

6.4 Fuel Burning Equipment A person shall not build, erect, install, or expand any nonmobile fuel burning equipment unit unless the discharge into the atmosphere of contaminants will not and does not exceed any one or more of the following rates:

- a. 200 pounds per hour of sulfur compounds, calculated as sulfur dioxide ( $\text{SO}_2$ );
- b. 140 pounds per hour of nitrogen oxides, calculated as nitrogen dioxide ( $\text{NO}_2$ );
- c. 10 pounds per hour of combustion contaminants as defined in Rule 2 (e) and derived from the fuel.

For the purpose of this Rule, "Fuel Burning Equipment" means any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. A fuel burning unit shall be comprised of the minimum number of fuel burning equipment, the simultaneous operations of which are required for the production of useful heat or power.

Fuel burning equipment serving primarily as air pollution control equipment by using a combustion process to destroy air contaminants shall be exempt from the provisions of this Rule.

Nothing in this Rule shall be construed as preventing the maintenance or preventing the alteration or modification of an existing fuel burning equipment unit which will reduce its mass rate of air contaminant emissions.

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7. Organic Solvent Rule

No person shall use any photochemical solvents for commercial purposes without first complying with Regulation 12, below.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

**7. Organic Solvent Rule.** No person shall use any photochemical solvents for commercial purposes without first complying with Regulation 12, below.

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REGULATION

V

PERMIT SYSTEM REQUIREMENTS

14. Posting of Permit

Every person issued a special use permit under these Rules and Regulations shall post said special use permit in a conspicuous place and manner on the premises on which the equipment, for which the permit was secured, is operating.

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15. Altering of Permit

No person shall wilfully deface, alter, or change any permit issued under these Rules and Regulations.

MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

REGULATION

I

DEFINITIONS

RULE 101 Title.

These rules and regulations shall be known as the Rules and Regulations of Mariposa County Air Pollution Control District

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RULE 102 Definitions. Except as otherwise specifically provided in these Rules, and except where the context otherwise indicates, words used in these Rules are used in exactly the same sense as the same words are used in the Health and Safety Code of the State of California.

- B. Agricultural Burning. (a) Any open outdoor fire used in agricultural operations necessary for the growing of crops or raising of fowl or animals, or in forest management or range improvement; or used in the improvement of land for wildlife and game habitat, or disease or pest prevention. (b) Any open outdoor fire used in the operation or maintenance of a system for the delivery of water for the purposes specified in subdivision (a) of this definition. Rule 302 D shall not apply to such burning.
- E. Air Contaminant or Pollutant. Any discharge, release, or other propagation into the atmosphere directly, or indirectly, caused by man and includes, but is not limited to, smoke, dust, charred paper, soot, grime, carbon, noxious acids, fumes, gases odors, or particulate matter, or any combination thereof.
- F. Alteration. Any addition to, enlargement of, replacement of or any major modification or change of the design, capacity, process, or arrangement, or any increase in the connected loading of equipment or control apparatus, which will significantly increase or effect the kind or amount of air contaminants emitted.
- I. Atmosphere. The air that envelopes or surrounds the earth. Where air pollutants are emitted into a building not designed specifically as a piece of air pollution control equipment, such emissions into the building shall be an emission into the atmosphere.
- J. Board. The Mariposa County Air Pollution Control Board.
- K. Brush Treated. The material has been felled, crushed or up-rooted with mechanical equipment, or has been desiccated with herbicides.
- L. Combustible or Flammable Waste. Means any garbage, rubbish, trash, rags, paper, boxes, crates, excelsior, ashes, offal, carcass of a dead animal, petroleum product waste or any other combustible or flammable refuse material.
- M. Combustion Contaminant. Any particulate matter discharged into the atmosphere from the burning of any material which contains carbon in either the free or the combined state.
- N. Condensed Fumes. Particulate matter generated by the condensation of vapors evolved after volatilization from the molten or liquid state, or generated by sublimation, distillation, calcination or chemical reaction; when these processes create airborne particles.

P. District. Is the Air Pollution Control District of Mariposa County.

Q. Dust. Minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, sweeping, or other similar processes.

R. Emission. The act of releasing or discharging air contaminants into the ambient air from any source.

S. Emission Data. Are measured or calculated concentrations or weights of air contaminants emitted into the ambient air. Production data used to calculate emission data are not emission data.

T. Emission Point. The place, located in a horizontal plane and vertical elevation, at which an emission enters the atmosphere.

U. Flue. Any duct or passage for air, gases or the like, such as a stack or chimney.

W. Fossil Fuel-fired Steam Generator. Means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer. "Fossil fuel" means natural gas, petroleum, coal and any form of solid, liquid, or gaseous fuel derived from such materials.

X. Hearing Board. The appellate review board of any county or regional air pollution control district as provided for in the Health and Safety Code of the State of California.

Y. Incineration. An operation in which combustion is carried on for the principal purpose, or with the principal result of oxidizing a waste material to reduce its bulk or facilitate its disposal.

Z. Incinerator. Means any furnace or other closed fire chamber used to dispose of combustible waste by burning and from which the products of combustion are directed through a flue or chimney.

