

March 2, 2023

Martha Guzman  
Regional Administrator  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, California 94105  
[guzman.martha@epa.gov](mailto:guzman.martha@epa.gov)

Dear Administrator Guzman:

The California Air Resources Board (CARB) is submitting to the U.S. Environmental Protection Agency (U.S. EPA) a revision to the California State Implementation Plan (SIP) from the Amador Air District (Amador District). The revision consists of Amador District Rule 400, *NSR Requirements for New and Modified Major Sources in Nonattainment Areas*. The Amador District adopted amendments to Rule 400 on January 17, 2023, and submitted them to CARB on January 26, 2023.

The Amador District amended Rule 400 to correct certain deficiencies in the Rule as identified by U.S. EPA's limited approval and limited disapproval of the Rule, published on January 11, 2022 (87 FR 1683). Enclosed is CARB Executive Order S-23-004 adopting the Amador District Rule 400 as a revision to the California SIP. To meet U.S. EPA's criteria for determining that rule submittals are administratively and technically complete, we have enclosed an evaluation of the Rule's consistency with 40 CFR 51 and other supporting documentation provided to us by the Amador District.

In addition, CARB and the South Coast Air Quality Management District (South Coast District) are coordinating with U.S. EPA to speed action on revisions to the SIP. In the enclosed January 20, 2023 letter, the South Coast District identified that South Coast District Rule 1306, *Emission Calculations*, amended on October 20, 2000 and December 6, 2002 and submitted to U.S. EPA on March 14, 2001 and October 20, 2005, respectively, is no longer appropriate for inclusion in the California SIP. U.S. EPA has not acted on these SIP submittals within the required time frame specified in the Clean Air Act. Further, the South Coast District will submit a revised version of this rule in the near future. Therefore, as the agency designated under State law to revise the SIP, CARB now formally withdraws the aforementioned submittals of the South Coast District Rule 1306 from consideration for inclusion in the California SIP.

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If you have any questions, please contact Edie Chang, Deputy Executive Officer, at (916) 445-4383 or have your staff contact Michael Benjamin, D.Env., Chief, Air Quality Planning and Science Division at (916) 201-8968.

Sincerely,



Steven S. Cliff, Ph.D., Executive Officer

Enclosures (3)

cc: with Executive Order

Herminia Perry, Air Pollution Control Officer, Amador Air District  
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Edie Chang, Deputy Executive Officer, California Air Resources Board

Michael Benjamin, D.Env., Division Chief, Air Quality Planning and Science Division,  
California Air Resources Board

**State of California  
Air Resources Board**

**Executive Order S-23-004**

**Adoption and Submittal into the California State Implementation Plan of Amador Air District  
Rule 400**

Whereas, the California Legislature in Health and Safety Code (H&SC) section (§) 39602 has designated the California Air Resources Board (CARB or Board) as the air pollution control agency for all purposes set forth in federal law;

Whereas, CARB is responsible for preparing a State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) as required by the federal Clean Air Act (the Act; 42 U.S.C. § 7401 et seq.), and to this end is directed by H&SC § 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) necessary to comply with the Act;

Whereas, CARB has primary responsibility for the control of air pollution from vehicular sources, including motor vehicle fuels, as specified in H&SC §§ 39002, 39500, and part 5 (commencing with § 43000), and for ensuring that the districts meet their responsibilities under the Act pursuant to H&SC §§ 39002, 39500, 39602, 40469, and 41650;

Whereas, the local air districts have primary responsibility for the control of air pollution from non-vehicular sources and for adopting control measures, rules and regulations to attain the NAAQS within their boundaries pursuant to H&SC §§ 39002, 40000, 40001, 40701, 40702, and 41650;

Whereas, H&SC § 39602 also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

Whereas, H&SC §§ 39515 and 39516 provide that any duty may be delegated to the Board's Executive Officer as the Board deems appropriate;

Whereas, on September 16, 1997, the U.S. Environmental Protection Agency (U.S. EPA) promulgated an 8-hour ozone NAAQS of 80 parts per billion (ppb);

Whereas, on December 28, 2015, U.S. EPA promulgated an 8-hour ozone NAAQS of 70 ppb;

Whereas, on June 15, 2004 and August 3, 2018, U.S. EPA designated Amador County as nonattainment for the 80 ppb and 70 ppb 8-hour ozone NAAQS, respectively;

Whereas, the Amador Air District (District) is the district responsible for air quality planning for the Amador County ozone nonattainment area;

Whereas, on December 6, 2018, U.S. EPA published the Rule, "Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements," (83 FR 62998 et seq.), which requires the submission of new source review regulations for all ozone nonattainment areas;

Whereas, the District developed amendments to Rule 400, *NSR Requirements for New and Modified Major Sources in Nonattainment Areas*, to meet new source review requirements for the 80 ppb and 70 ppb 8-hour ozone NAAQS;

Whereas, the District submitted amended Rule 400 to CARB for submission to U.S. EPA as a revision to the California SIP to address deficiencies identified in U.S. EPA's January 11, 2022 limited approval and limited disapproval of the prior version of District Rule 400 (87 FR 1683), submitted to U.S. EPA on November 5, 2019;

Whereas, federal law set forth in §110(l) of the Act and title 40, Code of Federal Regulations (CFR), §51.102 requires that one or more public hearings, preceded by at least 30 days notice and opportunity for review, must be conducted prior to the adoption and submittal to U.S. EPA of any SIP revision;

Whereas, following a duly noticed public hearing, the District adopted amendments to District Rule 400 on January 17, 2023;

Whereas, the District is authorized by H&SC § 40001 to adopt and enforce District Rule 400;

Whereas, CARB has determined that District Rule 400 meets the requirements of the Act and is necessary for inclusion in the SIP;

Whereas, CARB is authorized by H&SC §§ 39601, 39602, and 41650 through 41652 to adopt district rules as revisions to the SIP;

Whereas, the District states in their staff report for District Rule 400 that these actions are categorically exempt from CEQA under §15308 of the CEQA guidelines;

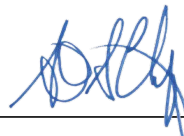
Whereas, CARB has determined that CARB's subsequent adoption of the rule changes are a "ministerial" approval for purposes of the CEQA, (CCR, title 14, § 15268) because CARB's review is limited to determining if the rule change meets the requirements of the Act, and CARB lacks authority to modify or not approve the rule changes in response to environmental concerns.

Therefore, it is ordered that CARB hereby adopts District Rule 400 as a revision to the California SIP.

Be it further ordered that CARB hereby submits to U.S. EPA District Rule 400 and requests that U.S. EPA approve it as a revision to the California SIP.

I certify, pursuant to 40 CFR 51.102(f), that District Rule 400 was amended after notice and public hearings as required by 40 CFR 51.102(a) and 51.102(d).

Executed in Sacramento, California, this 2nd day of March, 2023.



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Steven S. Cliff, Ph.D., Executive Officer

**SIP COMPLETENESS CHECKLIST**

All rules submitted to the U.S. Environmental Protection Agency (U.S. EPA) as State Implementation Plan (SIP) revisions must be supported by certain information and documentation for the rule packages to be deemed complete for review by the U.S. EPA. Rules will not be evaluated for approvability by the U.S. EPA unless the submittal packages are complete. To assist you in determining that all necessary materials are included in rules packages sent to CARB for submittal to the U.S. EPA, please fill out the following form and include it with the rule package you send CARB. See [40 CFR 51, Appendix V](#). Adopted rules and rule amendments should be checked against U.S. EPA's [Guidance Document for Correcting Common VOC & Other Rule Deficiencies \(AKA, The Little Bluebook\) \(epa.gov\)](#) (Little Blue Book, August 21, 2001) to ensure that they contain no elements which will result in disapproval by U.S. EPA.

<b>District:</b> Amador Air District
<b>Rule No.:</b> 400
<b>Rule Title:</b> NSR Requirements for New and Modified Major Sources in Nonattainment Areas
<b>Date Adopted or Amended:</b> January 17, 2023

**CHECKLIST**

Note: All documents should be in electronic format. Items that have signatures, initials, or stamps may be scanned.

Attached	Not Attached	N/A	ADMINISTRATIVE MATERIALS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>COMPLETE COPY OF THE RULE:</b> Provide an unmarked copy of the entire rule as adopted or amended by your District Board.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>UNDERLINE AND STRIKEOUT COPY OF THE RULE:</b> If an amended rule, provide a complete copy of the rule indicating in underline and strikeout format all language which has been added, deleted, or changed since the rule was last adopted or amended.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>COMPLETE COPY OF THE REFERENCED RULE(S):</b> For any rule which includes language specifically referencing another rule, a copy of that other rule must also be submitted, unless it has already been submitted to U.S. EPA as part of a previous SIP submittal.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>PUBLIC NOTICE EVIDENCE:</b> Include a copy of the local newspaper clipping certification(s), stating the date of publication, which must be at least 30 days before the hearing. As an alternative, include a copy of the actual published notice of the public hearing as it appeared in the local newspaper(s). In this case, however, enough of the newspaper page must be included to show the date of publication. The notice must specifically identify by title and number each rule adopted or amended. The public notice must adhere to the <a href="#">California Health and Safety Code</a> , Sections 40725 through 40727, including 40727.2(f).

**SIP COMPLETENESS CHECKLIST**

Attached	Not Attached	N/A	ADMINISTRATIVE MATERIALS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>RESOLUTION/MINUTE ORDER:</b> Provide the Board Clerk certified resolution or minute order. This document must include certification that the hearing was held in accordance with the information in the public notice. It must also list the rules that were adopted or amended, the date of the public hearing, and a statement of compliance with <a href="#">California Health and Safety Code Sections 40725-40728</a> .
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>PUBLIC COMMENTS AND RESPONSES:</b> Submit copies of written public comments made during the notice period and at the public hearing. Also submit any written responses prepared by the District staff or presented to the District Board at the public hearing. A summary of the public comments and responses is adequate. If there were no comments made during the notice period or at the hearing, please indicate N/A to the left.

Attached	Not Attached	N/A	TECHNICAL MATERIALS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>RULE EVALUATION FORM:</b> See instructions for completing the Rule Evaluation Form and the accompanying sample form.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>NON-EPA TEST METHODS:</b> Attach all test methods that are referenced in your rule that do not appear in 40 CFR 51, 60, 61, 63, or have not been previously submitted to U.S. EPA. U.S. EPA methods used in other media such as SW846 for solid waste are not automatically approved for air pollution applications. Submittal of test methods that are not EPA-approved should include the information and follow the procedure described in Region 9's "Test Method Review & Evaluation Process."
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>MODELING SUPPORT:</b> Provide if appropriate. In general, modeling support is not required for VOC and NOx rules to determine their impacts on ozone levels. Modeling is required where a rule is a relaxation that affects large sources ( $\geq 100$ TPY) in an attainment area for SO <sub>2</sub> , directly emitted PM <sub>10</sub> , CO, or NOx (for NO <sub>2</sub> purposes). In cases where U.S. EPA is concerned with the impact on air quality of rule revisions which relax limits or cause a shift in emission patterns in a nonattainment area, a reference back to the approved SIP will be sufficient provided the approved SIP accounts for the relaxation and provided the approved SIP used the current U.S. EPA modeling guidelines. If current U.S. EPA modeling guidelines were not used, then new modeling may be required.

