

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 100. TITLE

ADOPTED 9/05/74

These rules and regulations shall be known as the rules and regulations of the Great Basin Unified Air Pollution Control District, and shall have jurisdiction throughout the counties of Inyo, Mono and Alpine.

5-28-81

RULE 1012 Definitions

Except as otherwise specifically provided in these rules and except where the content otherwise indicates, words used in these rules are used in exactly the same sense as the same words are used in Part 1 of Division 26 of the Health and Safety Code.

A. Agricultural Burning.

1. "Agricultural burning" means open outdoor fires used in 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 disease or pest prevention.
2. "Agricultural burning" also means open outdoor fires used in the operation or maintenance of a system for the delivery of water for the purposes

B. Agricultural Operation

"Agricultural operation" means the growing of crops, the raising of fowl, animals or bees, as a gainful occupation.

C. Agricultural Wastes

"Agricultural wastes" are defined as unwanted or unsalvageable material produced wholly from agricultural operations directly related to the growing of crops or the raising of animals for the primary purpose of making a profit or for a livelihood. This also includes, for the purpose of cultural practice burns, the burning of fence rows and ditchbanks for weed control and weed maintenance and burning in nontillage orchards operations and of paper raisin trays, but does not include such items as shop wastes, demolition materials, garbage, oil filters, tires, pesticide containers (except paper pesticide containers), broken boxes, pallets, and other similar material, or orchard or vineyard wastes removed for land use conversion to non-agricultural purposes.

D. Air Contaminants

"Air Contaminant" includes smoke, charred paper, dust colloids, soot, grime, carbon, noxious acid, noxious fumes, noxious gases, odors, or particulate matter, or any combination thereof.

E. Atmosphere

"Atmosphere" means the air that envelopes or surrounds the earth. Where air contaminants are emitted into a building or structure not designed specifically as a piece of air pollution control equipment such emission into the building or structure shall be considered an emission into the atmosphere.

F. Board

"Board" means the Air Pollution Control Board of the Great Basin Unified Air Pollution Control District.

G. Brush Treated

"Brush treated" means that the material to be burned has been felled, crushed or uprooted with mechanical equipment, has been desiccated with herbicides, or is dead.

H. Burn Day

"Burn Day" means a day on which the California Air Resources Board determines that agricultural burning is permitted within the Great Basin Unified Air Pollution Control District.

I. Combustible Refuse

"Combustible Refuse" is any solid or liquid combustible waste material containing carbon in a free or combined state.

J. Combustion Contaminants

"Combustion Contaminants" are solid or liquid particles discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.

K. Dusts

"Dusts" are minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, blasting, shoveling, conveying, covering, bagging, and sweeping or any combination thereof.

L. Flue

"Flue" means any duct or passage for air, gases, or the like, such as a stack or chimney.

M. Forest Management Burning

"Forest Management Burning" means the use of open fires, as a part of a forest practice, to remove forest debris. Forest management practices include

timber operations, silvicultural practices or forest protection practices. 22

1. "Timber Operations" means cutting or removal of timber or other forest vegetation. .
2. "Silvicultural" means the establishment, development, care and reproduction of stands of timber.

N. Fumes

"Fumes" are minute solid particles generated by the condensation of vapors from solid matter after volatilization from the molten state, or generated by sublimation, distillation, calcination or chemical reaction, when these processes create air-borne particles.

O. Household Rubbish

"Household Rubbish" means combustible waste material and trash, including garden trash and prunings, normally accumulated by a family in a residence in the course of ordinary day to day living. Tires, oils and other petroleum products are excluded.

Incinerator

"Incinerator" means any furnace or other closed fire chamber used for the burning of combustible refuse from which the products of combustion are directed through a chimney or flue.

Q. Multiple-Chamber Incinerator

"Multiple-chamber incinerator" is 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, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

R. Oil-Effluent Water Separator

"Oil-effluent Water Separator" is any tank, box, sump or other container in which any petroleum or product thereof, floating on or entrained or contained in water entering such tank, box, sump or other container, is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

Open Outdoor Fire

"Open Outdoor Fire" means the burning or smoldering of any combustible material of any type outdoors in the open air, either inside or outside a fireproof container, where the products of combustion are not directed through a chimney or flue.

.. Particulate Matter

"Particulate Matter" is any material, except uncombined water, which exists in a finely divided form as a liquid or solid at standard conditions.

U. Person

"Person" means any person, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, user, owner, or any Federal, State or local governmental agency or public district, or any officer, or employee thereof. "Person" also means the United States or its agencies, to the extent authorized by Federal Law.

V. Process Weight Per Hour

"Process Weight" is the total weight 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 cycle of operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

W. Range Improvement Burning

"Range Improvement Burning" means the use of open fires to remove vegetation for a wildlife, game or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.

X. Regulation

"Regulation" means one of the major subdivisions of the rules of the Great Basin Unified Air Pollution Control Districts..

Y. Rule

"Rule" means a rule of the Great Basin Unified Air Pollution Control District.

Z. Section

"Section" means the section of the Health and Safety Code of the State of California, as amended, effective January 1, 1976, unless some other statute is specifically mentioned.

AA. Source Operation

"Source Operation" means the last operation preceding the emission of an air contaminant for which the operation both:

1. Results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel and
2. Is not an air pollution abatement operation.

RULE 101. DEFINITIONS

ADOPTED 9/05/74 REVISED 3/10/76, 10/01/76, 6/25/79, 2/09/81, 11/04/92, 5/08/96, 11/07/01, 09/24/03

Except as otherwise specifically provided in these rules and except where the content otherwise indicates, words used in these rules are used in exactly the same sense as the same words are used in Part 1 of Division 26 of the Health and Safety Code.

A. AGRICULTURAL BURNING

1. "Agricultural burning" means open outdoor fires used in 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 disease or pest prevention.
2. "Agricultural burning" also means open outdoor fires used in the operation or maintenance of a system for the delivery of water for the purposes specified in Subsection 1.
3. "Agricultural burning" also means open outdoor fires used in wildland vegetation management burning. Wildland vegetation management burning is 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, tule, or standing brush. Prescribed burning is the planned application of fire to vegetation to achieve any specific objective on lands selected in advance of that application. The planned application of fire may also include natural or accidental ignition.

B. AGRICULTURAL OPERATION

"Agricultural operation" means the growing of crops, the raising of fowl, animals or bees, as a gainful occupation.

C. AGRICULTURAL WASTES

"Agricultural wastes" are defined as unwanted or unsalvageable material produced wholly from agricultural operations directly related to the growing of crops or the raising of animals for the primary purpose of making a profit or for a livelihood. This also includes, for the purpose of cultural practice burns, the burning of fence rows and ditch banks for weed control and weed maintenance and burning in nontillage orchards operations and of paper raisin trays, but does not include such items as shop wastes, demolition materials, garbage, oil filters, tires, pesticide containers (except paper pesticide containers), broken boxes, pallets, and other similar material, or orchard or vineyard wastes removed for land use conversion to non-agricultural purposes.

D. AIR CONTAMINANTS

"Air Contaminant" includes smoke, charred paper, dust colloids, soot, grime, carbon, noxious acid, noxious fumes, noxious gases, odors, or particulate matter, or any combination thereof.

E. ATMOSPHERE

"Atmosphere" means the air that envelopes or surrounds the earth. Where air contaminants are emitted into a building or structure not designed specifically as a piece of air pollution control equipment such emission into the building or structure shall be considered an emission into the atmosphere.

F. BOARD

"Board" means the Air Pollution Control Board of the Great Basin Unified Air Pollution Control District.

G. BRUSH TREATED

"Brush treated" means that the material to be burned has been felled, crushed or uprooted with mechanical equipment, has been desiccated with herbicides, or is dead.

H. BURN DAY

"Burn day," or "permissive-burn day" means any day on which agricultural burning, including prescribed burning, is not prohibited by the state board within the Great Basin Unified Air Pollution Control District and is authorized by the Air Pollution Control Officer consistent with District regulations related to open outdoor fires.

I. COMBUSTIBLE REFUSE

"Combustible Refuse" is any solid or liquid combustible waste material containing carbon in a free or combined state.

J. COMBUSTION CONTAMINANTS

"Combustion Contaminants" are solid or liquid particles discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.

K. DUSTS

"Dusts" are minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, blasting, shoveling, conveying, covering, bagging and sweeping or any combination thereof.

L. FLUE

"Flue" means any duct or passage for air, gases, or the like, such as a stack or chimney.

M. FOREST MANAGEMENT BURNING

"Forest Management Burning" means the use of open fires, as a part of a forest practice, to remove forest debris. Forest management practices include timber operations, silvicultural practices or forest protection practices.

1. "Timber Operations" means cutting or removal of timber or other forest vegetation.
2. "Silvicultural" means the establishment, development, care and reproduction of stands of timber.

N. FUMES

"Fumes" are minute solid particles generated by the condensation of vapors from solid matter after volatilization from the molten state, or generated by sublimation, distillation, calcination or chemical reaction, when these processes create air-borne particles.

O. HOUSEHOLD RUBBISH

"Household Rubbish" means combustible waste material and trash, including garden trash and prunings, normally accumulated by a family in a residence in the course of ordinary day to day living. See also Rule 101 BB. Waste.

P. INCINERATOR

"Incinerator" means any furnace or other closed fire chamber used for the burning of combustible refuse from which the products of combustion are directed through a chimney or flue. "Incinerator" also means 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.

Q. MULTIPLE-CHAMBER INCINERATOR

"Multiple-chamber incinerator" is 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, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

R. OIL-EFFLUENT WATER SEPARATOR

"Oil-effluent Water Separator" is any tank, box, sump or other container in which any petroleum or product thereof, floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

S. OPEN OUTDOOR FIRE

"Open Outdoor Fire" means the burning or smoldering of any combustible material of any type outdoors in the open air, either inside or outside a fireproof container, where the products of combustion are not directed through a chimney or flue.

T. PARTICULATE MATTER

"Particulate matter (PM)" means any airborne finely divided material, except uncombined water, which exists as a solid or liquid at standard conditions (e.g., dust, smoke, mist, fumes or smog). "PM2.5" means particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers. "PM10" means particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (including PM2.5).

U. PERSON

"Person" means any person, firm, association, organization, partnership, business trust, corporation, company contractor, supplier, installer, user, owner, or any Federal, State or local governmental agency or public district, or any officer, or employee thereof. "Person" also means the United States or its agencies, to the extent authorized by Federal Law.

V. PRESCRIBED BURNING

"Prescribed burning" means the planned application of fire to vegetation on lands selected in advance of such application, where any of the purposes of the burning are specified in the definition of agricultural burning as set forth in Health and Safety Code Section 39011.

W. PROCESS WEIGHT PER HOUR

"Process Weight" is the total weight 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 cycle of operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

X. RANGE IMPROVEMENT BURNING

"Range Improvement Burning" means the use of open fires to remove vegetation for a wildlife, game or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.

Y. REGULATION

"Regulation" means one of the major subdivisions of the rules of the Great Basin Unified Air Pollution Control Districts.

Z. RULE

"Rule" means a rule of the Great Basin Unified Air Pollution Control District.

AA. SECTION

"Section" means the section of the Health and Safety Code of the State of California, as amended, effective January 1, 1976, unless some other statute is specifically mentioned.

AB. SOURCE OPERATION

"Source Operation" means the last operation preceding the emission of an air contaminant for which the operation both:

1. Results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel; and
2. Is not an air pollution abatement operation.

AC. WILDLAND VEGETATION MANAGEMENT BURNING

"Wildland vegetation management burning" means 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 (as defined in Title 14, California Code of Regulations, Section 1561.1), trees, grass, tule, or standing brush.

AD. NON-INDUSTRIAL WOOD WASTE

"Non-industrial wood waste" means wood waste from trees, vines and brush that is not produced as a result of an industrial process.

AE. OPEN BURN/OPEN DETONATION OPERATIONS (OB/OD)

"Open burn/open detonation operations" refers to the treatment of propellants, explosives, and pyrotechnics (PEP) at military bases. During "open burning," raw material mixes with air and burns at temperatures which can exceed 3500 degrees Kelvin and pressures greater than 1000 pounds per square inch absolute. The open burning process entails a rapid oxidation of some fuel with a heat release and formation of combustion products. The burning of waste munitions converts the solid materials to gaseous products and particulate matter. Open detonation produces temperatures and pressures that are considerably greater than open burning. Detonation is an explosion in which a chemical transformation passes through the material faster than the speed of sound.

AF. "Air quality" means the characteristics of the ambient air as indicated by state ambient air quality standards which have been adopted by the state board pursuant to section 39606 of the Health and Safety Code and by National Ambient Air Quality Standards which have been established pursuant to

sections 108 and 109 of the federal Clean Air Act pertaining to criteria pollutants and section 169A of the federal Clean Air Act pertaining to visibility.

- AG. “Ambient air” means that portion of the atmosphere, external to buildings, to which the general public has access.
- AH. “CARB,” “ARB” or “state board” means the California Air Resources Board.
- AI. “Burn plan” means an operational plan for managing a specific fire to achieve resource benefits and specific management objectives. The plan includes, at a minimum, the project objectives, contingency responses for when the fire is out of prescription with the smoke management plan, the fire prescription (including smoke management components), and a description of the personnel, organization, and equipment.
- AJ. “Burn project” means an active or planned prescribed burn or a naturally ignited wildland fire managed for resource benefits.
- AK. “Class I Area” means a mandatory visibility protection area designated pursuant to section 169A of the federal Clean Air Act.
- AL. Fire protection agency” means any agency with the responsibility and authority to protect people, property, and the environment from fire, and having jurisdiction within a district or region.
- AM. “Land manager” means any federal, state, local, or private entity that administers, directs, oversees, or controls the use of public or private land, including the application of fire to the land.
- AN. “National Ambient Air Quality Standards (NAAQS)” mean standards promulgated by the United States Environmental Protection Agency that specify the maximum acceptable concentrations of pollutants in the ambient air to protect public health with an adequate margin of safety, and to protect public welfare from any known or anticipated adverse effects of such pollutants (e.g., visibility impairment, soiling, harm to wildlife or vegetation, materials damage, etc.) in the ambient air.
- AO. “No-burn day” means any day on which agricultural burning, including prescribed burning, is prohibited by the state board, or the Air Pollution Control Officer.
- AP. “Open burning in agricultural operations in the growing of crops or raising of fowl or animals” means:
1. The burning in the open of materials produced wholly from operations in the growing and harvesting of crops or raising of fowl or animals for the primary purpose of making a profit, of providing a livelihood, or of conducting agricultural research or instruction by an educational institution.

2. In connection with operations qualifying under paragraph 1:
 - a. The burning of grass and weeds in or adjacent to fields in cultivation or being prepared for cultivation.
 - b. The burning of materials not produced wholly from such operations, but which are intimately related to the growing or harvesting of crops and which are used in the field, except as prohibited by district regulations. Examples are trays for drying raisins, date palm protection paper, and fertilizer and pesticide sacks or containers, where the sacks or containers are emptied in the field.
- AQ. "Prescribed fire" means any fire ignited by management actions to meet specific objectives, and includes naturally-ignited wildland fires managed for resource benefits.
- AR. "Smoke Management Plan" means a document prepared for each prescribed fire by land managers or fire managers that provides the information and procedures required in Rule 411.
- AS. "Smoke sensitive areas" are populated areas and other areas where the Air Pollution Control Officer 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.
- AT. "State ambient air quality standards" means specified concentrations and durations of air pollutants which reflect the relationship between the intensity and composition of air pollution to undesirable effects, as established by the state board pursuant to Health and Safety Code section 39606.
- AU. "Wildfire" means an unwanted wildland fire.
- AV. "Wildland" means an area where development is generally limited to roads, railroads, power lines, and widely scattered structures. Such land is not cultivated (i.e., the soil is disturbed less frequently than once in 10 years), is not fallow, and is not in the United States Department of Agriculture (USDA) 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. "Wildland" also means any lands that are contiguous to lands classified as a state responsibility area if wildland fuel accumulation is such that a wildland fire occurring on these lands would pose a threat to the adjacent state responsibility area. For California Department of Forestry (CDF) only, "Wildland" as specified in California Public Resources Code (PRC) section 4464(a) means any land that is classified as a state responsibility area pursuant to article 3 (commencing with 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.

- AW. "Wildland fire" means any non-structural fire, other than prescribed fire, that occurs in the wildland. For CDF only, "wildland fire" as specified in PRC section 4464(c) means any uncontrolled fire burning on wildland.
- AX. "Wildland/urban interface" means the line, area, or zone where structures and other human development meet or intermingle with the wildland.
- AY. "Approved ignition device" means an instrument or material that will ignite open fires without the production of black smoke by the ignition device, as approved by the APCO.
- AZ. "Burn Barrel" means a metal container used to hold combustible or flammable waste materials so that they can be ignited outdoors for the purpose of disposal.
- BA. "Natural vegetation" means all plants, including but not limited to grasses, forbs, trees, shrubs, flowers, or vines that grow in the wild or under cultivation. Natural vegetation excludes vegetative materials that have been processed, treated or preserved with chemicals for subsequent human or animal use, including but not limited to chemically-treated lumber, wood products or paper products.
- BB. "Waste" for the purpose of District Rules 406 and 407, means all discarded putrescible and non-putrescible solid, semisolid, and liquid materials, including but not limited to petroleum products and petroleum wastes; construction and demolition debris; coated wire; tires; tar; tarpaper; wood waste; processed or treated wood and wood products; metals; motor vehicle bodies and parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; styrofoam; garbage; trash; refuse; rubbish; disposable diapers; ashes; glass; industrial wastes; manufactured products; equipment; instruments; utensils; appliances; furniture; cloth; rags; paper or paper products; cardboard; boxes; crates; excelsior; offal; swill; carcass of a dead animal; manure; human or animal parts or wastes, including blood; fecal- and food-contaminated material. For the purpose of District Rule 406, dry, natural vegetation waste from yard maintenance is excluded from the meaning of "waste," if the material is reasonably free of dirt, soil and surface moisture.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 102. STANDARD CONDITIONS

ADOPTED 9/05/74

As used in these regulations, standard conditions are a gas temperature of 60 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute. Results of all analyses and tests shall be reduced to standard conditions and shall be calculated to and reported at this gas temperature and pressure.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 103. EFFECTIVE DATE

ADOPTED 9/05/74

These Rules and Regulations replace the District's existing Rules and Regulations and shall take effect on March 11, 1976. Future amendments to these Rules and Regulations shall take effect on the dates specified therein or as specified in the order by which they are adopted.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 104. AMENDMENT PROCEDURES

ADOPTED 9/05/74

The procedures for the adoption of these Rules and Regulations, and future amendments herein, shall be in accordance with Sections 40700 through Section 40704 inclusive, of the California Health and Safety Code.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 106. INCREMENTS OF PROGRESS

ADOPTED 9/05/74

- A. Unless and until the Air Pollution Control District Hearing Board authorizes such operation, no person shall operate any article, machine, equipment or any other contrivance if such person fails to achieve any scheduled increment of progress established pursuant to Sections 42358 or 41703, Health and Safety Code or by the Air Pollution Control Board pursuant to Section 41703 of the Health and Safety Code.
- B. Whenever the Air Pollution Control Board adopts or modifies a rule in Regulation IV of these regulations and such new rule or modified rule contains a compliance schedule with increments of progress, the owner or operator of the affected article, machine, equipment or other contrivance shall, within five days after each of the dates specified in the compliance schedule, certify to the Air Pollution Control Officer, in the form and manner specified by the Air Pollution Control Officer, that the increments of progress have or have not been achieved.
- C. Whenever the Air Pollution Control District Hearing Board approves a compliance schedule with increments of progress, the owner or operator of the affected article, machine equipment or other contrivance shall, within five days after each of the dates specified in the compliance schedule, certify to the Air Pollution Control Officer, in the form and manner specified, that the increments of progress have or have not been achieved.

For the purposes of this rule:

- 1. "Compliance Schedule" means 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.
- 2. "Increments of Progress" means steps toward compliance which will be taken including:
 - a. The date of submittal of the source's final control plan to the Air Pollution Control Officer.
 - b. The date by which contracts for emission control systems or process modifications will be awarded; or the date by which orders will be issued for the purchase of component parts to accomplish modification.
 - c. The date of initiation of onsite construction or installation of emission control equipment or process change.
 - d. The date by which onsite construction or installation of emission control equipment or process modification is to be completed.
 - e. The date by which final compliance is to be achieved.
 - f. Such additional increments of progress as may be necessary or appropriate to permit close and effective supervision.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 200. PERMITS REQUIRED

ADOPTED 9/05/74

- A. Authority to Construct. Before any person builds, erects, alters, or replaces any article, machine, equipment or other contrivance which may cause the issuance of air contaminants or the use of which may eliminate or reduce or control the issuance of air contaminants, such person shall obtain a written authority to construct from the Air Pollution Control Officer. An authority to construct shall remain in effect until the permit to operate the equipment for which the application was filed is granted or denied or the application is cancelled.
- B. Permit to Operate. Before any person operates or uses any article, machine, equipment or other contrivance which may cause the issuance of air contaminants, a written permit shall be obtained from the Air Pollution Control Officer. No permit to operate or use shall be granted either by the Air Pollution Control Officer, or the Hearing Board for any such article, machine, equipment or contrivance described herein until the information required is presented to the Air Pollution Control Officer and such article, machine, equipment or contrivance is altered, if necessary, and made to conform to the standards set forth in Rule 212 and elsewhere in these Rules and Regulations.
- C. Review of Permits. The Air Pollution Control Officer may at any time require from an applicant for, or holder of, any authority to construct or permit to operate, such information, analyses, plans or specifications as will disclose the nature, extent, quantity or degree of air contaminants which are or may be discharged into the atmosphere.
- D. Post of Permit to Operate. A person who has been granted under Rule 200 (B) a permit to operate any article, machine, equipment, or other contrivance described in Rule 200 (B), shall firmly affix such permit to operate, or an approved facsimile or other approved identification bearing the permit number upon the article, machine, equipment or other contrivance in such a manner as to be clearly visible and accessible. In the event that the article, machine, equipment, or other contrivance is so constructed or operated that the permit to operate cannot be so placed, the permit to operate shall be mounted so as to be clearly visible in an accessible place within 25 feet of the article, machine, equipment or other contrivance, or maintained readily available at all times on the operating premises.
- E. Alteration of Permit. A person shall not willfully deface, alter, forge, counterfeit, or falsify any permit issued under these Rules and Regulations.
- F. Control Equipment. Nothing in this rule shall be construed to authorize the control officer to require the use of machinery, devices, or equipment of a particular type or design if the required emission standard may be consistently met by machinery, devices, equipment, product or process change otherwise available.

RULE 201. EXEMPTIONS

Adopted: 09/05/74 Revised: 02/15/89, 05/08/96, 01/23/06

The exemptions contained in this Rule shall not apply to any new stationary source or modification as defined in Rule 209-A, (F), 2 and 3, which would emit any pollutants in excess of the quantities stated in Rule 209-A, (B), (2).

An authority to construct or a permit to operate shall not be required for the sources hereinafter set out, provided, however, said sources shall comply with all other applicable District Rules and Regulations.

- A. Vehicles as defined by the Vehicle Code of the State of California 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.
- B. Vehicles used to transport passengers or freight.
- C. Equipment utilized, exclusively in connection with any structure which is designed for and used exclusively as a dwelling for not more than four families.
- D. The following equipment:
 - 1. Comfort air conditioning or comfort ventilating systems which are not designed to remove air contaminants generated by or released from specific units or equipment.
 - 2. Refrigeration units except those used as, or in conjunction with, air pollution control equipment.
 - 3. Piston type internal combustion engines except for diesel engines greater than 50 brake horsepower that are subject to emission control requirements pursuant to the Airborne Toxic Control Measure for Stationary Compression Ignition Engines (Title 17, California Code of Regulations, Section 93115).
 - 4. 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.
 - 5. Equipment used exclusively for steam cleaning.
 - 6. Presses used exclusively for extruding metals, minerals, plastics or wood.
 - 7. Presses used for the curing of rubber products and plastic products.
 - 8. Equipment used exclusively for space heating other than boilers.
 - 9. Equipment used for hydraulic or hydrostatic testing.
 - 10. All sheet-fed printing presses and all other printing presses without dryers.

11. Tanks, vessels and pumping equipment used exclusively for the storage or dispensing of fresh commercial or purer grades of:
 - a. Sulfuric acid with an acid strength of 99 percent or less by weight.
 - b. Phosphoric acid with an acid strength of 99 percent or less by weight.
12. Ovens used exclusively for the curing of plastics which are concurrently being vacuum held to a mold or for the softening or annealing of plastics.
13. Equipment used exclusively for the dyeing or stripping (bleaching) of textiles where no organic solvents, diluents or thinners are used.
14. Equipment used exclusively to mill or grind coatings and molding compound where all materials charged are in a paste form.
15. Crucible type or pot type furnaces with a brimful capacity of less than 450 cubic inches of any molten metal.
16. Equipment used exclusively for the melting or applying of wax where no organic solvents, diluents or thinners are used.
17. Equipment used exclusively for bonding lining to brake shoes.
18. Lint traps used exclusively in conjunction with dry cleaning tumblers.
19. Equipment used in eating establishments for the purpose of preparing food for human consumption.
20. Equipment used exclusively to compress or hold dry natural gas.
21. Tumblers used for the cleaning or deburring of metal products without abrasive blasting.
22. Shell core and shell mold manufacturing machines.
23. Molds used for the casting of metals.
24. Abrasive blast cabinet-dust filter integral combination units where the total internal volume of the blast section is 50 cubic feet or less.
25. Batch mixers of five cubic feet rated working capacity or less.
26. Equipment used exclusively for the packaging of lubricants or greases.
27. Equipment used exclusively for the manufacture of water emulsions of asphalt, greases, oils or waxes.
28. Ovens used exclusively for the curing of vinyl plastisols by the closed molding curing process.

29. Equipment used exclusively for conveying and storing plastic pellets.
 30. Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives.
 31. Smokehouses in which the maximum horizontal inside cross-sectional area does not exceed 20 square feet.
 32. Platen presses used for laminating.
 33. Equipment used exclusively to grind, blend or package tea, cocoa, spices or roasted coffee.
- E. The following equipment or any exhaust system or collector serving exclusively such equipment:
1. Blast cleaning equipment using a suspension of abrasive in water.
 2. Ovens, mixers and blenders used in bakeries where products are edible and intended for human consumption.
 3. Kilns used for firing ceramic ware, heated exclusively by natural gas, liquefied petroleum gas, electricity or any combination thereof.
 4. Laboratory equipment used exclusively for chemical or physical analyses and bench scale laboratory equipment.
 5. Equipment used for inspection of metal products.
 6. Confection cookers where the products are edible and intended for human consumption.
 7. Equipment used exclusively for forging, pressing, rolling or drawing of metals or for heating metals immediately prior to forging, pressing, rolling or drawing.
 8. Die casting machines.
 9. Atmospheric generators used in connection with metal heat treating processes.
 10. Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy.
 11. Brazing, soldering or welding equipment.
 12. Equipment used exclusively for the sintering of glass or metals.
 13. Equipment used for buffing (except automatic or semi-automatic tire buffers), or polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding or turning of ceramic artwork, ceramic precision parts, leather, metals, plastics, rubber, fiberboard, masonry, carbon or graphite.

