California Environmental Protection Agency

Air Resources Board

STAFF REPORT: PUBLIC HEARING TO CONSIDER APPROVAL OF AMENDMENTS TO THE MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT'S NEW SOURCE REVIEW RULE (RULE 207)

Stationary Source Division
Project Assessment Branch

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State of California
AIR RESOURCES BOARD

STAFF REPORT: PUBLIC HEARING TO CONSIDER APPROVAL OF AMENDMENTS MADE TO THE MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT'S NEW SOURCE REVIEW RULE

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State of California
AIR RESOURCES BOARD

I. INTRODUCTION

State law places substantial restrictions on changes that California air pollution control districts (APCD) and air quality management districts (AQMD) (district) can make to their local New Source Review (NSR) rules (Protect California Air Act of 2003 (Act); SB288; Stats 2003 ch 476 § 1; Health and Safety Code sections 42500 through 42507). Within certain narrow limits, however, a district can make rule changes that may weaken its NSR program provided that such changes meet the criteria specified in the Act and that such changes are approved under a public process by both the district and the Air Resources Board (ARB or Board).

The Monterey Bay Unified Air Pollution Control District (District) adopted changes to its New Source Review rule (Rule 207) on June 21, 2006. Following the procedure required by SB 288 and set forth in section 42504(d) of the Health and Safety Code, the District has requested that the ARB approve those changes at a public hearing so that they may take effect.

This document presents information regarding the nature of the district rule changes, an assessment of whether the evidence provided by the District demonstrates that the changes meet the necessary criteria, and makes a staff recommendation to the ARB Hearing Officer. This document also provides background information regarding New Source Review, the changes to federal New Source Review requirements that prompted Senate Bill 288, and the key provisions and procedures of Senate Bill 288. Generally, the law is an "anti-backsliding" measure that prohibits a district from amending its NSR rule to be less stringent than it was on December 30, 2002.

II. BACKGROUND

A. NEW SOURCE REVIEW BASICS

New Source Review is an important preconstruction permitting program designed to ensure that emissions from new and expanding facilities are minimized and mitigated. This allows industrial growth to continue in areas that already experience unhealthful air quality, called "nonattainment areas". It also minimizes the adverse impacts on the air quality of areas that are still relatively clean, called "attainment areas."

There are two main elements of NSR for areas that do not attain State or federal ambient air quality standards. Most of California's population resides in such areas. The first element is the requirement for new and expanding facilities above a certain size to install stringent, modern, emission controls, called Best Available Control Technology (BACT). In California, BACT represents the most effective air pollution control technology achieved in practice, and is generally equivalent to the Lowest Achievable Emission Rate (LAER) technology specified in federal requirements. The second main element of New Source Review is the requirement for new and expanding facilities to mitigate emissions that remain after BACT is applied. This mitigation is typically accomplished by supplying "offsets", also called "emission reduction credits." Offsets are generated from emission reductions that occur at the same source or at other nearby sources. Such reductions are in excess of those that are legally required or assumed to occur in the State Implementation Plan (SIP), district rules and regulations and any other applicable requirements; i.e. they are "surplus" emission reductions.

New Source Review requirements for new and expanding stationary sources are mandated by both the State and federal Clean Air Acts and are implemented at the local level by each of the 35 districts in California. Local districts have the responsibility for controlling the emissions from stationary sources of air pollution under their jurisdiction. Each district has its own NSR rules that incorporate State and federal requirements, and are also tailored to meet local needs.

B. FEDERAL CHANGES TO NSR

On December 31, 2002, the United States Environmental Protection Agency (U.S. EPA) published a final rule that significantly changed federal NSR requirements. These changes substantially weaken federal NSR for modifications at existing facilities by creating loopholes to allow more facilities to avoid federal NSR requirements.

Because the final rule was viewed as a weakening of the federal Clean Air Act, the California Air Resources Board (ARB), the California Attorney General, and several California districts joined a number of other states and public interest groups to file a legal challenge to that rule. As a result of that challenge, the D.C. Circuit Court of Appeals upheld much of U.S. EPA's NSR changes, although the court vacated two elements and remanded another element to U.S. EPA for revision or further explanation. Under the upheld portions of the December 31, 2002 rule, states (and in California's case, the districts) must make conforming changes to their NSR rules and submit them for U.S. EPA approval into the SIP by January 2, 2006. The EPA promulgated a second set of rules pertaining to "routine maintenance, repair and replacement" at existing facilities that further weakened NSR at the federal level. However, California and others won the ensuing litigation and these changes have not been implemented.

C. SENATE BILL 288

1. Purpose

State lawmakers were concerned that implementing the federal changes to NSR would undermine California's longstanding and effective NSR programs and degrade air quality and in 2003 enacted SB 288. That law, (the "Protect California Air Act of 2003), generally prohibits districts from making their NSR rules less stringent than such rules which existed on December 30, 2002, the day before the first set of federal NSR changes were published in the Federal Register. The statute also imposes more specific restrictions on changes to NSR rules that would reduce the obligation of individual stationary sources of air pollution. The full text of Senate Bill 288 is included as Appendix A.

2. Air Resources Board Oversight

The ARB has an important oversight role in the implementation of SB 288. First, SB 288 requires the ARB to review amendments to district NSR rules to ensure they are equivalent to or more stringent than those that existed on December 30, 2002, and to promptly adopt rules necessary to establish equivalency if they are not. Second, in the case where SB 288 permits the districts to weaken their NSR rules, ARB approval is required as part of the amendment procedure.

The ARB staff distributed several guidance documents regarding implementation of SB 288. One document, included as Appendix B, contains the general criteria that ARB staff will use to review district rule changes for consistency with SB 288. Another document, presented as Appendix C and diagrammed in Appendix D, outlines the steps that ARB will take in processing district rule amendments that are 1) called into question either by a petition or ARB staff regarding whether they are permitted under SB 288, or 2) adopted as acknowledged rule relaxations under the specific narrowly circumscribed allowances listed in that statute. The highlights of the provisions and implementation of SB 288 are summarized below.

3. SB 288 Provisions and Implementation

a) General Prohibition of NSR Rule Relaxations

Essentially an "anti-backsliding" statute, SB 288 states that no district "may amend or revise its NSR rules or regulations to be less stringent than those that existed on December 30, 2002" (HSC § 42504(a)). ARB staff interpret this as prohibiting a district from making rule changes that would relax the stringency of its NSR program as a whole. ARB staff further interprets this as allowing changes to some elements of district NSR rules as long as 1) compensating changes are made to other elements such that there is no relaxation in the stringency of a district's NSR program as a whole; and 2) the obligations of individual stationary sources with regard to certain specifically listed

elements (see below) are not relaxed. Districts may change their NSR rules if the changes make the rules more stringent.

b) Specific Prohibitions

SB 288, in Health and Safety Code section 42504(b), specifically prohibits changes to specified elements of a district's NSR rule if these changes would "exempt, relax, or reduce the obligations of a source" with regard to six listed requirements. The elements that cannot be changed are:

1. The applicability determination for new source review;
2. The definition of modification, major modification, routine replacement, or repair or replacement;
3. The calculation methodology, thresholds or other procedures of new source review; and
4. Any definitions or requirements of the new source review regulations.

The specific source obligations are:

1. Any requirement to get a permit prior to construction;
2. Any requirement to apply best available control technology (BACT or Lowest Achievable Emission Rate, LAER, as appropriate);
3. Any requirement to perform an air quality impact analysis;
4. Any requirement for monitoring, recordkeeping, and reporting if it would be less representative, enforceable, or publicly accessible;
5. Any requirement for regulating any air pollutant covered by the NSR rules; and
6. Any requirement for public participation prior to permit issuance.

c) Circumstances Under Which Rule Relaxations Are Allowed

Notwithstanding the prohibitions discussed above, SB 288 does allow districts to reduce the stringency of their NSR rules under certain narrow circumstances if specified criteria are met [Health and Safety Code section 42504(d)]. First, the rule change must meet one of the following conditions:

1. It replaces a rule that allowed risk from exposure to a toxic material with a more protective rule; or
2. It replaces a technologically unworkable rule with one that is effective; or
3. It replaces a rule that caused a substantial hardship to business with an amended rule that is narrowly tailored to relieve the hardship, and it requires the district to provide suitable offsets for any resulting increases in emissions; or
4. It is temporary and necessary to respond to an unexpected emergency; or
5. It is adopted in a district that attains all national ambient air quality standards, <u>and</u> it will not impede continued maintenance of those standards or impede progress towards attaining State ambient air quality standards.

Second, the rule change must not exempt, relax, or reduce the obligation of a major source to obtain a permit or apply BACT/LAER emission controls. Third, the process of

revising the district rule and the substance of the revision must be consistent with Division 26 of the Health and Safety Code, which addresses air pollution control in California. Finally, the rule change must be consistent with ARB guidance regarding environmental justice.

Such rule relaxations must be approved by a district's governing board at a public hearing and must be supported by substantial evidence in the record. The district must submit the changes to ARB for approval at a public hearing; the changes are not effective until approved by ARB.

d) ARB Processing of District Rule Changes Under Section 42504(d) of SB 288

The procedure for processing district NSR rule changes under SB 288 follows one of two basic routes. One of these routes, diagrammed in Figure One, applies when a district has amended its NSR rule at a public hearing where its governing board determines, based on substantial evidence in the record, that each of the conditions listed in SB 288 for allowing rule relaxations has been met. The ARB staff has determined that this route is the appropriate one for processing the changes to this rule. Monterey Bay Unified Air Pollution Control District has followed this procedure and submitted their NSR rule to ARB for approval.

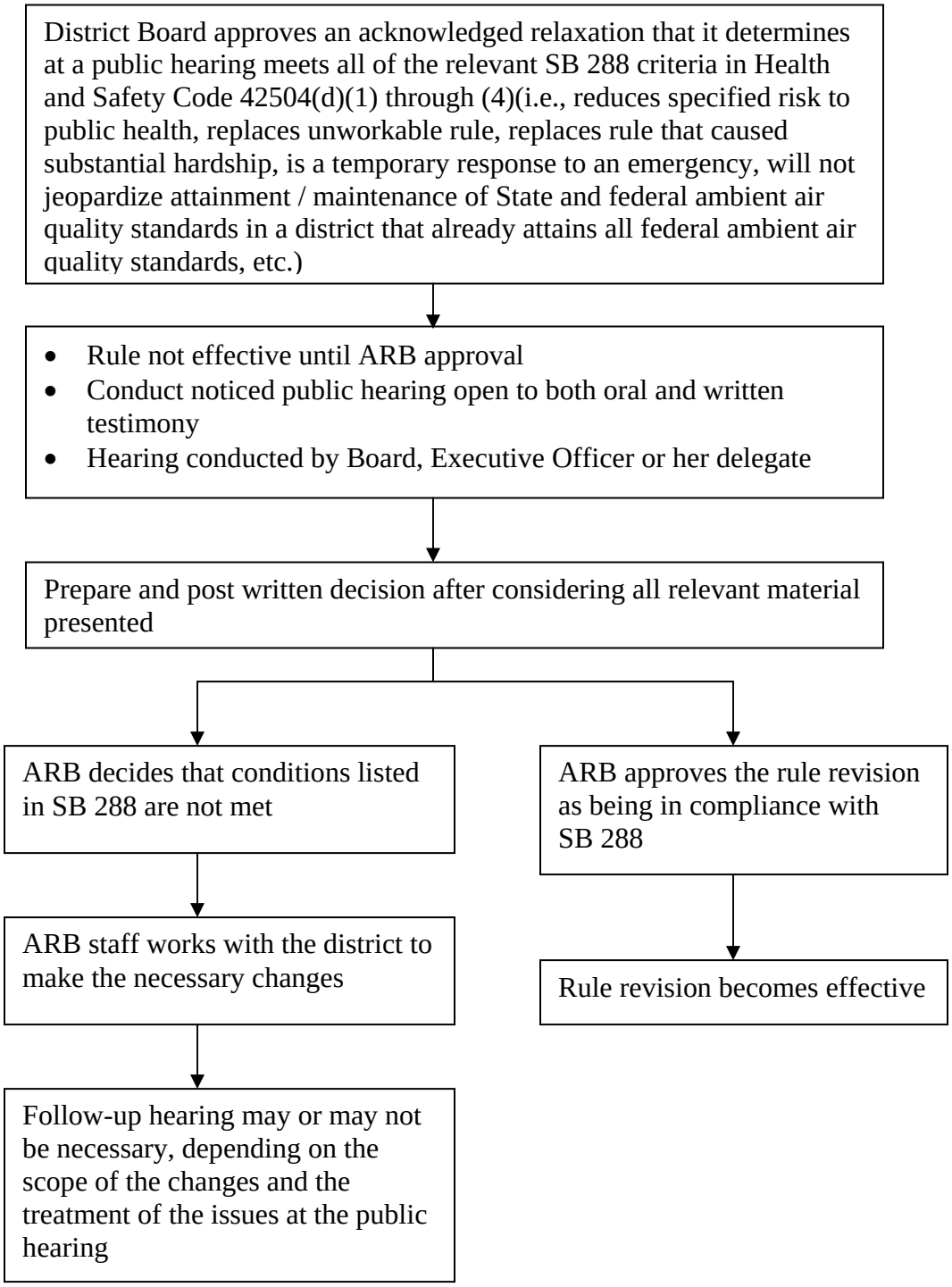
The other route, which does not apply to Monterey Bay Unified Air Pollution Control District and thus will not be covered further in this report (but is included in Appendix C), is taken when a district board approves an NSR rule revision that is <u>not</u> acknowledged as an allowable rule relaxation and later is questioned by a member of the public or ARB staff during its routine review of district rules regarding whether it is permissible under SB 288.

Under the first processing route, once a district has requested ARB to ratify its decision, the ARB will conduct a public hearing as required by SB 288. Notice of the hearing will be provided to the public and the hearing will be conducted by the Board, the Executive Officer, or her delegate. The district, the public, and ARB staff will have the opportunity to present oral and/or written testimony at the hearing.

Following the hearing, the ARB representative who conducted the hearing (i.e. the Hearing Officer) will issue a written decision. If ARB approves the district NSR rule revision as being in compliance with the statutory conditions, the rule will become effective. If ARB determines that the conditions have not been met, ARB will work with the district to make the necessary changes. A follow-up hearing may or may not be necessary, depending upon the scope of the changes, the treatment of the issues at the public hearing, and whether the district decides to pursue the matter.

Figure One

Process for When a District Adopts an Allowed Rule Relaxation
[Health and Safety Code Section 42504(d)]



III. CHANGES TO THE MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT'S NSR RULE

A. CHANGES TO CONFORM TO FEDERAL REQUIREMENTS

On June 21, 2006, the Board of the Monterey Bay Unified Air Pollution Control District (District) approved a number of changes to the District's NSR rule. The District's staff report and rule changes are presented in Appendix E. One driving force behind those changes was the need to satisfy requirements to conform to the December 31, 2002 federal rule discussed previously. That federal rule requires districts to adopt conforming changes to their NSR rules and submit them to U.S. EPA by January 2, 2006. This requirement needs to be harmonized with SB 288, which bars districts from adopting any changes that would weaken their NSR rules relative to those that existed on December 30, 2002.

In order to strike a balance between those two disparate legal requirements, the District followed a general approach agreed upon by the California Air Pollution Control Officers Association (CAPCOA), ARB, and U.S. EPA. Under that approach, districts would adopt rule changes that adhere to U.S. EPA's rules as they apply to federal "major modifications," but would retain their current requirements for modifications no longer subject to federal NSR. The changes agreed upon, therefore, have very little effect on how the current district NSR rules are implemented. This approach ensures that stringent State NSR requirements would remain intact while federal sanctions against the districts for noncompliance with federal weakenings are avoided. Specifically, this approach involves making rule amendments that narrowly adopt the federal changes in a manner that allows the federal loopholes to apply only to two strictly federal requirements, "statewide compliance certification" and "alternative siting analysis."

Under the requirement for statewide compliance certification, prior to being issued an authority to construct for a new major source or major modification[1], an applicant must certify that all major sources that s/he owns or operates in California comply with all applicable emission limitations and standards or are on a schedule for compliance. This requirement originates from section 173(a)(3) of the federal Clean Air Act [Part D (Nonattainment Areas in General), Subpart 1 (Plan Requirements for Nonattainment Areas)].

Under the requirement for an alternative siting analysis, an applicant for an authority to construct a major source or major modification must provide an analysis of alternative sites, sizes, production processes, and environmental control techniques for a proposed source that demonstrates that the benefits of the proposed source significantly outweigh

[1] Major sources and major modifications are defined in the federal Clean Air Act and are determined by the air quality of an area and the annual amount of emissions of the source. In the Monterey Bay Unified Air Pollution Control District, major sources of ozone, for example, emit 100 tons per year of NO_x or VOCs. Major modifications of ozone are changes at an existing stationary source that increase NO_x or VOC emissions by 40 tons per year.

the environmental and social costs imposed as a result of its location, construction, or modification. This requirement is found in section 173(a)(5) of the Clean Air Act.

B. NEW EXEMPTIONS FROM OFFSETS AND OTHER REQUIREMENTS

The District made other changes that were not required by the December 31, 2002 and subsequent federal rules. One such change exempts sources with emissions less than 10 tons per year from offset requirements. Under the previous rule, offsets were triggered at daily levels of:

- 137 pounds per day for volatile organic compounds (VOC) and oxides of nitrogen ($NO_{x)}$,
- 82 pounds per day for particulate matter less than 10 microns ($PM_{10)}$,
- 150 pounds per day for sulfur oxides ($SO_{x)}$ and particulate matter (PM – total suspended particulate (TSP), and
- 150 - 550 pounds per day for carbon monoxide (CO).

For sources that operate consistently throughout the year, those daily thresholds are higher than the new 10 ton per year exemption, so the former offset requirements would still apply. However, for sources with inconsistent operations (e.g. seasonal sources) the new 10 ton per year exemption potentially weakens existing offset requirements, thus triggering SB 288. For example: A cannery that has high daily emissions (greater than the limits above) during the period when it is in full production, but has annual emissions less than 10 tons per year, will not be required to provide offsets.

Another change exempts sources that emit less than 10 tons per year from requirements to perform a visibility, soils, and vegetation analysis and from requirements to perform an air quality increment analysis. An air quality increment analysis is used to determine if an increase in emissions associated with a new or modified source will cause a violation of an ambient air quality standard. The former rule required such analyses for all sources regardless of their emissions. This change is also a relaxation under SB 288.

IV. ARB STAFF'S EVALUATION OF THE MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT'S RULE CHANGES WITH REGARD TO SENATE BILL 288

A. REQUIRED DISTRICT FINDINGS

As discussed previously, Health and Safety Code section 42504(d) allows for rule relaxations under carefully limited circumstances. A district that meets all national ambient air quality standards, which is the case for the Monterey Bay Unified Air Pollution Control District (District), may relax its NSR rules if the following four conditions, as established by substantial evidence in the public rulemaking record, are met:

1. The proposed changes will not impair or impede continued maintenance of federal ambient air quality standards or progress toward achieving attainment of State ambient air quality standards;
2. The amended rule will not exempt, relax, or reduce the obligation of any stationary source to obtain a permit or to apply BACT;
3. The amended rule is consistent with Division 26 of the Health and Safety Code, which according to ARB guidance means that the process of the revision and the substance of the revision "comply with the procedural and substantive provisions pertaining to air pollution control in California, as set forth in Division 26 of the Health and Safety Code"; and
4. The amended rule is consistent with any guidance approved by the Air Resources Board regarding environmental justice.

The District Board, at its hearing on June 21, 2006 found, based on information provided by District staff, that all four of those conditions were satisfied. The District's staff report and the Board of Director's Resolution are included in Appendix E.

B. ARB STAFF SUMMARY AND CONCLUSIONS REGARDING THE DISTRICT'S FINDINGS

1. Required Findings

ARB staff evaluated the District's materials to determine whether, in staff's opinion, they adequately support each of the four required findings. Our summary of the District materials and our conclusions are presented below under each of four relevant headings:

a. Evidence to support that the proposed changes will not impair or impede continued maintenance of federal ambient air quality standards or progress toward achieving attainment of state ambient air quality standards

The changes to the District's NSR rule exempt some sources from requirements to provide offsets and to perform several types of air quality impact analyses. The exemptions affect requirements for a variety of pollutants including VOCs, NO_x, PM_{10}, SO_x, and CO. Thus, the District's evidence needs to demonstrate that the new exemptions do not adversely affect the District's status with regard to a number of different ambient air quality standards.

Currently, the District attains all federal ambient air quality standards, including those for ozone (both the one-hour and eight-hour standards), particulate matter (PM_{10} and $PM_{2.5}$), SO_2, NO_2 and CO. The District does not attain the State ambient air quality standards for ozone and PM_{10}, but attains all other State ambient air quality standards.

To estimate possible impacts from the rule exemptions, the District looked at past permitting data and also drew upon its knowledge of likely future projects that might qualify for the rule exemptions. First, the District presented information about past

projects that required offsets. Of the six projects permitted since 1993 that required offsets, none had emissions below 10 tons per year (the new exemption threshold in the amended rule). Next, the District identified two likely future projects that would qualify for the exemptions. Together, those two projects would emit approximately 18 tons per year of ozone precursors. These projects were then used to determine the effect the rule change and the margin of uncertainty from this change as compared to the emission inventory trend.

The District presented information regarding emission inventory trends for ozone precursors and showed, within a fairly large margin, that the trends would not be adversely affected by the emission increases in NO_x or VOCs potentially caused by the rule exemptions. The District's analysis of ozone air quality trends indicated that by 2020 the margin between federal attainment and nonattainment for ozone precursors the 18 tons per year would be 2,500 and 1,100 times the potential increase as applied to the one and eight-hour attainment inventories respectfully.

The District also presented similar information regarding the inventory and air quality trends for PM_{10}. In 2005, only 5 percent of the District's PM10 emission inventory was from stationary sources. The District did not identify any future projects that would utilize the exemption. The District also included excerpts from its SB 656 plan, "2005 Report on Attainment of the California Particulate Matter Standards in the Monterey Bay Region." This plan focuses on measures to reduce emissions of PM10 from fugitive dust and smoke. The District concluded that since stationary sources comprise less than 5 percent of the PM10 inventory and a single source less than 10 tons per year source would represent less than 0.03 percent of the PM10 inventory, it is reasonable that the proposed changes would not impair continued maintenance of federal ambient air quality standards or progress toward attaining the state ambient air quality standards for PM10.

The District indicated in the staff report that the level of attainment for CO and SO_x are not known since ambient levels were well within the respective standards at the time of designation in 1989. Based on the inventory trend for these pollutants, by 2010 the inventory margin (the quantity of emissions that would trigger nonattainment) will be 10 tons per day for sulfur dioxide ($SO_{2)}$ and 475 tons per day for CO. Based on this margin, the District estimated that it would take at least 350 new sources emitting SO_2 and over 17,000 new sources emitting CO over 10 tons per year to fall back to the 1989 ambient levels. The District concluded that it is highly unlikely that small sources would account for the large increases it would take to potentially affect the attainment status of the area.

With respect to the impact analysis, the District provided evidence that the smaller sources that would be exempted from the air quality impact analyses would have been unlikely to trigger a finding of significant impacts had they been subject to such analyses. This was determined by relating possible emission increases from such sources to those of a large electrical generation turbine project for which the relevant impacts analyses were performed as part of a past permitting action. The District used

the logic that if the turbine project - with emissions that ranged from three to 145 times that of the exemption threshold - showed no impacts, sources covered under the exemption would likewise show no impacts.

The two changes made by the District to conform to the federal NSR requirements include an exemption from the Statewide Compliance Certification and the Alternative Siting analysis. The Statewide Compliance Certification has the effect of exempting some major modifications (i.e. those that are not considered “major” under the federal NSR amendments, but are still “major” for purposes of the District rule) from the requirement that, prior to being issued an authority to construct, the applicant must certify that all major sources that s/he owns or operates in California comply with all applicable emission limitations and standards or are on a schedule for compliance.

Staff consulted with permitting staff from a number of districts and U.S. EPA to evaluate this question. We also requested data from the District regarding past permitting actions that were affected by this requirement. Our discussions with permitting staff from other districts (Ventura, San Diego, Bay Area, and San Joaquin) and with U.S. EPA Region IX staff provided insights, although the information collected was qualitative. We learned that, in the experience of the staff we talked to, the requirement for statewide compliance certification rarely impedes an application for an authority to construct. One reason for this is that, typically, most facilities can pass the test of being in compliance or being *on a schedule for compliance.* In the Monterey Bay Unified Air Pollution Control District, for example, once a Notice of Violation is issued for an emissions-based violation, the facility must immediately come into compliance, shut down the emission source, or seek a variance in order to keep operating to avoid further enforcement actions from the district.

However, there are rare exceptions to this general pattern. For example, staff in the Bay Area AQMD recall that a compliance issue at one power generating facility (Wolfskill) delayed the permitting of a new power plant (East Altamont) proposed by the same owner (Calpine). District permitting staff surmises that, because the noncompliant facility failed a source test, the owner had to correct the problem before signing the statewide compliance certification for the new facility.

The District staff report includes an analysis of their sources and concluded that there are only eight sources in the district that are major sources. These sources are also Title V sources and must certify compliance once a year as part of their Title V Permit. The District also looked back ten years at all sources that have been required to certify compliance. Only one source has been required to make the additional statewide compliance certification and no excess emissions were discovered as part of the certification. ARB staff believes that the District’s evidence supports the finding that this change to Rule 207 will not impair or impede continued maintenance of federal ambient air quality standards or progress toward achieving attainment of State ambient air quality standards in the District.

As described previously, another change made by the District to conform to federal NSR changes is the requirement to perform an alternative siting analysis. The change to the District rule has the effect of exempting existing major sources undergoing a major modification from the requirement to perform an analysis of alternative sites, sizes, production processes, and environmental control techniques. The analysis would demonstrate that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

ARB staff believes that there are sufficient equivalent requirements in State law that these sources perform an alternative siting analysis without retaining the requirement in Rule 207. These include the District BACT requirements which require the review of alternate production process and controls and District Rule 1000 which specifies requirement for additional review of emissions of toxic air contaminants. In addition, (while not mentioned by the District) CEQA requires that an alternative siting analysis be performed when construction of a new or modifying facility may have an adverse environmental impact.

ARB staff believes that the District's evidence, when considered as a whole, sufficiently supports the finding that the new thresholds for offsets and air quality impacts analyses as well as the exemption for the statewide compliance certification and alternative siting analysis, will not impair or impede continued maintenance of federal ambient air quality standards or progress toward achieving attainment of state ambient air quality standards. Overall, the analysis of the inventory and of air quality trends provides compelling evidence to support the basic argument.

b. Evidence to support that the amended rule will not exempt, relax, or reduce the obligation of any stationary source to obtain a permit or to apply BACT

The District cited the specific areas in their rules that will retain permit and BACT requirements for all sources currently covered by such requirements. ARB staff believes these rules provide adequate support for the District's finding that the amended rule will not exempt, relax, or reduce the obligation of any stationary source to obtain a permit or to apply BACT.

c. Evidence to support that the amended rule is consistent with Division 26 of the California Health and Safety Code

The District cites the relevant section of Division 26 that pertains to the rule change – one that mandates the State "no net increase" requirements. Under State law (Health and Safety Code section 40918), the District is required to impose "no net increase" (offset) requirements on new and modified stationary sources with a potential to emit 25 tons per year or greater of NO_x or VOCs. The District's new 10 ton per year offset threshold is more stringent than required by State law and is thus consistent with Division 26 of the California Health and Safety Code. Moreover, the process by which the District adopted the rule amendments codified with the rulemaking procedure set

forth in the Health and Safety Code. Finally, the NSR rule amendments do not affect district compliance with other substantive or procedural requirement of the Health and Safety Code. ARB staff believes this provides adequate support upon which to base the District's finding.

d. Evidence to support that the amended rule is consistent with ARB guidance on environmental justice

The District discusses aspects of its current program and relates them to ARB's Board approved guidance documents (Environmental Justice and Policies Actions (December 2001) and Air Quality and Land Use Handbook (April 2005)). Specifically, the District agrees to work with ARB and stakeholders to address, as appropriate, community concerns about air pollution emissions, exposures, and health risks, and with the ARB to meet health-based air quality standards and reduce health risks from toxic air pollutants in all communities, especially low-income and minority communities, through the adoption of control measures and promotion of pollution prevention programs.

The District cites its rules currently in place to minimize impacts associated with toxic air contaminants. These include Regulation X, Rules 1000 and 1003. The proposed rule changes do not weaken these provisions; therefore, they do not significantly affect the exposure of nearby residents.

The District further references its enforcement program that is in place for responding to complaints concerning odor, dust, or other nuisance impacts from any stationary source in the District. The proposed rule changes do not weaken these provisions; therefore they do not significantly affect the exposure of nearby residents to such nuisances.

The District also included a discussion of its document entitled California Environmental Quality Act (CEQA) Guidelines. In particular, the district cites Chapter 6 – Environmental Setting, Section 6.7 – Sensitive Receptors, and Chapter 9 – Toxic Air Contaminants (TAC) which discusses the importance of considering sensitive receptors and conducting cumulative impact analyses.

ARB staff believes the District's commitment to the approved guidance documents, its CEQA guidelines, current District rules and the District's enforcement program collectively provides adequate support for the District's finding that the amended rule is consistent with ARB guidance on environmental justice.

V. RECOMMENDATION

ARB staff recommends that the Hearing Officer approve the June 21, 2006 amendments to the Monterey Bay Unified Air Pollution Control District's Rule 207, "Review of New or Modified Sources."

Appendix A

Senate Bill 288 Text
(Excludes amendments to Section 9250.11 of the Vehicle Code)

Senate Bill No. 288

CHAPTER 476
An act to add Chapter 4.5 (commencing with Section 42500) to Part 4 of Division 26 of, the Health and Safety Code, and to amend Section 9250.11 of the Vehicle Code, relating to air quality.
[Approved by Governor September 22, 2003. Filed with Secretary of State September 22, 2003.]

The people of the State of California do enact as follows:
SECTION 1. Chapter 4.5 (commencing with Section 42500) is added to Part 4 of Division 26 of the Health and Safety Code, to read:
CHAPTER 4.5. PROTECT CALIFORNIA AIR ACT OF 2003

42500. This chapter shall be known, and may be cited, as the Protect California Air Act of 2003.

42501. The Legislature finds and declares all of the following:
(a) For over 25 years, the federal Clean Air Act (42 U.S.C. Sec. 7401, et seq.) has required major new and modified sources of air pollution to be subject to a new source review program for nonattainment areas and for the prevention of significant deterioration, in order to ensure that those sources use the requisite level of emission control, offset any new emissions, and comply with other requirements, as a means of ensuring that those new and modified sources do not adversely affect air quality.
(b) Requiring controls and emission offsets for new and modified sources ensures that industrial growth does not result in unacceptable levels of air pollution and that existing sources operate more cleanly over time by applying emission controls when those sources are overhauled or upgraded. Without these limits, air quality would degrade over time, and industrial growth, critical to the economic health of the state, would be foreclosed.
(c) The new source review program has been a cornerstone of the state's efforts to reduce pollution from new and existing industrial sources by requiring those sources to use the requisite level of emission controls based on the attainment status of the area where the source is located.
(d) The U.S. Environmental Protection Agency (U.S. E.P.A.) initially promulgated, and subsequently has revised, the new source review program to carry out the requirements of the federal Clean Air Act for preconstruction review of new and modified sources of air pollutants by the states.
(e) On December 31, 2002, the U.S. E.P.A., under the direction of the President of the United States, promulgated regulations that substantially weaken the basic federal new source review program (67 Fed.Reg. 80186-80289 (Dec. 31, 2002)). In promulgating the regulatory amendments, the U.S. E.P.A. claims that the new source review program has impeded or resulted in the cancellation of projects that would maintain or improve reliability, efficiency, and safety. This claim is contradicted by California's experience under the new source review programs of the air pollution control and air quality management districts.
(f) The amendments promulgated December 31, 2002, will drastically reduce the circumstances under which modifications at an existing source would be subject to federal new source review. The U.S. E.P.A. has also proposed a rule that will change the definition of ''routine maintenance, repair and replacement.'' If that rule is finalized, it will significantly worsen the situation.
(g) The newly revised and proposed federal new source review reneges on the promise of clean air embodied in the federal Clean Air Act, and threatens to undermine the air quality of the State of California and thereby threaten the health and safety of the people of the State of California.
(h) Section 107 of the federal Clean Air Act (42 U.S.C. Sec. 7407) provides that the state has primary responsibility for meeting ambient air quality standards in all areas of the state, and that the means to achieve the standards shall be set out in the state implementation plan, or SIP.
(i) Section 116 of the federal Clean Air Act (42 U.S.C. Sec. 7416) preserves the right of states to adopt air pollution control requirements that are more stringent than comparable federal requirements. Moreover,

the recent revisions to the federal new source review regulations provide that the states may adopt permitting programs that are ‘‘at least as stringent’’ as the new federal ‘‘revised base program,’’ and that the federal regulations ‘‘certainly do not have the goal of ’preempting’ State creativity or innovation.’’ (67 Fed.Reg. 80241 (Dec. 31, 2002)).

