

11/13/79

ATTACHMENT A

TO RESOLUTION 79-55

Adopt the following rule, Architectural Coatings Usage, for Butte County APCD:

Rule 2.12(f) Architectural Coatings

I. Definitions

a. Architectural Coatings

For the purpose of this rule, an architectural coating is defined as any coating applied to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs.

b. Bituminous Coatings Materials

Black or brownish materials, soluble in carbon disulfide, consisting mainly of hydrocarbons and which are obtained from natural deposits, or as residues from the distillation of crude petroleum oils, or of low grades of coal.

c. Fire Retardant Coatings

Architectural coatings which are designed to retard fires and which will significantly: (a) reduce the rate of flame spread on the surface of a material to which such a coating has been applied, or (b) resist ignition when exposed to high temperatures, or (c) insulate a substrate to which such a coating has been applied and prolong the time required to reach ignition temperature.

d. Graphic Arts Coatings

Coatings which are marketed solely for application to indoor and outdoor signs and include lettering enamels, poster colors and bulletin colors.

e. Industrial Maintenance Finishes

High performance coatings which are formulated for the purpose of heavy abrasion, water immersion, chemical, corrosion, temperature, electrical or solvent resistance.

f. Metallic Pigmented Paints

Non-bituminous coatings which are formulated with metallic pigment.

g. Opaque Stains

All stains that are not classified as semitransparent stains.

h. Primers

Coatings which are intended to be applied to a surface to provide a firm bond between the substrate and subsequent coats.

i. Sealers

Coatings which are intended for use on porous substrates to protect the substrate, to prevent subsequent coatings from being absorbed by the substrate, or to prevent harm to subsequent coatings by materials in the substrate.

j. Semitransparent Stains

Coatings which are formulated to change the color of a surface but not conceal the surface.

k. Tile-like Glaze Coatings

Coatings which are formulated to provide a tough, extra-durable coating system, which are applied as a continuous (seamless) high-build film and which cure to a hard glaze finish.

l. Undercoaters

Coatings which are designed to provide a smooth surface for subsequent coats.

m. Varnishes, Lacquers, and Shellacs

Coatings which contain resins and binders but not opaque pigments and which are specifically formulated to form a transparent or translucent solid protective film.

n. Waterproofing Coating

Coatings which are formulated for the sole purpose of preventing penetration of the substrate by water. These coatings include, but are not limited to, bituminous roof and resilient type coatings.

o. Wood Preservatives

Coatings which are formulated for the purpose of protecting exposed wood from decay and insect attack. These coatings perform their function by penetrating into the wood.

2. No person shall sell, offer for sale, or apply any architectural coating manufactured after July 26, 1980 which:

- a. contains more than 250 grams of volatile organic material per liter of coating as applied, excluding water, except as provided in subsection b of this section.

- b. contains more than 350 grams of volatile organic material per liter of coating as applied, excluding water, and is recommended solely for use on interior surfaces. Interior coatings manufactured after July 26, 1982 may not contain more than 250 grams of volatile organic material per liter of coating as applied, excluding water.
 - c. is recommended for use as a bituminous pavement sealer unless it is an emulsion type coating.
3. The provisions of Section 2 of this rule shall not apply to architectural coatings sold in this district for shipment outside of this district or for shipment to other manufacturers for repackaging.
4. The provisions of Section 2 of this rule shall not apply to coatings manufactured prior to July 26, 1981 by a Small Business.
- a. A "Small Business" for the purposes of this rule means any business which in 1976 sold less than 200,000 gallons of paints and coatings.
 - (i) A business shall not qualify for this exemption if it would not be considered a Small Business, as defined in Subsection (1) of Section 1896 of Title 2 of the California Administrative Code.
 - (ii) A business shall not qualify for this exemption if its total annual sales volume of paints and coatings which would otherwise be subject to this rule exceeds by more than 10 percent the business's total sales volume of such coatings in calendar year 1976.
 - b. To qualify for a Small Business exemption, a company requesting such exemption shall file a request in writing with the Air Pollution Control Officer. The company shall provide the Air Pollution Control Officer any necessary information including, but not limited to: (i) total volume (in gallons) of paints and coatings sold in 1976; (ii) the number of persons employed by the company; (iii) the gross sales receipts (in dollars) for 1976; and (iv) total annual sales volume of paints and coatings in 1976 and any subsequent year which would otherwise be subject to this rule. Other information necessary to document that the business is not an affiliate of another business concern which would not be considered a Small Business for the purposes of this rule shall also be provided to the Air Pollution Control Officer.

The Air Pollution Control Officer after considering information submitted by the business concern shall determine whether such concern qualifies as a Small Business as defined in Subsection a. of this section and shall inform the business concern of this determination in writing.

5. The provisions of this rule shall not apply to the following coatings manufactured prior to July 26, 1984:

- a. architectural coatings supplied in containers having capacities of one liter or less;
- b. traffic coatings applied to public streets and highways; however, this exemption shall not extend to traffic coatings applied to other surfaces, including, but not limited to curbs, berms, driveways and parking lots.
- c. architectural coatings recommended by the manufacturer for use solely as a:

- 1) varnish, lacquer, or shellac
- 2) semitransparent stain
- 3) opaque stain on bare redwood, cedar, mahogany, and douglas fir
- 4) primer, sealer, or undercoater
- 5) wood preservative
- 6) fire retardant coating
- 7) tile-like glaze coating
- 8) waterproofing coating, except bituminous pavement sealers
- 9) industrial maintenance finish
- 10) metallic pigmented coatings
- 11) swimming pool coating
- 12) graphic arts coatings

6. Identification of Coatings

Containers for all coatings subject to Section 2 shall display the date of manufacture of the contents or a code indicating the dates of manufacture. The manufacturers of such coatings shall file with the Air Pollution Control Officer and the Executive Officer of the California Air Resources Board prior to (one year from date of adoption) an explanation of each code.

7. Labeling of Coatings

- a. If anywhere on the coating container, on any sticker or label affixed thereto, or in any sales or advertising literature, any indication is given that the coating may be used or is suitable for use for any purpose other than those specifically provided for in Section 5 of this rule, then the exemption provided for in said Section 5 shall not apply to that coating.
- b. In any instance where more than one of the standards set forth in Section 2 of this rule may be applicable, the most restrictive standard shall apply.

~~1 or more from any tank truck or trailer, except through a permanent
2 submerged fill pipe, unless such tank is a pressure tank or is
3 equipped with a vapor recovery system or with a floating roof, or
4 unless such tank is equipped with other apparatus of equal
5 efficiency which has been approved by the Air Pollution Control
6 Officer, is guilty of a misdemeanor.~~

~~7 b.) Any person who installs any gasoline tank with a
8 capacity of 250 gallons or more which does not meet the re-
9 quirements of subdivision (a) is guilty of a misdemeanor.~~

~~10 c.) Subdivisions (a) and (b) shall not apply to any
11 stationary tank installed prior to December 31, 1970.~~

~~12 d.) Subdivisions (a) and (b) shall not apply to any
13 stationary tank which is used primarily for the fueling of
14 implements of husbandry, as such vehicles are defined in Division
15 16 (commencing with §36000 of the Vehicle Code.)~~

16 Section 2-13. Reduced Sulfur Emission Standards - a) It
17 shall be unlawful for any person to cause or permit the emission
18 of air contaminants from any premises which will result in ground-
19 level concentrations of TRS, expressed as hydrogen sulfide, in
20 excess of 0.03 PPM for a period of 60 minutes.

21 b) By July 1, 1975, the emission of TRS from Kraft pulp
22 mill recovery boilers shall not exceed 17.5 parts per million by
23 volume, calculated as hydrogen sulfide.

24 c) By July 1, 1975, the emission of TRS from any other
25 single source, excluding Kraft pulp mill recovery boilers, shall
26 not exceed 0.5 pounds per ton of pulp produced, calculated as

1 elemental sulfur.

2 ~~Section 2-14. Sulfur Oxides Emission Standard - No~~
3 person shall discharge into the atmosphere from any single source
4 of emission whatsoever any sulfur oxides in excess of 0.2 percent
5 by volume (2000 PPM) collectively calculated as sulfur dioxide
6 (SO₂).

7 ~~Section 2-15. Circumvention - No person shall build,~~
8 erect, install or use any article, machine, equipment or other
9 contrivance, the use of which, without resulting in a reduction
10 in the total release of air contaminants to the atmosphere, reduces
11 or conceals an emission which would otherwise constitute a vio-
12 lation of the Health and Safety Code of the State of California or
13 of these Rules and Regulations. This Rule shall not apply to
14 cases in which the only violation involved is of §24243 of the
15 Health and Safety Code of the State of California or Section 2-1
16 of these Rules and Regulations.

17 ~~Section 2-16. Separation of Emissions. - If air con-~~
18 taminants from a single source operation are emitted through two or
19 more emission points, the total emitted quantity of any air
20 contaminant limited by these Rules and Regulations shall not
21 exceed the quantity which would be the allowable emission through
22 a single emission point, and the total emitted quantity of any
23 such air contaminant shall be taken as the product of the highest
24 concentration measured in any of the emission points and the
25 combined exhaust gas volume from all emission points, unless the
26 person responsible for the source operation establishes, to the

Rule 101 Definitions

(Adopted February 23, 1971; Amended September 14, 1971, January 4, 1972, December 12, 1972, July 15, 1980, August 8, 1982; Recodified August 6, 1985; Amended December 13, 1988, June 6, 1989, September 18, 1990, July 7, 1992, January 12, 1993, April 18, 1996, August 20, 1998, April 25, 2002; Recodified August 22, 2002; Amended January 22, 2004, June 24, 2010, March 28, 2013, April 24, 2014; Amended December 14, 2017)

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RULE 101

- 1 **PURPOSE:** The purpose of this Rule is to provide standard terminology to be used throughout this Rulebook.
- 2 **APPLICABILITY:** The definitions in this Rule shall apply to all terms used within this Rulebook. Definitions specific to a given Rule are defined in that Rule or in the first Rule in the relevant regulation. Except as specifically provided in these Rules where the context otherwise indicates, words used in these Rules are used in exactly the same sense as the same words used in Division 26 of the Health and Safety Code.
- 3 **ACRONYMS:** The following acronyms are common to these definitions and Rulebook:

APCO: Air Pollution Control Officer

CARB: California Air Resources Board

CCR: California Code of Regulations

CFR: Code of Federal Regulations

DISTRICT: Butte County Air Quality Management District

EPA: United States Environmental Protection Agency

HSC: California Health and Safety Code

PPMv: Parts per million by volume expressed on a dry gas basis.

- 4 **DEFINITIONS OF TERMS:**

- 4.1 **Above Ground Storage Tank:** Any storage container, reservoir, or tank with less than 10% of the tank and associated piping volume located below the ground surface or covered by earthen material.
- 4.2 **Aeration:** The exposure of excavated contaminated soil to the atmosphere without the use of air pollution control equipment or vapor extraction equipment.
- 4.3 **Affected Pollutant:** All pollutants (and the precursors to such pollutants) for which an ambient air quality standard has been established by EPA or CARB, all pollutants regulated by EPA under the Clean Air Act or by CARB under the Health and Safety Code, including reactive organic compounds, nitrogen oxides, sulfur oxides, PM10, PM2.5, carbon monoxide, total suspended particulates, ethylene, lead, asbestos, beryllium, mercury, vinyl chloride, fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds. Also, all of the pollutants which EPA, CARB, or the DISTRICT, after notice and opportunity for public comment and/or public hearing, determine may have a significant adverse effect on the environment, public health, or the public welfare.

- 4.4 Agricultural Burning:** Burning for the disposal of agricultural vegetative waste pursuant to DISTRICT Rule 300.
- 4.5 Agricultural Operation:** The growing and harvesting of crops, raising of fowl or animals for the primary purpose of making a profit, or providing a livelihood, or the conducting of agricultural research or instruction by an educational institution. Agricultural operations do not include activities involving the processing or distribution of crops or fowl or pumping of water for distribution outside the District.
- 4.6 Agricultural Waste:** The unwanted or unsalable materials produced wholly from agricultural operations and materials not produced from agricultural operations, but which are intimately related to the growing or harvesting of crops.
- 4.7 Air Contaminant or Pollutant:** Any discharge, release, or other propagation into the atmosphere directly, and includes, but is not limited to, smoke, dust, charred paper, soot, grime, carbon, noxious acids, greenhouse gases, fumes, gases, odors, or particulate matter, or any combination thereof.
- 4.8 Air Pollution Control Officer (APCO):** The person appointed by the DISTRICT Board pursuant to HSC Section 40750 to serve as the APCO of the Butte County Air Quality Management District and execute the duties specified in HSC Section 40752.
- 4.9 Ambient Air Quality Standards:** Health and welfare-based standards set by CARB and/or EPA for outdoor air which identify the maximum acceptable average concentrations of air pollutants during a specific period of time.
- 4.10 Atmosphere:** The air that envelopes or surrounds the earth. Where air pollutants are emitted into a building not designed specifically as a piece of air pollution control equipment, such emission into the building shall be considered an emission into the atmosphere.
- 4.11 Backfire:** A fire started in the path of an oncoming fire in order to deprive it of fuel and therefore control or extinguish it.
- 4.12 Board:** The Governing Board of the Butte County Air Quality Management District.
- 4.13 Burn Day or Permissive Burn Day:** Any day, or portion thereof, on which allowable burning is not prohibited pursuant to DISTRICT Rule 300.
- 4.14 Burn Permit or Air Quality Burn Permit:** A permit issued by the APCO of the DISTRICT that identifies the type(s) and quantity of materials to be burned at each location where burning is authorized and specifies conditions

to be followed for the purpose of improving the combustibility of such waste in order to reduce its smoke level.

- 4.15 California Air Resources Board (CARB):** An organization which is part of the California Environmental Protection Agency and reports directly to the Governor's Office in the Executive Branch of California State Government whose duties include overseeing the activities of the 35 local and regional air pollution control and air quality management districts.
- 4.16 California Clean Air Act (CCAA):** California statute signed into law in 1988 setting California's air quality goals, planning mechanisms, regulatory strategies, and standards of progress.
- 4.17 Change of Location:** Any transfer of an existing, permitted source from one location to another location not on the same property or or at the same facility.
- 4.18 Class I Area:** A mandatory visibility protection area designated pursuant to Section 169A of the federal Clean Air Act.
- 4.19 Clean Air Act (CAA):** Unless otherwise indicated, the federal Clean Air Act as amended, 42 United States Code (U.S.C.) 7401, *et seq.*
- 4.20 Combustion Contaminant:** Any particulate matter discharged into the atmosphere from the burning of any material which contains carbon in either the free or the combined state.
- 4.21 Common Operations:** Operations which are related through dependent processes, storage or transportation of the same or similar products or raw material.
- 4.22 Compliance Schedule:** The date or dates by which a source or category of sources is required to comply with specific emission limitations contained in any air pollution rule, regulation, or statute and with any increment of progress toward such compliance.
- 4.23 Condensed Fumes:** Minute, solid particles generated by the condensation of vapors from solid matter after volatilization from the molten state or by the sublimation, distillation, calcination, or chemical reaction of processes that create airborne particles.
- 4.24 Construction:** Any physical change or change in the method of operation (including fabrication, erection, installation, or modification of an emission unit) which would result in a change in actual emissions or the source's potential to emit.

- 4.25 Control Equipment:** Equipment which is used for the primary purpose of eliminating, reducing or controlling the issuance of air contaminants.
- 4.26 Daily Acreage Allocation:** The maximum number of acres of agricultural waste, in rice equivalent acres, that may be burned per day in the Butte County air quality management district as determined by the Central Computer Operator (CCO) by using the daily basinwide acreage allocation equation contained in the approved Agricultural Burning Plan per Title 17 CCR. Agricultural burning conducted above 2,000 feet is not included in the Daily Acreage Allocation.
- 4.27 Disposal:** Destruction or transformation of garbage or rubbish.
- 4.28 DISTRICT:** The Butte County Air Quality Management District; the air quality management district having jurisdiction over air quality in Butte County.
- 4.29 Dust:** The minute, solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, sweeping, or other similar processes.
- 4.30 Dwelling:** A place of residence.
- 4.31 Emission:** The act of releasing or discharging air contaminants into the atmosphere from any source.
- 4.32 Emission Point:** The place, located in a horizontal plane and vertical elevation, at which an air contaminant or pollutant enters the atmosphere.
- 4.33 Emission Unit:** An identifiable operation or piece of process equipment such as an article, machine, or other contrivance which emits, may emit, or results in the emission of any affected pollutant directly or as fugitive emissions.
- 4.34 Enhanced Vapor Recovery (EVR):** A system designed to recover the gasoline vapors generated while fueling vehicles in a service station.
- 4.35 Environmental Protection Agency (EPA):** The Environmental Protection Agency of the United States; an independent federal agency established to coordinate programs aimed at reducing pollution and protecting the environment.
- 4.36 Excavation:** Removal of surface covering, soil, pavement, etc. to expose the underlying soils.
- 4.37 Executive Officer:** The Executive Officer of CARB.

- 4.38 Exempt Compound:** Volatile organic compounds (VOCs) that have low or insignificant contribution to ozone formation. These compounds remain affected pollutants and subject to the applicable regulatory requirements, including but not limited to, health risk assessment. The chemicals in Table 4.38 are exempt compounds as noted. CAS stands for chemical abstract.

Table 4.38: Exempt Compounds	
Compound Name:	CAS No.
Acetone	67-64-1
Ethane	74-84-0
Methane	74-82-8
methyl acetate	79-20-9
t-butyl acetate*	540-88-5
Inorganic carbon compounds:	
carbon monoxide	630-08-0
carbon dioxide	124-38-9
carbonic acid	463-79-6
metallic carbides or carbonates	Various
ammonium carbonate	506-87-6
methyl formate	107-31-3
propylene carbonate	108-32-7
dimethyl carbonate	616-38-6
Chlorinated compounds:	
1,1,1-trichloroethane (methyl chloroform)	71-55-6
methylene chloride (dichloromethane)	75-09-2
perchloroethylene (tetrachloroethylene)	127-18-4
Chlorofluorocarbons:	
trichlorofluoromethane (CFC-11)	75-69-4
dichlorodifluoromethane (CFC-12)	75-71-8
chlorodifluoromethane (HCFC-22)	75-45-6
trifluoromethane (HFC-23)	75-46-7
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)	76-13-1
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)	76-14-2
chloropentafluoroethane (CFC-115)	76-15-3
Hydrofluorocarbons:	
difluoromethane (HFC-32)	75-10-5
1,1,1,2,3,4,4,5,5,5-decafluoropropane (HFC 43-10mee)	138495-42-8
pentafluoroethane (HFC-125)	354-33-6
1,1,2,2-tetrafluoroethane (HFC-134)	359-35-3
1,1,1,2-tetrafluoroethane (HFC-134a)	811-97-2
1,1,1-trifluoroethane (HFC-143a)	420-46-2
1,1-difluoroethane (HFC-152a)	75-37-6
ethylfluoride (HFC-161)	353-36-6
1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea)	431-89-0
1,1,1,3,3,3-hexafluoropropane (HFC-236fa)	690-39-1

Table 4.38: Exempt Compounds	
Compound Name:	CAS No.
1,1,2,2,3-pentafluoropropane (HFC-245ca)	679-86-7
1,1,2,3,3-pentafluoropropane (HFC-245ea)	24270-66-4
1,1,1,2,3-pentafluoropropane (HFC-245eb)	431-31-2
1,1,1,3,3-pentafluoropropane (HFC-245fa)	460-73-1
1,1,1,2,3,3-hexafluoropropane (HFC-236ea)	431-63-0
1,1,1,3,3-pentafluorobutane (HFC-365mfc)	406-58-6
Hydrochlorofluorocarbons:	
chlorofluoromethane (HCFC-31)	593-70-4
2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)	306-83-2
1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)	354-23-4
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)	2837-89-0
1,1-dichloro-1-fluoroethane (HCFC-141b)	1717-00-6
1-chloro-1,1-difluoroethane (HCFC-142b)	75-68-3
1-chloro-1-fluoroethane (HCFC-151a)	1615-75-4
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)	422-56-0
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)	507-55-1
Hydrofluoroethanes:	
1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (HFE-7000)	375-03-1
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane (HFE-7100)	163702-07-6
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (HFE-7200)	163702-05-4
1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethylpentane (HFE-7300)	132182-92-4
3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2(trifluoromethyl)hexane (HFE-7500)	297730-93-9
Parachlorobenzotrifluoride (PCBTF)	98-56-6
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF ₃) ₂ CFCF ₂ OCH ₃)	163702-08-7
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF ₃) ₂ CFCF ₂ OC ₂ H ₅)	163702-06-5
Cyclic, branched, or linear completely methylated siloxanes (VMS)	Various
Perfluorocarbon compounds which fall into these classes:	
cyclic, branched, or linear completely fluorinated alkanes;	Various
cyclic, branched, or linear completely fluorinated ethers with no unsaturations;	Various
cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and	Various
sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.	Various
trans 1-chloro-3,3,3-trifluoroprop-1-ene (also known as Solstice TM 1233zd(E))	102687-65-0
trans-1,3,3,3-tetrafluoropropene (HFO-1234ze)	29118-24-9
Hydrofluoropolyethers (HFPEs):	
HCF ₂ OCF ₂ H (HFE-134),	1691-17-4

Table 4.38: Exempt Compounds	
Compound Name:	CAS No.
HCF2OCF2OCF2H (HFE-236cal2), HCF2OCF2CF2OCF2H (HFE-338pcc13), HCF2OCF2OCF2CF2OCF2H (H-Galden 1040X and H-Galden ZT 130 (or150 or 180)	78522-47-1 188690-78-0 188690-77-9
2,3,3,3-tetrafluoropropene (HFO-1234yf)	754-12-1
1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy)ethane (HFE-347pcf2)	406-78-0
2-amino-2-methyl-1-propanol (AMP)	124-68-5

* VOC for purposes of recordkeeping, emissions reporting, and photochemical modeling and inventory requirements which apply to VOC; but not VOC for purposes of determining VOC emission limitations or meeting content requirements.

Exempt compounds content of a coating shall be determined by South Coast Air Quality Management District Method 303-91 (Revised August 1996)

- 4.39 Existing Retail Service Station:** Any retail service station operating, constructed, or under construction as of January 13, 1989.
- 4.40 Facility:** Same as a “stationary source”.
- 4.41 Flue:** Any duct or passage for air, gases or the like, such as a stack or chimney.
- 4.42 Fossil Fuel:** Natural gas, petroleum, coal and any form of solid, liquid, or gaseous fuel derived from such materials.
- 4.43 Fossil Fuel-Fired Steam Generator:** A furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.
- 4.44 Fugitive Dust:** Any solid particulate matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of the activities of any person.
- 4.45 Garbage:** Discarded or useless material except vegetative wastes and agricultural wastes.
- 4.46 Gasoline:** Any organic liquid (including petroleum distillates and methanol) having a Reid vapor pressure of four (4) pounds or greater and used as a motor vehicle fuel or any fuel which is commonly or commercially known or sold as gasoline, including methanol 85 (M85).
- 4.47 Gasoline Vapors:** Any and all organic compound vapors displaced from gasoline storage tanks or gasoline delivery vehicles during the transfer of gasoline. Any liquid gasoline entrained in the displaced vapors shall be included when measuring the total mass of organic vapors emitted during gasoline transfer operations.

- 4.48 Greenhouse Gases (GHGs):** The aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons (by category), perfluorocarbons (by category), and sulfur hexafluoride.
- 4.49 Hazardous Air Pollutant (HAP):** Any substance listed in or pursuant to Section 112(b) of the Clean Air Act.
- 4.50 Health and Safety Code (HSC):** The Health and Safety Code of the State of California.
- 4.51 Hearing Board:** The Hearing Board of the Butte County Air Quality Management District.
- 4.52 Incineration:** An operation in which combustion is carried on for the principal purpose, or with the principal result of oxidizing a waste material to reduce its bulk or facilitate its disposal.
- 4.53 Incinerator:** Any device constructed of nonflammable materials, including containers commonly known as burn barrels, for the purpose of burning therein trash, debris, and other flammable materials for volume reduction or destruction.
- 4.54 Installation:** The placement, assemblage, or construction of equipment or control apparatus at the premises where the equipment or control apparatus will be used, including all preparatory work at such premises.
- 4.55 Leak Free:** A liquid leak of less than three (3) drops per minute excluding losses which occur upon disconnecting transfer fittings, provided such disconnect losses do not exceed 10 milliliters (0.34 fluid ounces) per disconnect, averaged over three disconnects.
- 4.56 Major Source:** A stationary source which has the potential to emit a regulated air pollutant, except a greenhouse gas, or HAP in quantities equal to or exceeding the lesser of any of the following thresholds:
- 4.56.1** 100 tons per year (tpy) of any regulated air pollutant;
 - 4.56.2** 50 tpy of volatile organic compounds or oxides of nitrogen for a federal nonattainment area classified as serious, 25 tpy for an area classified as severe, or, 10 tpy for an area classified as extreme;
 - 4.56.3** 70 tpy of PM10 (particulate matter of 10 microns or less) for a federal PM10 nonattainment area classified as serious;
 - 4.56.4** 10 tpy of one HAP or 25 tpy of two or more HAPs; or
 - 4.56.5** Any lesser quantity threshold promulgated by EPA.
- 4.57 Modification:** Any physical change or operational change to an existing emissions unit, including changing hours of operation or production rate, which would necessitate a change in permit conditions. A modification to a

stationary source shall include any modification of its permitted emissions units or addition of any new emissions units. A modification also occurs when there is an increase of emissions from an emissions unit which is not subject to a daily emissions limitation. Unless previously limited by a federally enforceable permit condition, the following shall not be considered a modification:

- 4.57.1 Routine maintenance or repair.
- 4.57.2 A change in ownership.
- 4.57.3 Replacement of an existing emissions unit, part of an emissions unit, or emissions control device with an identical (the same in all respects except for the serial number) piece of equipment resulting in emissions less than or equal to those from the original equipment or device and not requiring a change in permit conditions.
- 4.57.4 An increase in the production rate or hours of operation if such increase does not exceed the operating design capacity or the actual demonstrated capacity of the stationary source as approved by the APCO.
- 4.57.5 Use of an alternate fuel or raw material, provided that such use is expressly authorized by the APCO.

A reconstructed stationary source shall be treated as a new stationary source and not as a modification.

- 4.58 **Motor Vehicle:** A vehicle that is self-propelled as defined in Section 415 of the California Vehicle Code.
- 4.59 **Multiple-Chamber Incinerator:** Any article, machine, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, inter-connected by gas passage ports or ducts employing adequate design parameters necessary for maximum combustion of the materials to be burned.
- 4.60 **Multi-Unit Dwelling:** Apartments, condominiums, four-plexes and other types of dwellings consisting of more than two living units.
- 4.61 **National Emissions Standards for Hazardous Air Pollutants (NESHAPs):** The emissions standards set by the federal government for a Hazardous Air Pollutant that may cause an increase in fatalities or in serious, irreversible, or incapacitating illness. Each NESHAP is published as an individual Subpart to Title 40 Code of Federal Regulations (CFR) Part 60 or 63.
- 4.62 **No-Burn Day:** Any day, or portion thereof, designated by the APCO, CARB, or a local, State or federal Fire Protection Agency having jurisdiction over the burn location, during which no fires may be ignited and no material may be added to an approved existing fire, except as authorized in DISTRICT Rule 300.

- 4.63 Non-Agricultural Burning:** Open burning for the disposal of non-agricultural waste pursuant to DISTRICT Rule 300.
- 4.64 Open Burning:** Combustion of any material of any type, outdoors in the open air, where the products of combustion are not directed through a flue, stack or chimney.
- 4.65 Orchard or Citrus Heaters:** Any article, machine, equipment, or other contrivance that burns any type of fuel or material capable of emitting air contaminants and is used or capable of being used for the purpose of giving protection from frost damage.
- 4.66 Owner or Operator:** Any person who owns, operates, controls, or supervises an affected facility, or a stationary source of which an affected facility is a part.
- 4.67 Particulate Matter (PM):** Any material except uncombined water, which can exist in a finely divided form in the atmosphere as a liquid or solid at standard conditions.
- 4.68 Pathological Waste:** Human or animal tissue intended for disposal.
- 4.69 Person:** Any individual, firm, association, organization, partnership, business trust, corporation, limited liability company, or company; State or local government agency, public district, or any officer or employee thereof; or the United States or its agencies, to the extent authorized by federal law.
- 4.70 Phase I Vapor Recovery System:** A CARB-certified gasoline vapor recovery system which recovers vapors during the transfer of gasoline from delivery vessels into stationary storage tanks.
- 4.71 Phase II Vapor Recovery System:** A CARB-certified gasoline vapor recovery system which recovers vapors during the fueling of motor vehicles from stationary storage tanks.
- 4.72 PM_{2.5} Nonattainment Area:** The portion of Butte County which lies west of the line described as follows: (Mount Diablo Base and Meridian) Beginning at the intersection of the Butte-Yuba county line and the township line common to T18N R6E and T19N R6E, west to the township line common to T18N R6E and T19N R6E, then north along the range line common to R5E and R6E, then west along the township line common to T21N and T20N, then north along the range line common to R4E and R5E, then west along the township line common to T24N and T23N to the Butte-Tehama County boundary.