**SIP COMPLETENESS CHECKLIST**

Attached	Not Attached	N/A	TECHNICAL MATERIALS
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p><b>ECONOMIC AND TECHNICAL JUSTIFICATION FOR DEVIATIONS FROM U.S. EPA POLICIES:</b> The District staff report or other information included with the submittal should discuss all potential relaxations or deviations from RACT, RACM, BACT, BACM, enforceability, attainment, RFP, or other relevant U.S. EPA requirements. This includes, for example, demonstrating that exemptions or emission limits less stringent than the presumptive RACT (e.g., a CTG) meet U.S. EPA’s 5 percent policy, and demonstrating that all source categories exempted from a RACM/BACM rule are the minimum according to U.S. EPA’s RACM/BACM policy.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>ADDITIONAL MATERIALS:</b> Provide District staff reports and any other supporting information concerning development of the rule or rule changes. This information should explain the basis for all limits and thresholds contained in the rule.</p>

**RULE EVALUATION FORM**

**PART I: GENERAL INFORMATION**

Air District: Amador County APCD	
Rule Number(s): 400	Adopted/Amended/Rescinded: Amended and Adopted
Date Adopted/Amended/Rescinded: January 17, 2023	Date Submitted to CARB:
Rule Title(s): NSR Requirements for New and Modified Major Sources in Nonattainment Areas	
If an Amended Rule, Date Last Amended (or Adopted): Adopted August 20, 2019	
Is the Rule Intended to be Sent to the U.S. EPA as a SIP Revision? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No. If no, do not complete the remainder of this form.	
District Contact Person: Herminia Perry	Phone Number: (209) 257-0112
Email Address: hperry@amadorgov.org	
Narrative Summary of: <input type="checkbox"/> New Rule <input checked="" type="checkbox"/> Amended Rule	
Amador Air District received a limited approval limited disapproval on our Rule 400 because some rule provision did not fully satisfy the relevant requirements for preconstruction review and permitting under section 110 and Part D of the Act. Amador's Rule 400 allowed the District to approve interprecursor trading (IPT) of ozone precursors. In addition, there were typographical errors that created deficiencies in later sections.	
Pollutant(s) Regulated by the Rule (check all that apply): <input checked="" type="checkbox"/> ROG <input type="checkbox"/> CO <input checked="" type="checkbox"/> NOx <input type="checkbox"/> PM <input type="checkbox"/> SO <sub>2</sub> <input type="checkbox"/> TAC (Name):	

**PART II: EFFECT ON EMISSIONS**

Complete this section ONLY for rules that, when implemented, will result in quantifiable changes in emissions. Attach reference(s) for emission factor(s) and other information. Attach calculation sheet showing how the emission information provided below was determined.

Net Effect on Emissions: <input type="checkbox"/> Increase <input checked="" type="checkbox"/> Decrease <input type="checkbox"/> N/A
Emission Reduction Commitment in SIP for this Source Category: No emission reduction commitment is being made.
Inventory Year Used to Calculate Changes in Emissions: N/A



**RULE EVALUATION FORM**

Area Affected: N/A
Future Year Control Profile Estimate (provide information on as many years as possible): N/A
Baseline Inventory in the SIP for the Control Measure: N/A
Emissions Reduction Commitment in the SIP for the Control Measure: N/A
Revised Baseline Inventory (if any): N/A
Revised Emission Reduction Estimate (if developed): None developed.

**NOTE:** The district's input to the Rule Evaluation Form will not be used as input to CARB's emission forecasting and planning.

**PART III: SOURCES/ATTAINMENT STATUS**

District is: <input type="checkbox"/> Attainment <input checked="" type="checkbox"/> Nonattainment <input type="checkbox"/> Split
Approximate Total Number of Small (<100 TPY) Sources Affected by this Amendment: 115
Percent in Nonattainment Area: 100%
Number of Large (≥ 100 TPY) Sources Controlled: 3 (one major and two synthetic minor)
Percent in Nonattainment Area: 100%
Name(s) and Location(s) (City and County) of Large (≥ 100 TPY) Sources Controlled by Rule (attach additional sheets as necessary): Ampine Division of Timber Products (major) - Martell, Amador County Buena Vista Biomass Plant (synthetic minor) - Lone, Amador County US Mine (synthetic minor) - Lone, Amador County

**RULE EVALUATION FORM**

**PART IV: EMISSION REDUCTION TECHNOLOGY**

Does the Rule Include Emission Limits that are Continuous?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, those limits are in which section(s) of the rule?		
Other Methods in the Rule for Achieving Emission Reductions: The rule requires emission offsets for major sources per Section 4.0.		

**PART V: OTHER REQUIREMENTS**

The Rule Contains
Emission Limits in Section(s): No emission limits, but requires offsets beyond certain thresholds.
Work Practice Standards in Section(s): N/A
Recordkeeping Requirements in Section(s): Section 9.13
Reporting Requirements in Section(s): Section 9.14

**PART VI: IMPACT ON AIR QUALITY PLAN**

Impact on Air Quality Plan:	<input checked="" type="checkbox"/> No Impact	<input type="checkbox"/> Impacts RFP	<input type="checkbox"/> Impacts Attainment
Discussion:			

**BEFORE THE BOARD OF DIRECTORS OF THE  
AMADOR AIR DISTRICT  
COUNTY OF AMADOR, STATE OF CALIFORNIA**

IN THE MATTER OF:

RESOLUTION NO. 23-01

**RESOLUTION FOR ADOPTING A NONATTAINMENT NEW SOURCE RULE (NA NSR) PROGRAM  
FOR OZONE STANDARDS – RULE 400**

The California Air Pollution Control District Act of 1947 allowed one or more counties to form air pollution districts. The California Air Resources Board was created in 1967 when California's legislature passed the Mulford-Carrell Act. The enactment of the federal Clean Air Act of 1970 authorized the development of comprehensive federal and state regulations to limit emissions from both stationary (industrial) sources and mobile sources.

**Whereas**, Sections 40001 and 40702 of the California Health and Safety Code authorizes the Amador Air District to adopt and enforce rules and regulations as are necessary to achieve and maintain ambient air quality standards within the District, to enforce all applicable provisions of state and federal law, and to execute the powers and duties granted to the District; and

**Whereas**, The Amador Air District submitted Rule 400 NSR Requirements for New and Modified Major Sources in Nonattainment areas on November 05, 2019.

**Whereas**, The Amador Air District received a limited approval limited disapproval on our Rule 400 because some rule provision did not fully satisfy the relevant requirements for preconstruction review and permitting under section 110 and Part D of the Act. Amador's Rule 400 allowed the District to approve interprecursor trading (IPT) of ozone precursors. In addition, there were typographical errors that created deficiencies in later sections; and

**Whereas**, The Amador Air District is adopting and submitting State Implementation Plan (SIP) revisions that correct the rule deficiencies within the timeframe specified.

**Whereas**, The Amador Air District provided the required notice, posting and advertising of the public hearing on January 17, 2023 at 1:30 p.m., and the Amador Air District's Board of Directors were available at said date and time for comment from the public regarding the revision; and the Board of Directors closed the public hearing; and

**Whereas**, The Amador Air District's Board of Directors made the required findings of necessity, authority, clarity, consistency, nonduplication and reference required by Health and Safety Code Section 40727 in considering the updates to the rulebook including the newly adopted Rule 400, New Source Rule.

**Be It Resolved** that the Amador Air District Board of Directors does hereby repeal the earlier adopted NA NSR rule in its entirety and adopt the new version to replace it.

The foregoing resolution was duly passed and adopted by the Board of Directors of the Amador Air District at a regular meeting thereof, held on the 17<sup>th</sup> day of January 2023 following vote:

AYES: Directors Axe, Brown, Forster, Crew, Oneto, and Wratten      NAYS: None  
ABSENT: Directors Stimpson, Sierk, Bragstad, and White      ABSTAINING: None

  
\_\_\_\_\_  
Jeff Brown, Chair, Board of Directors

ATTEST:   
\_\_\_\_\_  
David Estey, Clerk of the Board

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

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## 1 APPLICABILITY PROCEDURES

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### 1.1 PRECONSTRUCTION REVIEW REQUIREMENTS

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

### 1.2 AUTHORITY TO CONSTRUCT REQUIREMENT

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

### 1.3 EMISSION CALCULATION REQUIREMENTS TO DETERMINE NSR APPLICABILITY

#### 1.3.1 New Major Stationary Sources

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

#### 1.3.2 Major Modifications

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

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

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

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

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

**1.5 PROJECTS THAT RELY ON A PROJECTED ACTUAL EMISSIONS TEST**

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

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

- (ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and
- (iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (B)(3) of the definition of *Projected Actual Emissions* and an explanation for why such amount was excluded, and any netting calculations, if applicable.