AA. Installation. The placement, assemblage or construction of equipment or control apparatus at the premises where the equipment or control apparatus will be used, including all preparatory work at such premises.

BB. Institutional Facility. Means any hospital, boarding home, school or like facility.

CC. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts employing adequate design parameters necessary for maximum combustion of the material to be burned.

DD. No-Burn Day. Means any day on which agricultural burning is prohibited by the A.R.B.

EE. Open Out-Door Fire. As used in this regulation means: Combustion of any combustible material of any type, outdoors in the open air, where the product of combustion is not directed through a flue.

FF. Operation. Any physical action resulting in a change in the location, form or physical properties of a material, or any chemical action resulting in a change in the chemical composition or the chemical properties of a material.



GG. Orchard or Citrus Heaters. Any article, machine, equipment, or other contrivance, burning any type of fuel or material capable of emitting air contaminants, used or capable of being used for the purpose of giving protection from frost damage.

HH. Owner or Operator. Means any person who-owns, leases, operates, controls or supervises an affected facility, or a stationary source of which an affected facility is a part.

II. Particulate Matter. Is any material except uncombined water which can exist in a finely divided form as a liquid or solid at standard conditions.

JJ. Permissive Burn Day. Means any day on which agricultural burning is not prohibited by the A.R.B.

LL. Ppm. Parts per million by Volume expressed on a dried gas basis.

MM. Process Weight Per Hour. The total weight, including contained moisture, of all materials introduced into any specific process, which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. (The Process Weight Per Hour will be derived by dividing the total Process Weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.)

NN. Public Record. Means any record made available to the public by law containing information relating to the conduct of the public's business that is prepared, owned, used or retained by the District, except "trade secrets" as defined in RULE 409 c, Regulation IV.

PP. Record. Means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, drums, and other documents.

RR. Source Operation. The last operation preceding the emission of an air contaminant, which operation (a) results in the separation of the air contaminants from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel; and (b) is not an air pollution abatement operation.

UU. Solid Waste Dump. Means any accumulation for the purpose of disposal of any solid waste.

VV. Standard Conditions. As used in these regulations, "Standard Condition" 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 calculated and reported at this gas temperature and pressure.

WW. Standard Cubic Foot of Gas. The amount of gas that would occupy a volume of one (1) cubic foot, if free of water vapor, at standard conditions.

XX. Tahoe Basin. Means that area within the State of California, as defined by the California Nevada Interstate Compact, Article 11, Paragraph C, as contained in Section 5976 of the State Water Code.

22. Total Reduced Sulfur (TRS). Total reduced sulfur contained in hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide or other organic sulfide compounds, all expressed as hydrogen sulfide. Sulfur dioxide, sulfur trioxide, or sulfuric acid are not to be included in the determination of TRS.

# MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

## REGULATION

### II

## PROHIBITIONS

**Rule 201 District-Wide Coverage.** Prohibitions, as set forth in this Regulation, shall apply in all portions of the Mariposa County Air Pollution Control District unless otherwise stated.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

**Rule 202 Visible Emissions.** 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 (3) minutes in any one (1) hour which is:

- A. As dark or darker in shade as that designated as No. 1 on the Ringlemann 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 section.

RULE 203 Exceptions. The provisions of RULE 202 do not apply to:

- A. Smoke from fires set or permitted by any public fire officer if such fire is set by or permission given in the performance of the official duty of such officer, and such fire in the opinion of such officer is necessary:
  - 1. for the purpose of the prevention of a fire hazard, (or health hazard as determined by the Health Officer), which cannot be abated by any other means, or
  - 2. the instruction of public employees and/or volunteer firemen in the methods of fighting fires..
- B. Smoke from fires set pursuant to permit on property used for industrial purposes for the purpose of instruction of employees in methods of fighting fires.
- C. Open outdoor fires used for recreational purposes or for cooking of food for human consumption.
- d) The use of an experimental device, system or method to study or research open burning authorized by Chapter 10 of Division 26 of the California Health & Safety Code and these Rules & Regulations.
- E. Agricultural operations necessary for the growing of crops, or raising of fowl or animals.
- F. Use of any aircraft to distribute seed, fertilizer, insecticides, or other agriculture aids over lands devoted to the growing of crops, or the raising of fowl or animals.

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#### RULE 4.3 EXCEPTIONS

f. The use of other equipment in agricultural operations in the growing of crops, or the raising of fowls or animals.

H. Orchard or citrus grove heaters that are on the approved list published by the State Air Resources Board.

I. The governing board of the district may by rule provide for the issuance by the Air Pollution Control Officer of permits for open burning. The provisions of RULE 202 do not apply to smoke from fires set pursuant to such permit.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

**Rule 204 Wet Plumes.** Where the presence of uncombined water is the only reason for the failure of an emission to meet the limitation of Rule 202 that Rule shall not apply. The burden of proof which establishes the application of this Rule shall be upon the person seeking to come within its provisions.

1-10-75

RULE 205 Nuisance. A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause to have a natural tendency to cause injury or damage to business or property.

Exception: The provisions of RULE 205 do not apply to odors emanating from agriculture operations in the growing of crops or raising of fowl or animals.