42502. The Legislature further finds and declares all of the following:
(a) The people of the State of California have a primary interest in safeguarding the air quality in the state from degradation and in ensuring the enhancement of the air quality of the state.
(b) Emissions from nonvehicular sources are a significant contributing factor to unhealthful levels of air pollution in California. These emissions must be controlled to protect public health and the environment, and to allow the economic benefits of new and expanded business in this state without compromising those important goals.
(c) Under state law, air quality management districts and air pollution control districts have primary responsibility for controlling air pollution caused by nonvehicular sources, including stationary sources. The primary mechanism for controlling pollution from new and modified stationary sources is the existing new source review program of the districts. The application of the new source review programs requires that all new and modified sources, unless specifically exempted, must apply control technology and offset emissions increases as a condition of receiving a permit.
(d) The districts generally require the application of the lowest achievable emission rate, also known as California BACT, to achieve the necessary level of emission control from new or modified sources.
(e) The requirement for California BACT, offsets, and other requirements are set out in the rules and regulations adopted by the districts to establish the new source review program. These rules and regulations, which typically are more stringent than the minimum requirements established by federal law, are reviewed and approved by the state board and transmitted to the U.S. E.P.A. for inclusion in the SIP.
(f) The districts have one of the most effective new source review programs in the nation, with requirements for advanced emission control technology on new and expanding sources as its foundation. This technology-based program succeeds by requiring application of emission control technology at the time of construction or when a source undergoes a significant modification, which maximizes the emission reduction benefits and reduces costs.
(g) With this and other programs, California has been able to improve air quality despite increases in population, industrial output, and motor vehicle use. However, significant areas of the state still do not meet the federal or state ambient air quality standards, which are set at levels necessary to protect public health and welfare. Any rollback of the new source review program, as a result of the federal ‘‘reforms,’’ would exacerbate the continuing air pollution challenges faced by the state and delay attainment of the state and federal ambient air quality standards.

42503. The purposes of this chapter are all of the following:
(a) To attain and maintain state and federal ambient air quality standards by the earliest practicable date.
(b) To protect public health and welfare from any actual or potential adverse effect which reasonably may be anticipated to occur from air pollution.
(c) To preserve, protect and enhance the air quality in national parks, national wilderness areas, national monuments, national seashores, and other areas of special national or regional natural, recreational, scenic, or historic value.
(d) To ensure that economic growth will occur in a manner consistent with the preservation of existing clean air resources.
(e) To ensure that emissions from any source in the state will not interfere with any portion of the applicable implementation plan to prevent significant deterioration of air quality for this or any other state.

(f) To ensure that any decision to permit increased air pollution in any area to which this chapter applies is made only after careful evaluation of all the consequences of that decision and after adequate procedural opportunities for informed public participation in the decisionmaking process.

42504. (a) No air quality management district or air pollution control district may amend or revise its new source review rules or regulations to be less stringent than those that existed on December 30, 2002. If the state board finds, after a public hearing, that a district's rules or regulations are not equivalent to or more stringent than the rules or regulations that existed on December 30, 2002, the state board shall promptly adopt for that district the rules or regulations that may be necessary to establish equivalency, consistent with subdivision (b).

(b) (1) In amending or revising its new source review rules or regulations, a district may not change any of the following that existed on December 30, 2002, if the amendments or revisions would exempt, relax or reduce the obligations of a stationary source for any of the requirements listed in paragraph (2):

(A) The applicability determination for new source review.

(B) The definition of modification, major modification, routine maintenance, or repair or replacement.

(C) The calculation methodology, thresholds or other procedures of new source review.

(D) Any definitions or requirements of the new source review regulations.

(2) (A) Any requirements to obtain new source review or other permits to construct, prior to commencement of construction.

(B) Any requirements for best available control technology (BACT).

(C) Any requirements for air quality impact analysis.

(D) Any requirements for recordkeeping, monitoring and reporting in a manner that would make recordkeeping, monitoring, or reporting less representative, enforceable, or publicly accessible.

(E) Any requirements for regulating any air pollutant covered by the new source review rules and regulations.

(F) Any requirements for public participation, including a public comment period, public notification, public hearing, or other opportunities or forms of public participation, prior to issuance of permits to construct.

(c) In amending or revising its new source review rules or regulations, a district may change any of the items in paragraph (1) of subdivision (b) only if the change is more stringent than the new source review rules or regulations that existed on December 30, 2002.

(d) Notwithstanding subdivisions (a), (b), and (c), a district may amend or revise a rule or regulation if a district board, at the time the amendments or revisions are adopted, makes its decision based upon substantial evidence in the record, the amendments or revisions are submitted to and approved by the state board after a public hearing, and each of the following conditions is met:

(1) The amended or revised rule or regulation will do one of the following:

(A) Will replace an existing rule or regulation that caused a risk to public health or safety from exposure to a toxic material, a dangerous condition, or an infectious disease with a rule or regulation that provides greater protection to public health or safety.

(B) Will replace an existing rule or regulation that has been found to be unworkable due to engineering or other technical problems with a rule or regulation that is effective.

(C) Will allow an amendment to an existing rule or regulation that otherwise will cause substantial hardship to a business, industry, or category of sources, if all of the following criteria are met:

(i) The amendment is narrowly tailored to relieve the identified hardship.

(ii) The district provides equivalent reductions in emissions of air contaminants to offset any increase in emissions of air contaminants.

(iii) All reductions in emissions of air contaminants are real, surplus, quantifiable, verifiable, enforceable, and timely. For the purposes of this clause, reductions are timely

if they occur no more than three years prior to, and no more than three years following, the occurrence of the increase in emissions of air contaminants.

(iv) Information regarding the reductions in emissions of air contaminants is available to the public.

(D) Is a temporary rule or regulation necessary to respond to an emergency consisting of a sudden, unexpected occurrence and demanding prompt action to prevent or mitigate loss of or damage to life, health, property, or essential services and the temporary rule or regulation does not extend beyond the reasonably anticipated duration of the emergency.

(E) Will not, if the district is in attainment with all national ambient air quality standards, impair or impede continued maintenance of those standards or progress toward achieving attainment of state ambient air quality standards.

(2) The amended or revised rule or regulation will not exempt, relax, or reduce the obligation of any stationary source under the rules or regulations of the district, as those rules or regulations existed on December 30, 2002, to obtain a permit or to meet best available control technology requirements. This paragraph only applies to a source that constituted a major source under the rules or regulations of a district that existed on December 30, 2002, and does not apply to any individual best available control technology determination.

(3) The amended or revised rule or regulation is otherwise consistent with this division.

(4) The amended or revised rule or regulation is consistent with any guidance approved by the state board regarding environmental justice.

42505. For purposes of this chapter, each district's ''existing new source review program'' is comprised of those new source review rules and regulations for both nonattainment and prevention of significant deterioration for new, modified, repaired, or replaced sources that have been adopted by the district governing board on or prior to December 30, 2002, that have been submitted to the U.S. Environmental Protection Agency by the state board for inclusion in the state implementation plan and are pending approval or have been approved by the U.S. Environmental Protection Agency.

42506. In order to assist in interpreting district rules and regulations governing new source review for nonattainment areas and for prevention of significant deterioration, the state board shall provide on its Web site and in writing for purchase by the public, a copy of the federal new source review regulations as they existed on December 30, 2002, and the United States Environmental Protection Agency's guidance document entitled, ''New Source Review Workshop Manual: Prevention of Significant Deterioration and Nonattainment Area Permitting,'' (October 1990 Draft).

42507. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Appendix B

ARB Guidance Regarding Reviewing District
New Source Review Rules Under SB 288

California Air Resources Board Guidance
New Source Review and Senate Bill 288
(August 2004, as amended April 2006)

I. BACKGROUND

The Protect California Air Act of 2003 (SB 288, Sher; Health and Safety Code sections 42500 through 42507, and Vehicle Code section 9250.11)[2] was enacted in response to federal regulations that weakened the federal New Source Review (NSR) program. The United States Environmental Protection Agency (EPA) amended the federal NSR regulations to reduce the circumstances under which existing stationary sources would be required to subject modifications to their facilities to review. If the revised federal program were to be implemented in California, the requirements for technological and operational emission controls and emission offsets that ensure that modified sources do not adversely affect air quality would be undermined. California's experience of requiring strict pollution controls and emission offsets for major modifications ensures that existing sources operate more cleanly over time as they modernize and expand. This also facilitates industrial growth in a manner consistent with the preservation and enhancement of existing air quality. The Protect California Air Act of 2003 (the Act) is intended to maintain California's technology-based program, prevent any weakening of the state's current NSR programs as a result of the federal amendments, and ensure progress towards attainment and maintenance of both state and national ambient air quality standards along with economic growth (sections 42501, 42502, and 42503).

II. INTRODUCTION

The Air Resources Board (ARB) is providing this guidance because it has a major role in implementing the Act; is the air pollution control agency for all purposes set forth in federal law; and is the agency charged with coordinating, encouraging, and reviewing the efforts of the air pollution control districts (Districts) as they affect air quality (sections 39500 and 39602). The Act requires the ARB to ensure that District NSR rules and regulations are equivalent to, or more stringent than, those that existed on December 30, 2002, and to promptly adopt rules necessary to establish equivalency if they are not (section 42504(a)). The Act also requires ARB approval, at a public hearing, of any amendments that the Districts adopt, in accordance with criteria set forth in the Act, that permissively weaken their NSR rules (section 42504(d)). Finally, the ARB is required to post specified information on our website in order to assist in interpreting District NSR rules and regulations in both nonattainment and attainment (i.e., "prevention of significant deterioration") areas (section 42506). This guidance supplements the information on our website and informs the Districts, the public, and the owners/operators of stationary sources how the ARB interprets the major provisions of the Act.

[2] One section of SB 288 amends the Vehicle Code to extend the authority of the SCAQMD to collect a $1.00 auto registration renewal fee until January 1, 2010. We are not addressing this provision here. All references are to the Health and Safety Code unless otherwise noted.

III. PROVISIONS OF SB 288

The Protect California Air Act is essentially a "no backsliding" statute and establishes the rules and regulations that comprise a District's NSR program as of December 30, 2002, as the baseline against which any changes will be measured. Each District's existing NSR program consists of those NSR rules that the District had adopted as of December 30, 2002; that the ARB submitted to the EPA for inclusion in the state implementation plan (SIP); and that have been approved, or are pending approval, by the EPA.

The Act, except in defined and limited circumstances, generally provides that no District may amend its NSR rules to be less stringent that those that existed on December 30, 2002 (section 42504(a)). This provision sets forth an overall equivalency requirement that allows a District to relax one NSR element only as long as one or more other elements are sufficiently strengthened to result in overall equivalent stringency. We interpret this broadly-worded provision to apply on a programmatic basis. For example, a District would not be allowed to relax NSR offset requirements if the overall effect of the District's amendments would render the NSR rules less stringent in the aggregate.

The Act supplements this general prohibition against weakening NSR rules and regulations by delineating four elements which cannot be revised if the revisions would "exempt, relax, or reduce the obligations <u>of a stationary source…</u>," (emphasis added). These elements are:

1. The applicability determination for NSR, i.e., the sources to which the NSR rules apply.
2. The definitions of "modification," "major modification," "routine maintenance," and "repair or replacement."
3. The calculation methodology, thresholds, or other procedures of new source review. We interpret this to include the methodology for determining baselines, and calculating emission changes. Also, barring exceptions set forth in the statute, we interpret this to mean that the major source and major modification thresholds that were in place on December 30, 2002, may not be raised.
4. The definitions and requirements of NSR regulations, both substantive and procedural.

The rule components listed above may not be amended if doing so would "exempt, relax, or reduce the obligations of a source" with regard to the following requirements (section 42504(b)(2)):

1. Any requirement to get a permit prior to construction.
2. Any requirement to apply best available control technology (BACT or Lowest Achievable Emission Rate, LAER, as appropriate).
3. Any requirement to perform an air quality impact analysis. (We believe the California Environmental Quality Act, CEQA, provides one means of doing this.)
4. Any requirement for monitoring, recordkeeping, and reporting if these would be less representative, enforceable, or publicly accessible.

5. Any requirement for regulating any air pollutant covered by the NSR rules.
6. Any requirement for public participation prior to permit issuance.

Districts may amend the specific elements of the rules described above only if the amendments make the rules more stringent (section 42504(c)).

It is notable that, in accordance with section 42504(b)(1), changes to items listed in section 42504(b)(2) are prohibited whenever they "relax or reduce the obligations of a stationary source." This "source-by-source" comparison is different from, and in addition to, the programmatic comparison required to be made under section 42504(a). The overall effect of the combined requirements of sections 42504(a) and 42504(b) is that ARB will evaluate a District's NSR amendments on the basis of whether the overall stringency of the NSR program is maintained, except that in no case could there be a reduction in stringency of the NSR requirements for any source in the six areas listed in section 42504(b)(2).

Put another way, the obligations of a stationary source that was subject to the District's NSR rules and regulations as they existed on December 30, 2002, cannot be weakened with regard to any rule component and requirement specified in section 42504(b), even if there is overall equivalency stringency in the NSR rules because of the strengthening of other elements.

Notwithstanding the general anti-backsliding provision set forth in section 42504(a) and the source-specific prohibitions set forth in section 42504(b), the Act allows revisions that may result in less stringent District NSR rules under the carefully circumscribed circumstances described in section 42504(d). The rule amendment must be accomplished at a public hearing based upon substantial evidence in the record (which is not a change from existing rulemaking law). The District must submit the amendment(s) to the ARB for approval at a public hearing in order to ensure that the criteria for such rule revisions have been met (section 42504(d)). <u>Each</u> of the following conditions applies.

First, the rule must do <u>one</u> of the following (section 42504(d)(1)):

1. Replace a rule that allowed risk from exposure to a toxic material with a more protective rule or regulation; <u>or</u>
2. Replace a technologically unworkable rule; <u>or</u>
3. Replace a rule that causes a substantial hardship to business with an amended rule that meets all of the following criteria:
   a) it is narrowly tailored to relieve the hardship;
   b) the District will provide offsets for any increases in emissions;
   c) the offsets are real, surplus, quantifiable, verifiable, enforceable, and occur no more than 3 years prior to or after the increase; <u>and</u>
   d) information regarding the offsets is publicly available; <u>or</u>
4. Is temporary and necessary to respond to an emergency; <u>or</u>
5. Will not impede continued maintenance of all national ambient air quality standards (NAAQS) or progress towards attainment of the state ambient

air quality standards. (This exception applies only in Districts that are attaining all NAAQS.)

Second, the amended rule must not exempt, relax, or reduce the obligation of the source to obtain a permit or apply BACT/LAER (section 42504(d)(2)).

Third, the amended rule must be consistent with ARB guidance regarding environmental justice and with Division 26 of the Health and Safety Code (section 42504(d)(3) and (4)). The ARB has approved several guidance documents pertaining to environmental justice (EJ) and maintains an EJ website at www.arb.ca.gov/ch/programs/ej/ej.htm. Consistency with Division 26 means that the process by which a rule is revised, and the substance of that revision, comply with both the procedural and substantive provisions pertaining to air pollution control in California, as set forth in Division 26 of the Health and Safety Code, commencing with section 39000. For example, a District that relaxed an offset requirement because it was in attainment with all the NAAQS would still need to demonstrate compliance with the "no net increase" requirements of the California Clean Air Act (see HSC §40910 et seq.)

IV. AMENDMENTS TO NSR RULES

Districts may want to amend their NSR rules and regulations for a variety of reasons. For example, promulgation of the new area classifications for the federal 8-hour ambient air quality standard for ozone – and the planned revocation of the federal 1-hour ozone standard – will change the federal attainment status of most Districts, raising the thresholds for facility emissions that will constitute a "major source" or a "major modification" under federal law, and will change the federally-applicable offset ratio. Some Districts may want to amend their NSR rules to specifically reference agricultural sources that recently became subject to permitting pursuant to Senate Bill 700 (stats. 2003, ch. 479). Also, some Districts may want to update their rules to add new definitions or require new monitoring methods or calculation procedures. In addition, a group of Districts is working with the EPA to establish the "equivalency" of their NSR programs with the EPA base program established under the federal amendments published December 31, 2002, for PSD and nonattainment areas in order to avoid major substantive rule changes.

Whether or not District NSR program changes will comply with SB 288 depends upon the individual rule proposals. Through the ARB's existing process, review of District rules, including NSR rule revisions, will continue on a case-by-case basis. The ARB will also respond to specific issues that a District may raise about its proposed revisions to its NSR program. While rule review is fact-specific and will require comparison with the Districts' December 30, 2002, NSR programs and the criteria set forth in the Act, the following general legal observations may be useful to the Districts, the public, and the owners/operators of stationary sources.

V. THE ARB'S ROLE IN IMPLEMENTING SB 288

Proposed revisions to District NSR programs will be reviewed in the context of the letter and the spirit of the Act[3]. Revisions that do not weaken the NSR rules and regulations will not require ARB approval. However, because the ARB is required to establish "equivalent" NSR rules if Districts inadvertently weaken theirs, consultation with the ARB on all revisions, especially revisions that may represent "close calls," is advised. Some proposals, such as the addition of agricultural sources, the requirement for continuous emission monitors (CEMs), or the restriction of offsets for volatile organic compounds (VOC) to those that are less toxic, are clearly not contrary to SB 288. Others, such as raising the thresholds for "major sources" and "major modifications," or reducing the offset ratio without providing legally enforceable, compensating mitigation, are weakenings that are permissible only under the carefully limited circumstances described in Health and Safety Code section 42504.

While some NSR program changes do not directly contradict the general requirement for program equivalency in section 42504(a) or violate any of the source-specific criteria set forth in section 42504(b), they may allow or enable rule weakenings that could not occur "but for" the revision. The ARB's view is that such indirect backsliding is not permitted by the Act. The following amendments are examples of revisions whose approval, if proposed, would be questionable under the Act unless the criteria in section 42504(d) are met[4]:

- Changes to procedures (or the application of such procedures to a particular source) for calculating emission changes at major versus non-major stationary sources that will affect the determination of the applicability of NSR requirements.
- Changes to the definitions or thresholds of "major source" or "major modification" to correspond with the new federal 8-hour ozone classification of a district, which would reduce the number of sources subject to federal NSR.
- Decreases in offset ratios due to a change in a district's federal 8-hour ozone classification.
- Changes that allow the substitution of state BACT for federal LAER, unless they are demonstrated to be equivalent.
- Changes to calculation procedures that will allow sources to calculate higher baseline emissions and/or lower post-project emissions in order to avoid NSR or reduce a source's obligations under NSR, e.g., supply fewer offsets without equivalent mitigation.
    - As a specific example of the above point, changes to calculation procedures, such as changing the calculation of emission increases from the "actual-to-potential" method to the "potential-to-potential" method or the "actual-to-projected-actual" method, especially if this will change the determination of BACT applicability or the applicability of other NSR requirements.

[3] A detailed discussion of the procedures ARB will utilize to review amendments that may weaken NSR requirements is set forth in a separate document, and is posted on our SB 288 website.
[4] These examples are illustrative only and not intended to be exhaustive.

    - Changes that correct technical errors or make calculations more accurate are not considered weakenings.
- Broadening the scope of exemptions from, or changing the thresholds for applicability of, BACT/LAER, offsets, or other NSR requirements.
- Changes to definitions, thresholds, or calculation procedures that will reduce or eliminate the time allowed for public comment on a proposed modification.
- Changes to definitions, thresholds, or calculation procedures that would eliminate the need to perform an air quality impact analysis.
- Changes to the requirement that "surplus" must be verified at the time of use of the offsets.

The Act permits the rule revisions listed above only if the amendment complies with the requirement for overall program equivalency and is not a relaxation of the specific elements listed in section 42504(b) or if the requirements set forth in section 42504(d) are met. Further, no weakening may be allowed if it will exempt or reduce the obligation of any source to obtain a permit or to meet BACT/LAER requirements, or to contradict other provisions of Division 26 of the Health and Safety Code or the ARB's Environmental Justice guidelines.

VI. CONCLUSION AND CONTACTS

California's experience under the NSR program adopted, implemented, and enforced by the air pollution control and air quality management districts demonstrates that existing sources of air pollution operate more cleanly over time by applying state-of-the-art emission controls whenever they are overhauled and upgraded. New sources, too, are required to be built to operate as cleanly as possible and to mitigate their excess emissions, allowing for both industrial growth and better air quality. The provisions in Senate Bill 288 further the State's commitment to maintain the proven effectiveness of the State's existing air pollution programs and to maintain the air quality gains that have been accomplished through years of steady effort and technological innovation.

We hope this guidance will help Districts, source operators, and the public understand the provisions of SB 288 from a practical standpoint. Our intent is to facilitate compliance with the letter and spirit of the Protect California Air Act, while recognizing the needed flexibility to allow District NSR programs to continue to be innovative, effective, and efficient. Please direct technical comments and questions about the guidance to Kitty Howard, Manager, Project Assessment Branch, Regulatory Assistance Section, (916) 322-3984, khoward@arb.ca.gov and legal questions to Leslie M. Krinsk, Senior Staff Counsel, (805) 473-7325, lkrinsk@arb.ca.gov.

Appendix C

ARB Guidance Regarding the Process
for Implementing SB 288

California Air Resources Board Guidance
Review Process for Implementing Senate Bill 288

April 2006

The Protect California Air Act of 2003 (SB 288, Sher; Health and Safety Code sections 42500 through 42507), designed to protect the stringency of California's New Source Review (NSR) rules and regulations, generally prohibits air pollution control and air quality management districts (Districts) from amending their NSR rules to be less stringent than those that existed on December 30, 2002. Under the statute, the Air Resources Board (ARB) has responsibilities for ensuring that the Act is properly implemented. We provided a guidance document regarding implementation of SB 288 on October 14, 2004. That document was subsequently updated in April, 2006, and is posted on ARB's SB 288 website at http://www.arb.ca.gov/nsr/sb288/sb288.htm. Having been requested to review certain recently adopted and proposed amendments to District NSR rules, we are providing additional guidance on the review process we propose to follow.

Section 42504(a) of the Health and Safety Code provides in part:

> If the state Board finds, after a public hearing, that a district's rules or regulations are not equivalent to or more stringent than the rules or regulations that existed on December 30, 2002, the state board shall promptly adopt for that district the rules or regulations that may be necessary to establish equivalency, consistent with subdivision (b). (Emphasis added).

Further, SB 288, in Health and Safety Code section 42504(d), identifies a number of exceptions to the general prohibition against weakening NSR rules, and requires any such amendments to be "submitted to and approved by the state board after a public hearing" to ensure that the action meets specified conditions. (See, generally, Health and Safety Code section 42504(d)(1) through (4)).

Having received a petition to review an amendment that allegedly weakens a District NSR rule, and having been consulted by a District regarding allowable weakening amendments, we want to clarify how we intend to implement the two provisions quoted above.

Section 42504 provides for a public hearing to review NSR rule changes that have not been submitted to ARB by a District requesting a finding of exception to the general anti-back-sliding prohibition. ARB will encounter these rule revisions during its quotidian review of District rules, or as brought to our attention by petition or letter from a member of the public. ARB will conduct a staff-level, threshold review of the rule and revision at issue to determine if it is in conflict with the requirements of SB 288, specifically the

provisions set forth in Health and Safety Code section 42504(a), (b), and (c), as interpreted by our earlier guidance.

If we receive a citizen petition, or if we are questioning the propriety of a revision on our own motion, we will notify the District and open a dialog on the revision. We will also post any such petition on ARB's SB 288 website. If ARB staff determines that the rule change is not covered by SB 288, or clearly does not weaken the District's NSR rules as they existed on December 30, 2002, or that any weakening is clearly de minimis, we will conclude the review and not proceed to public hearing. If the review was initiated by citizen petition, staff will prepare written findings that document its reasons for rejecting the petition.

If, on the other hand, staff concludes that the revisions sufficiently weaken NSR requirements to justify action under SB 288, ARB will prepare a staff report and conduct a noticed public hearing to enable us to determine whether a District NSR rule revision is less stringent than its December 30, 2002, rules and regulations. The District and any interested persons will be given the opportunity to present both oral and written testimony at the hearing, which will be conducted by the Board, the Executive Officer, or by her delegate.

After conclusion of the public hearing and consideration of all relevant material presented, ARB will prepare a written decision. If ARB decides that there was no violation of Health and Safety Code section 42504 and that the revision was "equivalent to or more stringent than the rules or regulations that existed on December 30, 2002," no further action will be taken. (Of course, a petitioner could challenge ARB's decision and the District action in court).

If ARB finds that the provisions of section 42504 have been violated and that action under that statute is appropriate, the District will be notified and given the opportunity to promptly schedule a hearing to amend its NSR regulation consistent with ARB's findings. If the District decides not to act on its own, the Board will be presented with the written decision and will schedule the required hearing to "promptly adopt for that district the rules or regulations that may be necessary to establish equivalency." In this event a noticed public hearing to assume the District's rulemaking powers will be held in accordance with sections 41500 et seq. of the Health and Safe Code, and specifically section 41504. The full Board will conduct the hearing and determine what action is appropriate to comply with SB 288.

The public hearing contemplated by Health and Safety Code section 42504(d) occurs under different circumstances than the process described above. In this case, the District itself will have amended its NSR rule at a public hearing where its governing board determined, based upon substantial evidence in the record, that each of the conditions listed in Health and Safety Code section 42504(d)(1) through (4) has been met. Moreover, in accordance with the statute, the District will be requesting ARB to ratify its decision at a public hearing. Notice of the hearing will be provided and the hearing will be conducted by the Board or the Executive Officer (or her delegate), and

the District, the public, and ARB staff will have the opportunity to present oral or written testimony.

Following the hearing, ARB will issue a written decision. If ARB approves the District NSR rule revision as being in compliance the statutory conditions, the rule will become effective; if ARB determines that the conditions in section 42504(d) have not been met, ARB will work with the District to make the necessary changes. A follow-up hearing may or may not be necessary, depending upon the scope of the changes and the treatment of the issues at the public hearing.

ARB intends to post this guidance on our SB 288 web page so that the public as well as the Districts will be aware of the review process we intend to follow in carrying out our responsibilities under SB 288. As always, ARB staff is available for consultation with District staff as amendments to NSR rules are contemplated and developed. If you have technical questions related to this guidance, please call Kitty Howard, Manager, Regulatory Assistance Section, at (916) 322-3984; legal questions should be directed to Leslie Krinsk, Senior Staff Counsel, at (805) 473-7325.

Appendix D

Flowcharts Outlining the Process
for Implementing SB 288

Flowchart of SB 288 Process
Scenario 1 – District Adopts a Change that is Questioned

- Routine ARB review of adopted district New Source Review rule indicates a possible weakening
- Petition or letter submitted to ARB contends that adopted district rule is a weakening subject to SB 288

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Staff review of revision at issue using ARB guidance document

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- Discuss preliminary staff findings with district
- Provide district with petition(s) and post on SB 288 website
- Provide district opportunity to respond

↓

Staff determines rule change:
- not covered by SB 288
- clearly does not weaken rule
- is a weakening, but is *de minimis*

↓

Review concluded – do not proceed to public hearing.
If review was initiated by petition, staff writes up findings and documents reasons for rejecting petition

Staff concludes rule change weakens NSR requirements enough to justify action under SB 288

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- Prepare staff report
- Conduct noticed public hearing open to both oral and written testimony
- Hearing conducted by Board, Executive Officer or her delegate

↓

Prepare written decision considering all relevant material presented

↓

If ARB decides that SB 288 was violated:
- Notify district and petitioner, if any
- Opportunity for district to promptly amend rule to be consistent with ARB's findings

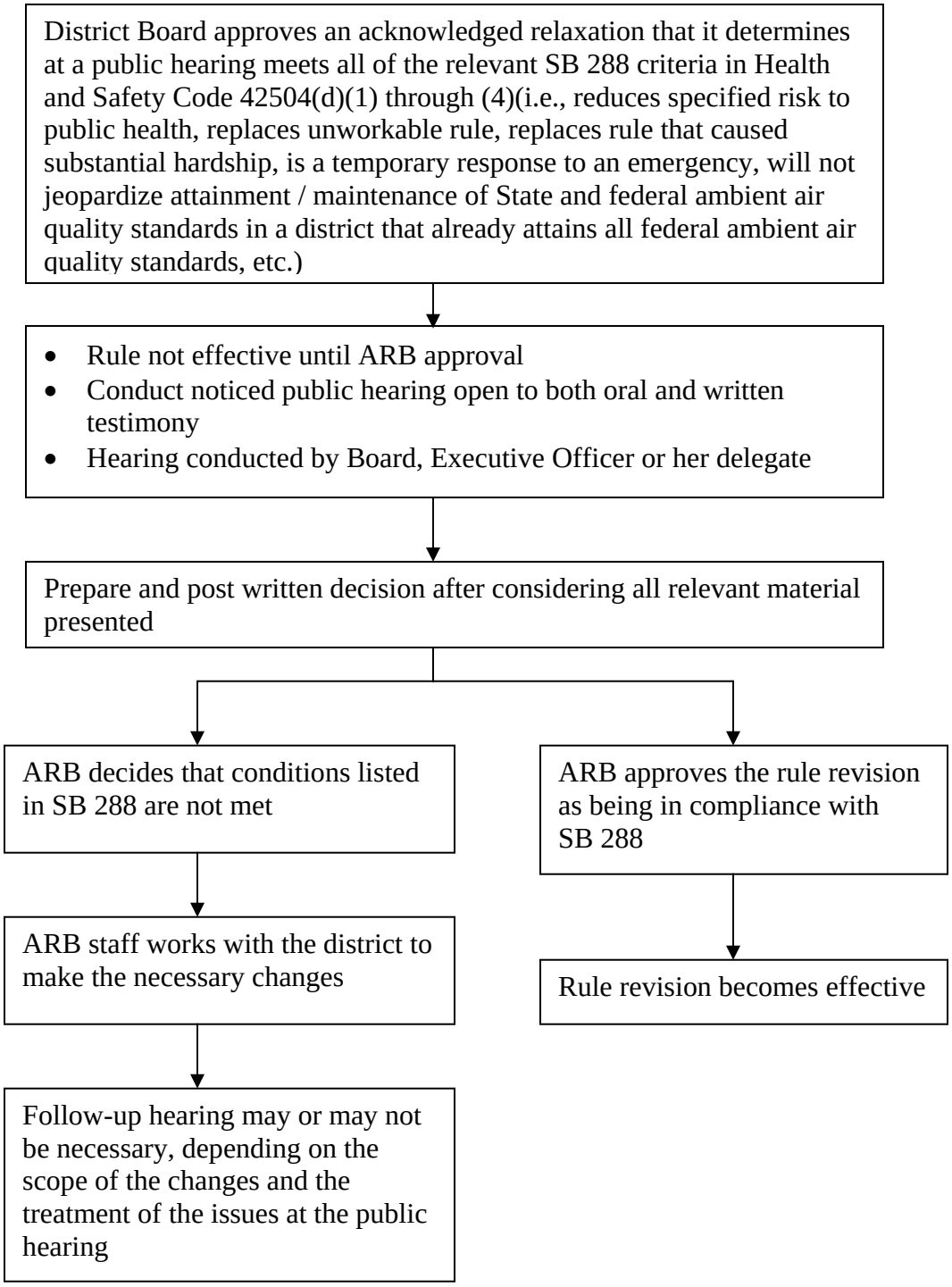
↓

If district decides not to act on its own:
- Present written decision to full Board
- Hearing by full Board to assume district rulemaking powers and take appropriate actions to comply with SB 288

If ARB concludes there was no violation of SB 288 and revision was equivalent to or more stringent than rules that existed 12/30/02, no further action will be taken.
(Petitioner can choose to challenge decision in court.)

Flowchart of SB 288 Process

Scenario 2 - District Adopts an Acknowledged Rule Relaxation Under SB 288 Criteria [Health and Safety Code Section 42504(d)]



Appendix E

Monterey Bay Unified Air Pollution Control District Amendments to Rule 207, “Review of New or Modified Sources” Rule Submittal Package Including: Transmittal Letters, Resolution, Proposed and Final Rules and Staff Report

MONTEREY BAY
Unified Air Pollution Control District
serving Monterey, San Benito, and Santa Cruz counties

AIR POLLUTION CONTROL OFFICER
Douglas Quetin

24580 Silver Cloud Court • Monterey, California 93940 • 831/647-9411 • FAX 831/647-8501

DISTRICT BOARD MEMBERS

CHAIR:
Tony Campos
Santa Cruz County

VICE CHAIR:
Reb Monaco
San Benito County

Anna Caballero
Salinas

Lou Calcagno
Monterey County

Butch Lindley
Monterey County

Paul Marigonda
Scotts Valley

Ila Mettee-McCutchon
Marina

John Myers
King City

Dennis Norton
Capitola

Ellen Pirie
Santa Cruz County

Jerry Smith
Monterey County

June 23, 2006

Mr. Mike Guzzetta
Manager
Rule Evaluation Section
Air Resources Board
Via E-Mail

Subject: Transmittal of Final Rule-making Action: Rule 207 (Review of New or Modified Sources).

