³⁴¹ While most of the Rules in Regulation XIII were amended 5/3/1996, Rules 1304 and 1306 were subsequently amended on 6/14/1996.

³⁴² 61 FR 64291, 12/4/1996

- Request that USEPA remove all remaining previous versions of the NSR programs from the SIP specifically, 40 CFR 52.220(c)(68)(i); 52.220(c)(70)(i)(A); 52.220(c)(87)(v)(A) and 52.220(c)(240)(i)(A)(1) as it relates to the jurisdiction of the AVAQMD.
- CARB should indicate in its submission that the SIP submissions of the amendments to AVAQMD Regulation XIII as amended 3/20/2001 and 8/15/2006 and previously submitted are withdrawn.
- CARB should indicate in its submission that the SIP submission of Regulation XVII as amended 10/7/1988 and 1/16/1989 and previously submitted are withdrawn.
- Request that USEPA update its SIP table and CFR citations to reflect all of the above changes.

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Appendix “A”
Regulation XIII – *New Source Review*
Regulation XVII – *Prevention of Significant Deterioration and*
Rule 1401 – *New Source Review for Toxic Air Contaminants*
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.

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RULE 1300

New Source Review General

(A) Purpose

- (1) The purpose of this Regulation is to:
 - (a) Set forth the requirements for the preconstruction review of all new or Modified Facilities.
 - (b) Ensure that the Construction, or Modification of Facilities subject to this Regulation does not interfere with the attainment and maintenance of Ambient Air Quality Standards.
 - (c) Ensure that there is no net increase in the emissions of any Nonattainment Air Pollutants from new or Modified Major Facilities which emit or have the Potential to Emit any Nonattainment Air Pollutant in an amount greater than or equal to the amounts set forth in District Rule 1303(B)(1).
 - (d) Implement the provisions of California Health & Safety Code §§40709, 40709.5, 40709.6, 40710, 40711, 40712 and 40713 regarding a system by which all reductions in the emissions 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.
 - (e) Ensure that the Construction or Modification of Facilities subject to this Regulation comply with the preconstruction review requirements as set forth in District Rule 1401 – New Source Review for Toxic Air Contaminants. [Clarifies interrelationship with Rule 1401.]
 - (f) Ensure that the Construction or Modification of Facilities subject to this Regulation or District Regulation XVII – Prevention of Significant Deterioration comply with the preconstruction review requirements as set forth in District Rule 1700. [Clarifies interrelationship with PSD Requirements.]

(B) Applicability

- (1) The provisions of this Regulation shall apply to:
 - ~~(a) Any new or Modified Facility or Emissions Unit which requires a permit pursuant to~~ is subject to the provisions of District ~~Regulation HRules 201 or 203.~~ [See USEPA Comment 1.1.1.a. and 1.3.2. to MDAQMD, 12/19/2019]
- (2) The provisions of this Regulation regarding Emission Reduction Credits (ERCs) shall apply to:

~~(a)~~ — ~~T~~he creation, banking, ownership and use of ERCs within the District.

(C) Violations

- (1) Failure to comply with the provisions of this Regulation shall result in enforcement action under applicable provisions of Division 26, Part 4, Chapter 4 of the California Health and Safety Code (commencing with §42300) and or applicable provisions of the Federal Clean Air Act (42 U.S.C. §§ 7401 et.seq.)

(D) Exemptions

(1) Change of Ownership or Operator

(a) Any Facility which is a continuing operation, shall be exempt from the provisions of this Regulation when:

- (i) A new permit to operate is required solely because of permit renewal, change in ownership or a change in facility operator; and
(ii) There is no Modification or change in operating conditions at the Facility.

(2) Change in Rule 219

(a) Any Facility which is a continuing operation, shall be exempt from the provisions of this Regulation when:

- (i) A new permit to operate is required solely because of a change to Rule 219 - *Equipment Not Requiring a Permit*; and
(ii) There is no Modification or other change in operating conditions at the Facility.

(E) Interaction with Other Federal, State and District Requirements

(1) Interaction with Other District Rules

(a) ~~Issuance of Authority to Construct Permits and Permits to Operate~~

~~(i)~~ — ATC(s) and PTO(s) issued pursuant to this Regulation shall also comply with the applicable provisions of District Regulation II. [See USEPA Comment 1.3.2. to MDAQMD, 12/19/2019]

(2) Prevention of Significant Deterioration (PSD)

(a) Nothing in this Regulation shall be construed to exempt a Facility or an Emissions Unit located in an area designated by USEPA as attainment or unclassified for a Regulated Air Pollutant from complying with the

applicable provisions of Title I, Part C of the Federal Clean Air Act (42 U.S.C. §§7470-7492, Prevention of Significant Deterioration of Air Quality), the regulations promulgated thereunder and the provisions of District ~~Regulation XVII as applicable Rule 1700.~~ *[Conforms citation to reflect shift of PSD rule to adoption by reference format.]*

(3) Other Federal Requirements

- (a) Nothing in this Regulation shall be construed to exempt a Facility or an Emissions Unit from complying with all other applicable Federal Requirements including, but not limited to, the following:
- (i) Any standard or other requirement contained in the applicable implementation plan for the District, and any amendments thereto, approved or promulgated pursuant to the provisions of Title I of the Federal Clean Air Act (42 U.S.C. §§7401-7515).
 - (ii) Any standard or other requirement under 42 U.S.C. §7411, Standards of Performance for New Stationary Sources (Federal Clean Air Act §111); 42 U.S.C. §7412, Hazardous Air Pollutants (Federal Clean Air Act §112) or the regulations promulgated thereunder.
 - (iii) Any standard or other requirement under Title IV of the Federal Clean Air Act (42 U.S.C. §§7651-7651o, Acid Rain) or the regulations promulgated thereunder.
 - (iv) Any standard or other requirement under Title V of the Federal Clean Air Act (42 U.S.C. §§7661a - 7661f, Permits), the regulations promulgated or the District program approved thereunder.
 - (v) Any standard or other requirement of the regulations promulgated under Title VI of the Federal Clean Air Act (42 U.S.C. §§7671-7671q, Stratospheric Ozone Protection) or the regulations promulgated thereunder.
 - (vi) Any national Ambient Air Quality Standard or increment or visibility requirement promulgated pursuant to part C of Title I of the Federal Clean Air Act (42 U.S.C. §7401-7515).

[SIP: ~~Submitted as amended 03/20/01 on _____~~ See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]

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RULE 1301

New Source Review Definitions

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

- (A) "Actual Emissions" - The actual rate of emissions of a Regulated Air Pollutant which accurately represent the emissions from ~~an~~ Emissions 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. *[Consistency]*
- ~~(B) "Actual Emissions Reductions (AERs)" - Emissions reductions which result from modifications to existing Emissions Unit(s); shutdowns of existing Emissions Unit(s); or other emissions reductions which may be banked. AERs shall be real, enforceable, quantifiable, surplus and permanent and shall be calculated pursuant to provisions of District Rule 1304(D). *[Removed as no longer used in Regulation.]*~~
- ~~(C) "Adjustment" - The process by which the District modifies the amount of AERs so that AERs reflect only the surplus reductions beyond those otherwise required by Federal, State or District law, rule, order, permit or regulation. *[Removed, term not used in Regulation.]*~~
- ~~(DB) "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 ~~an~~ Emissions Unit(s) and which is contiguous to the District; or any State which is located within ~~fifty (50)~~ miles of the Facility.~~
- ~~(E) "Allowable Emissions" - The emissions rate of a stationary source calculated using the maximum rated capacity of the source adjusted to reflect any federally enforceable limits, including but not limited to, restriction of the operation rate, hours of operation, mass emissions or any combination thereof, and the most stringent of the following:~~
- ~~(1) - The applicable standards set forth in 40 CFR Part 60 or 61; or~~
 - ~~(2) - Any applicable SIP emissions limitation including those with a future compliance date; or~~
 - ~~(3) - The emissions rate specified as federally enforceable permit conditions including those with a future compliance date. *[Removed. Provisions provided in definition of Federally Enforceable]*~~
- ~~(FC) "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.~~

- (GD) "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.
- (HE) "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.
- (HF) "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.
- (JG) "Application for Certification" (AFC) - A document submitted to the CEC requesting certification of an EEGF pursuant to the provisions of ~~D1 4/29/2021 Division 15 of the California Public Resources Code (commencing with section 25000).~~
- (KH) "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.
- (LI) "Banking" (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.
- (MJ) "Begin Actual Construction" - The general initiation of physical on-site construction activities on ~~an~~ 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.
- (NK) "Best Available Control Technology (BACT)" - For Permit Units at Facilities as indicated below:
- (1) For a new or Modified Major Facility as defined ~~in District Rule 1301(LL)~~ below the most stringent of:

- (a) The most stringent emission limit or control technique which has been achieved in practice, for such ~~p~~Permit ~~u~~Unit, class or category of source; or
 - (b) LAER as defined ~~in District Rule 1301(KK)below~~; 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.

~~(O) —“Best Available Retrofit Control Technology” (BARCT) —An emission limitation that is based on the maximum degree of reduction achievable taking into account environmental, energy and economic impacts by each class or category of emissions unit. [Removed, Term not used in regulation.]~~

~~(PL) “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 ~~section~~ §39500).~~

~~(QM) “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 ~~section~~ §25000).~~

(~~R~~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 *[Typo]*
- (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 (~~R~~N)(1) and (~~R~~N)(2) above must meet the conditions set forth in the California Public Resources Code §25134.

(O) Class I Area – means 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. [Derived from 40 CFR 51.301 and Placer County APCD Rule 502:210. See USEPA Comment 2.1. to MDAQMD, 12/19/2019]

(~~S~~P) “Commence Construction” - When the owner or operator of a 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 1700, if applicable, and has either: *[See USEPA Comment 1.2.1.c. to MDAQMD, 12/19/2019]*

- (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 Unit(s) to be completed within a reasonable time.

(~~T~~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.

(~~U~~R) “Construction” - Any physical change or change in the method of operation in a Facility (including fabrication, erection, installation, demolition, or modification of ~~an~~ Emissions Unit(s)) which would result in a change in Actual Emissions.

- (~~V~~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.
- (~~W~~) ~~"Dedicated Cargo Carriers" - Trains, trucks and off road vehicles dedicated to, or an integral part of, a specific Facility. For the purposes of this regulation, trucks and off road vehicles are those used exclusively at the Facility. *[Removed. Term no longer used in Regulation]*~~
- (~~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 **[Rule amendment date]** shall apply, and is incorporated herein by this reference. *[Derived from 40 CFR 51.100(hh) and MDAQMD 1301(S). See USEPA Comment 1.1.3.a. to MDAQMD, 12/19/2019]*
- (~~X~~U) "District" - The Antelope Valley Air ~~Pollution Control~~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.
- (~~Y~~V) "Electrical Energy Generating Facility" (EEGF) - Any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of ~~fifty~~ (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.
- (~~Z~~W) "Emissions Limitation" - One or a combination of Federally Enforceable permit conditions specific to a ~~p~~Permit ~~u~~Unit 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.
- (~~A~~AX) "Emissions 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.
- (~~B~~BY) "Emissions Unit" - 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. *[Derived from H&S Code §40000 Re jurisdictional authority of air districts. See USEPA Comment 1.1.1.a. and 1.2.1.a. to MDAQMD, 12/19/2019]*

~~(Z) Enforceable – Verifiable, legally binding, and practically enforceable. [Derived from MDAQMD Rule 1401(K). See USEPA Comment 1.2.2.a.1. to MDAQMD, 12/19/2019]~~

~~(CCAA) “ERC Certificate” - a certificate evidencing ownership of an ERC issued pursuant to the provisions of District Rule 1309.~~

~~(DD) Essential Public Service – a service including but not limited to:~~

~~(1) sewage treatment facilities, which are publicly owned or operated, and consistent with an approved regional growth plan;~~

~~(2) prisons;~~

~~(3) police facilities;~~

~~(4) fire fighting facilities;~~

~~(5) schools;~~

~~(6) hospitals;~~

~~(7) construction and operation of a landfill gas control or processing facility;~~

~~(8) water delivery operations; and~~

~~(9) public transit. [Provision removed as unnecessary due to reformatting of Regulation XVII and adoption by reference of terms in Rule 1700]~~

~~(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 on [Rule amendment date] shall apply, and is incorporated herein by this reference. [Derived from 40 CFR 51.100(kk) and MDAQMD 1301(z). USEPA Comment 1.1.3.a. to MDAQMD, 12/19/2019]~~

~~(EE) “Executive Officer” – The person appointed to the position of Executive Officer of the California Air Resources Board pursuant to the provisions of California Health & Safety Code §39515 and his or her designee. [Term not used in Regulation. See Air Pollution Control Officer.]~~

~~(FFCC) “Facility” - Any structure, building, Emissions Unit, combination of Emissions 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~~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. [Derived from 40 CFR 51.301 and Placer County APCD Rule 502:210. See USEPA Comment 2.1. to MDAQMD, 12/19/2019]

(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. [Derived from MDAQMD Rule 1302(CC)]

(GGFF) "Federally Enforceable" - any limitation and/or condition which is set forth in permit conditions or in Rules or Regulations that are legally and practically 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 ~~state implementation plan~~ SIP;
- (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.

(HHGG) "Fugitive Emissions" - Those emissions which could not reasonably pass through a stack, chimney, ~~or vent~~ or other functionally equivalent opening. ~~Fugitive emissions are directly or indirectly caused by the activities of man.~~ [Derived from 40 CFR 51.165(a)(1)(ix). See USEPA Comment 1.2.1.b. to MDAQMD, 12/19/2019]

(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 [Rule amendment date] shall apply, and is incorporated herein by reference. [Derived from 40 CFR 51.100(ii) and MDAQMD 1301(F). USEPA Comment 1.1.3.a. to MDAQMD, 12/19/2019]

(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 Actual Emissions of an existing Emissions Unit or combination of Emissions Units, including Fugitive Emissions directly related to

the 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 pursuant to the provisions of District Rule 1304(~~DE~~)(2). [Standardization of fugitive emissions references. See USEPA Comment 1.2.1.a. to MDAQMD, 12/19/2019]

(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 ~~twenty-seven (27)~~ categories of Facilities as listed in 40 CFR 51.165(a)(1)(iv)(C). [Standardization of fugitive emissions references.]

(MM) “Major Modification” - Any Modification in a Facility that would result in a Significant Net Emissions Increase of any Regulated Air Pollutant as ~~set~~ defined ~~in section (OOO)~~ below.

(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. [Derived from 40 CFR 51.301. See USEPA Comment 2.1. to MDAQMD, 12/19/2019]

~~(NNOO)~~ “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.).

~~(OOPP)~~ “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.

(PPQQ) "Modeling" - An air quality simulation model based on specific assumptions and data; ~~and which model, assumptions, and data 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. ~~Such models shall be from a list of approved air quality simulation models prepared by the CARB and the USEPA. [See USEPA Comment 1.1.1.b. to MDAQMD, 12/19/2019]~~

(QQRR) "Modification" (Modified) - Any physical or operational change to a Facility or an Emissions 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 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:

- (1a)** Routine maintenance, repair and/or replacement; or
- (2b)** A change in ownership of an existing Facility with valid PTO(s); or
- (3c)** An increase in the production rate, unless:
 - (ai)** Such increase will cause the maximum design capacity of the Emission Unit to be exceeded; or
 - (bii)** Such increase will exceed a previously imposed federally enforceable limitation contained in a permit condition.
- (4d)** An increase in the hours of operation, unless such increase will exceed a previously imposed ~~f~~Federally ~~e~~Enforceable limitation contained in a permit condition.
- (5e)** The ~~Modification~~alteration or replacement of an Emissions Unit(s) where the following requirements are met: *[Avoids circular definition language.]*
 - (ai)** The replacement unit is functionally identical as the original Emissions Unit(s) being replaced ~~unless USEPA objects to such determination on a case-by-case basis~~; and
 - (bii)** The maximum rating of the ~~new or Modified~~replacement Emissions Unit(s) will not be greater than that of the Emissions Unit(s) being replaced; and
 - (eiii)** The Potential to Emit for any Regulated Air Pollutant will not be greater from the ~~new or Modified~~replacement Emissions Unit(s) than from the original Emissions Unit(s) ~~being replaced so long as~~

- ~~(i)~~ ~~when~~ the replacement Emissions Unit(s) is operated at the same permitted conditions as the original Emissions Unit(s) and
- ~~(ii)~~ ~~the HAE for the Emissions Unit being replaced is calculated~~ as if current BACT had been applied; and
- ~~(div)~~ The replacement does not occur at a Major Facility and is not a Major Modification.
- ~~(v)~~ Emissions Unit(s) shall not be considered a functionally identical replacement if USEPA objects to such determination on a case-by-case basis. [Moved from subsection (1)(e)(i) above.]

~~(6f)~~ The relocation of an existing Facility, utilizing existing equipment where the following requirements are met:

- ~~(ai)~~ The relocation does not result in an increase in emissions from the Facility; and
- ~~(bii)~~ The relocation is to a site within 10 miles of the original Facility location; and
- ~~(eiii)~~ 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.
- ~~(div)~~ The relocation is to a site within a ~~f~~Federal designation which is less than or equal to the designation or classification of the original site; and
- ~~(ev)~~ The relocation occurs within ~~one~~(1) year of the Facility ceasing operations at its original location; and
- ~~(fvi)~~ The relocation does not occur at a Major Facility and is not a Major Modification; and
- ~~(gvii)~~ Any new or replacement equipment associated with the relocation complies with the applicable provisions of this Rule.

~~(7g)~~ 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:

- ~~(ai)~~ The engine or turbine is used:
 - ~~(i)~~ to remediate soil or groundwater contamination as required by federal, state, or local law or by a judicial or administrative order; or
 - ~~(ii)~~ for flight-line operations.
- ~~(bii)~~ The engine or turbine is not periodically moved solely for the purpose of qualifying for this exemption.
- ~~(eiii)~~ Emissions from the engine, by itself, do not cause an exceedance of any Ambient Air Quality Standard.
- ~~(div)~~ Emissions from the engine do not exceed the following ~~limits~~:

Volatile Organic Compounds (VOC) 75 pounds per day

Nitrogen Oxides (NO _x)	100 pounds per day
Sulfur Oxides (SO _x)	150 pounds per day
Particulate Matter (PM ₁₀)	150 pounds per day
Carbon Monoxide (CO)	550 pounds per day

~~(RRSS)~~ "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 ~~For the purpose of this regulation, "Motor Vehicle" includes registered~~ Motor Vehicles which are registered, licensed, or driven on the public roadways of the ~~s~~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 [Rule amendment date] shall apply, and is incorporated herein by this reference. [Derived from 40 CFR 51.100(jj) and MDAQMD 1301(PP). USEPA Comment 1.1.3.a. to MDAQMD, 12/19/2019]

~~(SS)~~ "Net Air Quality Benefit" – Any improvement in air quality resulting from Actual Emission Reductions. [Definition removed. Term no longer used in Regulation.]

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

~~(UUVV)~~ "New Source Review Document" (NSR Document) - A document issued by the APCO pursuant to the procedures of District Rule 1302 for a Facility subject to the provisions of District Rule 1303(B) 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).

~~(VVWW)~~ "Nonattainment Air Pollutant" - Any Regulated Air Pollutant for which the District, or a portion thereof, has been designated "nonattainment" ~~pursuant to final rule-making by the USEPA as published in the Federal Register as codified in 40 CFR 81.305~~, or for which ~~the District~~ has been designated nonattainment by the CARB pursuant to California Health and Safety Code §39607. ~~Any pollutant which is a Precursor to a Nonattainment Air Pollutant is also a Nonattainment Air Pollutant.~~ 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. [Derived from Placer County APCD Rule 502:236. See USEPA E-Mail to MDAQMD, 3/25/2020]

~~(XX)~~ 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*. [Derived from Placer County APCD Rule 502:236. See USEPA Comment 3.3. to MDAQMD, 12/19/2019]

~~(WW) "Nonpermitted Exempt Unit" - An Emissions Unit or group of Emissions Units which are exempt from the requirement to have a permit pursuant to the provisions of District Rule 219 or the provisions of California Health & Safety Code §42310. [Removed. Term no longer used in Regulation.]~~

~~(XXYY) "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 ~~§section~~25000).~~

~~(YYZZZ) "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.~~

~~(ZZAAA) "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 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~~(C)(4)~~. [Conforms to proposed changes in 1304 and 1305]~~

~~(AAABBB) "Permanent" - Only permanent reductions in emissions can qualify for ERCs. Permanence may generally be assured for sources subject to federal requirements by requiring federally enforceable changes in source permits, or if applicable state regulations reflect a reduced level of allowable emissions. 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. [Derived from Butte County APCD Rule 432:4.31, MDAQMD Rule 1401(Q) and Webster's Collegiate Dictionary. See USEPA Comment 1.2.2.a.1. to MDAQMD, 12/19/2019]~~

~~(BBBCCC) "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 Permit Unit. An ATC may function as a temporary PTO pursuant to the provisions of District Rule 202. [See USEPA Comment 1.3.2. to MDAQMD, 12/19/2019]~~

~~(CCCDDD) "Permit Unit" - Any Emissions Unit which is required to have a PTO pursuant to the provisions of District Rule 203. [See USEPA Comment 1.3.2. to MDAQMD, 12/19/2019]~~

~~(DDDEEE)~~ **"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.

~~(EEEEFF)~~ **"PM₁₀"** - Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers ~~as measured by a reference method based on 40 CFR 50 Appendix J and designated in accordance with 40 CFR 53; or methods found in Article 2, Subchapter 6, Title 17, California Code of Regulations (commencing with section 94100); or any equivalent method designated in accordance with 40 CFR 53. [Derived from 40 CFR 51.100(qq). Test method citation removed as it only applies to atmospheric measurement. See USEPA Email to MDAQMD, 3/25/2020]~~

~~(FFFGGG)~~ **"Potential to Emit" (PTE)** - The maximum capacity of a Facility or Emissions 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 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.
- (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 Air Pollutants shall not be included in the calculations of a Facility's or Emissions Unit(s)' Potential to Emit unless the Facility belongs to one of the ~~27~~ categories listed in 40 CFR 51.165(a)(1)(iv)(C). [Standardize reference to Fugitive Emissions]
- (4) Secondary Emissions shall not be included in the calculations of a Facility's or Emissions Unit(s)' Potential to Emit.

~~(GGGHHH)~~ **"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>
<u>Ammonia</u>	a) PM ₁₀
Hydrocarbons and substituted hydrocarbons (Reactive-Volatile Organic Compounds)	a) Photochemical oxidant (ozone) b) The organic fraction of PM ₁₀ c) PM _{2.5}
<u>Nitrogen dioxide (NO₂)</u>	a) PM _{2.5}
Nitrogen oxides (NO _x)	a) Nitrogen dioxide (NO ₂) b) The nitrate fraction of PM ₁₀ c) Photochemical oxidant (ozone)

<u>Sulfur dioxide (SO₂)</u>	<u>a) PM_{2.5}</u>
Sulfur oxides (SO _x)	a) Sulfur dioxide (SO ₂) b) Sulfates (SO ₄) c) The sulfate fraction of PM ₁₀
<u>Hydrogen Sulfide (H₂S)</u>	<u>a) The sulfate fraction of PM₁₀</u>

[Table modified to only include State and Federal nonattainment pollutants and their precursors.]