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**RULE 4.5 Additional Exception.** The provisions of Rule 4.4 do not apply to odors emanating from agricultural operations in the growing of crops or raising of fowls or animals.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

**Rule 206 Incinerator Burning.** Except for the burning of residential rubbish, as defined~ in Rule 102, a person shall not burn any combustible or flammable waste in any incinerator within the boundaries of the Mariposa County Air Pollution Control District except in a multiple-chamber incinerator as defined in Rule 102 or in equipment found by the Air Pollution Control Officer to be equally effective for the purpose of air pollution control.

**Pathological Incineration.** A person shall not burn any pathological waste in any incinerator within the boundaries of the Mariposa County Air Pollution Control District unless all gases, vapors, and gas-entrained effluents from such an incinerator are:

- A. Incinerated at temperatures of not less than 1,500 degrees Fahrenheit for a period of not less than 0.5 seconds in an incinerator distributing direct flame to pathological waste on a solid grate, or
- B. 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.

For the purpose of this Rule, "Pathological Waste" is defined as including, but not limited to, human or animal tissue, or natural constituents thereof, being combusted for reasons of waste reduction, disease control or burial preparation.

6.6.11

**RULE 207** Particulate Matter. A person shall not release or discharge into the atmosphere from any source or single processing unit whatsoever dust, condensed fumes, or particulate matter emissions in excess of 0.1 grains per cubic foot of gas at standard conditions, except for incinerators and Wood Fired Boilers which shall meet 0.2 grains per cubic foot of gas at standard conditions. Combustion contaminants shall be calculated at 12 percent of carbon dioxide (CO<sub>2</sub>) at standard conditions. "Wood Fired Boiler" is defined as any boiler used for steam generation from which the products of combustion are directed through a flue or chimney and which derives at least 80 percent of its fuel input heat content from wood, or wood associated waste.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

### **Rule 208 Orchard or Citrus Heaters.**

- A. No person shall use any orchard or citrus heater unless  
  
it has been approved by the A.R.B. or does not produce more than one (1) gram per minute of unconsumed solid carbonaceous material.
- B. All orchard heaters shall be maintained in reasonably clean condition, good repair and working order. Whenever orchard heaters are burning they must be adequately attended and supervised to maintain the condition, adjustment, and proper operation of the orchard heaters.
- C. It shall be unlawful for any person, for the purpose of frost protection, to burn any rubber, rubber tires, or other substance containing rubber, or to burn oil or other combustible substances in drums, pails, or other containers except orchard heaters.

1-10-75

RUE 210

Sulfur Emissions. A person shall not discharge into the atmosphere from any single source of emission whatsoever, any one or more of the contaminants, in any sulfur combination thereof, exceeding in concentration at the point of discharge:

- a) Sulfur compounds calculated as sulfur dioxide ( $\text{SO}_2$ ) 0.2 percent, by volume.
- b) Total reduced sulfur: Pending further investigation into a rule which will be applicable to the Mountain Counties Air Basin.

1.10.75

RULE 211

Process Weight Per Hour. A person shall not discharge into the atmosphere from any source operation particulate matter in excess of that allowed on the table in RULE 212.

MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

Rule 212 Process Weight Table.

ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE

Process Weight	Emission Rate	Emission Rate
Lbs/Hr.		Lbs/Hr.
50	.....	.4
100	.....	.6
500	.....	1.5
1,000	.....	2.3
5,000	.....	6.3
10,000	.....	9.7
20,000	.....	15.0
60,000	.....	29.6
80,000	.....	31.2
120,00	.....	33.3
160,000	.....	34.9
200,000	.....	36.2
400,000	.....	40.4
1,000,000	.....	46.8

Interpolation of the data for the process weight rates up to 60,000 lbs/hr. shall be accomplished by the use of equation:

$$E=3.59 \text{ p}0.62 \text{ P is less than or equal to 30 tons/hr.}$$

and interpolation or extrapolation of the data for process weight rates in excess of 60,000 lbs/hr. shall be accomplished by use of the equation:

$$E=17.31 \text{ p}0.16 \text{ P is greater than 30 tons/hr.}$$

Where:  
E=Emission in pounds per hour.  
P=Process weight rate in tons per hour.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

**Rule 214 Reduction of Animal Matter.** 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:

- A. Incinerated at temperatures of not less than 1,200 degrees Fahrenheit for a period of not less than 0.3 seconds, or
- B. 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.

A person incinerating or processing gases, vapors, or gas-entrained effluents 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 indicating temperature, pressure, or other operating conditions

For the purpose of this Rule "reduction" is defined as any heated process, including rendering, cooking, drying, dehydration, digesting, evaporating and protein concentrating.

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.



MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

**Rule 215 Abrasive Blasting.** By reference Title 17,Subchapter 6, of the California Administrative Code shall apply.

REGULATION  
III  
OPEN BURNING

[All references in this rule are to Health and Safety Code Sections 39000 thru 41864 and/or Sections 80100 thru 80310 of Title 17, Subchapter 2, Agricultural Burning Guidelines, California Code of Regulations (CCR). (Prior to January 1, 1988, the CCR was known as the California Administrative Code.)]