14. Equipment used for carving, cutting, drilling, surface grinding, liquefied, routing, sanding, sawing, shredding or turning of wood, or the pressing or storing of sawdust, wood chips or wood shavings.
 15. Equipment using aqueous solutions for surface preparation, cleaning, stripping, etching, (does not include chemical milling) or the electrolytic plating with electrolytic polishing of, or the electrolytic stripping of brass, bronze, cadmium, copper, iron, lead, nickel, tin, zinc and precious metals.
 16. Equipment used for washing or drying products fabricated from metal or glass, provided that no volatile organic materials are used in the process and that no oil or solid fuel is burned.
 17. Laundry dryers, extractors or tumblers used for fabrics cleaned only with water solutions of bleach or detergents.
 18. Foundry sand mold forming equipment to which no heat is applied.
 19. Ovens used exclusively for curing potting materials or castings made with epoxy resins.
 20. Equipment used to liquefied or separate oxygen, nitrogen or the rare gases from the air.
 21. Equipment used for compression molding and injection molding of plastics.
 22. Mixers for rubber or plastics where no material in powder form is added and no organic solvents, diluents or thinners are used.
 23. Equipment used exclusively to package pharmaceuticals and cosmetics or to coat pharmaceutical tablets.
 24. Roll mills or liquefied for rubber or plastics where no organic solvents, diluents or thinners are used.
 25. Vacuum producing devices used in laboratory operations or in connection with other equipment which is exempt by Rule 201.
- F. Steam generators, steam superheaters, water boilers, water heaters, and closed heat transfer systems that have a maximum heat input rate of less than 15 million British Thermal Units (BTU) per hour (gross), and are fired exclusively with natural gas or liquefied petroleum gas or any combination thereof.
- G. Natural draft hoods, natural draft stacks or natural draft ventilators.
- H. Containers, reservoirs or tanks used exclusively for:
1. Dipping operations for coating objects with oils, waxes, or greases where no organic solvents, diluents or thinners are used.

2. Dipping operations for applying coatings of natural synthetic resins which contain no organic solvents.
 3. Storage of liquefied gases.
 4. Unheated storage of organic materials with an initial boiling point of 300 F or greater.
 5. The storage of fuel oils with a gravity of 25 API or lower.
 6. The storage of lubricating oils.
 7. The storage of organic liquids, except gasoline, normally used as solvents, diluents or thinners, inks, colorants, paints, lacquers, enamels, varnishes, liquid resins or other surface coatings, and having a capacity of 6,000 gallons or less.
 8. The storage of liquid soaps, liquid detergents, waxes, wax emulsions, or vegetable oils.
 9. Asphalt Melting Kettles or molten asphalt holding tanks with less than 250 gallon capacity.
 10. Unheated solvent dispensing containers, unheated non-conveyorized coating dip tanks of 250 gallon capacity or less.
 11. Storage of gasoline in underground tanks having a capacity of 250 gallons or less or installed prior to December 31, 1970.
- I. Equipment used exclusively for heat treating glass or metals, or used exclusively for case hardening, carburizing, cyaniding, nitriding, carbonitriding, siloconizing or diffusion treating of metal objects.
- J. Crucible furnaces, pot furnaces or induction furnaces, with a capacity of 1,000 pounds or less each, in which no sweating or distilling is conducted and from which only the following metals are held in a molten state:
1. Aluminum or any alloy containing over 50 percent aluminum.
 2. Magnesium or any alloy containing over 50 percent magnesium.
 3. Lead or any alloy containing over 50 percent lead.
 4. Tin or any alloy containing over 50 percent tin.
 5. Zinc or any alloy containing over 50 percent zinc.
 6. Copper.
 7. Precious metals.

- K. Furnaces for the melting of lead or any alloy, or the holding of lead or any alloy in a molten state where the metal is used exclusively in printing processes.
- L. Vacuum cleaning systems used exclusively for industrial, commercial or residential housekeeping purposes.
- M. Structural changes which cannot change the quality, nature or quantity of air contaminant emissions.
- N. Repairs or maintenance not involving structural changes to any equipment for which a permit has been granted.
- O. Identical replacements in whole or in part of any article, machine, equipment or other contrivance where a permit to operate has previously been granted for such equipment under Rule 200; however, this exception shall not be applicable to equipment or air pollution control equipment with respect to the loading of gasoline into stationary tanks (Rule 419).
- P. Open Burn/Open Detonation Operations on Military Bases, provided the operation complies with the requirements of Rules 217 and 432.

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GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 202. TRANSFER

ADOPTED 9/05/74

An authority to construct or permit to operate shall not be transferable, by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

RULE 204. CANCELLATION OF APPLICATIONS

ADOPTED 9/05/74

An authority to construct shall expire and the application shall be cancelled two years from the date of issuance of the authority to construct; provided, however, that when a period of longer than two years is stated in the application to be required for the construction, the authority to construct shall expire and the application shall be cancelled upon the expiration of the stated construction period, but in any event not later than five years from the date of issuance of the authority to construct.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 205. ACTION AND APPLICATIONS

ADOPTED 8/20/79

- A. The Air Pollution Control Officer shall determine whether the application is complete not later than 30 calendar days after receipt of the application, or after such longer time as both the applicant and the Air Pollution Control Officer may agree. Such determination shall be transmitted in writing immediately to the applicant at the address indicated on the application. If the application is determined to be incomplete, the determination shall specify which parts of the application are incomplete and how they can be made complete. Upon receipt by the Air Pollution Control Officer of any resubmittal of the application, a new 30-day period in which the Air Pollution Control Officer must determine completeness shall begin. Completeness of an application or resubmitted application shall be evaluated on the basis of the requirements set forth in District regulations adopted pursuant to AB 884 regarding information requirements as it exists on the date on which the application or resubmitted application was received. After the Air Pollution Control Officer accepts an application as complete, the Air Pollution Control Officer shall not subsequently request of an applicant any new or additional information which was not specified in the Air Pollution Control Officer's list of items to be included within such applications. However, the Air Pollution Control Officer may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information required in such list in effect at the time the complete application was received. Making any such request does not waive, extend, or delay the time limits in this rule for decision on the completed application, except as the applicant and Air Pollution Control Officer may both agree.
- B. Following acceptance of an application as complete, the Air Pollution Control Officer shall:
1. Perform the evaluations required to determine compliance with this rule 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 succinct written analysis.
 2. Within 10 calendar days following such decision, publish a notice by prominent advertisement in at least one newspaper of general circulation in the District stating the preliminary decision of the Air Pollution Control Officer and where the public may inspect the information required to be made available under Subsection (3). The notice shall provide 30 days from the date of publication for the public to submit written comments on the preliminary decision.
 3. At the time notice of the preliminary decision is published, make available for public inspection at the Air Pollution Control District's office, the information submitted by the applicant, the Air Pollution Control Officer's supporting analysis for the preliminary decision, and the preliminary decision to grant or deny the authority to construct, including any proposed permit conditions, and the reasons therefore. The confidentiality of trade secrets shall be considered in accordance with Section 6254.7 of the Government Code and relevant sections of the Administrative Code of the State of California.
 4. No later than the date of publication of the notice required by Subsection (2), forward the analysis, the preliminary decision, and copies of the notice to the Air Resources Board (attn: Chief, Stationary Source Control Division) and the Regional Office of the U.S. Environmental Protection Agency.
 5. Consider all written comments submitted during the 30 day public comment period.
 6. Within 180 days after acceptance of the application as complete, take final action on the application after considering all written comments. The Air Pollution Control Officer shall provide written notice of the final action to the applicant, the Environmental Protection Agency, and the California Air Resources Board, shall publish such notice in a newspaper of general circulation, and shall make the notice and all supporting documents available for public inspection at the Air Pollution Control District's office.
- C. The public notice and reporting requirements set forth in Subsections B(2) and B(6) shall not be required for any permit which does not include conditions requiring the control of emissions from an existing source.

12-17-79

A. GENERAL

The Air Pollution Control Officer shall deny an authority to construct for any new stationary source or modification, or any portion thereof, unless:

1. The new source or modification, or applicable portion thereof, complies with the provisions of this rule and all other applicable district rules and regulations; and
2. The applicant certifies that all other stationary sources in the State which are owned or operated by the applicant are in compliance, or are on approved schedule for compliance, with all applicable emission limitations and standards under the Clean Air Act (42 USC 7401 et. seq.) and all applicable emission limitations and standards which are part of the State Implementation Plan approved by the Environmental Protection Agency.

B. APPLICABILITY AND EXEMPTIONS

1. This rule (excluding Section D) shall apply to all new stationary sources and modifications which are required pursuant to District rules to obtain a permit to construct.
2. Section (D) of this rule shall apply to new stationary sources and modifications which result in either:
 - a. A net increase in emissions of 250 or more pounds during any day of any pollutant for which there is a national ambient air quality standard (excluding carbon monoxide), or any precursor of such a pollutant; or
 - b. A net increase in carbon monoxide emissions which the Air Pollution Control Officer determines would cause the violation of any national ambient air quality standard for carbon monoxide at the point of maximum ground level impact.

3. Any new stationary source or modification which receives a permit to construct pursuant to this rule and complying with the following two conditions shall be deemed as having met the provisions of Part C of the Clean Air Act, as amended in 1977, and any regulations adopted pursuant to those provisions.
 - a. Net emissions increase of all pollutants for which there is a national ambient air quality standard, and all precursors of such pollutants, shall be mitigated (offset) by reduced emissions from existing stationary or nonstationary sources. Emissions reductions shall be sufficient to offset any net emissions increase and shall take effect at the time of, or before, initial operation of the new source, or within 90 days after initial operations of a modification.
 - b. The applicant shall demonstrate, to the satisfaction of the Air Pollution Control Officer, that the proposed new source or modification will not have a significant air quality impact on any Class I area in cases where either the Air Pollution Control Officer, the Air Resources Board, or the U.S. Environmental Protection Agency requests such a demonstration at any time during the district's review of the application for an authority to construct or within 30 days of the public notice of the Air Pollution Control Officer's decision on the application.
4. Notwithstanding the provisions of Section (B)(2), the Air Pollution Control Officer shall exempt from Section (D)(2) any new source or modification:
 - a. Which will be used exclusively for providing essential public services, such as schools, hospitals, or police and fire fighting facilities, but specifically excluding sources of electrical power generation other than for emergency standby use at essential public service facilities.

- b. Which is exclusively a modification to convert from use of a gaseous fuel to a liquid fuel because of a demonstrable shortage of gaseous fuels, provided the applicant establishes to the satisfaction of the Air Pollution Control Officer that it has made its best efforts to obtain sufficient emissions offsets pursuant to Section (D) of this rule, that such efforts had been unsuccessful as of the date the application was filed, and the applicant agrees to continue to seek the necessary emissions offsets until construction on the new stationary source or modification begins. This exemption shall only apply if, at the time the permit to operate was issued for the gas burning equipment, such equipment could have burned the liquid fuel without additional controls and been in compliance with all applicable district regulations.
- c. Which is portable sandblasting equipment used on a temporary basis within the District.
- d. Which uses innovative control equipment or processes which will likely result in a significantly lower emission rate from the stationary source than would have occurred with the use of previously recognized best available control technology, and which can be expected to serve as a model for technology to be applied to similar stationary sources within the state resulting in a substantial air quality benefit, provided the applicant establishes by modeling that the new stationary source or modification will not cause the violation of any national ambient air quality standard at the point of maximum ground level impact. This exemption shall apply only to pollutants which are controlled by the innovative control equipment or processes. The Air Pollution Control Officer shall

obtain written concurrence from the Executive Officer of the Air Resources Board prior to granting an exemption pursuant to this subsection.

which is a cogeneration project, a project using refuse-derived or biomass-derived fuels for energy generation, or a resource recovery project using municipal wastes, provided:

(1) the applicant establishes by modeling that the new source or modification will not cause a new violation of any national ambient air quality standard at the point of maximum ground level impact; and

(2) the District has established an alternative energy project offset bank which contains sufficient credits to offset the net increase in emissions from the new source or modification to the extent required by Section (D)(2).

For each exemption granted pursuant to this subsection, and notwithstanding Section (D)(2)(d), credits shall be withdrawn from the alternative energy project offset bank to offset the net increase in emissions from the new source or modification at a ratio of 1.2:1.

In order to establish and maintain the alternative energy project offset bank, the District may adopt rules or permit conditions which result in the cost/effective control of emissions from stationary sources throughout the District. The District shall include in the offset bank any power plant emission reductions which result from orders of the California Energy Commission or the California Public Utilities Commission.

Emissions reductions which result from measures required to achieve and maintain any national ambient air quality standard, and

reductions which have been proposed to offset the impact of another new source or modification for which the District has received an application, shall not be included in the offset bank. The offset bank shall not be used to offset the emissions from those portions of a new source or modification which are not directly related to energy generation.

- f. Which consists solely of the installation of air pollution control equipment which, when in operation, will directly control emissions from an existing source.
- g. Which wishes to construct in an area which has a lack of major industrial development or an absence of significant industrial particulate emissions and low urbanized population as long as the source can comply with BACT and applicable Federal, State and District emission regulations; and the impact of the emissions plus emissions from other stationary sources in the vicinity of the proposed location, along with non-rural fugitive background, will not cause a violation of state or national ambient air quality standards. This exemption shall apply only to particulate emissions.

C. CALCULATION OF EMISSIONS

- 1. The maximum design capacity of a new stationary source or modification shall be used to determine the emissions from the new source or modification unless the applicant, as a condition to receiving permits to construct and operate such new source or modification, agrees to limitations on the operations of the new source or modification, in which event the limitations shall be used to establish the emissions from the new source or modification.

2. The emissions from an existing source shall be based on the specific limiting conditions set forth in the source's authority to construct and permit to operate, and, where no such conditions are specified, on the actual operating conditions of the existing source averaged over the three consecutive years immediately preceding the date of application, or such shorter period as may be applicable in cases where the existing source has not been in operation for three consecutive years. If violations of laws, rules, regulations, permit conditions, or orders of the District, the California Air Resources Board, or the Federal Environmental Protection Agency occurred during the period used to determine the operating conditions, then adjustments to the operating conditions shall be made to determine the emissions the existing source would have caused without such violations.

3. The net increase in emissions from new stationary sources and modifications which are not seasonal sources shall be determined using yearly emissions profiles. Yearly emissions profiles for an existing or proposed stationary source or modification shall be constructed by plotting the daily emissions from such source in descending order. A separate profile shall be constructed for each pollutant. If, for example, a source emits 750 lbs. of NOx one day per week, 500 lbs. of NOx two days per week and 250 lbs. of NOx on the remaining 4 days each week, then the profile will consist of 52 days at 750 lbs/day, followed by 104 days at 500 lbs/day, and then 208 days at 250 lbs/day, as shown in Figure 1.

The net increase in emissions from a modification to an existing source shall be determined by comparing the yearly emissions profiles for the existing source to the yearly emissions profiles for the proposed source after modification. A net increase in emissions exists whenever any part of an emissions profile for a modified source exceeds the emissions profile for the existing source.

4. The net increase in emissions from new stationary sources and modifications which are seasonal sources shall be determined using yearly and quarterly emissions profiles.

Quarterly emissions profiles shall be constructed by plotting the daily emissions from an existing or proposed seasonal facility in descending order for the continuous 90 day period during which the greatest emissions from the proposed new or modified source will occur. Yearly emissions profiles shall be constructed as described in Section (C)(3). A separate profile shall be constructed for each pollutant.

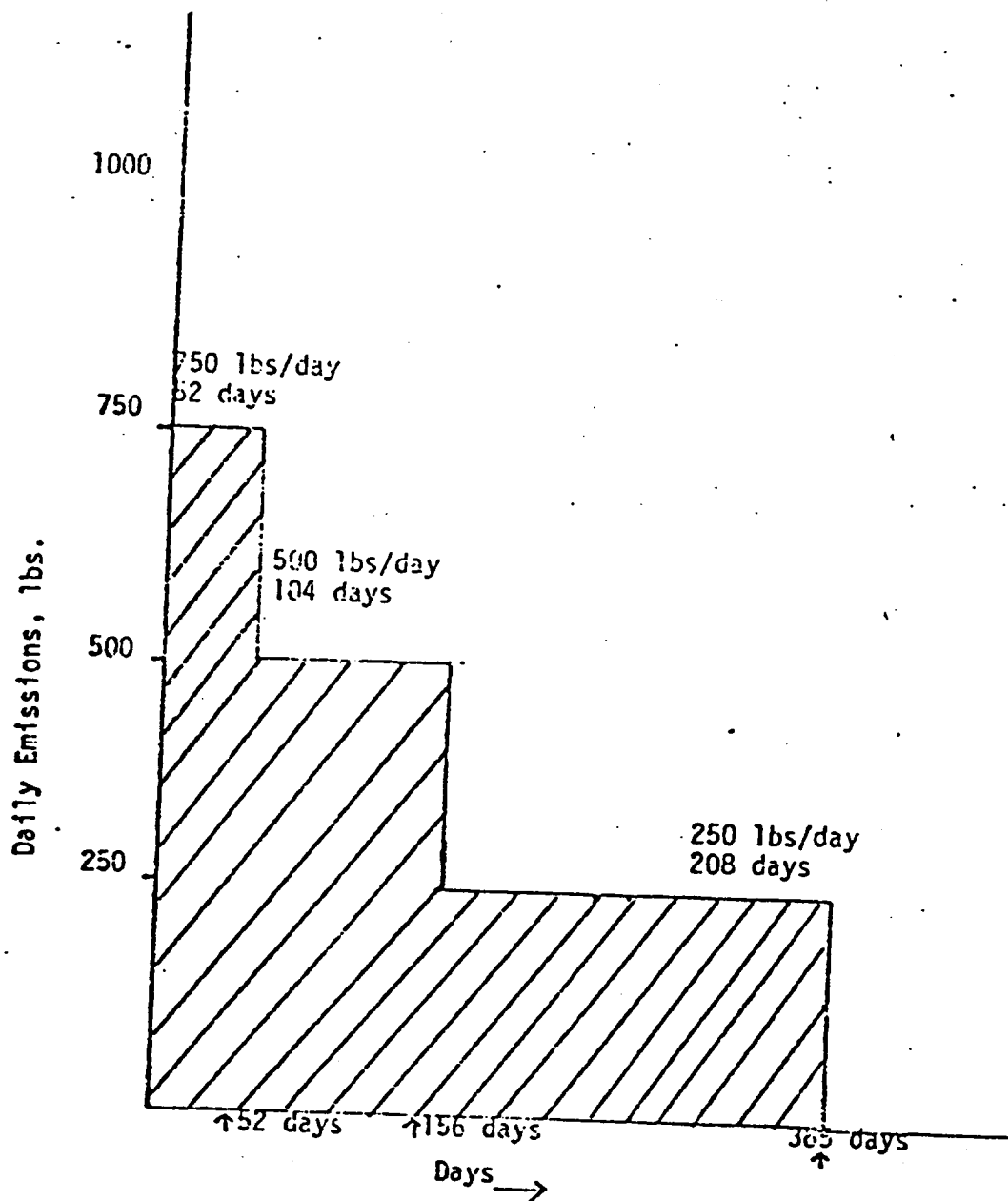


FIGURE 1. YEARLY EMISSIONS PROFILE

The net increase in emissions from a modification to an existing seasonal source shall be determined by comparing the yearly and quarterly emissions profiles for the existing source to the yearly and quarterly emissions profiles for the proposed source after modification. A net increase in emissions exists whenever any part of an emissions profile for the modified source exceeds the emissions profile for the existing source.

5. When computing the net increase in emissions for modifications, the Air Pollution Control Officer shall take into account the cumulative net emissions changes which are represented by authorities to construct associated with the existing stationary source and issued pursuant to this rule or an equivalent regulation, excluding any emissions reductions required to comply with federal, state, or district laws, rules or regulations.

D. BEST AVAILABLE CONTROL TECHNOLOGY AND MITIGATION REQUIREMENTS

1. Best Available Control Technology

All new stationary sources and modifications subject to this section, excluding cargo carriers, shall be constructed using best available control technology.

2. Mitigation

- a. For all new stationary sources and modifications subject to this section, mitigation shall be required for net emissions increases (i.e. increases after the application of best available control technology):

- (1) of each pollutant for which a national ambient air quality standard was exceeded within the air basin more than three discontinuous times (or, for annual standards, more than one time) within the three years immediately preceding the date when the application for the authority to construct

was filed, and for all precursors of such pollutants; provided, however, that mitigation of net emission increases of sulfur oxides, total suspended particulates or carbon monoxide shall not be required if the applicant demonstrates through modeling that emissions from the new source or modification will not cause a new violation of any national ambient air quality standard for such pollutants, or make any existing violation of any such standard worse, at the point of maximum ground level impact.

(2) not subject to Subsection (1) but which the Air Pollution Control Officer determines would cause a new violation of any national ambient air quality standard, or would make any existing violation of any such standard worse, at the point of maximum ground level impact. Emissions reductions required as a result of this subsection must be shown through modeling to preclude the new, or further worsening of any existing, violation of any national ambient air quality standard that would otherwise result from the operation of the new source or modification, unless such reductions satisfy the requirements of Section (D)(2)(b).

b. Net emissions increases subject to Section (D)(2)(1) shall be mitigated (offset) by reduced emissions from existing stationary or nonstationary sources. Emissions reductions shall be sufficient to offset any net emissions increase and shall take effect at the time, or before initial operation, of the new source, or within 90 days after initial operation of a modification.

c. Emissions offset profiles shall be used to determine whether proposed offsets mitigate the net emissions increases from

proposed new sources or modifications.

- (1) For all offset sources, a yearly emissions offset profile shall be constructed in a manner similar to that used to construct the yearly emissions profile for the proposed new or modified source. Daily emissions reductions which will result from the further control of such sources shall be plotted in descending order. A separate profile shall be constructed for each pollutant. Seasonal offsets shall not be used to mitigate the emissions from nonseasonal sources.
- (2) In addition, for seasonal offset sources, a quarterly emissions offset profile shall be constructed for the same time period and in the same manner as that used to construct the quarterly emissions profile for the proposed new or modified source. Daily emissions reductions which will result from further control of existing sources shall be plotted on the quarterly offset profile in descending order. A separate profile (which may cover different months) shall be plotted for each pollutant.
- (3) Adjusted emissions offset profiles shall be constructed by dividing each entry used in the construction of the emissions offset profiles by the offset ratio determined in Subsection (d).
- (4) The adjusted emissions offset profiles shall be compared with the emissions profiles to determine whether net emissions increases have been mitigated at all points on the profiles.

For example, if emissions offsets of 900 lbs/day on 5 days per week, and 325 lbs/day the remaining 2 days per week,

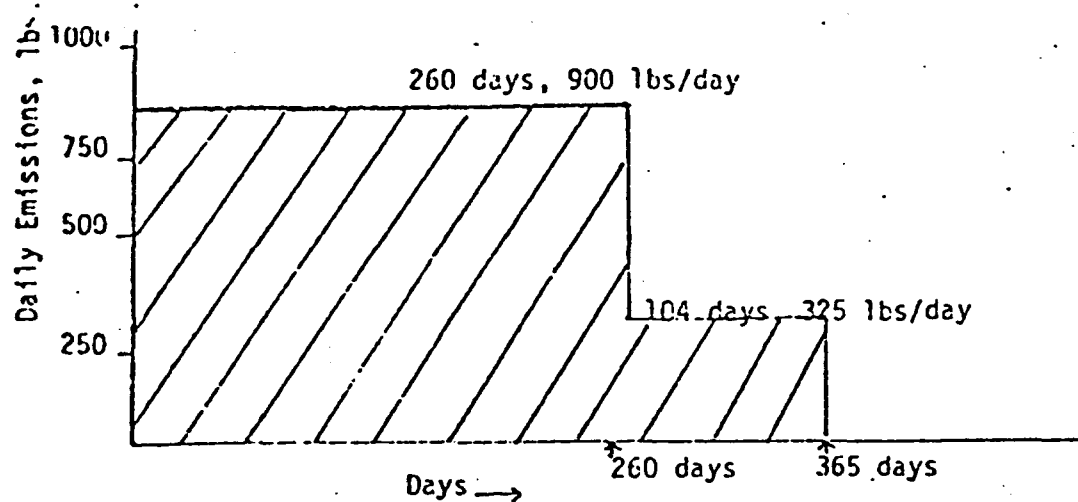


Figure 2a. Emission Offset Profile

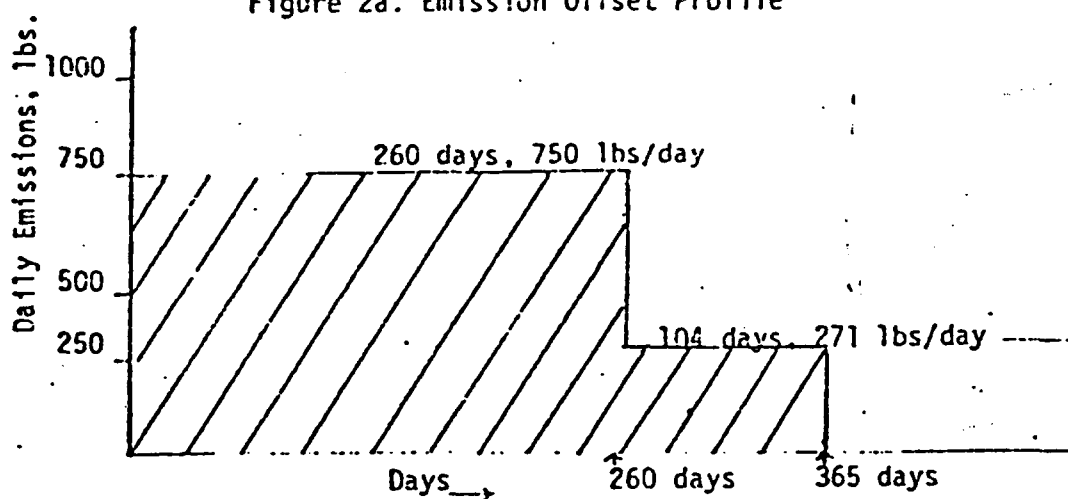


Figure 2b. Adjusted Emission Offset Profile

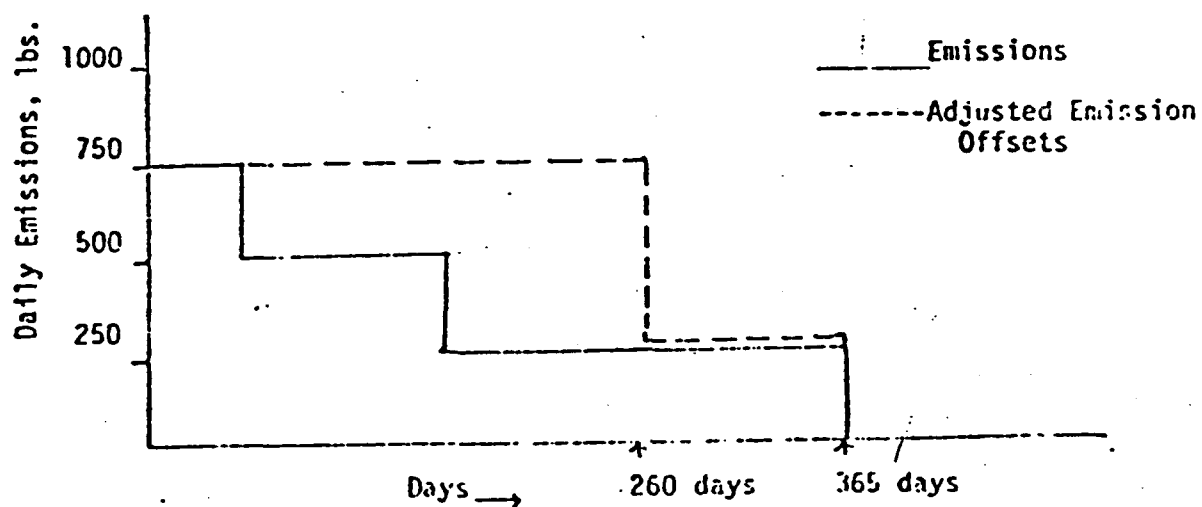


Figure 2c. Comparison of Emissions Profile and Adjusted Emissions Offset Profile

are proposed for the new source described in Figure 1, the emissions offset profile would be as shown in Figure 2a. Further, if the offset ratio determined pursuant to Sub-section (d) were 1.2:1, an adjusted emissions offset profile would be constructed as shown in Figure 2b. Finally, the adjusted emissions offset profile would be compared with the emissions profile, as shown in Figure 2c, to determine whether the net increase had been mitigated at all points on the profile.