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- (b) If the emissions unit is an existing emissions unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in paragraph (a) of this Section to the APCO. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the APCO concerning compliance with Rule 400 before beginning actual construction. However, such owner or operator may be subject to the requirements of District Regulations IV and V , or other applicable requirements.
- (c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that are emitted by any emissions unit identified in paragraph (a)(ii) of this Section; and calculate and maintain a record of the annual emissions, in tons per year (tpy), on a calendar year basis for a period of five years following resumption of regular operations after the change, or for a period of ten years following resumption of regular operations after the change if the project increases the design capacity or potential to emit that regulated NSR pollutant at such emissions unit.
- (d) If the emissions unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the APCO within sixty days after the end of each calendar year during which records must be generated under paragraph (c) of this Section, setting out the unit's annual emissions during the calendar year that preceded submission of the report.
- (e) If the emissions unit is an existing emissions unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the APCO if the annual emissions, in tpy, from the project identified in paragraph (a)(ii) of this Section exceed the baseline actual emissions by a significant amount for that regulated NSR pollutant, and if such emissions differ from the projected actual emissions (prior to exclusion of the amount of emissions specified under paragraph (B)(3) of the definition of *Projected Actual Emissions*) as documented and maintained pursuant to paragraph (a)(iii) of this Section. Such report shall be submitted to the APCO within sixty days after the end of such year. The report shall contain the following:
  - (i) The name, address, and telephone number of the major stationary source;
  - (ii) The annual emissions, as calculated pursuant to paragraph (c) of this Section; and

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

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## 1.6 SECONDARY EMISSIONS

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

## 1.7 STATIONARY SOURCES

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

## 1.8 ENVIRONMENTAL PROTECTION AGENCY DETERMINATION

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

## 2 DEFINITIONS

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

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

- (b) The following definitions shall also apply:

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

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

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

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

“*District*” means the Amador Air District.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

### **3 APPLICATION REQUIREMENTS**

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#### **3.1 APPLICATION SUBMITTAL**

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

#### **3.2 APPLICATION CONTENT**

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

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

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

### **3.3 LOWEST ACHIEVABLE EMISSION RATE (LAER)**

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

### **3.4 STATEWIDE COMPLIANCE**

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

### **3.5 ANALYSIS OF ALTERNATIVES**

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

### **3.6 SOURCES IMPACTING CLASS I AREAS**

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

### 3.7 APPLICATION FEES

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

## 4 EMISSIONS OFFSETS

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### 4.1 OFFSET REQUIREMENTS

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

### 4.2 TIMING

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

### 4.3 QUANTITY

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

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

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

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

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

**4.4 EMISSION REDUCTION REQUIREMENTS**

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

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

**4.5 RESTRICTIONS ON OFFSET POLLUTANTS**

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

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**4.5 RESTRICTIONS ON TRADING POLLUTANTS**

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

## 5 ADMINISTRATIVE REQUIREMENTS

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### 5.1 VISIBILITY

(a) The APCO shall provide written notice and conduct any necessary review and consultation with the Federal Land Manager regarding any proposed major stationary source or major modification that may impact visibility in any Mandatory Class I Federal Area, in accordance with the applicable requirements of 40 CFR 51.307.

(b) The APCO may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the APCO deems necessary and appropriate.

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### 5.2 AMBIENT AIR QUALITY STANDARDS

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

### 5.3 AIR QUALITY MODELS

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

### 5.4 STACK HEIGHT PROCEDURES

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

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

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

## **6 AUTHORITY TO CONSTRUCT – DECISION**

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### **6.1 PRELIMINARY DECISION**

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

### **6.2 AUTHORITY TO CONSTRUCT – PRELIMINARY DECISION REQUIREMENTS**

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

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

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

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

### 6.3 AUTHORITY TO CONSTRUCT CONTENTS

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

### 6.4 AUTHORITY TO CONSTRUCT – FINAL DECISION

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



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

#### **6.5 PERMIT TO OPERATE**

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

### **7 SOURCE OBLIGATIONS**

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#### **7.1 ENFORCEMENT**

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

#### **7.2 TERMINATION**

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

#### **7.3 COMPLIANCE**

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

#### **7.4 RELAXATION IN ENFORCEABLE LIMITATIONS**

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

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

## **8 PUBLIC PARTICIPATION**

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

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

## **9 PLANT-WIDE APPLICABILITY LIMITS (PAL)**

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### **9.1 APPLICABILITY**

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

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

## 9.2 DEFINITIONS

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

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

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

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

*"Major emissions unit"* means:

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

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

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

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

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

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

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

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

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

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

### 9.3 PERMIT APPLICATION REQUIREMENTS

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

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

### 9.4 GENERAL REQUIREMENTS FOR ESTABLISHING PALS

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

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

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

#### **9.5 PUBLIC PARTICIPATION REQUIREMENTS FOR PALS**

PALs for existing major stationary sources shall be established, renewed, or increased through the public participation procedures in Section 9.8 of this rule.

#### **9.6 SETTING THE 10-YEAR ACTUALS PAL LEVEL**

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

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

#### **9.7 CONTENTS OF THE PAL PERMIT**

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

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

#### **9.8 PAL EFFECTIVE PERIOD AND REOPENING OF PAL PERMIT**

The PAL shall include the following information:

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

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

## 9.9 EXPIRATION OF A PAL

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

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

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

#### 9.10 RENEWAL OF A PAL

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



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

#### 9.11 INCREASING A PAL DURING THE PAL EFFECTIVE PERIOD

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

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

(iii) The owner or operator obtains an Authority to Construct issued in accordance with Sections 1 through 8 of this rule for all emissions unit(s) identified in paragraph (a)(i) of Section 9.11, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment Authority to Construct issued in accordance with Sections 1 through 8 of this rule (for example, LAER), issuance process, even though they have also become subject to the PAL or continue to be subject to the PAL.

(iv) The PAL Permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(b) The APCO shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls as determined in accordance with paragraph (a)(ii) of Section 9.11), plus the sum of the baseline actual emissions of the small emissions units.

(c) The PAL Permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 9.5.

## 9.12 MONITORING REQUIREMENTS FOR PALS

(a) General requirements.

(i) ~~The Each~~ PAL Permit must include enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL ~~conditions-Permit~~ must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(ii) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(i) through (b)(iv) of Section 9.12 and must be approved by the APCO .

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

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

### 9.13 RECORDKEEPING REQUIREMENTS

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

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

#### 9.14 REPORTING AND NOTIFICATION REQUIREMENTS

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

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

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

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

#### **9.15 TRANSITION REQUIREMENTS**

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

### **10 INVALIDATION**

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

### **11 EFFECTIVE DATE FOR REFERENCED FEDERAL REGULATIONS**

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

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

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# **1 APPLICABILITY PROCEDURES**

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## **1.1 PRECONSTRUCTION REVIEW REQUIREMENTS**

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

## **1.2 AUTHORITY TO CONSTRUCT REQUIREMENT**

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

## **1.3 EMISSION CALCULATION REQUIREMENTS TO DETERMINE NSR APPLICABILITY**

### **1.3.1 New Major Stationary Sources**

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

### **1.3.2 Major Modifications**

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

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

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

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

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

#### 1.5 PROJECTS THAT RELY ON A PROJECTED ACTUAL EMISSIONS TEST

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

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

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

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

## **1.6 SECONDARY EMISSIONS**

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

## **1.7 STATIONARY SOURCES**

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

## **1.8 ENVIRONMENTAL PROTECTION AGENCY DETERMINATION**

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

## 2 DEFINITIONS

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

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

(b) The following definitions shall also apply:

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

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

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

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

“*District*” means the Amador Air District.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **3 APPLICATION REQUIREMENTS**

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#### **3.1 APPLICATION SUBMITTAL**

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

#### **3.2 APPLICATION CONTENT**

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

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



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

### **3.3 LOWEST ACHIEVABLE EMISSION RATE (LAER)**

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

### **3.4 STATEWIDE COMPLIANCE**

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

### **3.5 ANALYSIS OF ALTERNATIVES**

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

### **3.6 SOURCES IMPACTING CLASS I AREAS**

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

### 3.7 APPLICATION FEES

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

## 4 EMISSIONS OFFSETS

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### 4.1 OFFSET REQUIREMENTS

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

### 4.2 TIMING

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

### 4.3 QUANTITY

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

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

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

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

<b>Area Classification</b>	<b>Pollutant</b>	<b>Offset Ratio</b>
Marginal Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.1
Moderate Ozone Nonattainment Area	NO <sub>x</sub> or VOC	1:1.15

**4.4 EMISSION REDUCTION REQUIREMENTS**

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

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

#### **4.5 RESTRICTIONS ON OFFSET POLLUTANTS**

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

### **5 ADMINISTRATIVE REQUIREMENTS**

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#### **5.1 VISIBILITY**

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

#### **5.2 AMBIENT AIR QUALITY STANDARDS**

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

### **5.3 AIR QUALITY MODELS**

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

### **5.4 STACK HEIGHT PROCEDURES**

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

- (a) Before the APCO issues an Authority to Construct under this rule to a source with a stack height that exceeds good engineering practice (GEP) stack height, the APCO shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing.
- (b) Any field study or fluid model used to demonstrate GEP stack height and any determination concerning excessive concentration must be approved by the EPA and the APCO prior to any emission limit being established.
- (c) The provisions of Section 5.4 do not restrict, in any manner, the actual stack height of any stationary source or facility.

## **6 AUTHORITY TO CONSTRUCT – DECISION**

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### **6.1 PRELIMINARY DECISION**

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

### **6.2 AUTHORITY TO CONSTRUCT – PRELIMINARY DECISION REQUIREMENTS**

- (a) Prior to issuance of a preliminary written decision to issue an Authority to Construct for a new major stationary source or major modification, the APCO shall determine:

- (i) That each emissions unit(s) that constitutes the new source or modification will not violate any applicable requirement of the District’s portion of the California State Implementation Plan (SIP); and
- (ii) That the emissions from the new or modified stationary source will not interfere with the attainment or maintenance of any applicable national ambient air quality standard; and
- (iii) That the emission limitation for each emissions unit that constitutes the new source or modification specifies LAER for such units.

If the APCO determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the APCO may instead prescribe a design, operational or equipment standard. In such cases, the APCO shall make its best estimate as to the emission rate that will be achieved and must specify that rate in the application review documents. Any Authority to Construct issued without an enforceable numerical emission standard must contain enforceable conditions which assure that the design characteristics or equipment will be properly maintained or that the operational conditions will be properly performed to continuously achieve the assumed degree of control. Such conditions shall be enforceable as emission limitations by private parties under section 304 of the CAA. The term “emission limitation” shall also include such design, operational, or equipment standards; and

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

**6.3 AUTHORITY TO CONSTRUCT CONTENTS**

- (a) An Authority to Construct for a new major stationary source or major modification shall contain terms and conditions:
  - (i) which ensure compliance with all applicable requirements and which are enforceable as a legal and practical matter.
  - (ii) sufficient to ensure that the major stationary source or major modification will achieve LAER in accordance with paragraphs (b) and (c) of this Section.

- (b) A new major stationary source shall achieve LAER for each nonattainment pollutant for which the source is classified as major.
- (c) A major modification shall achieve LAER for each nonattainment pollutant for which the modification would result in a significant net emissions increase. This requirement applies to each proposed emissions unit at which a net emissions increase in the nonattainment pollutant would occur as a result of a physical change, or change in the method of operation of the emissions unit.