- 4.73 PM2.5:** Particulate Matter with aerodynamic diameter of less than 2.5 microns. Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included.
- 4.74 PM10:** Particulate Matter with aerodynamic diameter of less than 10 microns. Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included.
- 4.75 Populated Area:** The urban areas of Chico, Oroville, Paradise, Gridley, Biggs, or any other urban area designated by the APCO.
- 4.76 Portable Emissions Unit:** Any emissions unit that, by itself or in or on a piece of equipment, is portable, meaning designed to be and capable of being carried or moved from one location to another. Indications of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, platform or mounting. The period during which the emissions unit is maintained at a storage facility shall be excluded from determining the residency requirements below. An emission unit is not portable if:
- 4.76.1** the emissions unit is attached to a foundation, or remains or will remain at a fixed location for more than twelve (12) consecutive months. (Any emissions unit, such as a backup or standby unit, that replaces an emissions unit at a location and is intended to perform the same function as the unit being replaced will be included in calculating the consecutive time period. In that case, the cumulative time of both emissions units, including the time between the removal of the original unit and installation of the replacement unit, would be counted towards the consecutive time period.); or,
 - 4.76.2** the emissions unit remains or will remain at a fixed location for less than twelve (12) consecutive months where such a period represents the length of normal annual source operations at the stationary source that resides at a fixed location for more than twelve (12) consecutive months such as a seasonal source; or,
 - 4.76.3** the emissions unit is removed from one location for a period and then returned to the same location in an attempt to circumvent the portable equipment residence time requirement.
- 4.77 Potential to Emit:** The maximum capacity of an emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the unit to emit a pollutant, including pollution control equipment and restrictions in hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is incorporated into the applicable permit as a practically enforceable permit condition. The potential to emit shall include emissions emitted directly or as fugitives.

- 4.78 Pressure Tank:** A tank which maintains working pressure sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere.
- 4.79 Process Weight Per Hour:** The total weight, including contained moisture, of all materials introduced into any specific process, which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. (The process weight per hour will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle).
- 4.80 Prohibited Materials:** Any waste or manufactured material, including but not limited to: petroleum products and petroleum wastes; construction and demolition wastes; tar paper; roofing material; wiring; flooring material; insulation; plywood; coated wire; disposable diapers and putrescible wastes; tires; tar; non-natural wood waste; processed, painted or treated wood products; metals; motor vehicle bodies or parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; styrofoam; garbage; trash; refuse; rubbish; swill; ashes; glass; industrial wastes; equipment; appliances; furniture; instruments; utensils; mattresses; shoes; cloth; rags; paper and paper products; cardboard; boxes; crates; excelsior and other packaging materials; offal, including the carcass of any dead animal; human or animal parts or wastes, including blood and fecal matter; food contaminated material; or any other non-vegetative material that when burned may discharge air contaminants that may cause a health risk to any person.
- 4.81 Public Record:** Any record made available to the public by law containing information relating to the conduct of the public's business that is prepared, owned, used or retained by the DISTRICT, except those records that are not subject to disclosure pursuant to applicable law.
- 4.82 Reactive Organic Compound (ROC):** Any volatile compound containing at least one atom of carbon, excluding any Exempt Compound as defined in this Rule (same as Volative Organic Compound in this Rule).
- 4.83 Record:** Handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation including letters, words, pictures, sounds, or symbols, or any combination thereof, and all papers, maps, magnetic or paper tapes, photographed films and prints, magnetic or punched cards, drums, and other documents.
- 4.84 Reid Vapor Pressure (RVP):** The absolute vapor pressure of volatile crude oil and volatile non-viscous petroleum liquids, except liquefied petroleum gases, as determined by ASTM-323-58 (American Society for Testing and Materials).

- 4.85 Residence or Residential:** Areas where people reside or lodge, including but not limited to, single or multiple family dwellings, condominiums, mobile or manufactured homes, apartment complexes, motels and hotels.
- 4.86 Residential Burning:** Open burning for the disposal of vegetative waste from the property of a single- or two-family dwelling located on lots of less than one acre.
- 4.87 Rice Equivalent Acre:** The quantity of particulate matter generated from the open burning of one (1) acre of rice straw after harvest standardized as 6.3 pounds of PM10 per ton of rice straw burned at a fuel load of three (3) tons per acre (18.9 pounds PM10 per acre).
- 4.88 Rubbish:** Useless waste or rejected matter; usually combustible and noncombustible solid wastes of commercial and industrial establishments, institutions, etc.; garbage.
- 4.89 Sacramento Valley Air Basin:** The geographical area which includes the following counties: Butte, Colusa, Glenn, Placer, Sacramento, Shasta, Tehama, Yolo, Solano, Yuba and Sutter.
- 4.90 School:** Any public or private establishment used for the purpose of educating more than twelve (12) children in kindergarten or any of the grades 1 through 12, inclusive, but does not include any private establishment in which education is primarily conducted in private homes.
- 4.91 Shutdown:** Ceasing of operation of a stationary source for any purpose.
- 4.92 Single- and Two-Family Dwellings:** Residential structures including duplexes, mobile homes, and such dwellings that are collectively designed or planned to house not more than two families.
- 4.93 Source Test Method or CARB Source Test Method:** A procedure for performing source testing as set forth in Title 17 CCR Section 91200 *et seq.*
- 4.94 Standard Conditions:** A gas temperature of 20 °C (68°F) and a gas pressure of 760 mm Hg (14.7 pounds per square inch) absolute.
- 4.95 Standard Cubic Meter of Gas (Standard Cubic Foot of Gas):** The amount of gas, free of combined water, that would occupy the specified cubic measurement at standard conditions.
- 4.96 Standard Industrial Classification (SIC) Code:** The SIC Code that classifies establishments by the type of business activity in which they are engaged as defined by the SIC Manual, 1987, published by the Executive Officer of the President, Office of Management and Budget, 1987, which is incorporated by reference herein.

- 4.97 Start-up:** Commencing operation of a stationary source for any purpose.
- 4.98 Stationary Source:** Any building, structure, or emissions unit which emits or may emit any affected pollutant directly or as a fugitive emission, which:
- 4.98.1** is located on one or more contiguous or adjacent properties, and which may be separated by a public right-of-way; and.
 - 4.98.2** is under the same or common ownership, operation, or control, or which is owned or operated by entities which are under common control and belong to the same industrial grouping, either by virtue of falling within the same two-digit SIC Code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material.
- 4.99 Submerged Fill Pipe:** Any discharge pipe or nozzle which meets either of the following conditions:
- 4.99.1** Where the tank is filled from the top, the end of the discharge pipe or nozzle must be totally submerged when the liquid level is 15 cm (6 inches) from the bottom of the tank.
 - 4.99.2** Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is 46 cm (18 inches) from the bottom of the tank (also known as "Offset Fill Pipe").
- 4.100 Total Reduced Sulfur (TRS):** Total reduced sulfur contained in hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide or other organic sulfide compounds, all expressed as hydrogen sulfide. Sulfur dioxide, sulfur trioxide, or sulfuric acid mist are not to be included in the determination of TRS.
- 4.101 Toxic Air Contaminants:** All substances identified as toxic air contaminants pursuant to Title 17 CCR, Sections 93000 and 93001.
- 4.102 Underground Storage Tank (UST):** Any one or combination of tanks and the volume of any connected piping that has at least 10% of the underground tank system volume below the ground surface or enclosed below earthen materials.
- 4.103 Upset or Breakdown Condition:** An unforeseeable failure or malfunction of either: 1) any air pollution control equipment or related operating equipment which causes a violation of any emission limitation or restriction prescribed by these Rules and Regulations, or by State Law; or 2) any in-stack continuous monitoring equipment, which:
- 4.103.1** Is not the result of neglect or disregard of any air pollution control law or rule or regulation;
 - 4.103.2** Is not intentional or the result of negligence;

- 4.103.3 Is not the result of improper maintenance;
- 4.103.4 Does not constitute a nuisance; and
- 4.103.5 Is not a recurrent breakdown of the same equipment.

4.104 Vapor Extraction System or Soil Vapor Extraction (SVE): An underground or aboveground system that draws out or removes contaminants from soil or ground water using air injection and/or vacuum suction to route the vapors to an emission control device or directly to the atmosphere. This definition does not include equipment designed or used to expose soil openly to the atmosphere to facilitate evaporation of volatile organic compounds.

4.105 Vapor Recovery System: A vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged and/or a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere, with all tank gauging and sampling devices vapor tight, except when gauging or sampling is taking place.

4.106 Vapor Tight: The detection of less than 10,000 ppmv, as methane, using an appropriate hydrocarbon analyzer when sampling is performed according to the procedures specified in EPA Method 21 or no visible evidence of air entrainment in the sight glasses of liquid delivery hoses.

4.107 Variance: Temporary exemption from DISTRICT Rules and Regulations or State law granted to sources following ruling by the DISTRICT Hearing Board.

4.108 Volatile Organic Compounds (VOCs): Any organic chemical compound containing at least one atom of carbon having a high enough vapor pressure under normal conditions to significantly vaporize into the earth's atmosphere, excluding any Exempt Compound as defined in this Rule.

4.109 Volatile Organic Compound Vapor Analyzer: A hydrocarbon vapor instrument detector, which satisfies the specification requirements of EPA Method 21, 40 CFR Part 60. Analyzer types that may meet this requirement include, but are not limited to, catalytic oxidation, flame ionization, infrared absorption, and photoionization.

5 SEVERABILITY: If any regulation, rule, section, subsection, sentence, clause, phrase, or portion of these Rules and Regulations is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the Rules and Regulations of the Butte County Air Quality Management District.

6 REFERENCES: The authority for this Rule arises from the provisions of California Health and Safety Code Section 40001 and 40702.

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202
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REGULATION II
PROHIBITIONS

~~RULE 201 NUISANCE~~

~~No person shall discharge from any non-vehicular source such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property.~~

RULE 202 VISIBLE EMISSIONS

No person shall discharge into the atmosphere from any single non-vehicular source of emission whatsoever any air contaminant, other than uncombined water vapor, for a period or periods aggregating more than three (3) minutes in any one hour which is:

- A. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the U.S. Bureau of Mines, or
- B. Of such opacity as to obscure an observers view to a degree equal to or greater than does smoke described in subsection A of this section.

RULE 203 PARTICULATE MATTER CONCENTRATION

A person shall not discharge into the atmosphere from any source particulate matter in excess of 0.3 grains per cubic foot of gas at standard conditions.

When the source involves a combustion process, the concentration must be calculated to 12 percent carbon dioxide (CO₂). In measuring the combustion contaminants from incinerators used to dispose of combustible refuse by burning, the carbon dioxide (CO₂) produced by combustion of any liquid or gaseous fuels shall be excluded from the calculation of 12 percent of carbon dioxide (CO₂).

RULE 204 EXEMPTIONS TO RULES 201, 202, AND 203

- A. Public Officer Exemption
Smoke from fires set by or permitted by any public officer if such fire is set or permission given in the performance of the official duty of such officer, and such fire in the opinion of such officer is necessary:

1. For the purpose of the prevention of a fire hazard which cannot be abated by any other means, or
 2. For the instruction of public employees in the methods of fire fighting, or
 3. For the improvement of watershed range or pasture, or
 4. For the growing of crops or raising of fowls or animals, or
 5. For the purpose of disease or pest control and prevention.
- B. Employee Instruction Exemption
Smoke from fires set on property used for industrial purposes for the purposes of instruction of employees in methods of fire fighting.
- C. Backfires to Save Life and Property Exemption
Smoke from fires set pursuant to Section 4426 of the Public Resources Code as back fires necessary to save life or valuable property.
- D. Agricultural Exemption
Agricultural operations and associated odors necessary for the growing of crops or raising of fowls or animals.
- E. Agricultural Aircraft Exemption
Use of any aircraft to distribute seed, fertilizer, insecticides or other agricultural aids over land devoted to the growing of crops or raising of fowl or animals.

RULE 205 PROCESS WEIGHT LIMITATION

A person shall not discharge in any one hour from any source whatsoever dust or condensed fumes in total quantities in excess of amounts shown in the following table titled "Process Weight Limitation Table."

To use the following table, take the process weight per hour as defined in Rule 102 then find this figure on the table, opposite which is the maximum number of pounds of contaminants which may be discharged into the atmosphere in any one hour. Interpolation of the data in the table for process weights up to 60,000 pounds/hour shall be accomplished by use of the equation $E = 4.10(P^{0.67})$ and interpolation and extrapolation of the data for process rates in excess of 60,000 pounds/hour shall be accomplished by use of the equation $E = 55.0 (P^{0.11}) - 40$. For purposes of these equations, E = the rate of emission in pounds/hour and P = the process weight rate in tons/hour.

PROCESS WEIGHT LIMITATION TABLE

Process Weight Rate		Maximum Discharge Rate	Process Weight Rate		Maximum Discharge Rate
lb/hr	ton/hr	lb/hr	lb/hr	ton/hr	lb/hr
100	0.05	0.551	14000	7.00	15.1
200	0.10	0.877	16000	8.00	16.5
400	0.20	1.40	18000	9.00	17.9
600	0.30	1.83	20000	10.00	19.2
800	0.40	2.22	30000	15.00	25.2
1000	0.50	2.58	40000	20.00	30.5
1500	0.75	3.38	50000	25.00	35.4
2000	1.00	4.10	60000	30.00	40.0
2500	1.25	4.76	70000	35.00	41.3
3000	1.50	5.38	80000	40.00	42.5
3500	1.75	5.97	90000	45.00	43.6
4000	2.00	6.52	100000	50.00	44.6
5000	2.50	7.58	120000	60.00	46.3
6000	3.00	8.56	140000	70.00	47.8
7000	3.50	9.49	160000	80.00	49.0
8000	4.00	10.4	200000	100.00	51.2
9000	4.50	11.2	1000000	500.00	69.0
10000	5.00	12.0	2000000	1000.00	77.6
12000	6.00	13.6	6000000	3000.00	92.7

Rule 207 Wood Burning Devices

(Adopted October 25, 2001; Recodified August 22, 2002; Amended December 11, 2008)

RULE 207 CONTENTS

1. APPLICABILITY
2. DEFINITIONS
3. REQUIREMENTS
4. EXEMPTIONS
5. TEST METHODS
6. DISTRICT-APPROVED DEVICES

RULE 207

- 1 APPLICABILITY:** This Rule shall apply within the boundaries of Butte County to any person who owns, operates, installs, builds, inspects, sells or offers for sale a wood burning device..
- 2 DEFINITIONS**
 - 2.1 Accessory Building** means any building that is not a residence, commercial building or public building as defined by this Rule, but is located on property which contains a residence, commercial building or public building as the primary structure.
 - 2.2 Coal** means any of the natural, rocklike, burnable solid, brown to black derivatives of forest-type plant material usually accumulated in peat beds, including anthracite, bituminous, and lignite varieties.
 - 2.3 Commercial Building** means a building, or portion thereof used as a place of business or commerce.
 - 2.4 EPA** means the United States Environmental Protection Agency.
 - 2.5 EPA-Accredited Laboratory** means a laboratory as specified by Title 40, Code of Federal Regulations, Subpart AAA (Standards of Performance for New Residential Wood Heaters), Section 60.535
 - 2.6 EPA-Certified Wood Burning Device** means any wood burning device that meets the performance and emission standards set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations, February 26, 1988.
 - 2.7 Freestanding Fireplace** means any wood burning device other than a wood heater that is not inset into the walls of a structure, and vents smoke via a flue pipe through the wall or roof of the structure.
 - 2.8 Fireplace** means any permanently installed masonry or factory built wood burning device with an open front or glass door and which does not meet the definition of a wood heater.
 - 2.9 Fireplace Insert** means any wood heater designed to be installed in an existing masonry or factory-built fireplace.
 - 2.10 Garbage** means all solid, semisolid, and liquid wastes generated from residential, commercial, and industrial sources, including trash, refuse, rubbish, industrial wastes, asphaltic products, manure, vegetable or animal matter, and other discarded solid and semisolid wastes which have not been sorted and recycled for use in wood combustion devices.

- 2.11 Gas-Fired Fireplace** means any device dedicated to burn natural or liquified petroleum gas as its fuel through a ceramic, or otherwise noncombustible gas log, and which cannot be converted to a wood burning device.
- 2.12 Interior Space** means any indoor area which is designed and used for human occupancy.
- 2.13 Manufacturer** means any person who constructs or imports a woodburning device.
- 2.14 Manufactured Logs** means compressed or extruded log shaped products designed for use in Fireplaces or Wood Burning Heaters as solid fuel that are comprised of recycled bio mass and/or wood fibers, which may include a combustible organic or petroleum wax binder material in the product composition.
- 2.15 Oregon-Certified** means any wood heater meeting the performance and emission standards set forth in Sections 100 through 190 of Chapter 340, Division 21, Oregon Administrative Rules.
- 2.16 Paints** means all exterior and interior house and trim paints, enamels, varnishes, lacquers, stains, primers, sealers, undercoaters, roof coatings, wood preservatives, shellacs, and other paints or paint-like products.
- 2.17 Paint Solvents** means all organic solvents sold or used to thin paints or to clean up painting equipment.
- 2.18 Pellet-Fueled Wood Heaters** are devices that burn pellet fuel exclusively, and are either EPA-Certified or exempted under EPA requirements set forth in Part 60, Title 40, Subpart AAA, Code of Federal Regulations, February 26, 1988.
- 2.19 Permanently Inoperable** means modified in such a way that a device can no longer operate as a wood burning device.
- 2.20 Person** means any person, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, user, owner, State or local governmental agency or public district, or any officer or employee thereof.
- 2.21 Petroleum Product** means any petroleum product other than gaseous fuels.
- 2.22 Plastic Product** mean any material that contains any of numerous organic synthetic or processed materials that are mostly thermoplastic or thermosetting polymers of high molecular weight and that can be made into objects, films, or filaments.

- 2.23 Public Building** means any building where access by the general public is allowed.
- 2.24 Residence** means any address at which persons dwell more than temporarily.
- 2.25 Retailer** means any person engaged in the sale of wood burning devices directly to the consumer.
- 2.26 Rubber Products** means any material either natural or synthetic, which can be stretched at room temperature to at least twice its original length and, immediately upon release of the stress, returns with force to its approximate original length.
- 2.27 Seasoned Wood** means any wood that has been sufficiently dried so as to contain 20 percent or less moisture by weight.
- 2.28 Treated Wood** means wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects or weathering.
- 2.29 Used Wood Heater** means any wood heater that has been sold and/or used at least once, except wood heaters that have been used by retailers for the purpose of demonstration.
- 2.30 Wood Composition Products** means plywood, particle board, masonite or any other manufactured wood product containing chemical adhesives, bonding agents, or any other non-wood material.
- 3.31 Wood-fired Outdoor Boiler** means any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the purpose of combustion of wood fuel, including devices which may burn other fuels, to produce heat or energy used as a component of a heating system designed or operated to provide heat or hot water for any interior space.
- 2.32 Wood Burning Cookstove** means a wood burning appliance designed primarily for cooking food, with a separate oven for cooking or baking which is contained in, and is an integral part of, the body of the appliance.
- 2.33 Wood Burning Device** means any fireplace, free standing fireplace, fireplace insert, wood stove, or other wood heater, that burns wood or any other nongaseous or nonliquid fuels, or any similar device burning any wood used for aesthetic or space-heating purposes in any interior space, having a heat input less than one million British thermal units per hour.
- 2.34 Wood Heater** means an enclosed, wood-burning appliance capable of and

intended for space heating that meets all of the following criteria:

- 2.34.1 An air-to-fuel ratio in the combustion chamber averaging less than 35-to-1 as determined by tests specified in Section 6.1.
- 2.34.2 A usable firebox volume less than 20 cubic feet.
- 2.34.3 A minimum burn rate less than 5 kg/hr.
- 2.34.4 A maximum weight of less than 800 kg. For the purpose of this Rule, fixtures and devices that are normally sold separately, such as flue pipe, chimney and masonry components that are not an integral part of the appliance or heat distribution ducting do not count as part of the appliance weight.

2.35 Zero Clearance Fireplace means any factory-built fireplace designed to be installed into wood-frame construction.

3 REQUIREMENTS

3.1 Public Awareness Requirements

3.1.1 Each retailer shall supply public awareness information with each sale of a wood burning device in the form of pamphlets, brochures or factsheets on the following topics:

- 3.1.1.1 Proper operation and maintenance of wood burning devices;
- 3.1.1.2 Proper sizing of wood burning devices;
- 3.1.1.3 Proper fuel selection and use and the importance of using seasoned wood or manufactured logs;
- 3.1.1.4 Weatherization methods for the home;
- 3.1.1.5 Proper fuel storage to maintain low moisture content;
- 3.1.1.6 Health benefits from low-emission wood burning devices.

3.1.2 Retailers may use pamphlets prepared by the Butte County Air Quality Management District (DISTRICT), the California Air Resources Board, or industry, subject to the Air Pollution Control Officer's (APCO) approval.

3.1.3 Installation of Wood Burning Devices

- 3.1.3.1 No wood burning device for which a building permit application is submitted on or after December 11, 2008 may be installed in any new or existing interior space unless it is a DISTRICT-approved device as defined in Section 6.1 of this Rule.
- 3.1.3.2 An inspection by the APCO or his designee shall be performed upon completion of the installation, or prior to issuance of final approval for all wood burning devices installed that are DISTRICT-approved devices as defined in Section 6.1.

3.2 Installation of Wood-Fired Outdoor Boilers: Effective December 11, 2008 no person shall install a wood-fired boiler to provide heat for any

residential, commercial or public building or accessory building *unless the unit has been certified to meet the standards established in EPA's Outdoor Wood-fired Hydronic Heater Programs or equivalent as approved in writing by the APCO.*

3.3 Sale and Installation of Used Wood Burning Devices: Effective October 25, 2001 no person shall sell, advertise or offer for sale, supply, install, or transfer ownership of a used wood burning device unless it has been rendered permanently inoperable, or is either EPA-Certified, Oregon-Certified, a Pellet-Fueled Wood Heater, or other DISTRICT-approved device as defined in Section 6.1.

3.4 Fuel Types

3.4.1 No person shall cause or allow the burning of any materials other than firewood or other wood or plant products designed and marketed specifically for use as a fuel in wood burning devices.

3.4.2 Prohibited fuel types include but are not limited to

3.4.2.1 Garbage;

3.4.2.2 Treated wood or wood composition products;

3.4.2.3 Plastic products;

3.4.2.4 Rubber products;

3.4.2.5 Petroleum products, including tar or tar paper;

3.4.2.6 Paints and paint solvents;

3.4.2.7 Coal;

3.4.2.8 Other material which may produce noxious odors or toxic compounds when burned.

4 EXEMPTIONS

4.1 Wood burning cookstoves and other wood burning devices not specifically defined herein are exempt from the requirements of this Rule.

4.2 Wood burning devices classified as antique or having historical significance may be exempted from the requirements of this Rule by the APCO upon presentation of evidence that they qualify as an antique or historically significant device.

4.3 Wood burning devices sold as appurtenances to real property in an escrow transaction shall be exempt from the provisions of Section 3.3 of this Rule.

5 TEST METHODS

5.1 The standard for determining air/fuel ratios and emissions testing where allowed under Section 6.1.2 and 6.1.3 below for wood heater combustion is EPA's test procedure set forth in Part 60.534, Title 40, Code of Federal Regulations.

- 5.2** Wood moisture content shall be measured by the American Society for Testing and Materials Methods D 2016-74, D4442-84, or other test method as specified by the APCO.

6 DISTRICT-APPROVED DEVICES

- 6.1** DISTRICT-approved devices for installation in new and existing interior spaces shall include the following:
- 6.1.1** All EPA-Certified Phase II wood burning devices;
 - 6.1.2** Catalytic wood burning devices which emit less than or equal to 4.1 grams per hour of particulate matter which are not EPA-Certified but meet the documentation requirements defined in Section 6.2 below;
 - 6.1.3** Non-catalytic wood burning devices which emit less than or equal to 7.5 grams per hour of particulate matter which are not U.S. EPA-Certified but meet the documentation requirements defined in Section 6.2 below;
 - 6.1.4** The total number of wood burning devices allowed for any interior space is limited to a cumulative maximum of 7.5 grams per hour of particulate matter emissions for all devices.
 - 6.1.5** Pellet-fueled woodheaters;
 - 6.1.6** Dedicated gas-fired fireplaces.
- 6.2** The APCO shall maintain a current list of approved wood burning devices. The APCO shall update and/or add new wood burning devices to this list upon completion of review and verification of the following information for each device under consideration:
- 6.2.1** A dated letter from an EPA-accredited laboratory which includes:
 - 6.2.1.1** Product model identification;
 - 6.2.1.2** Date(s) of emissions testing and test method used;
 - 6.2.1.3** Explanation of the reason why the product was exempted from EPA certification or is classified as a nonaffected device;
 - 6.2.1.4** Listing of the grams/hour particulate emission rate for the model tested.
 - 6.2.2** Documentation of the quality assurance program used by the manufacturer to ensure that tolerances and materials used in the model line under consideration are the same as those used for the tested device. Listing by a nationally-recognized testing lab shall be deemed adequate to satisfy this requirement.
 - 6.2.3** Documentation of the warranty coverage provided for the product model.
 - 6.2.4** A copy of the owner's manual for the product model.
- 6.3** Devices approved as clean-burn by other air quality agencies may be added to the list of DISTRICT-approved devices at the discretion of the APCO.

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RULE 210 GASOLINE TRANSFER INTO STATIONARY STORAGE CONTAINERS

A person shall not transfer or permit the transfer of gasoline from any delivery vessel (i.e., tank truck or trailer) into any stationary storage container with a capacity of more than two hundred fifty (250) gallons unless ninety percent (90%) by weight of the vapors displaced from such transfer are prevented from being released to the atmosphere.

RULE 211 EXEMPTIONS TO RULE 210

- A. The transfer of gasoline into any stationary storage container used primarily for the fueling of implements of husbandry as such vehicles are defined in Division 16 (Section 36000, et seq.) of the California Vehicle Code.
- B. The transfer of gasoline into any stationary storage container in existence prior to August 7, 1979 when such container is served by a delivery vessel exempted by the air pollution control officer pursuant to Rule 213.
- C. The transfer of gasoline into any stationary storage container in existence prior to August 7, 1979 which is equipped with an offset fill pipe.
- D. The transfer of gasoline into any stationary storage container installed prior to August 7, 1979 for which the total monthly throughput of the facility does not exceed twenty five thousand (25,000) gallons.

RULE 212 GASOLINE STORAGE

No person shall store gasoline in or otherwise use or operate any gasoline vessel unless such vessel is designated and maintained to be vapor tight. Any delivery vessel into which gasoline vapors are required to be transferred shall be filled only at a loading facility that is equipped with a system that prevents at least ninety percent (90%) by weight of the gasoline vapors displaced from entering the atmosphere.

RULE 213 BULK FACILITIES, PETITION FOR ANNUAL EXEMPTION

The owner or operator of any bulk loading facility which was in operation prior to August 7, 1979, may petition the Air Pollution Control Officer to have the facility's delivery vessels and other independently owned gasoline delivery vessels exempted from the provisions of Rule 212 if the facility meets the following provisions:

- A. The annual throughput to stationary storage containers, not exempted from Rule 210, does not exceed five hundred thousand (500,000) gallons.

- B. The facility's delivery vessels must be exclusively serviced at the facility requesting the exemption.
- C. The owner or operator of the facility must petition annually to renew such exemption.
- D. Any person or loading facility granted an exemption pursuant to this rule shall load the delivery vessels through a submerged fill pipe.