~~(HHHII)~~ “Proposed Emissions” - the Potential to Emit for a new or post-modification Facility or Emissions Unit(s) as planned, or a new or post-modification Facility or Emissions Unit as constructed or modified, including Fugitive Emissions directly related to the Emissions Unit(s) if the Facility belongs to one of the Facility categories as listed in 40 CFR 51.165(a)(1)(iv)(C), which is calculated in pounds per year and determined pursuant to the provisions of Rules 1304(E)(2-3) or 1305(E)(2-3) whichever is applicable(D)(3). *[Conforms to changes in 1304 and 1305. Standardizes cross reference to Fugitive Emissions.]*

~~(HJJJ)~~ “Quantifiable” - Ability to estimate emission reductions in terms of both their amount and characteristics. 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. *[Derived from Butte County APCD Rule 432:4.36, MDAQMD Rule 1401 and Webster’s collegiate Dictionary. See USEPA Comment 1.2.2.a.1. to MDAQMD, 12/19/2019]*

~~(JJJJ)~~ “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.

~~(KKK)~~ “Reactive Organic Compound” (ROC)—Any compound containing carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, which participates in atmospheric photochemical reactions and those compounds listed in 17 California Code of Regulations §94508(a)(90)(1-2). *[Term no longer used as State and Federal definitions are now identical.]*

(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 ~~permit~~ Emissions uUnit(s) with more than seventy-five percent (75%) of its annual emissions within a consecutive ~~120~~ 120-day period.

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

- (1) These emissions must be specific, well defined, quantifiable, and impact the same general area as the 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 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 ~~an e~~ Emissions uUnit(s); or
- (2) The surrender of ~~an e~~ Emissions uUnit(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 Regulated-Nonattainment Air Pollutants and their Precursors dependant/dependent upon Facility location.

<u>POLLUTANT</u>	<u>EMISSION RATE</u> (Within an attainment or unclassified area)	<u>EMISSION RATE</u> (Within a Severe-17 Federal ozone nonattainment area)	<u>EMISSION RATE</u> (Within a moderate PM ₁₀ nonattainment area)
Carbon Monoxide (CO)	100 tpy	100 tpy	100 tpy
Lead (Pb)	0.6 tpy	0.6 tpy	0.6 tpy
Oxides of Nitrogen (NOx)	40 tpy	25 tpy	40 tpy
PM10	N/A	N/A	15 tpy
Reactive Organic Compounds (ROC)	40 tpy	25 tpy	40 tpy
Sulfur Dioxide (SO ₂)	40 tpy	40 tpy	40 tpy

(1) If a Facility is located in more than one ~~f~~Federal ~~n~~Nonattainment ~~a~~Area then the lower of the limits listed above shall apply on a pollutant category specific basis. [Definition revised to only include nonattainment pollutants. Attainment pollutants covered by Rule 1700 definitional incorporation by reference of 40 CFR 52.21(b).]

(UUU) "Simultaneous Emission Reduction" (SER) - A Federally Enforceable reduction, ~~which is real, permanent, enforceable, quantifiable and surplus,~~ in the emissions of an existing Emissions Unit(s), calculated pursuant to the provisions of District Rule 1304(C), which occurs at-in the same ~~time as a~~ 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).

(VVV) 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). [Term used in Rule 1309 in regards to ERCs created/held by companies within the AVAQMD.]

(WWW) Stack – Any point in a Facility or Emission Unit designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares. [Derived from 40 CFR 51.100(ff) and MDAQMD 1301(PPP). USEPA Comment 1.1.3.a. to MDAQMD, 12/19/2019]

(XXX) 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 [Rule amendment date] shall apply, and is incorporated herein by this reference. [Derived from 40 CFR 51.100(gg) and MDAQMD 1301(QQQ). USEPA Comment 1.1.3.a. to MDAQMD 12/19/2019]

(~~VVVYYY~~) “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.

(~~WWWZZZ~~) “Surplus” — That which is not otherwise required. As used for the purposes of Offset Emissions Reductions the amount of emissions Rreductions in emissions which that are, at the time of generation and use, in excess of the reductions which are 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). [Derived from Butte County APCD Rule 432:4.45 and MDAQMD Rule 1041(DD). See USEPA Comment 1.2.2.a.1. to MDAQMD, 12/19/2019]

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

(~~YYYBBBB~~) “United States Environmental Protection Agency” (USEPA) - The United States Environmental Protection Agency, the Administrator of the USEPA and ~~his or her~~their authorized representative.

(~~ZZZCCCC~~) “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 those compounds listed in 40 CFR 51.100(s)(1).

[~~See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans> SIP: Submitted as amended 03/20/01 on _____; Approved 2/4/96, 61 FR 64291, 40 CFR 52.220(e)(240)(i)(A)(1); Conditionally Approved 6/9/82, 47 FR 25013, 40 CFR 52.220(e)(87)(v)(A); Conditionally Approved 1/21/81, 46 FR 5965, 40 CFR 52.220(e)(68)(i)]~~

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(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: mm/dd/yy)

RULE 1302

New Source Review Procedure

(A) Applicability

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

(B) Applications *[Section substantially reorganized for clarity.]*

(1) ~~Initial Analysis~~

- ~~(a)~~—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: [Provision added to avoid repetition in subsequent subsections.]

(a) General Application Requirements.

- (i) ~~An application is complete when it contains e~~Enough information regarding the location, design, construction, and operation of the new or modified Facility or Emissions 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 Unit(s); the amount of potential emissions from such new or modified Emissions Unit(s); information sufficient to determine all rules, regulations or other requirements applicable to such Emissions 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. *[Derived from MDAQMD 1302(B)(1)(a)(i). See USEPA Comment 1.1.1.b., 1.1.3.a., and 3.4. to MDAQMD, 12/19/2019]*
- (ii) A Comprehensive Emissions Inventory:
 - ~~a.~~—All Facilities shall submit a Comprehensive Emissions Inventory in conjunction with the application.
 - ~~b.~~—If a Facility has a current approved Comprehensive Emissions Inventory on file with the District such Facility may, upon written request and approval of the APCO, update the Comprehensive

Emissions Inventory to reflect the addition, deletion or modification of all Emission Unit(s) affected by the application.

[Derived from MDAQMD 1302(B)(1)(a)(ii); Modified for clarity.]

~~e. No application may be determined to be complete without a Comprehensive Emissions Inventory or Comprehensive Emission Inventory Update. [Removed as unnecessary. See proposed (B)(1) above and (B)(1)(e)]~~

~~(iii) A District Regulation XVII 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 District Rule 1700(B), using the applicability procedures adopted by reference in District Rule 1700. [Ties into Rule 1700 PSD application requirements. See also proposed subsection (B)(1)(d) below.]~~

~~(iv) Any other information specifically requested by the District [Adds a catch all provision for special circumstances.]~~

(b) Application Requirements for Facilities Requiring Offsets.

(i) For all new and modified Facilities requiring offsets pursuant to District Rule 1303(B):

~~(iii)a. An Aalternative Ssiting analysis~~

~~a. For Facilities and Modifications requiring offsets pursuant to District Rule 1303(B) a complete application shall include 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 §section-21000.)~~

~~b. The provisions of (B)(1)(a)(iii)a. above shall not apply if the Facility or Modification has been determined to not be a Federal Major Facility or a Federal Major Modification as defined in District Rule 1310(C)(6) and (7) or the Facility has previously applied for and received a valid Plantwide Applicability Limit (PAL) pursuant to the provisions of District Rule 1310(F). [Provision removed as unnecessary and unused. See USEPA Comment 1.3.1. to MDAQMD, 12/19/2019]~~

~~(iv)b. A Sstatewide Ccompliance Ccertification stating~~

~~a. For Facilities and Modifications which requires offsets pursuant to District Rule 1303(B) a complete application shall include a certification 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 and standards under the Federal Clean Air Act and the~~

applicable implementation plan for the air district in which the other Facilities are located.

(~~v~~c) Mandatory Federal Class I Area Visibility Protection Application Requirements.

~~a.~~(i) An application for a new or modified Major Facility or a Facility with a Major Modification which ~~is located within 60 miles of a Class I Area, as defined in 40 CFR 51.301(e)~~ 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 51.301~~7~~(a). [Revised to differentiate between visibility analysis requirement and PSD requirements related to Federal Class I Areas. See USEPA Comment 1.3.1. and 2.1. to MDAQMD, 12/19/2019]

~~(vi)~~ District Rule 1310 Applicability

~~a.~~ For Facilities and Modifications which requires offsets pursuant to District Rule 1303(B) a complete application may include an analysis sufficient to show that the Facility or Modification is not a Federal Major Facility or a Federal Major Modification as defined in District Rule 1310(C)(6) and (7).

~~b.~~ For a Facility requesting a PAL pursuant to District Rule 1310(F) a complete application shall include an analysis sufficient to justify the classification of the Facility as a Federal Major Facility as defined in District Rule 1310(C)(6) and any information necessary to issue the proposed PAL in conformance with all provisions of 40 CFR 51.165(f)(1-15). [Removed as unnecessary and unused. See USEPA Comment 1.3.1. to MDAQMD, 12/19/2019]

~~(d)~~ Prevention of Significant Deterioration (PSD) Analysis Application Requirements [Provision added to ensure PSD requirements are not inadvertently excluded. See also subsection (B)(1)(a)(iii) above.]

~~(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, and as approved by the APCO. Such protocol shall also be submitted to USEPA and, if applicable, the Federal Land Manager(s) of any potentially impacted area; and [See USEPA Comment 1.1.1.b. to MDAQMD, 12/19/2019]

- 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 [See USEPA Comment 2.1. to MDAQMD, 12/19/2019 and definition of Federal Class I Area added to Rule 1301.]

(~~b~~e) Determination of Application Completeness.

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

(~~e~~f) 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. *[Conforms with subsection (D)(3)(c)]*
- (ii) Any information claimed by an applicant to be trade secret or otherwise confidential shall be clearly marked as such. [Added to conform with subsection (D)(3)(c)]

(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 ~~thirty~~(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. [Ties into PSD provisions.]

(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 notification a copy of the application and the analysis of anticipated impacts on the affected Mandatory Federal Class I Area. [Moved & modified from (B)(2)(c) below. Removed superfluous cross references. See applicable definitions in Rule 1301.]

(b) When the application has been determined to be complete the APCO shall then commence the analysis process detailed in section (C) below. [Clarification of process flow.]

(bc) In the alternative, the APCO may complete the issuance of the ATC(s) within the ~~thirty (30)~~ calendar days after receipt of the application so long as all the applicable analysis required pursuant to subsection (C) has been performed and the provisions of subsection (C)(7)(e) applies. ~~either of the following conditions are met:~~ [Ties issuance clearly into notice provisions and avoids duplication of requirements.]

~~(i) None of the requirements contained in District Rule 1303 apply to the project; or~~

~~(ii) The requirements of District Rule 1303(A) applies to the project and the issuance of the ATC(s) comply with the requirements of subsection (C)(2)(a)(ii).~~

~~(c) If the application contains an analysis of anticipated visibility impacts on a Class I Area, as defined in 40 CFR 51.301(o), pursuant to subsection (B)(1)(a)(v) above, the APCO shall, within thirty (30) calendar days after receipt of the application, notify USEPA and the Federal Land Manager of the affected Class I Area.~~

~~(i) The APCO shall include in such notification a copy of the application and the analysis of anticipated impacts on the affected Class I Area. [Moved to subsection (B)(2)(a) above.]~~

(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 ~~specified in the APCO's list of items to be included within such applications required pursuant to subsection (B)(1) or by a determination of incompleteness pursuant to subsection (B)(2)(a).~~
[Clarity and provides cross reference to required information list.]

- (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 ~~in such list in effect~~ 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 pursuant to this Regulation 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. [Provides reminder that if the complex source fee applies it must be paid prior to analysis being performed.]

(C) Analysis

(1) Determination of Emissions

- (a) The APCO shall analyze the application to determine the ~~typespecific~~ pollutants, amount, and change (if any) in emissions pursuant to the provisions of District Rules 1304 and 1700. [Clarification of term "type." See USEPA Comment 1.3.1. to MDAQMD, 12/19/2019]
- ~~(b) If a Facility has provided information pursuant to subsection (B)(1)(a)(vi) above, the APCO shall also analyze the application to determine the type, amount and change (if any) in emissions pursuant to the provisions of District Rule 1310. [Provisions relating to Rule 1310 removed as unnecessary and unused.]~~

(2) Determination of Requirements

- (a) After determining the emissions change (if any), ~~the APCO shall, after the analysis,~~ determine if any ~~or all~~ of the provisions of District Rule 1303 apply to the new or Mmodified Facility.
- ~~(b) If none of the provisions of District Rule 1303 apply to the new or Mmodified facility, then the APCO shall commence the issuance of the ATC or modification of the PTO pursuant to the provisions of Regulation~~

~~H. continue the analysis at subsection (C)(4) below. [Clarification of process flow.]~~

~~(iic) If only the provisions of District Rule 1303 subsection (A) is the only provision of District Rule 1303 applicable apply to the new or Mmodified Facility, and the application does not utilize SERs to reduce PE then the APCO shall:~~

~~a.(i) The APCO shall commence the issuance of the ATC or modification of the PTO pursuant to the provisions of Regulation H; and.~~

~~b. The ATC or PTO so issued or modified shall Develop and include conditions on any proposed ATC or PTO required to implement BACT on all new or Mmodified Emissions Unit(s) at the Facility; and~~

~~(ii) Continue the analysis at subsection (C)(4) below. [Clarification of process flow.]~~

~~(iii) If only the provisions of District Rule 1303(A) apply to the new or Modified Facility, and the application utilizes SERs to reduce PE then:~~

~~a. The APCO shall produce a Facility engineering analysis which contains substantially the same information required for a decision under section (D) below; and~~

~~b. After the production of the Facility engineering analysis the APCO shall commence the issuance of the ATC or modification of the PTO pursuant to the provisions of Regulation H; and.~~

~~c. The ATC or PTO so issued or modified shall include conditions required to implement BACT on all new or Modified Emissions Unit(s) at the Facility. [Provision removed to conform with proposed amendments to 1304]~~

~~(ivd) If the provisions of District Rule 1303 subsection (B) of District Rule 1303 apply to the new or Mmodified 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 PTE required for each new or Modified Emission Unit(s) subject to the provisions of District Rule 1303(A); and [Echoes language in (B)(2)(c) above]~~

~~(iii) eContinue the analysis and issuance procedure as set forth in this Rule at subsection (C)(3) below. [Clarification of process flow.]~~

~~(b) If the provisions of District Rule 1303(B) apply and the new or Modified Facility is located in an area classified by USEPA as attainment or unclassifiable then the APCO shall, after analysis, determine if the Facility~~

~~will cause or contribute to a violation of the national Ambient Air Quality Standards.~~

~~(i) The provisions of section (C)(2)(b) above may be satisfied by performance of appropriate modeling as approved by the APCO. [Provision moved to subsection (D)(5)(b)(iv)]~~

(53) Determination of Offsets

(a) If the provisions of District Rule 1303(B) apply to the new or Modified Facility, then the APCO shall calculate the amount of Offsets required on a pollutant by pollutant basis pursuant to the provisions of District Rules 1304(B)(2) and 1305. [Conforms with proposed amendments to 1304 and 1305. Clarifies language to avoid “type” as undefined term.]

(i) The APCO shall thereafter notify the applicant in writing of the specific amount and type of Offsets. [Moved and modified from (B)(5)(a) below. Clarifies language to avoid “type” as undefined term.]

(b) 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.

(i) 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 District Rule 1305.

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. [Derived from proposed 1305(C)(6)(a) and ties into (D)(2)(e). See USEPA Comment 1.2.2.e. to MDAQMD, 12/19/2019]

(ii) The APCO shall disallow the use of any Offsets which were created by the shutdown, modification or limitation of existing Emissions Unit(s) when such Offsets:

a. Are not in compliance with the applicable provisions of District Rule 1305 or 40 CFR 51.165(a)(3)(ii)(C); or [Modified to comply with proposed revisions to Rules 1304 and 1305. See USEPA Comment 1.2.2.a.5. to MDAQMD, 12/19/2019]

b. 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**; that a sufficient quantity have been provided; and after any permit modifications required pursuant to District Rules 1304, 1305 or 1309 have been made, the APCO shall approve the use of the Offsets.
 - a. For a **Federal new or Modified Major Facility or a Major Modification** which is located in a **Federal Nonattainment Area** the APCO's approval shall be subject to **review and comment by** CARB and USEPA pursuant to subsection (D)(2) below.
 - b. For all other Facilities or Modifications subject to this provision the APCO's approval shall be subject to the approval of CARB during the comment period required pursuant to subsection (D)(2) below. *[Removes Rule 1310 provisions as unnecessary and unused. See USEPA Comment 1.3.1. and 3.3. to MDAQMD, 12/19/2019]*
- (iv) The Offset package must be submitted and approved by the APCO prior to the issuance of the New Source Review Document and any permits. *[Removed as duplicative.]*
- (iv) The Offsets must be obtained prior to **time** the new or Modified Facility **Begins Actual Construction**. *[References defined term.]*
- (c) After determination of the amount of pollutant specific offsets required and approval of the Offset package the APCO shall continue the analysis at subsection (C)(4) below. *[Clarification of process flow.]*

[Entire subsection moved and modified from former (C)(5)]

(3) Determination of Additional Federal Requirements

- (a) For Facilities which have provided information pursuant to subsection (B)(1)(a)(vi)a., the APCO shall determine if any or all of the provisions of District Rule 1310 apply to the facility.
 - (i) If none of the provisions of District Rule 1310 apply to the modification the APCO shall continue the analysis and issuance procedure as set forth in this Rule.
 - (ii) If any of the provisions of District Rule 1310 apply to the modification the APCO prior to issuing any ATC or PTO shall:
 - a. Ensure that an alternative site analysis required under 42 U.S.C. §7530(a)(5) (Federal Clean Air Act §173(a)(5)) has been performed; and
 - b. Add any conditions required to implement any provisions of District Rule 1310.

~~(b) For Facilities and Modifications which require offsets pursuant to District Rule 1303(B) which do not provide information pursuant to (b)(1)(a)(vi)a. prior to issuing any ATC or PTO the APCO shall:~~

~~(i). Ensure that an alternative site analysis required under 42 U.S.C. §7530(a)(5) (Federal Clean Air Act §173(a)(5)) has been performed; and~~

~~(ii). Add any conditions required to implement any provisions of District Rule 1310.~~

~~(c) For a Facility requesting a PAL pursuant to the provisions of District Rule 1310(F) prior to issuing any ATC or PTO the APCO shall add any conditions to the applicable permits required to implement the PAL. *[Rule 1310 and cross-referencing provisions removed as unnecessary and unused. See USEPA Comment 1.3.1. to MDAQMD, 12/19/2019]*~~

(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 so much of the stack height that exceeds Good Engineering Practice or by any other Dispersion Technique; and *[Provision derived from 40 CFR 51.164 and "Dispersion Technique" definition in Rule 1301. See USEPA Comment 1.1.3.a. to MDAQMD, 12/19/2019]*

(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) 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 Control Officer 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.

[Derived from 40 CFR 51.100(ii) and 51.164 and related definitions in Rule 1301. See USEPA Comment 1.1.3.a. to MDAQMD, 12/19/2019]

(45) Determination of Requirements for Toxic Air Contaminants

- (a) The APCO shall also determine if any of the provisions of District Rules 1401 ~~–New Source Review of Carcinogenic Air Contaminants or 1402–~~ ~~Control of Toxic Air Contaminants from Existing Sources~~ apply to the new or Mmodified Facility. [Standardizes cross references]
- (~~b~~) If any of the provisions of District Rules 1401 ~~or 1402~~ apply to the new or Mmodified Facility the APCO shall: [Rule 1402 is not triggered by new or modified permitting actions.]
 - (i) ~~Require~~ the Facility to comply with the applicable provisions of those ~~R~~ules prior to proceeding with any further analysis or processing of an application pursuant to this Regulation; and
 - (ii) Add any conditions to the applicable permits required to implement any provisions of those Rules.
- (c) After determining which, if any, requirements of District Rule 1401 apply and any necessary actions taken, the APCO shall continue the analysis at subsection (C)(6) below. [Clarification of process flow.]
- (d) This subsection is not submitted to USEPA and is not intended to be include as part of the California State Implementation Plan (SIP). [Derived from Imperial County APCD Rule 207. See USEPA Comment 1.3.3. to MDAQMD, 12/19/2019]

~~(5) Determination of Offsets~~

- ~~(a) If the provisions of District Rule 1303(B) apply to the new or Modified Facility, then the APCO shall analyze the application to determine the amount and type of Offsets required pursuant to the provisions of District Rule 1305.~~
 - ~~(i) The APCO shall thereafter notify the applicant in writing of the specific amount and type of Offsets.~~
- ~~(b) Upon receipt of the notification, the applicant shall provide to the APCO a proposed Offset package which contains evidence of Offsets eligible for use pursuant to the provisions of District Rule 1305.~~
 - ~~(i) The APCO shall analyze the proposed Offset package to determine if an adjustment in the value of such Offsets is required pursuant to the provisions of District Rule 1305(C)(4).~~
 - ~~(ii) The APCO shall disallow the use of any Offsets which were created by the shutdown of Emissions Unit(s) when:~~
 - ~~a. The Offsets were created by a shutdown of Emissions Unit(s) which was not contemporaneous pursuant to District Rule 1309 with the creation of the Offsets; and~~

- ~~b. 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 and after any permit modifications required pursuant to District Rules 1304, 1305 or 1309 have been made, the APCO shall approve the use of the Offsets.~~
- ~~a. For a Federal Major Facility as defined in District Rule 1310(C)(6) or Federal Major Modification, as defined in District Rule 1310(C)(7), and which is located in a Federal nonattainment area the APCO's approval shall be subject to the approval of CARB and USEPA during the comment period required pursuant to subsection (D)(2) below.~~
- ~~b. For all other Facilities or Modifications subject to this provision the APCO's approval shall be subject to the approval of CARB during the comment period required pursuant to subsection (D)(2) below.~~
- ~~(iv) The Offset package must be submitted and approved by the APCO prior to the issuance of the New Source Review Document and any permits.~~
- ~~(v) The Offsets must be obtained prior to the commencement of construction on the new or Modified Facility. *[Moved to Subsection (B)(3) above]*~~

(6) Determination of Requirements for Prevention of Significant Deterioration (PSD)
[Entire subsection derived from MDAQMD 1302(B)(6). Added to insure PSD requirements are not inadvertently skipped during the permitting process.]

- (a) The APCO shall review the PSD applicability analysis submitted pursuant to subsection (B)(1)(a)(iii) to determine if 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.
- (ib) 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 *[See USEPA Comment 1.3.1. to MDAQMD, 12/19/2019]*
- (ii) Either complete the PSD permit issuance pursuant to the provisions of District Rule 1700(D) or combine the appropriate analysis adding any necessary conditions in conjunction with those required pursuant to this Regulation; 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 [Entire subsection added to specifically require determination of notice level and clarify flow process.]

(a) The APCO shall determine the type of notice required for the proposed new or modified Facility.

(b) **Major NSR 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) 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) regarding stack height greater than good engineering practice.; or [Derived from 40 CFR 51.100(ii) and 51.164. See USEPA Comment 1.1.3.a. to MDAQMD, 12/19/2019]

(iii) The provisions of District Rule 1700; or.