#### **6.4 AUTHORITY TO CONSTRUCT – FINAL DECISION**

- (a) Prior to making a final decision to issue an Authority to Construct for a new major stationary source or major modification, the APCO shall consider all written comments that are submitted within 30 days of public notification and all comments received at any public hearing(s) in making a final determination on the approvability of the application and the appropriate Authority to Construct conditions. The District shall make all comments available, including the District’s response to the comments, for public inspection in the same locations where the District made preconstruction information relating to the proposed source or modification available.
- (b) The APCO shall deny any application for an Authority to Construct if the APCO finds the new source or modification would not comply with the standards and requirements set forth in District, state, or federal rules or regulations.
- (c) The APCO shall make a final decision whether to issue or deny the Authority to Construct after determining that the Authority to Construct will or will not ensure compliance with all applicable emission standards and requirements.
- (d) The APCO shall notify the applicant in writing of the final decision and make such notification available for public inspection at the same location where the District made preconstruction information and public comments relating to the source available.

#### **6.5 PERMIT TO OPERATE**

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

### **7 SOURCE OBLIGATIONS**

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#### **7.1 ENFORCEMENT**

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

## **7.2 TERMINATION**

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

## **7.3 COMPLIANCE**

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

## **7.4 RELAXATION IN ENFORCEABLE LIMITATIONS**

At such time that a particular stationary source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the stationary source or modification to emit a pollutant, then the requirements of this rule shall apply to the stationary source or modification as though construction had not yet commenced on the stationary source or modification.

# **8 PUBLIC PARTICIPATION**

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

- (a) Publish, in at least one newspaper of general circulation in the District, a notice stating the preliminary decision of the APCO, noting how pertinent information can be obtained, including how the public can access the information specified in Section 8(b), and inviting written public comment for a 30-day period following the date of publication. The notice shall include the time and place of any hearing that may be held, including a statement of procedure to request a hearing (unless a hearing has already been scheduled).
- (b) No later than the date the notice of the preliminary written determination is published, make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials the applicant submitted, a copy of the preliminary decision, a copy of the proposed Authority to Construct and a copy or summary of other materials, if any, considered in making the preliminary written decision.
- (c) Send a copy of the notice of public comment to the applicant, EPA Region 9, any persons requesting such notice and any other interested parties such as: any other state or local air pollution control agencies, the chief executives of the city and



county where the source would be located; any comprehensive regional land use planning agency, and any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the source or modification.

- (d) Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the APCO's judgment such a hearing is warranted. The APCO shall give notice of any public hearing at least 30 days in advance of the hearing.

## **9 PLANT-WIDE APPLICABILITY LIMITS (PAL)**

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### **9.1 APPLICABILITY**

- (a) The APCO may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in Sections 9.1 through 9.15. The term "PAL" shall mean "actuals PAL" throughout Section 9.
- (b) Any physical change in, or change in the method of operation of, a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of Sections 9.1 through 9.15, and complies with the PAL Permit:
  - (i) Is not a major modification for the PAL pollutant;
  - (ii) Does not have to be approved through the plan's Nonattainment Major NSR Program; and
  - (iii) Is not subject to the provisions in Section 7.4.
- (c) Except as provided under paragraph (b)(iii) of Section 9.1, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

### **9.2 DEFINITIONS**

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

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

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

- (a) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

- (b) An emissions unit’s potential to emit shall be determined using the definition in Section 2 for this term, except that the words “or enforceable as a practical matter” should be added after “federally enforceable.”

“*Major emissions unit*” means:

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

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

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

“*PAL effective period*” means the period beginning with the PAL effective date and ending ten years later.

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

“*PAL Permit*” means the title V permit issued by the APCO that establishes a PAL for a major stationary source.

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

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

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

### **9.3 PERMIT APPLICATION REQUIREMENTS**

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

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

#### **9.4 GENERAL REQUIREMENTS FOR ESTABLISHING PALS**

- (a) The APCO may establish a PAL at a major stationary source, provided that, at a minimum, the requirements in paragraphs (a)(i) through (a)(vii) below are met.
  - (i) The PAL shall impose an annual emission limitation, in tpy, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first twelve months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous twelve consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first eleven months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.
  - (ii) The PAL shall be established in a PAL Permit that meets the public participation requirements in Section 9.5 of this rule.
  - (iii) The PAL Permit shall contain all the requirements of Section 9.7 of this rule.
  - (iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.
  - (v) Each PAL shall regulate emissions of only one pollutant.
  - (vi) Each PAL shall have a PAL effective period of ten years.
  - (vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Sections 9.12 through 9.14 of this rule for each emissions unit under the PAL through the PAL effective period.
- (b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of generating offsets unless the level of the PAL is reduced by the

amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

## **9.5 PUBLIC PARTICIPATION REQUIREMENTS FOR PALs**

PALs for existing major stationary sources shall be established, renewed, or increased through the public participation procedures in Section 8 of this rule.

## **9.6 SETTING THE 10-YEAR ACTUALS PAL LEVEL**

- (a) Except as provided in paragraph (b) of this Section, the Actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant as defined in Section 2 or under the CAA, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The APCO shall specify a reduced PAL level(s) (in tons/yr) in the PAL Permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the APCO is aware of prior to issuance of the permit.
- (b) For newly constructed units (which does not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in paragraph (a) of Section 9.6, the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

## **9.7 CONTENTS OF THE PAL PERMIT**

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

- (a) The PAL pollutant and the applicable source-wide emission limitation in tpy;
- (b) The PAL effective date and the expiration date of the PAL Permit (PAL effective period).
- (c) Specification in the PAL permit that if a major stationary source owner or operator applies to renew the PAL Permit in accordance with Section 9.10 before the end of the PAL effective period, then the PAL conditions shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL Permit is issued by the APCO.
- (d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions;
- (e) A requirement that, once the PAL Permit expires, the major stationary source is subject to the requirements of Section 9.9;

- (f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month, as required by paragraph (a) of Section 9.13;
- (g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 9.12;
- (h) A requirement to retain the records required under Section 9.13 on-site. Such records may be retained in an electronic format;
- (i) A requirement to submit the reports required under Section 9.14 by the required deadlines; and
- (j) Any other requirements that the APCO deems necessary to implement and enforce the PAL Permit.

## **9.8 PAL EFFECTIVE PERIOD AND REOPENING OF PAL PERMIT**

The PAL shall include the following information:

- (a) PAL Effective Period. The APCO shall specify a PAL effective period of ten years from the date of issuance.
- (b) Reopening of the PAL Permit.
  - (i) During the PAL effective period, the plan shall require the APCO to reopen the PAL Permit to:
    - A. Correct typographical/calculation errors made in setting the PAL, or reflect a more accurate determination of emissions used to establish the PAL.
    - B. Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets.
    - C. Revise the PAL to reflect an increase in the PAL as provided under Section 9.11.
  - (ii) The APCO may reopen the PAL Permit for the following:
    - A. Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.
    - B. Reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the APCO may impose on the major stationary source under District Rules.
    - C. Reduce the PAL if the APCO determines that a reduction is necessary to avoid causing or contributing to a National Ambient Air Quality Standard or PSD increment violation, or to an adverse impact on an air-quality-related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.

- (iii) Except for the permit reopening in paragraph (b)(i)(A) of Section 9.8 for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of Section 9.5 of this rule.

## 9.9 EXPIRATION OF A PAL

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

- (a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following:
  - (i) Within the time frame specified for PAL renewals in paragraph (b) of Section 9.10, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the APCO) by distributing the PAL allowable emissions for the affected major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (e) of Section 9.10, such distribution shall be made as if the PAL had been adjusted.
  - (ii) The APCO shall decide whether and how the PAL allowable emissions will be distributed and issue a revised title V Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the APCO determines is appropriate.
- (b) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The APCO may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.
- (c) Until the APCO issues the revised title V Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (a)(ii) of Section 9.9, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.
- (d) Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of *Major Modification* in Section 2.
- (e) The major stationary source owner or operator shall continue to comply with any federal, state or county applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period except as provided in paragraph (b)(iii) of Section 9.1.

## 9.10 RENEWAL OF A PAL

- (a) The APCO will follow the procedures specified in Section 9.5 in approving any request to renew a PAL Permit for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the APCO .
- (b) Application deadline. A major stationary source owner or operator shall submit a timely application to the APCO to request renewal of the PAL Permit. A timely application is one that is submitted at least six months prior to, but not earlier than eighteen months prior to, the date of expiration of the PAL Permit. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL Permit within this time period, then the PAL Permit shall continue to be effective until the revised permit with the renewed PAL is issued.
- (c) Application Requirements. The application to renew a PAL Permit shall contain the information required in paragraphs (c)(i) through (c)(iv) of Section 9.10 of this rule:
  - (i) The information required in paragraphs (a) through (c) of Section 9.3;
  - (ii) A proposed PAL level;
  - (iii) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation); and
  - (iv) Any other information the owner or operator wishes the APCO to consider in determining the appropriate level for renewing the PAL Permit.
- (d) PAL Adjustment. In determining whether and how to adjust the PAL, the APCO shall consider the options outlined in paragraphs (d)(i) and (d)(ii) of Section 9.10. However, in no case may any such adjustment fail to comply with paragraph (d)(iii) of Section 9.10.
  - (i) If the emissions level calculated in accordance with Section 9.6 is equal to or greater than eighty (80) percent of the PAL level, the APCO may renew the PAL at the same level without considering the factors set forth in paragraph (d)(ii) of Section 9.10; or
  - (ii) The APCO may set the PAL at a level that the APCO determines to be more representative of the source's baseline actual emissions, or that the APCO determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the APCO in their written rationale.
  - (iii) Notwithstanding paragraphs (d)(i) and (d)(ii) of Section 9.10:
    - A. If the potential to emit of the major stationary source is less than the PAL, the APCO shall adjust the PAL to a level no greater than the potential to emit of the source; and

- B. The APCO shall not approve a renewed PAL level higher than the current PAL unless the major stationary source has complied with the provisions of Section 9.11.
- (e) If the compliance date for a federal or state requirement that applies to the PAL source occurs during the PAL effective period, and if the APCO has not already adjusted for such requirement, the PAL shall be adjusted at the time the affected title V Operating Permit is renewed.

#### **9.11 INCREASING A PAL DURING THE PAL EFFECTIVE PERIOD**

- (a) The APCO may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (a)(i) through (a)(iv) of Section 9.11.
  - (i) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.
  - (ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT-equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT-equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.
  - (iii) The owner or operator obtains an Authority to Construct issued in accordance with Sections 1 through 8 of this rule for all emissions unit(s) identified in paragraph (a)(i) of Section 9.11, regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment Authority to Construct issued in accordance with Sections 1 through 8 of this rule (for example, LAER), even though they have also become subject to the PAL or continue to be subject to the PAL.
  - (iv) The PAL Permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
- (b) The APCO shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent



controls as determined in accordance with paragraph (a)(ii) of Section 9.11), plus the sum of the baseline actual emissions of the small emissions units.

- (c) The PAL Permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 9.5.

## **9.12 MONITORING REQUIREMENTS FOR PALS**

- (a) General requirements.