RULE 214 VAPOR COLLECTION AND DISPOSAL SYSTEM AT LOADING FACILITIES

A person shall not load gasoline into any tank truck, trailer, or railroad tank car from any loading facility having an annual throughput of five million (5,000,000) gallons or more unless the loading facility is equipped with a vapor collection and disposal system or its equivalent approved by the Air Pollution Control Officer. Loading shall be accomplished in such a manner that all displaced vapor and air will be vented only to the vapor collection system. Measures shall be taken to prevent liquid drainage from the loading device when it is not in use or to accomplish complete drainage before the loading device is disconnected.

The vapor disposal portion of the vapor collection and disposal system shall process all vapors and limit the emission of gasoline vapors to ninety percent (90%) by weight uncontrolled emissions.

RULE 215 STORAGE OF GASOLINE PRODUCTS AT BULK FACILITIES

A person shall not place, store or hold gasoline in any stationary tank, reservoir or other container of more than forty thousand (40,000) gallons capacity unless such tank, reservoir or other container is a pressure tank maintaining working pressures sufficient at all times to prevent gasoline vapor or gas loss to the atmosphere, or is designed and equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:

- A. A floating roof of an approved type. The control equipment provided for in this paragraph shall not be used if the gasoline has a vapor pressure of eleven (11.0) pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place.

- B. A vapor recovery system, of efficiency equivalent to a floating roof meeting the requirements of A above, consisting of a vapor gathering system capable of collecting the gasoline vapors and gases discharged and a vapor disposal system capable of processing such gasoline vapors and gases so as to prevent their emissions to the atmosphere and with all tank gauging and sampling devices gas tight except when gauging or sampling is taking place.
- C. Other equipment of equal efficiency, provided such equipment is submitted to and approved by the air pollution control officer.

RULE 220 DRYCLEANING

A person shall not operate any dry cleaning equipment which uses petroleum based solvent unless:

- A. There is no liquid leaking from any portion of the equipment.
- B. All washer lint traps, button traps, access doors and other parts of the equipment where solvent may be exposed to the atmosphere are kept closed at all times except when required for proper operation or maintenance.
- C. The still residue is stored in sealed containers, and disposed at a Class I disposal site or is disposed of by other procedures approved by the Air Pollution Control Officer.

Any dry cleaning facility constructed or modified after July 1, 1979, shall use only synthetic solvents or be constructed using best available control technology.

RULE 225 SOLVENT STORAGE

Any containers of solvent sold in Butte County which exceed fifty-five (55) gallon capacity shall contain instructions to store in a closed condition.

~~**RULE 230 REDUCED SULFUR EMISSION STANDARDS**~~

- ~~A. It shall be unlawful for any person to cause or permit the emission of air contaminants from any premises which will result in ground-level concentrations of TRS, expressed as hydrogen sulfide, in excess of 0.03 PPM for a period of 60 minutes.~~
- ~~B. The emission of TRS from Kraft pulp mill recovery boilers shall not exceed 17.5 parts per million by volume, calculated as hydrogen sulfide.~~

~~C. The emission of TRS from any other single source, excluding Kraft pulp mill recovery boilers, shall not exceed 0.5 pounds per ton of pulp produced, calculated as elemental sulfur.~~

RULE 231 SULFUR OXIDES EMISSION STANDARD

No person shall discharge into the atmosphere from any single source of emission whatsoever any sulfur oxides in excess of 0.2 percent by volume (2000 PPM) collectively calculated as sulfur dioxide (SO₂).

5/13/93

BUTTE COUNTY APCD

RULE 241 CUTBACK AND EMULSIFIED ASPHALT

A. General

- 1. Purpose - The purpose of this rule is to limit emissions of volatile organic compounds (VOCs) from the use of cutback and emulsified asphalt in paving, construction, or maintenance of parking lots, driveways, streets, and highways.
- 2. Exemption - The provisions of this rule shall not apply to the use of cutback and emulsified asphalt sold in Butte County for shipment and use outside of Butte County.

B. Definitions

For the purposes of this rule, the following definitions shall apply:

Asphalt means a brownish-black cementitious material (solid, semi-solid, or liquid mixture) of which the main constituents are bitumens which occur naturally or are obtained by distillation from coal or petroleum.

Cutback asphalt means paving-grade asphalt liquified with petroleum distillate and as further defined by American Society for Testing and Materials (ASTM) specifications as follows:

- Rapid Cure Type ASTM D2028
- Medium Cure TypeASTM D2027
- Slow Cure TypeASTM D2026

Emulsified asphalt means any asphalt liquified with water containing an emulsifier. The two (2) kinds of emulsions most pertinent are the anionic and cationic types.

C. Requirements

- 1. Cutback Asphalt - A person shall not sell, offer for sale, use or apply for paving, construction or maintenance of parking lots, driveways, streets, or highways any:
 - a. rapid or medium cure cutback asphalt
 - b. slow cure cutback asphalt containing more than 0.5 percent by volume of VOCs which

evaporate at 260⁰ C (500⁰ F) or lower as determined by ASTM Method D402-76.

2. Emulsified Asphalt - A person shall not sell, offer for sale, use or apply for paving, construction or maintenance of parking lots, driveways, streets, or highways any emulsified asphalt material containing more than 3.0 percent by volume of VOCs which evaporate at 260⁰ C (500⁰ F) or lower as determined by ASTM Method D244-91.

D. Recordkeeping

Any person who sells, offers for sale, uses or applies for paving, construction or maintenance of parking lots, driveways, streets or highways any asphalt material subject to this rule shall maintain a current list of all asphalt materials in use and Material Safety Data Sheets (MSDSs) or manufacturer specifications for each asphalt material containing sufficient information to readily determine compliance with Section C of this rule, as applicable. These records shall be kept on site for at least three (3) years and be made available to the District upon request.

RULE 250 CIRCUMVENTION

No person shall build, erect, install or use any article, machine, equipment or other contrivance, the use of which, without resulting in a reduction in the total release of air contaminants to the atmosphere, reduces or conceals an emission which would otherwise constitute a violation of the Health and Safety Code of the State of California or of these Rules and Regulations. This Rule shall not apply to cases in which the only violation involved is of Section 41700 of the Health and Safety Code of the State of California or Rule 201 of these Rules and Regulations.

RULE 260 SEPARATION OF EMISSIONS

If air contaminants from a single source operation are emitted through two or more emission points, the total emitted quantity of any air contaminant limited by these Rules and Regulations shall not exceed the quantity which would be the allowable emission through a single emission point, and the total emitted quantity of any such air contaminant shall be taken as the product of the highest concentration measured in any of the emission points and the combined exhaust gas volume from all emission points, unless the person responsible for the source operation establishes, to the satisfaction of the Air Pollution Control Officer, the correct total emitted quantity.

RULE 261 COMBINATION OF EMISSIONS

- A. If air contaminants from two or more source operations are combined prior to emission and there are adequate and reliable means reasonably susceptible to confirmation and use by the Air Pollution Control Officer for establishing a separation of the components of the combined emission to indicate the nature, extent, quantity and degree of emission arising from each such source operation, then all of the applicable prohibitions contained in these Rules and Regulations shall apply to each such source operation separately.

- B. If air contaminants from two or more source operations are combined prior to emission, and the combined emissions cannot be separated according to the provisions of part A of this section, then all of the applicable prohibitions contained in these Rules and Regulations shall be applied to the combined emission as if it originated in a single source operation.

RULE 270 ORCHARD HEATERS

No new orchard or citrus heater produced or manufactured shall be sold for use against frost damage unless it has been approved by the State Air Resources Board. No person shall use any orchard or citrus heater unless it has been approved by the State Air Resources Board or does not produce more than one gram/minute of unconsumed solid carbonaceous material.

Rule 300 Open Burning Requirements, Prohibitions and Exemptions
(Adopted February 23, 1971; Amended December 12, 1972 and July 15, 1980; Recodified and
Amended August 6, 1985; Amended September 18, 1990 and April 7, 1992; Recodified
and Amended August 20, 1998; Recodified August 22, 2002; Amended January 22, 2004;
Recodified and Amended December 9, 2010; Amended February 24, 2011; Amended August 27, 2015)

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RULE 300

- 1 **PURPOSE:** The purpose of this Rule is to ensure that open burning in the District is conducted in a manner that minimizes emissions and smoke and is managed consistent with State and federal law.
- 2 **APPLICABILITY**
 - 2.1 The provisions of this Rule shall apply to any person or land manager conducting, allowing, or using any open burning within the District, and to any person in possession of property or who exercises possessor rights on the property on which burning is performed.
 - 2.2 The provisions of this Rule shall apply to any open burning including, but not limited to:
 - 2.2.1 Agricultural burning;
 - 2.2.2 Non-agricultural burning such as land use conversion for non-agricultural purposes; or
 - 2.2.3 Residential burning.
- 3 **EFFECTIVE DATE:** The provisions of this Rule shall be effective March 1, 2011.
- 4 **EXEMPTIONS:** Nothing in this Rule shall be construed to prohibit:
 - 4.1 **Agricultural Burning:** Burning for the disposal of agricultural waste authorized pursuant to Section 9 of this Rule "Agricultural Burning".
 - 4.2 **Animal Husbandry Branding:** Fires used in heating branding irons as necessary in animal husbandry practices provided that the fire does not contain prohibited materials.
 - 4.3 **Backfires:** Burning operations conducted following Section 4426 of the Public Resources Code (PRC) as necessary to save life or valuable property.
 - 4.4 **Disposal of Contraband:** Such fire must be set and tended by official law enforcement personnel and must have been deemed not disposable by any other means by such officials. Prior to such burns, the Butte County Air Quality Management District (DISTRICT) shall be informed of the place, date and time of the burn, and type and quantity of contraband to be disposed.
 - 4.5 **Disposal of an Unserviceable American Flag:** Any disposal of an unserviceable American Flag that is no longer fit for display must be conducted in a respectful and dignified manner in accordance with California Health and Safety Code (HSC) Section (§) 41806(c).
 - 4.6 **Filmmaking:** Fires set as part of a commercial film or video production activity for motion pictures or television provided that the fire is set or

allowed by the public fire official having jurisdiction, in the performance of official duty, and the fire is authorized in writing by the APCO.

- 4.7 **Fire Hazard Reduction:** Burning may be conducted at multi-unit dwellings, by commercial entities, and on residential lots equal to or greater than one (1) acre when done for the purpose of compliance with local fire hazard reduction ordinances.
- 4.8 **Fires Set by Public Officers:** Burning operations conducted by or permitted by any public officer authorized pursuant to Section 10.3 of this Rule.
- 4.9 **Industrial Site Fire Training:** Burning operations on property used for industrial purposes for the instruction of employees in methods of fire fighting.
- 4.10 **Non-Agricultural Burning:** Open burning set pursuant to Section 10 of this Rule including, but not limited to, fires set by a public officer or public entity, land clearing for commercial or residential property development, and fire hazard reduction burning.
- 4.11 **Pesticide Application:** Open burning for the purpose of creating a smoke column during herbicide and/or pesticide applications as required by Title III of the California Code of Regulations (CCR), Section 6464(a), provided that all DISTRICT requirements are met. HSC §41701 shall not apply to smoke generated for this purpose.
- 4.12 **Recreational Fires:** Open outdoor fires used for cooking food for human consumption or for recreational purposes providing the fire does not contain prohibited materials.
- 4.13 **Residential Burning:** Burning for the disposal of vegetative waste authorized pursuant to Section 11 of this Rule.
- 4.14 **Right-of-Way Clearing:** Burning by a public entity or utility for right-of-way clearing or other property access, or for levee, reservoir, ditch, or drainage maintenance authorized pursuant to Section 10.7 of this Rule.

5 DEFINITIONS

- 5.1 **Agricultural Burning:** Open outdoor fires used in any of the following:
 - 5.1.1 Agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or for disease or pest prevention;
 - 5.1.2 The operation or maintenance of a system for the delivery of water for the purposes specified in Section 5.1.1 above; and
 - 5.1.3 Wildland vegetative management burning or forest management

burning, including silvaculture and timber operations, or prescribed burning.

- 5.2 Agricultural Waste(s):** Unwanted or unsalable materials produced wholly from agricultural operations and materials not produced from agricultural operations but which are intimately related to the growing or harvesting of crops. Agricultural waste includes: Grass and weeds growing in or on fence rows, ditch banks, levees, in or adjacent to fields in cultivation or being prepared for cultivation; vegetation removed for range improvement, for wildlife, game, or livestock habitat, forest management debris, or for the initial establishment of an agricultural operation on previously uncultivated land; fertilizer and pesticide sacks that are burned where the sacks are emptied on that field; material produced from the operation or maintenance of waterways used in agricultural operations. Agricultural waste does not include agricultural commodities such as baled rice straw or hay, either intact or spread after baling, hulls or shells removed through processing, or agricultural waste removed from the property where grown.
- 5.3 Air Pollution Control Officer (APCO):** The person appointed by the DISTRICT Board pursuant to HSC §40750 to serve as the APCO of the DISTRICT.
- 5.4 Approved Ignition Devices:** Instruments or materials that will ignite open fires without the production of black smoke as approved by the APCO. This would include such items as liquid petroleum gas, butane, or diesel oil burners, flares, or other similar materials. This does not include waste products or fuels, tires, tar, tar paper, oil and other similar materials.
- 5.5 Backfire:** A fire started in the path of an oncoming fire in order to deprive it of fuel and thereby control or extinguish it.
- 5.6 Brush Treated:** Material to be burned that has been felled, crushed or uprooted with mechanical equipment, has been desiccated with herbicides, or is dead.
- 5.7 Burn Barrel:** A container used to hold combustible or flammable waste materials so that they can be ignited outdoors for the purpose of disposal.
- 5.8 Burn Information Recorder:** The DISTRICT burn information recording, reached by calling a toll-free or local telephone number, which provides information regarding the burn day status (burn or no-burn) and other pertinent information.
- 5.9 Burn Permit or Air Quality Burn Permit:** A permit issued by the APCO of the DISTRICT that identifies the type(s) and quantity of materials to be burned at each location where burning is authorized and specifies conditions to be followed for the purpose of improving the combustibility of such waste

in order to reduce its smoke level.

- 5.10 Burn Season Month:** The months of January through June where residential burning is only authorized in the Magalia/Upper Ridge Area for a specific geographic location.
- 5.11 California Air Resources Board (CARB):** An organization which is part of the California Environmental Protection Agency (EPA) and oversees the activities of 35 local and regional air pollution control districts and reports directly to the Governor's Office in the Executive Branch of California State Government.
- 5.12 Chico Sphere of Influence:** The geographical area within Butte County as defined by the Butte Local Agency Formation Commission which encompasses the City of Chico and immediately adjacent areas.
- 5.13 Class I Area:** A mandatory visibility protection area designated pursuant to section 169A of the federal Clean Air Act.
- 5.14 Contraband:** Goods whose importation or exportation or possession is prohibited by law.
- 5.15 Crackle Test:** A procedure to test rice straw moisture by preparing a representative, composite sample of straw from under the mat and in the center of the mat from various parts of the field. If a handful of the composite sample crackles when bent sharply, the straw is deemed dry enough to burn.
- 5.16 Daily Acreage Allocation:** The maximum number of acres of agricultural waste, in rice equivalent acres, that may be burned per day in the Butte County Air Quality Management District as determined by the Smoke Management Program Coordinator (SMPC) by using the daily basinwide acreage allocation equation contained in the approved Agricultural Burning Plan per Title 17 CCR. Agricultural burning conducted above 2,000 feet is not included in the Daily Acreage Allocation.
- 5.17 Disposal:** Destruction or transformation of garbage or rubbish.
- 5.18 DISTRICT:** The Butte County Air Quality Management District having jurisdiction over Butte County.
- 5.19 Fire Agency Burn Permit:** A burn permit issued by a fire protection agency which includes conditions to be followed to protect people, property and the environment from fires, and for the prevention of high-intensity fires through reduction of the volume and continuity of fuels, or for disposal of vegetative waste.
- 5.20 Fire Hazard Reduction Burning:** Open burning conducted at multi-unit

dwelling, by commercial entities, and on residential lots equal to or greater than one (1) acre when done for the purpose of compliance with local fire hazard reduction ordinances.

- 5.21 Fire Protection Agency:** Any agency with the responsibility and authority to protect people, property, and the environment from fire, and having jurisdiction within a district or region.
- 5.22 Forest Management Burning:** The use of open fires to remove forest debris as part of a forest management practice. Forest management practices include timber operations, silvicultural practices and forest production practices.
- 5.23 Garbage:** Discarded or useless material except vegetative wastes and agricultural wastes.
- 5.24 Incinerator:** Any device constructed of nonflammable materials, including containers commonly known as burn barrels, used for the purpose of burning therein trash, debris, and other flammable materials for volume reduction or destruction.
- 5.25 Land Clearing:** The removal of vegetation from any site, parcel or lot for purposes of real estate development.
- 5.26 Land Manager:** Any federal, State, local, or private entity or person that administers, directs, oversees, or controls the use of public or private land, including the application of fire to the land.
- 5.27 Magalia/Upper Ridge Area:** That portion of Butte County which is located within the Town of Paradise Sphere and is north of the Town of Paradise limits.
- 5.28 National Emissions Standards for Hazardous Air Pollutants (NESHAPs):** The emissions standards set by the federal government for an air pollutant that may cause an increase in fatalities or in serious, irreversible, or incapacitating illness.
- 5.29 No-Burn Day:** Any day, or portion thereof, designated by the APCO, CARB, or a local, State or federal fire protection agency having jurisdiction over the burn location, during which no fires may be ignited and no material may be added to an approved existing fire except as authorized in Section 9 of this Rule.
- 5.30 Non-Agricultural Burning:** As regulated under HSC §41800, et. seq., all open burning set pursuant to Section 10 of this Rule including, but not limited to, fires set by a public officer or public entity, land clearing for commercial or residential property development, and fire hazard reduction burning.

- 5.31 Open Burning, Open Outdoor Fire(s) or Open Fire(s):** Combustion of any material of any type, outdoors in the open air, where the products of combustion are not directed through a flue, stack or chimney.
- 5.32 Paper Containers of Agricultural Chemicals:** Sacks or other receptacles that are predominately of paper and manufactured to contain pesticides, fertilizer, or toxic chemicals, and emptied and used in the field for purposes intimately associated with the growing and harvesting of crops.
- 5.33 Permissive Burn Day or Burn Day:** Any day, or portion thereof, on which allowable burning is not prohibited by the DISTRICT, CARB or any local, State or federal fire protection agency having jurisdiction over the proposed burn location and is authorized by the DISTRICT in accordance with the Smoke Management Program for Agricultural and Prescribed Burning, as set forth in Title 17 CCR.
- 5.34 Person:** Any person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, State or local government agency, public district, or any officer or employee thereof, and the United States or its agencies, to the extent authorized by federal law.
- 5.35 Prescribed Burning:** The planned application and confinement of fire to wildland fuels on lands selected in advance of that application to achieve any of the objectives listed in HSC §39011. The planned application of fire may also include natural or accidental ignition.
- 5.36 Prescribed Fire Incident Reporting System (PFIRS):** The CARB web-based database which allows Districts and land managers the opportunity to submit Smoke Management Plans electronically and identify and schedule the burning activities planned in a geographical area in order to reduce smoke impacts to the public.
- 5.37 Prohibited Materials:** Any waste or manufactured material, including but not limited to: petroleum products and petroleum wastes; construction and demolition wastes; tar paper; roofing material; wiring; flooring material; insulation; plywood; coated wire; disposable diapers and putrescible wastes; tires; tar; non-natural wood waste; processed, painted or treated wood products; metals; motor vehicle bodies or parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; styrofoam; garbage; trash; refuse; rubbish; swill; ashes; glass; industrial wastes; equipment; appliances; furniture; instruments; utensils; mattresses; shoes; cloth; rags; paper and paper products; cardboard; boxes; crates; excelsior and other packaging materials; offal, including the carcass of any dead animal; human or animal parts or wastes, including blood and fecal matter; food contaminated material; or any other non-vegetative material that when burned may discharge air contaminants that may cause a health risk to any person.

- 5.38 Prunings-Only Burn Day:** In accordance with the Sacramento Valley Smoke Management Program, any day, or portion thereof, designated by CARB or the DISTRICT as a day, or portion thereof, during which small fires for the purpose of disposing orchard prunings may be ignited.
- 5.39 Range Improvement Burning:** The use of open fires to remove vegetation for wildlife, game, or livestock habitat, or for the initial establishment of an agricultural practice on previously uncultivated land.
- 5.40 Residential Burning:** An open outdoor fire for the disposal of natural vegetation from a single- or two-family dwelling on lots less than one (1) acre. Residential burning conducted on lots less than one (1) acre in size is not considered to be fire hazard reduction burning.
- 5.41 Residential Burn Day:** Any day which has been determined by the DISTRICT to be a Permissive Burn Day for residential burning.
- 5.42 Rice Equivalent Acres:** The quantity of particulate matter generated from the open burning of one (1) acre of rice straw after harvest, quantified as 6.3 pounds of PM10 (particulate matter which is measured at ten (10) microns in size) per ton of rice straw burned, with a fuel load of three (3) tons per acre.
- 5.43 Rubbish:** Useless waste or rejected matter; garbage.
- 5.44 Sacramento Valley Air Basin:** The geographical area including the following counties: Butte; Colusa; Glenn; Placer; Sacramento; Shasta; Tehama; Yolo Solano; and Yuba and Sutter (collectively "Feather River").
- 5.45 Sacramento Valley Air Basin Smoke Management Program:** The program which describes the policies and procedures used with hourly and daily measurements of air quality and meteorology to determine how much biomass burning can be allowed in the Sacramento Valley Air Basin, developed and approved pursuant to Title 17, CCR, Section 80140 et seq.
- 5.46 Silviculture or Timber Practices:** The establishment, development, care and reproduction of stands of timber.
- 5.47 Smoke Impact Liability:** Any person or land manager conducting, allowing, or using any open burning shall be held legally responsible for any injury, detriment, nuisance, or annoyance to a considerable number of persons or the public from the smoke generated by the open burning, including, but not limited to, a public nuisance as defined in HSC §41700.
- 5.48 Smoke Management Plan:** An operational plan for managing a specific fire to achieve resource benefits and specific management objectives. The document shall be prepared for each fire by land managers to provide information and procedures required by the DISTRICT, in accordance with

the Sacramento Valley Air Basin Smoke Management Program, to minimize smoke impacts of the proposed burn project.

- 5.49 Smoke Management Program Coordinator (SMPC):** The Sacramento Valley Air Basin Smoke Management Program Coordinator who centralizes and computerizes burn data storage and communications. Daily, during the fall burn season, the SMPC collects and transmits information to the local air districts and CARB.
- 5.50 Smoke Sensitive Area:** Populated areas and other areas where the DISTRICT determines that smoke and air pollutants can adversely affect public health or welfare. Such areas can include, but are not limited to, towns and villages, campgrounds, trails, populated recreational areas, hospitals, nursing homes, schools, roads, airports, public events, shopping centers, and mandatory Class I areas.
- 5.51 State Responsibility Areas (SRAs):** Areas of the state in which the financial responsibility of preventing and suppressing fires has been determined by the State Board of Forestry and Fire Protection to be primarily the responsibility of the State.
- 5.52 Town of Paradise Sphere:** The geographical area within Butte County as defined by the Butte Local Agency Formation Commission which encompasses the Town of Paradise and adjacent areas, including the Magalia/Upper Ridge Area.
- 5.53 Wildland:** Any area where development is generally limited to roads, power lines, and widely scattered structures. Such land is not cultivated (i.e., the soil is disturbed less frequently than once in ten (10) years), is not fallow, and is not in the United States Department of Agriculture Conservation Reserve Program. The land may be neglected altogether or managed for such purposes as wood or forage production, wildlife, recreation, wetlands, or protective plant cover.
- 5.53.1** For SRAs only, "Wildland" as specified in PRC Section 4464(f) means any land that is classified as an SRA pursuant to Article 3 (commencing with PRC Section 4125) of Chapter 1, Part 2 of Division 4 and includes any such land having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage; and,
- 5.53.2** "Wildland" also means any lands that are contiguous to lands classified as an SRA if wildland fuel accumulation is such that a wildland fire occurring on these lands would pose a threat to the adjacent SRA.
- 5.54 Wildland Vegetation Management Burning:** The use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency, to burn land predominantly covered with

chaparral, trees, grass, or standing brush as defined in Title 14, California Administrative Code, Section 1561.1.

6 GENERAL PROHIBITIONS

- 6.1 Except as provided in this Rule, no person or land manager shall conduct, allow, or use open fires for the purpose of disposal of any waste or other material.
- 6.2 All open fires shall be free of prohibited materials.
- 6.3 All vegetative material to be burned must be burned on the property where the material was grown. Material shall not be transported to another location to be burned.
- 6.4 A burn permit shall not be valid on a No-Burn Day. No person shall knowingly set or permit burning on a No-Burn Day except as provided in Sections 9.8 and 9.9 of this Rule. A person shall be deemed to have permitted burning if they allow the setting or use of a fire for disposal under their control, on land under their control, or by employees or other persons under their control.
- 6.5 It is unlawful to burn rubbish or garbage at dumps, landfills, or refuse disposal areas, or at any solid waste dump, whether public or private, or to burn garbage anywhere else in the County of Butte.
- 6.6 Open fires in orchards or citrus groves for the purposes of frost protection are prohibited.

7 BURN PERMIT REQUIREMENTS

- 7.1 **General Requirements:** Except as provided in Section 7.4 below, a person shall obtain a valid burn permit issued by the APCO and follow the conditions specified on the permit to ensure adherence to this Rule prior to:
 - 7.1.1 Igniting any open fire;
 - 7.1.2 Conducting, performing or participating in any open burning activity; or,
 - 7.1.3 Allowing open burning on any property under the person's possession.
- 7.2 **Required Information:** Each permit applicant shall provide such information as is required by the DISTRICT and/or the designated fire protection agency for fire protection purposes.
- 7.3 **Fees:** Fees for permitting shall be assessed in accordance with DISTRICT Regulation V-*Fees*.

- 7.4 Exemptions to Burn Permit Requirements:** The following are exempt from a DISTRICT burn permit (although other permitting requirements from fire protection agencies may be required):
- 7.4.1** Open outdoor fires used for cooking food for human consumption or for recreational purposes;
 - 7.4.2** Open burning of vegetation at one- or two-family residences on lots less than one (1) acre in size, provided that DISTRICT requirements and the requirements of fire protection agencies are both met;
 - 7.4.3** Open burning for the disposal of an unserviceable American Flag that is no longer fit for display in accordance with HSC §41806(c).
 - 7.4.4** Liquid Petroleum Gas and Natural Gas-Fired Burners designed and used to kill seedling grass and weeds in orchards and field crops, where the growth is such that combustion will not continue without the use of the burner;
 - 7.4.5** Fires Set by public officers, as allowed in Sections 10.3 and 10.4 of this Rule.
 - 7.4.6** Open burning for Fire Hazard Reduction, when conducted in accordance with a local fire agency permit, when required.
- 8 GENERAL BURN REQUIREMENTS, CONDITIONS AND PRACTICES**
- 8.1 Designated Burn Period:** Only that amount of waste which can reasonably be expected to completely burn within the designated burn hours shall be ignited on any one (1) day, except:
- 8.1.1** Dry trees, uprooted stumps, and branches greater than six (6) inches in diameter may be ignited even though they cannot reasonably be expected to completely burn within the burn hours; and,
 - 8.1.2** Vegetation greater than six (6) inches in diameter that continues to burn beyond the designated burn hours does not relieve the permittee from smoke impact liability.
- 8.2 Drying Time Requirement:** The elapsed time between cutting, felling or uprooting and ignition or burning shall be:
- 8.2.1** A minimum of thirty (30) days for trees, stumps and branches greater than six (6) inches in diameter;
 - 8.2.2** A minimum of fifteen (15) days for vines, bushes or branches less than or equal to six (6) inches in diameter.
 - 8.2.3** The drying time requirements stated in Sections 8.2.1 and 8.2.2 above do not apply to the following:
 - 8.2.3.1** Open burning of Manzanita or Scotch Broom; and,
 - 8.2.3.2** Open burning for control of pests as authorized by the Butte County Agricultural Commissioner.
- 8.3 Fire Control:** All fires shall be reasonably controlled and contained so that the fire does not escape.
- 8.4 Fire Protection Agencies:** Local fire-protection agencies may have

additional burning requirements for fire safety. At all times the local fire protection agency having jurisdiction over the respective burn site must provide authorization for burning. Nothing in these regulations shall be construed as limiting the power of the fire protection agencies from requiring or enforcing stricter standards.