(iv) The provisions of District Regulation XXX and the action involves the issuance, renewal or Significant Modification of the Federal Operating Permit. [Only issuance, renewal and significant modifications to FOPs need full notice. Provision included to allow concurrent NSR and FOP notice. See USEPA Comment 1.1.2.b. to MDAQMD, 12/19/2019]

(c) **Toxic NSR Notice:** If any proposed new or modified Emissions Units at the new or modified Facility require 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) ensuring that such notice ~~containing~~ contains any additional information required pursuant to the applicable provision(s) of District Rule 1401. [Clarity]

(iii) This subsection is not submitted to USEPA and is not intended to be included as part of the California State Implementation Plan (SIP). [Derived from Imperial County APCD Rule 207. See USEPA Comment 1.3.3. to MDAQMD, 12/19/2019]

(d) **Minor NSR Notice:** If the new or modified Facility is not subject to any of the provisions listed in subsections (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):

- (i) The emissions change for any Regulated Air Pollutant as calculated under subsection (C)(1) 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 Threshold for any other Nonattainment Air Pollutant as set forth in District Rule 1303(B); or [See USEPA Comment 1.1.2.b. to MDAQMD, 12/19/2019]
 - 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).

[Justification for levels chosen for Minor NSR notice provided in staff report. See USEPA Comment 1.1.2.b. to MDAQMD, 12/19/2019]

- (e) **Permit Issuance Notice:** If the new or modified Facility is not subject to any of the provisions listed in subsection (7)(b), (c) or (d) above, 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 subsection (D)(3)(a)(iii).

(D) Permit Issuance Procedure

(1) Preliminary Decision

- (a) After ~~the all required~~ analyses ~~has~~ have been completed, the APCO shall issue a preliminary decision as to whether the New Source Review Document 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 ~~denial~~ disapproval; and [Clarity]
 - (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. [Conforms rule to current practice.]
- (c) The preliminary decision and draft NSR Document may also be combined with the draft PSD Document, if any, and any document(s) produced pursuant to District Regulation XXX. In such case the preliminary

decision, draft NSR Document and draft PSD Document shall conform to the applicable provisions of District Regulation XXX and 40 CFR 70.6(a)-(g), 70.7(a)-(b) and will serve as the draft Statement of Legal and Factual Basis and draft Federal Operating Permit. *[Allows Federal Operating Permit changes to be performed concurrently with other review.]*

- (2) CARB, USEPA, Federal Land Manager, and Affected State Review *[Modified to simplify noticing requirements.]*
- (a) If notice is required pursuant to the provisions of subsection (C)(7)(b)-(d) ~~District Rule 1303(B) apply to the new or Modified Facility~~ 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. *[Conforms to current practice.]*
- (b) CARB, USEPA and any Affected State shall have ~~thirty (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 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. *[Added to conform with 40 CFR 70.7 and allow FOP changes to be made concurrently with NSR/PSD changes.]*
- (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, ~~as defined in 40 CFR 51.301(e)~~, pursuant to subsection (B)(1)(~~a~~~~(vc)~~) 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. [See USEPA Comment 2.1. to MDAQMD, 12/19/2019.]

(e) For applications containing an Offset package submitted pursuant to subsection (C)(3)(b) 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. [Provision added to conform with 40 CFR 51.165(a)(11) and proposed 1305(C)(6). See USEPA Comment 1.3.1. to MDAQMD, 12/19/2019]

(3) Public Review and Comment

(a) ~~Publication of~~ Notice

- (i) **Major NSR Notice and Toxic NSR Notice:** If notice is required pursuant to the provisions of ~~District Rule 1303(B)~~ apply to the ~~new or Modified Facility~~ subsections (C)(7)(b), (C)(7)(c) or (D)(4)(d) then, within ~~ten (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); and [Conforms to current practice.]
 - b. Publish a notice in at least one newspaper of general circulation within the District by posting the notice and draft permit on the District's website for, at a minimum, the duration of the public comment period; and
 - ~~bc.~~ Send a copy of the notice containing the information set forth in subsection (D)(3)(b)(i) 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 on a list of persons requesting notice of actions pursuant to this regulation generally on file with the ~~Clerk of the Board for the~~ District; and
 - ~~ed.~~ Provide notice by other reasonable means, if such notice is necessary to assure fair and adequate notice to the public. /

*Derived from 40 CFR 51.165(i)(1)(ii) and 51.166(q)(2)(iii).
See USEPA Comment 1.1.2.1. to MDAQMD, 12/19/2019]*

- ~~(ii) Such notice shall provide thirty (30) days from the date of the publication of the notice for the public to submit written comments on the preliminary decision and shall include:~~
- ~~a. The name and location of the Facility, including the name and address of the applicant if different.~~
 - ~~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 brief description of the comment procedures and deadlines; and~~
 - ~~d. If the APCO has rejected comments regarding anticipated visibility impacts on a Class I Area, a notation of the availability of the reasons for such rejection. *[Provision moved to subsection (3)(b), below.]*~~

- (ii) **Minor NSR Notice:** If notice of permit issuance is required pursuant to the provisions of subsection (C)(7)(d) then, within 10 days of the issuance of the 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 *[Derived from 40 CFR 51.165(i)(1)(ii) See USEPA Comment 1.1.2.a to MDAQMD 12/19/2019]*
 - 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 on a list of persons requesting notice of actions pursuant to this regulation generally on file with the District. *[Conforms language to Major NSR Notice provisions and to current practice.]*

- (iii) **Permit Issuance Notice:** If the provisions of subsection (C)(7)(e) 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. *[Conforms language to current practice.]*

- (b) Notice Content Requirements. *[Moved and modified from subsection (D)(3)(a)(ii) above. Specific requirements added to conform with current practice and to allow concurrent issuance of PSD and Title V permits.]*

- (i) **Major NSR Notice Contents:** The notice required pursuant to subsection (D)(3)(a)(i) shall include:
- a. The name and location of the Facility, including the name and address of the applicant if different.

- 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 [See USEPA Comment 1.1.2.b to MDAQMD, 12/19/2019.]
 - 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. [Clarity]
 - 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). [USEPA Comment 1.1.3.a. to MDAQMD, 12/19/2019]
 - 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). [Conforms to District Rule 3005 and 3007 requirements]
 - 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. [USEPA Comment 2.1. to MDAQMD, 12/19/2019 See also definition of Federal Class I Area added to Rule 1301.]
- (ii) **Minor NSR Notice Contents:** The notification required pursuant to subsection (D)(3)(a)(ii) shall include:
- a. Identification of the Facility; including the name, address and Facility number; 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 [USEPA Comment 1.1.2.b. to MDAQMD, 12/19/2019]
- e. A brief description of the specific comment procedures and deadlines; and [USEPA Comment 1.1.2.a. to MDAQMD, 12/19/2019]
- 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) ~~If the provisions of District Rule 1303(B) apply to the new or Modified Facility, then at~~ At the time of publication of ~~the~~ any notice required above the APCO shall make available for public inspection at the offices of the District or in another prominent place ~~the following information:~~
 - a. ~~The~~ the application and any other information submitted by the applicant; ~~and~~
 - b. ~~The~~ NSR document, the preliminary decision to grant or deny the ~~Authority to Construct~~ ATC, including any proposed permit conditions and the reasons therefore; and
 - e. ~~The~~ 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
 - ~~b~~c. Such information is clearly marked or otherwise identified by the applicant as confidential.
- (ed) The APCO shall accept and consider all relevant comment(s) submitted to the District in writing during the ~~thirty (30)~~ day public comment period provided pursuant to subsection (D)(3)(b)(i) or (ii).
- ~~(d)~~ The APCO shall consider all written comments submitted by the public during the comment period. [Combined with subsection directly 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.
 - (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). *[Allows concurrent processing of PSD permits.]*
- (f) The APCO shall keep a record of any oral and -all 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. *[Conforms to current practice.]*
- (fg) 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. *[Added to avoid inadvertent conflict with California law.]*

(4) Final Action

- (a) After the conclusion of the comment period and consideration of the comments, the APCO shall produce a final ~~New Source Review~~NSR Document
- (b) Thereafter, the APCO shall take final action to issue, issue with conditions or decline to issue the ~~New Source Review Document~~ATCs or PTOs pursuant to subsection (D)(6) based on the NSR 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 ~~New Source Review~~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 ~~n~~Nonattainment ~~a~~Area in which the new or Modified

Facility is located. [See USEPA Comment 3.3. to MDAQMD, 12/19/2019]

- (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 ~~New Source Review Document~~ 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 a notice substantially similar in content to the notice required by subsection (D)(3)(a) ~~above, in a newspaper of general circulation within the District of the final action.~~ [Conforms to current practice.]
 - (e) The final NSR Document may be combined with a final PSD document produced pursuant to District Rule 1700(D). [Allows concurrent issuance of PSD documents.]
 - (f) The final ~~New Source Review~~NSR Documents 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 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, operation and other matters as set forth in the NSR Document; and
 - (ii) If a new or Modified Facility is a replacement, in whole or in part, for an existing Facility or Emissions Unit on the same or contiguous property, a condition allowing ~~one hundred eighty (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 Unit; and
 - (iii) A condition requiring the Facility to be operated in accordance with the conditions contained on the ATC(s);
 - (iv) A condition requiring that the 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 Facility commences operation. [Conforms to current practice and proposed 1305.]

- (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 ~~will behave been~~ properly offset ~~prior to Beginning Actual Construction when pursuant to~~ the provisions of District Rules 1303(B) 1305 and/or 1309. ~~apply~~
 - a. Such offsets shall be Real, Enforceable Quantifiable, Surplus and Permanent; and
 - b. The permit(s) of any Facility or Emissions Unit(s) which provided offsetting emissions reductions have been properly modified and/or other actions have been performed pursuant to the provisions of District Rules 1305 and 1309. [Cross references to offset requirements provided for clarity and consistency.]
 - (iii) The new or Modified Facility complies with all applicable 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. [Moved and modified from (C)(2)(b)]

(6) Issuance of PTO(s)

- (a) After the final action on the ~~New Source Review~~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 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) That the permit(s) of any Facility or Emissions Unit(s) which provided Offsets to the new or Modified Facility have been properly modified and/or valid contracts have been obtained pursuant to the provisions of District Rules 1304, 1305 or 1309.
 - (vi) That the Offsets, if required pursuant to District Rule 1303(B), were ~~Real, Enforceable, Quantifiable, Surplus and Permanent,~~ quantifiable, enforceable and surplus 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 District Rule 1305 as based upon the actual emissions of the facility; 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.

~~[SIP: Submitted as amended 3/20/01 on _____; Approved 2/4/96, 61 FR 64291, 40 CFR 52.220(e)(240)(i)(A)(1); Conditionally Approved 6/9/82, 47 FR 25013, 40 CFR 52.220(e)(87)(v)(A); Conditionally Approved 1/21/81, 46 FR 5965, 40 CFR 52.220(e)(70)(i)(A) See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]~~

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Rule 1303

New Source Review Requirements

(A) Best Available Control Technology

- (1) Any new Permit Unit which emits, or has the Potential to Emit, 25 pounds per day or more of any Nonattainment Air Pollutant shall be equipped with BACT
- (2) Any Modified Permit Unit which emits, or has the Potential to Emit, 25 pounds per day or more of any Nonattainment Air Pollutant shall be equipped with BACT.
- (3) Any new or Modified Permit Unit at a Facility which emits, will emit, or has the Potential to Emit, ~~25 tons per year or more of~~ any Nonattainment Air Pollutant in an amount greater than or equal to the amount listed in subsection (B)(1) below shall be equipped with BACT ~~for each new or Modified Permit Unit.~~ [Revised for clarity.]
- (4) For purposes of determining applicability of this Section, Potential to Emit is ~~defined by District Rule 1304(FFF) 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 utilized to reduce such Potential to Emit~~ used in such calculations. [Conforms to proposed revision of Rule 1304]

(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 the following 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.

OFFSET THRESHOLD AMOUNTS

POLLUTANT	OFFSET THRESHOLD
Carbon Monoxide (CO)	100 tpy
Hydrogen Sulfide (H₂S)	10 tpy
Lead (Pb)	0.6 tpy
PM ₁₀	15 tpy
Oxides of Nitrogen (NO _x)	25 tpy
Oxides of Sulfur (SO _x)	25 tpy
Reactive Volatile Organic Compounds (RVOC)	25 tpy

[Attainment pollutants (both State and Federal) removed from table. Federal Attainment pollutants covered by Rule 1700. ROC changed to VOC to conform to definitional change in Rule 1301.]

- (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) becomes a Major Facility due to a relaxation of a Federally Enforceable requirement 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. *[Derived from 40 CFR 51.165(a)(5)(ii). See USEPA Comment 1.2.2.d. to MDAQMD, 12/19/2019]*
- (4) Any Facility which has accumulated emissions increases in excess of the offset threshold set forth in subsection (B)(1) above shall offset the total emission increase during such period to zero.
- (5) The amount, ~~type~~, and eligibility of such offsets shall be determined on a pollutant by pollutant basis pursuant to the provisions of District Rules 1304, ~~and~~ 1305, and 1309. *[Clarification. Avoids the use of the word "type" per USEPA suggestion.]*

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans> Submitted as amended 03/20/01 on _____; Approved 2/4/96, 61 FR 64291, 40 CFR 52.220(c)(240)(i)(A)(1); Conditionally Approved 6/9/82, 47 FR 25013, 40 CFR 52.220(c)(87)(v)(A); Conditionally Approved 1/21/81, 46 FR 5965, 40 CFR 52.220(c)(68)(i)]

RULE 1304

New Source Review Emissions Calculations

(A) General

(1) Purpose

- (a) This rule provides the procedures and formulas to calculate **emissions** 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 ~~to reduce Proposed Emissions for purposes of applicability of District Rule 1303(B).~~
 - (iii) Determine the Potential to Emit (PTE) for new or Modified Facilities and Emissions Unit(s).
 - (iv) Calculate certain terms used in District Rule 1305. [Added to conform with proposed 1305 amendments.]
 - (v) Calculate emissions decreases used to determine ERCs pursuant to the provisions of District Rule 1309.

(B) Calculating Emissions Changes in a Facility

(1) General Emissions Change Calculations

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

Emissions Change = (~~Proposed Emissions~~PE) - (~~Historic Actual Emissions~~HAE)

- (b) The emissions change for a project at new or Modified Facility is the sum of all the positive Emissions Changes for each Emissions Unit(s) which occur at the Facility at the same time or in connection with the same permitting action. [Clarifies current practice.]

(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).

Net Emissions Increase = (PE) – (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 action. [Calculation provision added to segregate applicability from “amount of offsets” calculations.]

(C) Calculating Simultaneous Emissions Reductions.

- (1) SERs as defined in District Rule 1301(UUU) may result from the Modification or shut down of Existing Emission Unit(s) so long as the resulting reductions are Federally Enforceable, ~~Real, enforceable, permanent, quantifiable, surplus~~ Surplus, Permanent, Quantifiable and Enforceable, and are reductions in ~~Actual Emissions~~ of the Emissions Unit(s).
- (2) SERs resulting from the Modification or shutdown of existing Emission Unit(s) within the same Facility shall be calculated as follows:

- (a) For the shutdown of Emissions Unit(s);

$$\text{SER} = \text{Historic Actual Emissions} - \text{HAE}$$

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

$$\text{SER} = (\text{Historic Actual Emissions} - \text{HAE}) - (\text{Proposed Emissions} - \text{PE})$$

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

- (i) Any calculation formula and protocol as approved by the District, CARB and USEPA; and

- (ii) The SERs also comply with the applicable provisions of District Rule 1305(C)(3). [Ties into requirement of proposed 1305]

- (d) In the case of a Modified Major Facility, the HAE for a specific 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 documented prior permitting action so long as: [Moved from former 1304(E)(2)(a)(iv)]

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

- (ii) The resulting Emissions Change from a calculation using this provision is a decrease in emissions from the Emissions Unit(s) and
 - (iii) Any excess SERs generated from a calculation using this provision are not eligible for banking pursuant to the provision of District Regulation XIV. [Moved from former 1305(B)(2)(b)(i)]
- (3) SERs calculated pursuant to subsection (C)(2) above shall thereafter be ~~a~~Adjusted to reflect emissions reductions which are otherwise required by Federal, State or District law, rule, order, permit or regulation as follows:
 - (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.
- (4) SERs calculated pursuant to subsection (C)(2) above shall be considered Enforceable when the owner and/or operator of the Emissions Units involved has obtained appropriate permits and/or submitted other enforceable documents as follows: [Moved from former 1305(B)(2)(a)(iii)]
 - (a) If the SERs are the result of a Modification or limitation on the use of existing equipment the owner and/or operated has been issued revised ATCs or PTOs containing Federally Enforceable conditions reflecting the Modification and/or limitations. [Moved from former 1305(B)(2)(a)(iii)a.]
 - (b) If the SERs are the result of a shutdown of a Permit Unit(s) the owner and/or operator has surrendered the relevant permits and those permits have been voided. [Moved from former 1305(B)(2)(a)(iii)b.]
 - (i) The specific Permit Units 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. [Moved from former 1305(B)(2)(a)(iii)b.i.]

(c) If the SERs are the result of a Modification of Emissions Unit(s) which did not have a District permit, 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 Unit(s). [Moved from former 1305(B)(2)(a)(iii)c.]

(d) If the SERs are the result of the application of a more efficient control technology to Emissions Unit(s) the owner and/or operator has or obtains a valid District PTO for both the underlying Emissions Unit and the new control technology. [Moved from former 1305(B)(2)(a)(iii)d.]

~~(5) Positive SERs as calculated above may only be used to reduce Proposed Emissions, as calculated pursuant to section (E)(1), for purposes of determining applicability of calculating Net Emissions Increases pursuant to subsection (B)(2) or as Offsets pursuant to District Rule 1305(C)(2) District Rule 1303(B). [Conforms to proposed 1304(B)(2) and 1305(C)(2)]~~

(5) Prior to use, SERs must be 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). shall be AERs as calculated below. [Revised to mirror proposed 1304(C)]

(2) ERCs resulting from the Modification or shutdown of existing Emissions Unit(s) Initial calculation of AERs shall be initially calculated as follows:

(a) For the shutdown of an emissions unit;

$$\text{AER-ERC} = \text{Historic Actual Emissions HAE}$$

(b) For Modifications or limitations on operations of an eEmission unit(s);

$$\text{AER-ERC} = (\text{Historic Actual Emissions HAE}) - (\text{Proposed Emissions PE})$$

(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 [Derived from proposed 1305(B)(3)(a)(v)]

(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 ~~AERs~~ shall ~~thereafter~~ 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) ~~AERs~~-ERCs shall be adjusted to reflect only the excess reductions beyond those already achieved by, or achievable by, the emissions unit using RACT.
 - (b) ~~AERs~~-ERCs shall be adjusted to reflect only the excess reductions beyond those required by applicable District Rules and Regulations.
 - (c) ~~AERs~~-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) ~~AERs~~-ERCs shall be adjusted to reflect the excess reductions beyond those required by any control measures identified in the District's Air Quality Attainment Plan~~AQAP~~ or contained in the State Implementation Plan~~SIP~~ for the District which have not yet been implemented in the form of District Rules and/or Regulations.
- (4) Readjustment of ~~AERs and~~ERCs
- (a) ~~AERs and~~ERCs shall be eligible for readjustment when:
 - (i) The original amount of ~~AERs~~-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 ~~AERs~~-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 ~~AER-ERC~~ is eligible for readjustment the APCO shall calculate the readjustment as if the ~~AER-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 ~~for that Facility or Emissions Unit as~~ defined by District Rule 1301(~~FFFGGG~~) 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 ~~an~~ Emissions Unit(s) ~~or combination of Emissions Units~~, 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), ~~or combination of Emissions Units~~, averaged from the ~~two~~ 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), ~~or combination of Emissions Units~~, averaged for any ~~two~~ 2 years of the ~~five~~ 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)(~~4~~) above.
- (iii) If ~~an~~ the Emissions Unit(s) ~~has~~ have been in operation for less than one year, the HAE shall be equal to zero.
- ~~(iv) For purposes of calculations pursuant to District Rule 1304(B), in the case of a modified Facility, HAE for an Emissions Unit may be equal to the Potential to Emit for that Emissions Unit, as indicated by Federally Enforceable Emissions Limitation, if all the emissions from that Emissions Unit have been previously offset in a documented prior permitting action pursuant to Regulation XIII or prior Rule 213. [Provision moved to proposed 1304(C)(2)(d) to reflect the fact that it is only used in relation to SER creation.]~~

(3) Potential ~~To~~ 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 Permit Emission Unit(s) as defined pursuant to District Rule 1301(~~FFFGGG~~); and

- (ii) Any emissions increases from proposed new or Modified **Permit 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. Any Emission Reduction Credits issued and banked pursuant to the provisions of District Rule 1309 shall be included in the calculations of a Facility's Potential to Emit. [Conforms to proposed amendments in 1305.]

[SIP: Submitted as amended 03/20/01 on _____; Approved 2/4/96, 61 FR 64291, 40 CFR 52.220(e)(240)(i)(A)(1); Disapproved _____, _____, 40 CFR 52.233(l)(1)(i) and 52.233(l)(1)(iii); Conditionally Approved 6/9/82, 47 FR 25013, 40 CFR 52.220(e)(87)(v)(A); Conditionally Approved 1/21/81, 46 FR 5965, 40 CFR 52.220(e)(68)(i) See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]

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RULE 1305

New Source Review Emissions Offsets

(A) General

(1) Purpose

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

(~~2~~B) Calculation of Amount of Offsets Necessary *[Renumbered for clarity]*

- (~~a~~1) ~~The base amount of N~~ecessary Offsets shall be calculated based upon the nature of the Facility or Modification ~~and the applicable Offset ratios.~~ *[Offset Ratios dealt with in subsection(B)(3) below.]*
- (~~b~~2) The APCO shall first determine the ~~type of particular~~ Facility or Modification and calculate the base quantity of Offsets required as follows: *[Entire subsection revised to provide provisions for each type of new or modified permitting action.]*
- (~~i~~a) For a new Major Facility, the base quantity of Offsets shall be equal to the total Proposed Emissions, calculated pursuant to ~~Section (E) below~~ District Rule 1304(E)(1), for the Facility on a pollutant category specific basis for each Nonattainment Air Pollutant.
- (~~ii~~b) ~~For emissions increases from a Modification to a previously existing non-major Facility, the base quantity of Offsets shall be determined as follows:~~
- a. — For a Major Modification to ~~an 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. ~~either of the following:~~
- i. — ~~The Facility's Proposed Emissions, on a pollutant category specific basis, when the Facility is located in a nonattainment area; or~~
- (c) 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 ii. — The amount of the Facility's Proposed Emissions, on a pollutant category specific basis, which exceeds the threshold amounts as set forth in District Rule 1303(B) ~~when the Facility is located in an attainment or~~

~~unclassified area, on a pollutant category specific basis for each Nonattainment Air Pollutant.~~

~~b.(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 Nonattainment Pollutant, the base quantity of Offsets shall be equal to ~~either of the following: 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.~~

~~i. The Facility's Proposed Emissions when the Facility is located in a nonattainment area; or~~

~~(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 ~~ii. The amount of the Facility's Proposed Emissions, on a pollutant category specific basis, which exceeds the threshold amounts as set forth in District Rule 1303(B) on a pollutant category specific basis for each Nonattainment Air Pollutant when the Facility is located in a attainment or unclassified area.~~

~~e.(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 ~~either of the following: 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.~~

~~i. The Facility's Proposed Emissions when the Facility is located in a nonattainment area; or~~

~~(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 ~~ii. The amount of the Facility's Proposed Emissions, on a pollutant category specific basis, which exceeds the threshold amounts as set forth in District Rule 1303(B) when the Facility is located in a attainment or unclassified area for the Facility on a pollutant category specific basis for each Nonattainment Air Pollutant.~~

~~(iii)~~ For ~~emissions increases from~~ 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.