- (i) Each PAL Permit must include enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL Permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

- (ii) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(i) through (b)(iv) of Section 9.12 and must be approved by the APCO .

- (iii) Notwithstanding paragraph (a)(ii) of Section 9.12, the PAL monitoring system may also employ an alternative monitoring approach that meets paragraph (a)(i) of Section 9.12 if approved by the APCO .

- (iv) Failure to use a monitoring system that meets the requirements of Section 9.12 renders the PAL invalid.

- (b) Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (c) through (i) of Section 9.12:

- (i) Mass balance calculations for activities using coatings or solvents;

- (ii) CEMS;

- (iii) CPMS or PEMS; and

- (iv) Emission factors.

- (c) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coatings or solvents shall meet the following requirements:

- (i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

- (ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
  - (iii) Where the vendor of a material or fuel which is used in or at the emissions unit publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the APCO determines there is site-specific data or a site-specific monitoring program to support another content within the range.
- (d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:
  - (i) The CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and
  - (ii) The CEMS must sample, analyze, and record data at least every fifteen minutes while the emissions unit is operating.
- (e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:
  - (i) The CPMS or PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and
  - (ii) Each CPMS or PEMS must sample, analyze, and record data at least every fifteen minutes, or at another, less frequent interval approved by the APCO while the emissions unit is operating.
- (f) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:
  - (i) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;
  - (ii) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and
  - (iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL Permit issuance unless the APCO determines that testing is not required.
- (g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data unless another method for determining emissions during such periods is specified in the PAL Permit.

- (h) Notwithstanding the requirements in paragraphs (c) through (g) of Section 9.12, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the APCO shall, at the time of permit issuance:
  - (i) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or
  - (ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.
- (i) Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the APCO . Such testing must occur at least once every five years after issuance of the PAL Permit.

**9.13 RECORDKEEPING REQUIREMENTS**

- (a) The PAL Permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Section 9 and of the PAL, including a determination of each emissions unit’s 12-month rolling total emissions, for five years from the date of such record.
- (b) The PAL Permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:
  - (i) A copy of the PAL Permit application and any applications for revisions to the PAL Permit; and
  - (ii) Each annual certification of compliance pursuant to title V and the data relied on in certifying the compliance.

**9.14 REPORTING AND NOTIFICATION REQUIREMENTS**

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

- (a) Semiannual Report. The semiannual report shall be submitted to the APCO within thirty days of the end of each reporting period. This report shall contain the information required in paragraphs (a)(i) through (a)(vii) of Section 9.14:
  - (i) The identification of owner and operator and the permit number;
  - (ii) Total annual emissions (in tpy) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (a) of Section 9.13.
  - (iii) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;

- (iv) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period;
  - (v) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken;
  - (vi) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g) of Section 9.12; and
  - (vii) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.
- (b) Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL Permit, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the affected title V Operating Permit. The reports shall contain the following information:
- (i) The identification of owner and operator and the permit number;
  - (ii) The PAL requirement that experienced the deviation or that was exceeded;
  - (iii) Emissions resulting from the deviation or the exceedance; and
  - (iv) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.
- (c) Revalidation Results. The owner or operator shall submit to the APCO the results of any revalidation test or method within three months after completion of such test or method.

### **9.15 TRANSITION REQUIREMENTS**

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

## **10 INVALIDATION**

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If any provision of this rule or the application of such provision to any person or circumstance is held invalid, the remainder of this rule or the application of such

provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

## **11 EFFECTIVE DATE FOR REFERENCED FEDERAL REGULATIONS**

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

W735

**PROOF OF PUBLICATION  
(2015-5 C.C.P.)**

**STATE OF CALIFORNIA  
COUNTY OF AMADOR**

I am a citizen of the United States and a resident of the said County. I am over the age of eighteen years; and not a party to or interested in the above matter. I am the principal Clerk of the Printer and Publisher of the Amador Ledger Dispatch. A newspaper of general circulation, published once a week in the City of Jackson, California, County of Amador, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court, of the County of Amador, State of California dated June 19, 1953, Court decree numbers; 5575/5551; 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:

December 14,

all in the year: 2022

I certify (or declare) under Penalty of perjury that the foregoing is true and correct.

Date at Jackson, California this

14 of December, 2022

Jack Mitchell  
SIGNATURE

**Public Notice**

On January 17, 2023 at 1:30pm at 810 Court Street, Jackson, CA 95642, the Amador Air District Board of Directors will consider:

1. Adoption of proposed modifications/corrections to Regulation IV, Rule 400, New Source Review (NSR) Rule for New and Modified Major Stationary Sources

On August 23, 2021, the EPA proposed a limited approval and limited disapproval for the District's Rule 400 NSR Requirements for New and Modified Major Sources in Nonattainment areas. Amador County will be designated as a nonattainment area for the federal 2015 8-hour ozone standard. The 8-hour federal ozone standard is 70 parts per billion and the Amador Air District has a new Design Standard of 71 parts per billion.

The proposed Regulation IV is a requirement by the Environmental Protection Agency (EPA) for Districts that have been designated as non-attainment. The Rule applies to any new source in the Amador Air District and once approved will meet the State Implementation Plan (SIP) requirements.

A copy of the staff report and proposed regulation is available for review at the Amador Air District Office 810 Court Street, Jackson, CA 95642 or may be downloaded from the county website at <https://www.amadorgov.org/services/amador-air-district/public-notice>

**December 16, 2023-W735**

**RECEIVED**  
DEC 28 2022  
**AMADOR AIR DISTRICT**



## Adoption of Rule 400 (New Source Review of New and Modified Stationary Sources)

### I. EXECUTIVE SUMMARY

On January 17, 2023 the Amador Air District Board of Directors will consider adoption of revised Rule 400 New Source Review (NSR) Rule for New and Modified Major Stationary Sources in the Amador County.

The District submitted in November 2019 Rule 400 for incorporation into the California State Implementation Plan (SIP). On January 29, 2021, the D.C. Circuit Court of Appeals issued a decision holding that the Clean Air Act (CAA) does not allow interprecursor trading (IPT) for ozone precursors. AAD's Rule 400 Section 4.5 had language allowing for IPT for ozone precursors. On August 23, 2021, EPA proposed a limited approval/limited disapproval on our Rule 400. By removing IPT language, it created other deficiencies in later sections and some topographical errors we also found. The District has made all necessary revisions to Rule 400 and is ready for inclusion into the SIP.

The US Environmental Protection Agency (EPA) has notified the Governor of its intention to re-designate Amador County (EPA letter dated December 20, 2017, copy attached). Therefore, the adoption of this rule would keep the District in compliance with federal requirements that require the adoption of a NSR rule. The Rule applies to any new source in the Amador Air District and once approved will meet the State Implementation Plan (SIP) requirements.

### II. BACKGROUND

New Source Review (NSR) is a pre-construction permitting review requirement that ensures that when a new source is built, or when an existing source is modified, the source will minimize emissions consistent with applicable District, state and federal regulations. Based on the pre-construction review, the District issues an Authority to Construct permit for the source. The permit authorizes construction and stipulates conditions designed to minimize emissions and ensure compliance with applicable regulations.

### III. DESCRIPTION OF RULE 400, NEW AND MODIFIED MAJOR SOURCES IN AMADOR COUNTY

The District implements a program to evaluate the expected air quality impacts from stationary, portable, and other non-mobile sources. The program is intended to ensure that these sources are constructed and operated in a manner that minimizes air quality

impacts and comply with state and federal regulations. The District's permitting program includes review of preconstruction permits, annual and ongoing regulation of sources through operating permits and applicable emission standards, and regular inspections of these sources to ensure that they comply with all applicable requirements.

Amador County may be designated as a nonattainment area for the federal 2015 8-hour ozone standard of 70 parts per billion in the future. A strategy to control air pollution is to reduce emissions from new or modified existing stationary sources through a New Source Review (NSR) program. The Federal Clean Air Act (CAA) and its associated regulations contain requirements for the District to adopt and implement a State Implementation Plan (SIP)-approved NSR program for any new major stationary source or any major modification located at an existing major stationary source located at facilities in the Amador County.

This rule would apply to sources that emit or have the potential to emit, 100 tons or more per year of volatile organic compounds (VOCs) or nitrogen oxides (NOx). Currently the District has one permitted major sources located in Martel. This rule would apply to new sources; not existing sources.

#### **IV. HEALTH IMPACTS**

Ground level ozone is a secondary pollutant formed from photochemical reactions of NOx and volatile organic compounds (VOCs) in the presence of sunlight. Ozone is a strong irritant that adversely affects the human health and damages crops and other environmental resources. As documented by the U.S Environmental Protection Agency (EPA) in the most recent Criteria Document for Ozone (U.S EPA 2006), both short-term and long-term exposure to ozone can irritate and damage the human respiratory system, resulting in:

- Decreased lung function
- Development and aggravation of asthma
- Increased hospitalizations and emergency room visits and
- Premature deaths

#### **V. SOCIOECONOMIC IMPACT AND COST EFFECTIVENESS**

HSC Section 40728.5 exempts districts with a population of less than 500,000 persons from the requirement to assess the socioeconomic impacts of proposed rules. Amador County population is below 500,000 persons.

Pursuant to the California Health & Safety Code Section 4090.6(a), the District is required to analyze the cost effectiveness of new rules. The District does not anticipate that any sources will be affected by the proposed regulation and therefore are not subject to the cost effectiveness analysis.



## **VI. WRITTEN ANALYSIS OF EXISTING FEDERAL AND DISTRICT REGULATIONS**

The proposed amended rule does not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements. Pursuant to California Health and Safety Code section 40727.2, subdivision (g), the foregoing satisfies the requirement of a written analysis of existing regulations prior to adopting, amending or repealing a regulation.

## **VII. ENVIRONMENTAL REVIEW AND COMPLIANCE**

Adoption of Rule 2:3c is a regulatory activity, authorized by state statute, to assure the maintenance and protection of the environment, and includes procedures for protection of the environment. This action is therefore categorically exempt from review under the California Environmental Quality Act under the Class 8 Categorical Exemption (Cal. Code Regulations., Title 14, § 15308).

## **VIII. RULE DEVELOPMENT PROCESS**

A Public notice for a public hearing inviting the community to review and comment on the proposed revisions was published in the Amador Ledger Dispatch newspaper, on December 16, 2022, and the Districts website.

A Public Hearing by the Amador Air District Board is scheduled for January 17, 2023, after which if the Rule is approved it will be forwarded to the ARB and US EPA for inclusion into the SIP.