Dear Mr. Guzzetta:

Enclosed is a copy of the final rule-making action taken by the District Board on June 21, 2006. We sent you a proposed version of this Rule on May 24, 2006.

The final adopted version of this rule is identical to the proposed version transmitted to you on May 24, 2006 with the exception of Section 1.3.4 where the word **all** replaced the word **any** in the fourth line of the section.

This electronic transmittal is for your information, for approval by the California Air Resources Board pursuant to Health and Safety Code Section 42504(d), and for your transmittal to EPA Region IX for inclusion in the SIP. During their adoption hearing, our Board requested that the California Air Resources Board hold their required public hearing for approval of this Rule as expeditiously as possible.

If you or any of your staff have questions regarding this action, please feel free to contact me at the District offices at (831) 647-9418 extension 230.

Sincerely,

Mike Sewell
Air Quality Engineer

Attachment: Evidence of Public Notice
Board Resolution
Staff Report (including proposed rule)
Final Rule
Rule Evaluation Forms

c: Clerk of the Boards
Andy Steckel, EPA Region IX via e-mail
File 5-207

EVIDENCE OF PUBLIC NOTICE

Monterey County
The Herald
PUBLISHED BY THE MONTEREY COUNTY HERALD COMPANY
P.O. BOX 271 • MONTEREY, CALIFORNIA 93942-0271
(831) 372-3311

PROOF OF PUBLICATION

STATE OF CALIFORNIA

County of Monterey

I am a citizen of the United States and a resident of the County aforesaid. I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of The Herald, a newspaper of general circulation, printed and published daily and Sunday in the City of Monterey, County of Monterey, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Monterey, State of California; that the notice, of which the annexed is a printed copy (set in type not smaller than 6 point), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit: April 26, 2006

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

Executed on April 26, 2006

at Monterey, CA.

Signature

This space is for the County Clerk's Filing Stamp

6 APR 28 P4:22

6/21

No. 1048824

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Board of the Monterey Bay Unified Air Pollution Control District (MBUAPCD), to hear the following proposed regulatory action:
consideration of revision to Rule 207 (Review of New or Modified Sources). The adoption of revisions to this Rule are to incorporate changes required by the federal New Source Review Reforms package, to exempt area sources from the District's historical implementation.

Place: Board Room, 3rd floor MBUAPCD Building
24580 Silver Cloud Court
Monterey, CA 93940
Time: 1:30 PM
Date: June 21, 2006

Copies of the proposed regulatory action, including the staff report addressing possible fiscal impacts upon regulated sources, and any analysis required by Health and Safety Code Section 40727.2, are available for available for inspection at the District office. Interested parties are invited to submit comments, to attend and participate at the hearing.
Comments on the rules should be directed to:
Mr. Mike Sewell
MBUAPCD
24580 Silver Cloud Court
Monterey, CA 93940
(831)647-9418 x230 (telephone)
(831)647-8501 (FAX)

Comments on the rule must be received no later than by 5 p.m. on June 7, 2006 to ensure inclusion in the District Board package.
Pursuant to the California Environmental Quality Act (Division 13 of the Public Resources Code), the District prepared a Negative Declaration and Initial Study which was distributed for public review. The review was from December 21, 2005 to January 20, 2006. No adverse comments on the Negative Declaration were received.
Publication Date: April 26, 2006.

PROOF OF PUBLICATION
(2015.5 C.C.P.)

STATE OF CALIFORNIA
County of San Benito

I am a citizen of the United States and a resident of the County aforesaid. I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the printer and principal clerk of the publisher of the Free Lance, printed and published in the city of Hollister, County of San Benito, State of California. Daily, for which said newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of San Benito, State of California, under the date of June 19, 1952, Action Number 5330, that the notice of which the annexed is a printed copy had been published in each issue thereof and not in any supplement thereof on the following date(s), to wit:

April 28, 06

I certify (or declare) under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Hollister, California.

(Day) April 28, 06 (Date)

Mavieira

Hollister Free Lance

350 Sixth Street, Hollister CA 95023
(831) 637-5566
Website: www.freelancenews.com
Email: freelance@hollinet.com

This space is for the county Clerk's Filing

6/21

6 MAY -2 P1:39

Declaration of Publication of:

Public Notice

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Board of the Monterey Bay Unified Air Pollution Control District (MBUAPCD), to hear the following proposed regulatory action:

Consideration of revisions to Rule 207 **(Review of New or Modified Sources).** The adoption of revisions to this Rule are to incorporate changes required by the federal New Source Review Reforms Package to exempt area sources from the offsetting requirements, and to conform the Rule language to the District's historical implementation.

PLACE: BOARD ROOM 3RD FLOOR
MBUAPCD BUILDING
24580 SILVER CLOUD COURT
MONTEREY, CALIFORNIA

TIME: **1:30 PM**

DATE: **JUNE 21, 2006**

Copies of the proposed regulatory action, including the staff report addressing possible fiscal impacts upon regulated sources, and any analysis required by Health and Safety Code Section 40727.2, are available for inspection at the District office. Interested parties are invited to submit comments, to attend and participate at the hearing. Comments on the rule should be directed to:

Mr. Mike Sewell
MBUACPD
24580 Silver Cloud Court
Monterey, Ca 93940
(831) 647-9418 x 230 (telephone)
(831) 647 8501 (fax)

Comments on the rule must be received by no later than by 5 p.m. on June 7th, 2006 to ensure inclusion in the District Board package.

Pursuant to the California Environmental Quality Act (Division 13 of the Public Resources Code), the District is prepared a Negative Declaration and Initial Study, which were distributed for pub-

The Salinas Californian
www.thecalifornian.com

PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of Monterey

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of *The Salinas Californian*, a newspaper of general circulation, printed and published daily except Sunday in the City of Salinas, County of Monterey and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Monterey, State of California; that the notice, of which the annexed is a printed copy (set in type no smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

April 28, 2006

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

Executed on April 28, 2006

at Salinas, California.

Charlene Clark

Signature

This space is for the County Clerk's Filing Stamp

6 MAY -2 P1:33

6/21/06 B

Public Hearing: June 21, 2006 at 1:30 pm

Rule 207 (Review of New or Modified Sources)

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Board of the Monterey Bay Unified Pollution Control District (MBUAPCD), to hear the following proposed regulatory action:

consideration of revisions to Rule 207 (Review of New or Modified Sources). The adoption of revisions to this Rule are to incorporate changes required by the federal New Source Review Reforms packages, to exempt area sources from the offsetting requirements, and to conform the Rule language to the District's historical implementation.

Place:
Board Room, 3rd floor MBUAPCD Building
24580 Silver Cloud Court
Monterey, California

Time: 1:30 PM

Date: June 21, 2006

Copies of the proposed regulatory action, including the staff report addressing possible fiscal impacts upon regulated sources, and any analysis required by Health and Safety Code Section 40727.2, are available for inspection at the District office. Interested parties are invited to submit comments, to attend and participate at the hearing. Comments on the rule should be directed to:

Mr. Mike Sewell
MBUAPCD
24580 Silver Cloud Court
Monterey, CA 93940
(831) 647-9418 x230 (telephone)
(821) 647-8501 (FAX)

Comments on the rule must be received no later than by 5 p.m. on June 7, 2006 to ensure inclusion in the District Board package.

Pursuant to the California Environmental Quality Act (Division 13 of the Public Resources Code), the District has prepared a Negative Declaration and Initial Study which was distributed for public review. The review period was from December 21, 2005 through January 20, 2006. No adverse comments on the Negative Declaration were received.

April 28, 2006 *(L4658)*

BOARD RESOLUTION

BEFORE THE BOARD OF DIRECTORS
OF THE MONTEREY BAY UNIFIED
AIR POLLUTION CONTROL DISTRICT

RESOLUTION 06-14

Adoption of Revised Rule . . . . . .)
207 - Review of New or Modified Sources. . . . . .)

BE IT RESOLVED that this Board hereby adopts Revised District Rule 207 (Review of New or Modified Sources), and directs that the rule-development record remain open until such time that the California Air Resources Board holds its required public hearing pursuant to Health & Safety Code §42504(d).

A copy of this Rule as adopted is attached hereto and made a part of this Resolution.

This rule-making action is based upon the following findings:

1. The adoption of this Rule is authorized by California Health and Safety Code Sections 40001 and 40702.

2. The Rule adopted herein is written and will be published so that its meaning can be easily understood by the persons directly affected by it.

3. The Rule adopted herein is consistent with existing statutes, court decisions and State and federal regulations.

4. The Rule adopted herein does not unnecessarily duplicate the requirements of any State or federal regulations.

5. The requirements of this Rule arise from the provisions of the California Clean Air Act and amendments (California Health and Safety Code Section 40910 *et seq.*) and the federal Clean Air Act and amendments (42 U.S.C. Section 7401 *et seq.*)

6. The proposed regulatory action described herein is exempt from California Health and Safety Code Section 40727.2, which requires that a comparative alternative analysis of any new control standard be performed.

7. Based upon the Initial Study for this rule making action, the Board finds that the project will not have a significant effect on the environment and approves the Negative Declaration.

8. Based upon substantial evidence in the record, the revisions to this Rule:

a) will not impair or impede continued maintenance of the national ambient air quality standards, and will not impact progress toward achieving attainment of state ambient air quality standards;

b) will not exempt, relax, or reduce the obligation of any major stationary source under the rules or regulations of the District on December 30, 2002 to obtain a permit or to meet best available control technology;

c) are consistent with Division 26 of the California Health & Safety Code.

d) are consistent with Environmental Justice guidance approved by the California Air Resources Board.

On motion of Director MYERS, seconded by Director MONACO, the foregoing resolution is adopted this 21st day of June, 2006, by the following vote, to-wit:

AYES: Directors Campos, Monaco, Calcagno, Lindley, Marigonda, Mettee-McCutchon, Myers, Smith

NOES : None

ABSENT: Directors Caballero, Pirie, Norton

I CERTIFY THIS IS A TRUE AND CORRECT RESOLUTION AS DULY ADOPTED BY THE AIR POLLUTION CONTROL DISTRICT BOARD ON 6/21/06

BY Linda Mounday

CLERK OF THE BOARDS

Douglas R. Zuber

EXECUTIVE OFFICER/APCO

STAFF REPORT

MONTEREY BAY
Unified Air Pollution Control District
serving Monterey, San Benito, and Santa Cruz counties

AIR POLLUTION CONTROL OFFICER
Douglas Quetin

24580 Silver Cloud Court • Monterey, California 93940 • 831/647-9411 • FAX 831/647-8501

DISTRICT BOARD MEMBERS

CHAIR:
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Santa Cruz County

VICE CHAIR:
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San Benito County

Anna Caballero
Salinas

Lou Calcagno
Monterey County

Butch Lindley
Monterey County

Paul Marigonda
Scotts Valley

Ila Mettee-McCutchon
Marina

John Myers
King City

Dennis Norton
Capitola

Ellen Pirie
Santa Cruz County

Jerry Smith
Monterey County

MONTEREY BAY UNIFIED AIR POLLUTION
CONTROL DISTRICT BOARD MEETING
Location: District Offices - 24580 Silver Cloud Court
Monterey, California

A G E N D A

WEDNESDAY, JUNE 21, 2006 - 1:30 P.M.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. PUBLIC COMMENT PERIOD - Any person may address the Board during its Public Comment Period. Presentations should not exceed three minutes, should be directed to an item not on today's agenda, and should be within the jurisdiction of the Board.

   Board members will not take action or respond immediately to any public comments presented, but may choose to follow up at a later time, either individually or on a subsequent agenda.

5. Comments and referrals from Chair and Board members.

6. Report from the Air Pollution Control Officer.

CONSENT AGENDA

7.	Approve Minutes of the May 17, 2006 meeting	*L. Mounday*
8.	Accept summary of mutual settlement activities	*D. Schott*
9.	Accept budget reports	*E. Martin*
10.	Accept report on air quality	*D. Quetin*
11.	Accept District Activity Report	*E. Kendig*
12.	Accept Executive Office schedule of tentative public hearings and regulatory development	*D. Quetin*
13.	Approve FY 05-06 budget transfers	*E. Martin*
14.	Approve Hearing Board Nominations Committee's recommendation to reappoint Alan Holbert and Michael Leach to the District Hearing Board	*L. Mounday*

R E G U L A R A G E N D A

15. Report from the Advisory Committee Chair

16. Public hearing on proposed Budget for FY 2006-2007 for the Monterey Bay Unified Air Pollution Control District, and take appropriate action
    a. Memorandum from Douglas Quetin

17. Public Hearing on proposed revisions to District Rules:
    300 (Permit Fees)
    301 (Permit Fee Schedules)
    302 (Source Testing and Analyses)
    305 (Fees for Air Toxic Emissions Inventories and Risk Assessments)
    306 (Asbestos Investigation Fees)
    308 (Title V: Federal Operating Permit Fees); and
    309 (Hearing Board Fees)
    a. Memorandum from Douglas Quetin

18. Public hearing on proposed revisions to Rule 207 (Review of New or Modified Sources)
    a. Memorandum from Lance Ericksen

19. Consider Findings and Resolution on large confined animal facilities, and take appropriate action
    a. Memorandum from Lance Ericksen

Adjournment

NO MEETING IN JULY

Next Regularly Scheduled Meeting: August 16, 2006

MONTEREY BAY
Unified Air Pollution Control District
serving Monterey, San Benito, and Santa Cruz counties

AIR POLLUTION CONTROL OFFICER
Douglas Quetin

24580 Silver Cloud Court • Monterey, California 93940 • 831/647-9411 • FAX 831/647-8501

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Santa Cruz County

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Lou Calcagno
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Paul Marigonda
Scotts Valley

Ila Mettee-McCutchon
Marina

John Myers
King City

Dennis Norton
Capitola

Ellen Pirie
Santa Cruz County

Jerry Smith
Monterey County

Proposed Date for Rule Adoption Hearing: June 21, 2006

TO: The Air Pollution Control Board

FROM: Lance Ericksen, Engineering Division Manager

SUBJECT: Revised Staff Report for Consideration of Proposed Revisions to District Rule 207 (Review of New or Modified Sources)

DATE: June 21, 2006

Attached is a revised staff report for proposed revisions to District Rule 207 (Review of New or Modified Sources). Based upon discussions with California Air Resources Board (CARB) staff the report has been updated to included additional support documentation to satisfy SB 288.

STAFF RECOMMENDATION

Review the attached Staff Report, which includes the proposed text of the rule; receive a brief staff presentation and public comment; and adopt the Rule as proposed.

Attachment 1: Staff Report
2: Proposed Resolution

#18.

MONTEREY BAY
Unified Air Pollution Control District
serving Monterey, San Benito, and Santa Cruz counties

AIR POLLUTION CONTROL OFFICER
Douglas Quetin

24580 Silver Cloud Court • Monterey, California 93940 • 831/647-9411 • FAX 831/647-8501

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Capitola

Ellen Pirie
Santa Cruz County

Jerry Smith
Monterey County

Proposed Date for Rule Adoption Hearing: June 21, 2006

TO: The Air Pollution Control Board

FROM: Lance Ericksen, Engineering Division Manager

SUBJECT: Consideration of Proposed Revisions to District Rule 207 (Review of New or Modified Sources)

DATE: June 21, 2006

ADVISORY COMMITTEE RECOMMENDATION

At its regularly scheduled June 2006 meeting, the Board's Advisory Committee recommended that the revisions to the above-listed Rule be adopted as proposed by staff.

STAFF RECOMMENDATION

Review the attached Staff Report, which includes the proposed text of the rule; receive a brief staff presentation and public comment; and adopt the Rule as proposed.

DISCUSSION

The proposed revisions to District Rule 207 are to incorporate changes required by the federal New Source Review Reforms package, to exempt area sources from the offsetting requirements, and to conform the Rule language to the District's historical implementation.

The federal New Source Review Reforms package required changes include allowances for a *Plantwide Applicability Limit* for major sources, and exemptions from *Statewide Compliance Certification* and *Alternative Siting Requirements* unless the modification is a *federal Major Modification*.

Staff is proposing to exempt facilities with annual emissions less than 10 tons per year from the requirement to provide offsets. Health & Safety Code Section 40918(a)(1) establishes for Districts with moderate air pollution a no net increase permitting program for nonattainment pollutants or their precursors at 25 tons per year. The current rule requires offsets based on the daily equivalent of 25 tons per year (137 lbs/day). It has come to the District's attention that for sources with high emissions on a few days during the year but low annual emissions, purchasing offsets causes a substantial hardship and is not consistent with the permitting of other sources with low annual emissions.

Historically, staff has not imposed the federal *Air Quality Increment* analysis, and *Visibility, Soils, and Vegetation* analyses on smaller sources. The proposed rule would exempt those facilities with annual emissions less than 10 tons per year from these requirements. These analyses are required by the federal Clean Air Act, but only for major sources.

Attachment 1: Staff Report
2: Proposed Resolution

ATTACHMENT 1

STAFF REPORT

18-4

MONTEREY BAY UNIFIED

AIR POLLUTION CONTROL DISTRICT

STAFF REPORT

Proposed Revisions to

Rule 207 (Review of New or Modified Sources)

Updated June 20, 2006

Board Adoption Hearing

June 21, 2006

Prepared by: Mike Sewell
Air Quality Engineer

Approved by: Lance Ericksen
Engineering Division Manager

18-5

18-6

Background

The proposed revisions to District Rule 207 are to incorporate changes required by the federal New Source Review Reforms package, to exempt area sources from the offsetting requirements, and to conform the Rule language to the District's historical implementation.

The federal New Source Review Reforms package required changes include allowances for a *Plantwide Applicability Limit* for major sources, and exemptions from *Statewide Compliance Certification* and *Alternative Siting Requirements* unless the modification is a *federal Major Modification*.

Staff is proposing to exempt *area sources*, those facilities with annual emissions less than 10 tons per year, from the requirement to provide offsets. The current rule requires offsets based on a sources's maximum daily emissions. It has come to the District's attention that certain sources may have high daily emissions but do not have high annual emissions. For this type of source, it is a substantial hardship to purchase offsets. Offsets based on the source's maximum daily emissions may require the purchase of Emission Reduction Credits (ERCs) significantly higher than the source's annual emissions. The revision to offset requirements is proposed to consider sources with high daily emissions on the same basis as other sources with low annual emissions. The offset threshold exemption of 10 tons per year is consistent with the offset threshold for Districts in the state that have much worse air quality than the North Central Coast Air Basin such as the San Joaquin Valley. The state considers sources with emissions less than 10 tons per year as area sources and does not require the collection of site specific emission inventory data. In addition, this level is below the California Clean Air Act (Health & Safety Code Section 40918(a)(1)) requirements for Districts with moderate air pollution that specify a no net increase permitting program for nonattainment pollutants or their precursors at 25 tons per year.

Historically, staff has not imposed the federal *Air Quality Increment* analysis, and *Visibility, Soils, and Vegetation* analyses on smaller sources. The proposed rule would exempt those facilities with annual emissions less than 10 tons per year from these requirements. These analyses are required by the federal Clean Air Act, but only for major sources.

Authority

The District is authorized by the California Health and Safety (HSC) Code Sections 40001 and 40702 to adopt and enforce rules and regulations to meet and maintain state and federal ambient air quality standards.

Associated Benefits

The proposed changes will incorporate the required federal New Source Review reforms into our rule and will eliminate a number of time consuming procedural requirements on minor emission sources.

Major Proposed Provisions

To facilitate the interpretation of the proposed revisions to Rule 207 provided as Appendix A to this report, the text proposed to be deleted is indicated with overstriking (~~overstriking~~) and the text proposed to be added is indicated with redlining (redlining).

The major revisions would establish that:

- Offsets are required from any project that exceeds the federal major modification threshold.
- Any source with the potential to emit less than 10 tons per year of any criteria pollutant is exempt from offsetting requirements, air quality increment analysis, and visibility, soils, and vegetation analyses.
- Any source that does not exceed the federal major modification threshold is not subject to the statewide compliance certification and alternative siting requirements.
- A definition for *federal major modification*.
- The allowance for major sources to apply for a *plantwide applicability limit* to avoid the requirements for *statewide compliance certification* and *alternate siting*.

Affected Sources

These proposed revisions would not impose any new requirements on existing permitted sources. New permitting actions would be subject to these proposed requirements.

Fiscal Impact On Affected Sources

No fiscal impact is expected from these proposed revisions.

Air Quality/ Socioeconomic Effects

The proposed regulatory action described herein will <u>not</u> significantly affect air quality or emissions limitations and therefore is exempt from Health and Safety Code (HSC) Section 40728.5, which requires that a socioeconomic analysis of the proposed action be performed.

Alternative Analysis

The proposed regulatory action described herein is exempt from California Health and Safety Code (HSC) Section 40727.2, which requires that a comparative alternative analysis of any new control standard be performed.

District Implementation

As part of the District's standard implementation procedures, we would send a rule adoption announcement to interested parties. If requested, an informational workshop will be held at the District office following rule adoption to provide information and assistance to persons with additional questions.

Fiscal Impact upon District

District staff expects no fiscal impact upon the District from the proposed revisions to this rule.

SB 288

California Health and Safety Code (HSC) Section 42504 establishes specific criteria for amending and revising new source review rules. As the District is in attainment with all national ambient air quality standards, the District will be submitting this rule revision under §42504(d)(1)(E) as proposed Rule 207 will not impair or impede continued maintenance of the national ambient air quality standards or progress toward achieving attainment of state ambient air quality standards. Maintenance of the national ambient air quality standards and progress toward achieving attainment of the state ambient air quality standards are addressed in the District planning documents. Proposed Rule 207 is consistent with our planning documents and therefore will not impair or impede continued maintenance of the national ambient air quality standards or progress toward achieving attainment of state ambient air quality standards. Evidence to document the District's attainment status and consistency of the revisions to Rule 207 with SB288 is included in Appendix B.

As required by §42504(d)(2), proposed Rule 207 will not exempt, relax, or reduce the obligation of any major stationary source to obtain a permit or meet best available control technology requirements. Evidence to document the consistency of the revisions to Rule 207 is included in Appendix C.

As required by §42504(d)(3), proposed Rule 207 is consistent with Division 26 (Air Resources) of the Health and Safety Code. Evidence to document the consistency of the revisions to Rule 207 is included in Appendix D.

As required by §42504(d)(4), proposed Rule 207 is consistent with all guidance approved by the state board regarding environmental justice. Evidence to document consistency of the revisions to Rule 207 is included in Appendix E.

California Environmental Quality Act (CEQA) Status	The District prepared a Negative Declaration and an Initial Study for the revisions to Rule 207 which was distributed for public review. The review period was from December 21, 2005 through January 20, 2006. No comments were received on the Negative Declaration and Initial Study.
Comments Received	None.

APPENDIX A
PROPOSED RULE

Rule 207 (Review of New or Modified Sources)

MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT
REGULATION II
PERMITS

RULE 207. REVIEW OF NEW OR MODIFIED SOURCES

(Adopted 9-1-74; Revised 7-15-76, 7-18-79, 1-30-80, 1-27-82, 12-15-82, 6-15-84, 12-13-84, 2-17-88, 5-18-88, 7-27-88, 9-19-90, 4-21-93, 5-17-95, 3-20-96, 12-18-96, 9-15-99, ~~and~~ 12-13-2000; and Proposed for Revision June 21, 2006.)

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PART 1 GENERAL

1.1 Purpose

This Rule provides for the review of new and modified stationary air pollution sources to meet:

requirements for the review of new and modified stationary sources (NSR) and for the Prevention of Significant Deterioration (PSD), under the provisions of the federal Clean Air Act; and

requirements for NSR under the provisions of the California Clean Air Act~~)~~.

The intent of this Rule is to insure that the most stringent requirements of these programs shall be applied. This Rule provides mechanisms by which Authorities to Construct may be granted to such sources without interfering with the attainment or maintenance of ambient air quality standards.

1.2 Applicability

This Rule shall apply to all new stationary sources and all modifications to existing stationary sources which, after construction or modification, emit or have the potential to emit any affected pollutants, as defined in Section 2.1 herein.

1.3 Exemptions

1.3.1 Exemption: Gasoline Storage and Dispensing. Gasoline storage and dispensing equipment subject to District Rules 418 (Transfer of Gasoline into Stationary Storage Containers) and 1002 (Transfer of Gasoline into Vehicle Fuel Tanks) shall be exempt from the requirements of this Rule.

1.3.2 Exemption: ~~Rule Compliance.~~ The requirements of Sections 4.1, 4.2, 5.2 and 5.3 of this Rule shall not apply to modifications made to an existing source solely to comply with regulatory requirements or prohibitory rules and where there is no actual or potential emissions increase.

1.3.2.1 The requirements of Sections 4.2 and 5.3 shall not apply ~~for~~to any potential emission increase that is less than the threshold for a federal major modification at a source that results from the installation, operation, or other implementation of any emission control device or technique used to comply with a District, state, or federal emission control requirement, including, but not limited to, requirements for the use of reasonably available control technology or best available retrofit control technology, unless there is a modification that results in an increase in capacity of the unit being controlled.

1.3.3 Exemption: ~~Rule Compliance.~~ The requirements of Sections 4.2 and 5.3 of this Rule shall not apply to any Emergency Internal Combustion Engine that is either only used for emergency power when normal power line service fails, or are used only for the emergency pumping of water, and are operated less than 60 hours per year for testing and exercise.

1.3.4 Exemption: The requirements of Sections 3.2 *(Visibility, Soils, and Vegetation Analysis)*, 4.2 *("federal" Offsetting Requirements)*, 5.3 *(State Offsetting Requirements)*, and 6.6 *(Air Quality Increment Analysis)* of this Rule shall not apply to any Stationary Source that has emissions less than 10 tons/year of all individual criteria pollutants.

1.3.5 Exemption: The requirements of Sections 1.6.2 *(Statewide Compliance Certification)* and 6.1 *(Alternative Siting)* of this Rule shall not apply to an existing Stationary Source unless the modification is a federal Major Modification.

1.3.6 Exemption: Innovative Control Technology. The District may exempt an applicant from the requirements of Section 4.1, Subsections 4.2.2, 4.2.3, 4.2.11, 4.2.12, 4.3.3, Sections 4.4, 5.2 and 5.3 of this Rule for a specified pollutant if all the criteria in Subsections 1.3.6.1 through 1.3.6.5 below are met:

1.3.6.1 the source is not a ~~federal~~ major source, as defined by Title 40, Code of Federal Regulations, Part 51, Section 165 (40 CFR Part 51.165); and

1.3.6.2 it is determined through the use of the air quality impact table in Section 9.4, or through air quality modeling, as in Section 9.1 herein, that emissions from the new or modified stationary source will result in a net air quality benefit and will not cause or contribute to the violation of any ambient air quality standard or emissions increment established pursuant to this Rule; and

1.3.6.3 the source will utilize unique and innovative control technology which will result in a significantly lower emission rate for the above-specified pollutant from the installation than would have occurred with the use of previously known best available control technology (BACT); and

1.3.6.4 the above-specified technology will likely serve as a model for technology to be applied to similar installations within the state; and

1.3.6.5 emission reductions which create the air quality benefit must occur by the time a new or modified source commences operation, be quantifiable, real, surplus,

permanent, enforceable and meet the requirements of Sections 3.4, 6.12, and 6.13 herein.

1.3.6.6 If the source meets all criteria except Subsection 1.3.6.1 of Subsection 1.3.6 above, the District may only exempt the applicant from the requirements of Sections 4.1 and 5.2 of this Rule for a specified pollutant.

1.3.7 The District shall withdraw any approval to employ a system of innovative control technology approved under this Rule if:

1.3.7.1 the proposed system fails to achieve the required continuous emission reduction rate within a time period specified by the District in the Authority to Construct, or the Permit to Operate, not to exceed two years from the date of initial startup; or

1.3.7.2 the proposed system contributes to an unreasonable risk to public health, welfare, or safety; or

1.3.7.3 the proposed system becomes a public nuisance.

1.3.8 If a source or modification fails to meet the required level of continuous emissions reduction or its approval is withdrawn pursuant to this Section, the District may allow the source up to an additional two years to meet the requirements of BACT.

1.3.9 If a source or modification fails to meet the required level of continuous emissions reduction or its approval is withdrawn pursuant to this Section, the source shall provide offsets for the residual emissions that were not offset.

1.3.10 Exemption: Expired or Revoked Permit. The owner or operator of a source whose District permit has expired or been revoked for nonpayment of fees under the provisions of Regulation III (Fees), who subsequently applies for reissuance of a permit for that source, shall be exempt from the provisions of this Rule provided no modifications have been made to the source since that source last held a valid District permit.

1.4 Effective Date

This Rule as most recently revised is effective on ~~December 13, 2000~~the date the rule is approved by the California Air Resources Board pursuant to Health and Safety Code Section 42504(d).

1.5 References

1.5.1 The requirements of this Rule arise from the provisions of the California Clean Air Act and amendments (Health and Safety Code Section 40910 *et seq.*) and the federal Clean Air Act and amendments (42 U.S.C. Section 7401 *et seq.*)

1.5.2 Other related or referenced District rules or regulations include: Rule 101 (Definitions); Rule 200 (Permits Required); Rule 201 (Sources Not Requiring Permits); Rule 215 (Banking of Emissions Reductions); Rule 218 (Title V: Federal Operating Permits); Regulation III (Fees); Rule 418 (Transfer of Gasoline into Stationary Storage Containers); and Rule 1002 (Transfer of Gasoline into Vehicle Fuel Tanks).

1.6 Permit Denial

The District shall deny an Authority to Construct or a Permit to Operate for any new stationary source or modification to an existing source unless:

1.6.1 the new source or modification complies with all applicable rules and regulations; and

1.6.2 the applicant certifies that all other major stationary sources, which are owned or operated by such person (or by any entity controlling, controlled by, or under common control with such a person) in California and which are subject to emission limitations are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards.

PART 2 DEFINITIONS

For the purpose of this Rule, the definitions below shall apply.

2.1 Affected Pollutants

These species include:

2.1.1 all pollutants for which an ambient air quality standard has been established by the United States Environmental Protection Agency or the Air Resources Board, as well as the precursors to such pollutants; and

2.1.2 all pollutants regulated by the United States Environmental Protection Agency under the federal Clean Air Act or by the Air Resources Board under the Health and Safety Code; and

2.1.3 all the pollutants which the United States Environmental Protection Agency after the notice and opportunity for public comment, or, the Air Resources Board, or the District after public hearing, determine may have significant adverse effect on the environment, the public health, or the public welfare; and

2.1.4 include, but are not limited to:

2.1.4.1 volatile organic compounds (VOCs),
2.1.4.2 nitrogen oxides (NO_x),
2.1.4.3 sulfur oxides (SO_x),

2.1.4.4 particulate matter less than 10 micrometers in aerodynamic diameter (PM_{10}),
2.1.4.5 total suspended particulates (TSP),
2.1.4.6 carbon monoxide (CO),
2.1.4.7 ethylene,
2.1.4.8 vinyl chloride,
2.1.4.9 asbestos,
2.1.4.10 beryllium,
2.1.4.11 lead,
2.1.4.12 mercury,
2.1.4.13 fluorides,
2.1.4.14 sulfuric acid mist,
2.1.4.15 hydrogen sulfide (H_2S),
2.1.4.16 total reduced sulfur compounds, and
2.1.4.17 reduced sulfur compounds.

2.2 Air Basin

The geographic area containing Monterey, San Benito, and Santa Cruz counties.

2.3 Air Pollution Control Officer (APCO)

The Air Pollution Control Officer for the Monterey Bay Unified Air Pollution Control District, or his/her authorized representative.

2.4 Air Quality Impact Table

An air quality simulation table used to estimate maximum ground level impacts of a source of emissions of TSP, CO, oxides of sulfur and oxides of nitrogen, assuming one hundred percent conversion of nitrogen oxides into NO_2 and calculating all emissions of sulfur oxides as SO_2 (table contained in Section 9.4 herein).

2.5 Air Quality Increment

A maximum allowable increase in concentration of a pollutant, beyond baseline, as established by the District Board and at least as stringent as provided in the federal Clean Air Act provisions in Section 163(b)and 40 CFR Part 51.166; or, for pollutants for which no increment has been established pursuant to the federal Clean Air Act, a maximum allowable increase in concentration of a pollutant as established by the District Board.

2.5.1 In establishing air quality increments for sulfur dioxide and TSP, the District Board shall take into consideration the impact of emissions on neighboring areas. Baseline air quality shall be the ambient concentration level reflecting actual air quality as monitored or modeled as of the existing baseline date of July 18, 1979, minus any contribution attributable to emissions from major stationary sources and modifications constructed since January 6, 1975. In establishing air quality

increments for carbon monoxide, hydrogen sulfide, and lead, baseline air quality shall be the ambient concentration as of January 1, 1984. In establishing air quality increments for nitrogen dioxide, the baseline air quality shall be the ambient concentration as of February 8, 1988. Air quality increments for PM_{10} are in effect as of August 19, 1983.