(e) 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 ~~Facility~~ Seasonal Source operates.

(d) 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.
- (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 as set forth in ~~subsection (c)~~ below, dependant 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 amount of Offsets necessary.

(B) Eligibility of Offsets

- (1) ERCs ~~or AERs may be eligible to~~ be used as Offsets when:

- (a) Such 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 ~~such~~ ERCs are obtained from a Facility (or combination of Facilities) which are:

- (i) Located within the same ~~f~~ Federal ~~N~~ Nonattainment, attainment or unclassified area as that where the Offsets are to be used; or
- (ii) Located in an area with a ~~f~~ 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.

- (b) ~~Such AERs have been calculated, adjusted and approved pursuant to the provisions of District Rule 1304(D) and comply with the provisions of section (B)(2) below. [Removed as unnecessary due to shift of SER provisions into proposed 1304.]~~
 - (c) Such ERCs have been calculated and issued in another air district 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 subsection (BC)(4) below.
 - (d) Such ERCs have been calculated and issued in another air district under a program developed pursuant to California Health & Safety Code §§40709-40713 and the transfer of such credits complies with the requirements of California Health & Safety Code §40709.6 and the use of the ERCs comply with the provisions of section (BC)(5) below.
- (2) AERs Generated by Simultaneous Reductions at a Facility ~~SERs are eligible for use as Offsets when:~~
- (a) ~~AERs generated from simultaneous reductions occurring at the same Facility may be used as Offsets when: [Provision included in 1304(C)(2)]~~

They have been calculated, adjusted and meet all the requirements of District Rule 1304(C).

- (i) ~~Such AERs are real, enforceable, surplus, permanent and quantifiable; and [Provision included in 1304(C)(1)]~~
- (ii) ~~The owner and/or operator of the Emissions Units involved has obtained appropriate permits and/or submitted other enforceable documents as follows: [Provision moved to 1304(C)(4)]~~
 - a. ~~If the AERs are the result of a Modification or limitation of the use of existing equipment, the owner and/or operator has been issued revised PTOs containing Federally Enforceable conditions reflecting the Modification(s) and/or limitation(s). [Provision moved to 1304(C)(4)(a)]~~
 - b. ~~If the AERs are the result of a shutdown of Permit Unit(s), the owner and/or operator has surrendered the relevant permits and those permits have been voided. [Provision moved to 1304(C)(4)(b)]~~
 - i. ~~The Permit Unit(s) for which the permits were surrendered will not be re-permitted within the District, unless their emissions are completely~~

~~Offset pursuant to the provisions of this Regulation.
[Provision moved to 1304(C)(4)(b)(i)]~~

~~c. If the AERs are the result of a shutdown or Modification of Emission Unit(s) which did not have a District permit, owner and/or operator has obtained valid District PTO(s) or has provided a contract, enforceable by the District, which contains enforceable limitations on the Emissions Unit(s).
[Provision moved to 1304(C)(4)(c)]~~

~~d. If the AERs are the result of the application of a more efficient control technology to an Emissions Unit, the owner and/or operator has a valid District PTO for both the underlying Emissions Unit and the new technology.
[Provision moved to 1304(C)(4)(d)]~~

~~(b) Such AERs comply with the requirements of section (B)(1)(b) above. 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 AERs may~~ERCs are eligible to be used as Offsets ~~on a case-by-case basis~~ when:

- ~~(i) The applicant demonstrates sufficient control over the Mobile Sources to ensure the claimed reductions are real, enforceable, surplus, permanent and quantifiable; and~~
- ~~(ii) Such Mobile Source AERs are consistent with Mobile Source emissions reduction as guidelines issued by CARB; and~~
- ~~(iii) The specific proposed Mobile Source AERs are approved prior to the issuance of the New Source Review document and any ATC(s) by the APCO in concurrence with CARB; and~~
- ~~(iv) For a Federal Major Facility as defined in District Rule 1310(C)(6) or Federal Major Modification, as defined in District Rule 1310(C)(7), and which is located in a Federal nonattainment area the specific proposed Mobile Source AERs are approved prior to the issuance of the New Source Review document and any ATC(s) by USEPA; and~~
- ~~(v) Such Mobile Source AERs comply with the applicable provisions of section (B)(1) above.~~

~~(b) Mobile Source ERCs may be used as Offsets on a case-by-case basis 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~~,

- ~~enforceable, surplus, permanent and quantifiable Real, Surplus, Permanent, Quantifiable and Enforceable; and~~
- (iii) ~~Such For~~ Mobile Sources, ~~such Mobile Source~~ ERCs are consistent with Mobile Source emissions reduction ~~as~~ guidelines issued by CARB; and
- (iv) The specific Mobile, ~~Area, or Indirect~~ Source ERCs are approved for use prior to the issuance of the ~~New Source Review~~NSR document and the issuance of any ATCs by the APCO in concurrence with CARB; and
- (v) For a ~~new or Modified Federal~~ Major Facility ~~as defined in District Rule 1310(C)(6) or Federal or a~~ Major Modification, ~~as defined in District Rule 1310(C)(7), and~~ which is located in a Federal ~~Nonattainment a~~Area the specific Mobile, ~~Area, or Indirect~~ Source ERCs are ~~approved for use prior to the issuance of the New Source Review document and the issuance of any ATCs by USEPA~~ calculated and adjusted pursuant to a SIP approved calculation method and represent Actual Emissions Reductions from a USEPA approved emissions inventory; and ~~[See USEPA Comment 1.3.1. to MDAQMD, 12/19/2019]~~
- (vi) Such Mobile, ~~Area, or Indirect~~ Source ERCs comply with the applicable provisions of section (BC)(1) above.

~~(c) Area and Indirect Source AERs may be used as Offsets on a case-by-case basis when:~~

- ~~(i) The applicant demonstrates sufficient control over the Area or Indirect Sources to ensure the claimed reductions are real, enforceable, surplus, permanent and quantifiable; and~~
- ~~(ii) Such Area or Indirect Source AERs are calculated pursuant to a formula which has been approved by CARB and USEPA; and~~
- ~~(iii) The specific proposed Area or Indirect Source AERs are approved prior to the issuance of the New Source Review document and any ATC(s) by the APCO in concurrence with CARB; and~~
- ~~(iv) For a Federal Major Facility as defined in District Rule 1310(C)(6) or Federal Major Modification, as defined in District Rule 1310(C)(7), and which is located in a Federal nonattainment area the specific proposed Area or Indirect Source AERs are approved prior to the issuance of the New Source Review document and any ATC(s) by USEPA.~~
- ~~(v) Such Area or Indirect Source AERs comply with the applicable provisions of section (B)(1) above~~

~~(d) Area and Indirect Source ERCs may be used as Offsets on a case-by-case basis when:~~

- ~~(i) Such Area or Indirect Source ERCs have been calculated and banked pursuant to the provisions of District Rule 1309.~~

- ~~(ii) The applicant demonstrates sufficient control over the Area or Indirect Sources to ensure the claimed reductions are real, enforceable, surplus, permanent and quantifiable; and~~
- ~~(iii) The specific Area or Indirect Source ERCs are approved for use prior to the issuance of the New Source Review document and the issuance of any ATCs by the APCO in concurrence with CARB; and~~
- ~~(iv) For a Federal Major Facility as defined in District Rule 1310(C)(6) or Federal Major Modification, as defined in District Rule 1310(C)(7), and which is located in a Federal nonattainment area the specific Area or Indirect Source ERCs are approved for use prior to the issuance of the New Source Review document and the issuance of any ATCs by USEPA; and~~
- ~~(v) Such Area or Indirect Source ERCs comply with the applicable provisions of section (B)(1) above.~~

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

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

- (i) For a ~~Federal new or Modified~~ Major Facility ~~as defined in District Rule 1310(C)(6) or Federal a~~ Major Modification, ~~as defined in District Rule 1310(C)(7), and~~ which is located in a Federal ~~n~~Nonattainment ~~a~~Area the APCO's approval shall be made in consultation with CARB and the USEPA, on a case-by-case basis; ~~and~~ 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; [See USEPA Comment 1.3.1. to MDAQMD, 12/19/2019]~~

- ~~(b) Such emissions reductions may only be used as Offsets if:~~

- ~~(iii) The emissions reductions~~ 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
- ~~(ii) 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.~~

- ~~(eb) Such emissions reductions shall also comply with the applicable requirements of subsection (BC)(1)(e) above.~~

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

- (a) ~~Emissions reductions~~ERCs from outside the air basin ~~may be allowed are eligible~~ to be used as Offsets upon approval of the APCO ~~as follows~~.
- (i) For a ~~Federal new or Modified~~ Major Facility ~~as defined in District Rule 1310(C)(6) or a Federal~~ Major Modification, ~~as defined in District Rule 1310(C)(7), and~~ which is located in a Federal ~~n~~Nonattainment ~~a~~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~~ ~~See USEPA Comment 1.3.1. to MDAQMD, 12/19/2019]~~
- ~~(b) — Such emissions reductions may only be used as Offsets if:~~
- (iii) The ~~emissions reductions~~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
- (~~i~~vi) 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.

(~~e~~b) Such emissions reductions shall comply with the applicable requirements of subsection (BC)(1)(~~d~~) above.

(6) Interpollutant Offsets³⁴³

- (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.
- (i) For a ~~Federal new or Modified~~ Major Facility ~~as defined in District Rule 1310(C)(6) or a Federal~~ Major Modification, ~~as defined in District Rule 1310(C)(7), and~~ which is located in a Federal ~~n~~Nonattainment ~~a~~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(BC)(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.

³⁴³ Use of this subsection subject to the Ruling in Sierra Club v. USEPA 985 F.3d 1055 (D.C. Cir. 2021) and subsequent guidance as issued by USEPA.

- (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.
- (c) The APCO shall, based upon an air quality analysis, determine the amount of Offsets necessary, as appropriate.
- (d) Interpollutant trades between PM₁₀ and PM₁₀ precursors may be allowed on a case by case basis. PM₁₀ emissions shall not be allowed to Offset ~~nitrogen oxides~~ or ~~reactive Volatile Organic Compounds~~ emissions within any ozone nonattainment area. *[Standardize terminology]*
- (e) Such ERCs comply with the applicable provisions of subsection (BC)(1) above.

(CD) Offset Ratio and Adjustment

- (1) Offsets for Net Emissions Increases of ~~Nonattainment~~ Nonattainment Air Pollutants shall be provided on a 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> (Within a Federal Ozone Nonattainment Area)	<u>OFFSET RATIO</u> (Within a Federal PM ₁₀ Nonattainment Area)
Carbon Monoxide (CO)	1.0 to 1.0	1.0 to 1.0
Hydrogen Sulfide (H₂S)	1.0 to 1.0	1.0 to 1.0
Lead (Pb)	1.0 to 1.0	1.0 to 1.0
PM ₁₀	1.0 to 1.0	1.0 to 1.0
Oxides of Nitrogen (NO _x)	1.3 to 1.0	1.0 to 1.0
Oxides of Sulfur (SO _x)	1.0 to 1.0	1.0 to 1.0
Reactive Volatile Organic Compounds (RVOC)	1.3 to 1.0	1.0 to 1.0

[Removed H2S to match table in Rule 1303(B)(1)]

- (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) 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.
- (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).

~~(D) Modeling for Offset Purposes~~

- ~~(1) Offsets shall not be required for increases in attainment Regulated Air Pollutants if the applicant demonstrates to the satisfaction of the APCO, through an impact analysis, that the ambient air quality standards are not violated in the areas to be affected, and such emissions will not cause or contribute to a violation of Ambient Air Quality Standards. [Removed as unnecessary. Attainment pollutants covered by provisions of Rule 1700]~~

~~(E) Calculation of Terms Used in Rule 1305 [All calculations moved to 1304(E)]~~

- ~~(1) Unless otherwise specified in this subsection all terms requiring calculations shall be calculated pursuant to the provisions of District Rule 1304.~~
- ~~(2) Proposed Emissions
 - ~~(a) For a new or Modified Facility or Emissions Unit(s), the Proposed Emissions shall be equal to the Potential to Emit for that Facility or Emissions Unit as defined by District Rule 1301(FFF) as calculated pursuant to (E)(3) below. [Already included in 1304(E)(1) and 1301]~~~~
- ~~(3) Potential to Emit
 - ~~(a) The Potential to Emit for a Facility for purposes of determining base quantity of Offsets under subsection (A)(2)(b) above shall be calculated as follows:
 - ~~(i) The sum of the Potentials to Emit for all existing Permit Units; and~~
 - ~~(ii) The emissions increases from proposed new or Modified Permit Units; and~~
 - ~~(iii) The emissions from all Dedicated Cargo Carriers; all Fugitive Emissions; and Nonpermitted Equipment which are directly associated with the operation of the Facility.~~~~~~

(iv) ~~Any Emission Reduction Credits issued and banked pursuant to the provisions of District Rule 1309 shall be included in the calculations of a Facility's Potential to Emit. [See proposed 1304(E)(3)]~~

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans> Submitted as amended 03/20/01 on _____]

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(Adopted: 10/05/79; Amended: 03/07/80; Amended: 09/10/82; Amended: 12/03/82; Amended: 07/12/85; Amended: 08/01/86; Amended: 09/05/86; Amended: 07/28/90; Amended: 05/03/91; Amended: 12/07/95; Amended: 07/14/96; Amended: 03/20/01; Amended: mm/dd/yy)

RULE 1306

New Source Review for Electric Energy Generating Facilities

(A) General

- (1) This Rule shall apply to all EEGF proposed to be constructed in the District and for which an NOI or AFC has been accepted by the CEC, as such terms are defined in District Rule 1301(~~YV~~), (~~XXYY~~), (~~JG~~) and (~~QM~~) respectively.
- (2) If any provision of this Rule conflicts with any other provision of this Regulation, the provisions contained in this Rule shall control.

(B) Intent to Participate

- (1) Notification of Intent to Participate (NOI)
 - (a) Within ~~fourteen~~(14) days of receipt of an NOI, the APCO shall notify CARB and the CEC of the District's intent to participate in the NOI proceeding.
- (2) Preliminary Report
 - (a) If the District chooses to participate in the NOI proceeding, the APCO shall prepare and submit a preliminary report to CARB and the CEC prior to the conclusion of the nonadjudicatory hearings specified in ~~Section 25509.5 of the California~~ Public Resources Code §25509.5 as it exists on the date of the last amendment of this rule. [Standardization.]
 - (b) The Preliminary Report shall include, at a minimum:
 - (i) A preliminary specific definition or description of BACT for the proposed Facility; and
 - (ii) A preliminary discussion of whether there is a substantial likelihood that the requirements of this Regulation and all other District Rules can be satisfied by the proposed Facility; and
 - (iii) A preliminary list of conditions which the proposed Facility must meet in order to comply with this Regulation and any other applicable District Rules.
 - (c) The preliminary determination shall be as specific as practicable within the constraints of the information contained in the NOI

(C) Applications

(1) Application for New Source Review

- (a) The APCO shall consider the AFC to be equivalent to an application pursuant to District Rule 1302(B) during the Determination of Compliance review, and shall apply all applicable provisions of District Rule 1302 to the application.
- (b) If the information contained in the AFC does not meet the requirements which would otherwise comprise a complete application pursuant to District Rule 1302(B)(1), the APCO shall, within ~~twenty~~(20) calendar days of receipt of the AFC, specify the information needed to render the application complete and so inform the CEC.

(2) Requests for Additional Information

- (a) The APCO may request from the applicant any information necessary for the completion of the Determination of Compliance review.
- (b) If the APCO is unable to obtain the information, CARB or the APCO may petition the presiding committee of the CEC for an order directing the applicant to supply such information.

(D) Determination of Compliance Review

- (1) Upon receipt of an AFC for an EEGF, the APCO shall conduct a Determination of Compliance review. This Determination shall consist of a review identical to that required pursuant to District Rule 1302(C).

(E) Permit Issuance Procedure

(1) Preliminary Decision

- (a) Within ~~one hundred and fifty~~(150) days of accepting an AFC as complete and after the determination of compliance review has been completed, the APCO shall make a preliminary determination of compliance containing the following: [Standardization.]
 - (i) A determination whether the proposed EEGF meets the requirements of this Regulation and all other applicable District Rules; and
 - (ii) In the event of compliance with all applicable District Rules and Regulations, what permit conditions will be required, including the specific BACT requirements.

(2) Public Notice Requirements

- (a) The preliminary determination of compliance decision shall be treated as a preliminary decision under Rule 1302(D)(1) and shall be finalized by the APCO only after being subject to the public notice and comment requirements of Rule 1302(D)(2-3).
- (3) Determination of Compliance
 - (a) Within ~~two hundred and ten (210)~~ days of accepting an AFC as complete and after the notice provisions have been completed, the APCO shall issue and submit to the CEC either of the following: [Standardization.]
 - (i) A final determination of compliance; or,
 - (ii) If such a determination of compliance cannot be issued, an explanation regarding why such determination of compliance cannot be issued.
 - (b) A determination of compliance shall confer the same rights and privileges as the new source review document and ATC(s) if and when the CEC approves the AFC, and the CEC certificate includes all conditions contained in the determination of compliance.

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans> Submitted as amended 3/20/01 on _____; Approved 2/4/96, 61 FR 64291, 40 CFR 52.220(e)(240)(i)(A)(1); Conditionally Approved 6/9/82, 47 FR 25013, 40 CFR 52.220(e)(87)(v)(A); Conditionally Approved 1/21/81, 46 FR 5965, 40 CFR 52.220(e)(68)(i)]

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RULE 1309

Emission Reduction Credits Banking

(A) General

(1) Purpose

- (a) The purpose of this Rule is 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, ~~banking and Banking and use~~ 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 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 ~~air contaminants~~ Regulated Air Pollutants may be used ~~to as~~ Offsets for future increases in the emission of ~~air contaminants~~ Regulated Air Pollutants, ~~except as provided in subsection (1)(a)(i) below,~~ unless such reductions have been Banked pursuant to this Rule. *[Removes double negative formulation. Clarifies Regulated Air Pollutants are the subject of this rule.]*
 - (i) Notwithstanding the above, ~~emissions reductions proposed to offset simultaneous emissions increases~~ SERs created in the same permitting action and within the same Facility are not required to be Banked ~~prior to use as Offsets~~ so long as such reductions satisfy all the applicable criteria contained in District Rules 1304(C) and 1305. *[Conforms language to proposed amendments to Rules 1304 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 (~~AVAPCD-AVAQMD~~ ERC Registry).
- (b) The ~~AVAPCD-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 calculated pursuant to the provisions of District Rule 1304 and approved by the APCO pursuant to subsection (C)(3) below ~~and District Rule 1304~~; and
 - c. The amount, 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 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 ~~AVAPCD~~ 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 ~~AVAPCD-AVAQMD~~ ERC Registry are ~~p~~Permanent until:
- (i) They are used by the owner; or
 - (ii) They are used by any person to whom the ERC has been transferred; or
 - (iii) They expire.
- (d) Subsequent changes in District Rules or Regulations to require a type of emission reduction which has previously been ~~b~~Banked pursuant to this Rule shall not reduce or eliminate an ERC generated from that type of emission reduction. [Clarity]

- (e) Emission reductions are eligible to become ERCs if such reductions are Real, Surplus, Permanent, Quantifiable, and Enforceable; ~~AERs as defined in District Rule 1301(B)~~ and are calculated pursuant to the provisions of District Rule 1304(D) and:
 - (i) The emissions reduction is the result of a Modification or limitation of use of existing ~~equipment~~ Emission Unit(s) such that after the reduction is made the ~~equipment~~ Emission Unit(s) remains in service with an authority to construct or permit to operate pursuant to Regulation II ~~Permits or Regulation XXX Federal Operating Permits~~; or [Cross reference removed as all Title V facilities also carry "state" permits as issued under Regulation II.]
 - (ii) The emission reduction is the result of a shutdown of ~~e~~ Emission u Unit(s) and there will likely be no replacement ~~e~~ Emission u Unit(s) at the same Facility unless the emissions from any replacement ~~e~~ Emission u Unit(s) ~~must be~~ is completely offset under the provisions of ~~District Rule 1305~~ this Regulation.

(2) Contents of Registry:

- (a) All ERCs contained in the ~~AVAPCD~~ 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;
 - (ii) The amount and pollutant ~~type of~~ the approved ERC on a pollutant by pollutant basis;
 - (iii) The expiration date of the approved ERC, if any;
 - (iv) 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 shall be evidenced by a Certificate issued by the District and signed by the APCO.
- (b) The Certificate shall contain the same information as is contained in the registry entry for the issued ERC pursuant to subsection (B)(2)(b) above.
- (c) The APCO shall prescribe the form of the Certificate.

- (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 ~~e~~Emissions ~~u~~Unit(s) which produced the reduction in ~~emission of air contaminants~~Regulated Air Pollutants, in the same manner as such owner(s) hold title to the facility in which the ~~e~~Emissions ~~u~~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 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 ~~e~~Emissions ~~u~~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 ~~e~~Emissions ~~u~~Unit(s) and a contact person if necessary.
 - (ii) Information sufficient to identify the source and/or causation of the emission reductions.
 - (iii) Information sufficient to allow the calculations set forth in District Rule1304(D) to be performed.
 - (c) No application for ERCs will be ~~accepted-processed~~ until the applicable fees as specified in District Rule 301 have been paid. *[Clarity]*
 - (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 ~~six (6)~~ months after any of the following:

- a. District issuance of an ~~Authority to Construct ATC pursuant to District Regulation II – Permits~~; or
 - ~~b. District issuance of an Authority to Construct pursuant to Regulation XIII – New Source Review; or~~
 - ~~eb.~~ District issuance of a modified ~~PTO permit pursuant to Regulation II – Permits~~; or
 - ~~dc.~~ District cancellation of a ~~previously existing permit ATC or PTO pursuant to Regulation II – Permits~~; or
 - ~~ed.~~ for emissions units not subject to permitting requirements, the completion of the Modification or shutdown and execution of the document(s) required by subsection (D)(3)(c).
- (ii) Notwithstanding subsections (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 emissions 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) ~~The confidentiality of trade secrets~~ Information contained in an application for ERCs shall be considered confidential when:
- ~~(i) The information is a trade secret or otherwise confidential pursuant to accordance with 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. [Conforms to confidentiality provisions in 1302(D)(3)(c)(ii)]~~
- (2) Determination of Completeness:
- (a) The APCO shall determine if the application is complete no later than ~~thirty (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.

(~~ic~~) If the application is determined to be incomplete:

~~a.(i)~~ The notification shall specify which part of the application is incomplete and how it can be made complete; and

~~b.(ii)~~ The applicant for ERC shall have ~~thirty~~(30) days to submit the additional information, unless another time period is specified by the APCO in writing.

~~c.(iii)~~ The applicant for an ERC 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.

~~d.(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.

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

(~~ed~~) 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 ~~thirty~~(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) below, to issue or deny the ERCs.

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

~~a.(i)~~ If the determination is to issue ERCs then the ~~notice~~-notification shall include the amount and type of the ERCs proposed to be issued; or

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

~~(ii)~~ After the APCO has determined to issue ERCs, the information submitted by the applicant, and the APCO's analysis, and determination shall be transmitted to the California Air Resources Board 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 ERCs proposed to be granted are greater than any of the following amounts: [Added timing provision to conform with Rule 1302 timing.]