- d. A ratio of emissions offsets to emissions from the new source or modification (offset ratio) of 1.2:1 shall be required for emissions offsets located either:

- (1) Upwind in the same or adjoining counties; or
- (2) Within a 15 mile radius of the proposed new source or modification.

For emissions offsets located outside of the areas described above, the applicant shall conduct modeling to determine an offset ratio sufficient to show a net air quality benefit in the area affected by emissions from the new source or modification.

Notwithstanding any other provision of this section the yearly emissions profiles and the yearly emissions offset profiles for a source subject to this section may be constructed based on the daily emissions from the source averaged on a monthly basis.

In such event an offset ratio of 2.0:1 shall be required.

- e. If an applicant certifies that the proposed new source or modification is a replacement for a source which was shut down or curtailed after February 16, 1978, emissions reductions associated with such shutdown or curtailment may be used as

offsets for the proposed source, subject to the other provisions of this section.

Sources which were shut down or curtailed prior to February 16, 1978 may be used to offset emissions increases for replacements for such sources, subject to the other provisions of this section provided:

- (1) The shutdown or curtailment was made in good faith pursuant to an established plan approved by the Air Pollution Control Officer for replacement and emissions control, and in reliance on air pollution laws, rules and regulations applicable at the time; and
- (2) The applicant demonstrates to the satisfaction of the Air Pollution Control Officer that there was good cause (which may include business or economic conditions) for delay in construction of the replacement facilities.

- f. Notwithstanding any other provisions of this section any emissions reductions not otherwise authorized by this rule may be used as offsets of emissions increases from the proposed source provided the applicant demonstrates that such reductions will result in a net air quality benefit in the area affected by emissions from the new source or modification, and provided the written concurrence of the ARB is obtained.
- g. Emissions reductions resulting from measures required by adopted federal, state, or district laws, rules or regulations shall not be allowed as emissions offsets unless a complete application incorporating such offsets was filed with the District prior to the date of adoption of the laws, rules, or regulations.

h. The Air Pollution Control Officer shall allow emissions reductions which exceed those required by this rule for a new source or modification to be banked for use in the future by the applicant. Such reductions may be used only to offset emissions increases from proposed new sources or modifications owned or operated by the applicant within 15 miles of the site where the reductions occurred. All such reductions, when used as offsets for the increased emissions from a proposed new source or modification, shall be used in accordance with the other provisions of this Section.

i. For all power plants subject to Section (E), the applicant may, upon written notice to the Air Pollution Control Officer and the Executive Officer of the Air Resources Board, establish an emissions offset bank for a specific power plant at a specific location. The emissions offset bank shall be established no earlier than the date the applicant's Notice of Intention for the power plant is accepted by the California Energy Commission. The emissions offset bank shall lapse if the Commission rejects the applicable power plant or site; however, in such case the applicant may transfer the emissions offsets contained in the bank to another power plant and location for which the Commission has accepted a Notice of Intention. Emissions offsets may be deposited in the bank only by the applicant to construct the power plant, and all emissions offsets contained in the bank shall be used in accordance with Section (D)(2).

j. If an applicant for a resource recovery project using municipal waste demonstrates to the satisfaction of the Air Pollution Control Officer that the most likely alternative for treating such waste would result in an increase in emissions allowed

under existing district permits and regulations, those emissions increases which would not occur as a result of the resource recovery project may be used to offset any net emissions increase from the resource recovery project in accordance with the other provisions of this section.

- k. Emissions reductions of one precursor may be used to offset emissions increases of another precursor of the same secondary pollutant provided the applicant demonstrates to the satisfaction of the Air Pollution Control Officer that the net emissions increase of the latter precursor will not cause a new violation, or contribute to an existing violation, of any national ambient air quality standard at the point of maximum ground level impact. The ratio of emission reductions between precursor pollutants of the same secondary pollutant shall be determined by the Air Pollution Control Officer based on existing air quality data and subject to the approval of the Air Resources Board.

E. 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 (AFC) has been accepted by the California Energy Commission. The Air Pollution Control Officer, pursuant to Section 25538 of the Public Resources Code, may apply for reimbursement of all costs, including lost fees, incurred in order to comply with the provisions of this section.

1. Within fourteen days of receipt of an NOI, the Air Pollution Control Officer shall notify the ARB and the Commission of the District's intent to participate in the NOI proceeding. If the District chooses to participate in the NOI proceeding, the Air Pollution Control

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

- a. A preliminary specific definition of best available control technology (BACT) for the proposed facility;
- b. A preliminary discussion of whether there is substantial likelihood that the requirements of this rule and all other District regulations can be satisfied by the proposed facility;
- c. 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.

2. Upon receipt of an Application for Certification (AFC) for a power plant, the Air Pollution Control Officer shall conduct a Determination of Compliance review. This Determination shall consist of a review identical to that which would be performed if an application for an authority to construct had been received for the power plant. If the information contained in the AFC does not meet the requirements of Section (E) of this rule, the Air Pollution Control Officer shall, within 20 calendar days of receipt of the AFC, so inform the Commission, and the AFC shall be considered incomplete and returned to the applicant for resubmittal.
3. The Air Pollution Control Officer 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 applications for an authority to construct.

4. The Air Pollution Control Officer may request from the applicant any information necessary for the completion of the Determination of Compliance review. If the Air Pollution Control Officer is unable to obtain the information, the Air Pollution Control Officer may petition the presiding Commissioner for an order directing the applicant to supply such information.
5. Within 180 days of accepting an AFC as complete, the Air Pollution Control Officer shall make a preliminary decision on:
 - a. Whether the proposed power plant meets the requirements of this rule and all other applicable district regulations; and
 - b. In the event of compliance, what permit conditions will be required including the specific BACT requirements and a description of required mitigation measures.
6. The preliminary written decision made under Subsection (5) shall be treated as a preliminary decision under Subsection (G)(2)(a) of this rule, and shall be finalized by the Air Pollution Control Officer only after being subject to the public notice and comment requirements of Subsections (G)(2)(b) through (G)(2)(f). The Air Pollution Control Officer shall not issue a Determination of Compliance unless all requirements of this rule are met.
7. Within 240 days of the filing date, the Air Pollution Control Officer shall issue and submit to the Commission a Determination of Compliance or, if such a determination cannot be issued, shall so inform the Commission. A Determination of Compliance shall confer the same rights and privileges as an authority to construct only when and if the Commission approves the AFC, and the Commission certificate includes all conditions of the Determination of Compliance.
8. Any applicant receiving a certificate from the Commission pursuant to this section and in compliance with all conditions of the certificate shall be issued a permit to operate by the Air Pollution Control Officer.

F. DEFINITIONS

1. "Best Available Control Technology (BACT)" means for any source the more stringent of:
 - a. The most effective emissions control technique which has been achieved in practice, for such category or class of source; or
 - b. Any other emissions control technique found, after public hearing, by the Air Pollution Control Officer or the Air Resources Board to be technologically feasible and cost/effective for such class or category of sources or for a specific source; or
 - c. The most effective emission limitation which the EPA certifies is contained in the implementation plan of any State approved under the Clean Air Act for such class or category or source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable.

In no event shall the emission rate reflected by the control technique or limitation exceed the amount allowable under applicable new source performance standards.

2. "Modification" means any physical change in, change in method of operation of, or addition to an existing stationary source, except that routine maintenance or repair shall not be considered to be a physical change. A change in the method of operation, unless previously limited by an enforceable permit condition, shall not include:
 - a. An increase in the production rate, if such increase does not exceed the operating design capacity of the source.
 - b. An increase in the hours of operation.
 - c. Change in ownership of a source.

3. "Stationary Source" means any aggregation of air-contaminant-emitting equipment which includes any structure, building, facility, equipment, installation or operation (or aggregation thereof) which is located on one or more bordering properties within the District and which is owned, operated, or under shared entitlement to use by the same person.

Items of air-contaminant-emitting equipment shall be considered aggregated into the same stationary source, and items of non-air-contaminant-emitting equipment shall be considered associated with air-contaminant-emitting equipment only if:

- a. The operation of each item of equipment is dependent upon, or affects the process of, the other; and
- b. The operation of all such items of equipment involves a common raw material or product.

emissions from all such aggregated items of air-contaminant-emitting equipment and all such associated items of non-air-contaminant-emitting equipment of a stationary source shall be considered emissions of the same stationary source. The emissions from all cargo carriers (excluding motor vehicles) while operating within the Air Basin which load or unload at the source shall be considered as emissions from the stationary source.

4. "Precursor" means a directly emitted pollutant that, when released to the atmosphere, forms or causes to be formed or contributes to the formation of a secondary pollutant for which an ambient air quality standard has been adopted, or whose presence in the atmosphere will contribute to the violation of one or more ambient air quality standards. The following precursor-secondary pollutant relationships shall be used for purposes of this rule:

Precursors

Hydrocarbons and substituted hydrocarbons (reactive organic gases)

Nitrogen oxides (NO_x)

Sulfur oxides (SO_x)

Secondary Pollutants

a) photochemical oxidant (ozone)
b) the organic fraction of suspended particulate matter.

a) Nitrogen dioxide (NO₂)
b) the nitrate fraction of suspended particulate matter.

a) sulfur dioxide (SO₂)
b) sulfates (SO₄)
c) the sulfate fraction of suspended particulate matter.

5. "Seasonal source" means any source with more than 75 percent of its annual operating hours within a consecutive 90-day period.
6. The "upwind" area shall be bounded by a line drawn perpendicular to the predominant wind flow line passing through or nearest to the site of the new source or modification and extending to the boundaries of the same or adjoining counties within the same air basin except where the APCO determines that for reasons of topography or meteorology such a definition is inappropriate.
7. "Modeling" means using an air quality simulation model, based on specified assumptions and data, which has been approved in writing by the Executive Officer of the Air Resources Board.

G. SEVERABILITY

If any portion of this rule is found to be unenforceable, such finding shall have no effect on the enforceability of the remaining portions of the rule, which shall continue to be in full force and effect.

RULE 209-B. STANDARDS FOR PERMITS TO OPERATE.

12-17-79

A. GENERAL

The Air Pollution Control Officer shall deny a permit to operate for any new or modified stationary source or any portion thereof to which Rule 209-A applies unless:

1. The owner or operator of the source has obtained an authority to construct granted pursuant to Rule 209-A; and
2. The Air Pollution Control Officer has determined that the source and any sources which provide offsets have been constructed and/or modified to operate, and emit quantities of air contaminants, consistent with the conditions imposed on their respective authorities to construct under Rule 210; and
3. The Air Pollution Control Officer has determined that any offsets required as a condition of the authority to construct will commence at the time of or prior to initial operations of the new source or modification, and that the offsets will be maintained throughout the operation of the new or modified source. In the case of a new or modified source which will be, in whole or in part, a replacement for an existing source on the same property, the Air Pollution Control Officer may allow a maximum of ninety (90) days as a start-up period for simultaneous operation of the existing stationary source, and the new stationary source or replacement; and
4. The Air Pollution Control Officer has determined that all conditions specified in the authority to construct have been or will be likely complied with by any dates specified.

B. REQUIREMENTS

The Air Pollution Control Officer shall require as a condition for the issuance of any permit to operate for a new or modified source, that

the source and any offset source be operated consistent with any conditions imposed on their respective authorities to construct under Rule 210.

C. PROCEDURES

1. The Air Pollution Control Officer shall perform the evaluations required to determine compliance with this Rule and shall take final action to approve, approve with conditions or disapprove any permit to operate a new or modified stationary source or any portion thereof to which Rule 209-A applies within 60 days after receipt of an application for such a permit.
2. in the event that the Air Pollution Control Officer fails to take final action on such written request within such 60-day period, such failure to act shall be deemed denial of such permit to operate and may be appealed to the District Hearing Board.

D. EXEMPTIONS

The Air Pollution Control Officer shall exempt from the provisions of this Rule any stationary source which is a continuing operation, without modification or change in operating conditions, when a permit to operate is required solely because of permit renewal or change of ownership.

E. DEFINITIONS

The definitions contained in Rule 209-A shall be applicable to this rule.

F. SEVERABILITY

If any portion of this rule is found to be unenforceable, such finding shall have no effect on the enforceability of the remaining portions of the rule which shall continue to be in full force and effect.

12-17-79

RULE 210. CONDITIONAL APPROVAL.

A. The Air Pollution Control Officer may issue an authority to construct or a permit to operate or use, subject to conditions which will assure the operation of any article, machine, equipment or other contrivance within the standards of Rule 209 in which case the conditions shall be specified in writing. Commencing work under such an authority to construct or operation under such a permit to operate shall be deemed acceptance of all the conditions so specified. The Air Pollution Control Officer shall issue an authority to construct or a permit to operate with revised conditions upon receipt of new application, if the applicant demonstrates that the article, machine, equipment or other contrivance can operate within the standards of Rule 209 under the revised conditions.

B. The Air Pollution Control Officer shall, as a condition for the issuance of an authority to construct for a new stationary source or modification and with prior written consent of the owner or operator of any source which provides offsets:

1. Require that the new source or modification and any sources which provide offsets be operated in the manner assumed in making the analysis.

The permit shall include an emissions limitation which corresponds with the application of best available control technology.

2. Modify, or require modification of, the permit to operate for any source used to provide offsets to ensure that emissions reductions at that source which provide offsets will be enforceable and shall continue for the reasonable expected useful life of the proposed source. If offsets are obtained from a source for which there is no permit to operate, a written contract shall be required between the applicant and the owner or operator of such source which contract, by its terms, shall be enforceable by the Air Pollution Control Officer to ensure that such reductions will continue for the reasonable expected useful life of the proposed source.

B. The Air Pollution Control Officer shall, as a condition for the issuance of an authority to construct for a new stationary source or modification and with prior written consent of the owner or operator of any source which provides offsets:

1. Require that the new source or modification and any sources which provide offsets be operated in the manner assumed in making the analysis. The permit shall include an emissions limitation which corresponds with the application of best available control technology.
2. Modify, or require modification of, the permit to operate for any source used to provide offsets to ensure that emissions reductions at that source which provide offsets will be enforceable and shall continue for the reasonable expected useful life of the proposed source. If offsets are obtained from a source for which there is no permit to operate, a written contract shall be required between the applicant and the owner or operator of such source which contract, by its terms, shall be enforceable by the Air Pollution Control Officer to ensure that such reductions will continue for the reasonable expected useful life of the proposed source.
3. Permit any other reasonably enforceable methods, other than those described in Subsections 1 and 2 which the Air Pollution Control Officer is satisfied will assure that all required offsets are achieved.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 213. IMPLEMENTATION PLANS

ADOPTED 8/20/79

The Air Pollution Control Officer may issue a permit to construct for a new stationary source or modification which is subject to Section (D) of Rule 209-A only if all district regulations contained in the State Implementation Plan approved by the Environmental Protection Agency are being carried out in accordance with that plan.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 215. PUBLIC AVAILABILITY OF EMISSION DATA

ADOPTED 9/05/74

- A. The owner or operator of any stationary source within the Great Basin Unified Air Pollution Control District shall, upon notification from the Air Pollution Control Officer, maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Air Pollution Control Officer to determine whether such source is in compliance with applicable emission limitations or other control measures.
- B. The information recorded shall be summarized and reported to the Air Pollution Control Officer on forms furnished by the Great Basin Unified Air Pollution Control District and shall be submitted within 30 days after the end of the reporting period. Reporting periods are January 1 - June 30 and July 1 - December 31, except that the initial reporting period shall commence on the date the Air Pollution Control Officer issues notification of the record keeping requirements.
- C. Information recorded by the owner or operator and copies of the summarizing reports submitted to the Air Pollution Control Officer shall be retained by the owner or operator for two years after the date on which the pertinent report is submitted.
- D. Emission data obtained from owners or operators of stationary sources pursuant to this paragraph will be correlated with applicable emission limitations and other control measures and will be available to the public during normal business hours at the District's Office.
- E. Request for public records should be specific and in sufficient detail that the District may readily identify the specific information requested. However, the owner of a source may request that information provided to the Air Pollution Control District, which information shall not include actual emission data, be treated as a trade secret pursuant to Government Code Section 6254.7. Written justification for such requests are to be submitted to the Air Pollution Control District, and such justification will be considered public record. The Air Pollution Control Officer shall rule upon requests for trade secret status within thirty (30) days of receipt of such request.

RULE 216. NEW SOURCE REVIEW REQUIREMENTS FOR DETERMINING IMPACT ON AIR QUALITY

ADOPTED 3/10/76

A. Authority to Construct

1. The Air Pollution Control Officer shall deny an Authority to Construct for any new stationary source or modification of an existing stationary source specified in paragraph (2) of this rule unless he determines that the emissions from the new source or modification may not be expected to result in the violation or a contribution to the continued violation of any state or national ambient air quality standard.
2. The Air Pollution Control Officer shall apply the provisions of this rule to:
 1. Any proposed new stationary source which he estimates will emit:
 1. More than either fifteen (15) pounds per hour or 150 pounds per day of nitrogen oxides, organic gases or any air contaminant for which there is a state or national ambient air quality standard, except carbon monoxide, or,
 2. More than either 150 pounds per hour or 1500 pounds per day of carbon monoxide, or
 2. Any proposed modification of an existing stationary source that he estimates will emit after modification:
 1. More than either fifteen (15) pounds per day of nitrogen oxides, organic gases or any air contaminant for which there is a state or national ambient air quality standard except carbon monoxide, or,
 2. More than either 150 pounds per hour or 1500 pounds per day of carbon monoxide.
3. The Air Pollution Control Officer may exempt from the provisions of this rule any new stationary source or modification which he determines:
 1. Is a modification which eliminates, reduces or controls air contaminant emissions from an existing stationary source, provided that the emissions of any contaminant(s) from the modified source will not be greater than such emissions were from the existing source.
 2. Will be a replacement for an existing stationary source and will not result in emissions of any air contaminant greater than those from the existing source.
 3. Will have demonstrable basin-wide air quality benefits, provided however, that the California Air Resources Board U.S. Environmental Protection Agency, after making a technical analysis, concur with the Air Pollution Control Officer's conclusion that such benefits will be derived. Calculations and technical data used by the Air Pollution Control Officer as the basis for granting the exemption shall be made available to the Air Resources Board and Environmental Protection Agency, or
 4. Will be used exclusively for providing essential public services, including but not limited to hospitals, police, and fire fighting facilities, and will employ the best practicable emission control methods and equipment.
4. When the Air Pollution Control Officer intends to grant an exemption under paragraph (3) he shall publicize a notice by prominent advertisement in at least one newspaper of general circulation in the District and shall notify in writing the U.S. Environmental Protection Agency, and the California Air Resources Board and all counties in the Air Basin of his intention. No exemption shall be granted until at least 30 days after the date of publication and notification to the above agencies. In making his decision the Air Pollution Control Officer shall consider any comments received, and, in the case of exemptions proposed under subparagraph (3-c), a condition of a decision to grant an exemption shall be the concurrence of the California Air Resources Board and the U.S. Environmental Protection Agency, as provided for in said subparagraph (c).
5. Notwithstanding the criteria specified in paragraph (2) the Air Pollution Control Officer may apply the provisions of this rule to any new or modified stationary source if, in his opinion, the emissions from the source might result in a violation or a contribution to the continued violation of any state or national ambient air quality standard.
6. Before granting or denying an Authority to Construct for any new stationary source or modification subject to the requirements of this rule, the Air Pollution Control Officer shall:
 1. Require the applicant to submit information sufficient to describe the nature and amounts of emissions,

location, design, construction, and operation of the source; and to submit any additional information required by the Air Pollution Control Officer to make the analysis of this rule.

2. Require the applicant to submit the projected expansion plans for the stationary source for the ten-year period subsequent to the date of application for Authority to Construct.
3. Analyze the effect of the new stationary source or modification on air quality. Such analyses shall consider expected air contaminant emissions and air quality in the vicinity of the new source or modification, within the Air Basin, and within adjoining Air Basins at the time the source or modification is proposed to commence operation. Such analyses shall be based on application of existing state and local control strategies.
4. Make available for public inspection at the Air Pollution Control District office, the information submitted by the applicant, the Air Pollution Control Officer's analysis of the effect of the source on air quality, and the preliminary decision to grant or deny the Authority to Construct.
5. Publish a notice by prominent advertisement in at least one newspaper of general circulation in the District stating where the public may inspect the information required in subparagraph (d) of this paragraph. The notice shall provide 30 days, beginning on the date of publication, for the public to submit comments on the application.
6. Forward copies of the notice required in subparagraph (e) of this paragraph to the U.S. Environmental Protection Agency, the California Air Resources Board, all Counties in the Air Basin, and all adjoining Air Pollution Control Districts in other Air Basins.
7. Consider the public comments submitted.
7. Receipt of an Authority to Construct shall not relieve the owner or operator of responsibility to comply with the applicable portions of the control strategy.
8. Within 30 days after the granting of an Authority to Construct to a source subject to this Rule, the Air Pollution Control Officer shall forward to the California Air Resources Board a copy of the Authority to Construct, including conditions imposed upon the source and calculations and support data used in determining that the Authority to Construct should be granted.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 218 - LIMITING POTENTIAL TO EMIT

(Adopted 12/04/95)

A. APPLICABILITY

1. General Applicability: This rule shall apply to any stationary source which would, if it did not comply with the limitations set forth in this rule, have the potential to emit air contaminants equal to or in excess of the threshold for a major source of regulated air pollutants or a major source of hazardous air pollutants (HAPs) and which meets one of the following conditions:
 - a. In every 12-month period, the actual emissions of the stationary source are less than or equal to the emission limitations specified in section C.1. below; or
 - b. In every 12-month period, at least 90 percent of the emissions from the stationary source are associated with an operation limited by any one of the alternative operational limits specified in section F.1. below.
2. Stationary Source with De Minimis Emissions: The recordkeeping and reporting provisions in sections D, E and F below shall not apply to a stationary source with de minimis emissions or operations as specified in either subsection a. or b. below:
 - a. In every 12-month period, the stationary source emits less than or equal to the following quantities of emissions:
 - i. 5 tons per year of a regulated air pollutant (excluding HAPs),
 - ii. 2 tons per year of a single HAP,
 - iii. 5 tons per year of any combination of HAPs, and
 - iv. 20 percent of any lesser threshold for a single HAP that the United States Environmental Protection Agency (U.S. EPA) may establish by rule.
 - b. In every 12-month period, at least 90 percent of the stationary source's emissions are associated with an operation for which the throughput is less than or equal to one of the quantities specified in subsections (i) through (viii) below:
 - i. 1,400 gallons of any combination of solvent-containing materials but no more than 550 gallons of any one solvent-containing material, provided that the materials do not contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene;
 - ii. 750 gallons of any combination of solvent-containing materials where the materials contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, but not more than 300 gallons of any one solvent-containing material;
 - iii. 4,400,000 gallons of gasoline dispensed from equipment with Phase I and II vapor recovery systems;
 - iv. 470,000 gallons of gasoline dispensed from equipment without Phase I and II vapor recovery systems;
 - v. 1,400 gallons of gasoline combusted;
 - vi. 16,600 gallons of diesel fuel combusted;
 - vii. 500,000 gallons of distillate oil combusted, or
 - viii. 71,400,000 cubic feet of natural gas combusted.

Within 30 days of a written request by the District or the U.S. EPA, the owner or operator of a stationary source not maintaining records pursuant to sections D or F shall demonstrate that the stationary source's emissions or throughput are not in excess of the applicable quantities set forth in subsection a. or b. above.
3. Provision for Air Pollution Control Equipment: The owner or operator of a stationary source may take into account the operation of air pollution control equipment on the capacity of the source to emit an air contaminant if the equipment is required by Federal, State, or District rules and regulations or permit terms and conditions. The owner or operator of the stationary source shall maintain and operate such air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. This provision shall not apply after January 1, 1999 unless such operational limitation is federally enforceable or unless the District Board specifically extends this provision and it is submitted to the U.S. EPA. Such extension shall be valid unless, and

until, the U.S. EPA disapproves the extension of this provision.

4. Exemption, Stationary Source Subject to Rule 217: This rule shall not apply to the following stationary sources:
 - a. Any stationary source whose actual emissions, throughput, or operation, at any time after the effective of this rule, is greater than the quantities specified in sections C.1. or F.1. below and which meets both of the following conditions:
 - i. The owner or operator has notified the District at least 30 days prior to any exceedance that s/he will submit an application for a Part 70 permit, or otherwise obtain federally-enforceable permit limits, and
 - ii. A complete Part 70 permit application is received by the District, or the permit action to otherwise obtain federally-enforceable limits is completed, within 12 months of the date of notification.
 - b. However, the stationary source may be immediately subject to applicable federal requirements, including but not limited to, a maximum achievable control technology (MACT) standard.
 - c. Any stationary source that has applied for a Part 70 permit in a timely manner and in conformance with Rule 217, and is awaiting final action by the District and U.S. EPA.
 - d. Any stationary source required to obtain an operating permit under Rule 217 for any reason other than being a major source.
 - e. Any stationary source with a valid Part 70 permit.

Notwithstanding subsections b. and d. above, nothing in this section shall prevent any stationary source which has had a Part 70 permit from qualifying to comply with this rule in the future in lieu of maintaining an application for a Part 70 permit or upon rescission of a Part 70 permit if the owner or operator demonstrates that the stationary source is in compliance with the emissions limitations in section C.1. below or an applicable alternative operational limit in section F.1. below.

5. Exemption, Stationary Source with a Limitation on Potential to Emit: this rule shall not apply to any stationary source which has a valid operating permit with federally-enforceable conditions or other federally-enforceable limits limiting its potential to emit to below the applicable threshold(s) for a major source as defined in sections B.7 and B.8 below.
6. Within three years of the effective date of Rule 217, the District shall maintain and make available to the public upon request, for each stationary source subject to this rule, information identifying the provisions of this rule applicable to the source.
7. his rule shall not relieve any stationary source from complying with requirements pertaining to any otherwise applicable preconstruction permit, or to replace a condition or term of any preconstruction permit, or any provision of a preconstruction permitting program.

(1) This does not preclude issuance of any preconstruction permit with conditions or terms necessary to ensure compliance with this rule.

1For example, PSD, NSR, and ATC

B. DEFINITIONS

All terms shall retain the definitions provided under 40 CFR Part 70.2 unless otherwise defined herein.