## **IX. REQUIRED FINDINGS**

Section 40727(a) of the California Health & Safety Code (CH&SC) requires that prior to adopting or amending a rule or regulation, an Air Districts makes findings of necessity, authority, clarity, consistency, non-duplication, and reference. The findings must be based on the following:

1. Information presented in the written analysis, prepared pursuant to California Health & Safety Code Section 40727.2;
2. Information contained in the rulemaking records pursuant to California Health & Safety Code Section 40728; and
3. Relevant information presented at the Board's Hearing for adoption of the rule.

The required findings are:

**Necessity:** Districts with area designated as Nonattainment for federal National Ambient Air Quality Standards (NAAQS) are required by US EPA to establish Federal New Source Review (NSR) Rules for inclusion into the District's State Implementation Plan (SIP).

Currently, the District is designated as being attainment for the 8-hour federal ozone standards. However, recent violation of the ozone standard indicates that attainment status will change.

**Authority:** The District is authorized to adopt rules and regulations by California Health & Safety Code, Sections 40001, 40702, 40716, 41010, and 41013. (CH&SC 40727(B)(2))

**Clarity:** District staff has reviewed the proposed rule and determined that it can be easily understood by the affected industry. (CH&SC Section 40727(b)(3))

**Consistency:** The proposed rule does not conflict with, and is not in contradiction with existing statutes, court decisions, or state or federal regulations. (CH&SC Section 40727(b)(4))

**Non-Duplication:** The proposed rule does not duplicate any state laws or regulations, regarding the attainment and maintenance of state and federal air quality limits. (CH&SC Section 40727(b)(5))

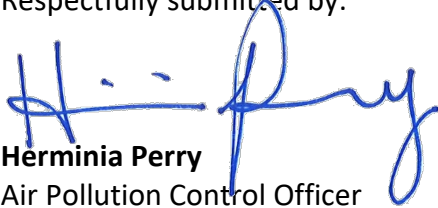
**Reference:** The District must refer to any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending or repealing the rule.

## **IX. BOARD ACTIONS AND ALTERNATIVES**

Staff requests the Board to do the following:

- a) Hold a Public Hearing to take comments on revised Rule 400 New Source Review, New and Modified Major Sources in Amador County and;
- b) RESOLUTION - Request adoption of Amador Air District Rule 400 New Source Review, New and Major Source in Amador County
- c) Propose changes to the text of the amendment to Rule 400 New Source Review, New and Major Sources in Amador County, and re- schedule the public hearing to consider the proposed Rule as revised; or
- d) Take no action.

Respectfully submitted by:

  
**Herminia Perry**  
Air Pollution Control Officer

Copy of EPA Letter Dated December 20, 2017  
to Governor Brown



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION IX**

**75 Hawthorne Street**

**San Francisco, CA 94105-3901**

**DEC 20 2017**

The Honorable Edmund G. Brown, Jr.  
Governor of California  
State Capitol Building, Suite 1173  
Sacramento, CA 95814

Dear Governor Brown:

Thank you for your recommendation dated October 3, 2016, on air quality designations for the revised 2015 National Ambient Air Quality Standards (NAAQS) for ozone throughout California. I appreciate the information California shared with the U.S. Environmental Protection Agency (EPA) as we move forward to improve ozone air quality. This letter is to notify you of the EPA's preliminary response to California's recommendations and to inform you of our approach for completing designations for the revised ozone standards. After considering California's October 3, 2016 ozone designation recommendations, which were based on 2013-2015 air quality data, as well as other relevant technical information, the EPA intends to agree with the State's recommendation and designate the areas listed in Enclosure 1 as Nonattainment. The EPA also intends to designate all other areas in the State not previously designated in November 2017 as Attainment/Unclassifiable.

On October 1, 2015, the EPA lowered the primary 8-hour ozone standard from 0.075 parts per million (ppm) to 0.070 ppm to provide increased protection of public health. The EPA revised the secondary 8-hour ozone standard, making it identical to the primary standard, to protect against welfare effects, including impacts on sensitive vegetation and forested ecosystems. Working closely with the states and tribes, the EPA is implementing the standards using a common sense approach that improves air quality and minimizes the burden on state and local governments. As part of this routine process, the EPA is working with the states to identify areas in the country that meet the standards and those that need to take steps to reduce ozone pollution.

As a first step in implementing the 2015 ozone standards, the EPA asked states to submit in the fall of 2016 their designation recommendations, including appropriate area boundaries. A first round of designations was published on November 16, 2017. Consistent with states' recommendations, the EPA designated most of the country as Attainment/Unclassifiable, with limited areas designated as Unclassifiable. Further, consistent with EPA's "Policy for Establishing Separate Air Quality Designations for Areas of Indian Country" (December 20, 2011), the EPA designated two areas of Indian country as separate Attainment/Unclassifiable areas.

As required by the Clean Air Act, the EPA will designate an area as Nonattainment if there are certified, quality-assured air quality monitoring data showing a violation of the 2015 ozone standards or if the EPA makes a determination that the area is contributing to a violation of the standards in a nearby area.


Areas designated Attainment/Unclassifiable are not measuring or contributing to a violation of the standards.

A Technical Support Document, available on the EPA ozone designations website at [www.epa.gov/ozone-designations/](http://www.epa.gov/ozone-designations/), provides a detailed analysis to support our preliminary decisions for the areas of the State not previously designated. In order for the EPA to consider more current (i.e., 2015-2017) air quality data in the final designation decisions for any area, California must submit certified, quality-assured 2015-2017 air quality monitoring data for the area to the EPA by February 28, 2018.

The EPA will continue to work with state officials regarding the appropriate boundaries for the Nonattainment areas in California. If California has additional information that you would like the EPA to consider, please submit it to us by February 28, 2018. Please submit additional information by sending it to the EPA's public docket for these designations, EPA-HQ-OAR-2017-0548, located at [www.regulations.gov](http://www.regulations.gov), and sending a copy to EPA Region 9. The EPA will also make its preliminary designation decisions and supporting documentation available to the general public for review and comment. We will be announcing a 30-day public comment period shortly in the *Federal Register*. After considering additional information we receive, the EPA plans to promulgate final ozone designations in the spring of 2018.

The EPA is committed to working with the states and tribes to reduce ozone air pollution. We look forward to a continued dialogue with you and your staff as we work together to implement the 2015 ozone standards. Should you have any questions regarding this matter, please do not hesitate to contact me at 415-947-8702 or have a member of your staff contact Meredith Kurpius at 415-947-4534.

Sincerely,

  
Alexis Strauss 20 December 2017  
Acting Regional Administrator

Enclosure

cc (via e-mail): Matthew Rodriguez, Secretary, California Environmental Protection Agency  
Mary Nichols, Chairman, California Air Resources Board (CARB)  
Richard Corey, Executive Officer, CARB

## Enclosure 1

### California State and Tribal Recommended Nonattainment Areas and the EPA's Intended Designated Nonattainment Areas for the 2015 Ozone NAAQS.

Area	California's or Tribe's Recommended Nonattainment Counties [or Areas of Indian Country]	EPA's Intended Nonattainment Counties [or Areas of Indian Country]
Amador County, CA*	Amador County	Amador County
<ul style="list-style-type: none"> <li>• Buena Vista Rancheria of Me-Wuk Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Buena Vista Rancheria of Me-Wuk Indians of California</li> </ul>
<ul style="list-style-type: none"> <li>• Jackson Band of Miwuk Indians</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Jackson Band of Miwuk Indians</li> </ul>
Butte County, CA*	Butte County	Butte County
<ul style="list-style-type: none"> <li>• Berry Creek Rancheria of Maidu Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Berry Creek Rancheria of Maidu Indians of California</li> </ul>
<ul style="list-style-type: none"> <li>• Enterprise Rancheria of Maidu Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Enterprise Rancheria of Maidu Indians of California</li> </ul>
<ul style="list-style-type: none"> <li>• Mechoopda Indian Tribe of Chico Rancheria</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Mechoopda Indian Tribe of Chico Rancheria</li> </ul>
<ul style="list-style-type: none"> <li>• Mooretown Rancheria of Maidu Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Mooretown Rancheria of Maidu Indians of California</li> </ul>
Calaveras County, CA*	Calaveras County	Calaveras County
<ul style="list-style-type: none"> <li>• California Valley Miwok Tribe</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• California Valley Miwok Tribe</li> </ul>
Imperial County, CA*	Imperial County	Imperial County
<ul style="list-style-type: none"> <li>• Quechan Tribe of the Fort Yuma Indian Reservation</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Quechan Tribe of the Fort Yuma Indian Reservation</li> </ul>
<ul style="list-style-type: none"> <li>• Torres Martinez Desert Cahuilla Indians</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Torres Martinez Desert Cahuilla Indians (partial)</li> </ul>
Kern County (Eastern Kern), CA	Kern County (partial)	Kern County (partial)

Area	California's or Tribe's Recommended Nonattainment Counties [or Areas of Indian Country]	EPA's Intended Nonattainment Counties [or Areas of Indian Country]
Los Angeles-San Bernardino Counties (West Mojave Desert), CA*	Los Angeles County (partial) San Bernardino County (partial)	Los Angeles County (partial) San Bernardino County (partial)
<ul style="list-style-type: none"> <li>• Twenty-Nine Palms Band of Mission Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Twenty-Nine Palms Band of Mission Indians of California (partial)</li> </ul>
Los Angeles-South Coast Air Basin, CA*	Los Angeles County (partial) Orange County Riverside County (partial) San Bernardino County (partial)	Los Angeles County (partial) Orange County Riverside County (partial) San Bernardino County (partial)
<ul style="list-style-type: none"> <li>• Cahuilla Band of Indians</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Cahuilla Band of Indians</li> </ul>
<ul style="list-style-type: none"> <li>• Pechanga Band of Luiseno Mission Indians</li> </ul>	Pechanga Band of Luiseno Mission Indians **	<b>Pechanga Band of Luiseno Mission Indians (partial)</b>
<ul style="list-style-type: none"> <li>• Ramona Band of Cahuilla</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Ramona Band of Cahuilla</li> </ul>
<ul style="list-style-type: none"> <li>• San Manuel Band of Mission Indians</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• San Manuel Band of Mission Indians</li> </ul>
<ul style="list-style-type: none"> <li>• Soboba Band of Luiseno Indians</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Soboba Band of Luiseno Indians</li> </ul>
Mariposa County, CA	Mariposa County	Mariposa County
Morongo Band of Mission Indians	Morongo Band of Mission Indians	Morongo Band of Mission Indians
Nevada County (Western part), CA	Nevada County (partial)	Nevada County (partial)
Pechanga Band of Luiseno Mission Indians	Pechanga Band of Luiseno Mission Indians**	<b>Pechanga Band of Luiseno Mission Indians (partial)</b>
Riverside County (Coachella Valley), CA*	Riverside County (partial)	Riverside County (partial)
<ul style="list-style-type: none"> <li>• Agua Caliente Band of Cahuilla Indians</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Agua Caliente Band of Cahuilla Indians</li> </ul>
<ul style="list-style-type: none"> <li>• Augustine Band of Cahuilla Indians</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Augustine Band of Cahuilla Indians</li> </ul>
<ul style="list-style-type: none"> <li>• Cabazon Band of Mission Indians</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Cabazon Band of Mission Indians</li> </ul>
<ul style="list-style-type: none"> <li>• Santa Rosa Band of Cahuilla Indians</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Santa Rosa Band of Cahuilla Indians</li> </ul>
<ul style="list-style-type: none"> <li>• Torres Martinez Desert Cahuilla Indians</li> </ul>	<ul style="list-style-type: none"> <li>• did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Torres Martinez Desert Cahuilla Indians (partial)</li> </ul>