<u>Pollutant</u>	<u>ERC Notification to CARB/USEPA Threshold</u>
NO _x	14,600 lbs/yr or 40 lbs/day
SO _x	21,900 lbs/yr or 60 lbs/day
ROC	10,950 lbs/yr or 30 lbs/day
PM ₁₀	10,950 lbs/yr or 30 lbs/day
CO	80,300 lbs/yr or 220 lbs/day
H ₂ S	20,000 lbs/yr or 54 lbs/day
Pb	1,200 lbs/yr or 3 lbs/day

(5) Public Notice and Comment:

(a) After the APCO has determined to issue ERCs, the APCO shall:

- ~~(i)~~ Produce a notice containing all the information contained in subsection (C)(5)(c) below; and
- ~~(ii)~~ publish a the notice by posting on the District's website; and in at least one daily newspaper of general circulation within the District and shall
- ~~(iii)~~ Send a copy of the notice to all persons who are included on a list of persons requesting notice, on file with the Clerk of the Board for the District;
- ~~(iv)~~ Provide notice by other reasonable means, if such notice is necessary to assure fair and adequate notice to the public. [Conforms language to proposed 1302(D)(3) notice provisions.]

(b) The notice shall provide the following:

- (i) The name and address of the applicant and the facility generating the emissions reductions, if different;
- (ii) The amount ~~and type~~ of ERCs proposed to be issued on a pollutant by pollutant basis;

- (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 *[Conforms language to proposed 1302 (D)(3) notice requirements]*
- (iv) A statement providing ~~At~~ at least a ~~thirty (30)~~ days from the date of publication of the notice period in which interested persons may submit written comments to the District regarding the proposed issuance of the ERCs.
- (v) A brief description of the comment procedures and deadlines; and
- (vi) Information regarding obtaining review of the decision pursuant to section (G) below; and *[Conforms language to proposed 1302 (D)(3) notice requirements]*
- (c) The APCO shall accept and consider all germane and nonfrivolous comments which are received during the comment period. ~~The APCO shall consider such comments prior to issuance of the ERCs.~~ *[Conforms language to proposed 1302(D)(3)(d)]*
- (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 ~~five (5)~~ years.
- (6) 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 a Certificate.
 - (b) The APCO shall provide written notice of the final action to the applicant ~~(and to USEPA and CARB and USEPA,~~ if the preliminary determination was sent to such agencies pursuant to subsection (C)(4)(a)(iic) above).
- (D) Standards for Granting ~~Emission Reduction Credits~~ ERCs
 - (1) ERCs shall be Real, Surplus, Permanent, Quantifiable, and Enforceable~~real, enforceable, permanent, quantifiable and surplus.~~
 - (2) ERCs shall only be granted for emissions 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 ~~indicated below~~follows: *[Conforms language to provisions of proposed 1304(C)(4)]*

- (a) If the ~~emission reduction~~ proposed ERCs are ~~is~~ the result of a Modification or limitation of use of existing ~~equipment~~; Permit Unit(s),
- (i) ~~the owner and/or operator has been issued A-revised ATCs permit to operate~~ PTOs containing ~~f~~Federally ~~e~~Enforceable conditions reflecting the Modification and/or limitations has been issued. *[Conforms language to provisions of proposed 1304(C)(4)(a)]*
- (b) If the ~~emission reduction is~~ proposed ERCs are the result of a shutdown of ~~p~~Permit unit(s); ~~the owner and/or operator has surrendered the relevant permits and those permits have been voided~~ *[Conforms language to provisions of proposed 1304(C)(4)(b)]*
- (i) ~~The relevant permits have been surrendered and voided.~~
- (ii) ~~The specific Permit~~ emissions unit(s) for which the permits were surrendered ~~will~~shall not be re-permitted within the District, unless the ~~ir~~ emissions thereof are completely offset pursuant to ~~Regulation XIII – New Source Review~~ the provisions of this Regulation. *[Conforms language to provisions of proposed 1304(C)(4)(b)(i)]*
- (c) If the ~~emission reduction is~~ proposed ERCs are the result of a ~~shutdown~~ modification of a ~~e~~Emission ~~u~~Unit(s) which did not have a District permit; ~~the owner and/or operator has~~
- (i) ~~A valid District permit has been obtained~~ a valid District permit or ~~ap~~rovided a contract enforceable by the District ~~has been executed by the applicant which contains Federally e~~nforceable limitations ~~reflecting the reduced emissions on~~ the Emissions Unit(s). *[Conforms language to provisions of proposed 1304(C)(4)(c)]*
- (d) If the ~~emission reduction is~~ proposed ERCs are the result of the application of a more efficient control technology to a ~~previously unpermitted e~~mission unit(s); ~~the owner and/or operator has or obtains~~
- (i) ~~A~~a valid District PTO permit has been obtained for both the underlying Emissions Unit and the new control technology which contains Federally enforceable limitations reflecting the reduced emissions. *[Conforms language to provisions of proposed 1304(C)(4)(d)]*
- (4) If the ~~emission reduction~~ proposed ERC originates from a previously unpermitted ~~e~~Emission ~~u~~Unit(s), no ERCs may be granted unless the historical emissions from that unit are included in the District's emissions inventory.

(E) Transfer, Encumbrance, and Readjustment of ~~Emission Reduction Credits~~ 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 in the registry.
 - 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.
 - c. The purchase price, if any, of the ERCs in terms of total cost on a pollutant by pollutant purchased basis.
 - d. 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 prior to July 1, 1997 pursuant to the applicable rules of the ~~South Coast Air Quality Management District~~ SCAQMD may be transferred to the ~~AVAPCD~~ AVAQMD ERC Registry according to the following procedure:
- (i) The owner of the ERCs shall submit a request to include the ERCs in the ~~AVAPCD-AVAQMD~~ ERC Registry by:
 - a. Requesting such inclusion in writing; and
 - b. Surrendering the ERC certificate or other evidence of the ERCs obtained from the ~~South Coast Air Quality Management District~~ SCAQMD.
 - (ii) Upon receipt of the request and documentation the APCO shall:
 - a. Notify the ~~South Coast Air Quality Management District~~ SCAQMD in writing of the request, the intent to include such ERCs in the ~~AVAPCD-AVAQMD~~ ERC Registry, and request that the ~~South Coast Air Quality Management District~~ SCAQMD remove such ERCs from its bank.
 - b. The APCO shall, at the request of the ~~South Coast Air Quality Management District~~ SCAQMD, submit the original certificate and/or documentation which was surrendered to effectuate such removal.
 - c. Within ~~ninety (90)~~ days of such notification, upon the submission of the original certificate and/or documentation or upon receipt of notification from the ~~South Coast Air Quality Management District~~ SCAQMD that such ERCs have been removed from its bank, 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 properly banked prior to July 1, 1997 pursuant to the applicable rules of the ~~South Coast Air Quality Management District~~ SCAQMD and which are owned by an owner/operator located within the jurisdiction of the District may be transferred to the ~~AVAPCD-AVAQMD~~ ERC Registry according to the following procedure:
- (i) The owner of the ERCs shall submit a request to include the ERCs in the ~~AVAPCD-AVAQMD~~ ERC Registry by:
 - a. Requesting such inclusion in writing; and
 - b. Surrendering the ERC certificate or other evidence of the ERCs obtained from the ~~South Coast Air Quality Management District~~ SCAQMD.
 - c. Paying the applicable fee contained in District Rule 301.
 - (ii) Upon receipt of the request and documentation the APCO shall:

- a. Notify the ~~South Coast Air Quality Management District~~SCAQMD in writing of the request, the intent to include such ERCs in the ~~AVAPCD-AVAQMD~~ ERC Registry, and request that the ~~South Coast Air Quality Management District~~SCAQMD remove such ERCs from its bank.
 - b. The APCO shall, at the request of the ~~South Coast Air Quality Management District~~SCAQMD, submit the original certificate and/or documentation which was surrendered to effectuate such removal.
 - c. Within ~~ninety (90)~~ days of such notification, upon the submission of the original certificate and/or documentation or upon receipt of notification from the ~~South Coast Air Quality Management District~~SCAQMD that such ERCs have been removed from its bank, 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 ~~AVAPCD-ERCAVAQMD~~ Registry pursuant to this subsection may not thereafter be utilized within the ~~South Coast Air Quality Management District~~SCAQMD
- (4) 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 by its holder of the encumbrance.
- (5) Readjustments of ERCs
- (a) Readjustment of ERCs ~~due to the readjustment of AERs due to changes in the District's AQAP or SIP~~ shall be processed as follows:

- (i) The owner of the ERC shall file an application to adjust the ~~AER~~ERC.
 - (ii) The APCO shall determine if the adjustment of the ~~AER-ERC~~ is warranted and the amount of such adjustment pursuant to the provisions of District Rule 1304(D)(4).
 - (iii) After the APCO has determined the amount of the adjustment, upon surrender of the prior ERC Certificate, the APCO shall issue an adjusted ERC Certificate to the owner.
- (6) 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 Enforceable~~real, enforceable, permanent and quantifiable~~.
- (7) 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 ~~o~~ffsets in accordance with the provisions of Rule 1305.
- (G) Appeal of the Incompleteness, Granting or Denial of ~~Emission Reduction Credits~~ERCs
- (1) If an application for ERCs is deemed withdrawn pursuant to subsection (C)(2)(~~bc~~)(~~iv~~)~~d~~, the applicant may, within ~~thirty~~(30) days of the date the application is deemed withdrawn, petition the District Hearing Board for a hearing on whether the application as submitted was incomplete.
 - (2) An applicant for ERCs may, within ~~thirty~~(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. [Derived from H&S Code § 42302.1]
 - (3) 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>~~Submitted as amended~~
~~03/20/01 on _____; Approved 2/4/96, 61 FR 64291, 40 CFR 52.220(c)(240)(i)(A)(1)]~~

Rule 1310 ~~Federal Major Facilities and Federal Major Modifications~~

~~(A) Purpose~~

- ~~(1) The purpose of this Rule is to:
 - ~~(a) Set forth additional requirements and procedures for Federal Major Modifications and Presumptive Federal Major Modifications.~~
 - ~~(b) Set forth the requirements and procedures for the implementation of Plant Wide Applicability Limits.~~~~

~~(B) Applicability~~

- ~~(1) The provisions of this Rule apply to:
 - ~~(a) Any Federal Major Modification.~~
 - ~~(b) Any Presumptive Federal Major Modification (b) Any Federal Major Facility which requests a Plant Wide Applicability Limit pursuant to section (F).~~~~

~~(C) Definitions~~

~~The definitions contained in District Rule 1301 shall apply unless the term is otherwise defined herein.~~

- ~~(1) “Baseline Actual Emissions” The rate of emissions, in tons per year, of a Regulated NSR pollutant, as calculated pursuant to subsection (E)(2)~~
- ~~(2) “Contemporaneous” An increase or decrease in Actual Emissions of an Emissions Unit which occurs before the date of any increase from the proposed Modification.~~
- ~~(3) “Creditable” An increase or decrease in Actual Emissions of an Emissions Unit which:
 - ~~(a) Occurs within a reasonable time period before the proposed Modification; and~~
 - ~~(b) Has not been used in a prior permitting action by the District.~~~~
- ~~(4) “Electric Utility Steam Generating Unit” Any steam electric generating unit that supplies more than one-third of its potential electric output capacity and more~~

~~than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.~~

- ~~(5) — “Existing Emissions Unit” — An Emissions Unit which has existed for 2 years or more from the date the Emissions Unit first operated.~~
- ~~(6) — “Federal Major Facility” — Any Facility which emits or has the Potential to Emit any Regulated NSR Pollutant in an amount greater than or equal to the amounts set forth in subsection (D)(1).~~
- ~~(a) — Any physical change 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 subsection (D)(1), shall also constitute a Major Facility.~~
- ~~(b) — 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 twenty-seven (27) categories of Facilities as listed in 40 CFR 51.165(a)(1)(iv)(C).~~
- ~~(7) — “Federal Major Modification” — Any Modification that would:~~
- ~~(a) — Result in a Federal Significant Emissions Increase of a Regulated NSR Pollutant; or~~
- ~~(8) — “Federal Significant Emission Increase” — A Net Emissions Increase of a Regulated NSR Pollutant from a Facility which would be greater than or equal to the emissions rates listed in subsection (D)(2) for those Air Pollutants and their Precursors dependant upon Facility location.~~
- ~~(9) — “Net Emissions Increase” — With respect to any regulated NSR pollutant emitted by a Major Facility, the amount by which the sum of the following exceeds zero:~~
- ~~(a) — The increase in emissions from a particular physical change or change in the method of operation at a Facility as calculated pursuant to subsection (E)(1) of this rule; and~~
- ~~(b) — Any other increases and decreases in actual emissions at the Facility that are Contemporaneous with the particular change and are otherwise creditable.~~
- ~~(i) — Baseline Actual Emissions used to determine contemporaneous increases and decreases shall be calculated pursuant to subsection (E)(2) of this rule except that the provisions of subsection (E)(2)(a)(iv) and (E)(2)(b)(v) shall not apply.~~

- (10) ~~“New Emissions Unit”~~ Any Emissions Unit which:
- (a) ~~Is or will be newly constructed;~~
 - (b) ~~Has existed for less than 2 years from the date such Emissions Unit first operated; or~~
 - (c) ~~A Replacement Emissions Unit for which the Emissions Unit it replace has been brought back into operation.~~
- (11) ~~“Plantwide Applicability Limit” (PAL)~~ An emission limitation expressed in tons per year for a Regulated Air Pollutant at a Federal Major Facility that is enforceable as a practical matter and established for the entire Facility in accordance with the provisions of section (F) below.
- (12) ~~“Presumptive Federal Major Modification”~~ A Modification as defined in District Rule 1301(QQ) which requires offsets pursuant to the provisions of 1303(B) but which has not been determined by the APCO to be below the threshold of subsection (D)(2).
- (13) ~~“Projected Actual Emissions”~~ The maximum annual rate, in tons per year, at which an Existing Emissions Unit is projected to emit a Regulated NSR Pollutant as calculated pursuant to subsection (E)(3).
- (14) ~~“Regulated NSR Pollutant”~~ Any Air Pollutant and its Precursors for which an Ambient Air Quality Standard has been promulgated including but not limited to:
- (a) ~~Oxides of Nitrogen (NO_x) and their precursors;~~
 - (b) ~~Volatile Organic Compounds (VOC) and their precursors;~~

~~(D) Requirements~~

- (1) ~~Federal Major Facility Threshold~~
- (a) ~~Any Facility that has a Potential to Emit rate of a Regulated NSR Pollutant, calculated pursuant to District Rule 1304, which is greater than or equal to the following Federal Major Facility Threshold is a Federal Major Facility.~~

~~Table 1
FEDERAL MAJOR FACILITY THRESHOLDS~~

POLLUTANT	FEDERAL MAJOR FACILITY THRESHOLD
Carbon Monoxide (CO)	100 tpy
Lead (Pb)	25 tpy
PM10	100 tpy
Oxides of Nitrogen (NOx)	100 tpy
Oxides of Sulfur (SOx)	100 tpy
Volatile Organic Compounds (VOC)	100 tpy

(2) ~~Federal Major Modification Threshold~~

(a) ~~A Modification to any Facility that has a Net Emissions Increase of a Regulated NSR Pollutant, calculated pursuant to section (E)(1) below, which is greater than or equal to the following Federal Significant Emissions Increase Thresholds is a Federal Major Modification.~~

Table 2
FEDERAL SIGNIFICANT EMISSIONS INCREASE THRESHOLDS

<u>POLLUTANT</u>	<u>EMISSION RATE</u> (Within an attainment or unclassified area)	<u>EMISSION RATE</u> (Within a moderate ozone nonattainment area)	<u>EMISSION RATE</u> (Within a moderate PM ₁₀ nonattainment area)
Carbon Monoxide (CO)	100 tpy	100 tpy	100 tpy
Lead (Pb)	0.6 tpy	0.6 tpy	0.6 tpy
Oxides of Nitrogen (NOx)	40 tpy	40 tpy	40 tpy
PM10	15 tpy	15 tpy	15 tpy
Volatile Organic Compounds (VOC)	40 tpy	40 tpy	40 tpy
Sulfur Dioxide (SO ₂)	40 tpy	40 tpy	40 tpy

(b) ~~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 specific basis.~~

~~(3) Any Federal Major Modification or Presumptive Federal Major Modification shall:~~

~~(a) Perform an alternative site analysis under 42 U.S.C. §7530(a)(5) (Federal Clean Air Act §173(a)(5)); and~~

~~(E) Calculations~~

~~(1) General Emissions Calculations~~

~~(a) To determine if a Modification is a Federal Major Modification the emissions increase resulting from the Modification shall be calculated as follows:~~

~~(Projected Actual Emissions) – (Baseline Actual Emissions)~~

~~(2) Calculating Baseline Actual Emissions~~

~~(a) For any Existing Electric Utility Steam Generating Unit:~~

- ~~(i) The Baseline Actual Emissions of an Emissions Unit or combination of Emissions Units averaged from either
 - ~~a. Any consecutive 24-month period within 5 years immediately preceding beginning actual construction of the Modification; or~~
 - ~~b. Any period within 5 years immediately preceding beginning the actual construction of the Modification which the APCO has determined is more representative of Facility operations than subsection (E)(2)(a)(i)a. above.~~~~
- ~~(ii) The Baseline Actual Emissions shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.~~
- ~~(iii) The Baseline Actual Emissions 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.~~
- ~~(iv) When a Modification involves multiple Emissions Units only one period as specified in subsection (E)(2)(a)(i) for each Regulated NSR Pollutant.~~
- ~~(v) When a Modification involves multiple Regulated NSR Pollutants a different period as specified in subsection (E)(2)(a)(i) above may be used for each pollutant.~~
- ~~(vi) The Baseline Actual Emissions shall not be based on any period specified in subsection (E)(2)(a)(i) above for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount.~~

~~(b) For an Existing Emissions Unit (other than an Electric Utility Steam Generating Unit)~~

- ~~(i) The Baseline Actual Emissions of an Emissions Unit or combination of Emissions Units averaged from
 - ~~a. Any consecutive 24 months within the 10-year period immediately preceding the date the application for the Modification is determined to be complete by the District.~~~~
- ~~(ii) The Baseline Actual Emissions shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.~~
- ~~(iii) The Baseline Actual Emissions 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 period specified in subsection (E)(2)(b)(i) above.~~
- ~~(iv) The Baseline Actual Emissions shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the Federal Major Facility must currently comply, had such Federal Major Facility been required to comply with such limitations during the period specified in subsection (E)(2)(b)(i) above unless:
 - ~~a. The emission limitation is part of a maximum achievable control technology standard proposed or promulgated under 40 CFR 63 by USEPA; and~~
 - ~~b. The District has not taken credit for such emissions reductions in an attainment demonstration or maintenance plan promulgated pursuant to the provisions of Title I of the Federal Clean Air Act (42 U.S.C. §§7401 et seq)~~~~
- ~~(v) When a Modification involves multiple Emissions Units only one period as specified in subsection (E)(2)(b)(i) may be used for each Regulated NSR Pollutant.~~
- ~~(vi) When a Modification involves multiple Regulated NSR Pollutants a different period as specified in subsection (E)(2)(b)(i) above may be used for each pollutant.~~
- ~~(vii) The Baseline Actual Emissions shall not be based on any period specified in subsection (E)(2)(b)(i) above for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount.~~

~~(c) For a New Emissions Unit~~

- ~~(i) For the purpose of determining emissions increases resulting from the initial construction and operation of the new Emissions Unit the Baseline Actual Emissions shall be equal to zero.~~
- ~~(ii) For all other purposes the Baseline Actual Emissions shall be the Emissions Unit's PTE.~~

~~(3) Calculating Projected Actual Emissions~~

~~(a) The Projected Actual Emissions for proposed Federal Major Modifications shall be calculated using any of the following periods:~~

~~(i) Any 12-month period in the 5-years following the date the Emissions Unit resumes regular operation after the Modification;~~

~~or~~

~~(ii) Any 12-month period in the 10-years following the date the Emissions Unit resumes regular operation after the Modification if:~~

~~a. The Modification involves increasing the Emissions Unit's design capacity or PTE of a Regulated NSR Pollutant; and~~

~~b. The full utilization of the Emissions Unit would result in a Federal Significant Emissions Increase or a Federal Significant Net Emissions Increase.~~

~~(b) The Projected Actual Emissions calculation shall:~~

~~(i) Include 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) Include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and~~

~~(iii) Exclude that portion of the Emission Unit's emissions following the modification that the pre-modification Emissions Unit could have accommodated during the consecutive 24-month period used to establish the Baseline Actual Emissions and that are also unrelated to the particular modification.~~

~~(c) In lieu of calculating Projected Actual Emissions the owner/operator of the Facility may elect to use the PTE of the Emissions Unit as calculated pursuant to the provisions of District Rule 1304(D).~~

~~(F) Plant Wide Applicability Limits~~

~~(1) Application~~

~~(a) Any Federal Major Facility may apply to the APCO for the issuance of a PAL.~~

~~(b) Such application shall be subject to the applicable provisions of District Rule 301.~~

~~(2) Issuance~~

- ~~(a) The APCO shall approve a PAL if the owner or operator of the Federal Major Facility demonstrates that the PAL conforms with all the provisions specified in 40 CFR 51.165(f)(1-15.~~
- ~~(b) The APCO shall include on any and all appropriate permits held by the Federal Major Facility conditions sufficient to implement and enforce the PAL.~~

~~(3) Effect of a PAL~~

- ~~(a) A Federal Major Facility with a PAL shall not be subject to the provisions of section 1310(D)(3) or District Rule 1302(B)(1)(a)(iii)a. only for:
 - ~~(i) The pollutant for which the PAL is approved; and~~
 - ~~(ii) The transactions which are allowable under the PAL~~~~

RULE 1401

New Source Review ~~F~~or Toxic Air Contaminants

(A) Purpose

- (1) The purpose of this Rule is to:
 - (a) Set forth the requirements for preconstruction review of all new, Modified, Relocated or Reconstructed Facilities which emit or have the potential to emit any Hazardous Air Pollutant, Toxic Air Contaminant, or Regulated Toxic Substance; and
 - (b) Ensure that any new, Modified, or Relocated Emissions Unit is required to control the emissions of Toxic Air Contaminants as required pursuant to Chapter 3.5 of Part 1 of Division 26 of the California Health and Safety Code (commencing with §39650); and
 - (c) Ensure that any proposed new or Reconstructed Facility or Emissions Unit is required to control the emissions of Hazardous Air Pollutants as required under 42 U.S.C. §7412(g).