2-7-89

RULE 300 - General Definitions

- A. Agricultural Operation. The growing and harvesting of crops, or the burning of grass and weeds in or adjacent to fields in cultivation or being prepared for cultivation (CCR, Title 17, Sec. 80100 (F) (2) (A), or the raising of fowl or animals for the primary purpose of making a profit, or providing a livelihood, or the conduct of agricultural research or instruction by an educational institution. Agricultural operations do not include forest management, range improvement, improvement of land for wildlife and game habitat, or disease or pest prevention or wildland vegetation management.
- B. Agricultural Waste
1. Unwanted or unsellable material produced wholly from agricultural operations.
  2. Materials not produced wholly from agricultural operations, but which are intimately related to the growing or harvesting of crops and which are used in the fields, such as fertilizer and pesticide sacks or containers where the sacks or containers are emptied in the fields, except as prohibited in this Regulation. This does not include such items as shop wastes, demolition materials, garbage, oil filters, tires, pallets, and the like.
- C. APCD. The Air Pollution Control District of Mariposa County.
- D. APCO. The Air Pollution Control Officer of the Air Pollution Control District of Mariposa County, or designated representative.

- E. Approved Ignition Devices. Those instruments or materials that will ignite open fires without the production of black smoke, including such items as liquid petroleum gas (L.P.G.), butane, propane, or diesel oil burners, flares, or other similar material as approved by the APCO. Tires, tar, tar paper, oil and other similar materials are not approved.
- F. ARB. The California State Air Resources Board, or any person authorized to act on its behalf.
- G. Designated Agency. Any agency designated by the ARB as having authority to issue agricultural burning permits. The U.S. Forest Service and the California Department of Forestry are so designated within their respective areas of jurisdiction.
- H. Forest Management Burning. The use of open fires to remove forest debris or for practices which include timber operations, silvicultural practices, or forest protection practices.
- I. Person. Any person, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, operator, user or owner, any government agency or public district or any officer or employee thereof.
- J. Range Improvement Burning. 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.
- K. Residential Rubbish. Rubbish originating from a single or two family dwelling on its premises, limited to the following material: wood, paper, cloth, cardboard, tree trimmings, leaves, lawn clippings and dry plants.
- L. Section. As used in these Rules and Regulations, unless some other code is specifically mentioned, all section references are to the California Health and Safety Code.
- M. Silvicultural Practices. Means the establishment, development, care, and reproduction of stands of timber.
- N. Timber Operations. The cutting or removal of timber or other forest vegetation.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

### **RULE 301 - Compliance**

- A. **Enforcement.** These Rules and Regulations shall be enforced by the APCO under authority of Sections 40001, 40702, 40752, and all officers empowered by Section 40120.
- B. **Penalty.** A violation of the provisions of this Regulation, or of Section 41852 or 41800 is a misdemeanor punishable by imprisonment in the County Jail not exceeding nine (9) months or by fine not exceeding ten thousand dollars (\$10,000.00) or both, and the cost of putting out the fire. Every day during any portion of which such violation occurs constitutes a separate offense. (Section 42400, 42400.1, and 42400.5)

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

### Rule 302 Burning Permit

#### 302.1 Requirements

- A. No person shall knowingly set or permit open outdoor fires unless that person has been issued a valid permit by the APCO or a designated agency. (Section 41852)
- B. A permit shall not be issued unless information is provided as required by the APCO or a designated agency, including:
  - 1. Name and address of the applicant.
  - 2. Location of proposed burn.
  - 3. Acreage or estimated tonnage, and type of material to be burned
  - 4. Any other information the APCO or the designated agency may deem pertinent.
- C. Each permit issued shall bear a statement of warning containing the following words or words of like or similar import:

**"THIS PERMIT IS VALID ONLY ON THOSE DAYS DURING WHICH AGRICULTURAL BURNING IS NOT PROHIBITED BY THE STATE AIR RESOURCES BOARD OR THE AIR POLLUTION CONTROL DISTRICT, PURSUANT TO SECTION 41855 OF THE HEALTH AND SAFETY CODE." (Section 41854).**

- D. A permit shall not be valid unless information is provided as required by the designated fire protection agency for fire protection purposes.
- E. The designated agency shall forward the permit information received from applicants to the APCO upon request.

302.2 Exception The APCO may exempt Residential and Recreational Activities as defined.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

### **RULE 303 - No-Burn Day**

#### *303.1 Prohibition*

No Person shall knowingly permit open outdoor fires on days when such burning is prohibited by ARB, the APCO, or the fire agency with appropriate jurisdiction.