Area	California's or Tribe's Recommended Nonattainment Counties [or Areas of Indian Country]	EPA's Intended Nonattainment Counties [or Areas of Indian Country]
<ul style="list-style-type: none"> <li>Twenty-Nine Palms Band of Mission Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Twenty-Nine Palms Band of Mission Indians of California (partial)</li> </ul>
Sacramento Metro, CA*	El Dorado County (partial) Placer County (partial) Sacramento County Solano County (partial) Sutter County (partial) Yolo County	El Dorado County (partial) Placer County (partial) Sacramento County Solano County (partial) Sutter County (partial) Yolo County
<ul style="list-style-type: none"> <li>Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria</li> </ul>
<ul style="list-style-type: none"> <li>United Auburn Indian Community of the Auburn Rancheria of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>United Auburn Indian Community of the Auburn Rancheria of California</li> </ul>
<ul style="list-style-type: none"> <li>Wilton Rancheria</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Wilton Rancheria</li> </ul>
<ul style="list-style-type: none"> <li>Yocha Dehe Wintun Nation</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Yocha Dehe Wintun Nation</li> </ul>
San Diego County, CA*	San Diego County	San Diego County
<ul style="list-style-type: none"> <li>Barona Group of Capitan Grande Band of Mission Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Barona Group of Capitan Grande Band of Mission Indians</li> </ul>
<ul style="list-style-type: none"> <li>Campo Band of Diegueno Mission Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Campo Band of Diegueno Mission Indians</li> </ul>
<ul style="list-style-type: none"> <li>Capitan Grande Band of Diegueno Mission Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Capitan Grande Band of Diegueno Mission Indians of California</li> </ul>
<ul style="list-style-type: none"> <li>Ewiiapaayp Band of Kumeyaay Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Ewiiapaayp Band of Kumeyaay Indians</li> </ul>
<ul style="list-style-type: none"> <li>Iipay Nation of Santa Ysabel</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Iipay Nation of Santa Ysabel</li> </ul>
<ul style="list-style-type: none"> <li>Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation</li> </ul>
<ul style="list-style-type: none"> <li>Jamul Indian Village of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Jamul Indian Village of California</li> </ul>



Area	California's or Tribe's Recommended Nonattainment Counties [or Areas of Indian Country]	EPA's Intended Nonattainment Counties [or Areas of Indian Country]
<ul style="list-style-type: none"> <li>La Jolla Band of Luiseno Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>La Jolla Band of Luiseno Indians</li> </ul>
<ul style="list-style-type: none"> <li>La Posta Band of Diegueno Mission Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>La Posta Band of Diegueno Mission Indians</li> </ul>
<ul style="list-style-type: none"> <li>Los Coyotes Band of Cahuilla and Cupeno Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Los Coyotes Band of Cahuilla and Cupeno Indians</li> </ul>
<ul style="list-style-type: none"> <li>Manzanita Band of Diegueno Mission Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Manzanita Band of Diegueno Mission Indians</li> </ul>
<ul style="list-style-type: none"> <li>Mesa Grande Band of Diegueno Mission Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Mesa Grande Band of Diegueno Mission Indians</li> </ul>
<ul style="list-style-type: none"> <li>Pala Band of Mission Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Pala Band of Mission Indians</li> </ul>
<ul style="list-style-type: none"> <li>Pauma Band of Luiseno Mission Indians of the Pauma and Yuima Reservation</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Pauma Band of Luiseno Mission Indians of the Pauma and Yuima Reservation</li> </ul>
<ul style="list-style-type: none"> <li>Rincon Band of Luiseno Mission Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Rincon Band of Luiseno Mission Indians</li> </ul>
<ul style="list-style-type: none"> <li>San Pasqual Band of Diegueno Mission Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>San Pasqual Band of Diegueno Mission Indians of California</li> </ul>
<ul style="list-style-type: none"> <li>Sycuan Band of the Kumeyaay Nation</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Sycuan Band of the Kumeyaay Nation</li> </ul>
<ul style="list-style-type: none"> <li>Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians</li> </ul>
San Francisco Bay Area, CA*	Alameda County Contra Costa County Marin County Napa County San Francisco County San Mateo County Santa Clara County Solano County (partial) Sonoma County (partial)	Alameda County Contra Costa County Marin County Napa County San Francisco County San Mateo County Santa Clara County Solano County (partial) Sonoma County (partial)

Area	California's or Tribe's Recommended Nonattainment Counties [or Areas of Indian Country]	EPA's Intended Nonattainment Counties [or Areas of Indian Country]
<ul style="list-style-type: none"> <li>Federated Indians of Graton Rancheria</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Federated Indians of Graton Rancheria</li> </ul>
<ul style="list-style-type: none"> <li>Lytton Rancheria of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Lytton Rancheria of California</li> </ul>
San Joaquin Valley, CA*	Fresno County Kern County (partial) Kings County Madera County Merced County San Joaquin County Stanislaus County Tulare County	Fresno County Kern County (partial) Kings County Madera County Merced County San Joaquin County Stanislaus County Tulare County
<ul style="list-style-type: none"> <li>Big Sandy Rancheria of Western Mono Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Big Sandy Rancheria of Western Mono Indians of California</li> </ul>
<ul style="list-style-type: none"> <li>Cold Springs Rancheria of Mono Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Cold Springs Rancheria of Mono Indians of California</li> </ul>
<ul style="list-style-type: none"> <li>Northfork Rancheria of Mono Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Northfork Rancheria of Mono Indians of California</li> </ul>
<ul style="list-style-type: none"> <li>Picayune Rancheria of Chukchansi Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Picayune Rancheria of Chukchansi Indians of California</li> </ul>
<ul style="list-style-type: none"> <li>Santa Rosa Indian Community of the Santa Rosa Rancheria</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Santa Rosa Indian Community of the Santa Rosa Rancheria</li> </ul>
<ul style="list-style-type: none"> <li>Table Mountain Rancheria of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Table Mountain Rancheria of California</li> </ul>
<ul style="list-style-type: none"> <li>Tule River Indian Tribe of the Tule River Reservation</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Tule River Indian Tribe of the Tule River Reservation</li> </ul>
San Luis Obispo (Eastern part), CA	San Luis Obispo County (partial)	San Luis Obispo County (partial)
Sutter Buttes, CA	Sutter County (partial)	Sutter County (partial)
Tuolumne County, CA*	Tuolumne County	Tuolumne County
<ul style="list-style-type: none"> <li>Chicken Ranch Rancheria of Me-Wuk Indians of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Chicken Ranch Rancheria of Me-Wuk Indians of California</li> </ul>

Area	California's or Tribe's Recommended Nonattainment Counties [or Areas of Indian Country]	EPA's Intended Nonattainment Counties [or Areas of Indian Country]
<ul style="list-style-type: none"> <li>Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California</li> </ul>	<ul style="list-style-type: none"> <li>did not submit recommendation</li> </ul>	<ul style="list-style-type: none"> <li>Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California</li> </ul>
Tuscan Buttes, CA	Tehama County (partial)	Tehama County (partial)
Ventura County, CA	Ventura County (partial)	Ventura County (partial)

EPA modifications to state or tribal recommendations are shown in **bold**.

\*The areas noted are multi-jurisdictional nonattainment areas that include areas of Indian country of federally-recognized tribes. The areas of Indian country of each tribe that the EPA intends to designate as part of the nonattainment area are discussed in the Technical Support Document for California, which is available on the EPA ozone designations website at <https://www.epa.gov/ozone-designations/>.

\*\*The Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation recommended that their lands be designated as two separate nonattainment areas. We are designating a portion of these lands as the Pechanga Band of Luiseno Mission Indians, CA nonattainment area, and a portion as part of the Los Angeles-South Coast Air Basin, CA nonattainment area. Additional discussion is found in the Technical Support Document for California.

# AMADOR AIR DISTRICT BOARD OF DIRECTORS

810 Court Street, Jackson, California 95642

## AGENDA

Tuesday, January 17, 2023 at 1:30 p.m.

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Please Note: All Air District Board meetings are recorded.

**Anyone who wishes to address the Board must speak from the podium and should print their name on the Board Meeting Speaker list, which is located on the podium. The Clerk will collect the list at the end of the meeting.**

*If you are disabled and need a disability-related modification or accommodation to participate in this meeting, please contact the Clerk of the Board, at 209-257-0112 or 209-257-0116 (fax). Requests must be made as early as possible and at least one-full business day before the start of the meeting.*

**Any individuals who wish to attend this meeting in person will be required to wear a face covering to enter the building and throughout the duration of the meeting.**

Due to the Governor's Executive Order N-25-20, The Amador Air District Board of Directors will be conducting its meeting via teleconference. While this meeting will still be conducted in-person at 810 Court Street, Jackson, CA 95642, we strongly encourage the public to participate from home by calling in using the following number:

+1 669 900 6833 US  
Meeting ID or Access: 810 0255 7545  
Passcode: 480591

You may also view and participate in the meeting using this link:

<https://us02web.zoom.us/j/81002557545?pwd=TFY2UUtVV04xTHMrWENHZ1RITVZ4Zz09>

### **Determination of a Quorum:**

#### **Pledge of Allegiance:**

**Approval of Agenda:** Approval of the agenda for this date; any and all off-agenda items must be approved by the Board (pursuant to §54954.2 of the Government Code).