(2) This Rule is not submitted to USEPA and is not intended to be included as part of the California State Implementation Plan. [Derived from Imperial county APCD Rule 207, See USEPA Comment 1.3.3. to MDAQMD of 12/19/2019]

(B) Applicability

- (1) General Applicability
 - (a) The provisions of this rule shall be applicable to:
 - (i) Applications for new, Modified or Relocated Facilities or ~~Permit Emissions~~ Unit(s) which were received by the District on or after June 1, 1990. [Consistency with Regulation XIII]
 - (ii) Any Permit Unit(s) installed without a required Authority to Construct Permit shall be subject to this rule, if the application for a permit to operate such equipment was submitted after June 1, 1990. [Consistency with Regulation XIII]
 - (iii) Applications shall be subject to the version of the District Rules that are in effect at the time the application is received.
- (2) State Toxic New Source Review Program (State T-NSR) Applicability
 - (a) The provisions of Subsection (E) of this Rule shall apply to any new or Modified Emissions Unit which:

- (i) Emits or has the potential to emit a Toxic Air Contaminant; or
 - (ii) Is subject to an Airborne Toxic Control Measure.
- (3) Federal Toxic New Source Review Program (Federal T-NSR) Applicability
 - (a) The provisions of Subsection (F) of this Rule shall apply to any new or Reconstructed Facility or new or Modified Emissions Unit(s) which:
 - [Consistency with Regulation XIII]*
 - (i) Emits or has the potential to emit 10 tons per year or more of any single HAP; or
 - (ii) Emits or has the potential to emit 25 tons per year or more of any combination of HAPs; or
 - (iii) Has been designated an Air Toxic Area Source by USEPA pursuant to the provisions of 42 U.S.C. §7412 and the regulations promulgated thereunder.

(C) Definitions

The definitions contained in District Rule 1301 shall apply unless the term is otherwise defined herein.

- (1) “Air Toxic Area Source” – Any ~~stationary source~~ Facility or Emissions Unit(s) of Hazardous Air Pollutants that emits or has the potential to emit less than ten (10) tons per year of any single HAP or twenty-five (25) tons per year of any combination of HAPs and which has been designated as an area source by USEPA pursuant to the provisions of 42 U.S.C. §7412. *[Consistency with Regulation XIII]*
- (2) “Airborne Toxic Control Measure” (ATCM) – Recommended methods or range of methods that reduce, avoid, or eliminate the emissions of a TAC promulgated by CARB pursuant to the provisions of California Health and Safety Code §39658.
- (3) “Best Available Control Technology for Toxics” (T-BACT) –The most stringent emissions limitation or control technique for Toxic Air Contaminants or Regulated Toxic Substances which:
 - (a) Has been achieved in practice for such permit unit category or class of source; or
 - (b) Is any other emissions limitation or control technique, including process and equipment changes of basic and control equipment, found by the APCO to be technologically feasible for such class or category of sources, or for a specific source.
- (4) “Cancer Burden” - The estimated increase in the occurrence of cancer cases in a population resulting from exposure to carcinogenic air contaminants.

- (5) “Case-by-Case Maximum Achievable Control Technology Standard” (Case-by-Case MACT) – An emissions limit or control technology that is applied to a new or Relocated Facility or Emissions Unit(s) where USEPA has not yet promulgated a MACT standard pursuant to 42 U.S.C. §7412(d)(3) (FCAA §112(d)(3). Such limit or control technique shall be determined pursuant to the provisions of 40 CFR 63.43. *[Consistency with Regulation XIII]*
- (6) “Contemporaneous Risk Reduction” - Any reduction in risk resulting from a decrease in emissions of Toxic Air Contaminants at the facility which is real, enforceable, quantifiable, surplus and permanent.
- (7) “Hazard Index” (HI) – The acute or chronic non-cancer Hazard Quotient for a substance by toxicological endpoint.
- (8) “Hazard Quotient” (HQ) – The estimated ambient air concentration divided by the acute or chronic reference exposure for a single substance and a particular endpoint.
- (9) “Hazardous Air Pollutant” (HAP) – Any air pollutant listed pursuant to 42 U.S.C. §7412(b) (Federal Clean Air Act §112(b)) or in regulations promulgated thereunder.
- (10) “Health Risk Assessment” (HRA) – A detailed and comprehensive analysis prepared pursuant to the most recently published District *Health Risk Assessment Guidelines* to evaluate and predict the dispersion of Toxic Air Contaminants and Regulated Toxic Substances in the environment, the potential for exposure of human population and to assess and quantify both the individual and population wide health risks associated with those levels of exposure. Such document shall include details of the methodologies and methods of analysis which were utilized to prepare the document.
- (11) “High Priority” – A Facility or Emissions Unit(s) for which any Prioritization Score for cancer, acute non-cancer health effects or chronic non-cancer health effects is greater than or equal to ten (10). *[Consistency with Regulation XIII]*
- (12) “Intermediate Priority” – A Facility or Emissions Unit (s) for which any Prioritization Score for cancer, acute non-cancer health effects or chronic non-cancer health effects is greater than or equal to one (1) and less than ten (10). *[Consistency with Regulation XIII]*
- (13) “Low Priority” – A Facility or Emissions Unit(s) for which all Prioritization Scores for cancer, acute non-cancer health effects or chronic non-cancer health effects are less than one (1). *[Consistency with Regulation XIII]*
- (14) “Maximum Achievable Control Technology Standard” (MACT) – The maximum degree of reduction in emissions of HAPs, including prohibitions of such emissions where achievable, as promulgated by USEPA pursuant to 42 U.S.C. §7412(d)(3) (Federal Clean Air Act §112(d)(3)).

- (15) “Maximum Individual Cancer Risk” (MICR) – The estimated probability of a potential maximally exposed individual contracting cancer as a result of exposure to carcinogenic air contaminants over a period of 70 years for residential locations and 46 years for worker receptor locations or other periods of time as promulgated by OEHHA.
- (16) “Moderate Risk” – A classification of a Facility or Emission Unit for which the HRA Report indicates the MICR is greater than one (1) in one million (1×10^{-6}) at the location of any receptor.
- (17) “Modification” (Modified) – Any physical or operational change to a Facility or an Emissions Unit to replace equipment, expand capacity, revise methods of operation, or modernize processes by making any physical change, change in method of operation, addition to an existing Permit Emissions Unit(s) and/or change in hours of operation, including but not limited to any change which results in the emission of any Hazardous Air Pollutant, Toxic Air Contaminant, or Regulated Toxic Substance or which results in the emission of any Hazardous Air Pollutant, Toxic Air Contaminant, or Regulated Toxic Substance not previously emitted. *[Consistency with Regulation XIII]*
- (a) A physical or operational change shall not include:
- (i) Routine maintenance or repair; or
 - (ii) A change in the owner or operator of an existing Facility with valid PTO(s); or
 - (iii) An increase in the production rate, unless:
 - a. Such increase will cause the maximum design capacity of the Emission Unit to be exceeded; or
 - b. Such increase will exceed a previously imposed enforceable limitation contained in a permit condition.
 - (iv) An increase in the hours of operation, unless such increase will exceed a previously imposed enforceable limitation contained in a permit condition.
 - (v) An Emission Unit replacing a functionally identical Emission Unit, provided:
 - a. There is no increase in maximum rating or increase in emissions of any HAP, TAC or Regulated Toxic Substance; and
 - b. No ATCM applies to the replacement Emission Unit.
 - (vi) An Emissions Unit which is exclusively used as emergency standby equipment provided:
 - a. The Emissions Unit does not operate more than 200 hours per year; and
 - b. No ATCM applies to the Emissions Unit.
 - (vii) An Emissions Unit which previously did not require a written permit pursuant to District Rule 219 provided:

- a. The Emissions Unit was installed prior to the amendment to District Rule 219 which eliminated the exemption; and
 - b. A complete application for a permit for the Emission Unit is received within one (1) year after the date of the amendment to District Rule 219 which eliminated the exemption.
 - (viii) An Emissions Unit replacing Emissions Unit(s) provided that the replacement causes either a reduction or no increase in the cancer burden, MICR, or acute or chronic HI at any receptor location.
 - (b) Any applicant claiming exemption from this rule pursuant to the provisions of subsection (C)(17)(a) above:
 - (i) Shall provide adequate documentation to substantiate such exemption; and
 - (ii) Any test or analysis method used to substantiate such exemption shall be approved by the APCO.
- (18) “Office of Environmental Health Hazard Assessment” (OEHHA) – A department within the California Environmental Protection Agency that is responsible for evaluating chemicals for adverse health impacts and establishing safe exposure levels.
- (19) “Prioritization Score” – The numerical score for cancer health effects, acute non-cancer health effects or chronic non-cancer health effects for a Facility or Emissions Unit(s) as determined by the District pursuant to California Health and Safety Code §44360 in a manner consistent with the most recently approved CAPCOA *Facility Prioritization Guidelines*; the most recently approved OEHHA Unit Risk Factor for cancer potency factors; and the most recently approved OEHHA Reference Exposure Levels for non-cancer acute factors, and non-cancer chronic factors. *[Consistency with Regulation XIII]*
- (20) “Receptor” – Any location outside the boundaries of a Facility at which a person may be impacted by the emissions of that Facility. Receptors include, but are not limited to residential units, commercial work places, industrial work places and sensitive sites such as hospitals, nursing homes, residential care facilities, schools and day care centers.
- (21) “Reconstruction” (Reconstructed) – The replacement of components at an existing process or Emissions Unit(s) that in and of itself emits or has the Potential to Emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever: *[Consistency with Regulation XIII]*
- (a) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and

- (b) It is technically and economically feasible for the reconstructed major source to meet the applicable MACT Standard for new sources.
- (22) “Reference Exposure Level” (REL) – The ambient air concentration level expressed in microgram/cubic meter (μ/m^3) at or below which no adverse health effects are anticipated for a specified exposure.
- (23) “Regulated Toxic Substance” – A substance which is not a Toxic Air Contaminant but which has been designated as a chemical substance which poses a threat to public health when present in the ambient air by CARB pursuant to California Health and Safety Code §44321.
- (24) “Relocation” (Relocated) – The removal of an existing permit unit from one location in the District and installation at another location. The removal of a permit unit from one location within a Facility and installation at another location within the same Facility is a relocation only if an increase in MICR in excess of one in one million (1×10^{-6}) occurs at any receptor location.
- (25) “Significant Health Risk” – A classification of a Facility for which the HRA Report indicates that the MICR is greater than or equal to ten (10) in a million (1×10^{-5}) or that the HI is greater than or equal to one (1).
- (26) “Significant Risk” – A classification of a Facility or Emissions Unit(s) for which the HRA Report indicates that the MICR is greater than or equal to one hundred (100) in a million (1×10^{-4}) or that the HI is greater than or equal to ten (10).
[Consistency with Regulation XIII]
- (27) “Toxic Air Contaminant” (TAC) – ~~a~~An air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health and has been identified by CARB pursuant to the provisions of California Health and Safety Code §39657, including but not limited to, substances that have been identified as HAPs pursuant to 42 U.S.C. Sec. 7412(b) (Federal Clean Air Act §112(b)) and the regulations promulgated thereunder.
- (28) “Toxics Emission Inventory Report” – An emissions inventory report for TAC and Toxic Substances prepared for a Facility or Emissions Unit(s) pursuant to the District’s *Comprehensive Emission Inventory Guidelines*. *[Consistency with Regulation XIII]*
- (29) “Unit Risk Factor” (URF) – ~~t~~The theoretical upper bound probability of extra lifetime cancer risk occurring from the chemical when the air concentration is expressed in exposure units of per microgram/cubic meter ($(\mu/m^3)^{-1}$).

(D) Initial Applicability Analysis

- (1) The APCO shall analyze the Comprehensive Emissions Inventory Report or Comprehensive Emissions Inventory Report Update which was submitted

pursuant to District Rule 1302(B)(1)(~~ba~~)(ii) within thirty (30) days of receipt or after such longer period as the APCO and the applicant agree to in writing, to determine if the new, Modified, Relocated or Emissions Unit(s); or Reconstructed Facility is subject to provisions (E) or (F) of this rule. *[Consistency with Regulation XIII]*

- (a) If the Facility or Emissions Unit is subject to the State T-NSR pursuant to Section (B)(2), then the APCO shall perform the analysis required pursuant to Section (E).
- (b) If the Facility is subject to the Federal T-NSR pursuant to Section (B)(3), then the APCO shall perform the analysis required pursuant to Section (F).
- (c) If the Facility or Emissions Unit is subject to both the State T-NSR pursuant to Section (B)(2) and the Federal T-NSR pursuant to Section (B)(3) then the APCO shall perform the analysis required pursuant to Section (E) followed by the analysis pursuant to Section (F).
- (d) If the provisions of this Rule are not applicable to the Facility or Emissions Unit(s) then the APCO shall continue the permit analysis process commencing with the provisions of District Rule 1302(C)(~~56~~). *[Consistency with Regulation XIII]*

(E) State Toxic New Source Review Program Analysis (State T-NSR)

(1) ATCM Requirements

- (a) The APCO shall analyze the application and Comprehensive Emission Inventory Report for the new or modified Emission Units(s) within thirty (30) days of receipt or after such longer period as the APCO and the applicant agree to in writing, and determine if any currently enforceable ATCM applies to the Emissions Unit(s).
- (b) If an ATCM applies to the new or modified Emission Units(s) the APCO shall:
 - (i) Add the requirements of the ATCM or of any alternative method(s) submitted and approved pursuant to Health & Safety Code §39666(f) to any ATC or PTO issued pursuant to the provisions of this Regulation or District Regulation II whichever process is utilized to issue the permit(s); and
 - (ii) Continue the analysis with Section (E)(2).
- (c) If no ATCM applies to the proposed new or modified Emissions Unit(s) the APCO shall continue the analysis with Section (E)(2). *[Consistency with Regulation XIII]*

(2) Emissions Unit(s) Prioritization Score *[Consistency with Regulation XIII]*

- (a) The APCO shall analyze the application and Comprehensive Emission Inventory Report for the Emission Unit(s) and calculate three (3) prioritization scores for each new or modified Emission Unit.
- (i) Prioritization Scores shall be calculated for carcinogenic effects, non-carcinogenic acute effects and non-carcinogenic chronic effects.
 - (ii) Prioritization Scores shall be calculated utilizing the most recently approved CAPCOA *Facility Prioritization Guidelines*; the most recently approved OEHHA Unit Risk Factor for cancer potency factors; and the most recently approved OEHHA Reference Exposure Levels for non-cancer acute factors; and non-cancer chronic factors.
 - (iii) Prioritization Scores may be adjusted utilizing any or all of the following factors if such adjustment is necessary to obtain an accurate assessment of the Facility.
 - a. Multi-pathway analysis
 - b. Method of release.
 - c. Type of Receptors potentially impacted.
 - d. Proximity or distance to any Receptor.
 - e. Stack height.
 - f. Local meteorological conditions.
 - g. Topography of the proposed new or Modified Facility and surrounding area.
 - h. Type of area.
 - g. Screening dispersion modeling.
- (b) If all Prioritization Scores indicate that the Emissions Unit(s) is categorized as Low or Intermediate Priority, the APCO shall: *[Consistency with Regulation XIII]*
- (i) Determine if the Facility is subject to Federal T-NSR pursuant to subsection (B)(3) and continue the analysis with Section (F).
 - (ii) If the Facility or Emissions Unit(s) is not subject to Federal T-NSR, continue the permit analysis process commencing with the provisions of District Rule 1302(C)(56). *[Consistency with Regulation XIII]*
- (c) If any Prioritization Score indicates that the Emission Unit is categorized as High Priority, the APCO shall continue the analysis pursuant to subsection (E)(3).
- (3) Emissions Unit(s) Health Risk Assessment *[Consistency with Regulation XIII]*

- (a) The APCO shall notify the applicant in writing that the applicant is required to prepare and submit an HRA for the new or Modified Emission Units(s).
 - (i) The applicant shall prepare the HRA for the new or Modified Emission Units(s) in accordance with the District's most recently issued *Health Risk Assessment Plan and Report Guidelines*. *[Consistency with Regulation XIII]*
 - (ii) The HRA for the ~~e~~Emission ~~u~~Unit(s) shall be submitted by the applicant no later than thirty (30) days after receipt of the written notification from the APCO or after such longer time that the applicant and the APCO may agree to in writing.
 - (iii) The HRA may include a demonstration of Contemporaneous Risk Reduction pursuant to subsection (E)(4). *[Consistency with Regulation XIII]*

- (b) The APCO shall approve or disapprove the HRA for the new or Modified Emission Units(s) within thirty (30) days of receipt of the HRA from the applicant or after such longer time that the applicant and the APCO may agree to in writing.

- (c) After the approval or disapproval of the HRA for the new or Modified Emission Units(s) the APCO shall transmit a written notice of the approval or disapproval of the HRA immediately to the applicant at the address indicated on the application.
 - (i) If the HRA for the new or Modified Emission Units(s) was disapproved the APCO shall specify the deficiencies and indicate how they can be corrected.
 - a. Upon receipt by the District of a resubmitted HRA a new thirty (30) day period in which the APCO must determine the approval or disapproval of the HRA shall begin.

- (d) The APCO shall analyze the HRA for the new or Modified Emission Unit(s) to determine the cancer burden for each Emissions Unit(s).
 - (i) If the cancer burden is greater than 0.5 in the population subject to a risk of greater than or equal to one in one million (1×10^{-6}) the APCO shall immediately notify the applicant that the application will be denied in its current form unless the applicant submits a revised application which reduces the cancer burden to equal or below 0.5 within thirty (30) days of receipt of the notice or after such longer time as both the applicant and the APCO may agree to in writing.
 - a. If the applicant does not submit a revised application within the time period specified, the APCO shall notify the applicant in writing that the application has been denied.

- b. If the applicant submits a revised application, the analysis process shall commence pursuant to District Rule 1302 as if the application was newly submitted.
 - (ii) If the cancer burden is less than or equal to 0.5 in the population subject to a risk of greater than or equal to one in one million (1×10^{-6}) the APCO shall continue with the analysis pursuant to subsection (E)(3)(e).
- (e) The APCO shall analyze the HRA for the new or Modified Emissions Unit(s) and determine the risk for each Emissions Unit(s). *[Consistency with Regulation XIII]*
 - (i) If the HRA indicates that the Emissions Unit(s) are less than a Moderate Risk then the APCO shall continue the analysis ~~pursuant~~ pursuant to section (E)(3)(f). *[Typographical Error]*
 - (ii) If the HRA indicates that the Emissions Unit(s) are a Moderate Risk but less than a Significant Health Risk then the APCO shall:
 - a. Add requirements for each Emissions Unit sufficient to ensure T-BACT is applied to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
 - b. Continue with the analysis pursuant to subsection (E)(3)(f).
 - (iii) If the HRA indicates that ~~an~~ the Emission Unit(s) is a Significant Health Risk but less than a Significant Risk then the APCO shall: *[Consistency with Regulation XIII]*
 - a. Add requirements for each Emissions Unit sufficient to ensure T-BACT is applied to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
 - b. Require the Facility to perform a public notification pursuant to the District's *Public Notification Guidelines*; and
 - c. Continue with the analysis pursuant to subsection (E)(3)(f).
 - (iv) If the HRA indicates that ~~an~~ the Emissions Unit(s) is a Significant Risk then the APCO shall immediately notify the applicant that the application will be denied in its current form unless the applicant submits a revised application which reduces the risk below that of Significant Risk within thirty (30) days of receipt of the notice or after such longer time as both the applicant and the APCO may agree to in writing. *[Consistency with Regulation XIII]*
- (f) If the HRA Report indicates that all new or Modified Emission Unit(s) are less than a Significant Risk then the APCO shall determine if the Facility or Emissions Unit(s) is subject to Federal T-NSR pursuant to subsection (B)(3). *[Consistency with Regulation XIII]*

- (i) If the Facility or Emission Unit is subject to the Federal T-NSR, continue the analysis with Section (F).
- (ii) If the Facility or Emission Unit is not subject to the Federal T-NSR, continue the permit analysis process commencing with the provisions of District Rule 1302(C)(~~56~~).

(4) Contemporaneous Risk Reduction

- (a) Applicant may, as a part of an HRA required pursuant to subsection (E)(3), provide Contemporaneous Risk Reduction to reduce the Facility risk from the new or modified Emissions Units.
- (b) Contemporaneous Risk Reductions shall be:
 - (i) Real, enforceable, quantifiable, surplus and permanent; and
 - (ii) Calculated based on the actual average annual emissions as determined by the APCO based upon verified data for the two year period immediately preceding the date of application; and
 - (iii) Accompanied by an application for modification of the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
- (c) The APCO shall analyze the Contemporaneous Risk Reduction and determine if any receptor will experience a total increase in MICR due to the cumulative impact of the Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
 - (i) The APCO shall deny a Contemporaneous Risk Reduction when such an increase occurs unless:
 - a. The Contemporaneous Risk Reduction is:
 - 1. Within 328 feet (100 meters) of the new or modified Emission Unit(s); or
 - 2. No receptor location will experience a total increase in MICR of greater than one in one million (1.0×10^{-6}) due to the cumulative impact of the Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction
 - b. T-BACT is applied to any Emissions Unit which is a Moderate Risk or greater.
- (d) The APCO shall analyze the Contemporaneous Risk Reduction and determine if any receptor will experience an increase in total acute or chronic HI due to the cumulative impact of the new or modified Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
 - (i) The APCO shall deny a Contemporaneous Risk Reduction when such an increase occurs unless:

- a. The Contemporaneous Risk Reduction is:
 - 1. Within 328 feet (100 meters) of the new or modified Emission Unit(s); or
 - 2. No receptor location will experience an increase in total acute or chronic HI of more than .1 due to the cumulative impact of the new or modified Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction; ~~and~~.

- (e) Any Contemporaneous Risk Reduction must occur before the start of operations of the Emissions Unit(s) which increase the risk.

(F) Federal Toxic New Source Review Program Analysis (Federal T-NSR)

(1) MACT Standard Requirements

- (a) The APCO shall analyze the application and Comprehensive Emission Inventory and determine if any currently enforceable MACT standard applies to the new or Reconstructed Facility or Emissions Unit(s). *[Consistency with Regulation XIII]*
- (b) If a MACT standard applies to the new or Reconstructed Facility or Emissions Unit(s) the APCO shall: *[Consistency with Regulation XIII]*
 - (i) Add the requirements of the MACT standard to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
 - (ii) Continue the analysis with District Rule 1302(C)(~~5~~6).
- (c) If no MACT standard applies to the new or Reconstructed Facility or Emissions Unit(s) the APCO shall continue the analysis with Section (G)(2). *[Consistency with Regulation XIII]*

(2) Case-by-Case MACT Standards Requirements

- (a) The APCO shall determine if a Case-by-Case MACT standard applies to the proposed new or Reconstructed Facility or Emissions Unit(s). *[Consistency with Regulation XIII]*
- (b) If a Case-by-Case MACT standard applies to the new or Reconstructed Facility or Emissions Unit(s) the APCO shall: *[Consistency with Regulation XIII]*
 - (i) Notify the applicant in writing that the applicant is required to prepare and submit a Case-by-Case MACT application.