2.5.2 In accordance with the criteria contained in Subsection 2.5.1 herein, the District Board defines the following increments of allowable air quality degradation, beyond the existing air quality levels, for pollutants for the respective areas indicated as designated attainment:

Table 2.5.2 District Board-Defined Air Quality Increments
Allowable Air Quality Degradation Beyond
Existing Air Quality Levels

Pollutant	Designated Area A and Area A Impact Zones (ug/m^3)	Designated Areas C, D, and F (ug/m^3)	Designated Areas B and E (ug/m^3)	Averaging Period
Carbon Monoxide (CO)	4,000	8,000	12,000	1-hour
Nitrogen Dioxide (NO_2)	2.5	20	25	annual
Hydrogen Sulfide (H_2S)	4.2	8.4	12.6	1-hour
Lead	.15	.30	.45	30-day
TSP	5 10	5 10	19 37	annual 24-hour
PM_{10}	2.8 5.7	2.8 5.7	10.8 21.1	annual 24-hour
Sulfur Dioxide (SO_2)	2 5 25	2 5 25	20 91 512	annual 24-hour 3-hour

2.6 Air Resources Board (ARB)

State of California Air Resources Board.

2.7 Ambient Air Quality Standards

See National Ambient Air Quality Standards and State Ambient Air Quality Standards.

2.8 Area A Impact Zone

All lands outside of the designated Area(s) A but within a 15-mile distance beyond the boundary of the designated Area(s) A, or other areas established by the District based on standard meteorological techniques such as hourly wind roses, frequency distribution of atmospheric wind classes, morning and afternoon mixing depths and any other meteorological or geographical considerations needed to establish the Area A Impact Zone. See Subsection 2.18.1 herein for the definition of designated Area(s) A.

2.9 Authority to Construct

A written permit, as provided by Part 3.1 of Rule 200, issued by the District to a specific applicant:

2.9.1 prior to the building, erection, alteration, or replacement of any article, machine, equipment or other contrivance which may cause the issuance of air contaminants or the use of which may eliminate, reduce or control the issuance of air contaminants; or

2.9.2 alternatively, to create federally enforceable conditions, accepted voluntarily by a source for purposes of limiting its potential emissions, applicable to any article, machine, equipment or other contrivance which may cause the issuance of air contaminants or the use of which may eliminate, reduce or control the issuance of air contaminants.

2.9.3 Application Deemed Complete

The District's action of deeming an Authority to Construct application complete, or the California Energy Commission's action of accepting an Application for Certification (AFC).

2.9.4 Authority to Construct is Issued

The District's action of granting an Authority to Construct, or the California Energy Commission's action of issuing its affirmative decision on an Application for Certification (AFC).

2.10 Best Available Control Technology (BACT)

An emission limitation based on the maximum degree of reduction for each pollutant which would be emitted from any new or modified stationary source, which on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such class or category of source, or modification through application of production processes or available methods, systems, and techniques.

2.10.1 BACT shall not be less stringent than the emission control required by any applicable provision of District, ARB, State, or federal laws or regulations, unless the applicant demonstrates to the satisfaction of the District that such limitations are not achievable.

2.10.2 In no event shall the application of BACT result in the emissions of any pollutant which exceed the emissions allowed by any applicable standard in 40 CFR Part 60 (New Source Performance Standards), or in 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants), or in 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories).

2.11 California Coastal Waters

Those waters that are between the California coastline and a line starting at the California-Oregon border at the Pacific Ocean:

thence to 42.0 N 125.5 W;
thence to 41.0 N 125.5 W;
thence to 40.0 N 125.5 W;
thence to 39.0 N 125.0 W;
thence to 38.0 N 124.5 W;
thence to 37.0 N 123.5 W;
thence to 36.0 N 122.5 W;
thence to 35.0 N 121.5 W;
thence to 34.0 N 120.5 W;
thence to 33.0 N 119.5 W;
thence to 32.5 N 118.5 W;

and, ending at the California-Mexico border at the Pacific Ocean.

2.12 Cargo Carriers

Cargo carriers include trains and marine vessels dedicated to a specific stationary source.

2.13 Chlorofluorocarbon (CFC)

The family of chemical compounds containing carbon, fluorine and chlorine; containing at least one carbon atom and having no hydrogen atoms and no double bonds; and which includes, without limitation, trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113), 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114), and chloropentafluoroethane (CFC-115).

2.14 Class I Area

Any area having air quality or air quality related values requiring special protection, which has been designated Class I by a federal or state authority empowered to make such a decision.

2.15 Complete Application

Completeness of an application for an Authority to Construct a new or modified stationary source shall be evaluated on the basis of the list of required information which was adopted by the District pursuant to Article 3, Sections 65940 through 65944 of Chapter 4.5 of Division 1 of Title 7 of the Government Code as it exists on the date on which the application is received.

2.16 Contiguous Property

Two or more parcels of land with a common boundary or separated solely by a public roadway or other public right-of-way.

2.17 Cost-Effective

A cost per unit of emissions reduction which is lower than or equivalent to the maximum unit costs of the same emission reduction through the use of BACT calculated in current year dollars.

2.18 Designated Areas, A, B, C, D, E, and F

For the purposes of implementing the provisions of this Rule the following locations, which are shown in Figure 1, are recognized as designated areas A, B, C, D, E, and F, respectively:

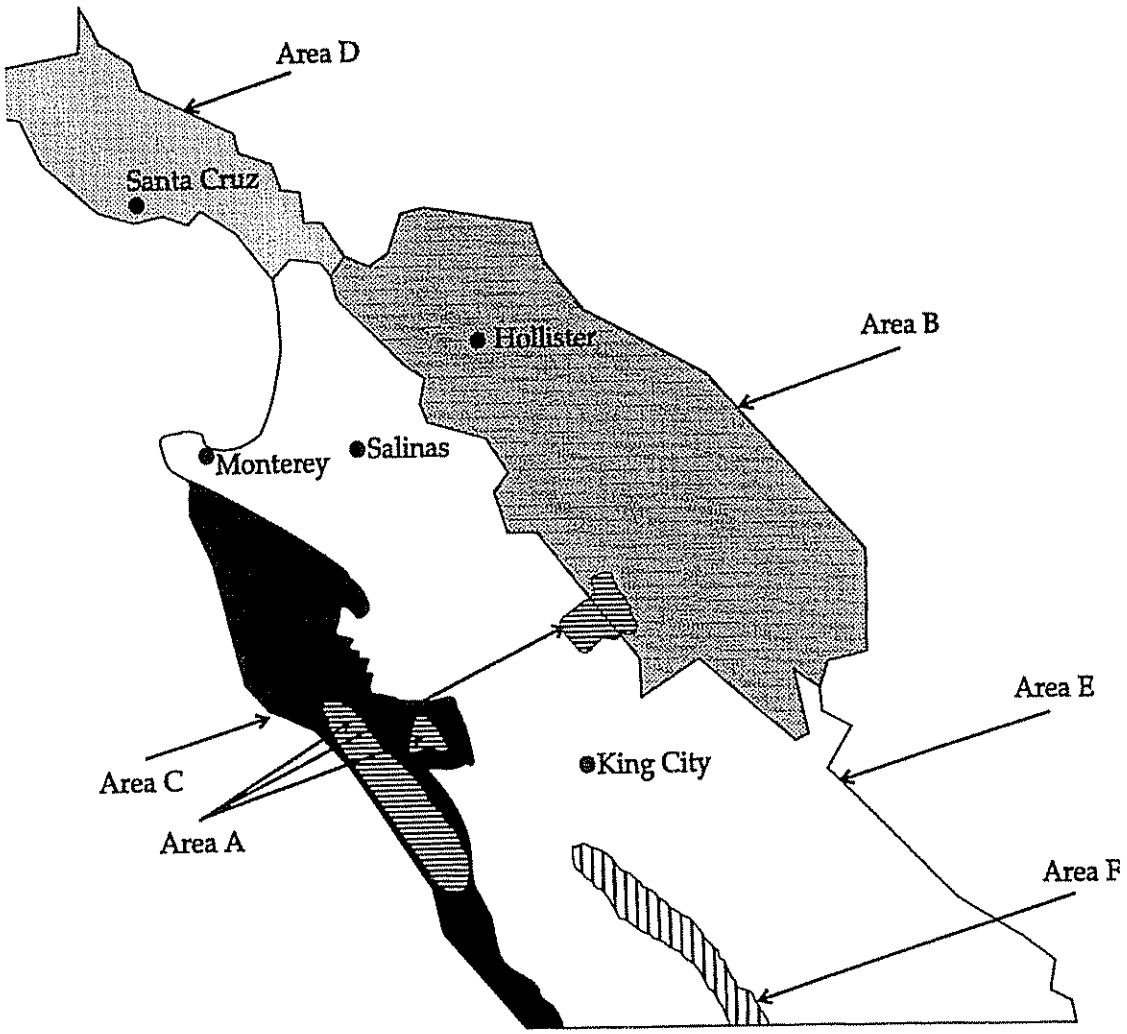
2.18.1 Area(s) A includes locations determined as Class I areas mandated by the federal Clean Air Act and amendments (42 U.S.C. Section 7401 *et seq.*)

The Class I areas located within the boundaries of the District designated Areas A include the Pinnacles National Monument and the Ventana National Wilderness.

2.18.2 Area(s) B includes the entirety of San Benito County except those areas designated as Area A or Area A Impact Zones;

2.18.3 Area(s) C includes the City of Carmel-by-the-Sea and the Carmel Valley south to the San Luis Obispo County line, including the Big Sur Coast, and the area described by the boundary commencing with the northern city limits of Carmel at the Pacific Ocean, and is coterminous with the northern Carmel city limits to Serra Avenue; then follows Serra Avenue to Highway 1, north to Aguajito Road, to Loma Alta Road up to Jacks Peak Park; is bordered on the north by the southern boundary of the Jacks Peaks Park; then proceeds easterly to the west crest of the Sierra De Salinas Mountain Range; then continues in a southeasterly direction to the Palo Escrito Mountain Peak; through the Middle of Bear Canyon, following Cachagua Conejo Creek; up Pine Creek to the junction of the Los Padres National Forest boundary; is bordered on the east by the eastern border of the Los Padres National Forest from the Pine Creek junction in a southerly

Figure 1. Map of District Designated Areas



Area A: Pinnacles National Monument, Ventana Wilderness Area

Area B: San Benito County other than Area *A* and Area *A* Impact Zones

Area C: Carmel-By-The-Sea, Carmel Valley, and the Big Sur Coast other than Area *A*

Area D: Santa Cruz County

Area E: Monterey County other than Areas *A*, *C*, & *F*, and Area *A* Impact Zones

Area F: San Antonio Valley

direction to the San Luis Obispo County line, including all lands within the area defined above except those areas designated as Area A or Area A Impact Zones;

2.18.4 Area(s) D includes the entirety of Santa Cruz County;

2.18.5 Area(s) E includes the entirety of Monterey County except areas designated A, C, F or Area A Impact Zones; and,

2.18.6 Area(s) F includes the area described by the boundary starting at the northern intersection of the boundary of the federal reservation of Ft. Hunter Liggett and Highway G-14 (Jolon Highway); proceeding north along G-14 3.5 miles to the mouth of Crazy Canyon; up Crazy Canyon southeast to the crest of the Sierra De Salinas Mountains; then in a general southeasterly direction crossing Highway G-18 at benchmark 352.9; proceeding still southeasterly along the crest of the ridge line to Sulphur Canyon Road, approximately 1 mile downstream from the San Antonio Dam; west along the road to the boundary between Monterey and San Luis Obispo Counties, following the county line west to the western intersection of Highway G-14 and the county boundary; northwest along Highway G-14 to the southern intersection of Highway G-14 and the reservation boundary of Ft. Hunter Liggett; then following the eastern boundary of Fort Hunter Liggett to the northern intersection of the reservation boundary and Highway G-14.

2.18.7 Other areas within the District having air quality or air quality related values requiring special protection may be redesignated to a more protective designation by the District Board after holding a public hearing, noticed 30 days in advance, to consider public input concerning such designation.

2.19 District

Refers to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) and its authorized representatives.

2.20 District Board

Refers to the Monterey Bay Unified Air Pollution Control District Board.

2.21 Emissions Increment

The increase in emissions of any pollutant which can be allowed in an area without causing the exceedance of any air quality increment.

2.22 Emission Reduction Credit (ERC)

An actual emission reduction of specific type and quantity that is registered with the District in accordance with Rule 215. Must be surplus, quantifiable, permanent, real and enforceable.

2.23 Enforceable Emission Reduction

As defined by District Rule 215, an emission reduction which can be verified for accuracy by the District. In general, specified by restrictions imposed by conditions of an Authority to Construct and/or Permit to Operate.

2.24 Exempt Compounds

As defined in District Rule 101, Definitions.

2.25 Federal Land Manager

The Secretary of the Department with authority over the specified federal lands.

2.26 Federal Major Modification

A Major Modification as defined in 40 CFR §51.165, except that the term "reviewing authority" as used in that Section shall mean the District, and the term "Significant" shall mean the same as a Major Modification to an Existing Source as defined in this Rule.

2.27 Federally Enforceable Condition

A condition that is enforceable by EPA and citizens under the Clean Air Act. Such conditions shall include emission limitations, controls, and other requirements that are permanent, quantifiable, and otherwise enforceable as a practical matter. Federally enforceable conditions established pursuant to Section 2.33.5 must meet the procedural requirements for public and EPA review in Sections 6.9, 6.10, and 1.3.6, 1.3.6, 6.11 of this Rule. Conditions in a District Permit to Operate that meet the requirements in this Rule for federally enforceable conditions shall be specifically designated as federally enforceable in the permit.

2.28 Fugitive Emission

Any emission that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

2.29 Hydrochlorofluorocarbon (HCFC)

Any member of the family of chemical compounds containing hydrogen, carbon, fluorine and chlorine, and which includes, without limitation, chlorodifluoromethane (HCFC-22).

2.30 Hydrofluorocarbon (HFC)

Any member of the family of chemical compounds containing hydrogen, carbon, and fluorine, and which includes, without limitation, trifluoromethane (HFC-23).

2.31 Major Modification to an Existing Source

A modification to a stationary source in an air basin which has been designated as being either in attainment or nonattainment of national ambient air quality standards, which may result in the potential to emit greater than the threshold levels provided by the federal Clean Air Act (42 U.S.C. Section 7401 *et seq.*) for that designation and pollutant.

2.32 Major Stationary Source

A stationary source in an air basin which has been designated as being either in attainment or nonattainment of national ambient air quality standards, which has the potential to emit greater than the threshold levels provided by the federal Clean Air Act (42 U.S.C. Section 7401 *et seq.*) for that designation.

2.33 Modification

May be any of the following:

2.33.1 Any physical change, change in method of operation of, or addition to an existing stationary source that would result in an actual or potential emissions increase from any permit unit (as defined in Part 2 herein) or sum of permit units under consideration as a result of the proposed modification; or

2.33.2 any physical change, change in method of operation of, or addition to an existing stationary source for which an application to bank emissions reductions credits is submitted to the District; or

2.33.3 any process or process material change, including alternate fuels, production or raw materials, that would result in an actual or potential emissions increase, unless specifically allowed by an Authority to Construct or Permit to Operate; or

2.33.4 any change in hours of operation or production rate which would necessitate a change in permit conditions of an Authority to Construct or Permit to Operate; or

2.33.5 any change to a District Authority to Construct or Permit to Operate to establish federally enforceable conditions in the permit that are accepted voluntarily by the source for purposes of limiting its potential emissions.

2.33.6 A reconstructed source, as defined in Section 2.53 herein, shall be treated as a new stationary source.

2.33.7 Unless previously limited by a permit condition of an Authority to Construct or a Permit to Operate, the following shall not be considered physical changes:

2.33.7.1 routine maintenance or repair; or

2.33.7.2 transfer of location of any article, machine, equipment or other contrivance for which a Permit to Operate has previously been granted under Rule 200, and for which no alteration or addition has been made.

2.33.8 Unless previously limited by a permit condition of an Authority to Construct or a Permit to Operate, the following shall not be considered changes in the method of operation:

2.33.8.1 an increase in the production rate if such an increase does not exceed the operating design capacity or the actual demonstrated capacity of the stationary source as approved by the District in the Authority to Construct and Permit to Operate; or

2.33.8.2 a change in ownership; or

2.33.8.3 a replacement of a piece of equipment with an identical piece of equipment with emissions less than or equal to those from the original piece of equipment.

2.34 National Ambient Air Quality Standards (NAAQS)

Air quality standards set by the Administrator of the United States Environmental Protection Agency to protect public health and welfare and, in general, consisting of primary and secondary standards. Primary standards are to protect the public health, while secondary standards are intended to protect the public welfare, *e.g.*, plants, crops, and materials.

2.35 Net Air Quality Benefit

A net improvement in air quality resulting from actual emissions reductions impacting the same general area affected by the new or modified source and which will be consistent with reasonable further progress.

2.36 Net Emissions Increase

2.36.1 The sum of all increases in potential emissions of any given pollutant except PM_{10} from a new or modified stationary source occurring since July 15, 1976, minus any reductions in emissions of that pollutant at the stationary source occurring since July 15, 1976, calculated according to the provisions of Part 7 of this Rule; or

2.36.2 the sum of all increases in potential emissions of PM_{10} from a new or modified stationary source occurring since August 19, 1983, minus any reductions in emissions of PM_{10} at the stationary source occurring since August 19, 1983, calculated according to the provisions of Part 7 of this Rule.

2.36.2.1 The PM_{10} emissions from an existing stationary source shall be recalculated from the TSP emission increases and reductions which have occurred since August 19, 1983 using PM_{10} emission factors. When PM_{10} emissions factors do not exist, 50 percent of the total TSP shall be assumed to be PM_{10}. All TSP emission increases and decreases occurring prior to August 20, 1983 are zeroed.

2.36.2.2 If the applicant has provided full offsets for TSP emissions occurring since August 19, 1983 but before April 21, 1993 those TSP emissions need not be recalculated as PM_{10} because the net emissions increase at the time of the offset is considered zero.

2.37 New Emissions Increase

The sum of all increases in potential emissions of any given pollutant from a new or modified stationary source. The increases shall be calculated according to the provisions of Part 7 of this Rule.

2.38 New Source

A location at which new equipment is being installed, on or after the appropriate applicability date, which does not currently hold a valid District Authority to Construct or Permit to Operate. For the purposes of Part 4 of this Rule, the applicability date shall be July 15, 1976. For the purposes of Part 5 of this Rule, the applicability date shall be April 21, 1993.

2.39 New Source Review (NSR)

A system designed, through the use of a permitting program applicable to new or modified sources, to reduce ambient air concentrations of pollutants for which specific areas have been designated as nonattainment.

2.40 Nitrogen Oxides (NO_x)

The molecular forms of nitrogen oxide and nitrogen dioxide. When measured or calculated, the total of the two molecular forms as nitrogen dioxide.

2.41 Nonattainment Pollutant

Any pollutant for which an ambient air quality standard was exceeded within the air basin more than three discontinuous times (or, for annual standards, more than one time) within the three years immediately preceding the date when the application for the Authority to Construct was filed; or

which has been designated nonattainment pursuant to final rulemaking either by the United States Environmental Protection Agency and published in the Federal Register, or by the Air Resources Board, as well as any precursors of such pollutants.

2.42 Offset

Where used as a noun, an emission reduction from an existing source, whether or not under the same ownership as a proposed project, that is necessary to mitigate an emission increase of an affected pollutant from the proposed project that would otherwise prevent the lawful issuance by the District of an Authority to Construct or a Permit to Operate. When used as a verb, the process of providing such an emission reduction.

2.43 Permanent Emission Reduction

As defined in District Rule 215, an emission reduction which is assured for the life of the corresponding increase, whether limited or unlimited in duration, and that the benefits of the emission reduction do not diminish or disappear over time.

2.44 Permit to Operate

A written permit, as provided by Part 3.1 of Rule 200, with any specified conditions required, issued by the Monterey Bay Unified Air Pollution Control District to a specific applicant for the operation or use of any article, machine, equipment or other contrivance which may cause the issuance of air contaminants or the use of which may eliminate, reduce or control the issuance of air contaminants.

2.45 Permit Unit

A piece of equipment, product line, system, unit, process line or process that produces a product or performs a function independently of other equipment, product lines, systems, units, process lines or processes. (From District Rule 101, Definitions.)

2.46 PM_{10}

Particulate matter with aerodynamic diameter smaller than or equal to a nominal 10 micrometers (μm) as measured by an appropriate reference test method.

2.47 Pollutant

See Affected Pollutant.

2.48 Potential to Emit

The maximum daily capacity of a permit unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the daily capacity of the unit to emit a pollutant, including pollution control equipment and restrictions in hours or operation, or on the type or amount of material combusted, stored or processed, shall be treated as part of its design only if the limitation, or the effect it would have on daily emissions, is incorporated into the applicable Authority to Construct and Permit to Operate as an enforceable permit condition.

2.49 Precursor

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

	Precursor	Secondary Pollutant
2.49.1	volatile organic compounds (VOCs)	1) ozone 2) organic fraction of particulate matter (PM_{10})
2.49.2	nitrogen oxides (NO_x)	1) ozone 2) nitrogen dioxide (NO_2) 3) nitrate fraction of particulate matter (PM_{10})
2.49.3	sulfur oxides (SO_x)	1) sulfur dioxide (SO_2) 2) sulfates (SO_4) 3) sulfate fraction of particulate matter (PM_{10})

2.50 Prevention of Significant Deterioration (PSD)

A system designed, through the use of a permitting program applicable to new or modified sources, to avert consequential increases in ambient air concentrations of

pollutants for which specific areas have been designated as either attainment or unclassifiable under federal guidelines.

2.51 Quantifiable Emission Reduction

As defined in District Rule 215, an emission reduction, the rate and characteristics of which can be determined by the District with reasonable accuracy. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process or production inputs, modeling, or other reasonable measurement practices.

2.52 Real Emission Reduction

As defined in District Rule 215, those emission reductions that have actually occurred, have been implemented and are not artificially devised.

2.53 Reconstructed Source

Any source undergoing physical modification where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new stationary source. Fixed capital cost means that capital needed to provide all the depreciable components.

2.54 Seasonal Source

Any source with more than 75 percent of its annual emissions within a consecutive 90-day period.

2.55 Source

See Stationary Source.

2.56 State Ambient Air Quality Standards

Air quality standards set by the California Air Resources Control Board "in consideration of the public health, safety, and welfare, including, but not limited to, health, illness, irritation to the senses, aesthetic value, interference with visibility, and the effects on the economy" (California Health and Safety Code Section 39606 [b]). A distinction is not made between standards to protect public health and welfare, *i.e.*, primary and secondary standards.

2.57 State Implementation Plan (SIP)

Plan which is required to be submitted by each State under 42 U.S.C. Section 7401 *et seq.* (federal Clean Air Act) to achieve and maintain national ambient air quality standards (NAAQS).

2.58 Stationary Source

Any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission.

2.58.1 Installation includes any operation, article, machine, equipment or other contrivance which emits or may emit any affected pollutant.

2.58.2 Building, structure, or facility includes all pollutant emitting activities, including activities located in California coastal waters adjacent to the District boundaries which:

2.58.2.1 belong to the same industrial grouping;

2.58.2.2 are located on one or more contiguous or adjacent properties (except for activities located in coastal waters); and,

2.58.2.3 are under the same or common ownership, operation, or control or which are owned or operated by entities which are under common control.

2.58.3 Pollutant emitting activities shall be considered as part of the same industrial grouping if:

2.58.3.1 they belong to the same two-digit standard industrial classification code, or,

2.58.3.2 they are part of a common production process. (Common production process includes industrial processes, manufacturing processes, and any common raw material).

2.58.4 The emissions within District boundaries and California coastal waters as defined in Section 2.11 herein, from cargo carriers associated with the stationary source shall be considered emissions from the stationary source to the extent provided in Subsections 7.3.4, 7.3.4.1, and 7.3.5 herein.

2.59 Sulfur Oxides (SO_x)

The chemical species of sulfur dioxide and sulfur trioxide. When measured or calculated, the total of the two chemical species as sulfur dioxide.

2.60 Surplus Emission Reduction

As defined in District Rule 215, emission reductions not already encumbered by any federal, State, ARB, District, or local agreement, law, order, plan, regulation, requirement, or rule.

2.61 Total Suspended Particulates (TSP)

Any airborne finely divided solid or liquid material with an aerodynamic diameter less than 100 micrometers (μm).

2.62 Upwind Areas

The area bounded by a line passing through the site of the new or modified source perpendicular to the predominant summer wind flow line and extending to the boundaries of the same air basin in the direction opposite the predominant summer wind flow, except where the District determines that for reasons of topography or meteorology such a definition is inappropriate.

2.63 Volatile Organic Compounds (VOCs)

As defined in District Rule 101, Definitions.

PART 3 GENERAL REQUIREMENTS

Any source subject to this Rule shall be subject to the following requirements.

3.1 Pre-Construction and Post-Construction Air Monitoring

The owner or operator of a stationary source subject to the requirements of this Rule shall conduct ambient air quality monitoring as the District finds necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in the area. All monitoring shall comply with United States Environmental Protection Agency guidelines for monitoring (40 CFR Part 58, Appendix B).

3.1.1 Pre-construction air quality monitoring data must be gathered over a period of one year preceding the application of the source. If the District determines that an adequate analysis can be done over a period of less than one year, but not less than four months, the shorter period can be used. If sufficient representative monitoring data already exists for analysis, no monitoring will be required.

3.1.2 Post-construction air quality monitoring data must be collected as deemed necessary by the District to determine the effect emissions from the stationary source or modification are having on air quality.

3.2 Visibility, Soils, and Vegetation Analysis

The applicant shall provide the District with analysis of impairment to visibility, soils, and vegetation, and the projected air quality impact for the area, 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.

3.3 Ambient Air Quality Standards and Emission Increments

In no case shall the emissions from the new or modified stationary source, or in conjunction with other increases in emissions, cause or contribute to the violation of an ambient air quality standard or exceed any air quality increment. The air quality impact table contained in Section 9.4 or appropriate air quality modeling as in Section 9.1 herein shall be used to estimate the effects of a new or modified source. In making this determination the District shall take into account the mitigation of emissions through offsets obtained pursuant to this Rule.

3.4 Mandated Reductions

Emission reductions required by any permits, agreements, orders, plans or requirements of federal, State, Air Resources Board, or District laws, rules and regulations, or the State Implementation Plan shall not be used as offsets.

3.5 Source Shutdowns and Curtailments

Source shutdowns and curtailments may not be given emission reduction credits in the case of precursor organic pollutants if they occurred prior to the date of application unless the proposed new source or modification is a replacement at the same source, and the shutdown or curtailment occurred after August 7, 1977.

3.6 Interpollutant Offsets

The District may approve interpollutant offsets on a case-by-case basis, provided that the trade is technically justified and that the applicant demonstrates to the satisfaction of the District, through the use of the air quality impact table contained in Section 9.4 or by appropriate air quality modeling as in Section 9.1 herein, that the emission increases from the new or modified source or in conjunction with other increases in emissions will result in a net air quality benefit and will not cause or contribute to a violation of an ambient air quality standard or exceed any air quality increment established pursuant to this Rule. In such cases, the District shall, based on air quality analysis, impose offset ratios greater than the requirements of Section 4.3 herein.

Interpollutant trades between PM_{10} and PM_{10} precursors may be allowed. PM_{10} emissions shall not be allowed to offset NO_x or VOC emissions in ozone nonattainment

areas. PM_{10} emissions shall not be allowed to offset SO_x emissions in sulfate nonattainment areas.

PART 4 FEDERAL CLEAN AIR ACT REQUIREMENTS

4.1 Best Available Control Technology (BACT) Requirements

An applicant shall apply BACT to a new stationary source or modification of an existing source, except cargo carriers, for each affected pollutant, under the following conditions:

4.1.1 a new stationary source which has the potential to emit greater than or equal to any one of the affected pollutant levels listed in Table 4.1.1 below:

Table 4.1.1 Emission Thresholds for BACT

POLLUTANT	EMISSION RATE IN POUNDS/DAY
VOC	150
NO_x as NO_2	150
SO_x as SO_2	150
TSP	150
PM_{10}	82
CO	550
Vinyl Chloride	5.48
Asbestos	0.04
Beryllium	0.0022
Lead	3.28
Mercury	0.55
Fluorides	16.44
Sulfuric Acid Mist	38.35
Hydrogen Sulfide (H_2S)	54.79
Total Reduced Sulfur Compounds (including H_2S)	54.79
Reduced Sulfur Compounds (including H_2S)	54.79

or,

4.1.2 a modification of an existing stationary source which has the potential to result in a new emissions increase, as defined in Section 2.37 herein, occurring after August 19, 1983 for PM_{10} or after July 15, 1976 for any other affected pollutant, from any permit unit or sum of permit units from the same source of an affected pollutant by an amount in excess of any of the limits stated in Subsection 4.1.1 herein.

4.1.3 For a modified source, BACT shall be applied to the new or modified equipment whose emissions trigger the requirement for BACT.

4.1.4 A new source or modification subject to BACT for any pollutant subject to this Section shall apply BACT for any other affected pollutant emitted from the new source or modification, if the District should so require.

4.2 Offset Requirement, General

4.2.1 In Area A and Area A Impact Zones, offsets as specified in Subsections 4.3.1 and 4.3.2 herein shall be required from a new or modified stationary source with net emissions increases equal to or exceeding 150 pounds per day of volatile organic compounds, or nitrogen oxides, or sulfur oxides, or total suspended particulates (TSP) or carbon monoxide; or 82 pounds per day of PM_{10}. This information is summarized in table 4.2.2 below.

4.2.2 In areas other than Area A or Area A Impact Zones, offsets as specified in 4.3.3 shall be required for an affected pollutant from a new or modified stationary source with a net emissions increase equal to or exceeding 150 pounds per day for volatile organic compounds, or nitrogen oxides or sulfur oxides, or total suspended particulates(TSP); 550 pounds per day of carbon monoxide; or 82 pounds per day of PM_{10}, as summarized in table 4.2.2 below:

Table 4.2.2 Emissions Thresholds for Offsets

POLLUTANT	EMISSIONS INCREASE IN AREA A AND AREA A IMPACT ZONES	EMISSIONS INCREASE IN B,C,D,E AND F AREAS
VOC	150 pounds per day	150 pounds per day
NO_x as NO_2	150 pounds per day	150 pounds per day
SO_x as SO_2	150 pounds per day	150 pounds per day
CO	150 pounds per day	550 pounds per day
TSP	150 pounds per day	150 pounds per day
PM_{10}	82 pounds per day	82 pounds per day

4.2.3 Offsets for increases in carbon monoxide shall not be required if the applicant demonstrates to the satisfaction of the District, through the use of the air quality impact table contained in Section 9.4 of this Rule, or by approved air quality

modeling as in Section 9.1 herein, that the ambient air quality standards are not violated in the areas to be affected, and such emissions will not cause or contribute to a violation of ambient air quality standards.

4.2.4 Offsets shall be actual, quarterly, enforceable emissions reductions for existing sources, sufficient to offset all anticipated quarterly emission increases as calculated according to Sections 7.3, 7.4 and 7.5 of this Rule, associated with new or modified stationary sources and which will result in a net air quality benefit.

4.2.5 The amount of offsets obtained shall be at least equal to the net emissions increase from the proposed new source or modification.

4.2.6 Increases in emissions shall be determined in accordance with the calculation methods described in Subsections 2.36.1, 2.36.2, Sections 7.3, 7.4 and 7.5 of this Rule, or an equivalent calculation procedure approved by the District.

4.2.7 Reductions in emissions shall be valid for determining net emissions increases only if they are established pursuant to an Authority to Construct and a Permit to Operate.

4.2.8 Mandated reductions of emissions shall not be used as offsets, pursuant to Section 3.4 herein.

4.2.9 All emission reductions must be identified and enforceable prior to issuance of the Authority to Construct.

4.2.9.1 The emission reductions must be eligible under the provisions of District Rule 215; and

4.2.9.2 must be entered in the District ERC Registry, unless the emission reductions are made at the same time as the permit application is made and on-site at the same stationary source.

4.2.9.2.1 For emission reductions made at the same time as the permit application is made and on-site at the same stationary source, permit modifications to ensure permanent emission reductions must be made.

4.2.10 In no case shall exempt compounds as defined in Section 2.24, 2.26 of this Rule, be used as offsets for volatile organic compounds as defined in Section 2.63of this Rule.

4.2.11 If a source is required to obtain offsets for a pollutant pursuant to this Section, then that source must obtain offsets, at least equal to the net emissions increase, for any increase in emissions of all the following pollutants: volatile organic compounds, nitrogen oxides, sulfur oxides, total suspended particulates (TSP), and PM_{10}.

4.2.12 The District may exempt a source from offset requirements for all the attainment pollutants, and any nonattainment pollutants which do not exceed levels specified in Subsections 4.2.1 and 4.2.2 provided that the applicant demonstrates to the satisfaction of the District all of the following:

4.2.12.1 that the requirement of offsets will result in little or no air quality benefit; and

4.2.12.2 that emissions offsets are not available or would not be cost-effective; and

4.2.12.3 that any net emissions increases from the new or modified stationary source or in conjunction with other increases in emissions will be consistent with reasonable further progress and will not cause a violation of an ambient air quality standard or exceed an air quality increment.