1. 12-month period: A period of twelve consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.
2. Actual Emissions: The emissions of a regulated air pollutant from a stationary source for every 12-month period. Valid continuous emission monitoring data or source test data shall be preferentially used to determine actual emissions. In the absence of valid continuous emissions monitoring data or source test data, the basis for determining actual emissions shall be: throughputs of process materials; throughputs of materials stored; usage of materials; data provided in manufacturer's product specifications, material volatile organic compound (VOC) content reports or laboratory analyses; other information required by this rule and applicable District, State and Federal regulations; or information requested in writing by the District. All calculations of actual emissions shall use U.S. EPA, California Air Resources Board (CARB) or District approved methods, including emission factors and assumptions.
3. Alternative Operational Limit: A limit on a measurable parameter, such as hours of operation, throughput of materials, use of materials, or quantity of product, as specified in Section F, Alternative Operational Limit and Requirements.

4. Emission Unit: Any article, machine, equipment, operation, contrivance or related groupings of such that may produce and/or emit any regulated air pollutant or hazardous air pollutant.
5. Federal Clean Air Act: The federal Clean Air Act (CAA) as amended in 1990 (42 U.S.C. section 7401 et seq.) and its implementing regulations.
6. Hazardous Air Pollutant: Any air pollutant listed pursuant to section 112(b) of the federal Clean Air Act.
7. Major Source of Regulated Air Pollutants (excluding HAPs): A stationary source that emits or has the potential to emit a regulated air pollutant (excluding HAPs) in quantities equal to or exceeding the lesser of any of the following thresholds:
 - a. 100 tons per year (tpy) of any regulated air pollutant;
 - b. 50 tpy of volatile organic compounds or oxides of nitrogen for a federal ozone nonattainment area classified as serious, 25 tpy for an area classified as severe, or 10 tpy for an area classified as extreme; and
 - c. 70 tpy of PM10 for a federal PM10 nonattainment area classified as serious. Fugitive emissions of these pollutants shall be considered in calculating total emissions for stationary sources in accordance with 40 CFR Part 70.2 "Definitions- Major source(2)".
8. Major Source of Hazardous Air Pollutants: A stationary source that emits or has the potential to emit 10 tons per year or more of a single HAP listed in section 112(b) of the CAA, 25 tons per year or more of any combination of HAPs, or such lesser quantity as the U.S. EPA may establish by rule. Fugitive emissions of HAPs shall be considered in calculating emissions for all stationary sources. The definition of a major source of radionuclides shall be specified by rule by the U.S. EPA.
9. Part 70 Permit: An operating permit issued to a stationary source pursuant to an interim, partial or final Title V program approved by the U.S. EPA.
10. Potential to Emit: The maximum capacity of a stationary source to emit a regulated air pollutant based on its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation is federally enforceable.
11. Process Statement: An annual report on permitted emission units from an owner or operator of a stationary source certifying under penalty of perjury the following: throughputs of process materials; throughputs of materials stored; usage of materials; fuel usage; any available continuous emissions monitoring data; hours of operation; and any other information required by this rule or requested in writing by the District.
12. Regulated Air Pollutant: The following air pollutants are regulated:
 - a. Oxides of nitrogen and volatile organic compounds;
 - b. Any pollutant for which a national ambient air quality standard has been promulgated;
 - c. Any Class I or Class II ozone depleting substance subject to a standard promulgated under Title VI of the federal Clean Air Act;
 - d. Any pollutant that is subject to any standard promulgated under section 111 of the federal Clean Air Act; and
 - e. Any pollutant subject to a standard or requirement promulgated pursuant to section 112 of the federal Clean Air Act, including:
 - i. Any pollutant listed pursuant to section 112(r) (Prevention of Accidental Releases) shall be considered a regulated air pollutant upon promulgation of the list.
 - ii. Any HAP subject to a standard or other requirement promulgated by the U.S. EPA pursuant to section 112(d) or adopted by the District pursuant to 112(g) and (j) shall be considered a regulated air pollutant for all sources or categories of sources: 1) upon promulgation of the standard or requirement, or 2) 18 months after the standard or requirement was scheduled to be promulgated pursuant to section 112(e)(3).
 - iii. Any HAP subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the U.S. EPA promulgation or scheduled promulgation of an emissions limitation shall be considered a regulated air pollutant when the determination is made pursuant to section 112(g)(2). In case-by-case emissions limitation determinations, the HAP shall be considered a regulated air pollutant only for the individual source for which the emissions limitation determination was made.

C. EMISSION LIMITATIONS

1. Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in section F.1. below, no stationary source subject to this rule shall emit in every 12-month period more than the following quantities of emissions:
 - a. 50 percent of the major source thresholds for regulated air pollutants (excluding HAPs),
 - b. 5 tons per year of a single HAP,
 - c. 12.5 tons per year of any combination of HAPs, and
 - d. 50 percent of any lesser threshold for a single HAP as the U.S. EPA may establish by rule.
2. The APCO shall evaluate a stationary source's compliance with the emission limitations in section C.1. above as part of the District's annual permit renewal process required by Health & Safety Code section 42301(e). In performing the evaluation, the APCO shall consider any annual process statement submitted pursuant to Section E, Reporting Requirements. In the absence of valid continuous emission monitoring data or source test data, actual emissions shall be calculated using emissions factors approved by the U.S. EPA, CARB, or the APCO.
3. Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in section F.1. below, the owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in actual emissions that exceed the limits specified in section C.1. above.

D. RECORDKEEPING REQUIREMENTS

Immediately after adoption of this rule, the owner or operator of a stationary source subject to this rule shall comply with any applicable recordkeeping requirements in this section. However, for a stationary source operating under an alternative operational limit, the owner or operator shall instead comply with the applicable recordkeeping and reporting requirements specified in Section F, Alternative Operational Limit and Requirements. The recordkeeping requirements of this rule shall not replace any recordkeeping requirement contained in an operating permit or in a District, State, or Federal rule or regulation.

1. A stationary source previously covered by the provisions in section A.2 above shall comply with the applicable provisions of section D above and sections E and F below if the stationary source exceeds the quantities specified in section A.2.a. above.
2. The owner or operator of a stationary source subject to this rule shall keep and maintain records for each permitted emission unit or groups of permitted emission units sufficient to determine actual emissions. Such information shall be summarized in a monthly log, maintained on site for five years, and be made available to District, CARB, or U.S. EPA staff upon request.
 - a. Coating/Solvent Emission Unit: The owner or operator of a stationary source subject to this rule that contains a coating/solvent emission unit or uses a coating, solvent, ink or adhesive shall keep and maintain the following records:
 - i. A current list of all coatings, solvents, inks and adhesives in use. This list shall include: information on the manufacturer, brand, product name or code, VOC content in grams per liter or pounds per gallon, HAPS content in grams per liter or pounds per gallon, or manufacturer's product specifications, material VOC content reports or laboratory analyses providing this information;
 - ii. A description of any equipment used during and after coating/solvent application, including type, make and model; maximum design process rate or throughput; control device(s) type and description (if any); and a description of the coating/solvent application/drying method(s) employed;
 - iii. A monthly log of the consumption of each solvent (including solvents used in clean-up and surface preparation), coating, ink and adhesive used; and
 - iv. All purchase orders, invoices, and other documents to support information in the monthly log.
 - b. Organic Liquid Storage Unit: The owner or operator of a stationary source subject to this rule that contains a permitted organic liquid storage unit shall keep and maintain the following records:
 - i. A monthly log identifying the liquid stored and monthly throughput; and
 - ii. Information on the tank design and specifications including control equipment.
 - c. Combustion Emission Unit: The owner or operator of a stationary source subject to this rule that contains a combustion emission unit shall keep and maintain the following records:
 - i. Information on equipment type, make and model, maximum design process rate or maximum power

- input/output, minimum operating temperature (for thermal oxidizers) and capacity, control device(s) type and description (if any) and all source test information; and
- ii. A monthly log of hours of operation, fuel type, fuel usage, fuel heating value (for non-fossil fuels; in terms of BTU/lb or BTU/gal), percent sulfur for fuel oil and coal, and percent nitrogen for coal.
- d. Emission Control Unit: The owner or operator of a stationary source subject to this rule that contains an emission control unit shall keep and maintain the following records:
- i. Information on equipment type and description, make and model, and emission units served by the control unit;
 - ii. Information on equipment design including where applicable: pollutant(s) controlled; control effectiveness; maximum design or rated capacity; inlet and outlet temperatures, and concentrations for each pollutant controlled; catalyst data (type, material, life, volume, space velocity, ammonia injection rate and temperature); baghouse data (design, cleaning method, fabric material, flow rate, air/cloth ratio); electrostatic precipitator data (number of fields, cleaning method, and power input); scrubber data (type, design, sorbent type, pressure drop); other design data as appropriate; all source test information; and
 - iii. A monthly log of hours of operation including notation of any control equipment breakdowns, upsets, repairs, maintenance and any other deviations from design parameters.
- e. General Emission Unit: The owner or operator of a stationary source subject to this rule that contains an emission unit not included in subsections a., b. or c. above shall keep and maintain the following records:
- i. Information on the process and equipment including the following: equipment type, description, make and model; maximum design process rate or throughput; control device(s) type and description (if any);
 - ii. Any additional information requested in writing by the APCO;
 - iii. A monthly log of operating hours, each raw material used and its amount, each product produced and its production rate; and
 - iv. Purchase orders, invoices, and other documents to support information in the monthly log.

E. REPORTING REQUIREMENTS

1. At the time of annual renewal of a permit to operate under Rule 209, each owner or operator of a stationary source subject to this rule shall submit to the District a process statement. The statement shall be signed by the owner or operator and certify that the information provided is accurate and true.
2. For the purpose of determining compliance with this rule, this requirement shall not apply to stationary sources which emit in every 12-month period less than or equal to the following quantities:
 - a. For any regulated air pollutant (excluding HAPs),
 - i. 25 tons per year including a regulated air pollutant for which the District has a federal area designation of attainment, unclassified, transitional, or moderate nonattainment,
 - ii. 15 tons per year for a regulated air pollutant for which the District has a federal area designation of serious nonattainment,
 - iii. 6.25 tons per year for a regulated air pollutant for which the District has a federal area designation of severe nonattainment,
 - b. 2.5 tons per year of a single HAP,
 - c. 6.25 tons per year of any combination of HAPs, and
 - d. 25 percent of any lesser threshold for a single HAP as the U.S. EPA may establish by rule.
3. A stationary source previously covered by provisions in section E.2 above shall comply with the provisions of section E.1 above if the stationary source exceeds the quantities specified in section E.2.
4. Any additional information requested by the APCO under section E.1 above shall be submitted to the APCO within 30 days of the date of request.

F. ALTERNATIVE OPERATIONAL LIMIT AND REQUIREMENTS

The owner or operator may operate the permitted emission units at a stationary source subject to this rule under any one alternative operational limit, provided that at least 90 percent of the stationary source's emissions in every 12-month period are associated with the operation(s) limited by the alternative operational limit.

1. Upon choosing to operate a stationary source subject to this rule under any one alternative operational limit, the owner or operator shall operate the stationary source in compliance with the alternative operational limit and comply with the specified recordkeeping and reporting requirements.
 - a. The owner or operator shall report within 24 hours to the APCO any exceedance of the alternative operational limit.
 - b. The owner or operator shall maintain all purchase orders, invoices, and other documents to support information required to be maintained in a monthly log. Records required under this section shall be maintained on site for five years and be made available to District or U.S. EPA staff upon request.
 - c. Gasoline Dispensing Facility Equipment with Phase I and II Vapor Recovery Systems: The owner or operator shall operate the gasoline dispensing equipment in compliance with the following requirements:
 - i. No more than 7,000,000 gallons of gasoline shall be dispensed in every 12-month period.
 - ii. A monthly log of gallons of gasoline dispensed in the preceding month with a monthly calculation of the total gallons dispensed in the previous 12 months shall be kept on site.
 - iii. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.
 - d. Degreasing or Solvent-Using Unit: The owner or operator shall operate the degreasing or solvent-using unit(s) in compliance with the following requirements:
 - i. If the solvents do not include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 5,400 gallons of any combination of solvent-containing materials and no more than 2,200 gallons of any one solvent-containing material shall be used in every 12-month period. If the solvents include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 2,900 gallons of any combination of solvent-containing materials and no more than 1,200 gallons of any one solvent-containing material shall be used in every 12-month period.
 - ii. A monthly log of amount and type of solvent used in the preceding month with a monthly calculation of the total gallons used in the previous 12 months shall be kept on site.
 - iii. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.
 - e. Diesel-Fueled Emergency Standby Engine(s) with Output Less Than 1,000 Brake Horsepower: The owner or operator shall operate the emergency standby engine(s) in compliance with the following requirements:
 - i. The emergency standby engine(s) shall not operate more than 5,200 hours in every 12-month period and shall not use more than 265,000 gallons of diesel fuel in every 12-month period.
 - ii. A monthly log of hours of operation, gallons of fuel used, and a monthly calculation of the total hours operated and gallons of fuel used in the previous 12 months shall be kept on site.
 - iii. A copy of the monthly log shall be submitted to the APCO at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.
2. The owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in an exceedance of an applicable operational limit specified in section F.1. above.

G. VIOLATIONS

1. Failure to comply with any of the applicable provisions of this rule shall constitute a violation of this rule. Each day during which a violation of this rule occurs is a separate offense.
2. A stationary source subject to this rule shall be subject to applicable federal requirements for a major source, including Rule 217, when the conditions specified in either subsections a. or b. below, occur:
 - a. Commencing on the first day following every 12-month period in which the stationary source exceeds a limit specified in section C.1 above and any applicable alternative operational limit specified in section F.1, above, or
 - b. Commencing on the first day following every 12-month period in which the owner or operator can not demonstrate that the stationary source is in compliance with the limits in section C.1. above or any applicable alternative operational limit specified in section F.1. above.

¹For example, PSD, NSR, and ATC

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 219 - REQUEST FOR SYNTHETIC MINOR SOURCE STATUS

(Adopted 12/04/95)

A. PURPOSE

This rule authorizes the owners or operators of specified stationary sources that would otherwise be major sources to request and accept federally-enforceable emissions limits sufficient to allow the sources to be considered "synthetic minor sources."

A synthetic minor source is not subject to Rule 217 unless it is subject to that rule for any reason other than being a major source. A synthetic minor 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. In addition, a synthetic minor source is subject to all applicable State and District rules, regulations, and other requirements.

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 synthetic minor source, as defined herein.
2. Exclusion: This rule shall not apply to any source subject to Rule 217 for any reason other than being a major source.

C. DEFINITIONS

All terms shall retain the definitions provided under Rule 217, unless otherwise defined herein.

1. Major Source Threshold: A major source threshold is the potential to emit a regulated air pollutant in the amounts specified in the definition of "major source" as defined in Rule 217.
2. 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 synthetic minor source.
3. 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.
4. 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.
5. Synthetic Minor Source: A synthetic minor 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.

D. REQUEST FOR SYNTHETIC MINOR SOURCE STATUS

A request for synthetic minor source status shall not relieve a source of the responsibility to comply with the application requirements of Rule 217 within the specified timeframes. A major source subject to this rule may request synthetic minor source status in accordance with the following:

1. Content of Request: A request for designation as a synthetic minor source shall include:
 - a. The identification and description of all existing emission units at the source;
 - b. The calculation of each emission unit's maximum annual and maximum monthly 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: 1) hazardous air pollutant fugitive emissions for all sources, and 2) other regulated air pollutant fugitive emissions for sources specified in 40 CFR Part 70.2 Major Sources (2).
- c. Proposed federally-enforceable conditions which:
 - i. Limit source-wide emissions to below major source thresholds, and
 - ii. Are permanent, quantifiable, and otherwise enforceable as a practical matter;
 - d. Proposed federally-enforceable conditions to impose monitoring, recordkeeping, and reporting requirements sufficient to determine compliance;
 - e. Any additional information requested by the APCO; and
 - f. Certification by a responsible official that the contents of the request are true, accurate, and complete.
2. Timely Request: The owner or operator of a major source who chooses to request synthetic minor source status shall make such a request within the following time frames:
- a. For any major source that is operating or is scheduled to commence operating on the effective date of Rule 217, the owner or operator shall request synthetic minor source status no later than 60 days before an application is required under Rule 217;
 - b. For any major source that commences operating after the effective date of Rule 217, the owner or operator shall request synthetic minor source status no later than 60 days before an application is required under Rule 217; or
 - c. For any major source that is operating in compliance with a permit pursuant to Rule 217, the owner or operator shall request synthetic minor source status at any time, but no later than eight months prior to permit renewal.
3. Synthetic Minor Source Modification Requirements: The following requirements apply to any modification of a synthetic minor source:
- a. For a modification which would not increase the synthetic minor source's potential to emit to equal or exceed any major source threshold, the source shall comply with the requirements of Rules 209-A and 216 (adopted 3/10/76).
 - b. For a modification which would increase the synthetic minor 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 E.2.b. of this rule, the owner or operator shall comply with the applicable requirements of Rules 209-A and 216 (adopted 3/10/76) and shall:
 - i. Submit a revised request for synthetic minor source status in accordance with section D.1. of this rule no later than 180 days prior to the intended modification; or
 - ii. Submit an application in accordance with the requirements of Rule 217 no later than 180 days prior to the intended modification.

E. DISTRICT PROCEDURES AND FEDERALLY-ENFORCEABLE CONDITIONS

The District shall take the following actions on requests for synthetic minor source status:

1. Completeness Determination: The APCO shall determine if the request for synthetic minor source status is complete within 30 days of receipt, unless a longer period of time is agreed upon by the APCO and the source's owner or operator. Thirty-one days after the request has been submitted, it shall be deemed complete unless the APCO notifies the owner or operator that it is incomplete. Upon request by the APCO, the owner or operator shall provide additional information whether or not the request for synthetic minor source status has been deemed complete.
2. Federally-enforceable Conditions: Federally-enforceable conditions enabling a source to become a synthetic minor source shall be identified as federally enforceable and included in the source's permit-to-operate issued by the District pursuant to Rules 209 and 216 (adopted 3/10/76) and sections E.3. through E.5. of this rule, and shall be:
 - a. 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;
 - b. Monitoring, recordkeeping, and reporting conditions sufficient to determine ongoing compliance with the

emissions limits set forth pursuant to section E.2.a. of this rule; and

c. Subject to public notice and U.S. EPA review pursuant to sections E.3. and E.4. of this rule.

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.

3. Public Notification and Review: After a request for synthetic minor source status is determined to be complete, the APCO shall:
 - a. Publish a notice of the request in one or more major newspapers in the area where the source is located;
 - b. In the public notice:
 - i. State that conditions identified as federally enforceable in the source's permit will establish a voluntary emissions limit in accordance with Rule 219, and
 - ii. Describe how the public may obtain copies of the proposed permit including the federally-enforceable conditions addressing the emissions limit; and
 - c. Provide 30 days for public review of the proposed permit prior to final permit action.
4. U.S. EPA Review: After a request for synthetic minor source status is determined to be complete, the APCO shall:
 - a. Provide the U.S. EPA with copies of the proposed permit including the conditions which:
 - i. Are identified as federally enforceable, and
 - ii. Limit emissions to below major source thresholds;
 - b. Provide 30 days for U.S. EPA review of the proposed permit prior to final permit action; and
 - c. Provide the U.S. EPA with copies of the final permit.
5. Final Action: Until the District takes final action to issue the permit-to-operate pursuant to this section, a source requesting synthetic minor source status shall not be relieved of the responsibility to comply with the application or other requirements of Rule 217 within the specified timeframes.

Upon fulfilling the requirements of sections E.1. through E.4. 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 synthetic minor source status within 90 days of deeming such request complete or within three years of the effective date of Rule 217, whichever is later.

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

6. Renewal of Synthetic Minor Source Status: Renewal of synthetic minor source status shall be made in accordance with Rule 210. In addition, at permit renewal, any revision of conditions identified as federally enforceable shall be subject to sections D.1. and E.1. through E.5. of this rule.

F. COMPLIANCE

The owner or operator of a synthetic minor source which exceeds the conditions identified as federally enforceable and established pursuant to section e.2.a. of this rule shall report such exceedances to the APCO in accordance with Rule 403.

The owner or operator of a synthetic minor 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 synthetic minor source designation, is in violation of the Clean Air Act and District rules and regulations. A non-complying synthetic minor 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.

Rule 221. PREVENTION OF SIGNIFICANT DETERIORATION (PSD)
PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR
MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS

Adopted: 09/05/12

A. 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 District Rules 200 through 205 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.

B. 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 Part 52.21 as incorporated into this rule.

C. Incorporation by Reference

Except as provided below, the provisions of Title 40 of the Code of Federal Regulations (CFR) Part 52.21, in effect on July 1, 2012, are incorporated herein by reference and made part of the Rules and Regulations of the Great Basin Unified Air Pollution Control District.

1. The following subsections of 40 CFR Part 52.21 are excluded: (a)(1), (b)(55-58), (f), (g), k(2), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z) and (cc).
2. The following terms found in 40 CFR Part 52.21 are revised as follows:
 - (i) The term administrator means:
 - (a) EPA 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
 - (b) Air Pollution Control Officer (APCO)
 - (ii) The phrase paragraph (q) of this section in 40 CFR 52.21(p)(1) and (l)(2) shall read as follows: the public notice and comment provisions of District Rule 221, section D.6.

D. Requirements

1. The APCO shall provide written notice of any permit application for a proposed major stationary source or major modification to the EPA administrator. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct.
2. The APCO shall determine whether an 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 may agree. If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information that is required. Upon receipt of any re-submittal of the application, a new 30-day period to determine completeness shall begin. Upon determination that the application is complete, the APCO shall notify the applicant in writing. The date of receipt of the application shall be the date on which the reviewing authority received all required information.
3. An owner or operator must obtain a Prevention of Significant Deterioration (PSD) permit pursuant to this Rule before beginning actual construction of a new major stationary source, a major modification, or a PAL major modification, as defined in 40 CFR 52.21(b).
4. Notwithstanding the provisions of any other District Rule or Regulation, the Air Pollution Control Officer shall require compliance with this rule prior to issuing a federal Prevention of Significant Deterioration permit as required by Clean Air Act (CAA) Section 165.
5. The applicant shall pay the applicable fees specified in District Regulation III – Fees.
6. Prior to issuing a federal PSD permit pursuant to this rule and within one year after receipt of a complete application, the Air Pollution Control Officer shall:
 - (i) Make a preliminary determination whether construction should be approved with conditions or disapproved.
 - (ii) 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.
 - (iii) Notify the public, by advertisement in a newspaper of general circulation in the Great Basin Unified Air Pollution Control District, 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.

- (iv) 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.
- (v) 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 Air Pollution Control Officer's judgment such a hearing is warranted.
- (vi) Consider all written comments that were submitted within 30 days after the notice of public comment is 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.
- (vii) Make a final determination whether construction should be approved with conditions or disapproved.
- (viii) 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.

End

4-21-76

REGULATION IV - PROHIBITIONS

RULE 400. Ringelmann Chart. A person shall not discharge into the atmosphere from any single source of emission whatsoever any air contaminant for a period or periods aggregating more than three minutes in any one hour which is:

A. As dark or darker in shade as that designated as No. 1 on the Ringelmann Chart, as published by the United States Bureau of Mines, or

B. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (A) of this rule.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 401. Fugitive Dust

ADOPTED 9/05/74 REVISED 3/10/76

- A. A person shall take reasonable precautions to prevent visible particulate matter from being airborne, under normal wind conditions, beyond the property from which the emission originates. Reasonable precautions include, but are not limited to:
 - 1. Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;
 - 2. Application of asphalt, oil, water, or suitable chemicals on dirt roads, material stockpiles, and other surfaces which can give rise to airborne dusts;
 - 3. Installation and use of hoods, fans, and fabric filters, to enclose and vent the handling of dusty materials. Adequate contaminant methods shall be employed during such handling operations;
 - 4. Use of water, chemicals, chuting, venting, or other precautions to prevent particulate matter from becoming airborne in handling dusty materials to open stockpiles and mobil equipment; and
 - 5. Maintenance of roadways in a clean condition.
- B. This rule shall not apply to emissions discharged through a stack.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 402. Nuisance

ADOPTED 9/05/74

A person shall not discharge from any source whatsoever, such quantities of air contaminants or other materials 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.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 403. Breakdown

ADOPTED 2/18/77 REVISED 1/18/79, 6/25/79

- A. Definition:** For the purposes of this rule, a breakdown condition means an unforeseeable failure or malfunction of: 1) any air pollution control equipment or related operating equipment which causes a violation of any emission limitation or restriction prescribed by these rules and regulations, or by State law, or 2) any in-stack continuous monitoring equipment which:
1. Is not the result of neglect or disregard of any air pollution control law or rule or regulation;
 2. Is not intentional or the result of negligence;
 3. Is not the result of improper maintenance;
 4. Does not constitute a nuisance;
 5. Is not a recurrent breakdown of the same equipment.
- B. Breakdown Procedures.**
1. The owner or operator shall notify the Air Pollution Control Officer of any occurrence which constitutes a breakdown condition; such notification shall identify the time, specific location, equipment involved, and, to the extent known, the causes of the occurrence, and shall be given as soon as reasonably possible, but no later than one (1) hour after its detection, unless the owner or operator can demonstrate that a longer reporting period is necessary.
 2. The Air Pollution Control Officer shall establish written procedures and guidelines, including appropriate forms for logging of initial reports, investigation, and enforcement follow-up, to ensure that all reported breakdown occurrences are handled uniformly to final disposition.
 3. Upon receipt of notification pursuant to subparagraph B(1), the Air Pollution Control Officer shall promptly investigate and determine whether the occurrence constitutes a breakdown condition. If the Air Pollution Control Officer determines that the occurrence does not constitute a breakdown condition, the Air Pollution Control Officer may take appropriate enforcement action including, but not limited to, seeking fines, an abatement order, or an injunction against further operation.
- C. Disposition of Short-Term Breakdown Conditions.**
1. An occurrence which constitutes a breakdown condition, and which persists only until the end of the production run or 24-hours, whichever is sooner (except for continuous monitoring equipment, for which the period shall be ninety-six (96) hours), shall constitute a violation of any applicable emission limitation or restriction prescribed by these rules and regulations; however, the Air Pollution Control Officer may elect to take no enforcement action if the owner or operator demonstrates to his satisfaction that a breakdown condition exists and the following conditions are met:
 - a. The owner or operator submits the notification required by subparagraph B(1); and
 - b. The owner or operator immediately undertakes appropriate corrective measures and comes into compliance, or elects to shut down for corrective measures before commencement of the next production run or within 24-hours, whichever is sooner (except for continuous monitoring equipment for which the period shall be ninety-six (96) hours). If the owner or operator elects to shut down rather than come into immediate compliance, the owner or operator must nonetheless take whatever steps are possible to minimize the impact of the breakdown within the 24-hour period; and
 - c. The breakdown does not interfere with the attainment and maintenance of any national ambient air quality standard.
 2. An occurrence which constitutes a breakdown condition shall not persist longer than the end of the production run or 24-hours, whichever is sooner (except for continuous monitoring equipment, for which the period shall be ninety-six (96) hours), unless the owner or operator has obtained an emergency variance pursuant to Rule 617 (Emergency Variance).
- D. Reporting Requirements:** Within one week after a breakdown occurrence has been corrected, the owner or operator shall submit a written report to the Air Pollution Control Officer which includes:
1. A statement that the occurrence has been corrected, together with the date of correction and proof of compliance;
 2. A specific statement of the reasons or causes for the occurrence sufficient to determine whether the

occurrence was a breakdown condition.