#### *303.2 Exception*

The APCO may issue a permit to authorize the use of open outdoor fires on No-Burn Days, when denial of such a permit would threaten imminent and substantial economic loss.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

### **RULE 304 - Burning Management**

#### *304.1 Requirements*

- A. Material to be burned shall be arranged so that it will burn with a minimum of smoke.
- B. Except for large trees (diameter of six or more inches), only the amount that can reasonably be expected to completely burn within the following twenty-four hours shall be ignited in any one day.
- C. All outdoor fires shall be ignited only with approved ignition devices.
- D. Material to be burned shall be ignited as rapidly as practicable within applicable fire control restrictions.
- E. Burning shall be curtailed when smoke is drifting into a nearby populated area or creating a public nuisance.
- F. No material shall be burned unless it is free of tires, rubbish, tar paper, and construction debris is reasonably free of dirt, soil, and moisture; and is loosely stacked in such a manner to promote drying and insure combustion with a minimum of smoke.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

### **RULE 305 - Minimum Drying Times:**

305.1 **Requirements** To lower the moisture content of the material being burned, the elapsed time between cutting and burning shall be:

- A. A minimum of three days for green straw and stubble.
- B. Sufficient time for agricultural waste such as orchard prunings, small branches, vegetable tops, and seed screenings to assure rapid and complete combustion with a minimum of smoke.
- C. A minimum of six weeks for trees stumps, and large branches greater than six inches in diameter.
- D. Under Forest Management Burning the drying time shall be specified by the designated agency.
- E. Under Range Improvement Burning the brush shall be felled, crushed or uprooted with mechanical equipment, or desiccated with herbicides, or dead at least six months prior to the burn if economically and technically feasible

305.2 Exception The APCD may, by permit, authorize shorter drying times if the denial of such a permit would threaten imminent and substantial economic loss.



## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

### **RULE 306 - Agricultural Burning**

- A. Agricultural Burning is defined in this rule as any open outdoor fire used in agricultural operations necessary for the growing of crops or raising of fowl or animals, or in Forest Management Burning, Range Improvement Burning, Wildland Vegetation Management Burning, or the improvement of land for wildlife and game habitat, or disease or pest prevention. (Section 39011)
- B. Agricultural Burning is also defined in this rule as any open outdoor fire used in the operation or maintenance of a system for the delivery of water for purposes specified in Subdivision A of this rule
- C. Permissive-Burn or No Burn Days.
  - 1. A notice as to whether the following day is a permissive-burn day, or no-burn day, or whether the decision will be announced the following day, shall be provided by the ARB Board by 3:00 p.m. daily for each of the air basins. If the decision is made the following day it shall be announced by 7:45 a.m. Such notices shall be based on the Meteorological Criteria for Regulating Agricultural Burning, Article 3, Section 80290 of the Agricultural Burning Guidelines.
  - 2. Agricultural burning is prohibited on no-burn days, except as specified in Section 80102, Section 80120, subdivisions (d) and (e), and as may be permitted by a provision in an implementation plan adopted pursuant to Section 89150 (c) (5).
  - 3. Upon request from a permittee through a designated agency, seven days in advance of a specific range improvement burn, forest management burn, or wildland vegetation management burn, at any elevation below 6,000 ft. (msl), a permissive-burn or no-burn notice will be issued by the State Board up to 48 hours prior to the date scheduled for the burn. Without further request, a daily notice will continue to be issued until a permissive-burn notice is issued.
  - 4. Notwithstanding subdivision (c) of Section 80110, the ARB may cancel permissive-burn notices that have been issued more than 24 hours in advance if the cancellation is necessary to maintain suitable air quality.
  - 5. A permissive-burn or no-burn advisory outlook will be available up to 72 hours in advance of burns specified in Subdivision (c) of Section 80110.

#### 306.1 Agricultural Burning Requirement

- A. Agricultural burning is allowed by complying with the following Rules:
  - 1. 302 Burning Permit Requirement
  - 2. 303 Burn Days
  - 3. 304 Burning Management
  - 4. 305 Minimum Drying Time
- B. Burning conducted by a Public Agency or through a cooperative agreement or contract involving a Public Agency, shall comply with Rule 307, instead of this Rule.
- C. No burning shall be conducted for the improvement of land for wildlife or game wildlife or game habitat until the person who desires to conduct the burning files with the APCO a written statement from the Department of Fish and Game that certifies that the burning is desirable and proper. If the Department of Fish and Game wishes to conduct the burn itself, it shall, on its own behalf, issue and file the statement. (Section 41861).
- D. Agricultural waste material shall be windrowed or piled where possible, unless good silviculture practice dictates otherwise.

#### 306.2 Exemptions

- A. The burning of empty sacks or containers which contain pesticides or other toxic substances is exempt from 306.1, provided that the sacks or containers are within the definition of Agricultural Waste - Rule 300(B).
- B. Open burning of agricultural waste above 3,000 feet and agricultural burning above 6,000 feet shall be exempt from Sections A through C of this Rule.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

### **RULE 307 - Wildland Vegetation Management Burning**

#### **A. Wildland Vegetation Management Burning**

Wildland Vegetation Management Burning is defined in this rule as the use of prescribed burning conducted by a public agency or through a cooperative agreement or contract involving a public agency to burn land predominately covered with chaparral (as defined in the California Administrative Code, Title 14, Section 1561.1), trees, grass or standing brush.