- a. The applicant shall prepare the Case-by-Case MACT application in accordance with the provisions of 40 CFR 63.43(e).
 - b. The Case-by-Case MACT application shall be submitted no later than thirty (30) days after receipt of the written notification from the APCO or after such longer time that the applicant and the APCO may agree to in writing.
 - (ii) Preliminarily approve or disapprove the Case-by-Case MACT application within 30 days after receipt of the application or after such longer time as the applicant and the APCO may agree to in writing.
 - (iii) After the approval or disapproval of the Case-by-Case MACT application the APCO shall transmit a written notice of the approval or disapproval to the applicant at the address indicated on the application.
 - a. If the Case-by-Case MACT application is disapproved the APCO shall specify the deficiencies, indicate how they can be corrected and specify a new deadline for submission of a revised Case-by-Case MACT application.
 - (iv) The APCO shall review and analyze the Case-by-Case MACT application and submit it to USEPA along with any proposed permit conditions necessary to enforce the standard.
 - (v) Provide public notice and comment of the proposed Case-by-Case MACT standard determination pursuant to the procedures in 40 CFR 63.42(h).
 - a. Such notice may be concurrent with the notice required under District Rule 1302(D)(3) if notice is required pursuant to that provision.
 - (vi) Add the approved Case-by-Case MACT standard requirements or conditions to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
 - (vii) Continue the analysis with District Rule 1302(C)(~~56~~).
- (c) If a Case-by-Case MACT standard does not apply to the new or Reconstructed Facility or Emissions Unit(s) the APCO shall continue the analysis with District Rule 1302(C)(~~56~~). *[Consistency with Regulation XIII]*

(G) Most Stringent Emission Limit or Control Technique

- (1) If a Facility or Emission Unit(s) is subject to more than one emission limitation pursuant to sections (E) or (F) of this rule the most stringent emission limit or control technique shall be applied to the Facility or Emission Unit(s). *[Consistency with Regulation XIII]*

- (a) Notwithstanding the above, if a Facility or Emission Unit(s) is subject to a published MACT standard both the MACT standard and the emissions limit or control technique, if any, required pursuant to sections (E) shall apply unless the District has received delegation from USEPA for that particular MACT standard pursuant to the provisions of 42 U.S.C. §7412(l) (FCAA §112(l)). *[Consistency with Regulation XIII]*

(H) Interaction with District Rule 1402

- (1) Nothing in this Rule shall be construed to exempt an existing Facility from compliance with the provisions of District Rule 1402.

[SIP: Not SIP]

Rule 1700

Prevention of Significant Deterioration (PSD)

(A) General

(1) Purpose

(a) The purpose of this Rule is to:

- (i) Set forth the requirements for preconstruction review of all new Major PSD Facilities and Major PSD Modifications which emit or have the potential to emit a PSD Air Pollutant; and
- (ii) Incorporate applicable provisions of the Federal Prevention of Significant Deterioration (PSD) Rule as found in 40 CFR 52.21 by reference; and
- (iii) Ensure that the construction or modification of Facilities subject to this Rule comply with the provisions of 40 CFR 52.21 as incorporated by reference in this Rule.

(2) Applicability

- (a) This Rule is applicable to any Facility and the owner/operator of any Facility subject to any requirement pursuant to 40 CFR 52.21 as incorporated by reference in this Rule.
- (b) The provisions of this Rule apply to emissions or potential emissions of PSD Air Pollutants and their precursors as defined in subsection (B) below.
- (c) The provisions of this Rule, specifically 40 CFR 52.21(j)-(r) as incorporated by reference below shall not apply to a Major PSD facility or Major PSD Modification with respect to a particular pollutant if the Major PSD Facility or Major PSD Modification is located in an area designated as nonattainment pursuant to 40 CFR 81.305 for the particular pollutant.

(3) Incorporation by Reference

- (a) The requirements and provisions contained in 40 CFR 52.21 in effect on [date of rule adoption] are incorporated herein by reference with the exception of the following:
 - (i) 40 CFR 52.21(a)(1), (b)(55-58), (f), (g), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z), and (cc).
 - (ii) The phrase “paragraph (q) of this section” in 40 CFR 52.21(p)(1) shall read as follows: the public notice and comment provisions contained in subsection (D)(2)(c) of this Rule.

- (iii) The term “Best Available Control Technology” or “BACT” as defined in 40 CFR 52.21(b)(12) shall read “PSD Best Available Control Technology” or “PSD BACT.”
- (iv) The term “Major Modification” as defined in 40 CFR 52.21(b)(2) shall read “Major PSD Modification.”
- (v) The term “Major Stationary Source” as defined in 40 CFR 52.21(b)(1) shall read “Major PSD Facility.”
- (vi) The term “Regulated NSR Pollutant” as defined in 40 CFR 52.21(b)(50) shall read “PSD Air Pollutant.”
- (vii) The term “Stationary Source” as defined in 40 CFR 52.21(b)(5) shall read “Facility.”

(B) Definitions

For the purpose of this Rule the definitions contained in 40 CFR 52.21(b), excluding (b)(55), (b)(56), (b)(57) and (b)(58), shall apply unless the term is otherwise defined herein.

- (1) Administrator – Either the administrator of USEPA or the Air Pollution Control Officer as follows:
 - (a) For the provisions of 40 CFR 52.21(b)(17), (b)(37), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (l)(2), and (p)(2), the administrator of USEPA;
 - (b) For all other provisions of 40 CFR 52.21 as incorporated by reference in this Rule, the Air Pollution Control Officer.
- (2) 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.
- (3) 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.
- (4) District – The Antelope Valley Air Quality Management District the geographical area of which is described in District Rule 103.
- (5) Major PSD Facility – A Major Stationary Source as defined in 40 CFR 52.21(b)(1) for a PSD Air Pollutant.
- (6) Major PSD Modification – A Major Modification as defined in 40 CFR 52.21(b)(2) for an PSD Air Pollutant.
- (7) 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 Permit Unit.

An ATC may function as a temporary PTO pursuant to the provisions of District Rule 202.

- (8) Permit Unit – Any Emissions Unit which is required to have a PTO pursuant to the provisions of District Rule 203.
- (9) PSD Air Pollutant – A Regulated NSR Pollutant as defined in 40 CFR 52.21(b)(50).
- (10) PSD Best Available Control Technology (PSD BACT) – Best Available Control Technology as defined in 40 CFR 52.21(b)(12).
- (11) PSD Document – A document issued by the APCO pursuant to the provisions of this Rule including but not limited to: all analysis relating to the new Major PSD Facility or Facility with Major PSD Modification; notices; any engineering analysis or other necessary analysis; and proposed conditions for any required ATC(s) or PTO(s).

(C) Requirements

- (1) An owner/operator of any new Major PSD Facility, a Facility with a Major PSD Modification, or a Major PSD Facility requesting or modifying a Plantwide Applicability Limitation (PAL) shall obtain a Prevention of Significant Deterioration (PSD) permit pursuant to this Rule before beginning actual construction of such Facility or modification.
- (2) Notwithstanding the provisions of any other District Rule or Regulation, the APCO shall require compliance with this Rule prior to issuing a PSD permit as required by Section 165 of the Federal Clean Air Act (42 USC §7475).
- (3) Greenhouse gas emissions shall not be subject to the requirements of subsections (k) or (m) of 40 CFR Part 52.21.
- (4) An owner/operator of a Major PSD Facility seeking to obtain a PAL shall also comply with the provisions of 40 CFR 52.21 (aa)(1-15).

(D) Procedure

- (1) General
 - (a) The provisions of District Rule 1302 shall apply unless otherwise specified herein.
 - (b) For Electrical Energy Generating Facilities (EEGFs) as defined in District Rule 1301(V) the provisions of this Rule shall apply in addition to the provisions of District Rule 1306.

(2) Analysis

- (a) After the application has been determined to be complete pursuant to the provisions of District Rule 1302(B)(1)(e) and all applicable notifications required pursuant to District Rule 1302 (B)(2) have been sent the APCO shall:
- (i) Analyze the information to determine if the application complies with the provisions of 40 CFR 52.21 as incorporated by reference; and
 - (ii) Make a PSD BACT determination pursuant to the provisions of 40 CFR 52.21(j).
- (b) The APCO shall not perform any analysis unless all applicable fees, including but not limited to Project Evaluation Fees for Complex Sources, as set forth in District Rule 301, have been paid.
- (c) Such PSD analysis may be conducted concurrently with any analysis required pursuant to District Rules 1302, 1306, and/or 1401.

(3) Permit Issuance Procedure

(a) Preliminary Decision

- (i) After the analysis has been completed the APCO shall issue a preliminary decision as to whether the PSD Document should be approved, conditionally approved or disapproved and whether the ATC(s) or PTO(s) should be issued to the Major PSD Facility or Major PSD Modification.
- (ii) The preliminary decision shall include an analysis of the approval, conditional approval or disapproval and the draft PSD Document.
- (iii) The preliminary decision and draft PSD Document may be combined with any engineering analysis or draft NSR Document produced pursuant to the provisions of District Rule 1302.

(b) USEPA and Federal Land Manager Review.

- (i) If USEPA and the Federal Land Manager were notified pursuant to the provisions of District Rule 1302 (B)(2)(a)(iii) then the APCO shall, upon completion of the preliminary decision and concurrently with the publication required pursuant to subsection (D)(2)(c) below, send a copy of the preliminary decision and any underlying analysis to USEPA and any Federal Land Manager so notified.
- (ii) The provisions of District Rule 1302 (D)(2) shall apply to the review by USEPA and the Federal Land Manager.

(iii) This review may be combined with any other review required pursuant to District Rule 1302.

(c) Public Review, Comment and Availability of Documents

- (i) Upon completion of the preliminary decision the APCO shall provide for public review and comment in the same manner and using the same procedures as set forth in District Rule 1302(D)(3).
- (ii) Such public notice and comment may be combined with any other public notice and comment required pursuant to District Rule 1302.

(d) Public Hearing

- (i) If any person requests a public hearing pursuant to the provisions of District Rule 1302(D)(3)(b)(i) f. g. or h. the APCO shall hold a public hearing and notify the appropriate agencies and the general public using the procedures set forth in District Rule 1302(D)(3)(a).

(e) Final Action

- (i) Within one (1) year of the notification that the application has been deemed complete pursuant to District Rule 1302(B)(2), or after such longer time as both the applicant and the APCO may agree in writing the APCO shall take final action to issue, issue with conditions or decline to issue the final PSD Document.
- (ii) The APCO shall produce a final PSD Document after the conclusion of the comment period; the public hearing, if any is held; and upon consideration of comments received.
- (iii) The APCO shall provide written notice of the final action to the applicant and USEPA.
- (iv) If substantive changes have been made to the preliminary decision or PSD Document after the opening of the public comment period the APCO shall re-publish a notice of the final PSD determination pursuant to the provisions of District Rule 1302(D)(3).
- (v) If substantive changes are made to the preliminary decision or PSD Document which are substantial enough to require changes to the underlying requirements or which result in a less stringent BACT determination then the APCO shall reissue and renotice the preliminary decision and draft PSD document pursuant to the provisions of District Rule 1302(D).
- (vi) The final PSD Document and all supporting documentation shall remain available for public inspection at the offices of the District.
- (vii) The final PSD Document may be combined with a final NSR Document produced pursuant to District Rule 1302(D)(4).

(f) Issuance of ATC(s) and or PTO(s)

- (i) In conjunction with the final action on the PSD Document the APCO shall issue ATC(s), or PTO(s) if applicable, for any Permit Units associated with a new Major PSD Facility and/or any Permit Units modified as a part of the Major PSD Modification
- (ii) The ATC(s) or PTO(s) as issued shall contain all conditions regarding construction, operation and other matters as set forth in the PSD Document.

~~RULE 1701~~

~~General~~

~~(a) Purpose~~

~~This regulation sets forth preconstruction review requirements for stationary sources to ensure that air quality in clean air areas does not significantly deteriorate while maintaining a margin for future industrial growth.~~

~~(b) Applicability~~

~~Effective upon delegation by EPA, this regulation shall apply to preconstruction review of stationary sources that emit attainment air contaminants.~~

~~(1) The BACT requirement applies to a net emission increase of a criteria air contaminant from a permit unit at any stationary source.~~

~~(2) All of the requirements of this regulation apply, except as exempted in Rule 1704, to the following stationary sources:~~

~~(A) A new source or modification at an existing source where the increase in potential to emit is at least 25 or 40 tons of attainment air contaminants per year, depending on the source category; or~~

~~(B) A significant emission increase at an existing major stationary source; or~~

~~(C) Any net emission increase at a major stationary source located within 10 km of a Class I area, if the emission increase would impact the Class I area by $1.0 \mu\text{g}/\text{m}^3$, (24-hour average).~~

~~(3) For the purpose of this regulation, a source meeting any of the conditions of subparagraph (b)(2) shall be considered a major stationary source with a significant increase.~~

~~[SIP: Submitted as amended 1/6/89 on 3/26/90; Submitted as adopted 10/7/88 on 2/7/89.]~~

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RULE 1702 Definitions

(a) ~~Attainment Air Contaminant means any air pollutant:~~

~~(1) for which there is a national ambient air quality standard which has been designated attainment or unclassifiable pursuant to final rulemaking by EPA published in the Federal Register; or~~

~~(2) regulated under the Clean Air Act and no applicable NAAQS exists.~~

(b) ~~Baseline Areas~~

~~The areas, as defined in 40 CFR 81.305, if designated as attainment or unclassifiable under 107(d)(1)(D) or (E) of the Clean Air Act. The applicable baseline areas for each contaminant are:~~

~~SO₂—Orange County, South Coast Air Basin Portion of Los Angeles County, SCAB Portion of San Bernardino County, SCAB Portion of Riverside County, Southeast Desert Air Basin excluding Imperial and Kern Counties.~~

~~Particulate Matter—South Coast Air Basin, Lancaster Quartz Hill Area, Non-Lancaster Quartz Hill Area of the Southeast Desert Air Basin Portion of Los Angeles County, Riverside County (Southeast Desert AQMA Portion), Riverside County (Southeast Desert Non-AQMA Portion).~~

~~ROG, CO, Pb, and NO_x—South Coast Air Basin, Los Angeles County (SEDAB Portion), Riverside County (Southeast Desert AQMA Portion), Riverside County (Non-AQMA Portion).~~

(c) ~~Baseline Concentration~~

~~The ambient concentration level which exists in the impact area at the time of the establishment of the applicable baseline date. The baseline concentration shall include the actual emissions of sources in existence on the applicable baseline date, except major stationary sources that commenced construction after January 6, 1975, will not be included.~~

(d) ~~Baseline Date~~

~~The earliest date after August 7, 1977, for each baseline area on which the first complete application is submitted or was submitted because of a significant emission increase at a major stationary source that located in the baseline area or if the significant emission increase had an impact of 1 ug/m³ (annual average) or 5 ug/m³ (24-hour average) on any baseline area, the baseline date for that area will be established. The Executive Officer shall publish the applicable baseline date for each criteria air contaminant.~~

~~(e) Best Available Control Technology (BACT) means the most stringent emission limitation or control technique which:~~

~~(1) has been achieved in practice for such permit unit category or class of source. For permit units not located at a major stationary source, a specific limitation or control technique shall not apply if the owner or operator of the proposed sources demonstrates to the satisfaction of the Executive Officer that such limitation or control technique is not attainable for that permit unit; or~~

~~(2) is contained in any State Implementation Plan (SIP) approved by the Environmental Protection Agency (EPA) for such permit unit category or class of source.~~

~~A specific limitation or control technique shall not apply if the owner or operator of the proposed source demonstrates to the satisfaction of the Executive Officer that such limitation or control technique is not presently achievable; or~~

~~(3) is any other emission control technique, including process and equipment changes of basic and control equipment, found by the Executive Officer to be technologically feasible and cost effective for such class or category of sources or for a specific source. No emissions limitation or control technique, the application of which would result in emissions from a new or modified source in excess of the amount allowable under applicable new source performance standards specified in Regulation IX of these Rules and Regulations or promulgated by the EPA pursuant to Section III of the Clean Air Act, may be considered BACT.~~

~~(f) Class I Areas: Cucamonga Wilderness, San Gabriel Wilderness, San Geronio Wilderness, San Jacinto Wilderness, Joshua Tree National Monument, Agua Tibia Wilderness and any other Class I area under Part C of the Clean Air Act. All other areas in the District are Class II Areas.~~

~~(g) Criteria Air Contaminant means carbon monoxide, sulfur dioxide, nitrogen oxides, particulate matter, reactive organic gases, lead, or any pollutant which has a National Ambient Air Quality Standard specified in Title 40 of the Code of Federal Regulations, Part 50.~~

~~(h) Federal Land Manager~~

~~With respect to any lands in the United States, the Secretary of the department with authority over such lands.~~

~~(i) Fugitive Emission means those quantifiable emissions of air contaminants released directly to the atmosphere which do not pass through a stack, vent, chimney, or other functionally equivalent opening.~~

- (j) ~~Good Engineering Practice (GEP) means, with respect to stack heights, the height necessary to ensure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source. For the purposes of this regulation, such height shall not exceed two and one-half times the height of such source, and shall not be greater than 65 meters (213 ft), unless the owner or operator of the source demonstrates to the satisfaction of the Executive Officer that a greater height is necessary.~~
- (k) ~~Impact Area means a circular area, the radius of which is equal to the greatest distance to which approved dispersion modeling shows the proposed emissions from a new major stationary source or major modification would have an air quality impact equal to or greater than 1 ug/m³ (annual average, or 5 ug/m³ (24-hour average).~~
- (l) ~~Major Modification means any physical change in the method of operation of a major stationary source that would result in a significant emission increase.~~
- (m) ~~Major Stationary Source means:~~
- (1) ~~one of the following source categories:~~
- ~~Fossil fuel-fired steam electric plants of more than 250 million BTU/hr input, coal cleaning plants (with thermal dryers), Kraft pulp mills, Portland cement plants, Primary zinc smelters, Iron and steel mill plants, Primary aluminum ore reduction plants, Primary copper smelters, Municipal incinerators capable of charging more than 250 tons of refuse per day, Hydrofluoric acid plants, Sulfuric acid plants, Nitric acid plants, Petroleum refineries, Lime plants, Phosphate rock processing plants, Coke oven batteries, Sulfur recovery plants, Carbon black plants (furnace process), Primary lead smelters, Fuel conversion plants, Sintering plants, Secondary metal production plants, Chemical process plants, Fossil fuel boilers (or combinations thereof) totaling more than 250 million BTU/hr heat input, Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, Taconite ore processing plants, Glass fiber processing plants, and Charecoal production plants; which emits or has the potential to emit 25 tons per year or more of any contaminant regulated by the Act; or~~
- (2) ~~an unlisted stationary source that emits or has the potential to emit 40 tons per year or more of any pollutant regulated by the Act; or~~
- (3) ~~a physical change in a stationary source not otherwise qualifying under paragraph (1) or (2) if a modification would constitute a major stationary source by itself.~~
- (n) ~~NAAQS means any National Ambient Air Quality Standard contained in Title 40 of the Code of Federal Regulations, Part 50.~~

~~(o) Permit Unit means any article, machine, equipment, or other contrivance, or combination thereof, which may cause the issuance or control the issuance of air contaminants, and which:~~

~~(1) requires a written permit pursuant to Rules 201 and/or 203, or~~

~~(2) is in operation pursuant to the provisions of Rule 219.~~

~~(p) Potential to Emit means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is required by a permit condition for permits to construct and operate issued pursuant to an EPA approved version of this regulation. Secondary emissions do not count in determining the potential to emit of a stationary source.~~

~~(q) Prevention of Significant Deterioration (PSD) Increment~~

~~In areas designated as Class I or II, increases in pollution concentration over the baseline concentration shall be limited to the following:~~

~~MAXIMUM ALLOWABLE INCREASE
(Micrograms Per Cubic Meter)~~

~~POLLUTANT CLASS I~~

Nitrogen Dioxide	Annual arithmetic mean	2.5
Particulate Matter		
Annual geometric mean		5
24 hr maximum		10
Sulfur Dioxide		
Annual arithmetic mean		2
24 hr maximum		5
3 hr maximum		25

~~POLLUTANT CLASS II~~

Nitrogen Dioxide	Annual arithmetic mean	25
Particulate Matter		
Annual arithmetic mean		19
24 hour maximum		37
Sulfur Dioxide		
Annual arithmetic mean		20
24 hr maximum		91
3 hr maximum		512

(r) ~~Reactive Organic Gases (ROG) means any gaseous chemical compound which contains the element carbon; excluding carbon monoxide, carbon dioxide, carbonic acid, carbonates and metallic carbides; and excluding methane, 1,1,1-trichloroethane, methylene chloride, trifluoromethane, trichlorotrifluoroethane, dichlorodifluoromethane, trichlorofluoromethane, chlorodifluoromethane, dichlorotetrafluoroethane, and chloropentafluoroethane.~~

(s) ~~Secondary Emissions means emissions which would occur as a result of the construction or operation of a major stationary source or major modification itself. For the purpose of this regulation, secondary emissions must be specific, well-defined, quantifiable and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:~~

(1) ~~emissions from ships or trains coming to or from the new or modified stationary source, and~~

(2) ~~emissions from any offsite support facility which would not otherwise be constructed to increase its emissions as a result of the construction or operation of the major stationary source or major modification.~~

(t) ~~Significant Emission Increase means any attainment air contaminant for which the net cumulative emission increase of that air contaminant from a major stationary source is greater than the amount specified as follows:~~

Contaminant	Emission Rate (Tons/Year)
Carbon Monoxide	25
Sulfur Dioxide	25
Nitrogen Oxides	25
Particulate Matter	25
PM₁₀	15
Reactive Organic Gases	25
Lead Compounds	0.6
Asbestos	0.007
Beryllium	0.0004
Mercury	0.1
Vinyl Chloride	1.0
Fluorides	3
Sulfuric Acid Mist	7
Hydrogen Sulfide	10
Total Reduced Sulfur (including H₂S)	10
Reduced Sulfur Compounds (including H₂S)	10

~~or; any emission rate or any net emissions increase associated with a major stationary source which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 ug/m³, (24-hour average).~~

(u) ~~Stationary Source means any grouping of permit units or other air contaminant-emitting activities which are located on one or more contiguous properties within the District, in actual physical contact or separated solely by a public roadway or other public right-of-way, and which are owned or operated by the same person (or by persons under common control). Such above-described groupings, if remotely located and connected only by land carrying a pipeline, shall not be considered one stationary source.~~

[SIP: ~~Submitted as amended 1/6/89 on 3/26/90; Submitted as adopted 10/7/88 on 2/7/89.~~]

~~RULE 1703~~ ~~PSD Analysis~~

- ~~(a) The Executive Officer shall, except as Rule 1704 applies, deny any permits to construct unless:~~
- ~~(1) Each permit unit complies with all applicable rules and regulations of the District; and~~
 - ~~(2) Each permit unit is constructed using BACT for each criteria air contaminant for which there is a net emission increase; and~~
 - ~~(3) For each significant emission increase of an attainment air contaminant at a major stationary source:
 - ~~(A) The applicant certifies in writing, prior to the issuance of the permit, that the subject stationary source shall meet all applicable limitations and standards under the Clean Air Act (42 U.S.C. 7401, et seq.) and all applicable emission limitations and standards which are part of the State Implementation Plan approved by the Environmental Protection Agency or is on a compliance schedule approved by appropriate federal, state, or District officials; and~~
 - ~~(B) The new source or modification will be constructed using BACT.~~
 - ~~(C) The applicant has substantiated by modeling that the proposed source or modification, in conjunction with all other applicable emission increases or reductions (including secondary emissions) affecting the impact area, will not cause or contribute to a violation of:
 - ~~(i) Any National or State Ambient Air Quality Standard in any air quality control region; or~~
 - ~~(ii) Any applicable maximum allowable increase over the baseline concentration in any area; and~~~~
 - ~~(D) The applicant conducts an analysis of the ambient air quality in the impact area the new or modified stationary source would affect. The analysis shall include one year of continuous ambient air quality monitoring, preceding the receipt of a complete application. The Executive Officer may approve a shorter monitoring period, but not less than four months, provided that the period of monitoring included the time frame when maximum concentrations are expected. The applicant may rely on existing continuous monitoring data collected by the District if approved by the Executive Officer.~~~~

~~With respect to any such contaminant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the Executive Officer determines is necessary to assess ambient air quality for that contaminant in any area that the emissions of that contaminant would affect; and~~