3. A description of the corrective measures undertaken and/or to be undertaken to avoid such an occurrence in the future (the Air Pollution Control Officer may, at the request of the owner or operator, for good cause, extend up to 30 days the deadline for submitting the description required by this subparagraph);
 4. An estimate of the emissions caused by the occurrence; and
 5. Pictures of the equipment or controls which failed, if available.
- E. **Burden of Proof:** The burden shall be on the owner or operator of the source to provide sufficient information to demonstrate that a breakdown did occur. If the owner or operator fails to provide sufficient information, the Air Pollution Control Officer shall undertake appropriate enforcement action.
- F. **Failure to Comply with Reporting Requirements:** Any failure to comply, or comply in a timely manner, with the reporting requirements established in subparagraphs B(1) and D(1) through D(5) of this rule shall constitute a separate violation of this rule.
- G. **False Claiming of Breakdown Occurrence:** It shall constitute a separate violation of this rule for any person to file with the Air Pollution Control Officer a report which falsely, or without probable cause, claims that an occurrence is a breakdown occurrence.
- H. **Hearing Board Standards and Guidelines:** The hearing board shall adopt standards and guidelines consistent with this rule to assist the chairperson or other designated members of the hearing board in determining whether to grant or deny an emergency variance and to assist the Air Pollution Control Officer in the enforcement of this rule.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 404-A. Particulate Matter

ADOPTED 9/05/74 REVISED 2/09/81

1. Concentration

A person shall not discharge from any source whatsoever, particulate matter in excess of 0.3 grain per standard dry cubic foot of exhaust gas.

2. Process Weight: A person shall not discharge in any one hour from any source whatsoever, particulate matter in excess of the amount shown in Table II.

| TABLE II | | | |
|---|--|--|--|
| MAXIMUM ALLOWABLE EMISSION RATE BASED ON PROCESS WEIGHT RATE | | | |
| Process Weight Rate (lb/hr) | Maximum Allowable Solid Particulate Emission Rate * (lb/hr) | Process Weight Rate (lb/hr) | Maximum All Solid Partic. Emission Rate (lb/hr) |
| 50 | .24 | 3400 | 5.44 |
| 100 | .46 | 3500 | 5.52 |
| 150 | .66 | 3600 | 5.61 |
| 200 | .85 | 3700 | 5.69 |
| 250 | 1.03 | 3800 | 5.77 |
| 300 | 1.20 | 3900 | 5.85 |
| 350 | 1.35 | 4000 | 5.93 |
| 400 | 1.50 | 4100 | 6.01 |
| 450 | 1.63 | 4200 | 6.08 |
| 500 | 1.77 | 4300 | 6.15 |
| 550 | 1.89 | 4400 | 6.22 |
| 600 | 2.01 | 4500 | 6.30 |
| 650 | 2.12 | 4600 | 6.37 |
| 700 | 2.24 | 4700 | 6.45 |
| 750 | 2.30 | 4800 | 6.52 |
| 800 | 2.43 | 4900 | 6.60 |
| 850 | 2.53 | 5000 | 6.67 |
| 900 | 2.62 | 5500 | 7.03 |
| 950 | 2.72 | 6000 | 7.37 |
| 1000 | 2.80 | 6500 | 7.71 |
| 1100 | 2.97 | 7000 | 8.05 |
| 1200 | 3.12 | 7500 | 8.39 |
| 1300 | 3.26 | 8000 | 8.71 |
| 1400 | 3.40 | 8500 | 9.03 |
| 1500 | 3.54 | 9000 | 9.36 |
| 1600 | 3.66 | 9500 | 9.67 |
| 1700 | 3.79 | 10000 | 10.0 |
| 1800 | 3.91 | 11000 | 10.63 |
| 1900 | 4.03 | 12000 | 11.28 |
| 2000 | 4.14 | 13000 | 11.89 |
| 2100 | 4.24 | 14000 | 12.50 |

| | | | |
|------|------|---------|-------|
| 2200 | 4.34 | 15000 | 13.13 |
| 2300 | 4.44 | 16000 | 13.74 |
| 2400 | 4.55 | 17000 | 14.36 |
| 2500 | 4.64 | 18000 | 14.97 |
| 2600 | 4.74 | 19000 | 15.58 |
| 2700 | 4.84 | 20000 | 16.19 |
| 2800 | 4.92 | 30000 | 22.22 |
| 2900 | 5.02 | 40000 | 28.3 |
| 3000 | 5.10 | 50000 | 34.3 |
| 3100 | 5.18 | 60000 | 40.0 |
| 3200 | 5.27 | or more | |

* Sum of emissions from all emission points of process

3. Geothermal Well Drilling

A person shall not discharge particulates into the atmosphere from any geothermal steam source in excess of the quantity established by the following formula:

$$y = .00069X + 1.4$$

where:

y = is the particulate emission rate limitation in kilograms per hour (averaged over one hour) and X is the steam rate in kilograms per hour passing through a geothermal well drilling operation or an geothermal well being vented for clean out.

RULE 405. EXCEPTIONS

ADOPTED 9/05/74 REVISED 3/10/76, 5/08/96, 11/07/01, 7/7/05

Rules 400, 404-A and 404-B do not apply to:

- A. Fire set by or permitted by a public officer if such fire is set or permission given in the performance of an 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 other means, or
 - 2. The instruction of public employees in the methods of fighting fire.
- B. Fires set pursuant to a permit on property used for industrial purposes for the purpose of instruction of employees in methods of fighting fire.
- C. [Deleted: 07/07/05]
- D. The use of an orchard, field crop, or citrus grove heater which does not produce unconsumed, solid carbonaceous matter at a rate in excess of that allowed by State law.
- E. [Deleted: 07/07/05]
- F. The treatment of waste propellants, explosives and pyrotechnics (PEP) in open burn/open detonation operations on military bases for operations approved in accordance with a burn plan as required in Rule 432.
- G. Burning of materials for the purpose of creating special effects during production of commercial or educational films, videos or photographs.
- H. Disposal of contraband (confiscated controlled substances) by burning.
- I. Recreational or ceremonial fires contained in a fireplace, barbeque, or fire pit.
- J. A fire set for the purpose of eliminating a public health hazard that cannot be abated by any other practical means.

RULE 406. OPEN OUTDOOR FIRES

ADOPTED 1/21/76 REVISED 10/01/76, 11/04/92, 11/07/01, 09/24/03

A person shall not burn any combustible refuse or waste in any open outdoor fire within the boundaries of the Great Basin Unified Air Pollution Control District, except:

- A. When such fire is set or permission for such fire is given in the performance of the official duty of any public 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 other means, or
 - 2. The instruction of public employees, or public volunteers under the supervision of a public officer, in the methods of fighting fire.
- B. When such fire is set pursuant to permit on property used for industrial purposes for the purpose of instruction of employees in methods of fighting fires.
- C. Agricultural fires necessary to maintain and continue an agricultural operation set or permitted by a fire official having jurisdiction in the performance of official duty for the purposes of:
 - 1. Control and disposal of agricultural wastes.
 - 2. Range improvement burning.
 - 3. Forest management burning.
 - 4. Fires set in the course of any agricultural operation in the growing of crops, or raising of fowls or animals.
 - 5. Abatement of an immediate health hazard.
 - 6. Wildland vegetation management burning.
- D. On burn days as declared by the State Air Resources Board and pursuant to a valid burn permit as authorized by the Great Basin Unified Air Pollution Control District, fires for the disposal of the following material in the described manner originating from a single or two family dwelling on its premises:
 - 1. Dry non-glossy paper and cardboard, ignited using an approved ignition device, in geographic areas granted a temporary exemption pursuant to Title 17, § 93113(e) of the California Code of Regulations.
 - 2. Dry natural vegetation waste reasonably free of dirt, soil and visible surface moisture by ignition using an approved ignition device.

- E. Fires used only for the cooking of food for human beings or for recreational purposes.
- F. Fires, on burn days as declared by the State Air Resources Board and pursuant to a valid burn permit as authorized by the Great Basin Unified Air Pollution Control District, for the clearing of rights-of-way by a public entity or public utility where access by chipping equipment is not available by existing means or for reservoir maintenance.
- G. Except in case of emergency, permits for the setting of a fire or fires permitted by this rule shall be granted by the Air Pollution Control Officer, or by the public fire official having jurisdiction over the proposed burn location.
- H. When such fire is set for the purpose of burning non-industrial wood waste pursuant to a valid permit as authorized by the Great Basin Unified Air Pollution Control District under District Rule 412.
- I. Burning of materials for the purpose of creating special effects during production of commercial or educational films, videos or photographs. Such burn events cannot pose a public nuisance or health threat, or cause an exceedance of National or State ambient air quality standards.
 - 1. Any person seeking to set fires under this provision shall obtain a valid burn permit from the local fire protection agency.
 - 2. To gain an exemption, the following information shall be submitted to the District in writing at least 10 days in advance of the burn:
 - a. Location of proposed burn,
 - b. Date and approximate time of proposed burn,
 - c. Type and volume of material to be burned, and
 - d. Expected duration of proposed burn.
 - 3. The burner shall notify the APCO the day before each burn.
 - 4. Permission to burn on other than a permissive burn day shall be subject to written approval by the APCO. If the APCO grants written approval, such approval shall be available at the burn location for inspection by District personnel.
- J. Disposal of contraband (confiscated controlled substances) by burning. 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 District shall be informed of the place, date and time of the burn, and type and quantity of contraband to be disposed.
 - 1. Any person seeking to set fires under this provision shall obtain a valid burn permit from the local fire protection agency.

2. The burner shall notify the APCO the day before each burn.
 3. Permission to burn on other than a permissive burn day shall be subject to written approval by the APCO. If the APCO grants written approval, such approval shall be available at the burn location for inspection by District personnel.
- K. Recreational or ceremonial fires contained in a fireplace, barbeque, or fire pit, provided material burned is free of household, municipal, and industrial waste, such as: tires, tar, plastics and wet wood.
- L. A fire set for the purpose of eliminating a public health hazard that cannot be abated by any other practical means.
1. Any person seeking to set fires under this provision shall obtain a valid burn permit from the local fire protection agency.
 2. To gain an exemption, the following information shall be submitted to the District in writing at least 10 days in advance of the burn:
 - a. Written recommendation for such fire by a public health officer,
 - b. Location of proposed burn,
 - c. Date and approximate time of proposed burn,
 - d. Type and volume of material to be burned, and
 - e. Expected duration of proposed burn.
 3. The burner shall notify the APCO the day before each burn.
 4. Permission to burn on other than a permissive burn day shall be subject to written approval by the APCO. If the APCO grants written approval, such approval shall be available at the burn location for inspection by District personnel.

RULE 407. INCINERATOR AND BURN BARREL BURNING

ADOPTED 9/05/74 REVISED 09/24/03

- A. A person shall not burn any combustible refuse or waste in any incinerator, except in a multiple-chamber incinerator or in equipment found by the Air Pollution Control Officer in advance of such use to be equally effective for the purpose of air pollution control as an approved multiple-chamber incinerator. This paragraph shall not apply to incinerators or burn barrels used in accordance with paragraph B of this rule.
- B. A person shall not dispose of any household rubbish or waste originating from a single or two-family dwelling on its premises in an incinerator or burn barrel, except when it is used to burn only dry natural vegetation, non-glossy paper or cardboard in those geographic areas granted a temporary exemption pursuant to Title 17, § 93113(e) of the California Code of Regulations, and the activity takes place on a burn day as declared by the State Air Resources Board pursuant to a valid burn permit as authorized by the Great Basin Unified Air Pollution Control District.

12/17/79

RULE 408. BURNING OF AGRICULTURAL WASTES.

- A. No person shall burn agricultural wastes on "no burn" days as announced by the State Air Resources Board for the Counties of Inyo, Mono, and Alpine, or when prohibited by the Air Pollution Control Officer.
- B. Such burning when authorized shall conform to the following criteria:
1. Material to be burned shall be as dry as feasible prior to burning, and shall be free from combustible impurities such as tires, tar paper, rubbish, plastics, demolition or construction debris, and shall be reasonably free of dirt, soil, and visible surface moisture.
 2. Trees and branches over two inches in diameter shall have been dried for at least 10 days prior to burning.
 3. Branches under two inches in diameter and prunings shall have been dried for at least 1 week prior to burning.
 4. Wastes from field crops that are cut in a green condition shall have been dried for at least 1 week prior to burning.
 5. Exceptions to the foregoing may be made by the fire authority which issues the permits to burn, after notification to the Air Pollution Control Officer, and if the material to be burned is diseased or insect infested and there would be irreparable damage if the foregoing standards were rigidly enforced.
 6. Material to be burned shall be so arranged as to burn with a minimum of smoke.
 7. Empty fertilizer and pesticide sacks or containers may be burned on burn days only in the field where the sacks or containers are emptied.
 8. All burning shall conform to the applicable jurisdictional fire code(s).
- C. The following practice shall not be followed:
1. The use of oil or tires in connection with the ignition or burning of agricultural wastes, roadsides, ditch banks, or patches of vegetation.
- D. No agricultural wastes shall be burned without a permit issued by a fire protection authority having jurisdiction over the proposed burn location. As a condition to the issuance of a permit, each applicant shall provide the information required by the issuing agency on forms prepared jointly by said agency and the District. The permit may place a limit upon the amount of materials to be burned in any one day and the hours of the day during which time the material may be burned.

Agricultural burning at altitudes above 6000 feet (msl) is exempt from the requirements of Rule 408.

RULE 409. Range Improvement Burning.

4-21-76

A. No range improvement or forest management burning may be done without first having obtained a permit from the California Division of Forestry or other designated agency having jurisdiction over the proposed burn location.

B. No person shall conduct range improvement burning on "no burn" days as announced daily by the State Air Resources Board for the Inyo, Mono and Alpine Counties or when such burning is prohibited by the Air Pollution Control Officer except:

1. When a permissive burn decision has been given by the Air Resources Board in advance as provided by the State Guidelines under the Advance Burn Notification Program, and such commitment has not been cancelled by the Air Resources Board of such a burn date.

2. When the Air Pollution Control Office has so authorized by permit.

C. Range improvement burning when permitted shall conform to the following criteria:

1. Before a permit may be issued for a range improvement burn, a plan for the burn shall be submitted by the owner, or his agent, of the land on which the burn is proposed to the District and the California Division of Forestry, or other designated agency having jurisdiction over the proposed burn location.

2. The plan shall cover the following:

Ownership, location, equipment available, manpower available, fireguard locations, proposed date and hours of burn treatment given to trees and brush, method and plan for ignition, location of populated areas, if any, within 20 miles of the exterior boundaries of the burn, or any other information required by the District or the Division of Forestry, or other designated agency having jurisdiction over the proposed burn location.

3. Prior to issuance of a permit, the plan for the proposed burn must be satisfactory to the District and the California Division of Forestry, or other designated agency having jurisdiction over the proposed burn location.

4. Where economically and technically feasible, brush shall be treated by chemical or mechanical means at least 60 days prior to a proposed burn, to kill or uproot the brush in order to insure rapid combustion.

5. Unwanted trees over 6" in diameter in the burn area or those not effectively treated at the time of the brush treatment shall be felled at least 3 months prior to the burn, but a longer time may be required where conditions warrant.

6. The burn shall be ignited only by devices and methods approved by the California Division of Forestry, or the local fire protection agency, and ignition shall be as rapid as practicable within applicable fire control restrictions.

7. Not more than one control burn shall be conducted within any one five-day period.

8. The number of acres in any one burn may be limited by the District, taking into consideration matters which would affect the ambient air quality of the District, and particularly the effects on nearby populated areas.

9. Burning being done primarily for improvement of land for wildlife and game habitat shall require the filing with the District a statement obtained from the Department of Fish and Game certifying the burning is desirable and proper for the improvement of land for wildlife and game habitat.

10. Burning shall not be allowed on Sundays or legal Holidays.

11. All burning shall conform to the applicable jurisdictional fire code(s).

12. Burning shall not be allowed when the wind direction is toward a populated area.

~~4-10~~ 4-21-76

RULE 410. Forest Management Burning.

A. No forest management burning may be done without first having obtained a permit from the California Division of Forestry or other designated agency having jurisdiction over the proposed burn locations.

B. No person shall conduct forest management burning on "no burn" days as announced daily by the State Air Resources Board for Inyo, Mono and Alpine Counties, or on days where the Air Pollution Control Officer has prohibited such burning.

C. Forest management burning when permitted shall conform to the following criteria:

1. Before a permit may be issued for a forest management burn, a plan for the burn shall be submitted by the owner, or his agent, of the land on which the burn is proposed, to the District and the California Division of Forestry, or other designated agency having jurisdiction over the proposed burn location.
2. Where economically and technically feasible, unwanted trees and brush shall be treated by chemical or mechanical means or at least 2 weeks prior to the proposed burn to kill or uproot the trees or brush in order to insure rapid combustion.
3. Wastes shall be dried sufficiently to insure rapid combustion.
4. Waste to be burned shall be free from tires, rubbish, tar paper, and construction and demolition debris.
5. Where possible, unless good management dictates otherwise, waste to be burned shall be windrowed or piled so as to burn with a minimum of smoke.
6. Piled or windrowed waste should be reasonably free from soil or surface moisture.
7. Not more than one forest management burn shall be conducted within the District in any one five day period.
8. The amount of material in any one burn may be limited by the District, taking into consideration matters which would affect the ambient air quality of the District.
9. The material to be burned shall be ignited only by devices approved by the California Division of Forestry, or the local fire protection agency, and ignition shall be as rapid as practicable within applicable fire control restrictions.
10. Burning shall not be allowed on Sundays or legal Holidays.
11. All burning shall conform to the applicable jurisdictional fire code(s).
12. Burning shall not be allowed when the wind direction is toward a populated area.

4-21-76

RULE 412. Operation of Roofing Kettles

A. A person shall not operate or use any article, machine, equipment or other contrivance for the heating, melting, or liquefying of roofing asphalt or coal tar pitch unless all gases, vapors, and gas-entrained effluents from such article, machine, equipment or other contrivance are:

1. Incinerated at a temperature of not less than 1450 degrees fahrenheit for a period of not less than 0.3 seconds or
2. Processed in such a manner determined by the Air Pollution Control Officer to be equally or more effective for the purpose of air pollution control than (A) above.

B. Nothing in this rule, however, shall operate to prevent the charging of any article, machine, equipment or other contrivance with roofing asphalt or coal tar pitch for a period not to exceed three minutes in any one hour.

C. A person incinerating or processing gases, vapors, or gas-entrained effluents pursuant to this article shall provide, properly install, and maintain in good working order, devices capable of correctly indicating and controlling operating temperatures.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 413. Reduction of Animal Matter

ADOPTED 9/05/74 REVISED 11/04/92

- A. A person shall not operate or use any article, machine, equipment or other contrivance for the reduction of animal matter unless all gases, vapors and gas-entrained effluents from such an article, machine, equipment or other contrivance are:
 - 1. Incinerated at temperatures of not less than 1200 degrees Fahrenheit for a period of not less than 0.3 seconds; or
 - 2. Processed in such a manner determined by the Air Pollution Control Officer to be equally, or more effective for the purpose of air pollution control than (A) above.
- B. A person incinerating or processing gases, vapors or gas-entrained effluent pursuant to this rule shall provide, properly install and maintain in calibration, in good working order and in operation, devices, as specified in the Authority to Construct or Permit to Operate or as specified by the Air Pollution Control Officer, for recording temperature pressure or other operating conditions.
- C. The provisions of this rule shall not apply to any article, machine, equipment or other contrivance used exclusively for the processing of food for human consumption.

4-21-76

RULE 416. Sulfur Compounds and Nitrogen Oxides. A person shall not discharge from any single source whatsoever any one or more of the following contaminants in any state or combination thereof, exceeding in concentration or amount at the point of discharge to the atmosphere:

1. Sulfur compounds calculated as sulfur dioxide: 0.2% by volume.
2. Nitrogen oxides, calculated as nitrogen dioxide (NO_2): 140 pounds per hour from any new or expanded boiler, furnace, jet engine, or similar fuel burning equipment used for the production of power or heat.

RULE 417. Organic Solvents

ADOPTED 9/05/74

- A. A person shall not discharge more than 15 pounds of organic materials into the atmosphere in any one day, nor more than 3 pounds in any one hour, from any article, machine, equipment or other contrivance in which any organic solvent or any material containing organic solvent comes into contact with flame or is baked, heatcured or heat-polmerized, in the presence of oxygen, unless said discharge has been reduced by at least 85 percent. Those portions of any series of articles, machines, equipment or other contrivances designed for processing a continuous web, strip or wire which emit organic materials and use continuous operations described in this section shall be collectively subject to compliance with this section.
- B. A person shall not discharge more than 40 pounds of organic materials into the atmosphere in any one day, nor more than 8 pounds in any one hour, from any article, machine, equipment or other contrivance used under conditions other than described in section (A), for employing or applying, any photochemically reactive solvent, as defined in section (J), or material containing such photochemically reactive solvent, unless said discharge has been reduced by at least 85 percent. Emissions of organic materials into the atmosphere resulting from air or heating drying of products for the first 12 hours after their removal from any article, machine, equipment, or other contrivance described in this section shall be included in determining compliance with this section. Emissions resulting from baking, heat curing or heat-polymerizing as described in section (A) shall be excluded from determination of compliance with this section. Those portions of any series of articles, machines, equipment or other contrivances designed for processing a continuous web, strip or wire which emit organic materials and use operations described in this section shall be collectively subject to compliance with this section.
- C. A person shall not discharge into the atmosphere more than 3,000 pounds of organic materials in any one day, nor more than 450 pounds in any one hour, from any article, machine, equipment or other contrivance in which any non-photochemically reactive organic solvent or any material containing such solvent is employed or applied, unless said discharge has been reduced by at least 85 per-cent. Emissions of organic materials into the atmosphere resulting from air or heated drying of products for the first 12 hours after their removal from any article, machine, equipment, or other contrivance described in this section shall be included in determining compliance with this section. Emissions resulting from baking, heat-curing, or heat polymerizing as described in section (A) shall be excluded from determination of compliance with this section. Those portions of any series of articles, machines, equipment or other contrivances designed for processing a continuous web, strip or wire which emit organic materials and use operations described in this section shall be collectively subject to compliance with this section.
- D. Emissions of organic materials to the atmosphere from the cleanup with photochemically reactive solvent, as defined in section (J), of any article, machine, equipment or other contrivance described in sections (A), (B), or (C) shall be included with the other emissions or organic materials from that article, machine, equipment or other contrivance for determining compliance with this rule.
- E. Emissions of organic materials into the atmosphere required to be controlled by sections (A), (B), or (C) shall be reduced by:
 - 1. Incineration, provided that 90 percent or more of the carbon in the organic material being incinerated is oxidized to carbon dioxide, or
 - 2. Adsorption, or
 - 3. Processing in a manner determined by the Air Pollution Control Officer to be not less effective than (1) or (2) above.
- F. A person incinerating, adsorbing or otherwise processing organic materials pursuant to this rule shall provide, properly install and maintain in calibration, in good working order and in operation, devices as specified in the authority to construct or the permit to operate, or as specified by the Air Pollution Control Officer, for indicating and recording temperatures, pressures, rates of flow or other operating conditions necessary to determine the degree and effectiveness of air pollution control.
- G. Any person using organic solvents or any materials containing organic solvents shall supply the Air Pollution Control Officer, upon request and in the manner and form prescribed by him, written evidence of the chemical

compositions, physical properties and amount consumed for each organic solvent used.

H. The provisions of this rule shall not apply to:

1. The manufacture of organic solvents, or the transport or storage of organic solvents or materials containing organic solvents.
2. The use of equipment for which other requirements are specified by Rules 417, 418, 419 and 420 or which are exempt from air pollution control requirements by said rules.
3. The spraying or other employment of insecticides, pesticides or herbicides.
4. The employment, application, evaporation or drying of saturated halogenated hydrocarbons or perchloroethylene.
5. The use of any material, in any article, machine, equipment or other contrivance described in sections (A), (B), (C) or (D), if:
 - i. the volatile content of such material consists only of water and organic solvents, and
 - ii. the organic solvents comprise not more than 20 percent of said volatile content, and
 - iii. the volatile content is not photochemically reactive as defined in section (J), and
 - iv. the organic solvent or any material containing organic solvent does not come into contact with flame.
6. The use of any material, in any article, machine, equipment or other contrivance described in sections (A), (B), (C) or (D), if:
 - i. the organic solvent content of such material does not exceed 20 percent by volume of said materials and
 - ii. the volatile content is not photochemically reactive as defined in section (J), and
 - iii. more than 50 percent by volume of such volatile material is evaporated before entering a chamber heated above ambient application temperature and
 - iv. the organic solvent or any material containing organic solvent does not come into contact with flame.
7. The use of any material, in any article, machine, equipment or other contrivance described in sections (A), (B), (C) or (D), if:
 - i. the organic solvent content of such material does not exceed 5 percent by volume of said material and
 - ii. the volatile content is not photochemically reactive as defined in section (J) and
 - iii. the organic solvent or any material containing organic solvent does not come into contact with flame.

I. For the purposes of this rule, organic solvents include diluents and thinners and are defined as organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, except that such materials which exhibit a boiling point higher than 220 F. at 0.5 millimeter mercury absolute pressure or have an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220 F.

J. For the purposes of this rule, photochemically reactive solvent is any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

1. A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketons having an olefinic or cyclo-olefinic type of unsaturation: 5 percent;
2. A combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: 8 percent;
3. A combination of ethylbenzene, ketons having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups or organic compounds, it shall be considered as a member of the most reactive chemical group that is, that group having the least allowable percentage of the total volume of solvents.

K. For the purposes of this rule, organic materials are defined as chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

4.21.76

RULE 418. Storage of Petroleum Products. A person shall not place, store or hold in any stationary tank, reservoir or other container of more than 40,000 gallons capacity any gasoline or any petroleum distillate having a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressures sufficient at all times to prevent hydrocarbon 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:

1. A floating roof, consisting of a pontoon-type or double-deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be used if the gasoline or petroleum distillate has a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

2. A vapor recovery system, consisting of a vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place.

3. Other equipment of equal efficiency, provided such equipment is submitted to and approved by the Air Pollution Control Officer.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 419. Gasoline Loading Into Stationary Tanks

ADOPTED 1/21/76 REVISED 10/31/77, 7/13/78, 6/25/79

- A. A person shall not load or permit the loading of gasoline into any stationary tank installed after December 31, 1970, with a capacity of 250 gallons or more from any tank, truck or trailer, except through a submerged fill pipe, unless such tank is equipped with a vapor control system certified by the California Air Resources Board for that use.
1. For the purpose of this rule, the term "gasoline" is defined as any petroleum distillate having a Reid vapor pressure of four pounds or greater.
 2. For the purpose of this rule, the term "submerged fill pipe" is defined as any fill pipe, the discharge opening of which is entirely submerged when the liquid level is six inches above the bottom of the tank, "submerged fill pipe" when applied to a tank which is loaded from the side is defined as any fill pipe, the discharge opening of which is entirely submerged when the liquid is 18 inches above the bottom of the tank.
 3. Permit fee assessment shall be in accordance with Regulation III, Schedule 5 with the exception of any non-retail tank installed prior to July 13, 1978, having both a capacity of less than 2000 gallons and an annual throughput of less than 8000 gallons per year.
 4. Any non-retail tank installed prior to July 13, 1978, with a capacity of less than 2000 gallons and an annual throughput of less than 8000 gallons shall be assessed a permit fee of \$10.00 for the issuance of a lifetime permit.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 420. Organic Liquid Loading

ADOPTED 9/05/74

- A. A person shall not load organic liquids having a vapor pressure of 1.5 pounds per square inch absolute or greater under actual loading conditions into any tank truck, trailer or railroad tank car from any loading facility 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 consist of one of the following:

1. An absorber system or condensation system which processes all vapor and recovers at least 90 percent by weight of the organic vapors and gases from the equipment being controlled.
2. A vapor handling system which directs all vapors to a fuel gas system.
3. Other equipment of an efficiency equal to or greater than (1) or (2) if approved by the Air Pollution Control Officer.