#### **B. Prescribed Burning**

Prescribed Burning is defined in this rule as the planned application of fire to vegetation on land 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 Section 39011

### **307.1 Wildland Vegetation Management Burning Requirements**

- A. This rule applies to all burning which meets the definition as stated in Rule 307, regardless of whether such burning also meets another definition within this regulation.
- B. All open outdoor fires-shall be ignited only with approved ignition devices as defined in Rule 300.E.
- C. The APCO shall regulate total acreage or tonnage that may be burned each day within the district.
- D. The APCO will regulate burning 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.
- E. Vegetation burned under this rule shall be free of tires, rubbish, tar paper or construction debris, and reasonably free of dirt and soil
- F. Vegetation will be in a condition to facilitate combustion and minimize the amount of smoke emitted during combustion.

### **307.2 Burn Plan**

The following information will be provided to the APCO for review and approval at least 10 days in advance of the proposed burn:

- A. Location and specific objectives of the proposed burn.
- B. Acreage or tonnage, type, and arrangement of vegetation to be burned.
- C. Directions and distance to nearby sensitive receptor areas.
- D. Fuel condition, combustion, and meteorological prescription elements developed for the project.
- E. Projected schedule and duration of project ignition, combustion and burn down.
- F. Specifications for monitoring and verifying critical project parameters.
- G. Specification for disseminating project information.

### 307.3 Exemptions

- A. The APC0 may exempt project burns smaller in area or tonnage than threshold levels established by the District.
- B. The APC0 may exempt projects located in zones as established by the District
- C. To receive a permissive-burn or no-burn notice, a permittee must submit a request for notice to the ARB at least seven days before the date of the burn. Such a notice will be issued up to 48 hours before the scheduled commencement of the burn project; however the ARB may cancel permissive-burn notices that have been issued more than 24 hours before project commencement if such cancellation is necessary) to maintain suitable air quality.

## MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT

### **RULE 308 - Nonagricultural Burning**

#### 308.1 Prohibition

Except as otherwise provided in this Regulation, no person shall use open outdoor fires for the purpose of disposal or burning of petroleum wastes, demolition debris, tires, tar, trees, wood waste, or other combustible or flammable solid or liquid waste; or for metal salvage or burning of motor vehicle bodies. section 41800)

#### 308.2 Exemptions

##### A. Land Development Clearing

The APCD finds it more economically desirable to dispose of wood waste from trees, vines, and bushes on property being developed for commercial or residential purposes by burning instead of burying at a sanitary landfill. This material shall be allowed for disposal by burning in compliance with the following Rules:

1. Rule 302 Burning Permit Requirements
2. Rule 303 Burn Days
3. Rule 304 Burning Management
4. Rule 305 Minimum Drying Time

##### B. Ditch and Road Maintenance

The use of open outdoor fires for right-of-way clearing by a public entity, or utility, or for levee, ditch, or reservoir maintenance shall be allowed in compliance with the following Rules:

1. Rule 302 Burning Permit Requirements
2. Rule 303 Burn Days
3. Rule 304 Burning Management
4. Rule 305 Minimum Drying Time

##### C. Hazard Reduction

1. The burning of vegetation such as vines, bushes and waste from trees produced by fire safe clearing will be allowed when this burning is done in compliance with State and Local law or ordinance to reduce a fire hazard.
2. The burning shall be done in compliance with the following rules:
  - a. Rule 302 Burning Permit Requirements
  - b. Rule 303 Burn Days
  - c. Rule 304 Burning Management
  - d. Rule 305 Minimum Drying Time
3. If a fire officer with jurisdiction determines that a condition exists in which a fire hazard will have an imminent effect on life, or property, or where other authorized officials determine that a health hazard exists and that there is no alternative to burning, all other provision of this Regulation shall be waived.

##### D. Fire Suppression and Training

Nothing in these Rules and Regulations shall be construed as limiting the authority of any public fire official granted under provisions of law to:

1. Set or permit a fire when such fire is, in his opinion, necessary for the instruction of public employees, and/or volunteer firemen, or on property used for industrial purposes, when instructing employees in the methods of fighting fires
2. Set or cause to be set backfires necessary to save life, or valuable property pursuant to Section 4426 of the Public Resource Code. (Section 41801)

##### E. Residential Maintenance

The burning of Residential Rubbish shall be allowed under the following condition:

- a. Burning shall be allowed only on the premises where the material originated.
- b. Burning shall be managed in compliance with Rules 304 and 305.

#### F. Recreational Activity

The use of open outdoor fires in recreational activities shall be allowed under the following conditions.

1. Material to be burned shall be limited to charcoal, untreated wood, or cooking fuels.
2. Burning shall be managed in compliance with Rule 305.
3. Only approved ignition devices will be used as stated in Rule 300.E.

#### G. Mechanized Burner Requirements

The APCO may authorize, by permit, open outdoor fires for the purpose of disposing of agricultural wastes, or wood waste from trees, vines, bushes, or other wood debris free of nonwood materials, in a mechanized burner such that no air contaminant is discharged for a period or periods aggregating more than 30 minutes in any eight hour period which is;

1. As dark or darker in shade as that designated No. 1 on the Ringlemann Chart, as published by the United States Bureau of Mines or
2. 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 these rules.