- 8.5 Fire Suppression:** Any open burning that is in violation of this Rule may be subject to being extinguished by any fire control agency when so requested by the APCO. The cost of fire suppression may be charged to the person, persons, business, firm, or corporation responsible for the fire. This provision is in addition to any other penalties that are authorized by HSC §42400 through §42404 and the provisions of this Rule.
- 8.6 Ignition Devices:** All open fires shall be ignited with an approved ignition device.
- 8.7 Required Conduct:** No person shall ignite any open fire, conduct, perform or participate in any open burning activity, nor shall allow the open burning activity on any property under the person or land manager's control that is in violation of any State law, Statute, or DISTRICT Rule or Regulation.
- 8.8 Restriction Of Burning During Poor Air Quality Conditions:** The APCO may restrict burning on burn days if such burning could cause or contribute to extreme adverse air quality conditions. No burning shall be conducted if meteorological conditions would cause an undue amount of emissions to be transported into populated or sensitive receptor areas. No burning shall be conducted when such burns, in conjunction with present or predicted meteorology, could cause or contribute to a violation of an Ambient Air Quality Standard. In no event shall a public nuisance be permitted to exist by the APCO or by the permittee.
- 8.9 Smoke Minimization:** All vegetative wastes to be burned shall be reasonably free of dirt, soil, visible surface moisture, and moisture content in order to minimize smoke production. Vegetation shall be arranged so that it will ignite as rapidly as practicable within applicable fire control restrictions and burn with a minimum amount of smoke.
- 8.10 Strict Liability:** Any person in possession of property or who exercises possessor rights on the property on which any open burning is performed in violation of this Rule is strictly liable for any violation of this Rule. A contractor or agent acting on behalf of the person in possession of the property is also strictly liable for any violation. In addition, a parent or legal guardian of any minor violating this Rule shall be strictly liable for the minor's conduct and violation(s).
- 8.11 Suspension of Burning Privilege:** The APCO may suspend all burn privileges for any person or location for any violation of this Rule. Burning

privileges may be reinstated after resolution of the violation(s) with the DISTRICT.

- 8.12 Wind Direction:** Burning shall not be ignited when the wind direction is such that smoke from the burning of such waste would be blown or carried into a nearby populated area and could create a public nuisance.

9 AGRICULTURAL BURNING

- 9.1 General Conditions:** Unless specifically exempted in Section 7.4 of this Rule, agricultural burning shall be subject to permitting requirements and are also subject to the General Burn Requirements, Conditions, and Practices described in Section 8 of this Rule.
- 9.2 Burn Hours:** A person shall not commence any open burning before or after the burn hours, as follows:
- 9.2.1** For orchard prunings, brush and land clearing waste, burn hours are between 8:45 a.m. and one (1) hour before sunset;
 - 9.2.2** Between March 1 and August 31, for all field crops, including rice, ditchbanks, weeds, and levees, burn hours are between 10:00 a.m. and 5:00 p.m.;
 - 9.2.3** Between September 1 and February 28, for all field crops, including rice, ditchbanks, weeds, and levees burn hours are between 10:00 a.m. and 3:00 p.m. All fires shall be completely out by 4:00 p.m.; and,
 - 9.2.4** CARB may restrict or relax the burn hours due to air quality factors. Any restriction or relaxation of burn hours shall only be enforceable on the day that the burn restrictions or relaxations are in effect.
- 9.3 Daily Acreage Allocation:** No person shall cause an exceedance of the DISTRICT daily acreage allocation.
- 9.4 Field Crop Burn Limitation:** No field crop acreage which was harvested prior to September 10 shall be burned during the period of October 1 through November 15 of each year unless written authority is given by the APCO.
- 9.5 Notice of Intent to Ignite:** Prior to ignition of waste pursuant to a permit issued in accordance with this Rule, the permittee shall give notice of intent to ignite:
- 9.5.1** The permittee must contact the DISTRICT and receive verbal authorization prior to burning any of the following:
 - 9.5.1.1** Rice and other field crops;
 - 9.5.1.2** Weeds and ditch banks;
 - 9.5.1.3** Orchard removal;
 - 9.5.1.4** Stumps;
 - 9.5.1.5** Wildland vegetation management;
 - 9.5.1.6** Forest management;

- 9.5.1.7 Range improvement;
 - 9.5.1.8 Flood debris, pursuant to Section 9.7 below; or,
 - 9.5.1.9 When restriction of burning during poor air quality conditions are in effect, pursuant to Section 8.8 of this Rule.
 - 9.5.2 For burning brush or orchard waste, or for land clearing of less than five (5) acres, the permittee must call the agricultural burn information recorder and provide the following information:
 - 9.5.2.1 Burn permit number;
 - 9.5.2.2 Type of Crop;
 - 9.5.2.3 Acreage to be burned; and,
 - 9.5.2.4 Location of the burn.
- 9.6 **Paper Containers of Agricultural Chemicals:** The open burning of paper containers of agricultural chemicals must be conducted in accordance with EPA's Department of Pesticide Regulations Guidelines for Emptying and Burning of Pesticide Bags, Chapter 13, General Policy Guidelines, Bag Disposal. Burning shall be conducted at the site of application under the conditions of a burn permit issued to the grower or applicator, in accordance with proper disposal guidelines specified on the packaging and downwind from any person or susceptible crops. In addition, only one (1) day's accumulation of empty bags can be burned in any one (1) day. Only paper bags, inner bags, and paper outer containers may be burned. A commercial applicator, either ground or aerial, can burn properly emptied pesticide sacks where the bags are opened and emptied at the application site and under the agricultural burn permit issued to the grower or applicator.
- 9.7 **Flood Debris:** Agricultural fires set for the purpose of removing wood and vegetation debris deposited by floodwaters on agricultural lands may be authorized by the APCO provided that the person setting the fire maintains an active burn permit with the DISTRICT and provided that the person conducting the burn provides notice of intent to ignite prior to ignition of the waste. The fire must be set or allowed by the fire agency having jurisdiction and must be necessary for the continuing or maintaining of an agriculture operation as a gainful occupation.
- 9.8 **Permit to Burn on a No-Burn Day:** The APCO may authorize agricultural burning by special permit on days designated by CARB as No-Burn Days when denial of such permit would threaten imminent and substantial economic loss or would cause a public health hazard. The granting of such a special permit does not exempt the applicant from any other DISTRICT or fire control regulation. The applicant shall submit to the APCO in writing on a DISTRICT-provided form, the reason(s) why denial of the permit would cause imminent and substantial economic loss or a public health hazard. The daily acreage burned under this Rule shall conform with the Sacramento Valley Air Basin Guidelines and may be issued only when downwind metropolitan areas are forecasted to achieve ambient air quality standards.

- 9.9 Range Improvement Burning on a No-Burn Day:** The APCO may designate a period or a portion of such period from January 1st through May 31st each year, during which time range improvement burning may be conducted by permit on a No-Burn Day, provided that more than fifty (50) percent of the land has been brush treated. If the burn is performed primarily for the improvement of land for wildlife or game habitat, the Department of Fish and Game may specify the amount of brush treatment required.

CARB may prohibit range improvement burning under this Rule if such prohibition is required in order to prevent a violation of an Ambient Air Quality Standard.

- 9.10 Acreage Limitation on No-Burn Days:** The APCO shall limit the amount of acreage that can be burned with a special permit to burn on a No-Burn Day to 200 acres per day in rice acreage equivalents.

- 9.11 Rice Straw Burning:** In addition to the general agricultural burning requirements of this Rule, rice straw burning shall be performed in compliance with HSC §41865, the Sacramento Valley Smoke Management Program, and all of the following:

9.11.1 All rice harvesters shall employ a mechanical straw spreader to ensure even distribution of the straw. Rice straw may be left in rows provided that the straw meets the following drying time criteria. Drying times begin only after the entire field has been harvested.

9.11.1.1 Rice straw may be burned prior to the drying period specified if the straw passes the crackle test as described in Section 5.15 of this Rule, prior to burning;

9.11.1.2 For spread rice straw - three (3) day drying time;

9.11.1.3 For rowed rice straw - ten (10) day drying time;

9.11.1.4 For rice straw harvested with the "stripper header" - three (3) days after the first frost found on the field; or three (3) days after mowing and spreading or chopping straw; and

9.11.1.5 After a rain exceeding 0.15 inch (fifteen hundredths of an inch), rice straw shall not be burned unless the straw passes the crackle test.

9.11.2 When testing the straw for moisture using the crackle test, the person responsible for the fire shall test a composite sample in accordance with the Sacramento Valley Air Basin Smoke Management Program;

9.11.3 Rice stubble is to be ignited only by strip firing into the wind or by backfiring except where and when extreme fire hazards are declared to exist by the appropriate fire control agency.

9.11.3.1 The APCO may authorize other lighting techniques if safety reasons exist or if the crop does not lend itself to the approved techniques.

9.12 Wildland Vegetation Management Burning:

9.12.1 A Smoke Management Plan shall be required for any proposed range improvement burn, forest management burn, or wildland vegetation management burn, regardless of size, which:

9.12.1.1 Will occur below a mean sea level (MSL) elevation of 1000 feet;

9.12.1.2 Encompasses a land area greater than ten (10) acres; or,

9.12.1.3 Is estimated to produce more than one (1) ton of particulate matter and which occurs at or above an MSL elevation of 1000 feet.

9.12.2 A Smoke Management Plan shall be submitted to the DISTRICT for review and approval at least 14 days prior to ignition and shall include the following information:

9.12.2.1 Amounts of material to be covered by the Smoke Management Plan;

9.12.2.2 Location and specific objectives of the burn project;

9.12.2.3 Type and condition of fuel and arrangement of the vegetation to be burned;

9.12.2.4 Direction and distances to populated or smoke sensitive areas;

9.12.2.5 Expected duration of the fire from ignition to extinction; and,

9.12.2.6 Identification of responsible personnel, including telephone contacts.

9.12.3 Projects which encompass a land area greater than 100 acres, are estimated to produce more than ten (10) tons of particulate matter, and/or will be conducted near smoke sensitive areas shall submit a Smoke Management Plan which includes information required in Section 9.12.2 above and shall also include the following additional information:

9.12.3.1 Meteorological prescription necessary for burning (i.e. temperature, humidity, wind speed, and wind direction);

9.12.3.2 Fuel prescription necessary for burning;

9.12.3.3 Smoke management criteria that the permittee or their designee will employ to make burn ignition decisions;

9.12.3.4 Map projection showing expected direction of smoke travel throughout the smoke dispersion period;

9.12.3.5 Specific contingency actions, including, but not limited to, fire suppression or containment techniques that will be used if smoke impacts occur or if metrological conditions deviate from those specified in the Smoke Management Plan;

9.12.3.6 Alternatives to burning shall be evaluated. When the analysis has been prepared pursuant to the National Environmental Policy Act or the California Environmental Quality Act, as applicable, the analysis

- shall be attached to the Smoke Management Plan;
- 9.12.3.7** Procedures for notifying the public and other agencies of the burn (i.e. fire agencies, local fire safe councils, neighboring air districts) shall be specified;
- 9.12.3.8** Appropriate signs shall be posted at burn sites; and,
- 9.12.3.9** Procedures for reporting public smoke complaints shall be specified.
- 9.12.4** Projects which encompass a land area greater than 250 acres or that continue to burn or produce smoke overnight (multi-day burns), or will be conducted near smoke sensitive areas shall submit a Smoke Management Plan that includes information required in Sections 9.12.2 and 9.12.3 of this Rule and also shall include the following additional requirements:
- 9.12.4.1** Specific monitoring procedures for the project which use visual monitoring or ambient particulate matter monitoring as approved by the DISTRICT;
- 9.12.4.2** Daily coordination between the permittee or their designee and the DISTRICT or CARB to assure prescription parameters set forth in the Smoke Management Plan are being met; and,
- 9.12.4.3** Submission of a post-burn smoke management evaluation to the DISTRICT.
- 9.12.5** **Natural Ignition:** When natural ignition occurs on a No-Burn Day, the decision to "go/no-go" for resource benefit shall be determined through consultation between the land manager or their designee and the DISTRICT to determine if the burn will satisfy smoke management requirements. The land manager or their designee shall submit a Smoke Management Plan consistent with this Rule within 72 hours of natural ignition.
- 9.12.6** **Acreage Limitation:** No more than 6,000 acres of wildland vegetation shall be ignited on any one (1) day within Butte County.
- 9.12.7** **Certificate From The CA Department of Fish and Game:** No range improvement burning shall be conducted for the improvement of land for wildlife or game habitat until the person desiring to conduct such burning obtains from the CA Department of Fish and Game a written statement certifying that the burning is desirable and proper for the improvement of land for wildlife or game habitat and such statement is filed with the APCO. As for burning conducted by the CA Department of Fish and Game, the department shall, on its own behalf, issue and file such statements.

10 NON-AGRICULTURAL BURNING

- 10.1** **General Conditions:** Unless specifically exempted in Section 7.4 of this Rule, non-agricultural burning shall be subject to Burn Permit Requirements and are also subject to the General Burn Requirements, Conditions, and Practices described in Section 8 of this Rule.

- 10.2 Burn Hours:** Non-Agricultural burn hours are between 8:45 a.m. and one hour before sunset. No material shall be added to the fire after 3:00 p.m.
- 10.2.1** Alternate burn hours may be set for SRAs under the jurisdiction of the California Department of Forestry and Fire Protection, the U.S. Forest Service or local municipality;
- 10.2.2** When a fire agency burn permit is required, persons conducting burning shall comply with the burn hours established by the fire protection agency having jurisdiction over the burn site; and,
- 10.2.3** All persons conducting burning shall contact the local fire protection agency for seasonal and specific burn hour requirements prior to burning.
- 10.3 Fires Set By Public Officers:** Under HSC §41801, any public officer is authorized to set or permit a fire when such fire is, in his or her opinion, necessary for any of the following purposes:
- 10.3.1** The prevention of a fire hazard which cannot be abated by other means;
- 10.3.2** The instruction of public employees in the methods of fighting fire;
- 10.3.2.1** Burning of any structure shall be conducted in accordance with NESHAPs requirements and CARB guidelines. The structure to be burned shall be certified free of asbestos. Laboratory results of the asbestos testing shall be submitted to the APCO at least ten (10) days before burning; and,
- 10.3.2.2** The public officer shall notify the DISTRICT 48 hours before any burn conducted for the purposes of training.
- 10.3.3** The setting of backfires necessary to save life or valuable property pursuant to Section 4426 PRC;
- 10.3.4** The abatement of fire hazards pursuant to HSC §13055;
- 10.3.5** Disease or pest prevention, where there is an immediate need for and no reasonable alternative to burning as determined by the Public Health Officer or the Butte County Agricultural Commissioner and authorized by the APCO in writing;
- 10.3.6** The remediation of an oil spill pursuant to Section 8670.7 of the Government Code; and,
- 10.3.7** Disposal of Russian thistle (*Salsola kali*) when authorized by a chief of a fire department or fire protection agency of a city, county, or fire protection district, the Director of Forestry and Fire Protection or duly authorized representative, the Butte County Agricultural Commissioner, or the APCO.
- 10.4 Disposal of Contraband:** Open outdoor fires may be used to dispose of contraband as required by official law enforcement personnel and as approved by the APCO. Prior to such burns, the DISTRICT shall be informed of the place, date and time of the burn, the type and quantity of contraband to be disposed, and the method of disposal.

- 10.5 Industrial Site Fire Training:** Open burning may be conducted for industrial site employee instruction in fire fighting methods and are subject to the following conditions:
- 10.5.1** Burning of any structure shall be conducted in accordance with NESHAPs requirements and CARB guidelines. The structure to be burned shall be certified as free of asbestos. Laboratory results of the asbestos testing shall be submitted to the APCO at least ten (10) days before burning.
 - 10.5.2** The responsible party shall notify the DISTRICT not less than 48 hours before the commencement of any burn conducted for the purposes of training.
- 10.6 Land Clearing:** Open burning of natural vegetation on land being developed for real estate development purposes may be conducted pursuant to HSC §41802 through §41805 and are subject to the following conditions:
- 10.6.1** Prior to ignition of waste pursuant to a permit issued in accordance with this Rule, the permittee shall give notice of intent to ignite by contacting the DISTRICT and must receive verbal authorization prior to burn;
 - 10.6.2** Before DISTRICT authorization shall be granted for the burning of wood waste from trees, vines, or bushes on property encompassing five (5) or more acres which is being developed for commercial or residential purposes, a DISTRICT inspection is required; and,
 - 10.6.3** The local fire protection agency having jurisdiction over the respective burn site must also provide authorization for burning.
- 10.7 Right of Way, Levee, Reservoir, and Ditch Clearing:** Right of Way, Levee, Reservoir, and Ditch Clearing may be conducted by a public entity or utility pursuant to HSC §41807 and are subject to the following conditions:
- 10.7.1** Material growing in or on ditches, ditch banks and drainage areas may be burned in place without being cut, uprooted, or treated;
 - 10.7.2** Prior to ignition of waste pursuant to a permit issued in accordance with this Rule, the permittee shall give notice of intent to ignite by contacting the DISTRICT and must receive verbal authorization prior to burn; and,
 - 10.7.3** The local fire protection agency having jurisdiction over the respective burn site must also provide authorization for burning.
- 10.8 Fire Hazard Reduction:** Burning may be conducted at multi-unit dwellings, by commercial entities, and on residential lots equal to or greater than one (1) acre when done for the purpose of compliance with local fire hazard reduction ordinances.

11 RESIDENTIAL BURNING

- 11.1 General Conditions:** Residential burning is permitted under the authority of a permit issued by the designated fire protection agency when a fire agency

permit is required. Such burning is also subject to the General Prohibitions described in Section 6 and General Burn Requirements, Conditions, and Practices described in Section 8 of this Rule as well as the following:

- 11.1.1 Residential burning shall only occur on declared permissive Residential Burn Days;
 - 11.1.2 Fire agency permits shall not be valid on Residential No-Burn Days. No person shall knowingly set or permit residential open burning on a Residential No-Burn Day;
- 11.2 **Burn Hours:** Residential burn hours are between 8:45 a.m. and one hour before sunset. No material shall be added to the fire after 3:00 p.m. Alternate burn hours may be set for SRAs under the jurisdiction of the California Department of Forestry and Fire Protection, the U.S. Forest Service or local municipality.
- 11.2.1 When a fire agency burn permit is required, persons conducting residential burning shall comply with the burn hours established by the Fire Protection Agency having jurisdiction over the burn site;
 - 11.2.2 All persons conducting residential burning shall contact the local fire protection agency for seasonal and specific burn hour requirements prior to burning.
- 11.3 **Performance Standards:**
- 11.3.1 No person shall dispose of any material from any property by burning outdoors in a burn barrel or incinerator unless exempted by Section 93113, Title 17 of the CCR.
 - 11.3.2 To minimize smoke impacts to nearby occupied dwellings, open fires shall be located more than 25 feet from any occupied dwelling located on an adjacent parcel.
 - 11.3.3 The maximum pile size shall not exceed four (4) feet in diameter.
 - 11.3.4 To minimize accidental ignition of prohibited materials, all areas within ten (10) feet of the outer edge of the burn pile shall be maintained to be free and clear of all flammable material and vegetation.
 - 11.3.5 A responsible adult shall be in attendance with a shovel at all times until the fire is dead out.
 - 11.3.6 A water hose or other water source that can readily apply adequate amounts of water to all parts of the burn site must be available.
 - 11.3.7 No burning shall be conducted unless site specific weather conditions (particularly wind) are such that the burning can be considered safe.
 - 11.3.8 The burning of Poison Oak is prohibited.
- 11.4 **Additional Requirements for the Magalia/Upper Ridge Area:** During the months of January through June, residential burning shall only be authorized for those areas north of Wycliff Way/Perry Road from the 1st through the 15th of each burn season month, and south of Wycliff Way/Perry Road from the 16th through the last day of each burn season month.

- 11.5 Additional Requirements for the Chico Sphere of Influence:** Residential burning is prohibited on lots less than 0.90 acre in size in the unincorporated areas of Butte County which are within the Chico Sphere of Influence.
- 12 SEVERABILITY:** If any section, subsection, sentence, clause, phrase, or portion of this Rule is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Rule 400 Permit Requirements

*(Adopted January 4, 1972; Amended & Recodified August 6, 1985; Amended September 18, 1990
and November 9, 1993; Recodified and Amended April 26, 2001; Recodified August 22, 2002;
Repealed and Adopted May 26, 2011; Amended April 24, 2014)*

RULE 400 CONTENTS

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Rule 400

- 1 **PURPOSE:** The purpose of this Rule is to require any person constructing, altering, or operating a source that emits or may emit air contaminants to obtain an Authority to Construct or Permit to Operate from the Air Pollution Control Officer (APCO) and to provide an orderly procedure for application, review, and authorization of new sources and of the modification and operation of existing sources of air pollution. Stationary sources that are subject to Rule 1101-*Title V-Federal Operating Permits* of these Rules and Regulations shall also comply with the procedures specified in this Rule.
- 2 **EXEMPTIONS:** An Authority to Construct, Permit to Operate, or other written authority shall not be required for emissions units listed in Rule 401-*Exemptions* of these Rules and Regulations, provided the required records, documentation, and other stipulations of Rule 401 are met.
- 3 **DEFINITIONS:** Unless otherwise defined below, the terms used in this Rule are the same as defined in Rule 101-*Definitions* of these Rules and Regulations:
 - 3.1 **Administrative Permit Amendment:** An amendment to an application, Authority to Construct permit, or Permit to Operate which:
 - 3.1.1 Corrects a typographical error; or
 - 3.1.2 Identifies a minor administrative change at the stationary source; for example, a change in the name, address, or phone number of any person identified in the permit.
 - 3.2 **Air Pollution Control Officer (APCO):** The Air Pollution Control Officer of the Butte County Air Quality Management District (DISTRICT) or his or her designated representative.
 - 3.3 **Ambient Air Quality Standards (AAQS):** All references to ambient air quality standards shall be interpreted to include both national and State ambient air quality standards. For the purpose of submittal to the U.S. Environmental Protection Agency (EPA) for inclusion in the California State Implementation Plan (SIP), all references in this Rule to ambient air quality standards shall be interpreted as National Ambient Air Quality Standards.
 - 3.4 **Annual Permit Renewal Date:** The day and month that a Permit to Operate is set to expire unless renewed, and that same day and month of each succeeding year.
 - 3.5 **Applicable Requirements:** Air quality requirements with which a facility must comply which includes, but is not limited to, the DISTRICT's Rules and Regulations, any terms and conditions of an Authority to Construct permit or Permit to Operate, codes of California regulations and statutory law, the Federal Clean Air Act as amended in 1990 and implementing regulations, other provisions of the United States Code (U.S.C.), and the Code of Federal Regulations (CFR).

- 3.6 Authority To Construct:** A pre-construction permit which authorizes construction, installation, replacement or other modification to an emissions unit and conforms to the requirements of Rule 430-*State New Source Review* or Rule 432-*Federal New Source Review* of these Rules and Regulations, as applicable.
- 3.7 Commence:** As applied to construction, means that the owner or operator has met all applicable requirements and has:
- 3.7.1** Begun, or caused to begin, a continuous program of on-site construction of the source, to be completed in a reasonable time; or
- 3.7.2** Entered into binding agreements or contractual obligations to undertake a program of actual on-site construction of the source to be completed within a reasonable time, which cannot be canceled or modified without substantial loss to the owner or operator.
- 3.8 Emissions Unit:** An identifiable operation, process, or piece of process equipment such as an article, machine, or other contrivance which controls, emits, may emit, or results in the emissions of any air pollutant directly or as fugitive emissions.
- 3.9 Initial Start-up:** The first time a source, emissions unit, control device, or other instrumentation or activity authorized by permit becomes operational.
- 3.10 Permit to Operate:** A permit issued by the APCO that authorizes the operation of a newly constructed or existing emissions unit which may contain conditions of operation to ensure the operation of the emissions unit complies with all applicable requirements.
- 3.11 Responsible Official:** An individual with the authority to certify that a source complies with all applicable requirements, including the conditions of permits issued to sources in accordance with Regulation IV-PERMITTS of these Rules and Regulations; one of the following:
- 3.11.1** For a corporation, either a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
- 3.11.1.1** The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million; or
- 3.11.1.2** The delegation of authority to such representative is approved in advance by the APCO;
- 3.11.2** For a partnership or sole proprietorship, either a general partner or the proprietor, respectively; or
- 3.11.3** For a municipality, State, federal, or other public agency, either a

- principal executive officer or a ranking elected official; or
- 3.11.4** For an acid rain unit subject to Title IV (Acid Deposition Control) of the Federal Clean Air Act, the "responsible official" is the designated representative of that unit for any purposes under Title IV and Rule 1101.
- 3.12 Startup:** The setting in operation of a stationary source, emission unit, control device, monitoring instrumentation or other activity authorized by permit for any purpose.
- 3.13 Title V Permits:** A permit issued, denied, renewed, amended, or reopened pursuant to Rule 1101 and the Federal Clean Air Act as amended in 1990 (42 U.S.C. Section 7401 et seq.), and Part 70 CFR, "State Operating Permit Programs".

4 STANDARDS

- 4.1 Authority To Construct:** Any person building, erecting, placing on site, altering or replacing any article, machine, equipment or other contrivance (emissions unit), the use of which may cause, eliminate, reduce, or control the issuance of air contaminants, shall first obtain written authorization for such construction from the APCO as specified in Section 4.4 of this Rule. The emissions unit(s) shall not commence construction until the APCO takes final action to approve the Authority to Construct.
- 4.1.1** Except as noted in Section 4.1.2 below, an Authority to Construct shall expire one (1) year following the date of permit issuance.
- 4.1.2** If a written request to extend an Authority to Construct is received by the APCO prior to the expiration of any currently issued, and all future, Authority to Construct permits, up to two (2) one-year extensions may be granted, if the APCO determines that:
- 4.1.2.1** Commencement of construction has occurred, and a good faith effort to complete the project has been made;
- 4.1.2.2** The parameters of the project remain the same as in the initial application; and
- 4.1.2.3** Construction has not lapsed for more than eighteen (18) consecutive months.
- 4.1.3** The APCO shall be notified in writing at least two (2) days prior to the anticipated date of initial startup or operation of any permitted emissions unit.
- 4.1.4** After the permit holder gives the appropriate notification and commences operation, the Authority to Construct may remain in effect as a Temporary Permit to Operate until a Permit to Operate for the equipment is granted or denied or the application is canceled but not for a period to exceed twelve (12) months.
- 4.2 Permit To Operate:** Any person operating an emissions unit subject to this Rule shall first obtain a permit from the APCO.

- 4.3 Required Information:** The APCO may require from an applicant or permit holder of any permit provided for in these Rules and Regulations any information, analyses, plans, or specifications which will disclose the nature, extent, quality, or degree of air contaminants which are or may be discharged by the source for which the permit was issued or applied. The APCO may require that such disclosures be certified by a professional engineer registered in the State of California. A responsible official representing the owner or operator shall certify the truth, accuracy and completeness of disclosures. Studies necessary to provide such information shall be at the expense of the owner or operator of the source for which a permit was issued or applied.
- 4.4 Standards For Granting Applications**
- 4.4.1** The APCO shall not grant an Authority to Construct or Permit to Operate unless the APCO determines the source or emissions unit will comply with all applicable requirements and will not interfere with maintenance or attainment of an AAQS.
- 4.4.2** The regulations in effect at the time any application for an Authority to Construct for a new or modified source or emissions unit is deemed complete shall apply to that source, except when a new federal requirement not yet incorporated in this Rule applies to the new or modified source.
- 4.4.3** No Permit to Operate shall be granted, either by the APCO or the DISTRICT Hearing Board, for any source or emissions unit which has been constructed or installed without authorization as required by Section 4.1 of this Rule, until:
- 4.4.3.1** The information is submitted that enables the APCO to determine the source or emissions unit is in compliance with all applicable requirements and that it will not interfere with maintenance or attainment of an AAQS; and
- 4.4.3.2** Such emission unit is altered, if necessary, and made to conform to or comply with all applicable requirements.
- 4.4.4** When determining whether or not to issue a Permit to Operate, if the APCO finds that the emission unit has not been constructed in accordance with the Authority to Construct, the APCO shall deny the Permit to Operate.
- 4.4.5** The APCO shall require enforceable emissions limitations as permit conditions in any Authority to Construct and Permit to Operate to assure the permanence of surplus actual emissions reductions applied for use as onsite internal reductions or emission reduction credits (ERCs).
- 4.4.6** Issuance of an Authority to Construct shall not relieve any owner or operator of the responsibility to comply fully with all applicable requirements.
- 4.4.7** (Removed for SIP submittal)
- 4.4.8** The APCO may impose terms and conditions as necessary in any Authority to Construct or Permit to Operate to assure compliance with applicable requirements.