This rule shall apply only to the loading of organic liquids having a vapor pressure of 1.5 pounds per square inch absolute or greater than actual loading conditions at a facility from which greater than 20,000 gallons of such organic liquids are loaded in any one day.

"Loading Facility", for the purpose of this rule, shall mean any aggregation or combination of organic liquid loading equipment which is both (a) possessed by one person, and (b) so located so that all organic liquid loading outlets for such aggregation or combination of loading equipment can be encompassed within any circle of 300 feet in diameter.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 421. Intended Application of Rules and Regulations

ADOPTED 9/05/74

Nothing in these Regulations is intended to permit any practice which is a violation of any Federal, State or local statute, ordinance, law, rule or regulation.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 423. Research Operations

ADOPTED 7/20/77 REVISED 2/09/81

The provisions of Regulation IV except Rule 402 shall not apply to experimental research operations when the following requirements are met:

- a. The purpose of the operation is to permit investigation, experiment or research to advance the state of the art; and
- b. The Air Pollution Control Officer has given written prior approval which shall include limitation of time; and
- c. Sufficient information is provided to satisfy the Air Pollution Control Officer that such an operation will not cause or contribute to a violation of State or National Ambient Air Quality Standards.

5-2881

RULE 424¹ Geothermal Emissions Standards.

- A. No person shall discharge into the atmosphere from any geothermal operation, sulfur compounds, calculated as sulfur dioxide (SO₂), in excess of 1,000 ppm.
- B. No person shall discharge into the atmosphere from any geothermal power plant more than 100 grams/MwHr.
- C. No person shall discharge into the atmosphere from any geothermal well, including well drilling, well reworking and well testing, more than 2.5 kg/hr./well.
- D. No person shall discharge into the atmosphere from any miscellaneous steam supply operation more than 2.5 kg/hr./source.
- E. Upon an unscheduled outage, an operator shall, within four (4) hours or less, reduce H₂S emissions: (1) by 90% or more for dual units or, (2) by 65% or more for single units or when both units of a dual unit system have a simultaneous outage or, (3) to not more than 15 kg/hr. For scheduled outages, the same emissions standards shall be met within one (1) hour or less.
- F. A summary of the data required to determine compliance with applicable provisions of this rule shall be submitted to the Air Pollution Control Officer. This summary shall be presented in the manner, frequency and form as prescribed by the Air Pollution Control Officer.
- G. Definitions
 - 1. Gross Megawatt Hour (MwHr) means the gross amount of electrical generating capacity of a power plant as guaranteed by the turbine generator manufacturer, prior to internal plant requirements, expressed in megawatt hours.
 - 2. Miscellaneous Steam Supply Operation means any operation associated with providing steam for a geothermal power plant, excluding well drilling, well reworking, and well testing.

RULE 431. PARTICULATE EMISSIONS

Adopted: 12/07/90 Revised: 11/06/91, 12/04/06

A. PURPOSE

The purpose of this rule is to improve and maintain the level of air quality of the Town of Mammoth Lakes and other communities in the Great Basin Unified Air Pollution Control District (District) so as to protect and enhance the health of its citizens by controlling the emissions of particulate matter.

B. DEFINITIONS

1. "EPA" shall mean the United States Environmental Protection Agency.
2. "EPA-Certified Appliance" means any wood or other solid fuel burning appliance utilized for space or water heating or cooking that meets the performance and emission standards as set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations, February 26, 1988. Phase I appliances must meet the emission requirements of no more than 5.5 grams per hour particulate matter emissions for catalytic and 8.5 grams per hour for non-catalytic appliances. Phase II requirements are 4.1 and 7.5 grams per hour respectively. Pellet fueled wood heaters shall be considered as meeting Phase II requirements. For existing appliances, Oregon Department of Environmental Quality (DEQ) certification shall be equivalent to EPA certification. All other solid fuel appliances, including fireplaces, shall be considered non-certified.
3. "High Road Dust Areas" means those communities where the Board of the Great Basin Unified Air Pollution Control District has determined that re-entrained dust from winter-time sand or cinders on paved roads contributes to monitored exceedances of the state or federal 24-hour PM 2.5 or PM 10 standards.
4. "HRDA agency" means the governmental or public agency having jurisdiction over a community or area designated as a High Road Dust Area.
5. "High Wood Smoke Areas" means those communities where the Board of the Great Basin Unified Air Pollution Control District has determined that residential wood combustion contributes to monitored exceedances of the state or federal 24-hour PM 2.5 or PM 10 standards.
6. "HWSA agency" means the governmental or public agency having jurisdiction over a community or area designated as a High Wood Smoke Area.
7. "Pellet Fueled Wood Heater" means any wood heater designed to heat the interior of a building that operates on pelletized wood and has an automatic feed.
8. "Permanently Inoperable" means modified in such a way that the appliance can no longer function as a solid fuel heater or easily be remodified to function as a solid fuel heater. Conversion to other fuels, such as gas, is permitted.
9. "Solid Fuel Burning Appliance, Heater, or Device" means any fireplace, wood heater, or coal stove or structure that burns wood, coal, or any other nongaseous

or nonliquid fuels, or any similar device burning any solid fuel used for aesthetic, water heating, or space heating purposes. Pellet stoves are not a part of or included herein.

C. STANDARDS FOR REGULATION OF SOLID FUEL APPLIANCES

1. After December 7, 1990 (the effective date of this ordinance), no solid fuel burning appliance shall be permitted to be installed within the Town of Mammoth Lakes unless said device is certified as meeting the emission requirements of the U.S. Environmental Protection Agency (EPA) for Phase II certification.
2. After January 1, 2007, no solid fuel burning appliance shall be permitted to be sold or installed within District boundaries unless said device is certified as meeting the emission requirements of the U.S. Environmental Protection Agency (EPA) for Phase II certification.
3. The restrictions of this rule shall apply to all solid fuel devices including unregulated fireplaces. Exceptions will be made for fireplaces supplied with gas and fitted with artificial logs and for one fireplace located in a hotel/motel lobby or similar common area lobby or in the common area of a condominium project. Said common area fireplaces shall be subject to burning curtailment episodes as administered under Section I.
4. For the purposes of enforcing this rule, the Town shall keep a record of all certified appliances installed in Mammoth Lakes in accordance with this rule and of properties which have been determined to conform to the requirements of this rule.
5. For the purposes of enforcing this rule, after the Board of the Great Basin Unified Air Pollution Control District has determined that a community is a high wood smoke area, the HWSA agency shall keep a record of all certified appliances installed in their HWSA community in accordance with this rule and of properties which have been determined to conform to the requirements of this rule.

D. DENSITY LIMITATIONS – TOWN OF MAMMOTH LAKES and HIGH WOOD SMOKE AREAS

1. No more than one solid fuel appliance may be installed in any new dwelling or nonresidential property. Existing properties with one or more existing solid fuel appliances may not install additional solid fuel appliances. One pellet fueled wood heater per dwelling shall be excepted from the provisions of this paragraph.
2. Solid fuel appliances shall not be considered to be the primary form of heat in any new construction.
3. Within the Town of Mammoth Lakes, all new and replacement solid fuel burning appliances shall not be installed without first obtaining a building permit from the Town of Mammoth Lakes. All installations shall require an inspection and approval by the Building Division prior to operation.

4. Within all High Wood Smoke Areas, all new and replacement solid fuel burning appliances shall not be installed without first obtaining a building permit from the HWSA agency. All installations shall require an inspection and approval by the HWSA agency prior to operation.
5. Verification of compliance may be certified by an inspector of the Mammoth Lakes Building Division, by an inspection of the HWSA agency, by an individual certified by the Wood Heating Education and Research Foundation for the installation of solid fuel appliances, by individuals approved in writing by the District, or by individuals possessing equivalent certification. The inspector of record shall verify in writing that the appliance complies with the required emissions standards and shall file said certification with the Town of Mammoth Lakes or HWSA agency. Inspectors independent of the Town or HWSA agency, shall verify their qualifications with the Town Building Division or HWSA agency before appliance certification will be accepted by the Town or HWSA agency.

E. REPLACEMENT OF NON-CERTIFIED APPLIANCES UPON SALE OF PROPERTY – TOWN OF MAMMOTH LAKES and HIGH WOOD SMOKE AREAS

1. Prior to the completion of the sale or transfer of a majority interest in any real property within the Town of Mammoth Lakes or in High Wood Smoke Areas, all existing non-certified solid fuel appliances shall be replaced, removed, or rendered permanently inoperable. If the buyer assumes responsibility, in writing on a form approved by the Town air quality manager or HWSA agency respectively, for appliance replacement or removal, the deadline for such action shall be extended to 60 calendar days from the date of completion of the sale or transfer. The Town Building Department, HWSA agency, or a qualified inspector as designated by the Town Building Department or HWSA agency, shall inspect the appliance(s) in question to assure that they meet the requirements of this rule. Within five working days from the date of the inspection, the Town Building Department or HWSA agency, shall issue a written certification of compliance or non-compliance for the affected property. If the inspection reveals that the subject property does not comply with the requirements of this rule, all non-complying solid fuel appliances shall be replaced, removed, or rendered permanently inoperable. In this event re-inspection shall be required prior to certification of compliance.
2. If real property is to be sold which does not contain a solid fuel burning appliance, a form approved by the Town Building Department, District or HWSA agency, containing the notarized signatures of the seller, the buyer, and the listing real estate agent attesting to the absence of any solid fuel device, may be accepted in lieu of an inspection. A written exemption shall be issued by the Town Building Department or HWSA agency.
3. No solid fuel burning appliances removed under the provisions of this Section may be replaced except as provided by this rule.
4. This section shall not be applicable to sales or other transfers of real property which have been completed prior to February 15, 1991, nor shall this section apply to National Forest permittees located west of Old Mammoth Rd. in sections

4 and 9 of Township 4 S., Range 27 E., MDBM, or National Forest permittees located above 8500 feet elevation above sea level.

F. SOLID FUEL BURNING APPLIANCE REPLACEMENT SCHEDULE

The Town shall review emissions levels by January 1, 1993. Should emissions not have reached attainment of the NAAQS, as determined by monitoring by the Great Basin Air Pollution Control District or the Town, by January 1, 1993, all non-certified solid fuel appliances within the Town shall be replaced by November 1, 1994.

G. OPACITY LIMITS

No person shall cause or permit emissions from a solid fuel appliance to be readily visible, for a period or periods aggregating more than three minutes in any one hour period. Emissions created during a 15 minute start-up period are exempt from this regulation. Readily visible may be equated with an opacity limit of 20% or greater as designated by the shade number one on the Ringelmann Chart.

H. PERMITTED FUELS

Burning of any fuels or materials other than the following fuels within the Town of Mammoth Lakes shall be in violation of this ordinance:

1. Untreated wood
2. Uncolored paper
3. Manufactured logs, pellets, and similar manufactured fuels

I. MANDATORY CURTAILMENT – TOWN OF MAMMOTH LAKES and HIGH WOOD SMOKE AREAS

1. The Mammoth Lakes Town Council shall appoint an Air Quality Manager. The duty of the Air Quality Manager shall be to determine when curtailment of solid fuel combustion in the Town of Mammoth Lakes is necessary, to notify the community that curtailment is required, and to make such other determinations as are necessary to carry out the objectives of this rule.
2. Communities designated as High Wood Smoke Areas shall appoint a member from their respective governing body to determine when curtailment of solid fuel combustion in the area is necessary, to notify the community that curtailment is required, and to make such other determinations as are necessary to carry out the objectives of this rule.
3. Determination that curtailment is required shall be made when PM-10 levels have reached 130 micrograms/m³ or when adverse meteorological conditions are predicted to persist. Should it be determined that 130 micrograms/m³ is not a low enough threshold to prevent the Town of Mammoth Lakes or High Wood Smoke Areas from violating the state or National Ambient Air Quality Standard for particulate matter, that threshold may be lowered by resolution of the Town

Council of the Town of Mammoth Lakes or by the governing body of High Wood Smoke Areas.

4. Upon the determination that curtailment is required, the Town of Mammoth Lakes Air Quality Manager or the Designee of a HWSA agency, shall contact all radio stations and television stations in Mammoth Lakes or High Wood Smoke Areas and have them broadcast that it is required that there be no wood or other solid fuel burning. The Air Quality Manager or Designee of a HWSA agency shall also record a notice on a telephone line dedicated to this purpose and post a notice in the Town Offices or other appropriate governmental office. Upon such notice, all wood and other solid fuel combustion shall cease.
5. All dwelling units being rented on a transient basis which contain a non-certified solid fuel burning appliance shall post, in a conspicuous location near said appliance, a notice indicating that no-burn days may be called and informing the tenants about sources of information on no-burn days.
6. All persons renting units with solid fuel burning appliances for transient occupancy shall inform their tenants that solid fuel burning may be prohibited on certain days and that the person signing the rental agreement shall be responsible for assuring that the no-burn requirements are obeyed during the rental period identified on the rental agreement.
7. For residences where a solid fuel burning appliance is the sole means of heat, these curtailment regulations do not apply. For a residence to be considered as having solid fuel as its sole source of heat, the owner must apply to the HWSA agency for an exemption and the respective governing authority must inspect the residence and certify that, in fact, no other adequate source of heat is available to the structure. Adequate source shall mean that the alternate source of heat cannot produce sufficient heat for the residence without causing a hazard. A written exemption will then be granted. Where an adequate alternate source of heat is determined to have been removed from the structure in violation of building codes, a sole source exemption shall not be issued. Sole source exemptions shall not be granted for non-residential uses. The owner's sole source exemption shall expire one year from the date of initial issuance.
8. Households with very low income levels as defined by the Department of Housing and Urban Development may apply to the Air Quality Manager or HWSA agency Designee for exemption from no-burn days.

J. VOLUNTARY CURTAILMENT – HIGH WOOD SMOKE AREAS

1. Communities designated as High Wood Smoke Areas shall appoint a member from their respective governing body to determine when voluntary curtailment of solid fuel combustion in the area is necessary, to notify the community that curtailment is recommended, and to make such other determinations as are necessary to carry out the objectives of this rule.
2. Determination that voluntary curtailment is recommended shall be made when PM-10 levels have reached 100 micrograms/m³ or when adverse meteorological conditions are predicted to persist. Should it be determined that 100

micrograms/m³ is not a low enough threshold to prevent the High Wood Smoke Areas from potentially violating the state or National Ambient Air Quality Standard for particulate matter, that threshold may be lowered by resolution of the governing body of High Wood Smoke Areas.

3. Upon the determination that curtailment is recommended, the Designee of a HWSA agency, shall contact all radio stations and television stations in High Wood Smoke Areas and have them broadcast that it is recommended that there be no wood or other solid fuel burning. The Designee of a HWSA agency shall also record a notice on a telephone line dedicated to this purpose and post a notice in the appropriate governmental office.
4. All dwelling units being rented on a transient basis which contain a non-certified solid fuel burning appliance shall post, in a conspicuous location near said appliance, a notice indicating that recommended no-burn days may be called and informing the tenants about sources of information on no-burn days.
5. All persons renting units with solid fuel burning appliances for transient occupancy shall inform their tenants that solid fuel burning may not be recommended on certain days and that the person signing the rental agreement shall be responsible for assuring that the no-burn requirements are considered during the rental period identified on the rental agreement.

K. POLLUTION REDUCTION EDUCATION PROGRAMS

The APCO (or Town Manager for the Town of Mammoth Lakes) is hereby directed to undertake such public education programs as are reasonably calculated to reduce particulate air pollution within the District (or the Town of Mammoth Lakes, respectively) including particulate emissions from sources other than solid fuel burning devices. In addition to the notification measures listed in Section I.4, the public education programs shall include additional measures to inform the public of burning curtailment requirements.

L. PAVED ROAD DUST REDUCTION MEASURES

1. The Town of Mammoth Lakes and each city, town, county or state agency with primary responsibility for any existing paved road within a community that has been determined by the Board of the Great Basin Unified Air Pollution Control District (Board) to be a High Road Dust Area due to exceedances of State or federal ambient particulate matter standards caused by winter-time re-entrained road dust from paved roads shall take the following actions:
 - a. Undertake a vacuum street sweeping program to reduce particulate matter emissions resulting from excessive accumulations of winter-time cinders, sand and dirt from paved roads and to remove the material from the entire road surface, including travel lanes as soon as practicable.
 - b. Effective January 1, 2007 for the Town of Mammoth Lakes, or the date that the Board determines a community is a High Road Dust Area, all purchases of street sweeper equipment by the HRDA agency or their contractor(s) shall be only PM10-efficient street sweepers that are

certified under Rule 1186 of the South Coast Air Quality Management District.

- c. All PM10-efficient street sweepers shall be operated and maintained according to manufacturer specifications.
2. The Town of Mammoth Lakes (Town) shall, in its review of proposed development projects, incorporate such measures which reduce projected total vehicle miles traveled. Examples of such measures include, but are not limited to, circulation system improvements, mass transit facilities, private shuttles, and design and location of facilities to encourage pedestrian circulation. The goal of the Town's review shall be to limit projected peak vehicle miles traveled to 106,600 on any given day.

M. FEES

1. A fee shall be charged for the inspection and permitting services of the Town of Mammoth Lakes. Said fee shall be established in the Town Master Fee Schedule.
2. A fee for inspections and permitting services may be imposed by the HWSA agencies for the purpose of implementing the solid fuel burning appliance requirements of this rule.

N. PENALTIES FOR VIOLATIONS IN THE TOWN OF MAMMOTH LAKES

1. It is illegal to violate any requirements of this rule. Any owner of any property which is in violation of the requirements of this rule shall be guilty of an infraction. Any person operating a solid fuel appliance in violation of this rule is guilty of an infraction. The third violation by the same person within a 12 month period shall constitute a misdemeanor. Prosecution of any violation of Subsection 1.6 and 7, relating to exemptions from curtailment, may be against the property owner, the occupant, or both.
2. Violation of any portion of this rule may result in assessment of civil penalties against the property and against an individual person or persons as follows:
 - First violation within a 12 month period, \$50.
 - Second violation within a 12 month period, \$100.
 - Third violation within a 12 month period, \$250.
 - Four or more violations within a 12 month period \$500 per violation.
3. Each and every day a violation exists is a new and separate violation. Right of appeal, hearings, and collection of civil penalties shall be pursuant to the procedures set forth in Chapter 7.20, "Nuisances," of the Municipal Code of the Town of Mammoth Lakes.

4. Nothing in this section shall prevent the Town from pursuing criminal penalties or using any other means legally available to it in addressing violations of this rule.
5. Whenever necessary to make an inspection to enforce any of the provisions of this rule, or whenever the Air Quality Manager or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which violates the provisions of this rule, the Air Quality Manager or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Air Quality Manager by this rule, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, or if the owner or person having charge or control of the building or premises cannot be contacted, the Air Quality Manager or his authorized representative shall have recourse to every remedy provided by law to secure entry.

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RULE 432. Open Burn/Open Detonation Operations on Military Bases

ADOPTED 5/08/96

- A. No open burn/open detonation (OB/OD) operation may be done without prior approval from the Air Pollution Control Officer (APCO) through the approval of an OB/OD burn plan. The burn plan approval shall not be valid for longer than one year, but may be renewed annually based on the approval of the APCO.
- B. No person shall conduct OB/OD operations on "no burn" days as announced daily by the State Air Resources Board for Inyo, Mono and Alpine Counties or when such burning is prohibited by the Air Pollution Control Officer.
- C. Open burn/open detonation operations, when allowed, shall conform to the following criteria:
 - 1. Before an OB/OD operation takes place, a plan for the OB/OD operation shall be submitted by the Base Commanding Officer or the Commanding Officer's designated representative for the military base, to the Air Pollution Control Officer, and other designated agencies having jurisdiction over the proposed OB/OD operation. The plan shall be approved by the Air Pollution Control Officer in advance of the proposed OB/OD operations. This plan shall:
 - a. Specify methods that will be used to achieve detonation or combustion.
 - b. Limit the category and amount of waste propellants, explosives, and pyrotechnics that may be disposed of each year to an amount with a projected lifetime toxic cancer risk less than one-in-one million (1×10^{-6}). Treatment amounts shall not cause impacts above the chronic or acute toxic effect thresholds contained in the most current guidance issued by the California Air Resources Board for toxic risk management. The toxic risk shall be demonstrated with modeling approved by the Air Pollution Control Officer.
 - c. Limit open burn/open detonation operations or require mitigation when the meteorological conditions could otherwise cause smoke to create or contribute to an exceedance of a state or federal ambient air quality standard or cause a public nuisance.
 - d. Require the waste propellants, explosives, and pyrotechnics (PEP) disposed of be free of non-PEP hazardous wastes.
 - e. Require the waste propellants, explosives, and pyrotechnics to be in a condition which will facilitate combustion and minimize the amount of smoke emitted during combustion.
 - f. Include the following information;
 - i. location of the burn project,
 - ii. category and amount of waste propellants, explosives, and pyrotechnics to be disposed of,
 - iii. directions and distances to nearby sensitive receptor areas,
 - iv. an air quality analysis showing the expected ambient impacts with respect to State and Federal Ambient Air Quality Standards,
 - v. a risk assessment for acute and chronic health effects,
 - vi. meteorological prescription elements developed for the project,
 - vii. projected schedule or frequency of OB/OD events,
 - viii. specifications for monitoring and recording of critical project parameters, and ix) specifications for reporting and disseminating project information.
 - 2. The material to be disposed of shall be limited to the treatment of PEP generated from operations at the military base where the OB/OD operation is to take place.
 - 3. Open burn/open detonation operations shall not be allowed on Sundays or legal holidays.
 - 4. All open burn/open detonation operations shall conform to the applicable jurisdictional fire code(s).
 - 5. Open burn/open detonation operations shall not be initiated if smoke may drift into a populated area or create a public nuisance.
 - 6. Open burn/ open detonation operations shall comply with applicable requirements under the California Hazardous Waste Control Act for the treatment, storage, and disposal of hazardous waste (Title 22, California Code of Regulations).
- D. The total amount of material treated in any one day, may be limited by the District, taking into consideration

matters which would affect the ambient air quality.

- E. Records shall be maintained for the type and amount of PEP for each open burn/open detonation operation and shall be submitted to the District sixty (60) days prior to the end of the burn plan approval period. Records shall be maintained for five years.
- F. District staff shall be permitted:
 - 1. To enter the premises where the source is located or in which any records are required to be kept under requirements of the burn plan.
 - 2. To inspect any equipment, operation, or method required by the burn plan.
 - 3. To require emission samples from the source.
- G. A summary of the data required to determine compliance with applicable provisions of this rule shall be submitted to the Air Pollution Control Officer. This summary shall be presented in the manner, frequency and form as prescribed by the Air Pollution Control Officer.

RULE 433. CONTROL OF PARTICULATE EMISSIONS AT OWENS LAKE

Adopted: 04/13/2016

The purpose of this regulation is to effectuate a regulatory mechanism under the federal Clean Air Act to attain the National Ambient Air Quality Standards (“NAAQS”) and to implement the Stipulated Judgment between the Great Basin Unified Air Pollution Control District (“District”) and the City of Los Angeles (“City”) dated December 30, 2014 and entered by the Superior Court of the State of California, County of Sacramento. This regulation does not alter or supersede any provision in the Stipulated Judgment, nor does it relieve any party from full compliance with the requirements of the Stipulated Judgment. This regulation sets the basic requirements for the Best Available Control Measures (“BACM”) and defines the areal extent of these controls at Owens Lake, California required in order to meet the NAAQS. This regulation does not preclude the City or the District from implementing more stringent or additional mitigation pursuant to the Stipulated Judgment.

A. DEFINITIONS

1. “BACM PM₁₀ Control Areas” are areas on the dried bed of Owens Lake at or below the Regulatory Shoreline elevation of 3,600 feet and at or above Owens Lake’s ordinary high water elevation of 3,553.55 feet on which BACM PM₁₀ Control Measures shall be implemented, and

BACM PM₁₀ Control Areas are:

- a. Areas, as shown on the map in Exhibit 1 – Dust Control Area Map, including:
 - i. 29.8 square miles of the Owens Lake Bed with approved BACM PM₁₀ Control Measures (“2003 Dust Control Area”);
 - ii. 13.2 square miles of the Owens Lake Bed with approved BACM PM₁₀ Control Measures, except for Eligible Cultural Resource Areas where PM₁₀ BACM selection and implementation dates will be deferred as set forth in Paragraph C.3. (“2006 Dust Control Area” and “Channel Area”);
 - iii. 2.0 square miles of the Owens Lake Bed with approved BACM PM₁₀ Control Measures (“Phase 8 Area”);
 - iv. 3.62 square miles of the Owens Lake Bed with approved BACM PM₁₀ Control Measures to be installed by December 31, 2017, except for Eligible Cultural Resource Areas, where PM₁₀ BACM selection and implementation dates will be deferred as set forth in Paragraph C.3. (“Phase 9/10 Area”); and
 - b. Additional areas as designated pursuant to Section C., “CONTINGENCY MEASURES” of this rule.
2. “BACM PM₁₀ Control Measures” are best available control measures designed to reduce PM₁₀ emissions to Control Efficiency (“CE”) levels specified below through compliance

with performance standards specified in Attachment A or in specific control measure definitions below. The following BACM PM₁₀ Control Measures are approved to be used.

- a. “BACM Shallow Flooding” means the application of water to the surface of the lake bed in accordance with the performance standards for shallow flooding in Attachment A, Section I - Performance Requirements for BACM Shallow Flooding. Water shall be applied in amounts and by means sufficient to meet a CE level of 99% or CE targets for Minimum Dust Control Efficiency Areas.
- b. “Tillage with BACM (Shallow Flood) Backup or TWB²” means the roughening of a soil surface using mechanical methods in accordance with the specifications in Attachment A, Section IV – Performance Requirements for Tillage with BACM Back-up, and to utilize BACM shallow flooding as a back-up control method in order to prevent NAAQS violations. BACM Shallow Flooding must be implemented in TWB² areas if the erosion threshold as defined in Paragraph A.2.h is exceeded. Water shall be applied in amounts and by means sufficient to meet the CE level of 99% or CE targets for Minimum Dust Control Efficiency areas.
- c. “Brine BACM” means the application of brine and the creation of wet and/or non-emissive salt deposits sufficient to meet the CE level of 99% as described in Attachment A, Section V – Performance Requirements for Brine BACM. BACM Shallow Flooding must be implemented in Brine BACM areas if the erosion threshold as defined in Paragraph A.2.h is exceeded.
- d. “BACM Managed Vegetation” means planting surfaces of the BACM PM₁₀ Control Areas with protective vegetation to meet the CE level of 99% by maintaining overall average vegetation cover of at least 37% for each contiguous Managed Vegetation area and an areal distribution based on vegetation cover thresholds and grid size.
- e. “BACM Gravel Blanket” means the application of a layer of gravel sufficient to meet the CE level of 100% by covering the control area with
 - a layer of gravel at least four inches thick with gravel screened to a size greater than ½ inch in diameter, or
 - a layer of gravel at least two inches thick with gravel screened to ½ inch in diameter underlain with a permanent permeable geotextile fabric.
- f. “Dynamic Water Management or DWM” is a BACM Shallow Flooding operational modification that allows delayed start dates and/or earlier end dates required for shallow flooding in specific areas that have historically had low PM₁₀ emissions within the modified time periods. The truncated dust control periods allows for water savings while achieving the required CE level. Areas eligible for the DWM program and their modified start and/or end dates for shallow flooding are identified in

Attachment A, Section VI – Performance Requirements for Dynamic Water Management. If any DWM area becomes susceptible to wind erosion outside of the modified dust control period the area will be required to be flooded to meet the required CE for that area. BACM Shallow Flooding must be implemented in DWM areas if the erosion threshold as defined in Paragraph A.2.h is exceeded.