**Public Matters Not on the Agenda:** Discussion items only, no action to be taken. Any person may address the Board at this time upon any subject within the jurisdiction of the Amador Air District Board of Directors; however, any matter that requires action may be referred to staff and/or a committee for a report and recommendation for possible action at a subsequent Board meeting. **Please note - there is a five (5) minute limit per topic.**

### **Administrative Matters:**

1. **Minutes:** Review and approval of the October 18, 2022 Board Minutes as presented or revised. Action
2. **Election of Officers for 2023 (Chair and Vice Chair):** Action
3. **Approval of Meeting Schedule for 2023:** Action
4. **Public Hearing – Revised Nonattainment New Source Rule (NSR) Rule 400:** Action
5. **APCO's Update:** Informational only, no action to be taken.
  - Green Vehicle Police Incentive Pilot Program – Ione PD Complete
  - Small Lawn Equipment Replacement Program
  - Broadcast Burning and Prescribed Fire 2023
  - Electric Vehicle Charging Stations
  - AAD Audit Years 2021 and 2022
  - Financials through January 11, 2023

**Correspondence:** None

**Adjournment:** Until March 21, 2023 at 1:30pm

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W735

**PROOF OF PUBLICATION  
(2015-5 C.C.P.)**

**STATE OF CALIFORNIA  
COUNTY OF AMADOR**

I am a citizen of the United States and a resident of the said County. I am over the age of eighteen years; and not a party to or interested in the above matter. I am the principal Clerk of the Printer and Publisher of the Amador Ledger Dispatch. A newspaper of general circulation, published once a week in the City of Jackson, California, County of Amador, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court, of the County of Amador, State of California dated June 19, 1953, Court decree numbers; 5575/5551; 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:

December 14,

all in the year: 2022

I certify (or declare) under Penalty of perjury that the foregoing is true and correct.

Date at Jackson, California this

14 of December, 2022

Jack Mitchell  
SIGNATURE

**Public Notice**

On January 17, 2023 at 1:30pm at 810 Court Street, Jackson, CA 95642, the Amador Air District Board of Directors will consider:

1. Adoption of proposed modifications/corrections to Regulation IV, Rule 400, New Source Review (NSR) Rule for New and Modified Major Stationary Sources

On August 23, 2021, the EPA proposed a limited approval and limited disapproval for the District's Rule 400 NSR Requirements for New and Modified Major Sources in Nonattainment areas. Amador County will be designated as a nonattainment area for the federal 2015 8-hour ozone standard. The 8-hour federal ozone standard is 70 parts per billion and the Amador Air District has a new Design Standard of 71 parts per billion.

The proposed Regulation IV is a requirement by the Environmental Protection Agency (EPA) for Districts that have been designated as non-attainment. The Rule applies to any new source in the Amador Air District and once approved will meet the State Implementation Plan (SIP) requirements.

A copy of the staff report and proposed regulation is available for review at the Amador Air District Office 810 Court Street, Jackson, CA 95642 or may be downloaded from the county website at <https://www.amadorgov.org/services/amador-air-district/public-notice>

**December 16, 2023-W735**

**RECEIVED**  
DEC 28 2022  
**AMADOR AIR DISTRICT**

# AMADOR AIR DISTRICT BOARD OF DIRECTORS

810 Court Street, Jackson, California 95642

## AGENDA

Tuesday, January 17, 2023 at 1:30 p.m.

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  - Broadcast Burning and Prescribed Fire 2023
  - Electric Vehicle Charging Stations
  - AAD Audit Years 2021 and 2022
  - Financials through January 11, 2023

**Correspondence:** None

**Adjournment:** Until March 21, 2023 at 1:30pm

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# **REGULATION**

## **VI**

### **FEES**

Adopted 6/30/98

Regulation VI – clxiii

Rule 600      Filing Fee. Every applicant for an Authority to Construct or Permit to Operate shall pay a filing fee of \$120.00 per permit unit. If an application is canceled, or is denied, as such denial becomes final, the filing fee required herein shall not be refunded nor applied to any subsequent application.

Rule 600      Filing Fee. Every applicant for an Authority to Construct or Permit to Operate shall pay a filing fee of \$171.60 per permit unit. If an application is canceled, or is denied, as such denial becomes final; the filing fee required herein shall not be refunded nor applied to any subsequent application.

Rule 600      Filing Fee. Every applicant for an Authority to Construct or Permit to Operate shall pay a filing fee of \$156.00 per permit unit. If an application is canceled, or is denied, as such denial becomes final; the filing fee required herein shall not be refunded nor applied to any subsequent application.

Rule 600      Filing Fee. Every applicant for an Authority to Construct or Permit to Operate shall pay a filing fee of \$205.92 per permit unit. If an application is canceled, or is denied, as such denial becomes final; the filing fee required herein shall not be refunded nor applied to any subsequent application. (Amended 7/22/08)

Adopted 12/30/86  
Amended 06/25/91  
Amended 05/16/00  
Amended 08/29/06  
Amended 06/26/07  
Amended 07/22/08



Rule 601      Permit Fee. Every permit holder shall pay an annual fee for the issuance of each Permit to Operate in the amount of the filing fee prescribed in Rule 600.

In addition to the annual permit filing fee, every permit holder shall pay a fee based on the annual emissions from the facility. Each ton of emissions or part thereof for any of the following air contaminants shall be assessed a fee as set forth in the following schedule:

<u>Air Contaminant Fees</u>	<u>Dollars per Ton</u>
Total organic gases, except those compounds containing sulfur .....	\$36.50
Gaseous sulfur compounds, expressed as sulfur dioxide.....	\$36.50
Particulate matter .....	\$36.50
Oxides of nitrogen, expressed as nitrogen dioxide .....	\$36.50
Carbon monoxide.....	\$10.14
Toxic air contaminants.....	\$50.70
Excess emissions during variance period .....	\$50.70

Title V Supplemental Fees

Rule 500, Section 500.7 contains the procedure to determine Title V supplemental fees.

Vapor Recovery Nozzle Fees

Rule 902, contains the provision for charging a fee for vapor recovery nozzles. The vapor recovery nozzle fee shall be \$56.78 per nozzle.

(Amended 07/22/08)

Rule 602

Permit Fee Penalty. When the Permit to Operate is issued, it will be accompanied by a statement of the fee to be paid. If the fee is not paid within thirty (30) days after the Permit is issued, the fee shall be increased by one-half the amount thereof and the Air Pollution Control Officer (APCO) shall thereupon promptly notify the applicant of the increased fee by mail. If the increased fee is not paid within sixty (60) days after the Permit is issued, the application shall be deemed withdrawn and canceled. The APCO shall so notify the applicant by mail, and the Permit shall be void. Continuing to operate shall subject the operator to penalties of up to \$1000.00 per day per permit unit for each day of operation. The increased fee and penalty must be paid in full before the Permit will be reissued.

Rule 603      Permit Granted by Hearing Board. In the event that a Permit to Operate is granted by the Hearing Board after denial by the APCO, the provisions of Rule 601 and 602 shall apply.

Rule 604      Revising Permit Conditions. Where an application is filed for a Permit to Operate exclusively involving revisions to the conditions of an existing Permit to Operate, the applicant shall pay only the amount of the filing fee required herein (Rule 600) plus any analysis or technical report charges (Rules 605 and 606). The annual renewal fee shall be due and payable on the anniversary date of the Permit.

Rule 605

Analysis Fees. Where the APCO finds that an analysis of the emission from any source is necessary to determine the extent and amount of pollutants being discharged into the atmosphere which cannot be determined by visual observation, the APCO may order the collection of samples and the physical and/or chemical analysis made or the collection of data and the engineering analysis made by qualified personnel as determined by the APCO. The time required for collecting samples or data, making the physical, chemical, or engineering analysis, and preparing the necessary reports, as well as costs incurred by the District in any work required to be done to comply with the California Environmental Quality Act, or in compliance with any other state law or regulation, may be charged against the owner or operator of said premises in a sum to be determined by the APCO, which sum is not to exceed the actual cost of such work.

Rule 606      Technical Reports. Charges for information, circulars, District Rules, reports of technical work, and other reports prepared by the District when supplied to other governmental agencies or individuals or groups requesting copies of the same may be charged a fee not to exceed the actual cost and distribution of such documents.

Rule 607      Hearing Board Fees. Every applicant or petitioner for a variance, or for the extension, revocation, or modification of a variance or for an appeal from a denial or conditional approval of an Authority to Construct or Permit to Operate shall pay the clerk of the Hearing Board, on filing, a fee not to exceed the cost of the hearing, and may be subsequently billed for any analysis or report fees, not to exceed the District's costs of such fees. Any person requesting a transcript of the hearing shall pay the cost of such transcript. This Rule does not apply to the APCO.

Rule 608      Change of Ownership. An Authority to Construct or Permit to Operate is not transferable from one owner or operator to another. Where an application is filed for a Permit to Operate exclusively involving change of owner or operator of a Permit to Operate, the applicant shall pay only the amount of the filing fee required herein (Rule 600). The annual renewal fee shall be due and payable on the anniversary date of the Permit.



Rule 609

Miscellaneous Fees. Fees required to be collected by the District for the state or federal government are due and payable within thirty (30) days. After thirty (30) days of billing, the amount will be increased by fifty percent (50%). If the amount is not paid within an additional thirty (30) days (sixty days from billing date), the billed amount will be increased by one hundred percent (100%). If the full amount is not paid within 120 days, the Permit shall be deemed revoked. The APCO shall notify the operator by mail, and the Permit shall be void. Continuing to operate without a Permit shall subject the operator to penalties of \$1000.00 per day per permit unit for each day of operation. The increased penalty must be paid in full before the Permit will be reissued. (Health and Safety Code Section 44380)



# AMADOR AIR DISTRICT

Ms. Ariel Fidely  
Air Quality Planning and Science Division  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

## RE: RULE 400 SIP SUBMISSION

Dear Ms. Fidely:

This letter is in regards to the submission of the Amador Air District (AAD) Rule 400, NSR Requirements for New and Modified Major Sources in Nonattainment Areas, for inclusion into the SIP. Amador Air District received a limited approval limited disapproval on our Rule 400 because some rule provision did not fully satisfy the relevant requirements for preconstruction review and permitting under section 110 and Part D of the Act. Amador's Rule 400 allowed the District to approve interprecursor trading (IPT) of ozone precursors. In addition, there were typographical errors that created deficiencies in later sections.

Attached are all the documents in PDF format as indicated in the SIP Completeness Checklist. We believe this constitutes a full and complete submission for inclusion in the SIP.

### Attachment List:

1. CARB SIP Completeness Checklist
2. CARB Rule Evaluation Form
3. Rule 400: NSR Requirements for New and Modified Sources in Nonattainment Areas
4. Public Notice in the County Newspaper of Record (Ledger Dispatch)
5. County Board of Supervisors Resolution (Adopted January 17, 2023)
6. Staff Report for the Rule

Should you have any questions or need additional information please call during regular business hours at (209) 257-0112.

Sincerely,

**Herminia Perry**  
Air Pollution Control Officer

[hperry@amadorgov.org](mailto:hperry@amadorgov.org)