4.3 Location of Offsets and Offset Ratios

Table 4.3 Summary of Offset Ratio Requirements

Source Location/Area Offset Obtained	Ratio for Non-Attainment Pollutants	Ratio for Attainment Pollutants
Area A/Area A <15 miles radius	1.2:1	1.2:1
Area A Impact Zone/Area A or Area A Impact Zone <15 miles radius	1.2:1	1.2:1
Non-A/Same Source <15 miles radius	1:1 (or 1.15:1 if a major source or major modification)	1:1
Non-A/Different Source <15 miles radius	1.2:1	1.1:1
Non-A/≥15 miles radius	2:1	1.2:1
Non-A/different air basin	2.5:1	1.3:1

4.3.1 The emissions from a proposed source, subject to this Rule, which is to be located within an Area A must be offset by emissions reductions obtained from within the same Area A, at a minimum ratio of 1.2 to 1 and within a 15-mile radius of the proposed source if that will provide for a net air quality benefit; or at a ratio and distance to be approved by the District based on air quality analysis or modeling sufficient to demonstrate a net air quality benefit in the Area A. In no case shall the offset ratio for nonattainment pollutants be lower than the 1.2 to 1 ratio required above in this Section.

4.3.2 Emissions from a proposed source, subject to this Rule, which is to be located in an Area A Impact Zone must be offset by emissions reductions obtained from within the impact zone, or from the affected Area A, at a minimum ratio of 1.2 to 1, and within a 15-mile radius of the proposed source if that will provide for a net air quality benefit; or at a ratio and distance to be approved by the District based on air quality analysis or modeling sufficient to demonstrate a net air quality benefit in the Area A. In no case shall the offset ratio for nonattainment pollutants be lower than the 1.2 to 1 ratio required above in this Section.

4.3.3 Emissions from a proposed source subject to this Rule which is to be located outside an Area A or Area A Impact Zone are to be offset with emissions reductions from within a 15-mile radius of the proposed source. The emissions shall be offset at a minimum ratio of 1 to 1 if the offsets are from the same source, unless the proposed source is a major stationary source or a major modification to an existing source. In such cases, the emissions shall be offset at a minimum ratio of 1.15 to 1 if the offsets are from the same source. The emissions shall be offset at a minimum ratio of 1.2 to 1 for nonattainment pollutants for offsets located outside of the proposed source but within the 15-mile radius and shall result in a net air quality benefit. The emissions for all other pollutants designated in Section 4.2.2 herein shall be offset at a minimum ratio of 1.1 to 1 for offsets located outside of the proposed source but within the 15-mile radius, and the District shall analyze the impact on the air quality increment. Based on air quality analysis or modeling, approved by the District, which demonstrates a net air quality benefit, offset ratios and distances other than those above may be applied. In no case shall the offset ratios be lower than the ratios required above in this Section.

4.3.3.1 If an applicant demonstrates to the satisfaction of the District that sufficient offsets do not exist at sources owned by the applicant, and are not available at other sources within a 15-mile radius of the proposed source, offsets shall be obtained from an upwind area within the air basin at a minimum ratio of 2.0 to 1 for nonattainment pollutants and minimum ratio of 1.2 to 1 for all other pollutants designated in Section 4.2.2 herein; or, at a ratio and distance to be approved by the District based on air quality analysis and modeling sufficient to demonstrate a net air quality benefit, or to demonstrate that no emissions increments will be exceeded within the air basin. In no case shall the offset ratios be lower than the ratios required above in this Section.

4.3.3.2 If an applicant demonstrates to the satisfaction of the District that sufficient offsets do not exist at sources owned by the applicant, and are not available at an upwind area within the air basin, offsets may be obtained from an upwind area outside the air basin at a minimum ratio of 2.5 to 1 for nonattainment pollutants and minimum ratio of 1.3 to 1 for all other pollutants designated in Section 4.2.2 herein; or, at a ratio and distance to be approved by the District based on air quality analysis and modeling sufficient to demonstrate a net air quality benefit, or to demonstrate that no emissions increments will be exceeded within the air basin. In no case shall the offset ratios be lower than the ratios required above in this Section.

4.3.3.2.1 Any offset credited pursuant to Subsection 4.3.3.2 shall be approved by a resolution adopted by the governing board of the upwind district and the District Board. In adopting a resolution pursuant to this Subsection, the District Board shall consider the impact of the offset on air quality, public health, and the regional economy.

4.3.3.2.2 The offsets may only be obtained from an upwind area that has been designated by EPA to have a nonattainment status equal to or more serious than the North Central Coast air basin.

4.3.3.2.3 The offsets may only be obtained from an upwind area that could contribute to violations of the national ambient air quality standards in the North Central Coast air basin.

4.3.3.3 If an applicant demonstrates to the satisfaction of the District that sufficient offsets, for emissions that do not exceed ambient air quality standards, do not exist at sources owned by the applicant and are not available at other sources within a 15-mile radius or in an upwind area, the District may choose to allow an applicant to use a percentage, not to exceed 50 percent, of the remaining emissions increments, as determined by the District.

4.4 Offsets, Seasonal Sources

Emissions offset ratios stated in Section 4.3 herein shall be required for new or modified seasonal sources (as defined in Section 2.54 herein), provided that the offsets occur within the same season during which the seasonal source operates. Offsets obtained in a season other than that in which the proposed source will be operating may be used only if the applicant demonstrates to the satisfaction of the District that such interseason tradeoffs will result in a net air quality benefit.

4.5 Protection of Class I Areas

4.5.1 Any new or modified stationary source shall be subject to the requirements of this Rule if it will:

4.5.1.1 have any net emissions increase greater than zero pounds per day of volatile organic compounds, or nitrogen oxides, or sulfur oxides, or total suspended particulate; and

4.5.1.2 be constructed within a designated Area A or Area A Impact Zone after July 18, 1979; and

4.5.1.3 increase ambient pollutant concentration of the Area A by one microgram per cubic meter (24-hour average) or more.

4.5.2 Any new or modified stationary source shall be subject to the requirements of this Rule if it will:

4.5.2.1 have a net emissions increase of PM_{10} more than zero pounds per day; and

4.5.2.2 be constructed within a designated Area A or Area A Impact Zone after August 19, 1983; and

4.5.2.3 increase PM_{10} ambient concentration of the Area A by 0.57 microgram per cubic meter (24-hour average) or more.

4.5.3 The air quality impact table in Section 9.4, or appropriate air quality modeling as in Section 9.1 herein, shall be used to estimate the impact of the source on Area A.

PART 5 CALIFORNIA CLEAN AIR ACT (CCAA) REQUIREMENTS

This Part contains additional provisions required under the California Clean Air Act as amended.

5.1 Parallel Review and Stringency of Requirements

Each project subject to New Source Review shall undergo a review under the federal requirements contained within all other parts of this Rule, and a parallel review under the requirements of this Part. In cases where the requirements under the federal Clean Air Act and the California Clean Air Act differ, the most stringent applicable provisions shall apply.

5.2 CCAA Best Available Control Technology (BACT) Requirements

BACT shall be required for any new or modified permit unit with a potential to emit 25 pounds per day or more of VOCs or NO_x.

5.3 CCAA Offset Requirements

5.3.1 Any new or modified stationary source with a potential to emit 137 pounds per day or more of VOCs or NO_x shall be required to provide offsets at the ratios specified in Section 4.3 herein.

5.3.2 Offsets shall be actual, quarterly, enforceable emissions reductions from existing sources, sufficient to offset all anticipated quarterly emissions increases as calculated according to Subsections 5.3.3 and 5.3.4 of this Rule, associated with new or modified stationary sources, and which will result in a net air quality benefit.

5.3.3 The amount of offsets obtained shall be at least equal to the potential to emit from the proposed new source.

5.3.4 For any modified source, the amount of offsets obtained shall be at least equal to the difference between the emissions of the modified source, and the emissions of the existing source.

5.4 CCAA Stationary Source Calculations

For the purposes of determining offset requirements under this Part, emissions profiles for new sources, existing sources or modified sources shall be based on the potential to emit as described under Section 7.1 herein. Comparison of new, modified or existing

sources shall be done in accordance with Sections 7.3 and 7.5 herein. Calculation of emission reductions shall be done in accordance with Section 7.6 herein.

PART 6 ADMINISTRATIVE REQUIREMENTS

The following administrative requirements shall apply to activities pursuant to this Rule, except for the review of power plants over 50 megawatts. Power plants over 50 megawatts shall be subject to the review requirements of Part 8.

6.1 Alternative Siting

For those sources for which an analysis of alternative sites, sizes, and production processes is required under 42 U.S.C. Section 7401 *et seq.*, the District shall require the applicant to prepare an analysis functionally equivalent to the requirements of Division 13 of the Public Resources Code.

6.2 Complete Application

The District shall determine whether the application is complete no later than 30 days after receipt of the application, or after such longer time as both the applicant and the District may agree is acceptable.

If the District determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information required. Upon receipt of any resubmittal of the application, a new 30-day period to determine completeness shall begin.

Completeness of an application or resubmitted application shall be evaluated on the basis of the information requirements set forth in District regulations (adopted pursuant to Article 3, Sections 65940 through 65944 of Chapter 4.5 of Division 1 of Title 7 of the Government Code) and application guidance as they exist on the date on which the application or resubmitted application was received.

Upon determination that the application is complete, the District shall notify the applicant in writing. The District may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.

6.3 Plantwide Applicability Limit (PAL)

The operator of a major stationary source may apply to the APCO for approval to use a PAL to avoid the requirements of Sections 1.6.2 (Statewide Compliance) and 6.1 (Alternative Siting) only. The APCO shall approve use of a PAL if the source operator

demonstrates that the PAI will conform with the provisions specified in 40 CFR §51.165(f)(1) through (15).

6.4 Proposed Sources in Federal Class I Areas

6.4.1 Permit Notice: The District shall provide notice within ten days of determining that an application is complete which has been submitted for a proposed major stationary source or major modification of an existing source, whose emissions would affect a federal Class I Area, to the Federal Land Manager and the federal official charged with direct responsibility for management of the specified lands. The Federal Land Manager shall be provided a copy of the complete application and shall be notified of all subsequent actions relating to the consideration of such permit.

6.4.2 Source Impacting Class I Areas: The District shall accept and consider comments offered within public comment period following the date of publication by the Federal Land Manager of any lands contained within a federal Class I Area impacted by a proposed major stationary source or major modification to an existing stationary source. If the Federal Land Manager demonstrates that the emissions from a proposed major source or major modification would have an adverse impact on the air quality-related values (including visibility) of any federal mandatory Class I Areas, and if the District concurs with such demonstration, then the District shall deny the Authority to Construct.

6.4.3 Federal Land Manager Appeals: If the District recommends a permit with which the Federal Land Manager or the federal official charged with direct responsibility over the specified lands does not concur, the decision may be appealed to the Hearing Board.

6.5 Preliminary Decision

Following acceptance of an application as complete, the District shall perform the evaluations required to determine compliance with this Rule and make a preliminary written decision as to whether a permit to construct should be approved, conditionally approved, or disapproved.

6.6 Air Quality Increment Analysis

The District shall evaluate the impact on the air quality increment of the emissions from the proposed source and any offsets obtained pursuant to Section 4.2 herein. Any emissions from secondary source growth associated with the source shall be included in the determination of increment consumption. The District shall not grant a permit to a source which is subject to Section 4.2 herein if its emissions will exceed 50 percent of the remaining emissions increment.

6.7 Review of Air Quality Increment Consumption

The District shall assess the remaining air quality increment at least every five years, or every two years in areas where a source subject to Section 4.2 herein has been sited since the last assessment of the respective air quality increment has occurred. The reassessment of the remaining air quality increment shall be based on the changes in emissions including area sources and any changes in air quality background levels. The emissions from major stationary sources constructed since January 6, 1975 shall be included in the air quality increment consumption. Within 60 days of a determination of an increment violation the District will initiate action to mitigate the violation.

6.8 Air Quality Models

All air quality models used for the purposes of this Rule shall be consistent with the requirements provided in the most recent revision of the United States Environmental Protection Agency "Guidelines on Air Quality Models" unless the District finds that such a model is inappropriate for use. However, the District, on a case-by-case basis, may approve alternate models with the concurrence of the United States Environmental Protection Agency after allowing for a public comment period. Credit shall not be given for stacks higher than that dictated by good engineering practice. All modeling costs associated with the siting of a stationary source shall be borne by the applicant.

6.9 Publication and Public Comment

Within ten calendar days following a preliminary decision pursuant to Section 1.3 or Part 4 or Part 5 of this Rule, where the emission levels are greater than or equal to those threshold limits listed for Sections 4.2 or 5.3; or within ten calendar days following a preliminary decision pursuant to Subsection 1.3.2.1; or within ten calendar days following a preliminary decision on a source's application for a modification pursuant to Section 2.33.5, the District shall publish in at least one newspaper of general circulation in the District a notice stating the preliminary decision of the District, noting how the pertinent information can be obtained, and inviting written public comment for a 30-day period following the date of publication.

6.10 Public Inspection

The District shall make available for public inspection at the District's office the information submitted by the applicant and the District's analysis no later than the time the notice of the preliminary decision is published, pursuant to Section 6.9 herein. No later than the noticed date, all such information, including the proposed permit, shall be transmitted to the Air Resources Board, the United States Environmental Protection Agency, and any other interested public agency or party requesting it.

6.11 Authority to Construct, Final Action

Within 180 days after acceptance of an application as complete, the District shall take final action on the application after considering all written comments. The District shall provide written notice of the final action to the applicant, the United States

Environmental Protection Agency, and the Air Resources Board, and shall publish such notice in a newspaper of general circulation and shall make the notice and all supporting documents available for public inspection at the District's office. The District must provide a copy of the final permit to EPA.

6.12 Requirements, Permit to Operate

As a condition for the issuance of a Permit to Operate, the District shall require that the new source or modification, and any sources which provide offsets, be operated in the manner assumed in making the analysis to determine compliance with this Rule, or as conditioned in the Authority to Construct. The Permit to Operate shall include specific emissions limitations which reflect BACT.

6.12.1 The operation of any stationary source which provides offsets shall be subject to enforceable permit conditions, containing specific emissions limitations, to ensure that the emissions reductions will be provided in accordance with the provisions of this Rule and shall continue for the reasonable expected life of the proposed source. The emission reductions used for offset purposes must be certified, approved and registered by the District in the ERC Registry, unless the emission reductions are made at the same time as the permit application is made and on-site at the same stationary source. The emission reductions must be surplus, quantifiable, real, permanent, and enforceable.

6.12.2 Where the source of offsets is not subject to a District permit, a District permit with enforceable permit conditions, containing specific emission limitations, must be obtained by the recipient of such offsets. A written agreement shall be required between the applicant and the owner or operator of such a source of offsets, which agreement, by its terms, shall be enforceable by the District as a third party beneficiary. Any breach of such an agreement shall be a violation of this Rule. The permit and agreement shall be submitted to the California Air Resources Board to be forwarded to the United States Environmental Protection Agency as part of the State Implementation Plan.

6.13 Issuance, Permit to Operate

The District shall issue a Permit to Operate to a stationary source subject to the requirements of this Rule if it is determined that all offsets required as a condition of an Authority to Construct or amendment to a Permit to Operate, will commence not later than the initial operation of the new or modified source, and that the offsets shall be maintained throughout the operation of the new or modified source which is the beneficiary of the offsets. Further, a Permit to Operate shall not be issued unless the source has complied with all conditions specified on the Authority to Construct, unless the District approves the incorporation of the unmet Authority to Construct conditions into the Permit to Operate.

6.13.1 Where a new or modified stationary source is, in whole or in part, a replacement for an existing stationary source on the same property, the District may allow a

maximum of 90 days as a startup period for simultaneous operation of the existing stationary source and the new source or replacement.

6.14 Regulations in Force will Govern

The granting or denial of an Authority to Construct shall be governed by the requirements of this Rule in force on the date the application is deemed complete.

PART 7 CALCULATIONS

7.1 Determination of the Potential to Emit

The maximum design capacity of a new stationary source or modification shall be used to determine the potential to emit from the new source or modification. However, the applicant may agree to limitations on the operations on the new source or modification. If those limitations are included in both Authorities to Construct and Permits to Operate issued according to New Source Review, then those limitations shall be used to establish the potential to emit from the new source or modification.

7.2 Historical Emissions from Existing Sources

The emissions from an existing source shall be the historical emissions based on the actual operating conditions of the existing source averaged over the three consecutive years immediately preceding the date of application.

7.2.1 In cases where the existing source has not been in operation for three consecutive years or under unusual circumstances, a shorter period or three consecutive years within the five-year period immediately preceding the date of application that best represent the normal source operations may be applicable and approved by the District.

7.2.2 If violations of laws, rules, regulations, permit conditions, or orders of the District, the California Air Resources Board, State or the United States Environmental Protection Agency occurred during the period used to determine the operating conditions, then adjustments to the operating conditions shall be made to determine the emissions the existing source would have caused without such violations.

7.3 General Stationary Source Calculations

The increase in emissions from new stationary sources and modifications which are not seasonal sources shall be determined using quarterly emissions profiles.

7.3.1 Quarterly emissions profiles for an existing or proposed stationary source or modification shall be constructed by plotting the average daily emissions from such a source.

7.3.2 A separate profile shall be constructed for each pollutant.

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

7.3.4 The emissions from all marine vessels which load or unload at the stationary source shall be considered as emissions from the stationary source (as defined in Section 2.58 herein) while such vessels are operating in District waters and in California coastal waters adjacent to the District.

7.3.4.1 The emissions from marine vessels shall include volatile organic compounds that are displaced into the atmosphere; fugitive emissions; combustion emissions in District waters; and emissions from loading and unloading of cargo.

7.3.5 The emissions from all trains dedicated to a specified stationary source, while operating in the air basin, including directly emitted and fugitive emissions, shall be considered as emissions from the stationary source.

7.4 Increases in Emissions: Calculation Requirements for BACT and Offsets

7.4.1 Emissions profiles for new sources or modified sources shall be based on the potential to emit as described under Section 7.1 herein. Emissions profiles for existing sources shall be based on the historical emissions as described under Section 7.2 herein. Comparison of emissions profiles shall be done in accordance with the provisions of Sections 7.3 and 7.5 herein

7.4.2 The new emissions increase, as defined in Section 2.37 herein, occurring after August 19, 1983 for PM_{10} or after July 18, 1976 for any other affected pollutant, shall be used to determine BACT requirements for any new source or for any modifications to an existing source.

7.4.3 The net emissions increase, as defined in Section 2.36 herein, shall be used to determine offset requirements for any new source or for any modifications to an existing source.

7.4.3.1 When computing the net emissions increases for modifications, the District shall take into account the emissions increases and decreases, excluding any emissions reductions required to comply with federal, State, Air Resources Board, or District law, rules, regulations, agreements, or orders, and also excluding any reductions of emissions which were originally permitted under the provisions of any exemption contained in Section 1.3. All emissions

decreases used in computing the net emissions increase shall be incorporated into the Authority to Construct and Permit to Operate.

7.5 Increases in Emissions: Seasonal Source Calculations

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

7.5.1 Quarterly emissions profiles shall be constructed by plotting the average daily emissions from an existing or proposed seasonal source for the continuous 90-day period during which the greatest emissions from the proposed new or modified source will occur.

7.5.2 A separate profile shall be constructed for each pollutant.

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

7.6 Calculation Requirements for Emissions Reductions

7.6.1 Emissions profiles for new sources or modified sources shall be based on the potential to emit as described under Section 7.1 herein. Emissions profiles for existing sources shall be based on the historical emissions as described under Section 7.2 herein. Comparison of emissions profiles shall be done in accordance with the provisions of Sections 7.3 and 7.5 herein.

PART 8 POWER PLANTS

8.1 General

Part 8 shall apply to all power plants proposed to be constructed in the District and for which a Notice of Intention (NOI) or Application for Certification (AFC) has been accepted by the California Energy Commission. The District may apply for reimbursement of all costs incurred, including lost fees, in order to comply with the provisions of this Part.

8.2 Intent to Participate and Preliminary Report

Within 14 days of receipt of an NOI, the District shall notify the Air Resources Board and the California Energy Commission of the District's intent to participate in the NOI

proceeding. If the District chooses to participate in the NOI proceeding, the District shall prepare and submit a report to the Air Resources Board and the California Energy Commission prior to the conclusion of the nonadjudicatory hearing specified in Section 25509.5 of the Public Resources Code. That report shall include, at a minimum:

8.2.1 a preliminary specific definition of best available control technology (BACT) for the proposed source; and,

8.2.2 a preliminary discussion of whether there is substantial likelihood that the requirements of this Rule and all other District regulations can be satisfied by the proposed source;

8.2.3 a preliminary list of conditions which the proposed source must meet in order to comply with this Rule or any other applicable District regulation. The preliminary determination contained in the report shall be as specific as possible within the constraints of the information contained in the NOI.

8.3 Determination of Compliance Review

Upon receipt of an AFC for a power plant, the District shall conduct a determination of compliance review. This determination shall consist of a review identical to that which would be performed if an application for an Authority to Construct had been received for the power plant. If the information contained in the AFC does not meet the requirements of this Rule, the District shall, within 20 calendar days of receipt of the AFC, so inform the California Energy Commission, and the AFC shall be considered incomplete and returned to the applicant for resubmittal.

8.4 Equivalency of AFC for an Authority to Construct

The District shall consider the AFC to be equivalent to an application for an Authority to Construct during the determination of compliance review, and shall apply all provisions of this Rule which apply to applications for an Authority to Construct.

8.5 Need for Additional Information

The District may request from the applicant any information necessary for the completion of the determination of compliance review. If the District is unable to obtain the information, the District may petition the presiding Commissioner for an order directing the applicant to supply such information.

8.6 Preliminary Determination

Within 180 days of accepting an AFC as complete, the District shall make a preliminary decision on:

8.6.1 whether the proposed power plant meets the requirements of this Rule and all other applicable District regulations, and,

8.6.2 in the event of compliance, what permit conditions will be required including the specific BACT requirements and a description of required mitigation measures.

The preliminary written decision under Section 8.6 of this Rule shall be treated as a preliminary decision under Section 6.5 herein, and shall be finalized by the District only after being subject to the public notice and comment requirements of Sections 6.4, 6.5, and 6.9 herein. The District shall not issue a determination of compliance unless all requirements of this Rule are met.

8.7 Determination of Compliance

Within 240 days of the filing date, the District shall issue and submit to the California Energy Commission a determination of compliance or, if such a determination cannot be issued, shall so inform the California Energy Commission. A determination of compliance shall confer the same rights and privileges as a Authority to Construct permit only when and if the California Energy Commission approves the AFC, and the California Energy Commission certificate includes all conditions of the determination of compliance.

8.8 Permit to Operate

Any applicant receiving a certificate from the California Energy Commission pursuant to this Section and in compliance with all conditions of the certificate shall be issued a Permit to Operate by the District.

PART 9 SOURCE IMPACT ANALYSIS

9.1 Air Quality Impact Analysis

The table in Section 9.4 herein is provided as a screening method to estimate the worst case air quality impact of carbon monoxide, particulate matter, oxides of sulfur and oxides of nitrogen of a proposed point source without the use of sophisticated modeling techniques.

Modeling shall be used instead of the table if in the judgement of the District any of the following apply: the pollutant is an oxidant; another source with unknown impact is being constructed in the affected area; the impact obtained by using the table indicates concentrations will be near the national or state ambient air quality standards; the proposed source will be located in complex terrain; the source will have a volume flow rate less than 10 cubic meters per second; the stack exit gas temperature is less than 360°K; or, the physical size of the stack is greater than 100 meters. In such instances the models, data bases, and other requirements specified in the most recent revision of the

United States Environmental Protection Agency's "Guidelines on Air Quality Models" must be used.

9.2 Downwind Concentrations

Using the air quality impact table in Section 9.4 herein, the estimated downwind concentrations are determined by reading the value which corresponds to the actual stack height and source strength of the proposed source. The table also provides the estimated distance from the source to the point of maximum ground level impact. If the precise actual stack height for the proposed source is not listed, interpolation can be used to determine the approximate downwind concentrations.

9.3 Example Calculations

To determine the downwind concentrations attributable to a proposed source with an actual stack height of 45 meters and a source strength of 137 pounds per hour:

a. use 40 meter stack height;

b. consider that the source strength lies between maximum one hour concentration values for 120 lb/hr = 1300 ug/m^3 and 140 lb/hr = 120 lb/hr + 20 lb/hr = 1300 ug/m^3 + 220 ug/m^3 = 1520 ug/m^3; and,

c. interpolate such that

$$x \text{ ug/m}^3 = \frac{(1520 - 1300)}{(140 - 120) \times (137-120)} + 1300$$

= 1478 ug/m^3 (this estimated maximum one-hour concentration for the proposed 137-lb/hr source is to be added to ambient concentration levels).

Values for maximum concentrations for 3-hour, 8-hour, and 24-hour time periods may be obtained by multiplying the 1-hour concentrations by following factors:

3-hour = 0.9; 8-hour = 0.8; and, 24-hour = 0.4.

9.4 Air Quality Impact Table

The following table provides the worst case estimates of point source air quality impacts:

Estimated Maximum 1-hr Concentrations (ug/m3)
for Listed Source Strengths

Stack Height (m)	Downwind Distance (m)	5 lb/hr	10 lb/hr	20 lb/hr	40 lb/hr	80 lb/hr	120 lb/hr

5	100	3150	6300	12800	25200	50400	75700
10	100	945	1890	3840	7560	15120	22700
15	150	380	760	1530	3020	6040	9080
20	200	220	440	900	1760	3530	5300
30	300	90	190	380	760	1510	2270
40	200 to 400	50	110	220	430	870	1300
50	250 to 450	40	70	150	290	580	880
70	350	20	40	80	170	330	500
100	450	10	20	40	90	190	290

NOTE: the wind speed was assumed to be 1 m/s and the effective plume height was assumed equal to the physical stack height.

* Downwind Distances to Maximum Estimated Concentrations (m).

PART 10 FEDERAL ENFORCEABILITY, SIP REVISIONS

This Part shall apply solely for the purposes of federal enforcement of Rule 207.

10.1 Increments for Carbon Monoxide, Nitrogen Dioxide, Hydrogen Sulfide, and Lead

Increments for carbon monoxide, nitrogen dioxide, hydrogen sulfide and lead referenced in Subsection 2.5.2 herein are not submitted as a part of the SIP.

10.2 Subsection 2.5.2 of this Rule

For the purposes of the submittal to the United States Environmental Protection Agency for inclusion in the SIP, the increments of allowable air quality degradation, beyond existing air quality levels, shall be:

10.2.1 for Area A, the increment specified for Class I Areas in 40 CFR Part 51.166 (Prevention of Significant Deterioration of Air Quality), and,

10.2.2 for Areas B, C, D, E, and F, and Area A Impact Zones, the increment specified for Class II Areas in 40 CFR Part 51.166.

10.3 Subsection 2.18.6 of this Rule

is not submitted as a SIP revision.

10.4 Section 2.21 of this Rule

is not submitted as a SIP revision. For the purposes of the SIP, emissions increment means air quality increment as defined in Section 2.5 herein.

10.5 Part 5 of this Rule

is not submitted as a SIP revision.

* * * * *

APPENDIX B

Evidence documenting the District's attainment status and that the Revisions to Rule 207 will not impair or impede continued maintenance of the national ambient air quality standards or progress toward achieving attainment of state ambient air quality standards.

And

Evidence to regarding the potential impacts of those sources that are proposed to be exempted from the requirements for the visibility, soils, and vegetation analyses and the air quality impact analyses.

1. Summary of relevant requirements under SB 288

Section 42504(d)(1)((E)

Will not, if the district is in attainment with all national ambient air quality standards, impair or impede continued maintenance of those standards or progress toward achieving attainment of the state ambient air quality standards.

Much of the evidence needed to satisfy the requirements specified in SB 288 section 42504(d)1(E) is already included in published District documents. Sections of these documents are referenced or included in the following text in support of the proposed revisions.

2. Attainment Status of the North Central Coast Air Basin

State and federal designations are made by the ARB and EPA, respectively. The current attainment status of the North Central Coast Air Basin (NCCAB) for the criteria pollutants is summarized below:

CURRENT ATTAINMENT STATUS OF THE NORTH CENTRAL COAST AIR BASIN
February 2006

Pollutant	Federal	State
Ozone (O_3) – 1 Hour	Maintenance*	Nonattainment-Transitional
Ozone (O_3) – 8 Hour	Unclassified/Attainment	Not Available**
Carbon Monoxide (CO)	Unclassified/Attainment	Monterey-Attainment San Benito-Unclassified Santa Cruz-Unclassified
Nitrogen Dioxide (NO_2)	Unclassified/Attainment	Attainment
Inhalable Particulates (PM_{10})	Unclassified/Attainment	Nonattainment
Fine Particulates ($PM_{2.5}$)	Unclassified/Attainment	Attainment

Notes:

* The Federal 1 hour standard was revoked in the NCCAB on June 15, 2005.

** Area designations in relation to the California 8-hour ozone standard are expected to be made by ARB in November 2006, after the rule is finalized. It is expected that the NCCAB will be designated as a nonattainment area for the California 8-hour standard.

Website for current area designation maps for the State and National standards:
http://www.arb.ca.gov/desig/adm/adm.htm

3. Historical Information:

A review of projects after April 21, 1993, the date the District adopted the California Clean Air Act requirements into the NSR Rule, found six projects that required offsets.

All projects were at facilities with emissions greater than 10 tons per year and the offsets provided exceeded 10 tons per year. Therefore, based upon this historical analysis, no unmitigated emissions would have occurred based upon this proposed rule change.

The projects, dates, and offsets surrendered are show in the following table:

Facility	Project	Date	Offsets Provided (Tons/Year)			
			NO_x	SO_x	VOC	PM_{10}
AERA Energy	Super Scrubber	3/14/97	--	46.3	--	45.5
Duke Energy	Gas Turbine Project	3/27/02	328.7	39.1	241.8	230.7
King City Energy Center, LLC	Peaker Project	6/5/02	--	--	--	42.2
Monterey Regional Waste Management District	Installation of two Landfill Gas Engines	11/4/96	39.7	--	--	--
Monterey Regional Waste Management District	Increase Output of two IC Engines & Flare Draw down test	5/20/98	11.9	--	--	--
Monterey Regional Waste Management District	Temporary Flare Project	1/11/99	14.9	--	--	--

4. Impact of known or likely future projects:

Potential Winery Expansion – 8.2 TPY VOC
Potential Wood Waste Burner – 10 TPY NOx

It is estimated that the rule revision could result in an increase in emissions of about 10 tons/year of NO_x and 8.2 tons/year of VOC's. This represents a potential increase of 18.2 tons/year of ozone precursors (~0.05 tons/day). Per SB 288, such increases cannot impede progress or maintenance of state and federal ambient air quality standards for the NCCAB.

5. **Evidence to support that the proposed changes will not impair or impede continued maintenance of federal ozone ambient air quality standards or progress toward achieving attainment of ozone state ambient air quality standards**

The following demonstrates that the increases exempt from offsets will be inconsequential:

A. Banked Emissions

It is important to note that 0.2 tons/day of banked emissions (0.1 tons/day NO_x + 0.1 tons/day VOC) are already accommodated in the 2004 Air Quality Management Plan emission inventory for the NCCAB, so the effect of adding banked emissions to the regional inventory was already accounted for in the planning stage. The use of banked emissions is considered a source of new real emissions in the air basin. The 0.2 tons/day of banked emissions included in the emission forecasts is four times the 0.05 tons/day expected increase. In the 1994 Federal Maintenance Plan, banked emissions included on the inventory were even higher at 0.14 tons/day for NO_x and 0.24 tons/day for VOC, or a combined total of 0.38 tons/day.

Thus, the potential "increase" has already been more than accommodated in both the State and federal plans.

The banked figures placed in the forecasts were based on the nominal level of historical usage. These have never been of concern because the small numbers do not have any significant effect on the overall regional inventory or regional air plans.

In addition, growth in the various categories of the NCCAB emission inventory has traditionally been accommodated by the growth and control factors used to develop the inventory projections, rather than offsets. Thus, because the emission inventory includes both banked emissions and growth and control projections, the potential nominal increase of concern may have not only been accommodated, but depending on the inventory category, the growth may actually be double counted.