- g. “Minimum Dust Control Efficiency or MDCE” BACM is a dust control measure for which the control efficiency target is adjusted to match the required control level based on air quality modeling for the 2006 dust control areas as shown on the map in Exhibit 2 – Dust Control Efficiency Requirements. The control efficiency targets may be less than 99%, but the level of control in all areas is intended to prevent exceedances of the NAAQS. MDCE BACM includes:
 - i. Shallow flood areas where the wetness cover is adjusted following the curve in Exhibit 3 - Shallow Flood Control Efficiency and Wetness Cover Curve,
 - ii. Channel Area - a state-regulated wetland area as shown in Exhibits 1 and 2 where vegetation cover is enhanced by irrigation and seeding with native plants in a manner sufficient to prevent windblown dust from causing exceedances of the NAAQS, and
 - iii. Sand Fence Area – an area as shown in Exhibits 1 and 2 located in area T1A-1 where sand fences, vegetation and natural water runoff combine to provide sufficient protection to prevent windblown dust from causing exceedances of the NAAQS.
- h. “Erosion Threshold” is applicable to TWB², DWM, and Brine BACM to trigger BACM Shallow Flooding which must be implemented to comply with the shallow flood CE target for that area. The erosion threshold is determined from sand flux measurements or the Induced Particulate Erosion Test (IPET) test method as described in Attachment A, Paragraphs IV.C.2 and IV.C.4. BACM Shallow Flooding must be implemented in TWB², DWM or Brine BACM areas if any of the following thresholds are exceeded as determined using the methods described in Attachment A:
 - i. Sand flux measured at 15 cm above the surface exceeds 5.0 grams per square centimeter per day on DWM or Brine BACM areas or 1.0 gram per square centimeter per day on TWB² areas, or
 - ii. Induced Particulate Erosion Test method shows visible dust emissions when operated at the reference test height.
- i. “Approved BACM” includes the control measures specified above and other measures approved by the APCO and the US Environmental Protection Agency as equivalent to these methods.

3. “Eligible Cultural Resource Area or ECR Area” is an area or areas where dust control measures will be implemented on a deferred schedule due to the presence of significant cultural resources that make the areas eligible for listing under the California Register of Historic Resources.

B. REQUIREMENTS

1. For the 2003 Dust Control Area the City shall continuously operate and maintain any mix of approved BACM PM₁₀ Control Measures as defined above in Section A to meet the 99% efficient CE level. Selection of the type and location of BACM PM₁₀ Control Measures within the area is solely the responsibility of the City.
2. For the 2006 Dust Control Area the City shall continuously operate and maintain approved BACM PM₁₀ Control Measures defined above in Section A to meet the CE target specified in Exhibit 2, except for ECR Areas where BACM PM₁₀ Control Measure selection and implementation dates will be deferred as set forth in Paragraph C.3., and any areas of BACM Managed Vegetation, for which the City shall comply with the minimum 37% average vegetation cover target and areal distribution requirements by December 31, 2017.
3. For the Phase 8 Area consisting of 2.0 square miles the City shall continue to operate and maintain BACM Gravel Blanket.
4. For the Phase 9/10 Project Area consisting of 3.62 square miles the City shall select and install BACM PM₁₀ Control Measures by December 31, 2017, except for ECR Areas, where PM₁₀ BACM selection and implementation dates will be deferred as set forth in Paragraph C.3.
5. In areas containing infrastructure capable of achieving and maintaining compliant BACM Shallow Flooding the City may implement TWB², Brine Shallow Flooding or Dynamic Water Management as alternatives to BACM Shallow Flooding or MDCE BACM shallow flooding.

C. CONTINGENCY MEASURES

1. At least once each calendar year, the District shall determine whether additional areas of the lake bed require BACM PM₁₀ Control Measures in order to attain or maintain the PM₁₀ NAAQS.
2. If the District has not demonstrated attainment with the PM₁₀ NAAQS on or before December 31, 2017, or has not met reasonable further progress milestones, the District shall order the City to apply one or more BACM PM₁₀ Control Measures as set forth in

Paragraphs A.2 and C.4 on those areas of the Owens Lake bed that cause or contribute to exceedances of the PM₁₀ NAAQS.

3. If monitoring and/or modeling demonstrates BACM PM₁₀ Control Measures are needed in an ECR Area(s) to attain or maintain the PM₁₀ NAAQS after BACM PM₁₀ Control Measures are implemented in adjacent areas, the District shall order the City to select and implement BACM PM₁₀ Control Measures set forth in Paragraph A.2.
4. The District may order the City to implement, operate and maintain a total of up to 53.4 square miles of waterless or water-neutral BACM PM₁₀ Control Measures on the Owens Lake bed below the Regulatory Shoreline (elev. 3,600 feet) and above the ordinary high water level of Owens Lake (elev. 3,553.55 feet).
5. As expeditiously as practicable and not more than three years after any such order for additional BACM PM₁₀ Control Measures, the City shall install, operate and maintain BACM PM₁₀ Control Measures that achieve a control efficiency of 99%. If BACM Managed Vegetation is chosen up to two additional years for vegetation growth is allowed to achieve the 37% vegetation cover requirement.

EXHIBIT 1 – Dust Control Area Map

EXHIBIT 2 – Dust Control Efficiency Requirements

EXHIBIT 3 – Shallow Flood Control Efficiency and Wetness Cover Curve

ATTACHMENT A – Performance Requirements for BACM

SIP Revision 2016 Exhibit 1 Dust Control Map 20160309 rule 433.mxd

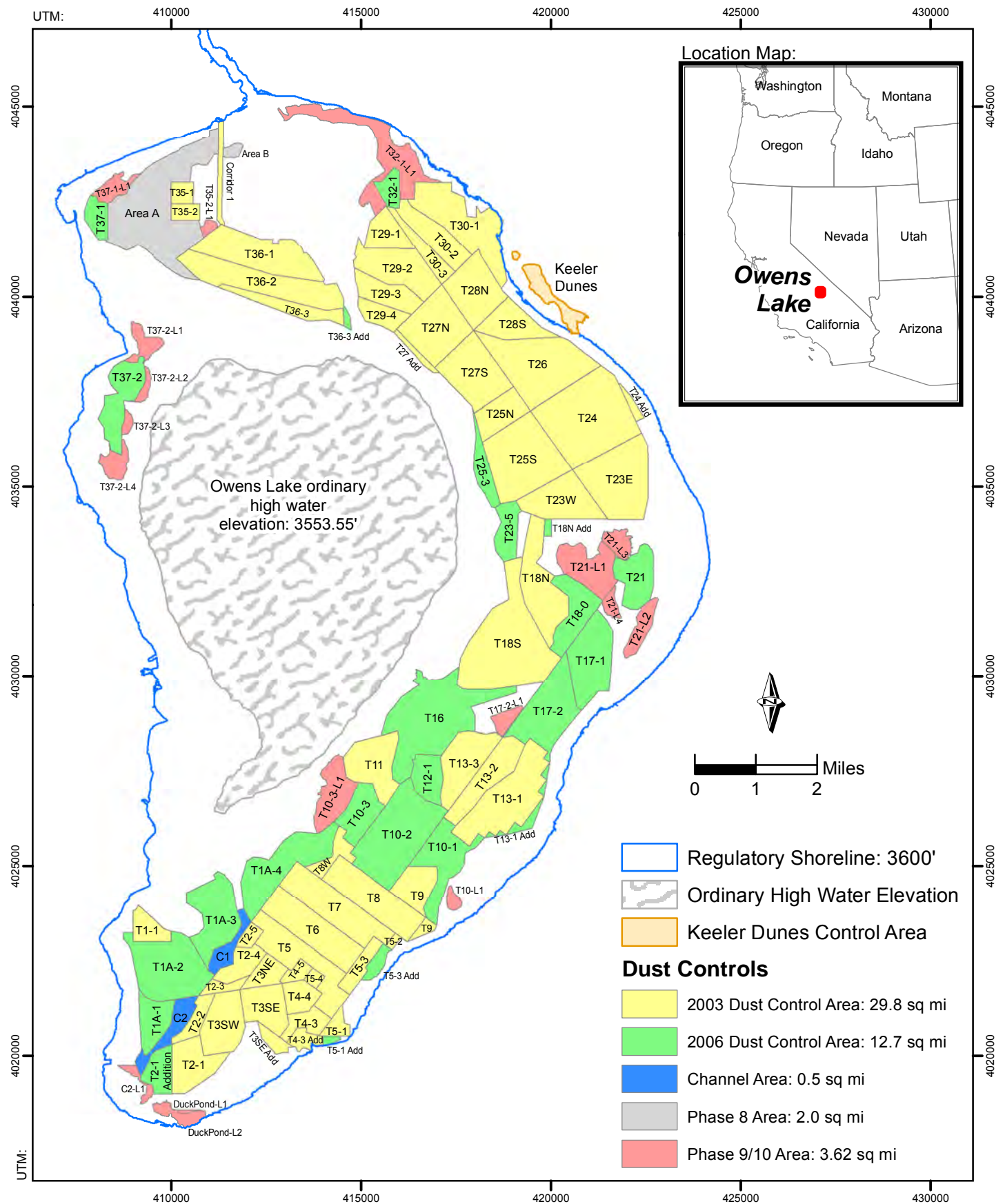




Exhibit 2 - Dust Control Efficiency Map

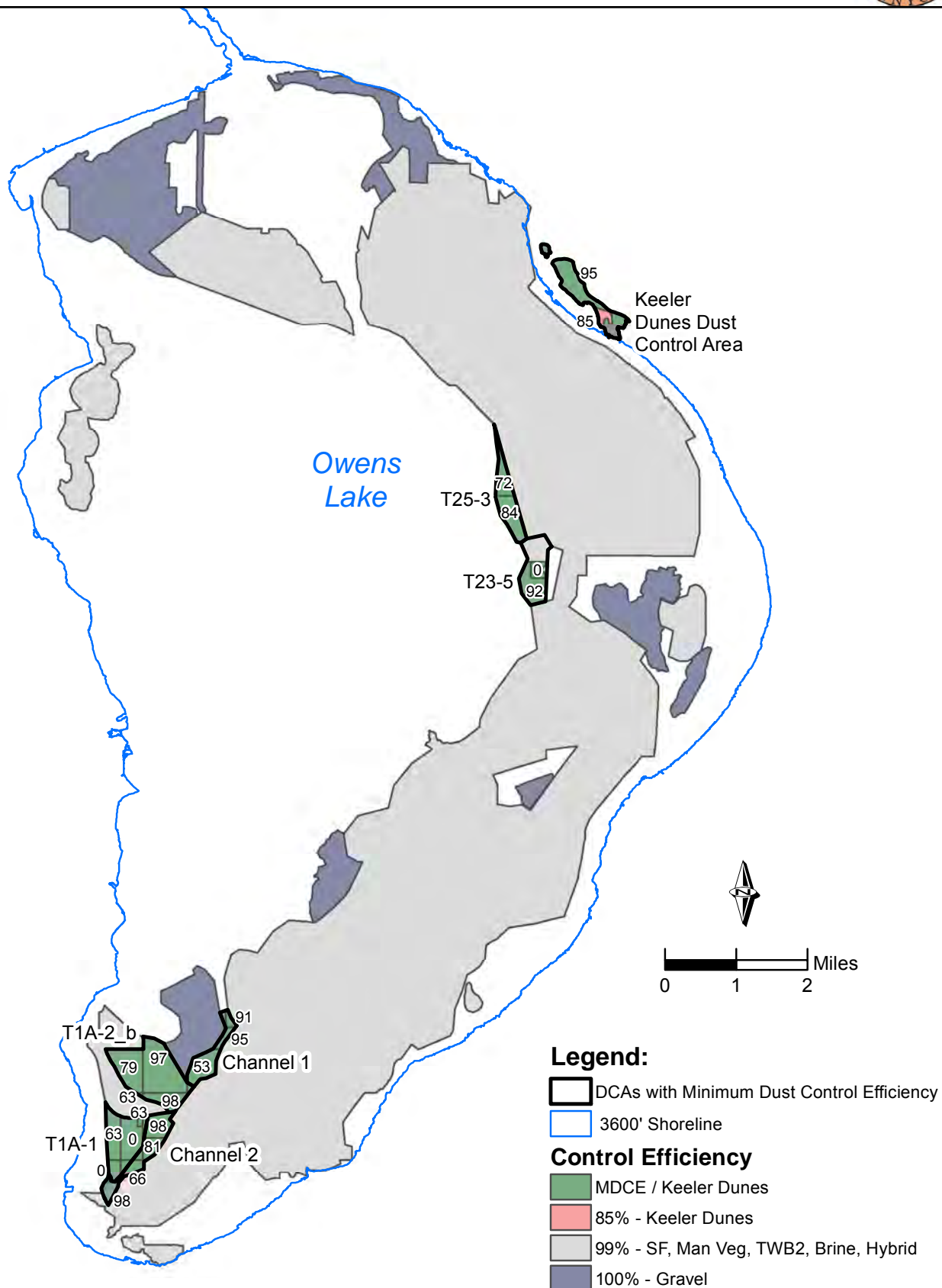
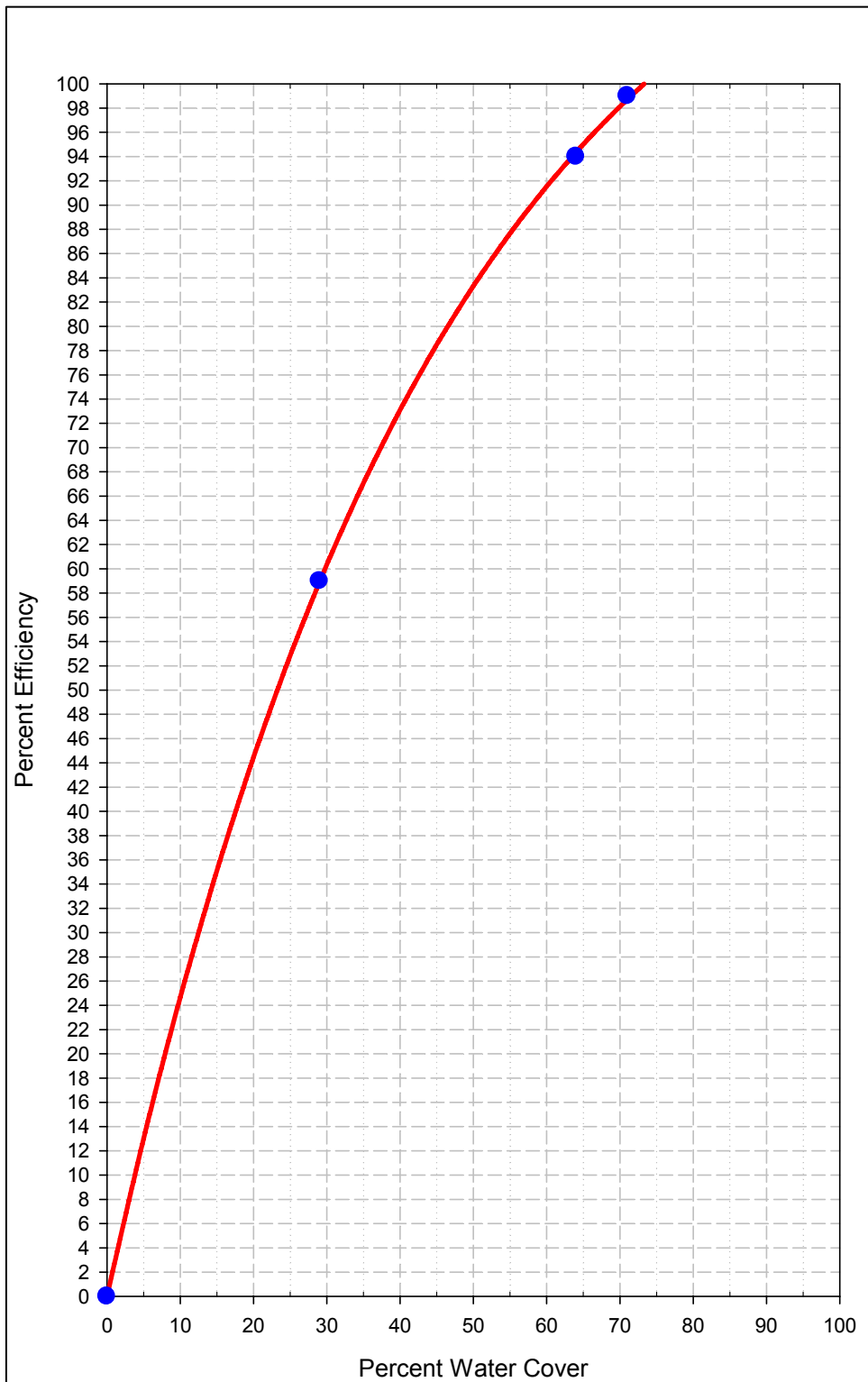


Exhibit 3 - Shallow Flood control efficiency curve



Rule 433 – Attachment A
Performance Requirements for BACM

I. BACM Shallow Flooding

- A. The “BACM Shallow Flooding” PM₁₀ control measure will apply water to the surface of those areas of the lake bed where shallow flooding is used as a PM₁₀ control measure. Water shall be applied in amounts and by means sufficient to achieve the performance standards set forth in Paragraphs I.B and I.C of this attachment. The dates by which BACM Shallow Flooding areas are to comply with these performance standards may be modified by the Dynamic Water Management provisions set forth in Rule 433.A.2.f and Paragraph VI.B.
- B. For all BACM Shallow Flooding areas except those within the 2006 DCA:
1. At least 75 percent of each square mile designated as BACM Shallow Flooding areas shall continuously consist of standing water or surface-saturated soil, substantially evenly distributed for the period commencing on October 16 of each year, and ending on May 15 of the next year. For these BACM Shallow Flood dust control areas, 75 percent of each entire contiguous area shall consist of substantially evenly distributed standing water or surface- saturated soil.
 2. Beginning May 16 and through May 31 of every year, shallow flooding areal wetness cover may be reduced to a minimum of 70 percent.
 3. Beginning June 1 and through June 15 of every year, shallow flooding areal wetness cover may be reduced to a minimum of 65 percent.
 4. Beginning June 16 and through June 30 of every year, shallow flooding areal wetness cover may be reduced to a minimum of 60 percent.
- C. For BACM Shallow Flooding areas within the 12.7 square-mile 2006 DCA:
1. The percentage of each area that must have substantially evenly distributed standing water or surface-saturated soil shall be based on the Shallow Flood Control Efficiency Curve (Exhibit 3) to achieve the control efficiency levels in the Minimum Dust Control Efficiency (MDCE) Map (Exhibit 2).
 2. For only those BACM Shallow Flooding areas with control efficiencies of 99 percent or more:
 - a. Beginning May 16 and through May 31 of every year, shallow flooding areal wetness cover may be reduced to a minimum of 70 percent.

- b. Beginning June 1 and through June 15 of every year, shallow flooding areal wetness cover may be reduced to a minimum of 65 percent.
- c. Beginning June 16 and through June 30 of every year, shallow flooding areal wetness cover may be reduced to a minimum of 60 percent.

II. BACM Managed Vegetation

The “BACM Managed Vegetation” PM₁₀ control measure requires planting surfaces of the BACM PM₁₀ control areas with protective vegetation to meet the control efficiency level of 99% by maintaining an overall average vegetation cover of 37% for each contiguous managed vegetation area.

III. BACM Gravel Blanket

The BACM Gravel Blanket” PM₁₀ control measure requires the application of a layer of gravel sufficient to meet the control efficiency level of 100% by one of the following means:

- covering 100% of the control area with a layer of gravel at least four inches thick with gravel screened to a size greater than ½ inch in diameter, or
- covering 100% of the control area with a layer of gravel at least two inches thick with gravel screened to ½ inch in diameter underlain with a permanent permeable geotextile fabric.

IV. Tillage with BACM (Shallow Flood) Backup (or TWB²)

A. The City of Los Angeles (“City”) may implement or transition BACM Shallow Flood areas to “Tillage with BACM (Shallow Flood) Back-up (TWB²),” which shall consist of (1) soil tilling within all or portions of BACM Shallow Flood PM₁₀ control areas (TWB² Areas), and (2) the installation of all necessary shallow flood infrastructure so that the TWB² Areas can be shallow-flooded if the erosion threshold is exceeded or the performance criteria are not met.

B. Construction of TWB² Areas

1. Tillage shall create rows and furrows in roughly east to west directions in order to create maximum surface roughness for winds from the north and south. Additional roughness to protect surfaces from west winds shall be created in tilled areas

sufficient to prevent emissions from east and west winds.

2. The tilled surfaces will also be armored with soil clods of 1/2 inch diameter or larger covering 60 percent or more of the tilled surface.
3. TWB² areas shall be constructed with ridge heights (RH) averaged on 40-acre blocks at or above 1.25 feet (furrow depth to ridge top difference at least 2.5 feet) and row spacing (RS) sufficient to provide a ratio of the row spacing to ridge height (RS/RH) below 10, e.g. distance between rows is 12.5 feet with average ridge height greater than 1.25 feet.

C. Monitoring and Maintenance

1. Surface Roughness

- a. Lidar, aerial photography or other field measurement methods with equivalent accuracies will be used by the City to measure RS/RH ratio and ridge height. Roughness measurements will be made in the north-to-south direction --- the direction of the primary dust producing winds. Roughness measurements may also be made in other directions. Roughness measurements will be reported to the APCO within 30 days of measurement.
- b. The RS/RH ratio and ridge height measurements will be made at 6 month, or more frequent, intervals. Inverse roughness and ridge height for a TwB² Area will be tracked and plotted as a function of time. Where feasible, field measurements may also be taken to confirm Lidar or other remotely sensed results. The City will conduct roughness measurements at least once every 6 months and report the measurements within 30 days to the APCO. The District reserves the right to conduct its own roughness measurements at any time.
- c. Assuming that degradation of the tilled ridges may occur over time, tillage maintenance will be performed by the City if the average RS/RH roughness ratio is between 10.1 and 12.0 or if the average ridge height is less than 1.1 feet in a tilled area.
- d. The City shall re-flood a TWB² area to comply with the required BACM Shallow Flood control efficiency for the area if the RS/RH ratio is greater than 12.0 (12/1) or the ridge height falls below 1.0 feet for any defined 40-acre averaging area.
- e. The City shall measure clod coverage using the point-intercept method (U.S. Bureau of Land Management, Sampling Vegetation Attributes, Method G,

Technical Reference BLM/RS/ST-96/002+1730) or other field measurement methods with equivalent accuracy. Clod cover will be measured concurrently with surface roughness at least once every 6 months and reported to the APCO within 30 days of measurement.

2. Sand Flux

- a. The City shall monitor each TWB² area with at least four Sensits and Cox sand catchers (CSCs) with inlets set at 15 cm above untilled surfaces (circular pads with 3 m radius) in the general northern, southern, eastern and western portions of a tillage. In TWB² areas greater than 320 acres the City shall install one Sensitive and CSC pair per 80 acres.
- b. The City will pair CSCs with Sensits, radio equipment and dataloggers programmed to record 5-minute sand motion data. All Sensitive data will be reported daily to the District. Sand motion data from the CSCs and Sensits will be processed to track sand flux at each site.
- c. All sand flux monitoring equipment will be installed prior to the start of tillage activities.
- d. High sand flux values recorded during maintenance activities or from non-tillage sand flux sources shall be excluded from the sand flux data. Maintenance activities and non-tillage sand flux sources may include, but are not limited to, rain-splatters, bugs, adjacent grading and road construction activities, as well as vehicle traffic. Sensits should be placed so as to minimize impacts from non-tillage sand flux sources.
- e. When (other than during maintenance activities taking place in the “tillage area” which is defined as the tilled portion of the TWB² area) the sand flux exceeds 0.50 g/cm²/day, the City will perform maintenance in the tillage area, which may include surface wetting, re-establishment of the surface roughness, or full or partial reflooding of a TWB².

3. PM₁₀ Monitoring

- a. Each TWB² area will be assigned upwind and downwind PM₁₀ monitors (not necessarily at the TwB² Area boundary) to monitor PM₁₀ emissions from the tillage area. For a given wind direction, the downwind monitors shall be within

22 degrees ($\pm 11.5^\circ$) of the upwind monitors. Upwind/downwind monitor assignments will be requested by the City and approved by the APCO. Existing monitors operated by the District may be used as upwind/downwind monitors. Additional EPA reference and equivalent method PM₁₀ monitors (40 CFR Part 53) shall be operated by the City, unless mutually agreed otherwise.

- b. If a monitor is operated by the City, its operation and maintenance must follow District procedures and data collection must be incorporated into the District communications network. The District reserves the right to audit monitors and monitoring data collected by the City. The District also reserves the right to install and operate or require the City to install and operate additional PM₁₀ monitors to adequately monitor the PM₁₀ emissions coming from tilled areas.
 - c. All PM₁₀ monitoring equipment will be in place as soon as practicable as shallow flood areas dry, but no later than the start of tillage activities.
 - d. Impacts caused by maintenance activities and non-tillage sources shall be excluded from the PM₁₀ data. Maintenance activities and non-tillage PM₁₀ sources may include, but are not limited to, adjacent grading and road construction activities, as well as vehicle traffic. PM₁₀ monitors should be placed so as to minimize impacts from non-tillage sources.
 - e. When the daily downwind to upwind PM₁₀ concentration difference for any dust event (other than during maintenance activities in the tillage area) exceeds 50 $\mu\text{g}/\text{m}^3$ and there is no evidence to show that the additional downwind PM₁₀ did not come from the TWB² Area, maintenance will be performed in the tillage area.
4. Induced Particulate Erosion Test
- a. The Induced Particulate Erosion Test (IPET) method will be used to determine if tilled area surfaces are starting to become emissive. The IPET method uses a small radio-controlled helicopter-type craft (Radio-Controlled Wind Induction Device or RCWInD) to create wind on the surface. Each RCWInD craft shall be pre-tested to determine the test height above the surface (H_t) at which the craft creates a target maximum horizontal wind speed (TWS) measured at 1 centimeter ($U_{0.01}$) above a flat surface equal to 11.3 meters per second (m/s). If the payload on a craft is changed, e.g. a different camera is used, then H_t must be re-

determined for the new payload since it will affect the amount of thrust needed to keep the RCWInD aloft.