~~(E) The applicant provides an analysis of the impairment to visibility, soil, and vegetation that would occur as a result of the new or modified stationary source and the air quality impact projected for the baseline area as a result of general commercial, residential, industrial, and other growth associated with the source; and~~

~~(F) The Executive Officer provides a copy of the complete application (within 10 days after being deemed complete by the District) to the EPA, the Federal Land Manager for any Class I area located within 100 km of the source, and to the federal official charged with direct responsibility for management of any lands within the Class I area. The Executive Officer shall also send a copy of the preliminary decision, the Executive Officer's analysis, and notice of any action taken to the above agencies. The analysis shall include a determination on the impact on visibility due to the project. The Federal Land Manager of any such lands may demonstrate to the Executive Officer that the emissions from a proposed source or modification would have an adverse impact on the air quality related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Executive Officer concurs with such demonstration, then he shall deny the permit to construct.~~

~~(b) Procedures~~

~~(1) Air Quality Models~~

~~(A) All estimates of ambient concentrations required under this paragraph shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models," OAQPS 1.2-080, April 1978, or as revised, shall be used to determine the comparability of air quality models.~~

~~(B) Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Prior written approval of the Executive Officer and the EPA Administrator must be obtained for any modification or substitution.~~

~~(2) Operations of Monitoring Stations~~

~~— The owner or operator of a major stationary source or major modification shall meet the EPA monitoring requirements of Appendix B to 40 CFR Part 587, "Ambient Air Quality Surveillance," during the operation of monitoring stations for purposes of satisfying subparagraph (a)(3)(D) of this rule and paragraph (f) of Rule 1713.~~

~~(3) — Stack Heights~~

~~— The degree of emission limitation required for control of any air pollutant under this rule shall not be affected in any manner by:~~

~~(A) — So much of the stack height of any source as exceeds good engineering practice; or~~

~~(B) — Any other dispersion technique.~~

~~— This subparagraph shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.~~

[SIP: Submitted as adopted 10/7/88 on 3/26/90 and 2/7/89]

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RULE 1704

Exemptions

Upon approval by the Executive Officer, an exemption from specified subparagraphs of Rule 1703 shall be allowed, provided that BACT is utilized, for subject permit units which meet any of the following requirements:

- (a) ~~Rule 1703(a)(3) shall not apply to a major stationary source or major modification if:~~
- (1) ~~The source or modification is used exclusively for providing essential public services including but not limited to schools, hospitals, or police and fire fighting facilities.~~
 - (2) ~~The modification is air pollution control equipment which is to be constructed solely to reduce the issuance of air pollutants.~~
 - (3) ~~The change is exclusively a conversion to an alternative fuel or raw material provided it is:~~
 - (A) ~~By reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974; or~~
 - (B) ~~By reason of a natural gas curtailment plan pursuant to the Federal Power Act; or~~
 - (C) ~~By reason of an order or rule under the Clean Air Act; or~~
 - (D) ~~At a steam generating unit to the extent that the fuel is generated from municipal solid waste.~~
 - (4) ~~The source or modification is a cogeneration project, resource recovery project, or qualifying facility, as defined in California Health and Safety Code Sections 39019.5, 39019.6, 39047.5, 39050.5, and shall be exempt only to the extent required by State law, including Health and Safety Code Sections 42314, 42314.5, 41605 and 41605.5.~~
- (b) ~~The Executive Officer may exempt a stationary source or modification from Rule 1703(a)(3)(D) with respect to monitoring for a particular contaminant if the emission increase from the new source or net emission increase from the modification would cause, in any area, air quality impacts less than the following amounts:~~

(Micrograms Per Cubic Meter)
Carbon Monoxide : 8-hr average ~~575~~

~~Total Suspended Particulate: 24-hr average 10
Sulfur Dioxide: 24-hr average 13
Lead: 24-hr average 0.1
Mercury: 24-hr average 0.25
Beryllium: 24-hr average 0.0005
Fluorides: 24-hr average 0.25
Vinyl Chlorides: 24-hr average 15
Total Reduced Sulfur: 1-hr average 10
Hydrogen Sulfide: 1-hr average 0.04
Reduced Sulfur Compounds: 1-hr average 10
Nitrogen Dioxide: annual average 14~~

~~[SIP: Submitted as amended 1/6/89 on 3/26/90; Submitted as adopted 10/7/88 on 2/7/89.]~~

~~RULE 1706~~ ~~Emission Calculations~~

~~This rule shall be used as the basis for calculating applicability to Regulation XVII as delineated in Rule 1703(a).~~

~~(a) — Accumulation of Emissions~~

~~(1) — Emission increases and decreases for each attainment air contaminant which occur at a stationary source including all emission increases or decreases directly associated with the subject permit units or source, shall be calculated pursuant to paragraph (c) of this rule in determining a net emission increase.~~

~~(2) — For each major stationary source:~~

~~(A) — The net balance of emissions increases or decreases are those emissions occurring from October 5, 1979 to the present, or from the establishment of an applicable attainment air contaminant to the present, whichever time period is less. Emissions increases or decreases shall be calculated pursuant to paragraph (c) of this rule, and shall be the basis for the determination of a significant emission increase pursuant to Rule 1703.~~

~~(B) — Emission decreases that occur at another stationary source shall not be used to offset emission increases in determining if there has been a significant increase in emissions.~~

~~(3) — Emission increases or decreases described in subparagraphs (a)(1) and (a)(2) are those associated with a permit to operate or a permit to construct, including quantifiable fugitive emissions, directly associated with the affected permit unit.~~

~~(4) — Emission reductions shall be excluded from the accumulation of emissions pursuant to subparagraph (a)(3) when such reductions are:~~

~~(A) — required to comply with federal or state laws, rules, or regulations; or~~

~~(B) — required by orders of Courts or Boards with jurisdiction to require such emission reductions; or~~

~~(C) — included in District rules and regulations, or in any Control Measure in a Board approved Air Quality Management Plan.~~

~~(5) — The following mobile source emission increases or decreases directly associated with the subject permit units shall be accumulated:~~

~~(A) all emissions from ships during the loading or unloading of cargo and while at berth where the cargo is loaded or unloaded, and~~

~~(B) non-propulsion ship emissions within Coastal Waters under District jurisdiction.~~

~~(6) Notwithstanding any other provisions of this regulation, emission increases and reductions resulting from crude oil and gas production in Southern California Coastal Waters and transport of such crude oil and gas in Southern California Coastal Waters shall be included in emission increases or reductions associated with new or modified stationary sources that are directly related to the crude oil and gas production or transportation and are under the same ownership or entitlement to use as the crude oil or gas production facilities. Such emission increases or reductions shall be accumulated as follows:~~

~~(A) When applications are submitted for permits to construct or modify stationary sources, any emission increases or reductions which have occurred since the submittal date of previous applications to construct, and which emission increases or reductions are associated with activities listed above, shall be accumulated or accounted for with those of the stationary source for all purposes of this regulation.~~

~~(B) The provisions of this subparagraph shall not apply to emission increases which have occurred prior to October 8, 1976 and shall not apply where the applicant demonstrates to the Executive Officer by meteorological or modeling data that emissions from the crude oil or gas production or transportation will not measurably increase concentrations of any air contaminant in any part of the District.~~

~~(b) Adjustments to Calculated Emissions~~

~~— If, in calculating emission increase, and decreases, it is determined that violations of district, state or federal laws, rules, regulations, or orders would occur under the conditions specified in paragraph (c), the emissions shall be calculated on the basis of the maximum emission from the source when operating in compliance. The provisions of this subparagraph shall not apply to ambient air quality standards.~~

~~(c) Calculation of Emissions for Threshold Determination~~

~~— This paragraph provides the method for calculating the emission increases and reductions associated with a stationary source, as described in paragraph (a).~~

~~(1) Emission increases or reductions from permit units at a stationary source shall be calculated as follows:~~

- ~~(A) — The emissions for new permit units and the new emissions for modified or relocated permit units shall be calculated from permit conditions for permits to construct and operate issued pursuant to an EPA approved version of this regulation which directly limit the emissions or, when no such conditions are imposed, from:~~
- ~~(i) — the maximum rated capacity; and~~
 - ~~(ii) — twenty four hours of operation per day; and~~
 - ~~(iii) — the actual materials processed; and~~
- ~~(B) — The emissions before modification, relocation, or removal from service shall be calculated from:~~
- ~~(i) — the sum of actual emissions, as determined from company records, which have occurred during the two year period immediately preceding date of permit application, except annual emission declarations pursuant to Rule 301 may be used if less than the actual emissions as determined above; and~~
 - ~~(ii) — the total emissions in those two years shall be calculated on an annual basis.~~
- ~~(2) — Emission reductions appropriate to the air pollution reduction equipment or process shall be used in the calculations of subparagraph (c)(1) if required for permits to construct and operate issued pursuant to an EPA approved version of this regulation.~~
- ~~(3) — Emission increases and reductions from mobile and other sources shall be determined from records or other information approved by the Executive Officer, sufficient to show actual emissions calculated as a daily emission, using the calculation methods of subparagraph (c)(1).~~
- ~~(4) — Notwithstanding the other provisions of paragraph (c) of this rule, eligible emission reductions for long lead time projects shall include any real excess reductions which result through enforceable changes in operating conditions between the time a Permit to construct is issued and the time a Permit to Operate is issued. For the purpose of calculating such reductions, the period immediately preceding the actual date of reduction and the eligibility criteria in effect at that time shall be used.~~

~~[SIP: Submitted as amended 1/6/89 on 3/26/90; Submitted as adopted 10/7/88 on 2/7/89.]~~

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~~RULE 1710~~

~~Analysis, Notice, And Reporting~~

- ~~(a) — The Executive Officer shall notify all applicants within 30 days as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the Executive Officer received all required information.~~
- ~~(b) — For major stationary sources subject to Rule 1703 (a)(3), within 180 days after receipt of a complete application, the Executive Officer shall:~~
- ~~(1) — Make a preliminary determination whether construction shall be approved, approved with conditions, or disapproved;~~
 - ~~(2) — Make available for public review a copy of materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination. The confidentiality of trade secrets shall be considered in accordance with Section 6254.7 of the Government Code;~~
 - ~~(3) — Notify the public, by advertisement in a newspaper of general circulation in the District, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, whether an alternative to an EPA approved model was used, and of the opportunity for comment at a public hearing. The applicant shall be responsible for the distribution of the public notice to each address within a 1/4 mile radius of the project or such other greater area as determined appropriate by the Executive Officer. The applicant shall provide verification to the Executive Officer that the public notice has been distributed as required by this Section. The notice shall provide 30 days from date of publication for the public to submit written comments;~~
 - ~~(4) — Send a copy of the notice of public comment to the applicant, the EPA Administrator, and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other state or local air pollution control agencies, the chief executives of the city and county where the source would be located, any comprehensive regional land use planning agency, and any State or Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification;~~

- ~~(5) — Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations;~~
- ~~(6) — Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. The Executive Officer shall make all comments available for public inspection in the same locations where the Executive Officer made available preconstruction information relating to the proposed source or modification.~~
- ~~(7) — Make a final determination whether construction should be approved, approved with conditions, or disapproved; and~~
- ~~(8) — Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Executive Officer made available preconstruction information and public comments relating to the source.~~

~~[SIP: Submitted as amended 1/6/89 on 3/26/90; Submitted as adopted 10/7/88 on 2/7/89.]~~

REGULATION XVII

Appendix

<u>Baseline Area</u>	<u>Baseline Date for SO₂</u>
South Coast Air Basin portion of Los Angeles County	June 27, 1979
Southeast Desert Air Basin	August 17, 1981
Orange County	April 22, 1982
South Coast Air Basin portion of Riverside County	Not Established
South Coast Air Basin portion of San Bernardino County	Not Established

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Appendix “B”
Public Notice Documents

1. Proof of Publication – Antelope Valley Press 5/11/2021

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AFFIDAVIT OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA }
County of Los Angeles } ss

The space above for file stamp only

**NOTICE OF HEARING
REGULATION XII, NEW SOURCE REVIEW,
REGULATION XVII PREVENTION OF
SIGNIFICANT DETERIORATION AND RULW
1401- NEW SOURCE REVIEW FOR TOXIC AIR
CONTAMINANTS**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the **Antelope Valley Press**, a newspaper of general circulation, printed and published **daily** in the city of **Palmdale**, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under date of October 24, 1931, Case Number 328601; Modified Case Number 657770 April 11, 1956; also operating as the Ledger-Gazette, adjudicated a legal newspaper June 15, 1927, by Superior Court decree No. 224545; also operating as the Desert Mailer News, formerly known as the South Antelope Valley Foothill News, adjudicated a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California on May 29, 1967, Case Number NOC564 and adjudicated a newspaper of general circulation for the **City of Lancaster**, State of California on January 26, 1990, Case Number NOC10714, Modified October 22, 1990; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

May 11, 2021

I certify (or declare) under penalty of perjury that the fore-going is true and correct.

Signature

Dated May 11, 2021

Executed at Palmdale, California

Valley Press

37404 SIERRA HWY., PALMDALE CA 93550
Telephone (661)267-4112/Fax (661)947-4870

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 June 15, 2021 at 10:00 A.M. to consider the proposed amendments to Regulation XII – New Source Review, Regulation XVII – Prevention of Significant Deterioration, and Rule 1401 – New Source Review for Toxic Air Contaminants.

SAID HEARING will be held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declarations related to Covid-19, and the Governor's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by members of the District, District staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both. Copies of the proposed amendments to Regulation XII – New Source Review, Regulation XVII – Prevention of Significant Deterioration, and Rule 1401 – New Source Review for Toxic Air Contaminants and the Staff Report are on file and may be obtained from the AVAQMD Offices or the AVAQMD website rule development page (<https://avaqmd.ca.gov/rule-plan-development>). Written comments may be submitted to Bret Banks, Executive Director/APCO at the above office address or via email to bbanks@avaqmd.ca.gov. Written comments must be received no later than June 30, 2021 to be considered. If you have any questions you may contact Karen K. Nowak at (760) 245-1561 x5510 for further information.

The proposed amendments to Regulation XII – New Source Review, Regulation XVII – Prevention of Significant Deterioration, and Rule 1401 – New Source Review for Toxic Air Contaminants will allow the certification of certain mandatory submission requirements in response to the 2015 70 ppb Ozone standard; address a variety of issues identified by the United States Environmental Protection Agency (USEPA) in their review of previously submitted versions; address USEPA concerns expressed about similar rules and regulations in other air districts; clarify the interrelationship between these rules and Rule 216 – Equipment Not Requiring a Permit; remove unused and unnecessary rules and provisions; and provide reorganization of provisions for additional clarity.

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.

Publish: May 11, 2021

AVAQMD
MAY 17 2021
RECEIVED

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Appendix “C”
Public Comments and Responses

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Appendix “D”
California Environmental Quality Act
Documentation

1. Notice of Exemption – County of Los Angeles

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NOTICE OF EXEMPTION

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

FROM: Antelope Valley Air Quality Management District
43301 Division Street, Suite 206
Lancaster, CA 93535-4649

PROJECT TITLE: Amendment of Regulation XIII – *New Source Review*, amendment of Regulation XVII – *Prevention of Significant Deterioration*, and conforming changes to Rule 1401 – *New Source Review for Toxic Air Contaminants*

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

PROJECT LOCATION – COUNTY: Los Angeles County

DESCRIPTION OF PROJECT: The above rules are proposed for amendment to clarify and conform language to current District practices. Basis applicability threshold values remain unchanged. Substantive amendments include addition of definitions, addition of Stack Height analysis, addition of 30 day notice period for minor NSR actions, bifurcation of calculation methods into two distinct calculations (applicability and offset amounts), removal of current unused and unusable provisions, and shift of Regulation XVII to an adoption by reference format.

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))

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: Bret Banks **PHONE:** (661) 723-8070

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** June 15, 2021

DATE RECEIVED FOR FILING:

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NOTICE OF EXEMPTION

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

FROM: Antelope Valley Air Quality Management District
43301 Division Street, Suite 206
Lancaster, CA 93535-4649

PROJECT TITLE: Amendment of Regulation XIII – *New Source Review*, amendment of Regulation XVII – *Prevention of Significant Deterioration*, and conforming changes to Rule 1401 – *New Source Review for Toxic Air Contaminants*

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

PROJECT LOCATION – COUNTY: Los Angeles County

DESCRIPTION OF PROJECT: The above rules are proposed for amendment to clarify and conform language to current District practices. Basis applicability threshold values remain unchanged. Substantive amendments include addition of definitions, addition of Stack Height analysis, addition of 30 day notice period for minor NSR actions, bifurcation of calculation methods into two distinct calculations (applicability and offset amounts), removal of current unused and unusable provisions, and shift of Regulation XVII to an adoption by reference format.

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))

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: Bret Banks **PHONE:** (661) 723-8070

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** June 15, 2021

DATE RECEIVED FOR FILING:

**Frequently Asked Questions About
Proposed Amendments to Regulation XIII – *New Source Review*
Regulation XVII – *Prevention of Significant Deterioration* and conforming changes to
Rule 1401 – *New Source Review for Toxic Air Contaminants***

Why are the NSR & PSD Rules Being Amended?

The 2015 change to the Ozone (O₃) National Ambient Air Quality Standards (NAAQS) and the designation of the AVAQMD as nonattainment for O₃ triggered a set of Federal Clean Air Act (FCAA) mandatory submission requirements including a certification that the AVAQMD's Nonattainment New Source Review (NSR) program meets or exceeds FCAA requirements. This certification and rule modifications if necessary are required to be submitted to USEPA on or before August 3, 2021. The USEPA has indicated that a significant number of NSR rules in California, including those in the neighboring Mojave Desert AQMD and South Coast AQMD, cannot make this certification due to a number of alleged deficiencies. Since AVAQMD's NSR and PSD rules are derived from and highly similar to the rules in the neighboring district many of the same alleged deficiencies are present in the AVAQMD's rules. The MDAQMD has recently concluded an intensive process with USEPA to address the deficiencies and the AVAQMD is proposing to utilize this work as a basis for its own proposed amendments.

What is Proposed to be Changed?

A good portion of the contemplated changes are simply clarifications of existing policy and definitional additions for clarity and consistency. The proposed substantive changes are as follows:

- Addition of a Stack Height Analysis (Required by 40 CFR 51.164).
- Addition of a 30-day Notice & Comment Period for certain “Minor NSR” permitting actions.
- Additions of provisions to allow for E-noticing of NSR permitting actions.
- Addition of provisions to allow PSD permitting, Title V Permit issuance and modifications; and certain Toxic NSR actions to be performed and noticed concurrently with the NSR actions if the applicant so wishes.
- Bifurcation of the applicability calculations for BACT and Offsets from the calculations used to determine how many offsetting emissions reductions are necessary.
- Removal of Rule 1310 as it was effectively unused due to the impact of other, non-air quality, requirements of State law (CEQA).
- Reformatting and restructuring Regulation XVII from its current South Coast AQMD derived formulation to an “adoption by reference” formulation which should allow the AVAQMD to obtain PSD delegation and local control over PSD permitting activities.

How Will These Changes Affect My Facility?

The proposed changes will primarily affect the calculations and methodologies used in the AVAQMD's engineering analysis. Applicability thresholds will remain the same and the net result in terms of permit conditions should also remain the same. Amounts of offsetting emissions reductions needed, when such are required, is not proposed to change. Certain “Minor NSR” permitting activities will require a 30-day notice and comment period before construction can commence and a 45-day review period will be required if you choose to have a Title V Permit modification performed concurrently with NSR review.

How Do I Learn More?

A redline version indicating specific language changes in underline/strikeout format and containing *[bracketed and italicized]* notations regarding the reason for each change along with a Draft Staff Report is available for download on the AVAQMD website at <https://avaqmd.ca.gov/rule-plan-development>. Further information can be obtained by contacting either Bret Banks – bbanks@avaqmd.ca.gov or Karen K. Nowak – k2nowak@mdaqmd.ca.gov.

How Can I Participate in the Rule Development Process?

You may submit comments via email to the addresses above or in writing to the District Offices at 43301 Division Street, Ste 206, Lancaster, CA, 93535-4649. You may also participate in Governing Meetings where the proposed amendments will be discussed. An informative “Set Date” item has been placed on the May 18, 2021 Governing Board Agenda and the Public Hearing on the amendment has been scheduled for June 15, 2021. Further meeting information may be obtained at <https://avaqmd.ca.gov/governing-board>.

Proposed Amendments to
Regulation XIII – *New Source Review*
and
Regulation XVII – *Prevention of
Significant Deterioration*

AVAQMD Governing Board Meeting

June 15, 2021

Why are these Rules Proposed for Amendment?

- Changes to the National Ambient Air Quality Standards (NAAQS) result in mandatory requirements.
 - Ozone NAAQS changed to 70 ppb in 2015.
 - In 2018 EPA finalized the implementation rules and designations setting in motion deadlines for SIP submissions.
 - There is a 3 year deadline for some submissions, 4 years for others.
- AVAQMD was designated nonattainment for Ozone and classified Severe.

Why are these Rules Proposed for Amendment? (continued)

- One of the mandatory submissions is a “certification” that the District’s New Source Review programs meet or exceed the Federal Clean Air Act requirements.
- In October 2019 USEPA informed the MDAQMD that there were “deficiencies” in its NSR Program which required amendment to the rules to meet the certification requirement and noted that AVAQMD Rules had “similar problems.”
- USEPA provided a list of these “deficiencies” in December of 2019 to MDAQMD.
 - MDAQMD worked with USEPA and CARB on proposed amendments, adopting them in March.
 - Many of the same changes are applied in the rules as proposed for AV.

Deadlines and Consequences

- The due date for NSR revisions to be submitted to USEPA for the District is 8/3/2021.
 - CARB is the submitting agency so we submit to CARB and they submit to USEPA. Usually takes 30-60 days.
 - USEPA then has time to review and approve/disapprove the submission.
- If we do not submit a revised NSR rule that satisfies USEPA they can:
 - Disapprove the NSR program and impose their own via Federal Implementation Plan.
 - Give a limited approval/disapproval to what is currently in the rulebook and impose extra requirements.

What Exactly is Being Changed?

- It looks like a lot of changes BUT many changes are:
 - Additions and clarifications of definitions that are used by the District already.
 - Clarifications of existing policies and procedures.
 - Some reorganization for clarity.
 - A few additional provisions to allow Federal Operating Permit (Title V Permit) changes to be issued at the same time and in the same action as the NSR analysis.

Substantive Changes Proposed

- Addition of “Stack Height Analysis”
- Addition of 30 day Notice/Comment period for some Minor NSR level changes.
- Clarification of PM10 Major Facility BACT trigger level.
- Bifurcation of emissions calculations into 2 different calculations: “applicability” and “amount of offsets”
- Removal of unused Rule 1310.
- Shifting Regulation XVII – PSD from a “written out” format to an “adopt by reference” rule to allow direct delegation.

How Will These Changes Affect Facilities?

- Thresholds do not change from current.
- Permit conditions and requirements shouldn't change from current.
- Most changes will be in the Engineering Evaluation produced by the District and Facilities won't really see them.
- Some minor permitting activities will need to wait 30 days prior to commencing construction for the notice period to run and the final permit to be issued.
- If "Enhanced NSR" status is granted by USEPA, a Facility will be able to request that its Title V Permit be updated in the same action as the NSR permit issuance.
- If PSD authority is delegated by USEPA we will be able to do the PSD permit locally in the same action as the NSR permit.



Questions?