- 4.5 Public Notice and Publication Actions:** For the sources applying for a permit that have a potential to emit over 25 tons per year for any AAQS pollutant (except Carbon Monoxide PTE shall be 50 TPY), the APCO shall:
- 4.5.1** Publish within ten (10) calendar days following a preliminary decision to issue an Authority to Construct for an emissions unit in at least one (1) newspaper of general circulation in the District, a notice stating the preliminary decision of the APCO noting how pertinent information may be obtained, how to request a hearing on the proposed item, and inviting written public comment for at least a thirty (30)-day period following the date of publication.
 - 4.5.2** No later than the date of publication, transmit the preliminary decision, the application analysis, and copies of the notice submitted for publication to the applicant.
 - 4.5.3** No later than the date of publication, transmit the preliminary decision and copies of the permit application, analysis, and the notice submitted for publication to the California Air Resources Board (CARB) and EPA.
 - 4.5.4** No later than the date of publication, make available for public inspection the applicable information submitted in the application, the proposed permit, the application analysis, and copies of the notice submitted for publication.
- 4.6 Permit Renewal**
- 4.6.1** The APCO shall review the conditions of every Permit to Operate prior to its expiration to ensure compliance and enforceability of all applicable requirements. The APCO shall revise the conditions to include requirements which were in effect at the time the permit was issued or modified, or which have subsequently been adopted and made retroactively applicable to an existing emission unit, or any new applicable requirements, if these permit conditions are necessary to assure compliance with all applicable requirements.
 - 4.6.2** The APCO may establish an annual permit renewal date for all Permits to Operate held by a stationary source. At the request of the source, the APCO may revise the annual permit renewal dates for a stationary source with more than one (1) Permit to Operate to make the permits renewable on the same date. Thereafter, all Permits to Operate at the stationary source shall be renewable that same day and month of each succeeding year, subject to any other applicable requirements regarding validity, voiding or revocation of permits.
 - 4.6.3** Every Permit to Operate shall be renewed annually on the permit's annual permit renewal date unless action to suspend, cancel, or revoke the permit has been initiated in accordance with Sections 5.5, 5.6, or 5.7 of this Rule and has resulted in a final determination to suspend or revoke the permit by the APCO or the Hearing Board and all appeals have been exhausted or the time for appeals has expired.

4.7 Permit Conveyance

4.7.1 Transfer of Ownership: An Authority to Construct or Permit to Operate shall only be transferable from one person to another by submittal of an application for authorization in accordance with Section 5.1 of this Rule.

4.7.2 Change of Location: An Authority to Construct or Permit to Operate shall not be transferable from one location to another. This action constitutes a new source or emissions unit which is subject to the requirements of Section 4.4 of this Rule.

4.8 Provisions for Sampling and Testing Facilities: The APCO may require a person operating or using any article, machine, equipment or other contrivance, the use of which may cause the issuance of air contaminants or the use of which may eliminate, reduce or control the issuance of air contaminants to provide and maintain such facilities as are necessary for sampling and testing. In the event of such requirements, the APCO shall notify the person in writing of the required size, number and location of sampling ports; the size and location of sampling platform; the access to the sampling platform; and the utilities for operating the sampling and testing equipment. The platform and access shall be constructed in accordance with the General Industry Safety Orders of the State of California.

4.9 Source Performance Testing: The owner or operator of a source shall conduct performance test(s) as required by the conditions of the Authority to Construct or Permit to Operate in accordance with the test methods and operating conditions specified by the Authority to Construct/Permit to Operate and/or as approved by the APCO to determine compliance with applicable emission limitations or to confirm emission reductions claimed.

4.9.1 The performance test(s) shall occur within sixty (60) days after achieving the maximum production rate or the maximum rate of emissions to which the source is limited by enforceable conditions, but not later than one hundred eighty (180) days after initial startup of such source.

4.9.2 A performance test protocol shall be submitted to the APCO for review and written approval at least thirty (30) days prior to the scheduled test date.

4.9.3 The owner or operator of a source shall provide the APCO with ten (10) days prior notice of the performance test date, time and location to afford the APCO the opportunity to have an observer present.

4.9.4 The owner or operator shall furnish the APCO a written report of the performance test(s) results within sixty (60) days of completion of such tests unless an extension is requested in writing and granted by the APCO.

4.9.5 The performance test(s) shall be at the expense of the owner or operator.

4.9.6 Testing shall be conducted with the source(s) of emissions operating at or near maximum capacity or other rate conforming to the maximum rate of emissions to which the source(s) is limited by

- enforceable condition(s).
- 4.9.7** The source testing shall follow the applicable methods as specified in Section 6.1 of this Rule.
 - 4.9.8** The APCO may monitor such tests and may also conduct performance tests and charge fees to perform such activities in accordance with Rule 502-*Source Testing Fees* of these Rules and Regulations.
 - 4.9.9** The APCO may waive the requirement for performance tests if the owner or operator of a source has demonstrated by other means to the APCO's satisfaction that the source is being operated in compliance with all applicable requirements.
 - 4.9.10** Any changes to or deviations from the requirements in this 4.9 must first be approved in writing by the APCO.
- 4.10 Air Quality Impact Analysis:** For the purpose of performing an impact analysis, the following shall apply:
- 4.10.1** Air quality models shall be consistent with the requirements specified in 40 CFR Part 51, Appendix W (“Guidelines on Air Quality Models”), unless the APCO finds that such model is inappropriate for use. After making such a finding, the APCO may designate an alternative model only after allowing for public comment and only with the concurrence of CARB and EPA;
 - 4.10.2** All modeling costs associated with the site of a new or modified emissions unit shall be borne by the applicant;
 - 4.10.3** In performing an air quality impact analysis, if the proposed stack height is higher than is dictated by good engineering practices, as defined in 40 CFR 100(ii), then the actual height used for the purposes of modeling shall be calculated in accordance with good engineering practices.
 - 4.10.4** Maximum ground level concentration added to background levels shall be compared to ambient air quality standards.
- 4.11** (Removed for SIP submittal)

5 ADMINISTRATIVE REQUIREMENTS

- 5.1 Applications:** An application for an Authority to Construct, Permit to Operate, change of ownership, permit amendment or modification, permit reopening, revision, or exemption that requires a determination by the APCO, shall be filed in the manner and form prescribed by the APCO and shall give all the information necessary to enable the APCO to make the determinations required by Section 4 of this Rule.
- 5.1.1** A responsible official representing the owner or operator shall certify the truth, accuracy and completeness of application forms.
 - 5.1.2** When the information submitted with the application is insufficient for the APCO to make the required determinations, the APCO shall request in writing to a responsible official to supplement any

application with additional information within the time frame specified by the APCO.

- 5.1.3** A responsible official shall promptly provide additional information in writing to the APCO upon discovery of submittal of any inaccurate information as part of the application or supplement or of any additional relevant facts previously omitted which are needed for accurate analysis of the application.
- 5.1.4** Intentional or negligent submittal of inaccurate information shall be reason for denial of an application.
- 5.1.5** An application submitted in accordance with this Section shall be accompanied by payment of the application filing fee specified in Regulation V-FEES of these Rules and Regulations.
- 5.1.6** A responsible official may request an administrative permit amendment in writing. The APCO shall take final action no later than sixty (60) days after receiving the written request for an administrative permit amendment, and take the following actions:
 - 5.1.6.1** After verifying the permit revision is an administrative permit amendment, the APCO may revise the permit without providing notice to the public or any affected state.
 - 5.1.6.2** The APCO shall provide a copy of the revised permit to the responsible official,
 - 5.1.6.3** While the APCO need not make a completeness determination, the APCO shall notify the responsible official if the APCO determines that the permit cannot be revised as an administrative permit amendment.
 - 5.1.6.4** No additional fees shall be assessed for an administrative permit amendment.

5.2 Action On Applications

- 5.2.1 Complete Application:** The APCO shall determine whether the application is complete not later than thirty (30) days after receipt of the application, or after such longer time mutually agreeable to the applicant and the APCO, and notify the applicant in writing.
- 5.2.2 Preliminary Decision:** Following acceptance of an application as complete, the APCO shall perform the evaluations required to determine compliance with this Rule (including all other applicable requirements) and make a preliminary written decision as to whether an Authority to Construct should be approved, conditionally approved, or disapproved. The decision shall be supported by a written analysis.
- 5.2.3 Denial Of Application**
 - 5.2.3.1** An Authority to Construct or Permit to Operate application may be denied by the APCO:
 - 5.2.3.1.1** At the request of the applicant; or
 - 5.2.3.1.2** If additional information requested in accordance with Section 5.1.2 of this Rule has not been submitted within one

hundred eighty (180) days of the request.

5.2.3.1.3 If applicable permit fees of Rule 500-*Permit Fees* of these Rules and Regulations are not paid when due, the application may be denied and the APCO may take action on any issued Authority to Construct or Permit to Operate pursuant to the requirements of Section 5.7 of this Rule.

5.2.3.2 In the event of a denial of an Authority to Construct or Permit to Operate, the APCO shall notify the applicant in writing of the reasons. Service of this notification may be made in person or by certified mail. If delivered in person, such service may be proved by the written acknowledgment of the person(s) served or affidavit of the person making the service. The APCO shall not accept a further application unless the applicant has complied with the objections specified by the APCO as his or her reasons for denial of the Authority to Construct or the Permit to Operate.

5.2.4 Conditional Approval

5.2.4.1 The APCO shall issue an Authority to Construct or a Permit to Operate with conditions which will ensure compliance with all applicable requirements. The conditions shall be specified in writing.

5.2.4.2 The APCO shall consider all written comments received in response to public notice for an application prior to issuing an Authority to Construct or Permit to Operate.

5.2.4.3 Commencing work under an Authority to Construct or operation under a Permit to Operate shall be deemed acceptance of all the conditions of the authorization or permit.

5.2.4.4 The APCO shall issue an Authority to Construct or a Permit to Operate with revised conditions upon receipt of a new application, if the applicant effectively demonstrates that the emissions unit can operate under the revised conditions within the standards of Section 4.4 of this Rule.

5.2.4.5 The APCO shall require the applicant, as a condition of the Authority to Construct, to comply with the requirements of HSC Part 6, (Section 44300 et seq.), Air Toxics "Hot Spots" Information and Assessment Act. (Remove for SIP submittal)

5.2.4.6 The Authority to Construct or Permit to Operate becomes valid upon payment of all fees assessed at permit issuance in accordance with Rule 500.

5.2.5 Temporary Permit: The APCO may issue a temporary Permit to Operate. The Temporary Permit to Operate shall specify a reasonable period of time during which the emissions unit may be operated in order for the DISTRICT to determine whether it will operate in accordance with the conditions specified in the permit.

5.3 (Removed for SIP submittal)

5.4 (Removed for SIP submittal)

5.5 Suspension: The APCO may suspend a permit if a holder of such permit willfully fails and refuses to furnish information, analyses, plans, and specifications, within a reasonable time, as requested by the APCO in accordance with applicable requirements. The APCO shall serve written notice of such suspension and the reasons for suspension. Service of said notification may be made in person or by certified mail. If delivered in person, such service may be proved by the written acknowledgment of the person(s) served or affidavit of the person making the service. The permit shall be reinstated when the APCO is furnished with all requested information, analyses, plans, and specifications, and the APCO determines the source is operating in compliance with all applicable requirements.

5.6 (Removed for SIP submittal)

5.7 (Removed for SIP submittal)

5.8 (Removed for SIP submittal)

6 MONITORING AND RECORDS

6.1 Testing Procedures

6.1.1 General Requirements: Except as otherwise specified in the DISTRICT Rules and Regulations, the SIP, and the applicable federal requirements of Rule 1101, testing methods for determining compliance with emission limits shall be:

6.1.1.1 The appropriate methods adopted by CARB and approved by EPA as equivalent test methods, or

6.1.1.2 The appropriate methods of 40 CFR Part 50, Appendix M, Recommended Test Methods for SIPs; or

6.1.1.3 Any appropriate method of 40 CFR Part 60, Appendix A, Test Methods; or

6.1.1.4 An alternative method following review and approval of that method by CARB and EPA.

6.1.2 Initial Boiling Point: American Society for Testing of Materials (ASTM) D-1078-86, "Test Method for Distillation Range of Volatile Organic Liquids".

6.1.3 Vapor Pressure: ASTM D-2879-86, "Vapor Pressure-Temperature

Relation and Initial Decomposition Temperature of Liquids by Isoteniscope".

- 6.2 Monitoring:** As applicable, each emission source subject to continuous emission monitoring requirements shall comply with the requirements of Title 40, CFR, Part 60, Appendix B upon initial installation and Appendix F annually.
- 6.3 Recordkeeping:** The following records shall be maintained and provided to the APCO upon request:
- 6.3.1** Emissions monitoring and process data records necessary for the determination and reporting of emissions, in accordance with applicable provisions of the DISTRICT Rules and Regulations. Records shall be kept for at least five (5) years.
 - 6.3.2** Other records of the nature and amounts of emissions or any other information as may be deemed necessary by the APCO to determine whether the stationary source or emissions unit is in compliance with applicable emission limitations, credited emission reductions, exemptions from rule provisions, or other requirements. The information must include emission measurements, continuous emission monitoring system performance testing measurements, performance evaluations, calibration checks and adjustments, maintenance performed on such monitoring systems, and other records and reports required by Title 40, CFR, Part 60, Appendix B and F.
 - 6.3.3** Operation and maintenance plans for all add-on capture and control equipment. Such plans shall demonstrate, through the use of specific recordkeeping requirements, continuous operation of the add-on control equipment when emission producing operations occur. The plan shall also specify records to be kept to document the performance of required periodic maintenance. Records shall be consistent with compliance time frames and employ the most recent EPA recordkeeping guidance.

Rule 401 Permit Exemptions

*(Adopted January 4, 1972, July 26, 1979; Amended April 29, 1980; Recodified August 6, 1985;
Amended September 18, 1990; Recodified August 22, 2002; Repealed and Adopted May 26, 2011,
Amended April 24, 2014)*

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RULE 401**1 PURPOSE**

This Rule specifies emissions units that are categorically or conditionally exempted from the requirement to obtain an Authority to Construct or a Permit to Operate from the Air Pollution Control Officer (APCO). This Rule also specifies recordkeeping requirements to verify exemption criteria and outlines a compliance schedule for emissions units and sources that exceed the exemption status or otherwise become subject to Rule 400-*Permit Requirements* of these Rules and Regulations.

2 APPLICABILITY

2.1 This Rule is applicable to any article, machine, equipment, or other contrivance that emits or may emit air contaminants which would otherwise be subject to Rule 400.

2.2 This Rule shall not exempt equipment, operations, or processes described in Section 4 of this Rule from complying with all other applicable requirements of these Rules and Regulations, including but not limited to, Rule 1101-*Title V-Federal Operating Permits*.

2.3 This Rule shall not apply to any equipment, operation, or process if the APCO determines the emissions unit may violate these Rules and Regulations, including Rule 200-*Nuisance*. When the APCO makes such a determination and written notification is provided to the owner or operator, the equipment, operation, or process shall thereafter be subject to Rule 400.

2.4 This Rule shall not apply to any equipment, operation, or process in Section 4 with actual emissions greater than 80 pounds per day of PM₁₀, PM_{2.5} or oxides of sulfur (SO_x), 25 pounds per day of oxides of nitrogen (NO_x) or volatile organic compounds (VOCs), 500 pounds per day of carbon monoxide (CO), or 3.2 pounds per day of lead (Pb).

2.5 This Rule shall not apply to any equipment, operation, or process that is subject to the provisions of the National Emissions Standards for Hazardous Air Pollutants (NESHAPs), 40 CFR (Code of Federal Regulations) 61 or 63, or the New Source Performance Standards (NSPS), 40 CFR 60, unless the equipment is an internal combustion engine with a manufacturer's maximum power rating of less than fifty (50) horsepower.

3 REQUIREMENTS**3.1 Permit Application**

3.1.1 Unless otherwise noted in the exemption description, a permit application is not required to claim the exemption provided the required documentation and recordkeeping is maintained.

- 3.1.2** If an application is required for an APCO determination, the APCO must issue a written determination approving or denying the exemption requested in accordance with the application administrative requirements of Rule 400.
- 3.2 Required Information:** The APCO may require from any owner or operator claiming an exemption under this Rule any information, analyses, plans, or specifications which will disclose the nature, extent, quality, or degree of air contaminants which are or may be discharged by the source for which the exemption is claimed.
- 4 EXEMPT SOURCE CATEGORIES:** An Authority to Construct and Permit to Operate shall not be required for:
- 4.1 Combustion and Heat Transfer Sources**
- 4.1.1** Equipment used exclusively for steam cleaning.
- 4.1.2** Water cooling towers and water cooling ponds not used for evaporative cooling of process water or not used for evaporative cooling of water from barometric jets or from barometric condensers.
- 4.1.3** Steam generators, water boilers or water heaters fired exclusively by natural gas, liquefied petroleum gas (LPG) or a combination thereof, having a maximum fuel input heating value of less than one (1) million British thermal units (MMBtu) per hour or thirty (30) boiler horsepower.
- 4.1.4** Equipment used for space heating, other than boilers.
- 4.1.5 Internal Combustion Engines**
- 4.1.5.1** Any reciprocating internal combustion engine with a brake horsepower rating of less than fifty (50).
- 4.1.5.2** Internal combustion engines used exclusively for purposes of educating students in the operation, maintenance, repair, and rebuilding of such engines.
- 4.1.5.3** Any natural gas, propane, or LPG fueled engine rated at 250 brake horsepower or less and operating less than 200 hours per calendar year for non-emergency purposes.
- 4.1.5.4** Fuel cells or microturbines used in power and/or heat generating equipment that meet the following emission standards: NO_x 0.07 lb/Megawatt-hour (MW-hr), CO 0.10 lb/MW-hr, and VOCs 0.02 lb/MW-hr.
- 4.1.6 Process Heaters**
- 4.1.6.1** Crucible furnaces, pot furnaces, or induction furnaces, each with a maximum rated capacity of less than 450 cubic inches of any molten metal.
- 4.1.6.2** Kilns used exclusively for firing ceramic ware, heated exclusively with natural gas, liquefied petroleum gas, and/or electricity.

- 4.2 Food and Beverage Processing Equipment**
- 4.2.1** Equipment used in, or in conjunction with, eating establishments for the purpose of preparing food for human consumption, except coffee roasters.
- 4.2.2** Coffee roasters with a manufacturer's maximum throughput rating of 25 pounds per hour or less.
- 4.2.3** Barbecue equipment not used for commercial purposes.
- 4.2.4** Ovens at bakeries, provided the total production from the bakery is less than 5,000 pounds of product per day and each oven is rated at less than one (1) MMBtu/hr.
- 4.2.5** Breweries with an annual production of less than one (1) million gallons, unless boilers or other heating sources are in excess of the capacities in Section 4.1.3 of this Rule.
- 4.3 Commercial Surface Coating Operations:** Non-automotive coating operations using less than one (1) quart per day and eight (8) gallons per year of spray coatings, including those operations that use non-refillable handheld aerosol spray cans.
- 4.4 Solvent Cleaning Operations:** Unheated, non-conveyorized cleaning equipment with an open surface area of ten (10) square feet or less and internal volume of 92.5 gallons or less using only organic solvents with an initial boiling point of 248°F as determined by the American Society for Testing of Materials (ASTM) 1078-78 and losing 25 gallons or less of solvent per year to the atmosphere (excluding solvent recycled or properly disposed of). A material usage log shall be maintained for each emission unit claiming this exemption. The log shall note the date, type and amount of solvent added to or removed from the emission unit.
- 4.5 Composting Operations:** Operations that receive and compost less than 125 tons (1000 cubic yards) of green waste annually. "Green waste" is any organic waste material generated from gardening, agriculture, or landscaping activities including, but not limited to, grass clippings, leaves, tree and shrub trimmings, and plant remains.
- 4.6 Vehicles and Mobile Equipment**
- 4.6.1** Motor vehicles which are devices by which any person or property may be propelled, moved, or drawn upon a highway or used exclusively on stationary rails or tracks, but not including any article, machine, equipment or other contrivance mounted on such vehicle that would otherwise require a permit under the provisions of these Rules and Regulations.
- 4.6.2** Locomotives, airplanes, and watercraft used to transport passengers or freight.
- 4.6.3** Self-propelled mobile construction equipment other than pavement burners.

- 4.7 Residential and Commercial Uses**
- 4.7.1** Equipment utilized exclusively in connection with any structure which is designed for and used exclusively as a dwelling for not more than four (4) families, including incinerators used exclusively in connection with such a structure.
- 4.7.2** Comfort air conditioning or comfort ventilating systems which are not designed to remove air contaminants generated by or released from specific units or equipment.
- 4.7.3** Refrigeration units, except those used as, or in conjunction with, air pollution control equipment.
- 4.7.4** Any architectural or industrial coatings that are subject to the requirements of these Rules and Regulations when applied to structures and their appurtenances.
- 4.8 Portable Handheld Equipment:** Handheld equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of metal, wood, plastic, or similar material.
- 4.9 Abrasive Blasting Equipment**
- 4.9.1** Blast cleaning equipment using a suspension of abrasive in water.
- 4.9.2** Abrasive blasting cabinets with a confined volume of less than 100 cubic feet that are vented through a control device.
- 4.10 Agricultural Sources:** Any engine or equipment used in agricultural operations in the growing of crops or the raising of fowl or animals at any agricultural source except when the agricultural source is:
- 4.10.1** A major stationary source or major modification at a stationary source as defined in Rule 432-*Federal New Source Review* of these Rules and Regulations, or
- 4.10.2** A stationary source that emits in any 12-month period, air contaminant emissions equal to or more than the following quantities of emissions:
- 4.10.2.1** 50% of the major source thresholds for regulated air pollutants as defined in 40 CFR Part 70.2(excluding Hazardous Air Pollutants (HAPs));
- 4.10.2.2** Five (5) tons per year of a single HAP;
- 4.10.2.3** 12.5 tons per year of any combination of HAPs; or
- 4.10.2.4** 50% of any lesser threshold for a single HAP as the U.S. Environmental Protection Agency (EPA) may establish by rule.
- 4.11 Maintenance:** Routine repairs or routine maintenance not involving structural changes to an emissions unit to which a permit has been granted or is not required by this Rule. Routine maintenance is intended to include replacement of wearable parts such as spark plugs, seals, belts, etc.
- 4.12 Printing and Reproduction Equipment:** Any graphic arts operation or group of graphic arts operations located at a stationary source, that emit less

than an average of fifteen (15) pounds of VOCs per operating day for each calendar month and less than 300 pounds of VOCs annually from all such operations. All records necessary to calculate average daily VOC emissions, such as emission factors or mix ratios, VOC content of each material used, number of operating days per month, and daily or monthly records of material usage, shall be maintained on-site for two (2) years and be made available to the APCO upon request.

- 4.13 Wastewater Treatment Facilities, Water Reclamation Facilities, and Wastewater Pump Stations:** Facilities with a design throughput capacity of less than one (1) million gallons of wastewater per day.
- 4.14 Portable Equipment:** Any portable equipment that is registered in accordance with Rule 440-*Portable Equipment Registration* of these Rules and Regulations or with the Statewide Portable Equipment Registration Program. This exemption does not apply to any equipment while in use for screening of soils in contaminated soil remediation projects.
- 4.15 Woodworking and Other Fabrication Operations:** Operations that utilize shop dust collection systems that do not vent outside the working area of the facility, and doors, windows and other outlets can remain closed during normal business operations.
- 4.16 Pilot Tests:** Pilot tests for the purposes of determining contamination levels for designing a soil remediation system providing:
- 4.16.1** The pilot test will not last more than five (5) days; and
 - 4.16.2** The effluent stream from the pilot test is controlled by carbon canisters, a thermal or catalytic incinerator/oxidation unit, or an internal combustion engine.
- 4.17 Walnut Hullers:** Walnut hulling facilities processing only crops grown by the owner that utilize a wet process hull removal, and with a drying fuel consumption of less than 5500 gallons of propane per year or 52 therms of natural gas per year.
- 4.18 Low Emitting Sources:** As determined by the APCO, other low emitting sources with an uncontrolled emissions rate of each air contaminant of:
- 4.18.1** CO at less than the 500 pounds per day; and
 - 4.18.2** Particulate matter (PM10 or PM2.5), NO_x, VOCs, or SO_x at:
 - 4.18.2.1** Less than or equal to two (2) pounds per day or,
 - 4.18.2.2** If greater than two (2) pounds per day, is less than or equal to 75 pounds per year.

5 CONDITIONALLY EXEMPT SOURCES

- 5.1** Request for Exemption applications are required for the following:
- 5.1.1 Replacement of Equipment:** Identical replacement in whole or part of any article, machine, equipment or other contrivance for

which a Permit to Operate has previously been granted for such equipment. Identical means the same manufacturer, model number, and type, and resulting in emissions less than or equal to those from the original equipment or device and not requiring a change in permit conditions.

5.1.2 Other Low Emitting Sources: As determined by the APCO, other low emitting sources with an uncontrolled emissions rate of each air contaminant of less than 500 pounds per year.

5.2 In order to claim an exemption under Section 5 of this Rule, a permit application, the information required to make the determinations listed above, and the application fee specified in Rule 500-*Stationary Source Permit Fees* of these Rules and Regulations must be submitted to the APCO. The applicant must receive a written confirmation of exempt status from the APCO prior to commencing construction.

5.3 Any person claiming an emissions unit is exempt under Section 4 of this Rule may voluntarily submit a permit application, the information required to substantiate the claim, and the application fee specified in Rule 500 to the APCO to receive a written response from the APCO approving or denying the claimed exemption status.

6 RECORDKEEPING

All records necessary to calculate daily emissions, daily operating parameters, or equipment size, ratings, or capacity to demonstrate compliance with any exemption requirements in Sections 4 and 5 of this Rule shall be maintained on-site for two (2) years and be made available to the APCO upon request. Such records may include: emission factors, VOC content of each material used, amount of fuel used, number of operating hours per day and days per calendar month, and daily or monthly records of material usage; manufacturer's brochures, operating logs and any other specific records as noted in Section 4.

7 COMPLIANCE SCHEDULE

7.1 The owner or operator of an emissions unit or operation, that was exempt from written permit requirements that becomes subject to the requirements of Rule 400 through the loss of the exemption upon adoption of this Rule, shall apply for a Permit to Operate not later than November 26, 2011.

7.2 For sources that are exempt from the requirements of Rule 400 and subsequently exceed the standards and/or thresholds of this Rule, the owner or operator of an emissions unit or operation shall apply for a Permit to Operate within thirty (30) days of the date of the loss of exemption.

Rule 432 Federal New Source Review (FNSR)
*(Adopted September 28, 2006; Repealed and Adopted May 26, 2011;
Amended April 24, 2014; Amended March 23, 2017; Amended April 22, 2021)*

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RULE 432**1 PURPOSE**

- 1.1** The purpose of this Rule is to establish nonattainment air pollutants pre-construction review requirements for new major stationary sources and major modifications for use of Best Available Control Technology (BACT), offsets, and analysis of air quality impacts, and to ensure that the operation of such sources does not interfere with the attainment or maintenance of ambient air quality standards, and complies with all other applicable requirements.
- 1.2** This Rule regulates all federal non-attainment pollutants for major sources and major modifications for federal purposes.

2 APPLICABILITY

- 2.1** This Rule shall apply to all new major stationary sources and major modifications which are subject to Butte County Air Quality Management District (DISTRICT) Rule 400-*Permit Requirements*.
- 2.2** The regulations in effect at the time that any application for an Authority to Construct for a new or modified major source is deemed complete shall apply to that source, except when a new federal requirement not yet incorporated in this Rule applies to the new or modified major source.
- 2.3** The provisions of Sections 5.1 and 5.2 of this Rule are not applicable to portable, temporary or replacement emissions units unless the units are major sources or, if operating at a major source, installation will result in a major modification.