- b. Testing to determine H_t and TWS will be done on a smooth flat surface, e.g. concrete or asphalt pavement or plywood test platform with calm ambient winds (< 2 m/s). H_t is measured from the bottom of the rotor blade to the surface. The maximum wind speed for any flight height is taken at a height one centimeter above the surface at a point that is one rotor blade length away from the point beneath the center of the fastest rotor blade taken on a line extending outward from the rotor arm. The wind speed measurement is taken with a pitot tube pointing toward the center of the rotor blade. The RCWInD must be flown in a stationary position to get a sustained wind speed measurement.
 - c. When the craft is flown over a ridged surface H_t is measured from the bottom of the craft's rotor blades to the highest surface projection anywhere directly below the craft.
 - d. Three erosion alert levels are set using the IPET method: 1) an early warning of possible clod and surface stability deterioration, 2) a warning level to alert the City of a potential breakdown of the surface stability and to advise voluntary maintenance efforts, and 3) a mitigation action level to require re-tilling and/or re-flooding of all or part of a TWB², DWM or Brine BACM Area.
 - e. The IPET method will be used to determine erosion alert levels as follows:
 - Level 1 – An erosion early warning is indicated when any visible dust is observed to be emitted from a surface or particles are dislodged when the RCWInD is flown at a height below one half of H_t . Voluntary mitigation may be appropriate to prevent further surface degradation.
 - Level 2 – An erosion warning is indicated when any visible dust is observed to be emitted from a surface when the RCWInD is flown at a height below H_t and above one half of H_t . Voluntary mitigation is advised to prevent further surface degradation.
 - Level 3 – Mitigation action is required if visible dust is observed to be emitted from a surface when the RCWInD is flown at a height of H_t or higher.
- D. The City shall re-flood TwB² areas to comply with the BACM Shallow Flood control

efficiency target for that area, if either of the following erosion thresholds are exceeded as determined using the sand flux and IPET measurements described in Paragraphs IV.C.2 and IV.C.4.

1. Sand flux measured at 15 cm above the surface exceeds 1.0 gram per square centimeter per day, or
2. Induced Particulate Erosion Test method shows visible dust emissions when operated at the reference test height, H_t .

V. Brine BACM

A. Stable surfaces for Brine BACM shall be defined as consisting of standing water, evaporite salt deposit, and capillary brine salt crust as follows:

1. Water: Standing water or hydrologically saturated surface as defined by BACM Shallow Flooding, regardless of salinity level.
2. Evaporite Salt Deposit: A crystalline deposit of salt minerals precipitated on the surface of the lakebed from evaporation of Owens Lake brine. The evaporite salt deposit does not include the development of salt crust by upward capillary movement of saline fluids through the soil column. The evaporite salt deposit must have an average thickness of 1.5 centimeters or greater and may be either wet or dry.
3. Capillary Brine Salt Crust: A crust enriched in salt minerals formed at the soil surface by upward capillary movement of water through the soil. The capillary brine crust typically consists of a mix of salt minerals and soil particles in various proportions, and must meet the following three conditions:
 - a. The capillary brine salt crust within a Brine BACM area must have an average thickness of 10 centimeters or greater and may be either wet or dry,
 - b. a capillary brine salt crust must be accompanied by either water and/or an evaporite salt deposit, and
 - c. the proportion of qualifying capillary brine crust within a Brine BACM area cannot exceed one-third of the required total compliant cover within a Brine BACM area.

B. Each Brine BACM area shall be operated such that the total areal extent of the surface cover of the qualifying surfaces are maintained such that they meet or exceed those as

defined by the Shallow Flooding Control Efficiency Curve in Exhibit 3. The combined mosaic of stable Brine BACM surfaces shall cover the entire dust control area.

- C. Brine BACM can be used by the City of Los Angeles (City) throughout the Owens Lake bed where backup BACM Shallow Flood infrastructure exists and can be implemented, as set forth in this protocol, to ensure that Brine BACM areas do not cause or contribute to exceedance of the NAAQS for PM₁₀.
- D. The boundaries for each Brine BACM area will be pre-defined by the City prior to implementation. Each Brine BACM area will be monitored separately to determine compliance with required surface cover conditions.
- E. The City will monitor each Brine BACM area with at least one sand flux monitor (SFM) site instrumented with paired Cox Sand Catchers (CSCs) and Sensits with inlets positioned 15 cm above the surface, radio equipment, and dataloggers programmed to record 5-minute sand motion data. SFM sites will primarily be located in portions of Brine BACM areas covered with a capillary crust. All Sensit data will be reported daily to the District. Sand motion data from the CSCs and Sensits will be processed to track sand flux at each site.
- F. Brine BACM areas will be monitored using the IPET method following the procedures used for Tillage with BACM Back-up areas in Paragraph IV.C.4.
- G. The City shall re-flood Brine BACM areas to comply with the BACM Shallow Flood control efficiency target for that area, if either of the following erosion thresholds are exceeded as determined using the sand flux and IPET measurements described in Paragraphs IV.C.2 and IV.C.4.
 - 1. Sand flux measured at 15 cm above the surface exceeds 5.0 grams per square centimeter per day, or
 - 2. Induced Particulate Erosion Test method shows visible dust emissions when operated at the reference test height, H_t.

VI. Dynamic Water Management

- A. Areas that are eligible for Dynamic Water Management (DWM) must meet the following sand flux history criteria:
 - 1. 5 years or more of sand flux data from before dust control implementation,
 - and

2. The frequency of significant sand flux (≥ 5 g/cm²/day) taking place outside of the modified shallow flood dust control period did not occur in more than one calendar year over any continuous six year period.
- B. The modified dust seasons for DWM have three different start dates in the beginning of the season that reflect the delayed start of source area activity across the lakebed. The modified start dates are applicable to certain dust control areas based on the sand flux history as evaluated in Paragraph VI.A and the method of shallow flooding using conventional flooding or sprinkler irrigation.
1. For areas shallow flooded by methods other than sprinkler irrigation, the standard and modified dust control periods are:
Standard Dust Season
October 16 to June 30 (with ramping of 99% control areas after May 15)
Modified Dust Seasons for Dynamic Water Management
October 16 – April 30
December 1 – April 30
January 16 – April 30
 2. For eligible areas that are shallow flooded with sprinkler irrigation, the modified DWM seasons shall be adjusted to provide water two weeks earlier in the beginning of the dust season to simulate ramp up as applied in conventional BACM Shallow Flood areas and one month later at the end of the dust season due to the lack of wetness during the dry down period with conventional BACM Shallow Flood areas. The adjustments to the DWM seasons for sprinkler irrigated shallow flooding areas are provided below.
Modified Dust Seasons Adjusted for Sprinkler Irrigated Shallow Flooding Areas
October 16 – May 31
November 16 – May 31
January 1 – May 31
 3. In areas approved for DWM, the City of Los Angeles (City) shall meet the shallow flood control efficiency and wetness targets indicated in Exhibits 2 and 3 by or before the applicable start dates in Paragraph VI.B and water may be shut off with no spring ramping at the end of the modified season.
- C. Each DWM area will be instrumented by the City with sand flux monitoring (SFM) sites

using paired Sensits and Cox Sand Catchers (CSCs) during the modified start and end periods. The locations of SFM sites shall be determined by the City in coordination with the District.

1. The number of SFM sites at the modified start of the dust season will be proportional to the areal extent of the DWM area. All DWM areas will require at least one SFM site however; the APCO may require proportionally more SFM sites for DWM areas greater than 320 acres such that there is approximately one SFM site per 160 acres of DWM area.
2. During the modified end period of the dust season, the LADWP shall install SFM sites incrementally in stages as a DWM area dries. The number of SFM sites is provided in Table 1 below.

Table 1. Number of SFM sites required per DWM area during the modified end of the dust season.

| Drying Stage | Exposed Lakebed | Number of SFM sites |
|--------------|--------------------|-----------------------|
| 1 | Less than 50 acres | 0 |
| 2 | 50 – 160 acres | 1 |
| 3 | >160 acres | 1 per every 160 acres |

3. The City will pair CSCs with Sensits with inlets positioned at 15 cm above the surface, radio equipment and dataloggers programmed to record 5-minute sand motion data. All Sensit data will be reported daily to the District. Sand motion data from the CSCs and Sensits will be processed to track sand flux at each site.
4. During the modified start of the dust season all sand flux monitoring equipment will be placed by the City no later than October 16. During the modified end of the dust season all SFM sites will be placed by the City within 7 calendar days of reaching each drying stage. The City shall inform the District of all SFM site installations within 7 days of installation.
5. SFM sites installed for monitoring in the modified beginning dust season may be removed from a DWM area once the modified dust season has started for each DWM area or once the site location is endanger of getting flooded. The City shall inform the District of all SFM site removals within 7 calendar days of their removal

date. SFM sites installed for monitoring of the modified end of the dust season may be removed from a DWM area after June 30.

- D. DWM areas will be monitored using the IPET method following the procedures used for Tillage with BACM Back-up areas in Paragraph IV.C.4.
- E. The City shall re-flood a DWM area or sub-area as indicated by the available information to comply with the BACM Shallow Flood control efficiency target for that area, if either of the following erosion thresholds are exceeded as determined using the sand flux and IPET measurements described in Paragraphs IV.C.2 and IV.C.4.
 - 1. Sand flux measured at 15 cm above the surface exceeds 5.0 grams per square centimeter per day, or
 - 2. Induced Particulate Erosion Test method shows visible dust emissions when operated at the reference test height, H_t .
- F. If any DWM area exceeds either erosion threshold in Paragraph VI.E in more than one calendar year over any continuous six-year period, that area will revert to the standard BACM Shallow Flood dust season as shown in Paragraph VI.B.1 since the area will no longer meet the DWM criteria in Paragraph VI.A.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 500. DEFINITION

ADOPTED 9/05/74

"Orchard Heater" means any article, machine, equipment or other contrivance burning any type of fuel, or a solid fuel block composed of petroleum coke burned by an open flame, used or capable of being used for the purpose of giving protection from frost damage. For the purpose of this Regulation, "Orchard Heater" shall include heaters used for frost protection for orchards, vineyards, truck crops, and field crops. The contrivance commonly known as a wind machine is not included.

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 501. ORCHARD AND CITRUS HEATERS

ADOPTED 9/05/74 REVISED 3/10/76

No person shall use any orchard or citrus grove heater unless it has been approved by the State Air Resources Board and the Air Pollution Control Officer and unless it produces less than one gram per minute of unconsumed solid carbonaceous material.

REGULATION V – AGRICULTURAL OPERATIONS

RULE 502. CONSERVATION MANAGEMENT PRACTICES

Adopted: 7/7/05

1.0 Purpose

The purpose of this rule is to limit fugitive dust emissions from agricultural operation sites within the Great Basin Unified Air Pollution Control District (Alpine, Inyo and Mono Counties).

2.0 Applicability

This rule applies to agricultural operation sites located within the Great Basin Unified Air Pollution Control District.

3.0 Definitions

3.1 Administrative change: a change to a Conservation Management Practice (CMP) Plan that:

3.1.1 Corrects typographical errors: or

3.1.2 Identifies a change in the name, address, or phone number of any person identified in the CMP Plan, or provides a similar minor administrative change which has no effect on the selected CMPs and does not change any information that could be used to determine emissions reduction; or

3.1.3 Allows for the change of ownership or operational control of an agricultural operation site or agricultural parcel.

3.2 Agricultural Operations: the growing and harvesting of crops or the raising of livestock, fowl or other animals, for the primary purpose of earning a living, or of conducting agricultural research or instruction by an educational institution.

3.3 Agricultural Operation Site: one (1) or more agricultural parcels that meet the following:

3.3.1 Are under the same or common ownership or operation (including leases and allotments), or which are owned or operated by entities which are under common control; and

3.3.2 Are located on one (1) or more contiguous or adjacent properties wholly within the Great Basin Unified Air Pollution Control District.

- 3.4 Agricultural Parcel: a portion of real property, including, but not limited to, cropland, grazing land and animal feeding operation (AFO) used by an owner/operator for carrying out a specific agricultural operation. Roads, vehicle/equipment traffic areas, and facilities, on or adjacent to the cropland or AFO are part of the agricultural parcel.
- 3.5 Air Pollution Control Officer (APCO): the Air Pollution Control Officer of the Great Basin Unified Air Pollution Control District.
- 3.6 Animal Feeding Operation (AFO): a lot or facility where animals have been, are, or will be gathered, fed, stabled, for a total of 45 days or more in any 12 month period and where crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the lot or facility (as defined in 40 CFR 122.23 (b)(1)).
- 3.7 Board: as defined in Rule 101 (Definitions).
- 3.8 Conservation Management Practice (CMP): an activity or procedure that reduces air pollutants normally emitted by, or associated with, an agricultural operation. The District's list of CMPs shall constitute the best available control measures (BACM) and best available retrofit control technology (BARCT) for agricultural practices at agricultural sources of air pollution in the District.
- 3.9 Conservation Management Practice Application (CMP Application): a document prepared and submitted by the owner/operator of an agricultural operation site that lists the selected CMPs for implementation. The CMP application also contains, but is not limited to, contact information for the owner/operator, and a site plan or map describing the agricultural operation site and locations of agricultural parcels where CMPs will be implemented and other information describing the extent, duration of CMP implementation and other information needed by the District to calculate emission reductions.
- 3.10 Conservation Management Practice Category (CMP Category): a grouping, including, but not limited to, agricultural activities related to land preparation, harvesting, handling and raising of fowl or animals, and the use of agricultural unpaved roads, and unpaved vehicle/equipment traffic areas. The CMP category other includes CMPs to reduce windblown emissions and agricultural burning emissions.
- 3.11 Conservation Management Practice List (CMP List): the list of CMPs by CMP categories as approved by the District Board.
- 3.12 Conservation Management Practice Plan (CMP Plan): A CMP Application approved by the APCO.

- 3.13 Conservation Management Practice Program (CMP Program): a District program with the purpose of reducing air pollutants from agricultural operation sites.
- 3.14 Contiguous or Adjacent Property: a property consisting of two (2) or more parcels of land with a common point or boundary, or separated solely by a public roadway or other public right-of-way.
- 3.15 District: the Great Basin Unified Air Pollution Control District including all of Alpine, Inyo and Mono Counties.
- 3.16 Fugitive Dust: any solid particulate matter entrained in the ambient air, caused by anthropogenic or natural activities, that is emitted into the air without first passing through a stack or duct designed to control flow, including, but not limited to, emissions caused by movement of soil, vehicles, equipment, and windblown dust. This excludes particulate matter emitted directly in the exhaust of motor vehicles, from other fuel combustion devices, portable brazing, soldering, or welding equipment, and from pile drivers.
- 3.17 Grazing Land: (1) a collective term for rangeland, pastureland, grazing forest land, native and naturalized pasture, hayland, and grazed cropland. (2) land is used primarily for production of forage plants maintained or manipulated primarily through grazing management. Includes all land having plants harvestable by grazing without reference to land tenure, other land uses or management practices.
- 3.18 NRCS: The United States Department of Agriculture Natural Resource Conservation Service.
- 3.19 Owner/Operator: includes, but is not limited to, any person who leases, rents, supervises, or operates equipment, or owns/operates a fugitive dust source, in addition to the normal meaning of owner or operator.
- 3.20 Particulate Matter: as defined in Rule 101 (Definitions).
- 3.21 Paved Road: any road that is covered by concrete, asphaltic concrete or asphalt that provides structural support for vehicles.
- 3.22 PM₁₀: as defined under Particulate Matter in Rule 101 (Definitions).
- 3.23 Road: any paved or unpaved road or street, highway, freeway, alley, way, access easement or driveway.
- 3.24 Unpaved Road: any road that is not covered by one of the materials described in the paved road definition.

- 3.25 Vehicle: A device by which any person or property may be propelled, moved, or drawn, including mobile equipment, excepting aircraft or watercraft or devices moved exclusively by human or animal power or used exclusively upon rails or tracks.

4.0 Exemptions

- 4.1 With the exception of AFOs, the provisions of this rule, except for the recordkeeping provisions of Section 6.5.2, shall not apply to any of the following sources:

4.1.1 Agricultural operation site where the total acreage of all agricultural parcels is less than forty (40) acres if there are less than five (5) separate residences or businesses within one-quarter () mile of the site boundaries.

4.1.2 Agricultural operation site where the total acreage of all agricultural parcels is less than ten (10) acres if there are five (5) or more residences or businesses within one-quarter () mile of the site boundaries.

4.1.3 Woodland and wasteland not actually under cultivation or used for pasture.

4.1.4 Land placed in the Conservation Reserve Program meeting the definition and criteria set by the NRCS.

4.1.5 Agricultural operation parcel used for the purpose of:

4.1.5.1 Propagating plants for transplanting, and exhibiting plants under controlled conditions inside a building with walls and roof, or

4.1.5.2 Forestry, including, but not limited to, timber harvest operations, silvicultural practices, forest management burning, or forest protection practices, or

4.1.5.3 Providing grazing on open rangeland or pasture. However, the cultivation of pasture is not exempt.

- 4.2 The provisions of this rule, except for the recordkeeping provisions of Section 6.5.2, shall not apply to any of the following sources within an agricultural operation site:

- 4.2.1 An AFO with less than 150 head of domesticated farm mammals, including, but not limited to, cattle (heifers, steers, bulls veal calves and cow/calf pairs), sheep and pigs, or
- 4.2.2 An AFO with less than 2,500 fowl, including, but not limited to, chickens and turkey.
- 4.3 This rule does not exempt the owner/operator from any other District regulations.

5.0 Requirements

- 5.1 Effective on and after the schedule set forth below in Sections 5.1.1 through 5.1.3, an owner/operator shall implement the applicable CMPs selected pursuant to Section 6.2 for each agricultural operation site.
 - 5.1.1 For all Agricultural Operations located within the Owens Valley PM₁₀ non-attainment area, the requirements of this rule shall go into effect on and after January 1, 2006.
 - 5.1.2 For all Agricultural Operations located within the Coso Junction (formerly Searles Valley), Mono Basin and Mammoth Lakes PM₁₀ non-attainment areas, the requirements of this rule shall go into effect on and after January 1, 2007.
 - 5.1.3 For all Agricultural Operations located within all areas of the Great Basin Unified Air Pollution Control District not designated in Sections 5.1.1 and 5.1.2, the requirements of this rule shall go into effect on and after January 1, 2008.
- 5.2 An owner/operator shall prepare and submit a CMP Application for each agricultural operation site, pursuant to Section 6.0, to the APCO for approval. A CMP Application approved by the APCO shall constitute a CMP Plan.
- 5.3 Except as provided by Section 5.4, an owner/operator shall implement the CMPs as contained in the CMP Plan approved pursuant to Section 6.0 for each agricultural operation site no later than thirty (30) days after notification by the APCO of the approval of the CMP Application.
- 5.4 An owner/operator that discontinues the implementation of a CMP as committed to in a CMP Plan or makes other changes that are inconsistent with the CMP Plan shall comply with the requirements of Section 6.3.4.

6.0 Administrative Requirements

6.1 CMP Application Preparation

An owner/operator shall prepare a CMP Application for each agricultural operation site. Each CMP Application shall include, but is not limited to, the following information:

6.1.1 The name, business address, phone number and emergency contact information of the owner/operator responsible for the preparation and the implementation of the CMP Plan.

6.1.2 The signature of the owner/operator and the date that the application was signed.

6.1.3 A plot plan or map which contains the following information:

6.1.3.1 The location of the agricultural operation site,

6.1.3.2 The location of each agricultural parcel on the agricultural operation site,

6.1.3.3 The location of unpaved roads and unpaved equipment/traffic areas to be covered by the CMP Plan, and

6.1.3.4 The location where the CMP will be implemented.

6.1.3.5 The plot plan or map shall be maintained on-site and made available to the APCO or the APCO's agent upon request.

6.1.4 The following information, for each agricultural parcel of the agricultural site:

6.1.4.1 The CMPs, selected pursuant to Section 6.2, implemented or planned for implementation and

6.1.4.2 The crop, AFO, or other use of the agricultural parcel.

6.1.5 Information necessary to calculate emission reductions including, but not limited to:

6.1.5.1 The crop or animals and total crop acreage or number of animals and the total length (miles) of unpaved roads, and the total area (acres or square feet) of the unpaved

equipment and traffic areas to be covered by the CMP Plan, and

6.1.5.2 Other information as determined by the APCO.

6.2 CMP Selection

An owner/operator shall select and implement one (1) CMP from the CMP list for each of the applicable CMP categories for each agricultural parcel of an agricultural operation site, except as provided below:

6.2.1 If an agricultural operation site or agricultural parcel has crop rotation, an owner/operator shall select one (1) CMP from the CMP list for each of the applicable CMP categories for each rotated crop type.

6.2.2 If a CMP can only be selected for implementation on a portion of an agricultural operation site, an owner/operator shall select an additional CMP within the CMP category to be implemented on the remaining acreage or remaining AFO.

6.2.3 An owner/operator may select a substitute CMP from another CMP category when no feasible CMP can be identified from one category. This provision shall not apply for the unpaved road, and unpaved vehicle/equipment traffic area CMP categories.

6.2.3.1 An owner/operator may identify or develop a new CMP not on the CMP list to be used to comply with the requirements of this rule. Prior to use of the new CMP, the owner/operator must obtain the interim approval of the APCO to use a new CMP to meet the requirements of Section 6.2. The owner/operator shall demonstrate that the new CMP achieves PM₁₀ emission reductions that are at least equivalent to other CMPs on the CMP list that could be selected for the applicable operation.

6.2.3.2 The APCO will perform an independent analysis of proposed CMPs to determine that they achieve PM₁₀ emission reductions that are at least equivalent to other CMPs on the CMP list that could be selected for the applicable operation. This analysis shall be made using the most recent emission factors provided by U.S. Environmental Protection Agency (EPA) or the California Air Resources Board (CARB) when available. CMPs that are not shown to achieve equivalent emission reductions

will be disapproved. The District shall maintain a list of CMPs determined to be equivalent under this Section.

6.3 CMP Application Submission

An owner/operator shall submit a CMP Application, prepared pursuant to Section 6.1, to the APCO according to the following schedule:

- 6.3.1 For an agricultural operation site located within the Owens Valley PM₁₀ non-attainment area, no later than October 1, 2005 for existing agricultural operation sites and within 90 days for an agricultural operation site or an agricultural parcel that is acquired or becomes subject to the provisions of this Rule after January 1, 2006.
- 6.3.2 For an agricultural operation site located within the Coso Junction (formerly Searles Valley), Mono Basin or Mammoth Lakes PM₁₀ non-attainment areas, no later than October 1, 2006 for existing agricultural operation sites and within 90 days for an agricultural operation site or an agricultural parcel that is acquired or becomes subject to the provisions of this Rule after January 1, 2007.
- 6.3.3 For an agricultural operation site located within all areas of the Great Basin Unified Air Pollution Control District not designated in Sections 6.3.1 and 6.3.2, no later than October 1, 2007 for existing agricultural operation sites and within 90 days for an agricultural operation site or an agricultural parcel that is acquired or becomes subject to the provisions of this Rule after January 1, 2008.
- 6.3.4 Within 60 days of any operational, administrative, or other modification that necessitates the revision of an existing approved CMP Plan. A modification includes, but is not limited to, the following:
 - 6.3.4.1 Administrative changes to any information provided pursuant to Section 6.0,
 - 6.3.4.2 Implementation of a CMP other than the CMP listed in a CMP Plan,
 - 6.3.4.3 Change of the crop or AFO on a agricultural parcel, and
 - 6.3.4.4 Any other changes as determined by the APCO.

6.4 CMP Application Review and Evaluation

6.4.1 The APCO shall:

6.4.1.1 Review the CMP Application and determine whether the submitted CMP Application is complete. Completeness shall be determined by evaluating whether the CMP Application meets the requirements of Section 6.1 of this rule and the applicable requirements of Rule 307 (Conservation Management Practices Plan Fees).

6.4.1.2 Notify the owner/operator in writing of the determination that the CMP Application is, or is not, complete and request the owner/operator to provide additional information within 30 days.

6.4.1.3 Evaluate and either approve or disapprove the CMP Application and provide written notification to the owner/operator within 60 days after receipt of the complete CMP Application, of the approval or disapproval of the CMP Application.

6.4.2 A CMP Application for a modification to a CMP Plan pursuant to Section 6.3.4.1 shall be deemed approved as submitted unless written comments are transmitted by the APCO to the owner/operator within 30 days of receipt of the CMP application.

6.4.3 A CMP Application for a modification to a CMP Plan pursuant to Sections 6.3.4.2, 6.3.4.3, and 6.3.4.4 shall be deemed conditionally approved as submitted unless written comments are transmitted by the APCO to the owner/operator within 30 days of receipt of the CMP application.

6.4.4 The approval of a CMP Application shall not serve to excuse the owner or operator from complying with law, nor shall it excuse any violation.

6.5 Recordkeeping

An owner/operator shall, upon request, make available to the APCO the records required to be kept pursuant to Section 6.5.1 and Section 6.5.2.

6.5.1. An owner/operator subject to Section 5.0 shall maintain the following records for a minimum of five (5) years:

6.5.1.1 A copy of each CMP Application and CMP Plan.

6.5.1.2 Supporting information necessary to confirm the implementation of the CMPs.

6.5.2 An owner/operator claiming exemption pursuant to Section 4.0 shall maintain records for a minimum of five (5) years that demonstrate that the agricultural operation site or agricultural parcel qualified for the exemption.

6.6 Loss of Exemption

An owner/operator of an agricultural operation site or agricultural parcel that becomes subject to the provisions of Section 5.0 of this rule, through loss of exemption, shall comply with all applicable provisions of this rule pursuant to the schedule in Section 6.3.

7.0 Compliance Schedule

Unless otherwise noted, all provisions of this rule shall be effective on and after July 7, 2005.

REGULATION XIII
CONFORMITY OF GENERAL FEDERAL ACTIONS
TO STATE IMPLEMENTATION PLANS

Adopted - 10/5/94

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§ 1301 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.

§ 1302 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 §1308, 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 U.S. 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 §1303(c), (d), (e), or (f) are not included in the "total of direct and indirect emissions", except as provided in §1303(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.

§ 1303 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 XII - 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 |
| Serious 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 | 75 |
| 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 materiel 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, operation 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 specific, 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 §1303(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 §1303(d)(2) and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under §1303(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 Federal 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 section 174 of the Act 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 §1301 and §§1305 through 1310 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 §1301 and §§1305 through 1310 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.

§ 1304 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.

§ 1305 Reporting requirements.

- a. A Federal agency making a conformity determination under §1308 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 §1308.

§ 1306 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 §1308 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 §1308 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 §1308 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 §1308 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.

§ 1307 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 §1305, 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 §1305.
- 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 §1303(b), a new conformity determination is required.

§ 1308 Criteria for determining conformity of general Federal actions.

- a. An action required under §1303 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 §1303(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 §§1305 and 1306 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 §§1305 and 1306 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 areawide 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 §§1305 and 1306:

- 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 XII - 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 section 1309) do not increase emissions with respect to the baseline emissions, and:
 - A. The baseline emissions reflect the historical activity levels that occurred in the geographic 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 §1309] 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 §1309(a).
- b. The areawide and local air quality modeling analyses must:
- 1. Meet the requirements in §1309 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 §1310, before the determination of conformity is made.

§ 1309 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.

§ 1310 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 §§1308 and 1309 and this section. Any proposed change in the mitigation measures is subject to the reporting requirements of §1305 and the public participation requirements of §1306.
- 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.

§ 1311 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.