B. Emission Inventory Trend

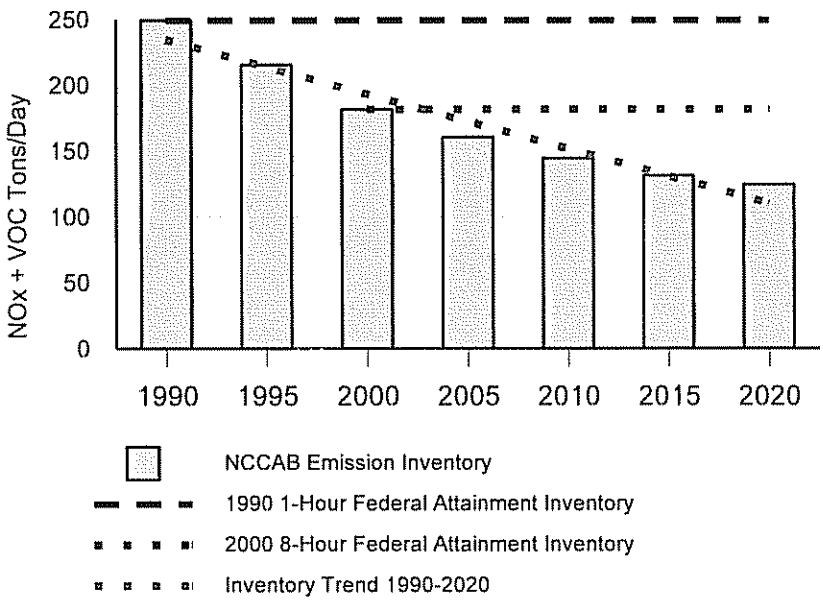
The emission inventory and forecasts for the NCCAB from the 2004 Air Quality Management Plan are shown in Figure 1. Since in Rule 207 NO_x and VOC's are interchangeable, the inventory figures are given in terms of the combined total of NO_x + VOC. As can be seen, emissions decline consistently between 1990 and the forecast horizon of 2020. The potential increases of 0.05 tons/day represents < 0.05% of the NCCAB's 2010 inventory of ozone precursors. Although an attempt was made to illustrate the potential increase in the 2010 to 2020 projections, the quantity involved was so infinitesimal, and several orders of magnitude less than the inventory, that it could not be visually seen in the projections.

Inventory Trend in Relation to Federal Standard

For federal ozone planning purposes, the NCCAB achieved both the now revoked 1-hour standard in 1990, and the 8-hour standard in 2000. The levels of the federal attainment inventories for both standards are illustrated in Figure 1. As can be seen on the chart, the gap increases between the attainment inventories and the forecasts through the 2020 forecast horizon. By 2020, the margin below the attainment inventory is about 125 tons/day for the 1-hour standard and 57 tons/day for the 8-hour standard. These margins are about 2,500 and 1,100 times the potential 0.05 ton/day increase as applied to the 1 and 8-hour attainment inventories, respectively.

The inventory trend line on Figure 1 shows that between 1990 and 2020 emissions are declining at an annual rate of about 4 tons/day, which is more than 80 times the potential increase associated with this revision. Thus, the margin of the potential increase is also insignificant in terms of impacting the declining trend.

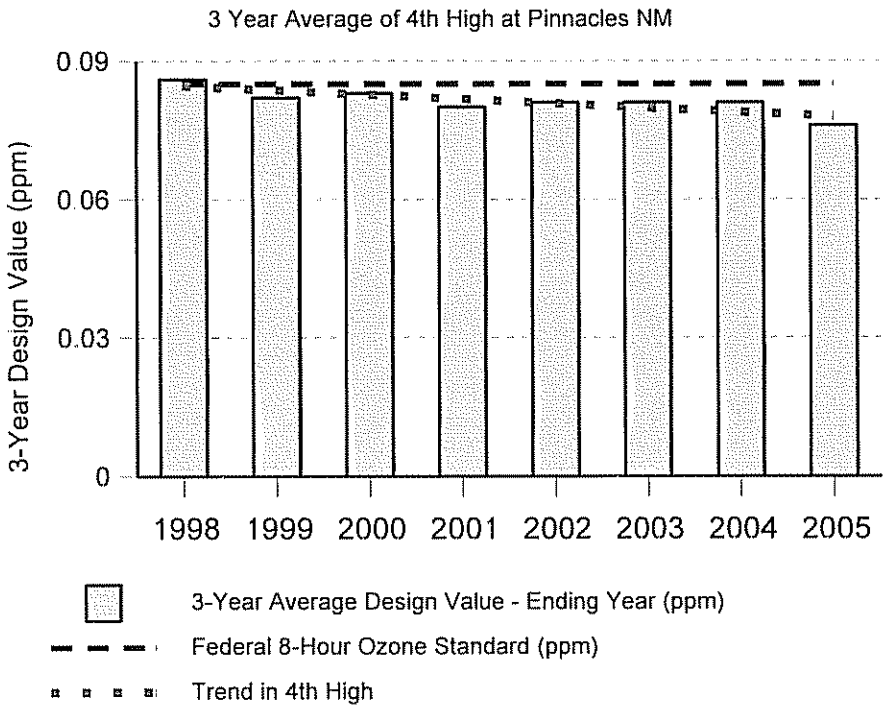
Figure 1 - NCCAB Emission Inventory Trend
1990 - 2020



Inventory Trend in Relation to State Standard

For the more stringent State ozone standard, the NCCAB is nonattainment (nonattainment transitional) for the 1-hour standard and will undoubtedly be designated nonattainment for the newly adopted 8-hour standard. In looking at the 2020 forecast horizon, the potential increase represents less than one two-thousandths of the area's ozone precursor inventory. This level of difference is so small that it is well within the level of daily variation in the emission inventory and is below the level of sensitivity of photochemical models.

Figure 2 - Trend in NCCAB Federal 8-Hour Design Values



Although photochemical models are not sensitive to inventory changes this small, a general rule of thumb that has been applied to relating emission changes to changes in ambient ozone levels is that for every 2% change in regional emissions, there is about a 1% change in ambient ozone levels. If translated to ambient levels @ 2:1 in terms of the nominal percentages involved, these increases would translate to a fraction of a 1 ppb, a difference which is well below the detection limit of conventional ozone monitors used for routine ambient air monitoring in relationship to the standards.

C. Ambient Air Quality Trend

Federal 8-Hour Ozone Standard

In 2000, ARB recommended that the EPA designate the NCCAB an attainment area for the federal 8-hour standard. Figure 2 illustrates the trend in NCCAB federal design values from 1998 to 2005, based on ambient monitoring data from Pinnacles National Monument, the NCCAB's highest station in terms of ozone readings, and hence the area's design site. The chart shows declining values over the period. By 2005, the most recent year available, the design value was about 10% lower than the standard.

It is highly unlikely that the known potential 0.05% increases or other future increases in the NCCAB emission inventory related to the rule revision would have any measurable impact on this margin.

State Ozone Standard - 1 and 8-Hour Components

For the State 1-hour standard, the ARB develops key indicators for assessing ambient trends in relation to the standard. One of the primary indicators is called the Expected Peak Day Concentration or EPDC. The EPDC is the highest daily concentration statistically expected to occur each year based on a moving assessment of the most recent three complete years of monitoring data. Expected Daily Peak Concentrations (EPDC's) for the most recent 10-year period (1996-2005) are shown in Figure 3 for Pinnacles NM. The figure shows a declining trend and that the NCCAB is very close to achieving the 1-hour standard, which is consistent with the air basin's nonattainment-transitional designation; a special designation given to area's that are approaching the State 1-hour standard.

The trend line in Figure 3 also indicates that ozone is declining at an overall rate of approximately 1 ppb per year. In terms of ambient ozone, the maximum ambient impact of this rule revision is likely none to a fraction of 1 ppb, and is not likely to impact the established trend or the future date when the NCCAB meets the State 1-hour standard. In addition, ARB assessments of the cause of peak ozone levels at Pinnacles NM have indicated that this site is heavily influenced by transport from upwind air basins. Thus, the influence of changes in the NCCAB emission inventory is even less at this site than the other stations in the air basin, all of which have achieved the State 1-hour standard.

Like most areas in California, it is expected that the NCCAB will be a nonattainment area for the recently adopted State 8-hour ozone standard. Although formal designations and assessment tools (i.e., EPDCs) have yet to be developed by the ARB for the new standard, the 3-year average of the yearly peak daily high at Pinnacles NM should be a reasonable indicator for ambient trends related to that standard. These are shown in Figure 4 for the 10-year period 1996 to 2005.

This indicator shows current peak ambient levels about 20% higher than the 0.070 ppm level of the State 8-hour standard and that the eventual attainment date is likely years into the future. Similar to the other charts, Figure 4 also shows a declining trend and that the 8-hour indicator is decreasing at the rate of about 1 ppb per year.

As described for the other standards, the minute magnitude of the potential increase is not adequate to impact the established rate of decline or the date when the NCCAB does meet the State 8-hour standard.

Figure 3 - Trend in NCCAB 1-Hour Peak Ozone Indicator

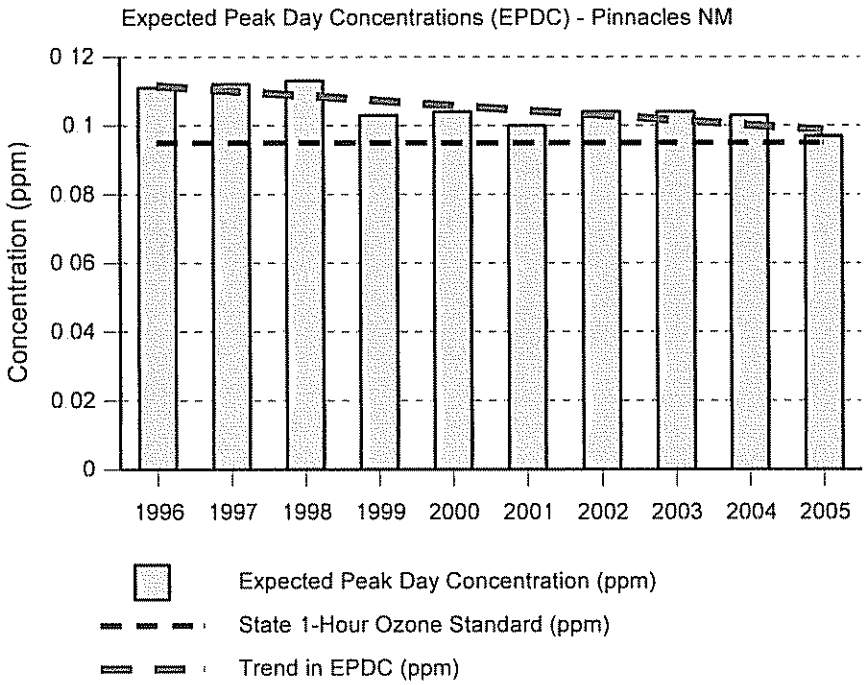
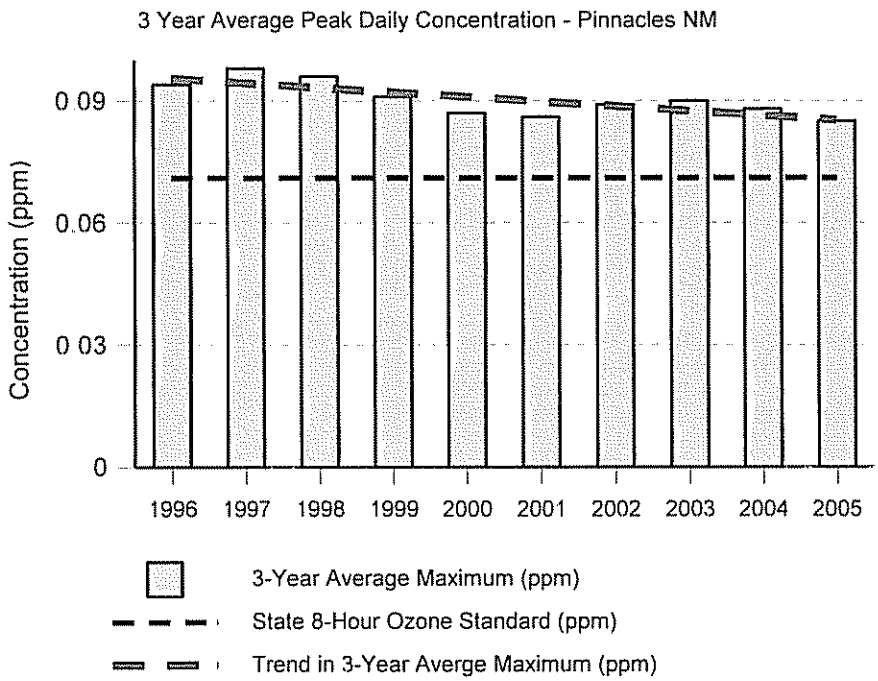


Figure 4 - Trend in NCCAB 8-Hour Peak Concentrations



D. Summary

Historically there have been no projects that would have qualified for the proposed limited exemption from offsets for NOx and VOC. Should additional projects beyond those currently proposed or expected qualify for exemption based upon the proposed Rule language, their emissions would not have any measurable impact on the Districts ozone attainment status. Even emission increases an order of magnitude higher than the identified emissions would only equate to less than 1% of the emission inventory. Clearly, adequate offsets are already built into the inventory and the magnitude of the potential increase is not adequate to reverse the overall downward trend.

Offsets in the form of banked emissions are already counted in the NCCAB's emission inventory, so the potential "increases" associated with the rule revision will not occur. Even if these weren't accounted for in the planning process, the margin of the difference is so minuscule that it has no impact on either the emission inventory or ambient air quality trends. Consequently, the proposed revision is consistent with SB 288 in that it will *"not impair or impede continued maintenance of those (federal) standards or progress toward achieving attainment of state ambient air quality standards."*

6. Evidence to support that the proposed changes will not impair or impede continued maintenance of federal ambient air quality standards or progress toward achieving attainment of state ambient air quality standards for PM10.

The District is not aware of any known or likely future projects that would utilize the proposed limited exemption from PM10 offsets. There are no indications that including the limited exemption for PM10 would result in large increases of PM10 from stationary sources. Even if a significant number of sources were to locate in the District under the proposed revision to Rule 207, they would have no impact on the District's PM10 attainment status. The inventory for 2005 shows that stationary source emissions represent less than 5% of the total inventory for the NCCAB. Thus, the small potential increase represented by a theoretical less than 10 ton/year source is even less consequential (0.03%) in terms of overall inventory. Growth in PM10 for the NCCAB is driven largely by non-permitted sources, fugitive dust and smoke which are the target of the Districts SB 656 PM plan. The NCCAB's anthropogenic PM10 inventory and forecasts are shown in Table 4.1 below which is reproduced from the District's SB 656 plan:

All figures are in tons/day.

TABLE 4-1 NCCAB PM_{10} EMISSION INVENTORY AND FORECASTS 1990-2020

SOURCE CATEGORY	1990	2000	2005	2010	2015	2020
STATIONARY SOURCES:						
Fuel Combustion						
Electric Utilities	0.84	0.94	1.17	1.25	1.25	1.25
Cogeneration	0.04	0.02	0.03	0.03	0.03	0.03
Oil and Gas Production	0.68	0.03	0.03	0.03	0.03	0.03
Manufacturing and Industrial	0.40	0.44	0.50	0.55	0.60	0.64
Food and Agricultural Processing	0.07	0.08	0.07	0.07	0.06	0.05
Service and Commercial	0.05	0.05	0.06	0.06	0.06	0.06
Other	0.01	0.01	0.01	0.01	0.01	0.01
TOTAL FUEL COMBUSTION	2.10	1.57	1.88	2.00	2.04	2.07
Waste Disposal						
Landfills & Incinerators	0.00	0.01	0.01	0.01	0.01	0.01
TOTAL WASTE DISPOSAL	0.00	0.01	0.01	0.01	0.01	0.01
Petro Production						
Oil and Gas Production	0.04	0.00	0.00	0.00	0.00	0.00
Cooling Towers	0.00	0.00	0.00	0.01	0.01	0.01
TOTAL PETRO PRODUCTION	0.04	0.00	0.00	0.01	0.01	0.01
Industrial Processes						
Chemical	0.00	0.00	0.00	0.00	0.00	0.00
Food and Agriculture	0.26	0.16	0.16	0.16	0.16	0.16
Mineral Processes	6.11	2.32	2.69	2.92	3.15	3.35
Wood & Paper	0.00	0.04	0.04	0.04	0.04	0.05
Electronics	0.00	0.00	0.01	0.01	0.01	0.01
Other	0.01	0.06	0.07	0.08	0.09	0.10
TOTAL INDUSTRIAL PROCESSES	6.38	2.57	2.96	3.21	3.46	3.67
TOTAL STATIONARY	8.51	4.16	4.85	5.22	5.51	5.75
AREA-WIDE SOURCES:						
Miscellaneous Processes						
Residential Fuel Combustion	0.89	0.82	0.81	0.80	0.80	0.81
Agricultural Tilling	15.75	15.70	15.68	15.66	15.63	15.61
Harvest Operations	0.43	0.43	0.43	0.43	0.43	0.43
Cattle Feedlot Dust	0.04	0.03	0.03	0.03	0.03	0.03
Construction & Demolition	4.49	4.33	4.54	4.69	4.89	5.07
Fugitive Windblown Dust - Ag Lands	15.16	15.12	15.10	15.07	15.05	15.03
Fugitive Windblown Dust - Pastures	4.20	4.19	4.18	4.17	4.17	4.16
Entrained Road Dust - Farm Roads	2.59	2.58	2.58	2.57	2.57	2.57
Fugitive Windblown Dust - All Unpaved Rds	0.87	0.68	0.68	0.68	0.68	0.68
Structural & Auto Fires	0.01	0.01	0.02	0.02	0.02	0.02
Prescribed Burns	7.30	8.34	17.40	17.80	17.80	17.81
Commercial Charbroiling	0.32	0.32	0.36	0.38	0.41	0.44
TOTAL MISC PROCESSES	49.46	49.96	59.19	59.72	59.90	60.07
TOTAL AREA-WIDE	49.46	49.96	59.19	59.72	59.90	60.07
MOBILE SOURCES:						
On Road Motor Vehicles	1.72	1.23	1.25	1.24	1.23	1.26
Entrained Road Dust - Paved Roads	7.50	8.82	9.93	11.18	12.29	13.41
Entrained Road Dust - Unpaved Non-ag Rds	20.07	20.03	22.64	23.18	23.81	24.58
Aircraft	0.06	0.06	0.06	0.07	0.07	0.07
Trains	0.09	0.12	0.12	0.11	0.11	0.11
Ships & Commercial Boats	0.03	0.02	0.02	0.02	0.02	0.02
Recreational Boats	0.21	0.31	0.46	0.51	0.57	0.60
Off-Road Recreational Vehicles	0.00	0.00	0.00	0.00	0.00	0.00
Off-Road Equipment	0.70	0.48	0.43	0.37	0.31	0.26
Farm Equipment	0.75	0.51	0.44	0.37	0.28	0.22
TOTAL MOBILE SOURCES	33.70	36.16	37.95	39.61	41.26	43.11
TOTAL ALL SOURCES	91.67	90.28	101.99	104.55	106.67	108.93

4-5

The influence of sea salt on the number of coastal exceedances is shown in the following figure (2-6) reproduced from the Districts SB 656 plan:

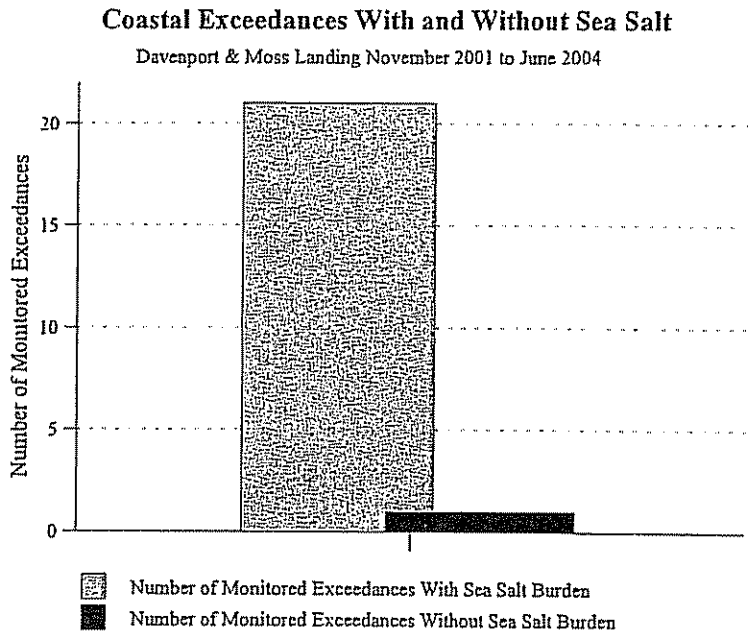


Figure 2-6 - Impact of sea salt on the number of exceedances monitored at the coastal sites.

2-33

The prospects of the rule revision adversely impacting the district's attainment status in relation to the federal standard for PM10 is even less likely. The district's annual and 24-hour design values are approximately half those of the federal standard, so in order for the rule revision to cause the area to fall into federal nonattainment, the overall inventory would have to double. This would require the stationary source inventory to increase over twenty-fold due to the

unexpected arrival of over 3,700 less than 10 ton/year sources in the NCCAB. Currently there are less than 1,700 permitted sources in the NCCAB.

Summary

Exceedances in the NCCAB are driven by naturally occurring sea salt, fugitive dust and smoke, with sea salt being the primary cause of exceedances. Nearly three-quarters of all NCCAB exceedances occurred at coastal sites, and chemical analysis of 21 coastal exceedances monitored between 2001 and 2004 found that over 95% of those exceedances would not have occurred without the sea salt burden. (In some cases the sea salt burden alone exceeded the standard.) Exceedances at inland sites were found to be far less frequent, occurring during the dry season when fugitive dust is prominent. The District's SB 656 plan focuses on measures to reduce emissions of PM10 from these areas of greatest concern, fugitive dust and smoke. Since stationary sources comprise less than 5% of the PM10 inventory and a single less than 10 ton per year source would represent less than 0.03% of the PM10 inventory it is clear that the proposed changes will not impair or impede continued maintenance of federal ambient air quality standards or impede progress toward achieving attainment of state ambient air quality standards for PM10

7. **Evidence to support that the proposed changes will not impair or impeded continued maintenance of federal ambient air quality standards or progress toward achieving attainment of state ambient air quality standards for CO and SO_2.**

Attainment Status/Inventory Trends for CO and SO_2

Designation Status

Ambient levels of CO and SO_2 in the NCCAB do not exceed applicable State and federal ambient air quality standards. The NCCAB is an attainment area for the State SO_2 standard. Monterey County, the largest county in the NCCAB is an attainment area for the State CO standard, while San Benito and Santa Cruz County are unclassified. The attainment designations were made by ARB in 1989 based on monitored ambient levels of these pollutants.

Ambient Levels and Ambient Trends

Ambient levels of CO and SO_2 between 1990 and 2004 are shown in Charts A1 and A2. The charts indicate that ambient levels have been a fraction of their respective standards (25% or less) and that these pollutants have been declining or remaining nominal throughout the 15 year period. Currently, maximum 8-hour values of CO average about 1 ppm (11% of the State CO standard) and maximum 24-hour values of SO_2 average about 0.005 ppm (13% of the State SO_2 standard).

Emission Inventory and Inventory Trends

The level of the attainment inventories for CO and SO_2 are not known since ambient levels were well within their respective standards at the time of designation in 1989. However, since ambient levels of CO and SO_2 were a fraction of their respective standards at the time of

designation, the area's capacity or attainment level inventories for these pollutants would be much higher than the levels emitted in 1989. In the absence of a specific attainment year inventory, it would be conservative to use the 1990 inventory as a reference level for these standards since the actual attainment inventories would be much higher than what existed in 1990. By "conservative", the District means that the 1990 figures allow a margin of safety for maintaining the standards.

It should be noted that the inventories shown are from the statewide emission inventory data base, which is based on standard inventory methods and summaries developed by ARB. It includes emissions from on-road and off-road motor vehicles, area source emissions, as well as stationary source emissions data developed by the District.

Inventory Trends for CO and SO_2

The 1990-2020 inventory trends for CO and SO_2 are illustrated in Charts B1 and B2. Both inventories decline substantially compared to 1990. By the year 2010, the inventories are less than half the level of the 1990 reference inventories. This translates to an inventory margin of over 10 tons/day for SO_2 and over 475 tons/day for CO. For this level of emissions to be produced, at least 350 sources emitting ten tons/year or less of SO_2 and over 17,000 sources emitting ten tons/year or less of CO would have to begin operating in the NCCAB.

Distribution of Emissions by Source Category

The distribution of 2005 CO and SO_2 emissions by source category is illustrated in the pie Charts C1 and C2. In the case of SO_2, the chart indicates that the inventory is very small (< 3 tons/day) and that a single large stationary source, a low sulfur coal cement plant, represents about a third of the entire inventory. The charts further indicate that small stationary sources represent less than 30% of the SO_2 inventory and less than 6% of the CO inventory. The likelihood that small stationary sources would account for the extraordinary increases (10 tons/day SO_2 and 350 tons/day CO) required to potentially affect the area's attainment status is again extremely small.

Federal Standards

Because State standards are generally more stringent than federal standards (except for the state and federal 8-hour CO standards which are the same), the information included herein regarding the State standards would also apply to the federal, though the attainment margin would be even greater due to the more lenient federal standards.

Chart A1

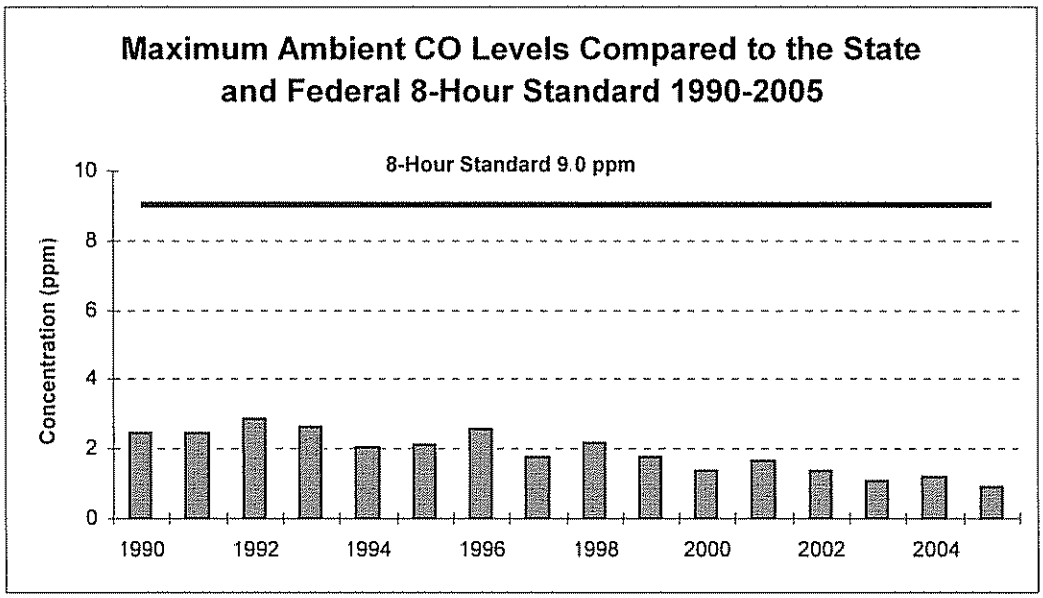

Maximum Ambient CO Levels Compared to the State and Federal 8-Hour Standard 1990-2005
8-Hour Standard 9.0 ppm
Concentration (ppm)
10
8
6
4
2
0
1990
1992
1994
1996
1998
2000
2002
2004

Chart A2

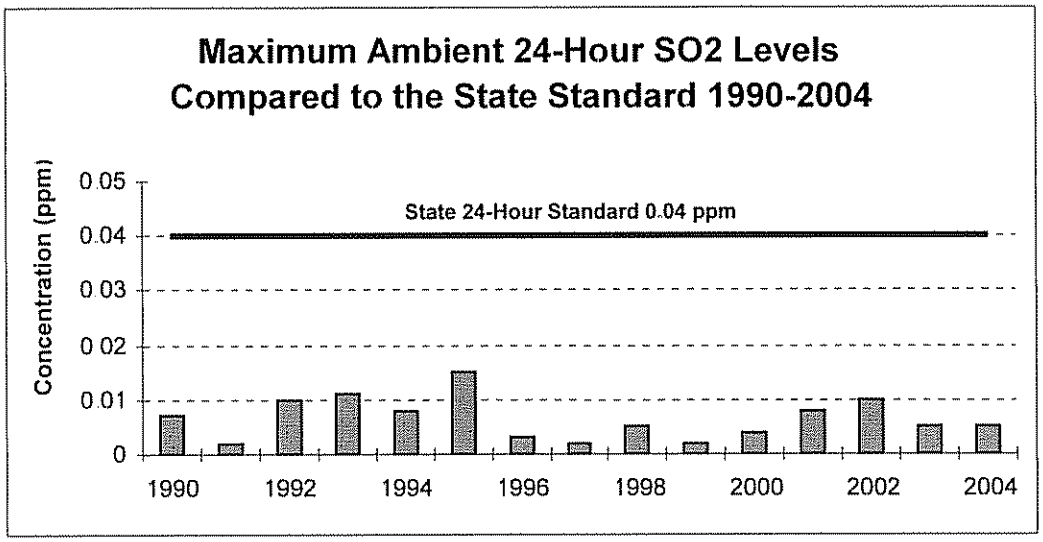


Chart B1

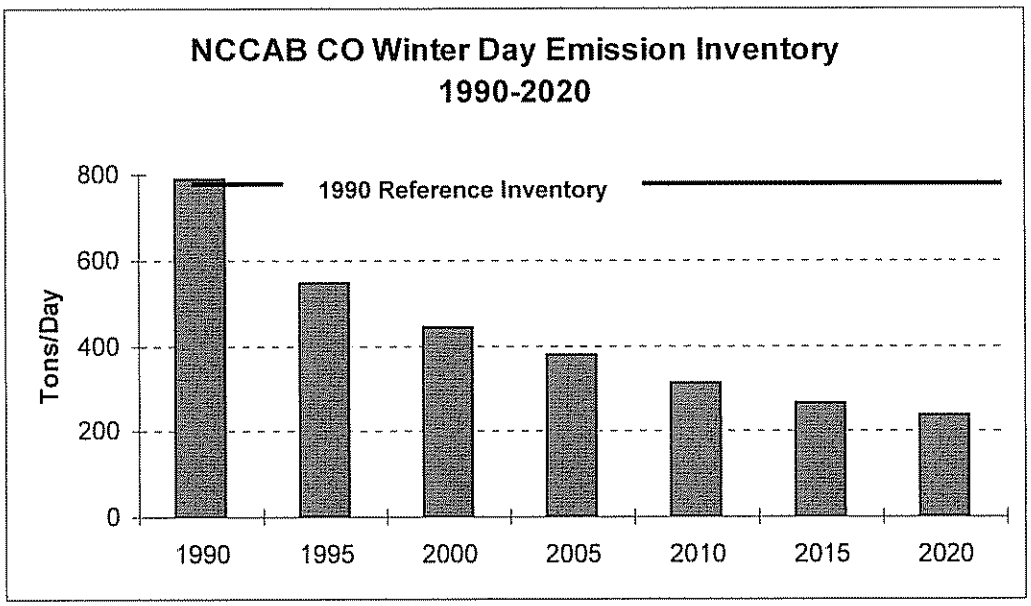


Chart B2

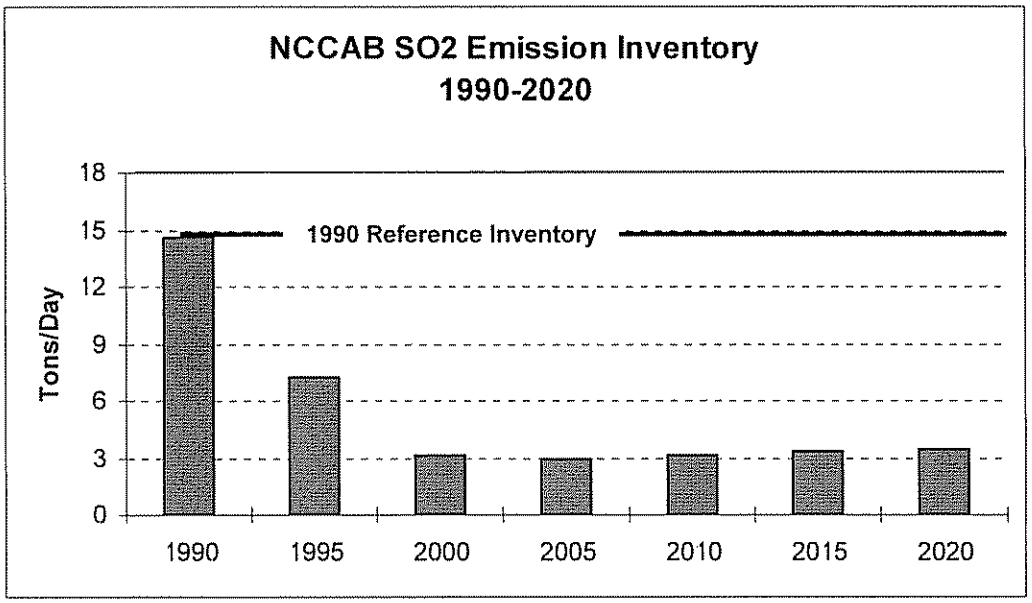

NCCAB SO2 Emission Inventory
1990-2020
Tons/Day
18
15
12
9
6
3
0
1990 Reference Inventory
1990
1995
2000
2005
2010
2015
2020