3 EFFECTIVE DATE: This Rule shall become effective on April 24, 2014.

4 DEFINITIONS: Unless otherwise defined below, the terms used in this Rule are the same as defined in Rule 101-*Definitions* of these Rules and Regulations.

- 4.1 Actual Emissions:** The actual rate of emissions measured or estimated which most accurately represent the emissions from an emissions unit.
- 4.2 Actual Emissions Reduction (AER):** A reduction in actual emissions from an emissions unit. Actual emissions reductions shall be real, enforceable, quantifiable, surplus, and permanent.
- 4.3 Allowable Emissions:** The emissions rate of a stationary source calculated using the maximum rated capacity of the emission unit or source, unless the emission unit or source is limited by federally enforceable conditions which restrict operating rate or hours or both, and the most stringent of the following:

- 4.3.1** Any applicable standards set forth in 40 Code of Federal Regulations (CFR) Parts 60, 61, or 63;
 - 4.3.2** Any applicable current or future emission limitation in the State Implementation Plan (SIP); or
 - 4.3.3** A current or future emission rate specified in a federally enforceable permit condition.
- 4.4 Annual:** A period of twelve (12) consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.
- 4.5 Basic Design Parameters**
- 4.5.1** Except as provided in Section 4.5.3 below, for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on BTU content shall be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.
 - 4.5.2** Except as provided in Section 4.5.3, the basic design parameter(s) for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.
 - 4.5.3** If the owner or operator believes the basic design parameter(s) in Sections 4.5.1 and 4.5.2 above is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Air Pollution Control Officer (APCO) an alternative basic design parameter(s) for the source's process unit(s). If the APCO approves of the use of an alternative basic design parameter(s), the APCO shall issue a permit that is legally enforceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).
 - 4.5.4** The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter(s) specified in Sections 4.5.1 and 4.5.2.
 - 4.5.5** If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value achieved by the process unit in the 5-year period immediately preceding the planned activity.

- 4.5.6** Efficiency of a process unit is not a basic design parameter.
- 4.5.7** The replacement activity shall not cause the process unit to exceed any emission limitation, or operational limitation that has the effect of constraining emissions, that applies to the process unit and that is legally enforceable.
- 4.6** **Best Available Control Measures (BACM):** Most effective measures for controlling small or dispersed particulates and other emissions from sources such as roadway dust, soot and ash from woodstoves and open burning of brush, timber, grasslands, or trash.
- 4.7** **Best Available Control Technology (BACT):** The most stringent emissions limitation or control technique of the following:
- 4.7.1** Achieved in practice for such class and category of source; or
- 4.7.2** Contained in any SIP approved by the United States Environmental Protection Agency (EPA) for such class and category of source. A specific limitation or control technique shall not apply if the owner of the proposed emission unit demonstrates to the satisfaction of the APCO that such a limitation or control is not presently achievable; or
- 4.7.3** Contained in an applicable New Source Performance Standard (NSPS); or
- 4.7.4** Any other emission control device or technique, alternative basic equipment, different fuel or process, determined to be technologically feasible and cost-effective by the APCO for such a class or category of sources.
- 4.8** **Complete Application:** An application that contains all information required by the DISTRICT to adequately evaluate the nature and extent of potential emissions of the new or modified emissions unit proposed for use; submitted in the manner and form prescribed by the APCO.
- 4.9** **Contiguous Property:** Two (2) or more parcels of land with a common boundary or separated solely by a public or private roadway or other public right-of-way.
- 4.10** **Cost-Effective:** A cost per pound of emission reduction on a pollutant and emissions unit basis which is deemed to be acceptable and feasible based on methodology and criteria specified by the APCO.
- 4.11** **Emission Reduction Credits (ERCs):** Reductions of actual emissions from an emissions unit that have been calculated and certified in accordance with an approved DISTRICT Rule or an upwind district's approved rule and banked or transferred in accordance with the requirements of Rule 431-*Emission Reduction Credits and Banking* of these Rules and Regulations.
- 4.12** **Emissions Limitation:** One (1) or a combination of practicably enforceable

permit conditions specific to an emissions unit which restricts its maximum emissions, at or below the emissions associated with the maximum design capacity. An emissions limitation must be:

- 4.12.1** Contained in the latest Authority to Construct and/or contained in or enforceable by the latest Permit to Operate for the emissions unit; and
 - 4.12.2** Enforceable on a continuous, daily, monthly or rolling 12-month basis, as specified by the permit condition.
- 4.13 Emissions Unit:** An identifiable operation or piece of process equipment such as an article, machine, or other contrivance which emits, may emit, or results in the emission of any regulated New Source Review (NSR) pollutant directly or as fugitive emissions.
- 4.14 Enforceable:** Verifiable and legally binding. Enforceable, for the purposes of federal requirements, means all federally enforceable limitations and conditions enforceable by the administrator, including: NSPS; National Emission Standards for Hazardous Air Pollutants (NESHAPs); requirements within any applicable SIP; any permit requirement established pursuant to 40 CFR 52.21, 51.160-166; or federal operating permit requirements.
- 4.15 Fugitive Emissions:** Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- 4.16 Historic Actual Emissions:** Actual emissions of the existing emissions unit averaged, in tons per year, over a 24 consecutive month period immediately preceding the date of application, unless:
- 4.16.1** The last 24 months are unrepresentative of normal operations as determined by the APCO, then any 24 consecutive month period of the last five (5) years, which the APCO has determined are representative of normal operations, may be used; or
 - 4.16.2** An emissions unit has been in operation for less than 24 months, a shorter averaging period of at least twelve (12) consecutive months may be used, providing it represents the full operational history of the emissions unit; or,
 - 4.16.3** An emissions unit has been in operation for less than one (1) year, the baseline shall equal zero (0); or,
 - 4.16.4** At any time during the specified period, if actual emissions exceeded allowable emission levels, then actual emissions shall be reduced to reflect emission levels that would have occurred if the emissions unit operated in compliance with all applicable limitations and rules.
- 4.17 Impact Analysis:** An air quality modeling analysis used to estimate the maximum ground level concentration of any pollutant subject to this Rule.

- 4.18 Lowest Achievable Emission Rate (LAER):** The same as BACT as defined in this Rule.
- 4.19 Major Modification:** A modification to a major stationary source which results in a significant net emissions increase of a nonattainment pollutant for which the source is classified as a major stationary source. A significant net emissions increase is one that equals or exceeds any of the following amounts:
- 4.19.1** Carbon monoxide: 100 tons per year (tpy);
 - 4.19.2** Nitrogen oxides: 40 tpy;
 - 4.19.3** Sulfur dioxide: 40 tpy;
 - 4.19.4** Ozone: 40 tpy of Volatile Organic Compounds (VOCs) or 40 tpy of nitrogen oxides;
 - 4.19.5** PM10: 15 tpy
 - 4.19.6** PM2.5: 10 tpy of direct PM2.5 emissions or 40 tpy of sulfur dioxide emissions or 40 tpy of nitrogen oxide emissions
 - 4.19.7** Lead: 0.6 tpy
 - 4.19.8** A significant increase at a Class 1 area.
- 4.20 Major Stationary Source:** Any stationary source which emits, or has the potential to emit, 100 tpy or more of any nonattainment regulated NSR pollutant. A major stationary source for nitrogen oxides or VOCs shall also be considered a major source for ozone. In addition, any physical change, which would constitute a major stationary source by itself, occurring at a stationary source not otherwise qualifying as a major stationary source, makes the source a major stationary source. Emissions associated with emissions units that are exempt from permit requirements under Rule 401-*Permit Exemptions* of these Rules and Regulations shall not be included in determining if a source is a major source unless the unit emits greater than two (2) pounds per day of any pollutant. The fugitive emissions associated with an emissions unit or a stationary source shall not be included in determining whether the source is a major stationary source unless the source is a category source or sources included in 40 CFR 51.165(a)(1)(iv)(C).
- 4.21 Modification:** Any physical change or operational change to an existing emissions unit, including changing hours of operation or production rate, which would necessitate a change in permit conditions. A modification to a stationary source shall include any modification of its permitted emissions units or addition of any new emissions units. A reconstructed stationary source shall be treated as a new stationary source and not as a modification. A modification also occurs when there is an increase of emissions from an emissions unit which is not subject to a daily emissions limitation. The following shall not be considered a modification:
- 4.21.1** Routine maintenance or repair.
 - 4.21.2** A change in ownership.

- 4.22 National Ambient Air Quality Standards (NAAQS):** Outdoor air quality standards established by the EPA under authority of the Clean Air Act (42 United States Code (U.S.C.) 7401, et seq.) which identify the maximum acceptable average concentrations of air pollutants during a specific period of time.
- 4.23 Net Air Quality Benefit:** A net improvement in air quality resulting from actual emissions reductions impacting the same general area affected by the new or modified source.
- 4.24 Net Emissions Increase:** As reviewed and approved by the APCO, the sum of increases and decreases in actual emissions of a nonattainment pollutant at a stationary source that have occurred five (5) years prior from the date the application for the project was submitted, and provided:
- 4.24.1** An increase or decrease in actual emissions has not been relied on in issuing a permit which is in effect when the application for the project was submitted.
 - 4.24.2** An increase in actual emissions is only creditable to the extent the new level of actual emissions exceeds the old level.
 - 4.24.3** A decrease in actual emissions is only creditable to the extent that:
 - 4.24.3.1** The old level of actual emissions or allowable emissions, whichever is lower, exceeds the new level of allowable emissions;
 - 4.24.3.2** It is enforceable at the time the actual construction of the project begins;
 - 4.24.3.3** It is surplus; and
 - 4.24.3.4** It has approximately the same quantitative significance for public health and welfare as attributed to the increases from the proposed project.
- 4.25 Non-attainment Pollutant:** Any pollutant, as well as any precursors of such pollutant, which has been designated non-attainment by EPA as codified in 40 CFR 81.305 for specific portions of Butte County.
- 4.26 Offset:** An emission reduction that compensates for an increase in an affected pollutant from a new or modified stationary source.
- 4.27 PM10:** Particulate matter with aerodynamic diameter less than or equal to a nominal ten (10) microns. Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included.
- 4.28 PM2.5:** Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 microns. Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included.
- 4.29 PM2.5 Nonattainment Area:** The portion of Butte County which lies west of the line described as follows: (Mount Diablo Base and Meridian)

Beginning at the intersection of the Butte-Yuba county line and the township line common to T18N R6E and T19N R6E, west to the township line common to T18N R6E and T19N R6E, then north along the range line common to R5E and R6E, then west along the township line common to T21N and T20N, then north along the range line common to R4E and R5E, then west along the township line common to T24N and T23N to the Butte-Tehama County boundary.

- 4.30 Permanent:** Actual emissions reductions that continue or endure for the duration of any project utilizing the resulting ERCs as offsets.
- 4.31 Potential to Emit:** The maximum annual capacity of an emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the annual capacity of the unit to emit a pollutant, including pollution control equipment and restrictions in hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on annual emissions is incorporated into the applicable permit as a legally and practicably enforceable permit condition.
- 4.32 Precursor:** A directly-emitted pollutant that, when released to the atmosphere, forms, or contributes to the formation of a secondary pollutant for which an ambient air quality standard has been adopted. The following precursor relationships shall be used:

<u>PRECURSOR</u>	<u>SECONDARY POLLUTANT</u>
Volatile compounds	Photochemical oxidants (ozone) The organic fraction of PM10 and PM2.5
Nitrogen oxides (NOx)	Nitrogen dioxide The nitrate fraction of PM10 and PM2.5 Photochemical oxidants (ozone)
Sulfur oxides (SOx)	Sulfur dioxide Sulfates The sulfate fraction of PM10 and PM2.5
Ammonia (NH3)	The ammonium fraction of PM2.5

- 4.33 Project:** All emissions units associated with the scope of an application submitted in accordance with Rule 400 for a new or modified stationary source including any emissions units indirectly affected.

- 4.34 Proposed Emissions:** The potential to emit for a new or post-modified emissions unit which will be incorporated into the permit as legally and practicably enforceable permit conditions.
- 4.35 Quantifiable:** Ability to estimate emission reductions in terms of their amount and characteristics in a manner that is reliable and can be replicated.
- 4.36 Real:** Actually occurring, implemented, and not artificially devised.
- 4.37 Reasonably Available Control Technology (RACT):** The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.
- 4.38 Reconstructed Source:** Any source undergoing physical modification where the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new stationary source. Fixed capital cost means that capital needed to provide all the depreciable components.
- 4.39 Replacement Unit:** A replacement of an emissions unit authorized with a valid Permit to Operate provided all the following criteria are met:
- 4.39.1** The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.
 - 4.39.2** The emissions unit is identical to, or functionally equivalent to, the replaced emissions unit.
 - 4.39.3** The replacement does not alter the basic design parameters of the process unit.
 - 4.39.4** The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.
- 4.40 Reduced Sulfur Compounds:** The sulfur compounds hydrogen sulfide, carbon disulfide, and carbonyl sulfide.
- 4.41 Regulated NSR Pollutant:** A pollutant for which an Ambient Air Quality Standard has been established by the EPA and the precursors to such pollutants, including but not limited to, VOCs, NO_x, SO_x, PM₁₀, PM_{2.5}, and lead.
- 4.42 Significant Increase at a Class 1 Area:** Any emissions rate or any net emissions increase associated with a major stationary source which would construct within ten (10) kilometers of a Class I area and have an impact on such area equal to or greater than one (1) microgram per cubic meter (24-hour

average).

- 4.43 Stationary Source (Facility):** Any building, structure, or emissions unit which emits or may emit any regulated NSR pollutant directly or as a fugitive emission, including all pollutant-emitting activities which are:
- 4.43.1** Located on one or more contiguous or adjacent properties, and which may be separated by a public right-of-way;
 - 4.43.2** Under the same or common ownership, operation, or control, or which are owned or operated by entities which are under common control and belong to the same industrial grouping, either by virtue of falling within the same two-digit Standard Industrial Classification (SIC) Code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material and,
 - 4.43.3** Excluding non-road engines as defined in CAA Section 216.
- 4.44 Surplus:** The amount of actual emission reductions that are 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 SIP at the time of use. 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.
- 4.44.1** Examples of federal, State, and local laws, and of SIP-related requirements, include, but are not limited to, the following:
- 4.44.1.1** The federally-approved California SIP;
 - 4.44.1.2** 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;
 - 4.44.1.3** Any other source or source-category specific regulatory or permitting requirement, including, but not limited to, RACT, NSPS, NESHAPs, BACM, BACT, and LAER; and
 - 4.44.1.4** 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 emissions reduction commitment; assumptions used in conformity demonstrations; and assumptions used in emissions inventories.

5 REQUIREMENTS: Any emissions unit which emits a nonattainment pollutant and is otherwise subject to this Rule, shall be subject to the following requirements:

5.1 Best Available Control Technology (BACT): An applicant shall apply BACT to any new emissions unit(s) located at a new stationary source, any additions to an existing stationary source, or any modifications of an existing emissions unit(s) which results in a net emissions increase for the emissions unit equal to or exceeding the amounts specified below for new or modified sources, as applicable:

<u>Pollutant</u>	New Stationary Source (TPY)	Modified Source (TPY)
NOx	100	40
Particulate matter (PM-2.5)	100	10
VOCs	100	40
SOx	100	40

5.2 Offset Requirements

5.2.1 Emission reductions shall be required for emission units to offset annual emission increases of nonattainment pollutants or their precursors, associated with a new major stationary source or major modification at a stationary source and may be provided by a reduction in emissions as calculated pursuant to Section 6 of this Rule.

5.2.2 Offsets shall be real, permanent, enforceable, surplus at time of use, and quantifiable.

5.2.3 A stationary source's potential to emit shall be calculated pursuant to Section 6.

5.2.4 Offsets shall be required under the following conditions:

5.2.4.1 A new major source shall provide offsets for all emission increases of each nonattainment pollutant for which the source is classified as a major source.

5.2.4.2 An existing stationary source which undergoes a major modification for a nonattainment pollutant shall provide offsets for the emissions difference between the potential to emit after the modification and the actual emissions before the modification for each nonattainment pollutant.

5.2.5 A source subject to the offset requirements shall be subject to the Public Notice and Publication Actions of Rule 400.

5.2.6 Offsets required by this Section shall be identified at the time of

application and must be surrendered prior to operation of the permitted emissions unit.

5.3 Location of Offsets and Offset Ratios

5.3.1 Required offsets can only be provided from a nonattainment area, with the same or higher nonattainment classification, for the same pollutant or precursor of that pollutant.

5.3.2 Use of offsite offsets must result in a net air quality benefit, as determined by the APCO.

5.3.3 Offset ratios and the corresponding distances from the proposed stationary source shall be:

5.3.3.1 on-site, at a ratio of 1:1;

5.3.3.2 within 20 miles, at a ratio of 1.2:1;

5.3.3.3 from 20 miles to 50 miles, at a ratio of 1.5:1;

5.3.3.4 over 50 miles, at a ratio of 2:1.

5.3.4 The APCO may impose offset ratios greater than the requirements specified in this Rule based upon an air quality impact analysis.

6 EMISSION AND OFFSET CALCULATIONS: The following provisions shall be used to calculate emission increases and decreases from all new, removed and modified emissions units located at a stationary source.

6.1 BACT-Emissions Increase: The emissions increase for each emissions unit related to the project for the purposes of determining BACT applicability shall be calculated as the Proposed Emissions minus the Historic Actual Emissions. Historic Actual Emissions for a new source or emission unit equals zero.

6.2 Offsets-Emissions Increase or Decrease: The emissions increase or decrease for each emissions unit related to the project for the purposes of determining Offset applicability shall be calculated as the Proposed Emissions minus the Historical Actual Emissions. Emissions increases or decreases shall be calculated for each emissions unit and the project as a whole.

6.3 Project Emissions: If a project consists of more than one emissions unit, the total emissions from all emissions units shall be summed for each pollutant to determine the emissions increase for the project.

6.4 Fugitive Emissions: The fugitive emissions associated with an emissions unit or a stationary source shall not be included in determining whether a stationary source is a major stationary source or major modification to a stationary source unless the source belongs to one of the categories of sources included in 40 CFR 51.165(a)(1)(iv)(C).

6.5 Calculation Periods: The emissions increase or decrease for a project shall be calculated on an annual basis for each pollutant.

- 6.6 Potential To Emit - Stationary Sources:** The potential to emit of a new or modified stationary source shall be calculated as the sum of the potential to emit for all emissions units based on emission limitations established by any current Permit to Operate, Authority to Construct permit, and pending complete application.
- 6.7 Quantity of Offsets Required:** For each nonattainment pollutant for which offsets are required pursuant to Section 5.2.4 of this Rule, multiply the net emissions increase calculated for the project by the appropriate offset ratio based on the nonattainment pollutant and location as specified in Section 5.3 of this Rule.
- 7 ADMINISTRATIVE REQUIREMENTS:** The following administrative requirements shall apply to any new major source or major modification regulated by this Rule. Power plants over fifty (50) megawatts shall be subject to the additional requirements of Section 8 of this Rule.
- 7.1 Alternative Siting:** The applicant shall prepare an analysis functionally equivalent to the requirements of Division 13 of the Public Resources Code (California Environmental Quality Act-CEQA). The DISTRICT will not issue an Authority to Construct unless the APCO has concluded, based on the information included in the Alternative Siting Analysis that the benefits of the proposed source significantly outweigh the environmental and social cost imposed as a result of its location, construction, or modification.
- 7.2 Certification of Compliance:** The applicant shall provide a certification stating that all existing major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in California which are subject to emission limitations are in compliance, or on an expeditious schedule for compliance, with all applicable emission limitations and standards.
- 7.3 Potential Visibility Impacts**
- 7.3.1 Sources Impacting Class I Areas:** The applicant of a proposed new major source or major modification that may affect visibility of a Class I 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 project, as required by 40 CFR Section 51.307(b)(2) and 40 CFR Section 51.166(o).
- 7.3.2 Denial, Adverse Impact To Visibility Of A Class I Area:** The APCO shall deny any Authority to Construct or Permit to Operate for a new major stationary source or major modification if the APCO finds, after consideration of comments and an analysis from the Federal Land Manager, that the emissions from a proposed facility or modification would have an adverse impact on visibility,

as defined in 40 CFR Section 52.21(b)(29), of a Class I area pursuant to 40 CFR Section 51.307(b)(2).

- 7.4 Air Quality Impacts Analysis:** If the APCO determines that an Air Quality Impacts Analysis (AQIA) is necessary to determine if a project would cause a violation of the NAAQS, then the APCO may require an applicant to use an air quality model to estimate the effects of a new or modified emissions unit. If required by the APCO, the applicant shall provide an AQIA that complies with the AQIA requirements in Rule 400.
- 7.5 Limit Relaxation Provisions:** If any source or modification becomes a major stationary source or major modification as defined in Section 4 of this Rule solely by virtue of a relaxation in any federally enforceable limitation which was established after August 7, 1980, on a capacity of the source or modification to emit a federal nonattainment pollutant or its precursor, such as a restriction on hours of operation, then the requirements of this Rule shall apply to such a source or modification as though construction had not yet commenced on the source or modification.
- 8 POWER PLANTS:** This Section shall apply to all power plants proposed to be constructed in the District and for which a Notice of Intention (NOI) or Application for Certification has been accepted by the California Energy Commission (CEC). The APCO may apply for reimbursement of all costs incurred, including lost fees, in order to comply with the provisions of this Section.
- 8.1 Intent to Participate and Preliminary Report:** Within fourteen (14) days of receipt of an NOI, the APCO shall notify CARB and the CEC of the DISTRICT's intent to participate in the NOI proceeding. If the DISTRICT chooses to participate in the NOI proceeding, the APCO shall prepare and submit a report to CARB and the CEC prior to the conclusion of the non-adjudicatory hearing specified in Section 25509.5 of the Public Resources Code. That report shall include, at a minimum:
- 8.1.1** A preliminary specific definition of BACT for the proposed facility; and
 - 8.1.2** A preliminary discussion of whether there is a substantial likelihood that the requirements of this Rule and all other DISTRICT Regulations can be satisfied by the proposed facility; and
 - 8.1.3** A preliminary list of conditions which the proposed facility must meet in order to comply with this Rule or any other applicable DISTRICT Regulation.
- The preliminary determinations contained in the report shall be as specific as possible within the constraints of the information contained in the NOI.
- 8.2 Determination of Compliance Review:** Upon receipt of an Application for Certification (AFC) for a power plant, the APCO shall conduct a Determination of Compliance review. This determination shall consist of a review identical to that which would be performed if an application for an Authority to Construct had been received for the power plant. If the information

contained in the AFC does not meet the requirements of this Rule, the APCO shall, within twenty (20) calendar days of receipt of the AFC, so inform the CEC, and the AFC shall be considered incomplete and returned to the applicant for re-submittal.

- 8.3 Equivalency of Application:** The APCO shall consider the AFC to be equivalent to an application for an Authority to Construct during the Determination of Compliance review, and shall apply all provisions of this Rule which apply to an application for an Authority to Construct.
- 8.4 Need for Additional Information:** The APCO may request from the applicant any information necessary for the completion of the Determination of Compliance review. If the APCO is unable to obtain the information, the APCO may petition the presiding Commissioner for an order directing the applicant to supply such information.
- 8.5 Preliminary Determination:** Within one hundred and eighty (180) days of accepting an AFC as complete, the APCO shall make a preliminary written decision on:
- 8.5.1** Whether the proposed power plant meets the requirements of this Rule and all other applicable DISTRICT Regulations; and
- 8.5.2** In the event of compliance, what permit conditions will be required, including the specific BACT requirements and a description of required mitigation measures. The preliminary written decision under Section 8.5 of this Rule shall be treated as a preliminary decision under Section 5.2.2 of Rule 400, and shall be finalized by the APCO only after being subject to the public notice and comment requirements of Sections 4.5 and 5.2.4.2 of Rule 400. The APCO shall not issue a Determination of Compliance unless all requirements of this Rule are met.
- 8.6 Determination of Compliance:** Within two hundred and forty (240) days of the filing date, the APCO shall issue and submit to the CEC a Determination of Compliance or, if such a determination cannot be issued, shall inform the CEC.
- 8.7 Equivalency of Determination of Compliance to Authority to Construct:** A Determination of Compliance shall confer the same rights and privileges as an Authority to Construct provided the CEC approves the Application for Certification and the certificate granted by the CEC includes all the conditions of the Determination of Compliance.
- 8.8 Permit to Operate:** Any applicant receiving a certificate from the CEC pursuant to this Section 8 and in compliance with all conditions of the certificate shall be issued a Permit to Operate by the APCO.

Rule 433 Rice Straw Emission Reduction Credits
(Adopted August 26, 2010, Amended April 24, 2014)

RULE 433 CONTENTS

- 1 GENERAL
- 2 DEFINITIONS
- 3 STANDARDS
- 4 ADMINISTRATIVE REQUIREMENTS
- 5 MONITORING AND RECORDS
- 6 PROGRAM EVALUATION
- 7 IDEMNIFICATION

RULE 433

1 GENERAL

- 1.1 **Purpose:** The purpose of this Rule is to provide a federally recognized procedure for quantifying and certifying rice straw burning emission reductions, and issuing the resulting Emission Reduction Credit (ERC) certificates.

This Rule provides the only process by which ERC certificates issued for reductions in rice straw burning may be stored for later use to meet federal new source review offset requirements. Once issued in accordance with this Rule, the procedures in Rule 431-*Emission Reduction Credits* of these Rules and Regulations shall be used as the administrative mechanism for sources to transfer ERCs to other sources for use as offsets.

- 1.2 **Applicability:** The provisions of this Rule shall apply to any agricultural operation that grew rice and burned rice straw in the Butte County Air Quality Management District during the baseline period and voluntarily applies for rice straw ERCs.

2 **DEFINITIONS:** Unless otherwise defined below, the terms used in this Rule are the same as defined in Rule 101-*Definitions* of these Rules and Regulations.

- 2.1 **Agricultural Burning:** Open outdoor fires used in the growing of crops. For the purpose of this Rule, agricultural burning is considered to be a source and such activity requires an agricultural burn permit.
- 2.2 **Agricultural Burn Permit:** A permit issued by the Butte County Air Quality Management District (DISTRICT), which is required in order to conduct an agricultural burn.
- 2.3 **Agricultural Operation:** Equipment used exclusively in the growing of agricultural crops or in the commercial raising of fowl or animals.
- 2.4 **Air Pollution Control Officer (APCO):** The person appointed pursuant to California Health and Safety Code (HSC) Section 40750 or his or her designated representative.
- 2.5 **Applicant:** For a new application, the owner (or his/her designee) of the parcel. For a re-certification application, the current owner (or his/her designee) of an existing rice straw burning ERC.
- 2.6 **Applicant Designee:** The person, company, or entity submitting an application on behalf of the applicant. Such designee shall provide written authorization signed by the applicant to serve as the designee.

- 2.7 **Banking:** The system of quantifying, certifying, recording, and storing ERCs for future use and transfer. This system shall be called the ERC Bank.
- 2.8 **Baseline Period:** Calendar years 1988 through 1992.
- 2.9 **Certified:** ERCs which have been evaluated under the requirements of this Rule and other applicable DISTRICT, State, and federal Rules and Regulations and which have been granted by the APCO.
- 2.10 **Emission Reduction Credits (ERCs):** Reductions of actual emissions that are registered with the DISTRICT in accordance with the administrative requirements of Rule 431.
- 2.11 **Historic Burn Fraction (HBF):** The percentage of the total amount of rice planted which was burned during the baseline period. For this Rule, the HBF is 100%.
- 2.12 **New Application:** An application submitted in accordance with this Rule for which the DISTRICT has not already received an ERC application for reductions in rice straw burning for a parcel(s) prior to adoption of this Rule.
- 2.13 **Parcel:** A legally identifiable piece of land as registered with a County Assessor's office for property tax purposes and assigned an Assessor's Parcel Number (APN).
- 2.14 **Re-Certification Application:** An application submitted in accordance with this Rule for which the DISTRICT has previously received an ERC application for reductions in rice straw burning for a parcel(s) prior to adoption of this Rule.
- 2.15 **Register:** The document that records all ERC deposits, withdrawals, transfers, and transactions.
- 2.16 **Restricted Burn List:** A list (maintained by the DISTRICT) of parcels which have restrictions related to future agricultural burning.
- 2.17 **Rice Straw Burning:** The intentional open burning of rice straw material. For the purpose of this Rule, rice straw burning is considered to be a source and such activity requires an agricultural burn permit.
- 2.18 **Rice Straw Burning Emission Reductions:** Emission reductions that qualify for banking pursuant to HSC Section 41865.
- 2.19 **Rice Growing Acreage:** The amount of acreage contained in a parcel that was used for the production of rice during the baseline period.
- 2.20 **Surplus:** The amount of emission reductions that are, at the time of

generation of an 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 requirements of this Section. Examples of federal, State, and local laws, and of SIP-related requirements, include, but are not limited to, the following:

- 2.20.1** The federally-approved California SIP;
- 2.20.2** 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;
- 2.20.3** 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 the Lowest Achievable Emission Rate (LAER); and
- 2.20.4** Any regulation or supporting documentation that is required by the federal Clean Air Act but is not contained or referenced in 40 Code of Federal Regulations (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 emissions reduction commitment; assumptions used in conformity demonstrations; and assumptions used in emissions inventories.