In authorizing the operation of a mechanized burner, the APCO may make the permit subject to whatever conditions he determines are reasonably necessary to assure conformance with the standards prescribed in this recalculation. section 41812)

1-10-75

REGULATION IV  
PERMIT SYSTEMS CONDITIONS

All permits issued pursuant to these Rules and Regulations are subject to the following rules:

RULE 401      Responsibility

The fact that an authorization to construct or modify, or a permit to operate an article, machine, equipment or other contrivance described therein shall have been issued by the Air Pollution Control Officer shall not be an endorsement of such article, machine, or other contrivance neither shall it be deemed or construed to be a warranty, guarantee or representation on the part of the Air Pollution Control Officer that emission standards would not be exceeded by such article, machine, equipment or other contrivance. In every instance the person, firm or corporation to whom such authorization or permit is issued shall be and remain responsible under these regulations for each and every instance wherein emission standards are exceeded by the article, machine, equipment or other contrivance described in the permit, and the fact of issuance or authorization shall not be a defense to or mitigation of any charge of violation.

1-10-75

RULE 403    Responsibility of Permittee .

Issuance of a permit pursuant to these Rules and Regulations does not release permittee of the responsibility of any and all other applicable permits and authorizations issued by other governmental agencies.



1-10-75

RULE 405

Separation of Emissions. If air contaminants from a single source operation are emitted through two or more emission points, the total emitted quantity of air contaminants cannot exceed the quantity which would be allowable through a single emission point.

The total emitted quantity of any such air contaminant shall be taken as the product of the highest concentration measured in any of the emission points and the combined exhaust gas volume through all emission points, unless the person responsible for the Source Operation establishes, to the Air Pollution Control Officer's satisfaction, the correct total emitted quantity.

1-10-75

RULE 406

Combination of Emissions

- a. If air contaminants from two or more source operations are combined prior to emission and there are adequate and reliable means reasonably susceptible for confirmation and use by the Air Pollution Control District in establishing a separation of the components of the combined emission to indicate the nature, extent, quantity and degree of emission arising from each such source operation, the Rules and Regulations shall apply to each such source operation separately.
- b. If air contaminants from two or more source operations are combined prior to emission and the combined emissions cannot be separated according to the requirements of Rule 406 (a), the Rules and Regulations shall be applied to the combined emission as if it originated in a single source operation subject to the most stringent limitations and requirements placed by the Rules and Regulations on any of the source operations whose air contaminants are so combined.

6.6-77

RULE 407 Circumvention. A person shall not build, erect, install, or use any article, machine, equipment or other contrivance, the use of which, without resulting in an actual reduction in the total release of air contaminants to the atmosphere, superficially reduces or conceals an emission which would otherwise constitute a violation of Division 26 of the Health and Safety Code of the State of California or of these Rules and Regulations. This Rule shall not apply to cases in which the only violations involved are of Section 41700, or of RULE 205 of these Rules and Regulations.

1-10-75

RULE 408

Source Recordkeeping and Reporting. The owner or operator of any stationary source, shall, upon notification from the District, maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the District to determine whether such source is in compliance with applicable emission limitations or other control measures. The Air Pollution Control Officer may require that such records be certified by a professional engineer registered in the State of California. Such studies shall be at the expense of the person causing the emissions.

The information recorded shall be summarized and reported to the District, on forms or formats as furnished by the District, and shall be submitted within 45 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 District issues notification of the recordkeeping requirements.

Information reported by the owner or operator and copies of the summarizing reports submitted to the District shall be retained by the owner or operator for two years after the date on which the pertinent report is submitted.

RULE 409Public Records

- a. All information, analysis, plans or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce which the District requires any applicant to provide before such applicant builds, erects, alters, replaces, operates, sells, rents, or uses such article, machine, equipment, or other contrivance, are public records.
- b. All air or other pollution monitoring data, including data compiled from stationary sources, are public records.
- c. Except as otherwise provided in (d), trade secrets are not public records under this Regulation. Trade secrets, as used in this Regulation may include, but are not limited to any formula, plan, pattern, process, tool, mechanism, compounds, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it. The owner or operator shall state in writing his justification for claiming material is a trade secret. The Air Pollution Control Officer shall rule on the validity of trade secrecy claims.
- d. Notwithstanding any other provisions of the law, all air pollution emission data, including those emission data which constitute trade secrets as defined in (c), are public records. Data used to calculate emission data are not emission data for purposes of this subdivision and data which constitute trade secrets and which are used to calculate emission data are not public records.

6-6-77

**RULE 507** Provision of Sampling and Testing Facilities. The Air Pollution Control Officer may, upon reasonable written notice, require the owner or operator of any article, machine, equipment, or other contrivance, the use of which may cause the issuance of air contaminants, or the use of which may eliminate, reduce, or control the issuance of air contaminants, to:

- A. Provide to the Air Pollution Control Officer data on process and production rates and techniques, flow diagrams, descriptions of basic equipment and control equipment, rates of emissions and other information which the Air Pollution Control Officer may require.
- B. Provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the equipment in question. In the event of such a requirement, the Air Pollution Control Officer shall notify the applicant in writing of the required size, number and location of sampling holes, the size and location of the sampling platform, and the utilities shall be constructed in accordance with the general industry safety orders of the State of California.
- C.
  1. Provide and maintain sampling and monitoring apparatus to measure emissions of air contaminants when the Air Pollution Control Officer has determined that such apparatus is available and should be installed.
  2. A person installing, operating or using any of the following equipment shall provide, properly install, maintain in good working order, and in operation, continuous stack monitoring systems as described below:
    - a. Oxides of nitrogen ( $\text{NO}_x$ ) and carbon dioxide ( $\text{CO}_2$ ) or oxygen ( $\text{O}_2$ ) from steam generators with a heat input of 63 million kilogram calories (250 million British Thermal Units) or more per hour and with a use factor of at least 30 percent.
    - b.  $\text{NO}_x$  from all new nitric acid plants.
    - c. Sulfur dioxide ( $\text{SO}_2$ ) from sulfuric acid plants, sulfur recovery plants, carbon monoxide (CO) boilers of regenerators of fluid catalytic cracking units, new fluid cokers and existing fluid cokers with a feed rate greater than 1,590,000 liters (10,000 barrels) per day.

**REGULATION XI – NSR REQUIREMENTS FOR NEW AND MODIFIED MAJOR  
SOURCES IN THE MARIPOSA COUNTY AIR POLLUTION CONTROL DISTRICT**  
*(ADOPTED ON MARCH 12, 2019)*

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## **1 APPLICABILITY PROCEDURES**

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### **1.1 PRECONSTRUCTION REVIEW REQUIREMENTS**

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

### **1.2 AUTHORITY TO CONSTRUCT REQUIREMENT**

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

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

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

The definition of Major Stationary Source as incorporated by reference in Section 2 shall be used to determine if a new or modified stationary source is a new major stationary source.

#### **1.3.2 Major Modifications**

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

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

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

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

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

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

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

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

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

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

## **1.6 SECONDARY EMISSIONS**

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

## **1.7 STATIONARY SOURCES**

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

## **1.8 ENVIRONMENTAL PROTECTION AGENCY DETERMINATION**

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

## 2 DEFINITIONS

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

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

- (b) The following definitions shall also apply:

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

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

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

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

*“District”* means the Air Pollution Control District of Mariposa County.

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

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

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

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

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

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

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

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

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

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

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

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

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

### **3 APPLICATION REQUIREMENTS**

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#### **3.1 APPLICATION SUBMITTAL**

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

#### **3.2 APPLICATION CONTENT**

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

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

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

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

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

### **3.4 STATEWIDE COMPLIANCE**

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

### **3.5 ANALYSIS OF ALTERNATIVES**

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

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

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



### **3.7 APPLICATION FEES**

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

## **4 EMISSIONS OFFSETS**

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### **4.1 OFFSET REQUIREMENTS**

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

### **4.2 TIMING**

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

### **4.3 QUANTITY**

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

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

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

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

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

#### **4.4 EMISSION REDUCTION REQUIREMENTS**

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

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

#### **4.5 RESTRICTIONS ON TRADING POLLUTANTS**

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

### **5 ADMINISTRATIVE REQUIREMENTS**

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#### **5.1 VISIBILITY**

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

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

The APCO may require the use of an air quality model to estimate the effects of a new or modified stationary source. The analysis shall estimate the effects of the new or modified stationary source, and verify that the new or modified stationary source will not prevent or interfere with the attainment or maintenance of any ambient air quality standard. In

making this determination, the APCO shall take into account the mitigation of emissions through offsets pursuant to this rule, and the impacts of transported pollutants on downwind pollutant concentrations. The APCO may impose, based on an air quality analysis, offset ratios greater than the requirements of paragraph (d) of Section 4.3.

### **5.3 AIR QUALITY MODELS**

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

### **5.4 STACK HEIGHT PROCEDURES**

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

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

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

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### **6.1 PRELIMINARY DECISION**

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

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

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

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

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

## **6.3 AUTHORITY TO CONSTRUCT CONTENTS**

- (a) An Authority to Construct for a new major stationary source or major modification shall contain terms and conditions:

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

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

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

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

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

### **7 SOURCE OBLIGATIONS**

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#### **7.1 ENFORCEMENT**

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this rule, any changes to the

application as required by the APCO, or the terms of its Authority to Construct or Permit to Operate, shall be subject to enforcement action.

## **7.2 TERMINATION**

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

## **7.3 COMPLIANCE**

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

## **7.4 RELAXATION IN ENFORCEABLE LIMITATIONS**

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

# **8 PUBLIC PARTICIPATION**

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

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

- (c) Send a copy of the notice of public comment to the applicant, EPA Region 9, any persons requesting such notice and any other interested parties such as: any other state or local air pollution control agencies, the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency, and any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the source or modification.
- (d) Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the APCO's judgment such a hearing is warranted. The APCO shall give notice of any public hearing at least 30 days in advance of the hearing.

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

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The APCO shall issue a Plant-wide Applicability Limit (PAL) permit according to the provisions contained in 40 CFR 51.165(f)(1) through (14). The provisions of 40 CFR 51.165(f)(1) through (14), are hereby incorporated by reference.

## **10 INVALIDATION**

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

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

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All references and citations in this rule to Title 40 of the Code of Federal Regulations (CFR) refer to the referenced federal regulation as in effect on March 12, 2019.