Chart C1

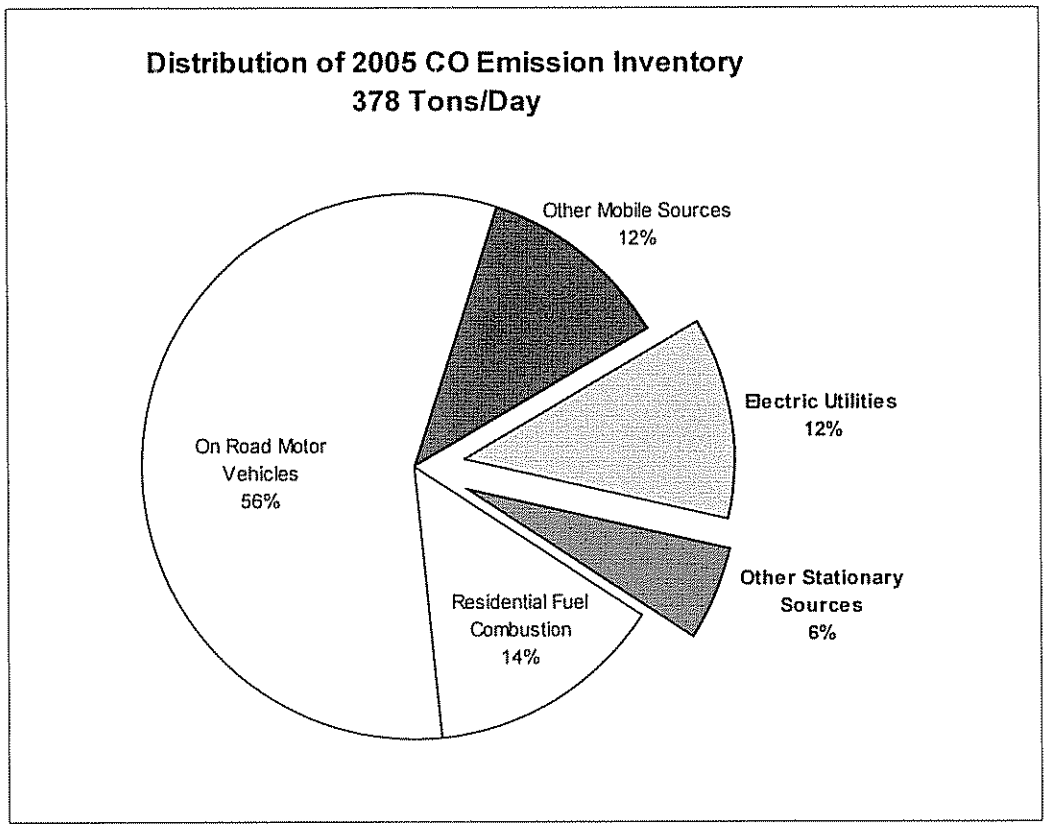
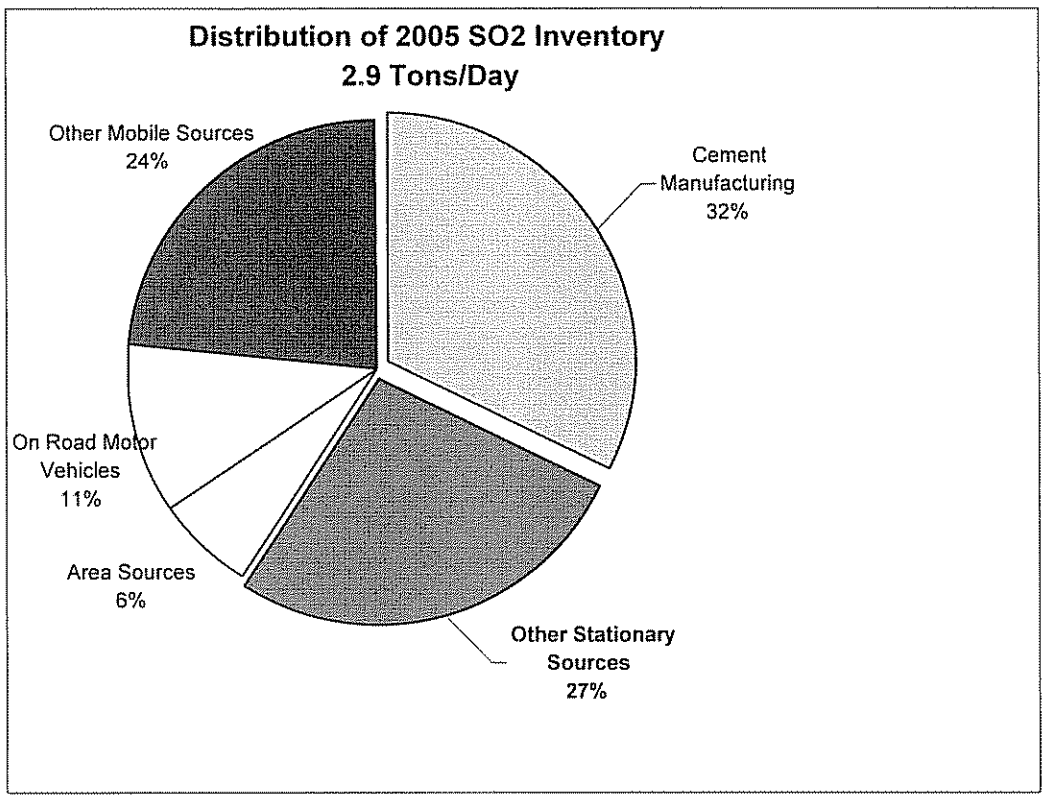

Distribution of 2005 CO Emission Inventory
378 Tons/Day
Other Mobile Sources
12%
Electric Utilities
12%
Other Stationary
Sources
6%
Residential Fuel
Combustion
14%
On Road Motor
Vehicles
56%

Chart C2



Additional Materials:
1) 2004 Air Quality Management Plan (http://www.mbuapcd.org/index.cfm/Cat/3.htm)
2) 1994 Federal Maintenance Plan (copies available upon request)
3) 2005 Senate Bill 656 Implementation Plan (http://www.mbuapcd.org/index.cfm?Doc=358)

8. Evidence to regarding the potential impacts of those sources that are proposed to be exempted from the requirements for the visibility, soils, and vegetation analyses and the air quality impact analyses.

The District has determined that there would be no impact from exempting small sources from these analyses based upon the fact that the largest expansion in the District (the Duke Energy Gas Turbine Project) had minimal impact. The emission increases associated with the Duke project equated to 200 tons/year of NOx, 30 tons/year of SOx, 150 tons/year of VOC, 230 tons/year of PM10 and 1,360 tons/year of CO. The impact analyses for this project documented that these emission increases did not have any adverse impact.

Therefore, it is clear that any one project with 10 tons per year of emissions would have insignificant impact when compared to the emissions from the Duke project. To accumulate the emissions of the Duke project would require the following number of sources:

NOx - 20

SOx - 3
VOC - 15
CO - 136
PM10 - 23

Because the proposed exemption is very limited i.e. only projects that exceed 137 pounds per day for NOx and VOC, 150 pounds per day for SOx, 82 pounds per day of PM10, and 550 pounds per day of CO while still staying below 10 tons of the individual pollutants per year would qualify. The District does not believe that the above listed number of facilities by pollutant are likely to be sited in the District that will meet the new exemption criteria contained in the proposed rule nor that there will be any impact on visibility, soils or vegetation from sources exempted by the proposed revisions. Details of the Duke Project are shown below:

The Duke project (with the exception of SOx) had emissions at least an order of magnitude greater than that proposed in the rule revision and these emissions are shown in the following table:

	Pollutant				
	NO_x	SO_x	VOC	CO	PM_{10}
Lbs/Day	1,095.9	164.8	821.9	7,452.1	1,260.3
Tons/Year	200	30	150	1,360	230

The cumulative impacts of the Duke project with background concentrations vs. Ambient Air Quality Standards are shown in the following table:

Pollutant	Avg. Period	Max. Project Impact ($\mu g/m^3$)	Bckgnd Conc. ($\mu g/m^3$)	Total Impact ($\mu g/m^3$)	State Standard ($\mu g/m^3$)	Federal Standard ($\mu g/m^3$)	Below Applicable Standard?
CO	1-hour	2,227.5	6,900	9,128	23,000	40,000	Yes
	8-hour	300.6	3,222	2,523	10,000	10,000	Yes
NO_2	1-hour	148.2	113	261	470	--	Yes
	annual	0.32	21	21	--	100	Yes
PM10	24-hour	4.68	59	64	50	150	No
	annual[1]	0.15	20.8	21	30	--	Yes
	annual[2]	0.15	21.4	22	--	50	Yes
SO_2	1-hour	6.8	156	163	650	--	Yes
	24-hour	0.7	39	40	109	365	Yes
	annual	0.01	0	0.01	--	80	Yes

[1] – Annual Arithmetic Mean.
[2] – Annual Geometric Mean.

For this project PM_{10} emission increases were fully offset from the shutdown of a stationary

source more than 15 miles from the emission increase. Although these offsets provided the necessary mitigation for the project under Rule 207 they did not mitigate the direct local impact of the PM_{10} increases. Likewise for small future projects that qualify for exemption (none currently identified), PM_{10} emissions increases will be addressed along with all other PM_{10} sources in the District's PM_{10} Plan as described in **Section 6 - Evidence to support that the proposed changes will not impair or impeded continued maintenance of federal ambient air quality standards or progress toward achieving attainment of state ambient air quality standards for PM10**.

The PSD Increment Analyses for the Duke project are shown in the following tables:

Area E

Pollutant	Maximum Modeled Impact Area E ($\mu g/m^3$)	Designated Area E ($\mu g/m^3$)	Averaging Period	Below Allowable Increment Consumption
CO	2,227.5	12,000	1-hour	Yes
NO_2	0.32	25	Annual	Yes
TSP	0.15 4.68	19 37	Annual 24-hour	Yes Yes
PM_{10}	0.15 4.68	10.8 21.1	Annual 24-hourl	Yes Yes
SO_2	0.01 0.7 6.8	20 91 512	Annual 24-hour 3-hour	Yes Yes Yes

Area A

Pollutant	Maximum Modeled Impact Area A ($\mu g/m^3$)	Designated Area A ($\mu g/m^3$)	Averaging Period	Below Allowable Increment Consumption
CO	43.0	4,000	1-hour	Yes
NO_2	0.009	2.5	Annual	Yes
TSP	0.07 0.09	5 10	Annual 24-hour	Yes Yes
PM_{10}	0.07 0.09	2.8 5.7	Annual 24-hourl	Yes Yes
SO_2	0.004 0.008 0.06	2 5 25	Annual 24-hour 3-hour	Yes Yes Yes

The Visibility analysis for the Duke project addressed the contributions of gaseous emissions (primarily NO_x) and particulate (PM_{10}) emissions to visibility impairment on Class A areas (Ventana Wilderness & Pinnacles National Monument). The results from VISCREEN modeling analysis indicated that the projects visibility impacts would be below the significance criteria for contrast and perception. Therefore, the project's visibility impacts on the Class A areas are considered insignificant and emissions from any smaller project are not expected to be significant.

9. **Evidence to regarding the potential impacts of those sources that are proposed to be exempted from the requirements for Statewide Compliance Certification and Alternate Siting.**

The following eight facilities in the Monterey Bay Unified APCD are considered Major Federal Sources:

Chemical Lime Company
LSP Moss Landing, LLC
Area Energy LLC
RMC Pacific Materials, Inc.
Granite Rock Company (Wilson Quarry)
Chevron USA, Inc.
Calpine King City/'Gilroy Energy Center
ExxonMobil Oil Company

None of these sources are associated with any other major source in the air basin. All sources are subject to federal Title V permits. Under the Title V permit each source must certify compliance on an annual basis and submit reports demonstrating compliance on a periodic basis. Only one source has been required to make the additional statewide compliance certification in the past 10 years and no excess emissions were discovered as part of the certification.

The requirement for Statewide compliance certification is administrative it does not result in any increase or decrease in emissions to the atmosphere therefore proposed exemption for sources that are not Federal Major Modifications will not impair or impede continued maintenance of the national ambient air quality standards or progress toward achieving attainment of state ambient air quality standards.

For source that are not Federal Major Modifications Alternate siting analysis is adequately covered by other sections of the District's rules and regulations. District BACT requirements require the review of alternate production process and controls. District Rule 1000 specifies requirements for the review of Toxic Air Contaminants additional review is not required except to comply with Federal Clean Air Act (CCA). The proposed revision to District Rule 207 is consistent with the CCA. Therefore proposed exemption for sources that are not Federal Major Modifications will not impair or impede continued maintenance of the national ambient air quality standards or progress toward achieving attainment of state ambient air quality standards.

APPENDIX C

Evidence documenting the amended rule will not exempt relax or reduce the obligation of any relevant stationary source to obtain a permit or apply BACT.

Summary of relevant requirements under SB 288

Section 42594(d)(2)

> The amended or revised rule or regulation will not exempt, relax, or reduce the obligation of any stationary source under the rules or regulations of the District, as those rules or regulations existed on December 30, 2002, to obtain a permit or to meet best available control technology requirements.

The proposed revisions to Rule 207 (Review of New or Modified Sources) will have no impact on the application of BACT. The federal Clean Air Act BACT requirements contained in Section 4.1 of Rule 207 and the California Clean Air Act BACT requirements contained in Section 5.1 of Rule 207 are both unchanged.

In this rulemaking action, the District is not proposing revisions to District Rule 200 (Permits Required) or the permit exemption list contained in Rule 201 (Source not Requiring Permits).

Therefore, the proposed revision to Rule 207 will not exempt, relax or reduce the obligation to obtain a permit from the District.

APPENDIX D

Evidence documenting the revisions to Rule 207 are consistent with Division 26 of the California Health and Safety Code.

Summary of relevant requirements under SB 288

Section 42594(d)(3)

> The amended or revised rule or regulation is otherwise consistent with this division. *(Division 26 of the CH&SC)*

The only requirement in Division 26 directly pertaining to the proposed changes are the requirements for a no net increase program. For a District with moderate air pollution the requirements are contained in Section (CH&SC) 40918(a) (1) which requires that a program be established for nonattainment pollutants or their precursors from new or modified stationary sources which emit or have the potential to emit 25 tons per year or more of nonattainment pollutants or their precursors.

The proposed rule revision is to include an exemption from the "no net increase" program at 10 tons per year for all pollutants (including both attainment and nonattainment). This proposed rule revision complies with Section 40918(a)(1) as the 10 ton per year exemption from the "no net increase" program is below the 25 tons per year allowed by the section

APPENDIX E

Evidence documenting the amended rule is consistent with ARB guidance on Environmental Justice.

Summary of relevant requirements under SB 288

Section 42594(d)(4)

> The amended or revised rule or regulation is consistent with any guidance approved by the state board regarding environmental justice.

The following information provides documentation that the District's amended New Source Review rule is consistent with all guidance approved by the Air Resources Board regarding environmental justice. The key considerations of each policy are outlined below as well as a discussion and commitment by the district to adhere to these policies. In addition, current district rules which provide greater assurance of minimizing environmental justice impacts are also discussed below.

1) Impacts of the rule revision

   a) Exempts sources with emissions less than 10 tons per year from offset requirements. Prior to the rule change, offset requirements were triggered at 137 pounds per day for VOCs and NO_x, 82 pounds per day for PM_{10}, 150 pounds per day for SO_x and PM (TSP), and 550 pounds per day for CO. For sources that operate consistently throughout the year, those existing daily thresholds are higher than the proposed 10 ton per year exemption so existing offset requirements would still apply. However, for some sources that are not consistent operations (e.g. seasonal sources) the 10 ton per year exemption removes the existing offset requirements.
   b) Exempts sources that emit less than 10 tons per year from requirements to perform a visibility, soils and vegetation analysis and from requirements to perform an air quality increment analysis.

2) General discussion on the types of sources affected

   a) The types of sources that could avail themselves of this rule relaxation would be seasonal or temporary sources that operate below the 10 ton per year threshold level for each individual criteria pollutant. Known and likely future projects for affected sources are identified in Appendix B.

3) Key considerations under relevant guidance on environmental justice approved by ARB

   a) Two main guidance documents
      i) ARB's Environmental Justice Policies and Actions approved by the ARB on December 13, 2001.
         (1) Key considerations:
            (a) *Policy III – It shall be ARB's policy to integrate environmental justice into all of our programs and regulations. Work with local air district and stakeholders to address, as appropriate, community concerns about air pollution emissions, exposures, and health risks, including enhanced public out reach.*

(b) *Policy VI – It shall be ARB's policy to work with local air districts to meet health-based air quality standards and reduce health risks from toxic air pollutants in all communities, especially low-income and minority communities, through the adoption of control measures and promotion of pollution prevention programs.*

(2) Evidence that the rule revision is consistent with the environmental justice guidance approved by ARB

(a) For Policy III and Policy VI the district will work with the ARB and stakeholders to address, as appropriate, community concerns about air pollution emissions, exposures, and health risks, and with the ARB to meet health-based air quality standards and reduce health risks from toxic air pollutants in all communities, especially low-income and minority communities, through the adoption of control measures and promotion of pollution prevention programs.

ii) ARB's April 2005 Air Quality and Land Use Handbook

(1) Key considerations:

(a) p. ES-3, 3rd para - As California continues to grow, we collectively have the opportunity to use all the information at hand to avoid siting scenarios that may pose a health risk.

(b) p. *1, 1st para. - Protecting California's communities and our children from the health effects of air pollution is one of the most fundamental goals of state and local air pollution control programs. Our focus on children reflects their special vulnerability to the health impacts of air pollution. Other vulnerable populations include the elderly, pregnant women, and those with serious health problems affected by air pollution.*

(c) p. 4, Table - Recommendations on Siting New Sensitive Land Uses such as Residences, Schools, Daycare Centers, Playgrounds, or Medical Facilities.

(d) pp. 39-49, Cumulative Air Pollution Impacts. The broad concept of cumulative air pollution impacts reflects the combination of regional air pollution levels and any localized impacts. Many factors contribute to air pollution levels experienced in any location. These include urban background air pollution, historic land use patterns, the prevalence of freeways and other transportation corridors, the concentration of industrial and commercial businesses, and local meteorology and terrain.

(e) Appendix A – Land Use Classifications and Associated Facility Categories That Could Emit Air Pollutants.

(2) Evidence that the rule revision is consistent with the environmental justice guidance approved by ARB

(a) General Discussion

(i) The evidence presented in Appendix B demonstrates that rule change will not have a significant impact on regional air quality with regard to criteria air pollutants - i.e. attainment and maintenance of federal and State ambient air quality standards.

1. Therefore, the rule change will not significantly impact cumulative emissions, exposures, and health risks from criteria air pollutants.

2. Also, given the regional nature of its impacts, the rule change will not significantly impact public health risks to nearby residents from criteria air pollutants.

(ii) Toxic air contaminants

1. To the extent that potentially affected facilities may emit toxic air contaminants, the District has programs in place to ensure there is no significant impact from toxic air contaminants (see items *iv, v*, and *vi* below).
2. The rule change does not relax any requirements under the District's existing toxic air contaminant programs.
3. Therefore, the rule change will not significantly impact cumulative emissions, exposures, and health risks from toxic air contaminants.

(iii)Nuisance aspects

1. To the extent that affected sources would cause odor, dust, or other nuisance impacts on nearby residents, District Rule 402 (Nuisances) and the District Compliance Division's complaint response address such problems.
2. The rule change does not weaken these provisions; therefore it does not significantly impact the exposure of nearby residents to such nuisances.

(iv) Single permitted sources of toxic air contaminants are regulated by District Rule 1000, Permit Guidelines and Requirements for Sources Emitting Toxic Air Contaminants (Toxics NSR Rule). The purpose of Rule 1000, is to prevent the emission into the atmosphere within the District of toxic air contaminants which may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health; prevent occurrences which may endanger the health and welfare of the public within the District and to assure that no person will suffer material impairment of health or functional capacity; comply with the federal Clean Air Act §112(g) Toxic New Source Review requirements; and to protect the public's health and welfare while allowing, where permitted, the continued operation of sources which do or may emit toxic air contaminants (TACs); and, to not limit in any way the provisions, extent, intent, interpretation, or enforcement of District Rule 402 (Nuisances). Specifically, this rule stipulates that no new or modified source may exceed California's Reference Exposure Levels or the federal Reference Concentrations for any toxic calculated on a worst case basis beyond the property line. Additionally, carcinogenic risks that would exceed a 10 in a 1,000,000 risk are prohibited.

(v) District Rule 1003, Air Toxics Emissions Inventory and Risk Assessments, addresses facility-wide toxic emissions. The purpose of this rule is to comply with the California Health & Safety Code Part 6, Section 44300 *et seq.*, by establishing and implementing a program to inventory air toxics emissions, to assess the risk to public health from exposure to these emissions, to notify the public of any known significant health risk associated with toxic emissions from any facility, and to prepare Risk Reduction Audits and Plans to effect risk reductions. Specifically, this

rule limits facility emissions to no more than a Hazard Index of 1 for both acute and chronic toxic air contaminants in addition to limiting carcinogens to a maximum risk of 10 in a 1,000,000.

(vi) The District's California Environmental Quality Act Guidelines are also relevant to the issue of environmental justice. In particular, Chapter 6 – Environmental Setting, Section 6.7 – Sensitive Receptors and Chapter 9 – Toxic Air Contaminants (TACs) discuss the importance of considering sensitive receptors and conducting cumulative impact analysis (Section 9.5 – Assessing Impacts of Toxic Air Contaminants: "Impact analyses for sources of TACs should include project level and cumulative impacts.") Appendix C – Diesel Health Risk Assessment Guidance for Analyzing the Health Risks Near: Truck Stops, Warehouse/Distribution Centers, Transit Centers, and Train Idling sets out methodologies for assessing emission sources which can be common environmental justice issues

(b) Specific Discussion

(i) *To avoid siting scenarios that may pose a health risk* identified in 3(a)(ii)(1)(a) above; the district will utilize our CEQA Guidelines and our Toxics NSR rule identified in 3(a)(ii)(2) (*iv & vi*) above.

(ii) *Protecting California's communities and our children from the health effects of air pollution is one of the most fundamental goals of state and local air pollution control programs* as identified in 3(a)(ii)(1)(b) above is addressed in all aspects of the District's program and specifically as it relates to toxics via the District's CEQA Guidelines, Toxics NSR Rule and AB 2588 programs as identified in 3(a)(ii)(2)(*iv, v, & vi*) above.

(iii) *Recommendations on Siting New Sensitive Land Uses such as Residences, Schools, Daycare Centers, Playgrounds, or Medical Facilities* as identified in 3(a)(ii)(1)(c) above is addressed via the District's CEQA Guidelines as identified in 3(a)(ii)(2)(*vi*) above.

(iv) *Cumulative Air Pollution Impacts* as identified in 3(a)(ii)(1)(d) above is addressed via the District's CEQA Guidelines, Toxics NSR and AB 2588 programs as identified in 3(a)(ii)(2)(*vi, v, & vi*) above.

(v) *Land Use Classifications and Associated Facility Categories That Could Emit Air Pollutants* as identified in 3(a)(ii)(1)(e) above is addressed via the District's CEQA Guidelines as identified in 3(a)(ii)((2)(*vi*) above.

4) Summary

The revisions to District Rule 207, Review of New or Modified Sources do not remove or relax any District program regarding Environmental Justice and are consistent with all guidance approved by the Air Resources Board regarding environmental justice.

Summary of relevant requirements under SB 288

Section 42594(d)(4)

> The amended or revised rule or regulation is consistent with any guidance approved by the state board regarding environmental justice.

After discussion with ARB Staff June 1, 2006, it appears that only the "Policies and Actions for Environmental Justice," approved by the ARB on December 13, 2001, apply to this issue. Further, there are two policies within this document that address permitting.

"ARB Policies and Actions for Environmental Justice

1. Policy III. It shall be ARB's policy to integrate environmental justice into all of our programs, policies, and regulations.

   Work with local air districts and stakeholders to address, as appropriate, community concerns about air pollution emissions, exposures, and health risks, including enhanced public outreach.

2. Policy VI. It shall be ARB's policy to work with local air districts to meet health-based air quality standards and reduce health risks from toxic air pollutants in all communities, especially low-income and minority communities, through the adoption of control measures and the promotion of pollution prevention programs."

In both of these policies, ARB is to "work with local air districts" toward environmental justice goals. At this point in time, the District does not know of any collaborative products that would apply to the proposed revisions to the District's new source review rule.

ATTACHMENT 1

PROPOSED RESOLUTION

BEFORE THE BOARD OF DIRECTORS
OF THE MONTEREY BAY UNIFIED
AIR POLLUTION CONTROL DISTRICT

PROPOSED RESOLUTION

Adoption of Revised Rule . . . . . .)
207 - Review of New or Modified Sources. . . . . .)

BE IT RESOLVED that this Board hereby adopts Revised District Rule 207 (Review of New or Modified Sources), and directs that the rule-development record remain open until such time that the California Air Resources Board holds its required public hearing pursuant to Health & Safety Code §42504(d).

A copy of this Rule as adopted is attached hereto and made a part of this Resolution.

This rule-making action is based upon the following findings:

1. The adoption of this Rule is authorized by California Health and Safety Code Sections 40001 and 40702.

2. The Rule adopted herein is written and will be published so that its meaning can be easily understood by the persons directly affected by it.

3. The Rule adopted herein is consistent with existing statutes, court decisions and State and federal regulations.

4. The Rule adopted herein does not unnecessarily duplicate the requirements of any State or federal regulations.

5. The requirements of this Rule arise from the provisions of the California Clean Air Act and amendments (California Health and Safety Code Section 40910 *et seq.*) and the federal Clean Air Act and amendments (42 U.S.C. Section 7401 *et seq.*)

6. The proposed regulatory action described herein is exempt from California Health and Safety Code Section 40727.2, which requires that a comparative alternative analysis of any new control standard be performed.

7. Based upon the Initial Study for this rule making action, the Board finds that the project will not have a significant effect on the environment and approves the Negative Declaration.

8. Based upon substantial evidence in the record, the revisions to this Rule:

a) will not impair or impede continued maintenance of the national ambient air quality standards, and will not impact progress toward achieving attainment of state ambient air quality standards;

b) will not exempt, relax, or reduce the obligation of any major stationary source under the rules or regulations of the District on December 30, 2002 to obtain a permit or to meet best available control technology;

c) are consistent with Division 26 of the California Health & Safety Code.

d) are consistent with Environmental Justice guidance approved by the California Air Resources Board.

On motion of Director _____, seconded by Director _____, the foregoing resolution is adopted this 21st day of June, 2006, by the following vote, to-wit:

AYES:
NOES:
ABSENT:

FINAL RULE

MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT
REGULATION II
PERMITS

RULE 207. REVIEW OF NEW OR MODIFIED SOURCES

(Adopted 9-1-74; Revised 7-15-76, 7-18-79, 1-30-80, 1-27-82, 12-15-82, 6-15-84, 12-13-84, 2-17-88, 5-18-88, 7-27-88, 9-19-90, 4-21-93, 5-17-95, 3-20-96, 12-18-96, 9-15-99; 12-13-2000; and June 21, 2006.)

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PART 1 GENERAL

1.1 Purpose

This Rule provides for the review of new and modified stationary air pollution sources to meet:

requirements for the review of new and modified stationary sources (NSR) and for the Prevention of Significant Deterioration (PSD), under the provisions of the federal Clean Air Act; and

requirements for NSR under the provisions of the California Clean Air Act.

The intent of this Rule is to insure that the most stringent requirements of these programs shall be applied. This Rule provides mechanisms by which Authorities to Construct may be granted to such sources without interfering with the attainment or maintenance of ambient air quality standards.

1.2 Applicability

This Rule shall apply to all new stationary sources and all modifications to existing stationary sources which, after construction or modification, emit or have the potential to emit any affected pollutants, as defined in Section 2.1 herein.

1.3 Exemptions

1.3.1 Exemption: Gasoline Storage and Dispensing. Gasoline storage and dispensing equipment subject to District Rules 418 (Transfer of Gasoline into Stationary Storage Containers) and 1002 (Transfer of Gasoline into Vehicle Fuel Tanks) shall be exempt from the requirements of this Rule.

1.3.2 Exemption: The requirements of Sections 4.1, 4.2, 5.2 and 5.3 of this Rule shall not apply to modifications made to an existing source solely to comply with regulatory requirements or prohibitory rules and where there is no actual or potential emissions increase.

1.3.2.1 The requirements of Sections 4.2 and 5.3 shall not apply to any potential emission increase that is less than the threshold for a federal major modification at a source that results from the installation, operation, or other implementation of any emission control device or technique used to comply with a District, state, or federal emission control requirement, including, but not limited to, requirements for the use of reasonably available control technology or best available retrofit control technology, unless there is a modification that results in an increase in capacity of the unit being controlled.

1.3.3 Exemption: The requirements of Sections 4.2 and 5.3 of this Rule shall not apply to any Emergency Internal Combustion Engine that is either only used for emergency power when normal power line service fails, or are used only for the emergency pumping of water, and are operated less than 60 hours per year for testing and exercise.

1.3.4 Exemption: The requirements of Sections 3.2 *(Visibility, Soils, and Vegetation Analysis)*, 4.2 *("federal" Offsetting Requirements)*, 5.3 *(State Offsetting Requirements)*, and 6.6 *(Air Quality Increment Analysis)* of this Rule shall not apply to any Stationary Source that has emissions less than 10 tons/year of all individual criteria pollutants.

1.3.5 Exemption: The requirements of Sections 1.6.2 *(Statewide Compliance Certification)* and 6.1 *(Alternative Siting)* of this Rule shall not apply to an existing Stationary Source unless the modification is a federal Major Modification.

1.3.6 Exemption: Innovative Control Technology. The District may exempt an applicant from the requirements of Section 4.1, Subsections 4.2.2, 4.2.3, 4.2.11, 4.2.12, 4.3.3, Sections 4.4, 5.2 and 5.3 of this Rule for a specified pollutant if all the criteria in Subsections 1.3.6.1 through 1.3.6.5 below are met:

1.3.6.1 the source is not a major source, as defined by Title 40, Code of Federal Regulations, Part 51, Section 165 (40 CFR Part 51.165); and

1.3.6.2 it is determined through the use of the air quality impact table in Section 9.4, or through air quality modeling, as in Section 9.1 herein, that emissions from the new or modified stationary source will result in a net air quality benefit and will not cause or contribute to the violation of any ambient air quality standard or emissions increment established pursuant to this Rule; and

1.3.6.3 the source will utilize unique and innovative control technology which will result in a significantly lower emission rate for the above-specified pollutant from the installation than would have occurred with the use of previously known best available control technology (BACT); and

1.3.6.4 the above-specified technology will likely serve as a model for technology to be applied to similar installations within the state; and

1.3.6.5 emission reductions which create the air quality benefit must occur by the time a new or modified source commences operation, be quantifiable, real, surplus, permanent, enforceable and meet the requirements of Sections 3.4, 6.12, and 6.13 herein.

1.3.6.6 If the source meets all criteria except Subsection 1.3.6.1 of Subsection 1.3.6 above, the District may only exempt the applicant from the requirements of Sections 4.1 and 5.2 of this Rule for a specified pollutant.

1.3.7 The District shall withdraw any approval to employ a system of innovative control technology approved under this Rule if:

1.3.7.1 the proposed system fails to achieve the required continuous emission reduction rate within a time period specified by the District in the Authority to Construct, or the Permit to Operate, not to exceed two years from the date of initial startup; or

1.3.7.2 the proposed system contributes to an unreasonable risk to public health, welfare, or safety; or

1.3.7.3 the proposed system becomes a public nuisance.

1.3.8 If a source or modification fails to meet the required level of continuous emissions reduction or its approval is withdrawn pursuant to this Section, the District may allow the source up to an additional two years to meet the requirements of BACT.

1.3.9 If a source or modification fails to meet the required level of continuous emissions reduction or its approval is withdrawn pursuant to this Section, the source shall provide offsets for the residual emissions that were not offset.

1.3.10 Exemption: Expired or Revoked Permit. The owner or operator of a source whose District permit has expired or been revoked for nonpayment of fees under the provisions of Regulation III (Fees), who subsequently applies for reissuance of a permit for that source, shall be exempt from the provisions of this Rule provided no modifications have been made to the source since that source last held a valid District permit.

1.4 Effective Date

This Rule as most recently revised is effective on the date the rule is approved by the California Air Resources Board pursuant to Health and Safety Code Section 42504(d).

1.5 References

1.5.1 The requirements of this Rule arise from the provisions of the California Clean Air Act and amendments (Health and Safety Code Section 40910 *et seq.*) and the federal Clean Air Act and amendments (42 U.S.C. Section 7401 *et seq.*)

1.5.2 Other related or referenced District rules or regulations include: Rule 101 (Definitions); Rule 200 (Permits Required); Rule 201 (Sources Not Requiring Permits); Rule 215 (Banking of Emissions Reductions); Rule 218 (Title V: Federal Operating Permits); Regulation III (Fees); Rule 418 (Transfer of Gasoline into

Stationary Storage Containers); and Rule 1002 (Transfer of Gasoline into Vehicle Fuel Tanks).