3 STANDARDS

- 3.1 Determination If A Parcel Is Eligible:** A particular parcel qualifies to generate ERCs under this Rule if the following requirements are met:
 - 3.1.1** The parcel is located in the nonattainment areas of Butte County as listed in 40 CFR 81.305 ; and
 - 3.1.2** Rice straw burning occurred on the parcel during the baseline period.
- 3.2 Determination Of Available Acreage:** The available acreage for generating ERCs shall be determined by adding all of the rice growing acreage of an applicant's eligible parcels and multiplying by the HBF. In no case shall the total available acreage for the entire DISTRICT exceed 67,413 acres. In the event that the DISTRICT receives applications for which the total available

acreage exceeds 67,413 acres, the DISTRICT shall lower the amount of available acreage for each application in accordance with Section 4.4 of this Rule.

3.3 Determination Of Annual Emission Reductions Available: The amount of annual emission reductions available shall be determined by multiplying the available acreage times 75% times the applicable emission factor in the following table:

Pollutant	Emission Factor (lbs/acre)
Volatile Organic Compounds (VOC)	14.1
Nitrogen Oxides (NOx)	15.6
Carbon Monoxide (CO)	172.2
Particulate Matter less than 10 microns (PM10)	18.9
Particulate Matter less than 2.5 microns (PM2.5)*	17.7
Sulfur Oxides (SOx)	3.3

*PM2.5 is a subset of PM10 and constitutes 94% of the PM10 emissions.

3.4 Determination Of Quarterly Emission Reductions Available: The emission reductions shall be quantified on a calendar quarter basis. The following percentages shall be used to determine the amount of emission reductions in each calendar quarter:

Calendar Quarter	Percentage
First Quarter	27%
Second Quarter	44%
Third Quarter	3%
Fourth Quarter	26%

3.5 Community Bank Adjustment

3.5.1 Except as provided in Section 3.5.2 below, the DISTRICT shall take 5% of the emission reductions before the ERCs are granted and

apply the emission reductions toward attainment of the air quality standards or place the emission reductions into a community bank controlled by the DISTRICT for use by essential public services, such as sewage treatment, schools, hospitals, fire fighting, police, jail, water delivery, and mandated cleanup operations.

3.5.2 An applicant may restrict use of the ERCs only for the applicant's own future use, at the same parcel or site, in which case the DISTRICT will not adjust the ERCs. The applicant may have the restriction removed by the DISTRICT upon payment of costs incurred by the DISTRICT to re-issue an unrestricted ERC certificate.

3.5.3 Owners of ERC certificates may donate their ERCs to the DISTRICT for purposes of assisting the DISTRICT towards attainment of the air quality standards.

3.6 Deed Restriction: Prior to the issuance of an ERC, a deed restriction shall be placed on the parcel or group of contiguous parcels for which ERCs will be granted and a copy provided to the DISTRICT. The deed restriction shall prohibit agricultural burning on the parcel which is not consistent with the ERC.

3.7 Restricted Burn List: Prior to the issuance of an ERC, the DISTRICT shall place the parcel or group of contiguous parcels on the restricted burn list. In each calendar year, no agricultural burn permit may be issued for greater than 25% of the rice growing acreage of any parcel listed on the restricted burn list.

3.8 Burning Prohibition: No person shall conduct agricultural burning on more than 25% of the rice growing acreage of a parcel which has received an ERC certificate pursuant to the provisions of this Rule. In addition, applicants must comply with HSC 41865.

4 ADMINISTRATIVE REQUIREMENTS

4.1 Application Filing Deadline: All applications to obtain rice straw ERC certificates in accordance with this Rule shall be submitted by January 1, 2011. Applications submitted after January 1, 2011 shall not be eligible for ERCs under this Rule.

4.2 Application Requirements - New Applications: The applicant shall submit one (1) application for each parcel or for each set of contiguous parcels. The application shall contain the following information:

4.2.1 List of each parcel included in the application, including APN and any owner's designation or identifier.

4.2.2 The acreage of each parcel that was used to grow rice during the baseline period and documentation of such acreage.

4.2.3 Documentation that rice straw burning occurred on the acreage of

each parcel (identified above) during the baseline period. Examples of acceptable documentation include, but are not limited to, copies of a DISTRICT burn permit, log books, pictures, or other DISTRICT approved verifiable records. In the event that a burn permit or other records are not available, the DISTRICT may accept a signed affidavit (under penalty of perjury) from the applicant certifying that rice straw on the parcel was burned during the baseline period.

- 4.2.4 A statement of intent to file a deed restriction required by Section 3.6 of this Rule for each parcel or for each set of contiguous parcels for which an application is being submitted (A copy of the deed restriction must be provided prior to final issuance of the rice straw ERC certificate).
- 4.2.5 Filing fees for the application shall be assessed in accordance with Rule 500-*Stationary Source Permit Fees* of these Rules and Regulations and issuance of ERCs will be assessed in accordance with Rule 503-*Emission Reduction Credit (ERC) Fees* of these Rules and Regulations.

4.3 Application Requirements - Re-Certification Applications: The applicant shall submit one (1) application for each ERC certificate for a parcel or group of contiguous parcels.

4.4 Available Acreage Adjustment: In the event that the DISTRICT receives applications in which the requested available acreage totals to more than 67,413 acres, the DISTRICT shall lower the percentage available as follows:

- 4.4.1 The re-certification applications meeting the criteria of this Rule shall get full credit on their acreage.
- 4.4.2 The applications with verifiable burn records will have second priority. If the total available acreage for all these applications along with the re-certification applications does not exceed 67,413 acres, these applications will get full credit. If the total of all these applications along with the re-certification applications exceeds 67,413 acres, these applications shall be adjusted proportionally so that the total acreage for which all rice straw burning ERCs are issued does not exceed 67,413 acres.
- 4.4.3 For all remaining applications with affidavits for burn documentation, the amount of rice straw acreage determined to be available shall be adjusted proportionally so that the total acreage for which all rice straw burning ERCs are issued does not exceed 67,413 acres.

4.5 Application Processing Procedures

- 4.5.1 **Complete Application:** The APCO shall determine whether the application is complete not later than thirty (30) days after receipt of the application for ERC certificates. If the APCO determines that the application is not complete, the applicant shall be notified in

writing of the decision specifying the information required. If the specified information is not submitted within thirty (30) days the application shall be denied by the APCO.

- 4.5.2 Additional Information:** Upon receipt of additional information for an incomplete application a new thirty (30) day period to determine completeness shall begin. During the processing of the application, the APCO may request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.
- 4.5.3 Preliminary Decision:** Following acceptance of an application as complete, the APCO shall perform the evaluations required to determine compliance with all applicable DISTRICT Rules and Regulations and make a preliminary written decision as to whether the emission reduction should be certified as ERCs. The decision should be supported by a succinct written analysis.
- 4.5.4 Publication and Public Comment:** Within ten (10) calendar days following a preliminary decision, the APCO shall publish, in at least one (1) newspaper of general circulation in the District, a notice stating the preliminary decision of the APCO, noting how the pertinent information can be obtained, and inviting written public comment for a thirty (30) day period following the date of publication.
- 4.5.5 Deed Restriction:** Within ninety (90) calendar days of the public notice being published, the applicant shall submit a final copy of a legal deed restriction.
- 4.5.6 Public Inspection:** The APCO shall make available for public inspection at the DISTRICT office the information submitted by the applicant and the APCO's analysis no later than the date the notice of the preliminary decision is published, pursuant to Section 4.5.4 above. Further, all such information shall be transmitted to the California Air Resources Board (CARB) and the U. S. Environmental Protection Agency (EPA) regional office, and to any party which requests such information no later than the date of publication.
- 4.5.7 Final Action:** Within 180 days after the application filing deadline in Section 4.1 of this Rule, the APCO shall take final action on the applications, after considering all written comments.

4.6 Violations: Failure to comply with any provision or restriction of this Rule shall be considered a violation of this Rule.

5 MONITORING AND RECORDS: For any parcel or group of contiguous parcels for which a rice straw ERC certificate has been issued, the initial ERC holder or current land owner shall keep records of the amount of acres, crop type and burning that has occurred during the previous five (5) years.

6 PROGRAM EVALUATION: Within two (2) years after adoption of this Rule, the

DISTRICT shall evaluate the program and submit an evaluation report to EPA. The report shall include a discussion of the total number of applications approved, total acreage subject to this Rule, and total amount of ERCs issued.

- 7 **INDEMNIFICATION:** Each applicant for, and recipient of, an ERC certificate agrees to indemnify, defend and hold the DISTRICT (including its Board Members, officers, directors, managers, employees and agents) harmless and free and clear from and against any liability, debt, obligation, claim, judgment, action, cause of action or cost or expense, of any amount or nature whatsoever incurred by or imposed upon the DISTRICT arising out of, as a result of, related to or in any way connected with the denial, issuance, modification or transfer of a certificate, including an action by the Hearing Board. Such costs or expenses shall include, but not be limited to, reasonable attorneys fees, expert witness fees and all other litigation expenses.

Rule 434 Emissions Statements
(Adopted April 25, 2013; Amended June 25, 2020)

RULE 434 CONTENTS

- 1 PURPOSE
- 2 APPLICABILITY
- 3 REQUIREMENTS
- 4 ADMINISTRATIVE REQUIREMENTS

Rule 434

1 PURPOSE: This Rule establishes the requirements for the submittal of an annual emissions statement from stationary sources in accordance with the requirements of the 1990 Clean Air Act [Section 182(a)(3)(B)].

2 APPLICABILITY: The requirements of this Rule are applicable to any stationary source which emits or may emit oxides of nitrogen (NO_x) or reactive organic compounds (ROCs).

3 REQUIREMENTS

3.1 The owner or operator of any stationary source that is subject to this Rule shall provide the Butte County Air Quality Management District (DISTRICT) with a written emissions statement showing actual emissions or operational data allowing the DISTRICT to estimate actual emissions from that source. Emissions calculations shall be based on emission factors approved by the Air Pollution Control Officer (APCO) and the United States Environmental Protection Agency (U.S. EPA).

3.2 The emissions statement shall be on a form or in a format specified by the APCO and shall contain emissions data for the time period specified by the APCO. Emissions statements shall be submitted annually.

4 ADMINISTRATIVE REQUIREMENTS

4.1 The APCO may waive the requirements of Section 3 of this Rule to any class or category of stationary sources which emit less than 25 tons per year of NO_x or ROCs if the DISTRICT provides the California Air Resources Board (CARB) with an emissions inventory of sources emitting less than 25 tons per year of NO_x or ROCs, based on the use of emission factors established by or other methods acceptable to the U.S. EPA.

4.2 All official documents submitted to the DISTRICT shall contain a certification signed and dated by a responsible official of the company attesting that the information contained in the submitted documents is accurate to the best knowledge of the individual certifying the submission. The requirements of this Section apply to, but are not limited to, the emissions statement required in Section 3 of this Rule.

REGULATION VII

VIOLATIONS

~~RULE 701 VIOLATION OF RULES~~

~~Every person violating any order, rule, or regulation of the Butte County Air Pollution Control District is guilty of a misdemeanor. Every day during any portion of which such a violation occurs is a separate offense.~~

~~RULE 702 VIOLATION OF ORCHARD HEATER OR OPEN BURNING REGULATIONS~~

~~Any violation of the provisions of Regulation III of these Rules and Regulations is a misdemeanor punishable by imprisonment in the County Jail not exceeding six (6) months; or by fine not exceeding one thousand dollars (\$1000), or both, and the cost of putting out the fire. Every day during any portion of which such violation occurs constitutes a separate offense.~~

~~RULE 703 CITATIONS~~

~~The Air Pollution Control Officer or his designated representative is authorized to issue citations to any person violating any order, rule or regulation of the District.~~

~~RULE 704 VIOLATIONS OF AUTHORITY TO CONSTRUCT AND PERMIT CONDITIONS~~

- ~~A. Construction or operation of any source in violation of the terms or conditions of permits issued pursuant to these Rules is prohibited.~~
- ~~B. Any violation of the terms or conditions of an authority to construct or permit to operate issued pursuant to District Rules shall constitute a violation of District Rules.~~

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REGULATION IX

MISCELLANEOUS

RULE 901 SEVERABILITY CLAUSE

It is hereby declared to be the intention of the Board of the District that the rules, paragraphs, sentences, clauses and phrases of these regulations are severable, and if any phrase, clause, sentence, paragraph or rule of these regulations shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and rules of these regulations.

~~RULE 902 EMPOWER TO ENTER UPON PRIVATE PROPERTY~~

~~The Air Pollution Control Officer or his deputies are hereby empowered to enter upon private property in order to make investigations for the purpose of enforcing the provisions of these regulations.~~

5/25/95

**RULE 1103 CONFORMITY OF GENERAL FEDERAL ACTIONS
TO STATE IMPLEMENTATION PLANS**

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§ A. Purpose

- (a) The purpose of this rule is to implement section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 et seq.) and regulations under 40 CFR part 51 subpart W, with respect to the conformity of general Federal actions to the applicable implementation plan. Under those authorities, no department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan. This rule sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such actions to the applicable implementation plan.
- (b) Under CAA §176(c) and 40 CFR part 51 subpart W, a Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this rule before the action is taken.
- (c) The preceding sentence does not include Federal actions where either:
 - (1) A National Environmental Policy Act (NEPA) analysis was completed as evidenced by a final environmental assessment (EA), environmental impact statement (EIS), or

finding of no significant impact (FONSI) that was prepared prior to January 31, 1994, or

- (2) (i) Prior to January 31, 1994, an EA was commenced or a contract was awarded to develop the specific environmental analysis,
 - (ii) Sufficient environmental analysis is completed by March 15, 1994, so that the Federal agency may determine that the Federal action is in conformity with the specific requirements and the purposes of the applicable implementation plan pursuant to the agency's affirmative obligation under §176(c) of the CAA, and
 - (iii) A written determination of conformity under §176(c) of the CAA has been made by the Federal agency responsible for the Federal action by March 15, 1994.
- (d) Notwithstanding any provision of this rule, a determination that an action is in conformity with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the NEPA, or the CAA.

§ B. Definitions

Terms used but not defined in this rule shall have the meaning given them by the CAA and EPA's regulations, in that order of priority.

Affected Federal land manager means the Federal agency or the Federal official charged with direct responsibility for management of an area designated as Class I under the CAA (42 U.S.C. 7472) that is located within 100 km of the proposed Federal action.

Applicable implementation plan means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under §110 of the CAA, or promulgated under §110(c) of the CAA (Federal implementation plan), or promulgated or approved pursuant to regulations promulgated under §301(d) of the CAA and which implements the relevant requirements of the CAA.

Areawide air quality modeling analysis means an assessment on a scale that includes the entire nonattainment or maintenance area

which uses an air quality dispersion model to determine the effects of emissions on air quality.

CAA means the Clean Air Act, as amended.

Cause or contribute to a new violation means a Federal action that:

- (1) Causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the Federal action were not taken, or
- (2) Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment or maintenance area in a manner that would increase the frequency or severity of the new violation.

Caused by, as used in the terms "direct emissions" and "indirect emissions," means emissions that would not otherwise occur in the absence of the Federal action.

Consultation means that one party confers with another identified party, provides all information to that party needed for meaningful input, and, prior to taking any action, considers the views of that party and responds to those views in a timely, substantive written manner prior to any final decision on such action. Such views and written response shall be made part of the record of any decision or action.

Criteria pollutant or standard means any pollutant for which there is established a NAAQS at 40 CFR part 50.

Direct emissions means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action.

Emergency means a situation where extremely quick action on the part of the Federal agencies involved is needed and where the timing of such Federal activities makes it impractical to meet the requirements of this rule, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts, and military mobilizations.

Emissions budgets are those portions of the total allowable emissions defined in an EPA- approved revision to the applicable implementation plan for a certain date for the purpose of meeting

reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors, specifically allocated by the applicable implementation plan to mobile sources, to any stationary source or class of stationary sources, to any Federal action or class of action, to any class of area sources, or to any subcategory of the emissions inventory. The allocation system must be specific enough to assure meeting the criteria of §176(c)(1)(B) of the CAA. An emissions budget may be expressed in terms of an annual period, a daily period, or other period established in the applicable implementation plan.

Emission offsets, for purposes of §H, are emissions reductions which are quantifiable, consistent with the applicable implementation plan attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other applicable implementation plan provisions, enforceable under both State and Federal law, and permanent within the time frame specified by the program. Emissions reductions intended to be achieved as emissions offsets under this rule must be monitored and enforced in a manner equivalent to that under EPA's new source review requirements.

Emissions that a Federal agency has a continuing program responsibility for means emissions that are specifically caused by an agency carrying out its authorities, and does not include emissions that occur due to subsequent activities, unless such activities are required by the Federal agency. Where an agency, in performing its normal program responsibilities, takes actions itself or imposes conditions that result in air pollutant emissions by a non-Federal entity taking subsequent actions, such emissions are covered by the meaning of a continuing program responsibility.

EPA means the United States Environmental Protection Agency.

Federal action means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.). Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase of the non-Federal undertaking that requires the Federal permit, license, or approval.

Federal agency means, for purposes of this rule, a Federal department, agency, or instrumentality of the Federal government.

Increase the frequency or severity of any existing violation of any standard in any area means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed or would otherwise exist during the future period in question, if the project were not implemented.

Indirect emissions means those emissions of a criteria pollutant or its precursors that:

- (1) are caused by the Federal action, but may occur later in time or may be farther removed in distance from the action itself but are still reasonably foreseeable; and,
- (2) the Federal agency can practicably control and will maintain control over due to a continuing program responsibility of the Federal agency, including, but not limited to:
 - (i) traffic on or to, or stimulated or accommodated by, a proposed facility which is related to increases or other changes in the scale or timing of operations of such facility;
 - (ii) emissions related to the activities of employees of contractors or Federal employees;
 - (iii) emissions related to employee commutation and similar programs to increase average vehicle occupancy imposed on all employers of a certain size in the locality;
 - (iv) emissions related to the use of Federal facilities under lease or temporary permit; and,
 - (v) emissions related to the activities of contractors or leaseholders that may be addressed by provisions that are usual and customary for contracts or leases or within the scope of contractual protection of the interests of the United States.

[NOTE: This term does not have the same meaning as given to an indirect source of emissions under §110(a)(5) of the CAA.]

Local air quality modeling analysis means an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, which uses an air quality dispersion model to determine the effects of emissions on air quality.

Maintenance area means any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under §175A of the CAA.

Maintenance plan means a revision to the applicable implementation plan, meeting the requirements of §175A of the CAA.

Metropolitan planning organization (MPO) is that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607.

Milestone has the meaning given in §§182(g)(1) and 189(c)(1) of the CAA. A milestone consists of an emissions level and the date on which it is required to be achieved.

National ambient air quality standards (NAAQS) are those standards established pursuant to §109 of the CAA and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone, particulate matter (PM₁₀), and sulfur dioxide (SO₂). NEPA means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Nonattainment area (NAA) means any geographic area of the United States which has been designated as nonattainment under §107 of the CAA and described in 40 CFR part 81.

Precursors of a criteria pollutant are:

- (1) For ozone, nitrogen oxides (NO_x) (unless an area is exempted from NO_x requirements under §182(f) of the CAA), and volatile organic compounds (VOC); and
- (2) For PM₁₀, those pollutants described in the PM₁₀ nonattainment area applicable implementation plan as significant contributors to the PM₁₀ levels.

Reasonably foreseeable emissions are projected future indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known to the

extent adequate to determine the impact of such emissions; and the emissions are quantifiable, as described and documented by the Federal agency based on its own information and after reviewing any information presented to the Federal agency.

Regionally significant action means a Federal action for which the direct and indirect emissions of any pollutant represent 10 percent or more of a nonattainment or maintenance area's emissions inventory for that pollutant.

Regional water or wastewater projects include construction, operation, and maintenance of water or wastewater conveyances, water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment or maintenance area.

Total of direct and indirect emissions means the sum of direct and indirect emissions increases and decreases caused by the Federal action; i.e., the "net" emissions considering all direct and indirect emissions. Any emissions decreases used to reduce such total shall have already occurred or shall be enforceable under State and Federal law. The portion of emissions which are exempt or presumed to conform under §C(c), (d), (e), or (f) are not included in the "total of direct and indirect emissions", except as provided in §C(j). The "total of direct and indirect emissions" includes emissions of criteria pollutants and emissions of precursors of criteria pollutants. The segmentation of projects for conformity analyses when emissions are reasonably foreseeable is not permitted by this rule.

§ C. Applicability

(a) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must meet the procedures and criteria of District Regulation XI - Rule 1102 - Conformity to State Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, in lieu of the procedures set forth in this rule.

(b) For Federal actions not covered by paragraph (a) of this section, a conformity determination is required for each pollutant where the total of direct and indirect emissions in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (b)(1) or (2) of this section.

- (1) For purposes of paragraph (b) of this section, the following rates apply in nonattainment areas (NAAs):

	Tons/Year
Ozone (VOC or NO _x)	
Serious NAAs	50
Severe NAAs	25
Extreme NAAs	10
Other ozone NAAs outside an Ozone transport region	100
Marginal and moderate NAAs inside an ozone transport region	
VOC	50
NO _x	100
Carbon monoxide	
All NAAs	100
SO ₂ or NO ₂	
All NAAs	100
PM ₁₀	
Moderate NAAs	100
Serious NAAs	70
Pb	
All NAAs	25

- (2) For purposes of paragraph (b) of this section, the following rates apply in maintenance areas:

	Tons/Year
Ozone (NO _x), SO ₂ or NO ₂	
All maintenance areas	100
Ozone (VOC)	
Maintenance areas inside an ozone transport region	50
Maintenance areas outside an ozone transport region	100
Carbon monoxide	
All maintenance areas	100
PM ₁₀	
All maintenance areas	100
Pb	
All maintenance areas	25

- (c) The requirements of this rule shall not apply to:

- (1) Actions where the total of direct and indirect emissions are below the emissions levels specified in paragraph (b) of this section.
- (2) The following actions which would result in no emissions increase or an increase in emissions that is clearly de minimis:

- (i) Judicial and legislative proceedings.
- (ii) Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted.
- (iii) Rulemaking and policy development and issuance.
- (iv) Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities.
- (v) Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law enforcement personnel.
- (vi) Administrative actions such as personnel actions, organizational changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties and fees.
- (vii) The routine, recurring transportation of material and personnel.
- (viii) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups or for repair or overhaul.
- (ix) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.
- (x) With respect to existing structures, properties, facilities and lands where future activities conducted will be similar in scope and operation to activities currently being conducted at the existing structures, properties, facilities, and lands, actions such as relocation of personnel, disposition of federally-owned existing structures, properties, facilities, and lands, rent subsidies, opera-

- tion and maintenance cost subsidies, the exercise of receivership or conservatorship authority, assistance in purchasing structures, and the production of coins and currency.
- (xi) The granting of leases, licenses such as for exports and trade, permits, and easements where activities conducted will be similar in scope and operation to activities currently being conducted.
 - (xii) Planning, studies, and provision of technical assistance.
 - (xiii) Routine operation of facilities, mobile assets and equipment.
 - (xiv) Transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer.
 - (xv) The designation of empowerment zones, enterprise communities, or viticultural areas.
 - (xvi) Actions by any of the Federal banking agencies or the Federal Reserve Banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency or instrumentality of the United States.
 - (xvii) Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank to effect monetary or exchange rate policy.
 - (xviii) Actions that implement a foreign affairs function of the United States.
 - (xix) Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through an enforceable contract or lease agreement where the delivery of the deed is required to occur promptly after a spe-

cific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the Federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.

- (xx) Transfers of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity and assignments of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity for subsequent deeding to eligible applicants.
 - (xxi) Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States.
- (3) The following actions where the emissions are not reasonably foreseeable, such as the following:
- (i) Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level.
 - (ii) Electric power marketing activities that involve the acquisition, sale and transmission of electric energy.
- (4) Individual actions which implement a decision to conduct or carry out a program that has been found to conform to the applicable implementation plan, such as prescribed burning actions which are consistent with a land management plan that has been found to conform to the applicable implementation plan. Such land management plan shall have been found to conform within the past five years.
- (d) Notwithstanding the other requirements of this rule, a conformity determination is not required for the following Federal actions (or portion thereof):
- (1) The portion of an action that includes major new or modified stationary sources that require a permit under the new source review (NSR) program (§173 of the CAA)

or the prevention of significant deterioration (PSD) program (Title I, part C of the CAA).

- (2) Actions in response to emergencies or natural disasters such as hurricanes, earthquakes, etc., which are commenced on the order of hours or days after the emergency or disaster and, if applicable, which meet the requirements of paragraph (e) of this section.
 - (3) Research, investigations, studies, demonstrations, or training [other than those exempted under §C(c)(2)], where no environmental detriment is incurred or the particular action furthers air quality research, as determined by the State agency primarily responsible for the applicable implementation plan.
 - (4) Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g., hush houses for aircraft engines and scrubbers for air emissions).
 - (5) Direct emissions from remedial and removal actions carried out under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and associated regulations to the extent such emissions either comply with the substantive requirements of the PSD/NSR permitting program or are exempted from other environmental regulation under the provisions of CERCLA and applicable regulations issued under CERCLA.
- (e) Federal actions which are part of a continuing response to an emergency or disaster under §C(d)(2) and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under §C(d)(2) are exempt from the requirements of this subpart only if:
- (1) The Federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional 6 months, it is impractical to prepare the conformity analyses which would otherwise be required and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests and foreign policy commitments; or
 - (2) For actions which are to be taken after those actions covered by paragraph (e)(1) of this section, the Fed-

eral agency makes a new determination as provided in paragraph (e)(1) of this section.

- (f) Notwithstanding other requirements of this rule, individual actions or classes of actions specified by individual Federal agencies that have met the criteria set forth in either paragraph (g)(1) or (g)(2) and the procedures set forth in paragraph (h) of this section are presumed to conform, except as provided in paragraph (j) of this section.
- (g) The Federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in either paragraph (g)(1) or (g)(2) of this section:
- (1) The Federal agency must clearly demonstrate using methods consistent with this rule that the total of direct and indirect emissions from the type of activities which would be presumed to conform would not:
 - (i) Cause or contribute to any new violation of any standard in any area;
 - (ii) Interfere with provisions in the applicable implementation plan for maintenance of any standard;
 - (iii) Increase the frequency or severity of any existing violation of any standard in any area; or,
 - (iv) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable implementation plan for purposes of:
 - (A) A demonstration of reasonable further progress;
 - (B) A demonstration of attainment; or
 - (C) A maintenance plan; or
 - (2) The Federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emission rates for a conformity determination that are established in paragraph

(b) of this section, based, for example, on similar actions taken over recent years.

- (h) In addition to meeting the criteria for establishing exemptions set forth in paragraphs (g)(1) or (g)(2) of this section, the following procedures must also be complied with to presume that activities will conform:
- (1) The Federal agency must identify through publication in the Federal Register its list of proposed activities that are presumed to conform and the analysis, assumptions, emissions factors, and criteria used as the basis for the presumptions;
 - (2) The Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under §174 of the CAA and the MPO and provide at least 30 days for the public to comment on the list of proposed activities presumed to conform;
 - (3) The Federal agency must document its response to all the comments received and make the comments, response, and final list of activities available to the public upon request; and
 - (4) The Federal agency must publish the final list of such activities in the Federal Register.
- (i) Notwithstanding the other requirements of this rule, when the total of direct and indirect emissions of any pollutant from a Federal action does not equal or exceed the rates specified in paragraph (b) of this section, but represents 10 percent or more of a nonattainment or maintenance area's total emissions of that pollutant, as established by the applicable implementation plan, the action is defined as a regionally significant action and the requirements of §A and §§E through J shall apply for the Federal action.
- (j) Where an action presumed to be de minimis under paragraphs (c)(1) or (c)(2) of this section or otherwise presumed to conform under paragraph (f) of this section is a regionally significant action or where an action otherwise presumed to conform under paragraph (f) of this section does not in fact meet one of the criteria in paragraph (g)(1) of this section, that action shall not be considered de minimis or presumed to conform and the requirements of §A and §§E through J shall apply for the Federal action.

- (k) The provisions of this rule shall apply in all nonattainment and maintenance areas.
- (l) Any measures used to affect or determine applicability of this rule, as determined under this section, must result in projects that are in fact de minimis, must result in such de minimis levels prior to the time the applicability determination is made, and must be State or Federally enforceable. Any measures that are intended to reduce air quality impacts for this purpose must be identified (including the identification and quantification of all emission reductions claimed) and the process for implementation (including any necessary funding of such measures and tracking of such emission reductions) and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation. Prior to a determination of applicability, the Federal agency making the determination must obtain written commitments from the appropriate persons or agencies to implement any measures which are identified as conditions for making such determinations. Such written commitment shall describe such mitigation measures and the nature of the commitment, in a manner consistent with the previous sentence. After this implementation plan revision is approved by EPA, enforceability through the applicable implementation plan of any measures necessary for a determination of applicability will apply to all persons who agree to reduce direct and indirect emissions associated with a Federal action for a conformity applicability determination.

§ D. Conformity Analysis

Any Federal department, agency, or instrumentality of the Federal government taking an action subject to 40 CFR part 51 subpart W and this rule must make its own conformity determination consistent with the requirements of this rule. In making its conformity determination, a Federal agency must consider comments from any interested parties. Where multiple Federal agencies have jurisdiction for various aspects of a project, a Federal agency may choose to adopt the analysis of another Federal agency (to the extent the proposed action and impacts analyzed are the same as the project for which a conformity determination is required) or develop its own analysis in order to make its conformity determination.

§ E. Reporting Requirements

- (a) A Federal agency making a conformity determination under §H must provide to the appropriate EPA Regional Office(s),

State and local air quality agencies and, where applicable, affected Federal land managers, the agency designated under §174 of the CAA and the MPO a 30-day notice which describes the proposed action and the Federal agency's draft conformity determination on the action.

- (b) A Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, affected Federal land managers, the agency designated under §174 of the CAA and the MPO within 30 days after making a final conformity determination under §H.

§ F. Public participation and consultation

- (a) Upon request by any person regarding a specific Federal action, a Federal agency must make available for review its draft conformity determination under §H with supporting materials which describe the analytical methods, assumptions, and conclusions relied upon in making the applicability analysis and draft conformity determination.
- (b) A Federal agency must make public its draft conformity determination under §H by placing a notice by prominent advertisement in a daily newspaper of general circulation in the areas affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.
- (c) A Federal agency must document its response to all the comments received on its draft conformity determination under §H and make the comments and responses available, upon request by any person regarding a specific Federal action, within 30 days of the final conformity determination.
- (d) A Federal agency must make public its final conformity determination under §H for a Federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the areas affected by the action within 30 days of the final conformity determination.

§ G. Frequency of conformity determinations

- (a) The conformity status of a Federal action automatically lapses 5 years from the date a final conformity determination is reported under §E, unless the Federal action has been completed or a continuous program has been commenced to implement that Federal action within a reasonable time.

- (b) Ongoing Federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as the emissions associated with such activities are within the scope of the final conformity determination reported under §E.
- (c) If, after the conformity determination is made, the Federal action is changed so that there is an increase in the total of direct and indirect emissions above the levels in §C(b), a new conformity determination is required.

§ H. Criteria for determining conformity of general Federal actions

- (a) An action required under §C to have a conformity determination for a specific pollutant, will be determined to conform to the applicable implementation plan if, for each pollutant that exceeds the rates in §C(b), or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of paragraph (c) of this section, and meets any of the following requirements:
 - (1) For any criteria pollutant, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable implementation plan's attainment or maintenance demonstration;
 - (2) For ozone or nitrogen dioxide, the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area through a revision to the applicable implementation plan or a measure similarly enforceable under State and Federal law that effects emission reductions so that there is no net increase in emissions of that pollutant;
 - (3) For any criteria pollutant, except ozone and nitrogen dioxide, the total of direct and indirect emissions from the action meet the requirements:
 - (i) specified in paragraph (b) of this section, based on areawide air quality modeling analysis and local air quality modeling analysis, or,

- (ii) specified in paragraph (a)(5) and, for local air quality modeling analysis, the requirement of paragraph (b) of this section;
- (4) For CO or PM₁₀,
- (i) Where the State agency primarily responsible for the applicable implementation plan determines (in accordance with §§E and F and consistent with the applicable implementation plan) that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (b) of this section, based on local air quality modeling analysis, or
 - (ii) Where the State agency primarily responsible for the applicable implementation plan determines (in accordance with §§E and F and consistent with the applicable implementation plan) that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (b) of this section, based on area-wide modeling, or meet the requirements of paragraph (a)(5) of this section; or,
- (5) For ozone or nitrogen dioxide, and for purposes of paragraphs (a)(3)(ii) and (a)(4)(ii) of this section, each portion of the action or the action as a whole meets any of the following requirements:
- (i) Where EPA has approved a revision to an area's attainment or maintenance demonstration after 1990 and the State makes a determination as provided in paragraph (A) or where the State makes a commitment as provided in paragraph (B.). Any such determination or commitment shall be made in compliance with §§E and F:
 - (A) The total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the State agency primarily responsible for the applicable implementation plan to result in a level of emissions which,

together with all other emissions in the nonattainment (or maintenance) area, would not exceed the emissions budgets specified in the applicable implementation plan.

- (B) The total of direct and indirect emissions from the action (or portion thereof) is determined by the State agency responsible for the applicable implementation plan to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would exceed an emissions budget specified in the applicable implementation plan and the Governor [or, if appropriate, the Governor's designee for SIP actions under State law] makes a written commitment to EPA which includes the following:
 - (I) A specific schedule for adoption and submittal of a revision to the applicable implementation plan which would achieve the needed emission reductions prior to the time emissions from the Federal action would occur;
 - (II) Identification of specific measures for incorporation into the applicable implementation plan which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable implementation plan;
 - (III) A demonstration that all existing applicable implementation plan requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued;
 - (IV) A determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and,

- (V) Written documentation including all air quality analyses supporting the conformity determination.
- (C) Where a Federal agency made a conformity determination based on a State commitment under subparagraph (a)(5)(i)(B) of this paragraph, such a State commitment is automatically deemed a call for an implementation plan revision by EPA under §110(k)(5) of the CAA, effective on the date of the Federal conformity determination and requiring response within 18 months or any shorter time within which the State commits to revise the applicable implementation plan;
- (ii) The action (or portion thereof), as determined by the MPO, is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable implementation plan under District Regulation XI - Rule 1102 - Conformity to State Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act or 40 CFR part 93 subpart A;
- (iii) The action (or portion thereof) fully offsets its emissions within the same nonattainment or maintenance area through a revision to the applicable implementation plan or an equally enforceable measure that effects emission reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;
- (iv) Where EPA has not approved a revision to the relevant implementation plan attainment or maintenance demonstration since 1990, the total of direct and indirect emissions from the action for the future years (described in paragraph (d) of §I) do not increase emissions with respect to the baseline emissions, and:
- (A) The baseline emissions reflect the historical activity levels that occurred in the geo-

graphic area affected by the proposed Federal action during:

- (I) Calendar year 1990,
 - (II) The calendar year that is the basis for the classification (or, where the classification is based on multiple years, the year that is most representative in terms of the level of activity), if a classification is promulgated in 40 CFR part 81, or
 - (III) The year of the baseline inventory in the PM₁₀ applicable implementation plan;
- (B) The baseline emissions are the total of direct and indirect emissions calculated for the future years [described in paragraph (d) of §I] using the historic activity levels [described in subparagraph (a)(5)(iv)(A) of this paragraph] and appropriate emission factors for the future years; or,
- (v) Where the action involves regional water or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable implementation plan, based on assumptions regarding per capita use that are developed or approved in accordance with §I(a).
- (b) The areawide and local air quality modeling analyses must:
- (1) Meet the requirements in §I and
 - (2) Show that the action does not:
 - (i) Cause or contribute to any new violation of any standard in any area; or
 - (ii) Increase the frequency or severity of any existing violation of any standard in any area.
- (c) Notwithstanding any other requirements of this section, an action subject to this rule may not be determined to conform to the applicable implementation plan unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable implementation plan, such as elements identified as part of the reasonable further

progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements, and such action is otherwise in compliance with all relevant requirements of the applicable implementation plan.

- (d) Any analyses required under this section must be completed, and any mitigation requirements necessary for a finding of conformity must be identified in compliance with §J, before the determination of conformity is made.

§ I. Procedures for conformity determinations of general Federal actions

- (a) The analyses required under this rule must be based on the latest planning assumptions.
 - (1) All planning assumptions (including, but not limited to, per capita water and sewer use, vehicle miles traveled per capita or per household, trip generation per household, vehicle occupancy, household size, vehicle fleet mix, vehicle ownership, wood stoves per household, and the geographic distribution of population growth) must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or the California Department of Transportation. The conformity determination must also be based on the latest assumptions about current and future background concentrations and other Federal actions.
 - (2) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved by the MPO or other agency authorized to make such estimates for the area.
- (b) The analyses required under this rule must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate and written approval of the EPA Regional Administrator is obtained for any modification or substitution, they may be modified or another technique substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program.

- (1) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in the State or area must be used for the conformity analysis as specified below:
 - (i) The EPA must publish in the Federal Register a notice of availability of any new motor vehicle emissions model; and
 - (ii) A grace period of three months shall apply during which the motor vehicle emissions model previously specified by EPA as the most current version may be used. Conformity analyses for which the analysis was begun during the grace period or no more than 3 years before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA, if a final determination as to conformity is made within 3 years of such analysis.
 - (2) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors (AP- 42)" must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.
- (c) The air quality modeling analyses required under this rule must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models (Revised)" (1986), including supplements (EPA publication no. 450/2-78-027R), unless:
- (1) The guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program; and
 - (2) Written approval of the EPA Regional Administrator is obtained for any modification or substitution.
- (d) The analyses required under this rule must be based on the total of direct and indirect emissions from the action and

must reflect emission scenarios that are expected to occur under each of the following cases:

- (1) The CAA mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;
- (2) The year during which the total of direct and indirect emissions from the action for each pollutant analyzed is expected to be the greatest on an annual basis; and
- (3) Any year for which the applicable implementation plan specifies an emissions budget.

§ J. Mitigation of air quality impacts

- (a) Any measures that are intended to mitigate air quality impacts must be identified (including the identification and quantification of all emission reductions claimed) and the process for implementation (including any necessary funding of such measures and tracking of such emission reductions) and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.
- (b) Prior to determining that a Federal action is in conformity, the Federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to implement any mitigation measures which are identified as conditions for making conformity determinations. Such written commitment shall describe such mitigation measures and the nature of the commitment, in a manner consistent with paragraph (a).
- (c) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.
- (d) In instances where the Federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the Federal agency must be conditioned on the other entity meeting the mitigation measures set forth in the conformity determination, as provided in paragraph (a).
- (e) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination in accordance with §§H and I and this section. Any proposed

change in the mitigation measures is subject to the reporting requirements of §E and the public participation requirements of §F.

- (f) Written commitments to mitigation measures must be obtained prior to a positive conformity determination and such commitments must be fulfilled.
- (g) After this implementation plan revision is approved by EPA, any agreements, including mitigation measures, necessary for a conformity determination will be both State and federally enforceable. Enforceability through the applicable implementation plan will apply to all persons who agree to mitigate direct and indirect emissions associated with a Federal action for a conformity determination.

§ K. Savings provision

The Federal conformity rules under 40 CFR part 51 subpart W, in addition to any existing applicable State requirements, establish the conformity criteria and procedures necessary to meet the requirements of Clean Air Act §176(c) until such time as this conformity implementation plan revision is approved by EPA. Following EPA approval of this revision to the applicable implementation plan (or a portion thereof), the approved (or approved portion of the) State criteria and procedures would govern conformity determinations and the Federal conformity regulations contained in 40 CFR part 93 would apply only for the portion, if any, of the State's conformity provisions that is not approved by EPA. In addition, any previously applicable implementation plan requirements relating to conformity remain enforceable until the State revises its applicable implementation plan to specifically remove them and that revision is approved by EPA.

5/10/96

BUTTE COUNTY AQMD

RULES AND REGULATIONS

RULE 1105 REQUEST FOR DESIGNATED NON-MAJOR SOURCE STATUS

I. GENERAL

A. Purpose

1. This rule authorizes the owner or operator of specified stationary source that would otherwise be a major source to request and accept federally-enforceable emissions limits sufficient to allow the source to be considered a "designated non-major source."
2. A designated non-major source is not subject to Rule 1101, "Title V — Federal Operating Permits", unless it is subject to that rule for any reason other than being a major source. A designated non-major source is subject to all applicable federal requirements for non-major stationary sources and to all federally-enforceable conditions and requirements pursuant to this rule.
3. Notwithstanding any provision of this rule, application of this rule to any source shall not be construed in part or in whole as exempting the source from full compliance with all other State, Federal, and District Rules and Regulations.

B. Applicability

1. General Applicability: This rule applies to any major source for which the owner or operator requests, and would be able to comply with, federally-enforceable conditions that qualify the source to be a designated non-major source, as defined herein.
2. Exclusion: This rule shall not apply to any source subject to Rule 1101 for any reason other than being a major source.

II. DEFINITIONS

All terms shall retain the definitions provided under Rule 1101, unless otherwise defined herein.

- A. **Major Source:** A "major source" is a stationary source which has the potential to emit a regulated air pollutant or a hazardous air pollutant (HAP) in quantities equal to or exceeding the lesser of any of the following thresholds:

1. 100 tons per year (tpy) of any regulated air pollutant;
 2. 50 tpy of volatile organic compounds or oxides of nitrogen for a federal non-attainment area classified as serious, 25 tpy for an area classified as severe, or ten tpy for an area classified as extreme;
 3. 70 tpy of PM₁₀ (particulate matter of ten microns or less) for a federal PM₁₀ non-attainment area classified as serious;
 4. 10 tpy of one HAP or 25 tpy of two or more HAPs; or,
 5. Any lesser quantity threshold promulgated by the U.S. EPA. [Reference: 40 CFR Part 70.2 Major Source]
- B. **Modification:** For the purposes of this rule, a modification is any physical or operational change at a source or facility which necessitates a revision of any federally-enforceable condition, established pursuant to this rule or by any other mechanism, that enables a source to be a designated non-major source.
- C. **Operating Scenario:** An operating scenario is any mode of operation to be permitted, including: normal operation, start-up, shutdown, and reasonably foreseeable changes in process, feed, or product.
- D. **Owner or Operator:** For the purposes of this rule, an owner or operator is any person who owns, operates, controls, or supervises a stationary source.
- E. **Designated Non-Major Source:** A designated non-major source is a stationary source which, pursuant to this rule or another mechanism, is subject to federally-enforceable conditions that limit its potential to emit to below major source thresholds.

III. REQUEST FOR DESIGNATED NON-MAJOR SOURCE STATUS

A request for designated non-major source status shall not relieve a source of the responsibility to comply with the application requirements of Rule 1101 within the specified timeframes. A major source subject to this rule may request designated non-major source status in accordance with the following:

- A. **Content of Request:** A request for designation as a designated non-major source shall include:

1. The identification and description of all existing emission units at the source;
 2. The calculation of each emission unit's maximum annual emissions of regulated air pollutants for all operating scenarios to be permitted, including any existing federally-enforceable limits established by a mechanism other than this rule. The calculated emissions for each emissions unit shall include the following fugitive emissions:
 - a. Hazardous air pollutant fugitive emissions for all sources; and,
 - b. Other regulated air pollutant fugitive emissions for sources specified in 40 CFR Part 70.2 Major Sources (2).
 3. Proposed federally-enforceable conditions which:
 - a. Limit source-wide emissions to below major source thresholds; and,
 - b. Are permanent, quantifiable, and otherwise enforceable as a practical matter.
 4. Proposed federally-enforceable conditions to impose monitoring, recordkeeping, and reporting requirements sufficient to determine compliance;
 5. Any additional information requested by the APCO; and,
 6. Certification by a "responsible official", as defined in Rule 1101, that the contents of the request are true, accurate, and complete.
- B. Timely Request:** The owner or operator of a major source who chooses to request designated non-major source status shall make such a request within the following timeframes:
1. For any major source that is operating or is scheduled to commence operating on or before June 2, 1995, the owner or operator shall request designated non-major source status no later than 60 days before an application is required under Rule 1101;
 2. For any major source that commences operating after June 2, 1995, the owner or operator shall request designated non-major source status no

later than 60 days before an application is required under Rule 1101;
or,

3. For any major source that is operating in compliance with a permit pursuant to Rule 1101, the owner or operator may request designated non-major source status at any time, but shall submit such request no later than eight months prior to permit renewal.

C. Designated Non-Major Source Modification Requirements: The following requirements apply to any modification of a designated non-major source :

1. For a modification which would not increase the designated non-major source's potential to emit to equal or exceed any major source's threshold, the source shall comply with the requirements of Rule 430, New Source Review.
2. For a modification which would increase the designated non-major source's potential to emit to equal or exceed any major source threshold or would affect a monitoring, recordkeeping, or reporting requirement pursuant to Section IV.B of this rule, the owner or operator shall comply with the applicable requirements of Rule 430, New Source Review, and shall:
 - a. Submit a revised request for designated non-major source status in accordance with Section IV.A of this rule no later than 180 days prior to the intended modification; or
 - b. Submit an application in accordance with the requirements of Rule 1101 no later than 180 days prior to the intended modification.

IV. DISTRICT PROCEDURES AND FEDERALLY-ENFORCEABLE CONDITIONS

The District shall take the following actions on requests for designated non-major source status:

- A. **Completeness Determination:** The APCO shall determine whether the application is complete not later than thirty (30) days after receipt of the application, or after such longer time mutually agreeable to the applicant and the Air Pollution Control Officer. If the Air Pollution Control Officer determines that the application is not complete, the applicant shall be notified in writing of the decision and of the required additional information. Upon

receipt of any re-submittal of the application, a new thirty (30)-day period to determine the completeness shall begin. Completeness or re-submittal of an application shall be evaluated on the basis of the information requirements set forth in District regulations as they exist on the date on which the application or re-submitted application was received. Upon determination that the application is complete, the Air Pollution Control Officer shall notify the applicant in writing. The Air Pollution Control Officer may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.

Upon request by the APCO, the owner or operator shall provide additional information whether or not the request for designated non-major source status has been deemed complete.

- B. Federally-enforceable Conditions:** Federally-enforceable conditions enabling a source to become a designated non-major source shall be identified as federally enforceable and included in the source's permit-to-operate issued by the District pursuant to Rule 403, Permit to Operate, and Sections IV.C through IV. E. of this rule, and shall be:
1. Permanent, quantifiable, and practically enforceable permit conditions, including any operational limitations or conditions, which limit the source's potential to emit to below major source thresholds;
 2. Monitoring, recordkeeping, and reporting conditions sufficient to determine ongoing compliance with the emissions limits set forth pursuant to Section IV.B.1 of this rule; and,
 3. Subject to public notice and U.S. EPA review pursuant to Sections IV.D and IV.E of this rule.
- C.** Permits that do not conform to the requirements of this section, any other requirements of this rule, or any underlying federal regulations which set forth criteria for federal-enforceability may be deemed not federally-enforceable by the U.S. EPA.
- D. Public Notification and Review:** After a request for designated non-major source status is determined to be complete, the APCO shall:
1. Publish a notice of the request in one or more major newspapers in the area where the source is located;

2. In the public notice:
 - a. State that conditions identified as federally enforceable in the source's permit will establish a voluntary emissions limit in accordance with Rule 1105 "Request for Designated Non-Major Source Status"; and,
 - b. Describe how the public may obtain copies of the proposed permit including the federally-enforceable conditions addressing the emissions limit(s).
 3. Provide 30 days for public review of the proposed permit prior to final permit action.
- E. **U.S. EPA Review:** After a request for designated non-major source status is determined to be complete, the APCO shall:
1. Provide the U.S. EPA with copies of the proposed permit including the conditions which:
 - a. Are identified as federally-enforceable; and,
 - b. Limit emissions to below major source thresholds.
 2. Provide 30 days for U.S. EPA review of the proposed permit prior to final permit action.
 3. Provide the U.S. EPA with copies of the final permit.
- F. **Final Action:** Until the District takes final action to issue the permit-to-operate pursuant to this section, a source requesting designated non-major source status shall not be relieved of the responsibility to comply with the application or other requirements of Rule 1101 within the specified timeframes.

Upon fulfilling the requirements of Sections IV.A through IV.D of this rule, the APCO shall consider any written comments received during public and U.S. EPA review and take final action on the permit-to-operate of a source requesting designated non-major source status within 90 days of deeming such request complete or within three years of the effective date of Rule 1101, whichever is later.

The District shall maintain a public record of all pertinent documents regarding a request for designated non-major source status, including: the request, proposed permit, all written comments and responses, and the final permit.

- G. **Renewal of Designated Non-Major Source Status:** Renewal of designated non-major source status shall be made in accordance with Rule 407. In addition, at permit renewal, any revision of conditions identified as federally-enforceable shall be subject to Sections III.A, and IV.A through IV.E of this rule.

V. COMPLIANCE

- A. The owner or operator of a designated non-major source which exceeds the conditions identified as federally-enforceable and established pursuant to Section IV.B.1 of this rule shall report such exceedances to the APCO in accordance with Rule 275.
- B. The owner or operator of a designated non-major source that is not in compliance with any condition identified as federally-enforceable or with any requirement set forth in this rule, or that files false information with the District to obtain designated non-major source designation, is in violation of the Clean Air Act and District rules and regulations. A non-complying designated non-major source may be subject to any one or combination of the following actions: enforcement action, permit termination, permit revocation and reissuance, and permit renewal denial.

VI. FEES

- A. **Federally Enforceable Designated Non-Major Source Permit Fee:** Each applicant for a new or modified designated non-major source permit issued pursuant to this rule shall pay an evaluation and processing fee equivalent to the hourly fee rate for time expenditure specified in Rule 501 for Authority to Construct Fees. Each applicant shall also be subject to the Basin Control Council Surcharge specified in Rule 515 for each permit issued pursuant to this rule. All fees collected shall not be returnable and shall be deposited in the Treasury of the Butte County Air Quality Management District.

Rule 1107 Prevention of Significant Deterioration (PSD) Permits
(Adopted June 28, 2012)

RULE 1107 CONTENTS

- 1 PURPOSE
- 2 APPLICABILITY
- 3 INCORPORATION BY REFERENCE
- 4 REQUIREMENTS
- 5 PUBLIC PARTICIPATION

Rule 1107

- 1 PURPOSE:** The federal Prevention of Significant Deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas classified as attainment or in areas that are unclassifiable for any criteria air pollutant. The application, processing requirements and procedures are those contained in Butte County Air Quality Management District (DISTRICT) Rule 400-*Permit Requirements* and Rule 432-*Federal New Source Review* unless otherwise superseded by federal regulation. The intent of this Rule is to incorporate the federal PSD rule requirements into the DISTRICT's Rules and Regulations by incorporating the federal requirements by reference.
- 2 APPLICABILITY:** The provisions of this Rule shall apply to any source and the owner or operator of any source subject to any requirement under Title 40 of the Code of Federal Regulations (CFR) Part 52.21 as incorporated into this Rule.
- 3 INCORPORATION BY REFERENCE:** Except as provided below, the provisions of 40 CFR Part 52.21, in effect on June 28, 2012, are incorporated herein by reference and made part of the Rules and Regulations of the DISTRICT.
 - 3.1** The following subsections of 40 CFR Part 52.21 are excluded: (a)(1), (b)(55-58), (f), (g), (i)(1)(i-v) and (ix-x), (i)(6-8), (k)(2), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z) and (cc).
 - 3.2** Unless otherwise defined below, the terms used in this Rule are defined in 40 CFR Part 52.21(b):
 - 3.2.1 Administrator:** The term "administrator" means:
 - 3.2.1.1 Federal Administrator,** in 40 CFR 52.21(b)(17), (b)(37)(i), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (l)(2) and (p)(2); and,
 - 3.2.1.2 Air Pollution Control Officer (APCO),** elsewhere, as defined in Rule 100-*Definitions*.
 - 3.3** "paragraph (q) of this section" in 40 CFR 52.21 (l)(2) and (p)(1) shall read as follows: "the public notice and comment provisions of DISTRICT Rule 1107, Section 5".
 - 3.4** "to the Federal land manager and the Federal official" in 40 CFR 52.21(p)(1) shall read as follows: "to the U. S. Environmental Protection Agency (EPA) Region 9, the Federal land manager and the Federal official".
 - 3.5** "shall also notify all affected Federal land managers within 30 days of receipt of any advance notification of any such permit application" in 40 CFR 52.21(p)(1) shall read as follows: "shall also notify EPA Region 9 and

all affected Federal land managers within 30 days of receipt of any advance notification of any such permit application”.

4 REQUIREMENTS:

- 4.1** An owner or operator must obtain a PSD permit pursuant to this Rule before beginning actual construction of a new major stationary source, a major modification, or a plantwide applicability limit (PAL) major modification, as defined in 40 CFR 52.21(b).
- 4.2** Notwithstanding the provisions of any other DISTRICT Rule or Regulation, the APCO shall require compliance with this Rule prior to issuing a federal PSD permit as required by Clean Air Act (CAA) Section 165.
- 4.3** The applicant shall pay the applicable fees specified in DISTRICT Rule 515-*Prevention of Significant Deterioration (PSD) Fees*.
- 4.4** The APCO shall determine whether the application is complete not later than 30 days after receipt of the application or after such longer time as both the applicant and the APCO have agreed in writing. If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information required. Upon receipt of any re-submittal of the application, a new 30-day period to determine completeness shall begin. The APCO may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.
- 4.5** Upon request from the Federal Administrator, the APCO shall transmit to the Federal Administrator a copy of each permit application relating to a major stationary source or major modification and provide notice to the Administrator of every action related to the consideration of such permit. Such notification is required for sources impacting Class I areas.
- 4.6** The APCO shall make a final determination within one (1) year of receipt of a complete application.
- 4.7** Greenhouse gas emissions shall not be subject to the requirements of subsections (k) or (m) of 40 CFR Part 52.21 in effect on June 28, 2012.
- 4.8** Except as specified in Section 4.8.1 below, the PSD requirements of this Rule shall be incorporated into and made enforceable through Authority to Construct permits and Permits to Operate according to the permitting requirements of Rule 400-*Permit Requirements* of the DISTRICT’s Rules and Regulations.

- 4.8.1** For power plants which will be licensed by the California Energy Commission, the PSD requirements of this Rule shall be incorporated into and made enforceable through Determinations of Compliance and Permits to Operate according to the requirements of Rule 432-*Federal New Source Review*, and the permitting requirements of Rule 400-*Permit Requirements* of the DISTRICT's Rules and Regulations.
- 5 PUBLIC PARTICIPATION:** Prior to issuing a federal PSD permit pursuant to this Rule and after receipt of a complete application, the APCO shall:
- 5.1** Make a preliminary determination whether construction should be approved with conditions or disapproved.
- 5.2** 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 determination, a copy of the proposed permit and a copy or summary of other materials, if any, considered in making the preliminary determination.
- 5.3** Notify the public, by advertisement in a newspaper of general circulation in Butte County, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for written public comment.
- 5.4** 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.
- 5.5** 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.
- 5.6** Consider all written comments that were submitted within 30 days after the notice of public comment was published and all comments received at any public hearing(s) in making a final decision on the approvability of the application and make all comments available for public inspection in the same locations where the DISTRICT made available preconstruction information relating to the proposed source or modification.

- 5.7** Make a final determination whether construction should be approved with conditions or disapproved.

- 5.8** Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the DISTRICT made available preconstruction information and public comments relating to the source.