1.6 Permit Denial

The District shall deny an Authority to Construct or a Permit to Operate for any new stationary source or modification to an existing source unless:

1.6.1 the new source or modification complies with all applicable rules and regulations; and

1.6.2 the applicant certifies that all other major stationary sources, which are owned or operated by such person (or by any entity controlling, controlled by, or under common control with such a person) in California and which are subject to emission limitations are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards.

PART 2 DEFINITIONS

For the purpose of this Rule, the definitions below shall apply.

2.1 Affected Pollutants

These species include:

2.1.1 all pollutants for which an ambient air quality standard has been established by the United States Environmental Protection Agency or the Air Resources Board, as well as the precursors to such pollutants; and

2.1.2 all pollutants regulated by the United States Environmental Protection Agency under the federal Clean Air Act or by the Air Resources Board under the Health and Safety Code; and

2.1.3 all the pollutants which the United States Environmental Protection Agency after the notice and opportunity for public comment, or, the Air Resources Board, or the District after public hearing, determine may have significant adverse effect on the environment, the public health, or the public welfare; and

2.1.4 include, but are not limited to:

2.1.4.1 volatile organic compounds (VOCs),
2.1.4.2 nitrogen oxides (NO_x),
2.1.4.3 sulfur oxides (SO_x),
2.1.4.4 particulate matter less than 10 micrometers in aerodynamic diameter (PM_{10}),
2.1.4.5 total suspended particulates (TSP),
2.1.4.6 carbon monoxide (CO),

2.1.4.7 ethylene,
2.1.4.8 vinyl chloride,
2.1.4.9 asbestos,
2.1.4.10 beryllium,
2.1.4.11 lead,
2.1.4.12 mercury,
2.1.4.13 fluorides,
2.1.4.14 sulfuric acid mist,
2.1.4.15 hydrogen sulfide (H_2S),
2.1.4.16 total reduced sulfur compounds, and
2.1.4.17 reduced sulfur compounds.

2.2 Air Basin

The geographic area containing Monterey, San Benito, and Santa Cruz counties.

2.3 Air Pollution Control Officer (APCO)

The Air Pollution Control Officer for the Monterey Bay Unified Air Pollution Control District, or his/her authorized representative.

2.4 Air Quality Impact Table

An air quality simulation table used to estimate maximum ground level impacts of a source of emissions of TSP, CO, oxides of sulfur and oxides of nitrogen, assuming one hundred percent conversion of nitrogen oxides into NO_2 and calculating all emissions of sulfur oxides as SO_2 (table contained in Section 9.4 herein).

2.5 Air Quality Increment

A maximum allowable increase in concentration of a pollutant, beyond baseline, as established by the District Board and at least as stringent as provided in the federal Clean Air Act provisions in Section 163(b)and 40 CFR Part 51.166; or, for pollutants for which no increment has been established pursuant to the federal Clean Air Act, a maximum allowable increase in concentration of a pollutant as established by the District Board.

2.5.1 In establishing air quality increments for sulfur dioxide and TSP, the District Board shall take into consideration the impact of emissions on neighboring areas. Baseline air quality shall be the ambient concentration level reflecting actual air quality as monitored or modeled as of the existing baseline date of July 18, 1979, minus any contribution attributable to emissions from major stationary sources and modifications constructed since January 6, 1975. In establishing air quality increments for carbon monoxide, hydrogen sulfide, and lead, baseline air quality shall be the ambient concentration as of January 1, 1984. In establishing air quality increments for nitrogen dioxide, the baseline air quality shall be the ambient

concentration as of February 8, 1988. Air quality increments for PM_{10} are in effect as of August 19, 1983.

2.5.2 In accordance with the criteria contained in Subsection 2.5.1 herein, the District Board defines the following increments of allowable air quality degradation, beyond the existing air quality levels, for pollutants for the respective areas indicated as designated attainment:

Table 2.5.2 District Board-Defined Air Quality Increments
Allowable Air Quality Degradation Beyond
Existing Air Quality Levels

Pollutant	Designated Area A and Area A Impact Zones (ug/m^3)	Designated Areas C, D, and F (ug/m^3)	Designated Areas B and E (ug/m^3)	Averaging Period
Carbon Monoxide (CO)	4,000	8,000	12,000	1-hour
Nitrogen Dioxide (NO_2)	2.5	20	25	annual
Hydrogen Sulfide (H_2S)	4.2	8.4	12.6	1-hour
Lead	.15	.30	.45	30-day
TSP	5 10	5 10	19 37	annual 24-hour
PM_{10}	2.8 5.7	2.8 5.7	10.8 21.1	annual 24-hour
Sulfur Dioxide (SO_2)	2 5 25	2 5 25	20 91 512	annual 24-hour 3-hour

2.6 Air Resources Board (ARB)

State of California Air Resources Board.

2.7 Ambient Air Quality Standards

See National Ambient Air Quality Standards and State Ambient Air Quality Standards.

2.8 Area A Impact Zone

All lands outside of the designated Area(s) A but within a 15-mile distance beyond the boundary of the designated Area(s) A, or other areas established by the District based on standard meteorological techniques such as hourly wind roses, frequency distribution of

atmospheric wind classes, morning and afternoon mixing depths and any other meteorological or geographical considerations needed to establish the Area A Impact Zone. See Subsection 2.18.1 herein for the definition of designated Area(s) A.

2.9 Authority to Construct

A written permit, as provided by Part 3.1 of Rule 200, issued by the District to a specific applicant:

2.9.1 prior to the building, erection, alteration, or replacement of any article, machine, equipment or other contrivance which may cause the issuance of air contaminants or the use of which may eliminate, reduce or control the issuance of air contaminants; or

2.9.2 alternatively, to create federally enforceable conditions, accepted voluntarily by a source for purposes of limiting its potential emissions, applicable to any article, machine, equipment or other contrivance which may cause the issuance of air contaminants or the use of which may eliminate, reduce or control the issuance of air contaminants.

2.9.3 Application Deemed Complete

The District's action of deeming an Authority to Construct application complete, or the California Energy Commission's action of accepting an Application for Certification (AFC).

2.9.4 Authority to Construct is Issued

The District's action of granting an Authority to Construct, or the California Energy Commission's action of issuing its affirmative decision on an Application for Certification (AFC).

2.10 Best Available Control Technology (BACT)

An emission limitation based on the maximum degree of reduction for each pollutant which would be emitted from any new or modified stationary source, which on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such class or category of source, or modification through application of production processes or available methods, systems, and techniques.

2.10.1 BACT shall not be less stringent than the emission control required by any applicable provision of District, ARB, State, or federal laws or regulations, unless the applicant demonstrates to the satisfaction of the District that such limitations are not achievable.

2.10.2 In no event shall the application of BACT result in the emissions of any pollutant which exceed the emissions allowed by any applicable standard in 40 CFR Part 60

(New Source Performance Standards), or in 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants), or in 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories).

2.11 California Coastal Waters

Those waters that are between the California coastline and a line starting at the California-Oregon border at the Pacific Ocean:

thence to 42.0 N 125.5 W;
thence to 41.0 N 125.5 W;
thence to 40.0 N 125.5 W;
thence to 39.0 N 125.0 W;
thence to 38.0 N 124.5 W;
thence to 37.0 N 123.5 W;
thence to 36.0 N 122.5 W;
thence to 35.0 N 121.5 W;
thence to 34.0 N 120.5 W;
thence to 33.0 N 119.5 W;
thence to 32.5 N 118.5 W;

and, ending at the California-Mexico border at the Pacific Ocean.

2.12 Cargo Carriers

Cargo carriers include trains and marine vessels dedicated to a specific stationary source.

2.13 Chlorofluorocarbon (CFC)

The family of chemical compounds containing carbon, fluorine and chlorine; containing at least one carbon atom and having no hydrogen atoms and no double bonds; and which includes, without limitation, trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113), 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114), and chloropentafluoroethane (CFC-115).

2.14 Class I Area

Any area having air quality or air quality related values requiring special protection, which has been designated Class I by a federal or state authority empowered to make such a decision.

2.15 Complete Application

Completeness of an application for an Authority to Construct a new or modified stationary source shall be evaluated on the basis of the list of required information which was adopted by the District pursuant to Article 3, Sections 65940 through 65944 of Chapter 4.5 of Division 1 of Title 7 of the Government Code as it exists on the date on which the application is received.

2.16 Contiguous Property

Two or more parcels of land with a common boundary or separated solely by a public roadway or other public right-of-way.

2.17 Cost-Effective

A cost per unit of emissions reduction which is lower than or equivalent to the maximum unit costs of the same emission reduction through the use of BACT calculated in current year dollars.

2.18 Designated Areas, A, B, C, D, E, and F

For the purposes of implementing the provisions of this Rule the following locations, which are shown in Figure 1, are recognized as designated areas A, B, C, D, E, and F, respectively:

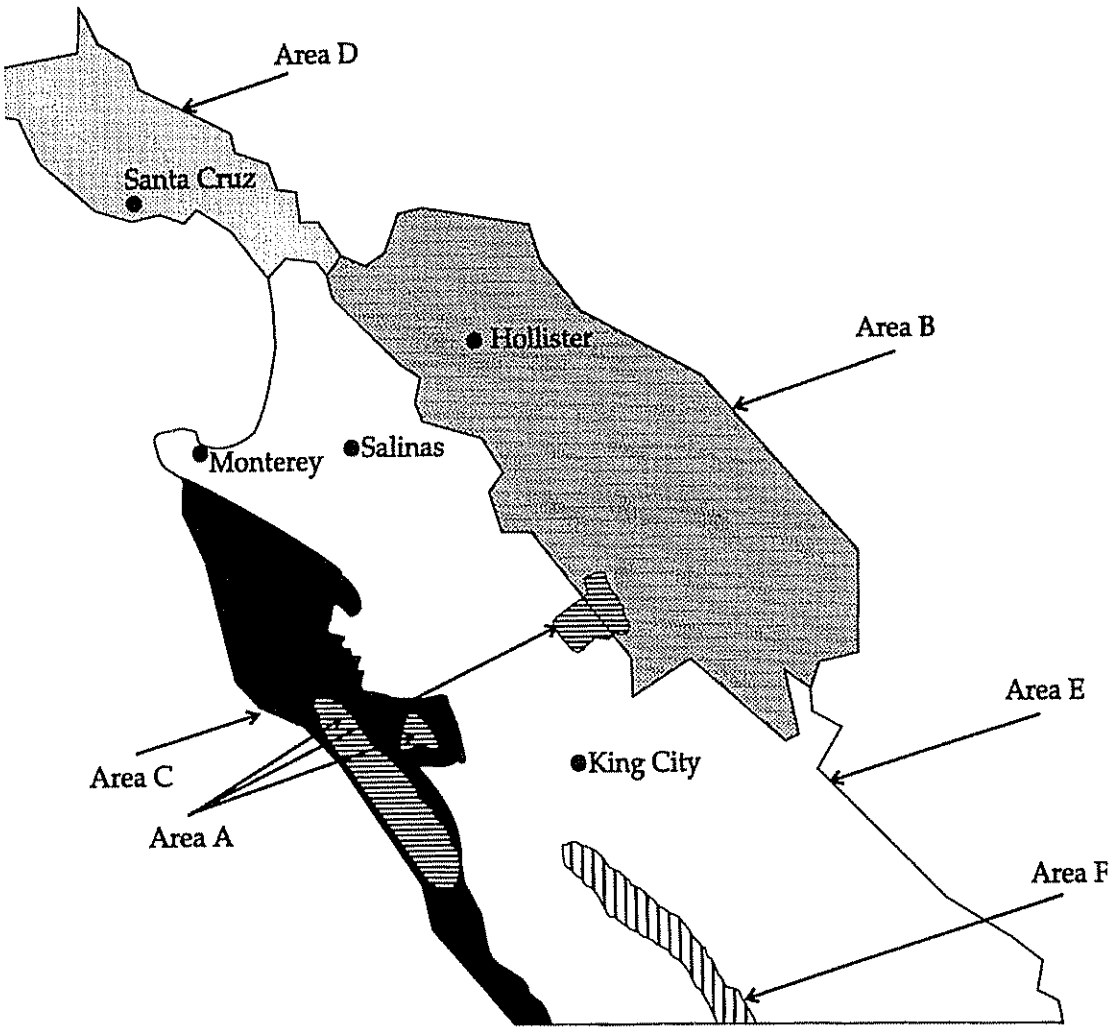
2.18.1 Area(s) A includes locations determined as Class I areas mandated by the federal Clean Air Act and amendments (42 U.S.C. Section 7401 *et seq.*)

The Class I areas located within the boundaries of the District designated Areas A include the Pinnacles National Monument and the Ventana National Wilderness.

2.18.2 Area(s) B includes the entirety of San Benito County except those areas designated as Area A or Area A Impact Zones;

2.18.3 Area(s) C includes the City of Carmel-by-the-Sea and the Carmel Valley south to the San Luis Obispo County line, including the Big Sur Coast, and the area described by the boundary commencing with the northern city limits of Carmel at the Pacific Ocean, and is coterminous with the northern Carmel city limits to Serra Avenue; then follows Serra Avenue to Highway 1, north to Aguajito Road, to Loma Alta Road up to Jacks Peak Park; is bordered on the north by the southern boundary of the Jacks Peaks Park; then proceeds easterly to the west crest of the Sierra De Salinas Mountain Range; then continues in a southeasterly direction to the Palo Escrito Mountain Peak; through the Middle of Bear Canyon, following Cachagua Conejo Creek; up Pine Creek to the junction of the Los Padres National Forest boundary; is bordered on the east by the eastern border of the Los Padres National Forest from the Pine Creek junction in a southerly

Figure 1. Map of District Designated Areas



Area A: Pinnacles National Monument, Ventana Wilderness Area

Area B: San Benito County other than Area *A* and Area *A* Impact Zones

Area C: Carmel-By-The-Sea, Carmel Valley, and the Big Sur Coast other than Area *A*

Area D: Santa Cruz County

Area E: Monterey County other than Areas *A*, *C*, & *F*, and Area *A* Impact Zones

Area F: San Antonio Valley

direction to the San Luis Obispo County line, including all lands within the area defined above except those areas designated as Area A or Area A Impact Zones;

2.18.4 Area(s) D includes the entirety of Santa Cruz County;

2.18.5 Area(s) E includes the entirety of Monterey County except areas designated A, C, F or Area A Impact Zones; and,

2.18.6 Area(s) F includes the area described by the boundary starting at the northern intersection of the boundary of the federal reservation of Ft. Hunter Liggett and Highway G-14 (Jolon Highway); proceeding north along G-14 3.5 miles to the mouth of Crazy Canyon; up Crazy Canyon southeast to the crest of the Sierra De Salinas Mountains; then in a general southeasterly direction crossing Highway G-18 at benchmark 352.9; proceeding still southeasterly along the crest of the ridge line to Sulphur Canyon Road, approximately 1 mile downstream from the San Antonio Dam; west along the road to the boundary between Monterey and San Luis Obispo Counties, following the county line west to the western intersection of Highway G-14 and the county boundary; northwest along Highway G-14 to the southern intersection of Highway G-14 and the reservation boundary of Ft. Hunter Liggett; then following the eastern boundary of Fort Hunter Liggett to the northern intersection of the reservation boundary and Highway G-14.

2.18.7 Other areas within the District having air quality or air quality related values requiring special protection may be redesignated to a more protective designation by the District Board after holding a public hearing, noticed 30 days in advance, to consider public input concerning such designation.

2.19 District

Refers to the Monterey Bay Unified Air Pollution Control District (MBUAPCD) and its authorized representatives.

2.20 District Board

Refers to the Monterey Bay Unified Air Pollution Control District Board.

2.21 Emissions Increment

The increase in emissions of any pollutant which can be allowed in an area without causing the exceedance of any air quality increment.

2.22 Emission Reduction Credit (ERC)

An actual emission reduction of specific type and quantity that is registered with the District in accordance with Rule 215. Must be surplus, quantifiable, permanent, real and enforceable.

2.23 Enforceable Emission Reduction

As defined by District Rule 215, an emission reduction which can be verified for accuracy by the District. In general, specified by restrictions imposed by conditions of an Authority to Construct and/or Permit to Operate.

2.24 Exempt Compounds

As defined in District Rule 101, Definitions.

2.25 Federal Land Manager

The Secretary of the Department with authority over the specified federal lands.

2.26 Federal Major Modification

A Major Modification as defined in 40 CFR §51.165, except that the term "reviewing authority" as used in that Section shall mean the District, and the term "Significant" shall mean the same as a Major Modification to an Existing Source as defined in this Rule.

2.27 Federally Enforceable Condition

A condition that is enforceable by EPA and citizens under the Clean Air Act. Such conditions shall include emission limitations, controls, and other requirements that are permanent, quantifiable, and otherwise enforceable as a practical matter. Federally enforceable conditions established pursuant to Section 2.33.5 must meet the procedural requirements for public and EPA review in Sections 6.9, 6.10, and 1.3.6, 1.3.6, 6.11 of this Rule. Conditions in a District Permit to Operate that meet the requirements in this Rule for federally enforceable conditions shall be specifically designated as federally enforceable in the permit.

2.28 Fugitive Emission

Any emission that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

2.29 Hydrochlorofluorocarbon (HCFC)

Any member of the family of chemical compounds containing hydrogen, carbon, fluorine and chlorine, and which includes, without limitation, chlorodifluoromethane (HCFC-22).

2.30 Hydrofluorocarbon (HFC)

Any member of the family of chemical compounds containing hydrogen, carbon, and fluorine, and which includes, without limitation, trifluoromethane (HFC-23).

2.31 Major Modification to an Existing Source

A modification to a stationary source in an air basin which has been designated as being either in attainment or nonattainment of national ambient air quality standards, which may result in the potential to emit greater than the threshold levels provided by the federal Clean Air Act (42 U.S.C. Section 7401 *et seq.*) for that designation and pollutant.

2.32 Major Stationary Source

A stationary source in an air basin which has been designated as being either in attainment or nonattainment of national ambient air quality standards, which has the potential to emit greater than the threshold levels provided by the federal Clean Air Act (42 U.S.C. Section 7401 *et seq.*) for that designation.

2.33 Modification

May be any of the following:

2.33.1 Any physical change, change in method of operation of, or addition to an existing stationary source that would result in an actual or potential emissions increase from any permit unit (as defined in Part 2 herein) or sum of permit units under consideration as a result of the proposed modification; or

2.33.2 any physical change, change in method of operation of, or addition to an existing stationary source for which an application to bank emissions reductions credits is submitted to the District; or

2.33.3 any process or process material change, including alternate fuels, production or raw materials, that would result in an actual or potential emissions increase, unless specifically allowed by an Authority to Construct or Permit to Operate; or

2.33.4 any change in hours of operation or production rate which would necessitate a change in permit conditions of an Authority to Construct or Permit to Operate; or

2.33.5 any change to a District Authority to Construct or Permit to Operate to establish federally enforceable conditions in the permit that are accepted voluntarily by the source for purposes of limiting its potential emissions.

2.33.6 A reconstructed source, as defined in Section 2.53 herein, shall be treated as a new stationary source.

2.33.7 Unless previously limited by a permit condition of an Authority to Construct or a Permit to Operate, the following shall not be considered physical changes:

2.33.7.1 routine maintenance or repair; or

2.33.7.2 transfer of location of any article, machine, equipment or other contrivance for which a Permit to Operate has previously been granted under Rule 200, and for which no alteration or addition has been made.

2.33.8 Unless previously limited by a permit condition of an Authority to Construct or a Permit to Operate, the following shall not be considered changes in the method of operation:

2.33.8.1 an increase in the production rate if such an increase does not exceed the operating design capacity or the actual demonstrated capacity of the stationary source as approved by the District in the Authority to Construct and Permit to Operate; or

2.33.8.2 a change in ownership; or

2.33.8.3 a replacement of a piece of equipment with an identical piece of equipment with emissions less than or equal to those from the original piece of equipment.

2.34 National Ambient Air Quality Standards (NAAQS)

Air quality standards set by the Administrator of the United States Environmental Protection Agency to protect public health and welfare and, in general, consisting of primary and secondary standards. Primary standards are to protect the public health, while secondary standards are intended to protect the public welfare, *e.g* , plants, crops, and materials.

2.35 Net Air Quality Benefit

A net improvement in air quality resulting from actual emissions reductions impacting the same general area affected by the new or modified source and which will be consistent with reasonable further progress.

2.36 Net Emissions Increase

2.36.1 The sum of all increases in potential emissions of any given pollutant except PM_{10} from a new or modified stationary source occurring since July 15, 1976, minus any reductions in emissions of that pollutant at the stationary source occurring since July 15, 1976, calculated according to the provisions of Part 7 of this Rule; or

2.36.2 the sum of all increases in potential emissions of PM_{10} from a new or modified stationary source occurring since August 19, 1983, minus any reductions in emissions of PM_{10} at the stationary source occurring since August 19, 1983, calculated according to the provisions of Part 7 of this Rule.

2.36.2.1 The PM_{10} emissions from an existing stationary source shall be recalculated from the TSP emission increases and reductions which have occurred since August 19, 1983 using PM_{10} emission factors. When PM_{10} emissions factors do not exist, 50 percent of the total TSP shall be assumed to be PM_{10}. All TSP emission increases and decreases occurring prior to August 20, 1983 are zeroed.

2.36.2.2 If the applicant has provided full offsets for TSP emissions occurring since August 19, 1983 but before April 21, 1993 those TSP emissions need not be recalculated as PM_{10} because the net emissions increase at the time of the offset is considered zero.

2.37 New Emissions Increase

The sum of all increases in potential emissions of any given pollutant from a new or modified stationary source. The increases shall be calculated according to the provisions of Part 7 of this Rule.

2.38 New Source

A location at which new equipment is being installed, on or after the appropriate applicability date, which does not currently hold a valid District Authority to Construct or Permit to Operate. For the purposes of Part 4 of this Rule, the applicability date shall be July 15, 1976. For the purposes of Part 5 of this Rule, the applicability date shall be April 21, 1993.

2.39 New Source Review (NSR)

A system designed, through the use of a permitting program applicable to new or modified sources, to reduce ambient air concentrations of pollutants for which specific areas have been designated as nonattainment.

2.40 Nitrogen Oxides (NO_x)

The molecular forms of nitrogen oxide and nitrogen dioxide. When measured or calculated, the total of the two molecular forms as nitrogen dioxide.

2.41 Nonattainment Pollutant

Any pollutant for which an ambient air quality standard was exceeded within the air basin more than three discontinuous times (or, for annual standards, more than one time) within the three years immediately preceding the date when the application for the Authority to Construct was filed; or

which has been designated nonattainment pursuant to final rulemaking either by the United States Environmental Protection Agency and published in the Federal Register, or by the Air Resources Board, as well as any precursors of such pollutants.

2.42 Offset

Where used as a noun, an emission reduction from an existing source, whether or not under the same ownership as a proposed project, that is necessary to mitigate an emission increase of an affected pollutant from the proposed project that would otherwise prevent the lawful issuance by the District of an Authority to Construct or a Permit to Operate. When used as a verb, the process of providing such an emission reduction.

2.43 Permanent Emission Reduction

As defined in District Rule 215, an emission reduction which is assured for the life of the corresponding increase, whether limited or unlimited in duration, and that the benefits of the emission reduction do not diminish or disappear over time.

2.44 Permit to Operate

A written permit, as provided by Part 3.1 of Rule 200, with any specified conditions required, issued by the Monterey Bay Unified Air Pollution Control District to a specific applicant for the operation or use of any article, machine, equipment or other contrivance which may cause the issuance of air contaminants or the use of which may eliminate, reduce or control the issuance of air contaminants.

2.45 Permit Unit

A piece of equipment, product line, system, unit, process line or process that produces a product or performs a function independently of other equipment, product lines, systems, units, process lines or processes. (From District Rule 101, Definitions.)

2.46 PM_{10}

Particulate matter with aerodynamic diameter smaller than or equal to a nominal 10 micrometers (μm) as measured by an appropriate reference test method.

2.47 Pollutant

See Affected Pollutant.

2.48 Potential to Emit

The maximum daily capacity of a permit unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the daily capacity of the unit to emit a pollutant, including pollution control equipment and restrictions in hours or operation, or on the type or amount of material combusted, stored or processed, shall be treated as part of its design only if the limitation, or the effect it would have on daily emissions, is incorporated into the applicable Authority to Construct and Permit to Operate as an enforceable permit condition.

2.49 Precursor

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

	Precursor	Secondary Pollutant
2.49.1	volatile organic compounds (VOCs)	1) ozone 2) organic fraction of particulate matter (PM_{10})
2.49.2	nitrogen oxides (NO_x)	1) ozone 2) nitrogen dioxide (NO_2) 3) nitrate fraction of particulate matter (PM_{10})
2.49.3	sulfur oxides (SO_x)	1) sulfur dioxide (SO_2) 2) sulfates (SO_4) 3) sulfate fraction of particulate matter (PM_{10})

2.50 Prevention of Significant Deterioration (PSD)

A system designed, through the use of a permitting program applicable to new or modified sources, to avert consequential increases in ambient air concentrations of

pollutants for which specific areas have been designated as either attainment or unclassifiable under federal guidelines.

2.51 Quantifiable Emission Reduction

As defined in District Rule 215, an emission reduction, the rate and characteristics of which can be determined by the District with reasonable accuracy. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process or production inputs, modeling, or other reasonable measurement practices.

2.52 Real Emission Reduction

As defined in District Rule 215, those emission reductions that have actually occurred, have been implemented and are not artificially devised.

2.53 Reconstructed Source

Any source undergoing physical modification where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new stationary source. Fixed capital cost means that capital needed to provide all the depreciable components.

2.54 Seasonal Source

Any source with more than 75 percent of its annual emissions within a consecutive 90-day period.

2.55 Source

See Stationary Source.

2.56 State Ambient Air Quality Standards

Air quality standards set by the California Air Resources Control Board "in consideration of the public health, safety, and welfare, including, but not limited to, health, illness, irritation to the senses, aesthetic value, interference with visibility, and the effects on the economy" (California Health and Safety Code Section 39606 [b]). A distinction is not made between standards to protect public health and welfare, *i.e.*, primary and secondary standards.

2.57 State Implementation Plan (SIP)

Plan which is required to be submitted by each State under 42 U.S.C. Section 7401 *et seq.* (federal Clean Air Act) to achieve and maintain national ambient air quality standards (NAAQS).

2.58 Stationary Source

Any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission.

2.58.1 Installation includes any operation, article, machine, equipment or other contrivance which emits or may emit any affected pollutant.

2.58.2 Building, structure, or facility includes all pollutant emitting activities, including activities located in California coastal waters adjacent to the District boundaries which:

2.58.2.1 belong to the same industrial grouping;

2.58.2.2 are located on one or more contiguous or adjacent properties (except for activities located in coastal waters); and,

2.58.2.3 are under the same or common ownership, operation, or control or which are owned or operated by entities which are under common control.

2.58.3 Pollutant emitting activities shall be considered as part of the same industrial grouping if:

2.58.3.1 they belong to the same two-digit standard industrial classification code, or,

2.58.3.2 they are part of a common production process. (Common production process includes industrial processes, manufacturing processes, and any common raw material).

2.58.4 The emissions within District boundaries and California coastal waters as defined in Section 2.11 herein, from cargo carriers associated with the stationary source shall be considered emissions from the stationary source to the extent provided in Subsections 7.3.4, 7.3.4.1, and 7.3.5 herein.

2.59 Sulfur Oxides (SO_x)

The chemical species of sulfur dioxide and sulfur trioxide. When measured or calculated, the total of the two chemical species as sulfur dioxide.

2.60 Surplus Emission Reduction

As defined in District Rule 215, emission reductions not already encumbered by any federal, State, ARB, District, or local agreement, law, order, plan, regulation, requirement, or rule.

2.61 Total Suspended Particulates (TSP)

Any airborne finely divided solid or liquid material with an aerodynamic diameter less than 100 micrometers (μm).

2.62 Upwind Areas

The area bounded by a line passing through the site of the new or modified source perpendicular to the predominant summer wind flow line and extending to the boundaries of the same air basin in the direction opposite the predominant summer wind flow, except where the District determines that for reasons of topography or meteorology such a definition is inappropriate.

2.63 Volatile Organic Compounds (VOCs)

As defined in District Rule 101, Definitions.

PART 3 GENERAL REQUIREMENTS

Any source subject to this Rule shall be subject to the following requirements.

3.1 Pre-Construction and Post-Construction Air Monitoring

The owner or operator of a stationary source subject to the requirements of this Rule shall conduct ambient air quality monitoring as the District finds necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in the area. All monitoring shall comply with United States Environmental Protection Agency guidelines for monitoring (40 CFR Part 58, Appendix B).

3.1.1 Pre-construction air quality monitoring data must be gathered over a period of one year preceding the application of the source. If the District determines that an adequate analysis can be done over a period of less than one year, but not less than four months, the shorter period can be used. If sufficient representative monitoring data already exists for analysis, no monitoring will be required.

3.1.2 Post-construction air quality monitoring data must be collected as deemed necessary by the District to determine the effect emissions from the stationary source or modification are having on air quality.

3.2 Visibility, Soils, and Vegetation Analysis

The applicant shall provide the District with analysis of impairment to visibility, soils, and vegetation, and the projected air quality impact for the area, 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.

3.3 Ambient Air Quality Standards and Emission Increments

In no case shall the emissions from the new or modified stationary source, or in conjunction with other increases in emissions, cause or contribute to the violation of an ambient air quality standard or exceed any air quality increment. The air quality impact table contained in Section 9.4 or appropriate air quality modeling as in Section 9.1 herein shall be used to estimate the effects of a new or modified source. In making this determination the District shall take into account the mitigation of emissions through offsets obtained pursuant to this Rule.

3.4 Mandated Reductions

Emission reductions required by any permits, agreements, orders, plans or requirements of federal, State, Air Resources Board, or District laws, rules and regulations, or the State Implementation Plan shall not be used as offsets.

3.5 Source Shutdowns and Curtailments

Source shutdowns and curtailments may not be given emission reduction credits in the case of precursor organic pollutants if they occurred prior to the date of application unless the proposed new source or modification is a replacement at the same source, and the shutdown or curtailment occurred after August 7, 1977.

3.6 Interpollutant Offsets

The District may approve interpollutant offsets on a case-by-case basis, provided that the trade is technically justified and that the applicant demonstrates to the satisfaction of the District, through the use of the air quality impact table contained in Section 9.4 or by appropriate air quality modeling as in Section 9.1 herein, that the emission increases from the new or modified source or in conjunction with other increases in emissions will result in a net air quality benefit and will not cause or contribute to a violation of an ambient air quality standard or exceed any air quality increment established pursuant to this Rule. In such cases, the District shall, based on air quality analysis, impose offset ratios greater than the requirements of Section 4.3 herein.

Interpollutant trades between PM_{10} and PM_{10} precursors may be allowed. PM_{10} emissions shall not be allowed to offset NO_x or VOC emissions in ozone nonattainment

areas. PM_{10} emissions shall not be allowed to offset SO_x emissions in sulfate nonattainment areas.

PART 4 FEDERAL CLEAN AIR ACT REQUIREMENTS

4.1 Best Available Control Technology (BACT) Requirements

An applicant shall apply BACT to a new stationary source or modification of an existing source, except cargo carriers, for each affected pollutant, under the following conditions:

4.1.1 a new stationary source which has the potential to emit greater than or equal to any one of the affected pollutant levels listed in Table 4.1.1 below:

Table 4.1.1 Emission Thresholds for BACT

POLLUTANT	EMISSION RATE IN POUNDS/DAY
VOC	150
NO_x as NO_2	150
SO_x as SO_2	150
TSP	150
PM_{10}	82
CO	550
Vinyl Chloride	5.48
Asbestos	0.04
Beryllium	0.0022
Lead	3.28
Mercury	0.55
Fluorides	16.44
Sulfuric Acid Mist	38.35
Hydrogen Sulfide (H_2S)	54.79
Total Reduced Sulfur Compounds (including H_2S)	54.79
Reduced Sulfur Compounds (including H_2S)	54.79

or,

4.1.2 a modification of an existing stationary source which has the potential to result in a new emissions increase, as defined in Section 2.37 herein, occurring after August 19, 1983 for PM_{10} or after July 15, 1976 for any other affected pollutant, from any permit unit or sum of permit units from the same source of an affected pollutant by an amount in excess of any of the limits stated in Subsection 4.1.1 herein.

4.1.3 For a modified source, BACT shall be applied to the new or modified equipment whose emissions trigger the requirement for BACT.

4.1.4 A new source or modification subject to BACT for any pollutant subject to this Section shall apply BACT for any other affected pollutant emitted from the new source or modification, if the District should so require.

4.2 Offset Requirement, General

4.2.1 In Area A and Area A Impact Zones, offsets as specified in Subsections 4.3.1 and 4.3.2 herein shall be required from a new or modified stationary source with net emissions increases equal to or exceeding 150 pounds per day of volatile organic compounds, or nitrogen oxides, or sulfur oxides, or total suspended particulates (TSP) or carbon monoxide; or 82 pounds per day of PM_{10}. This information is summarized in table 4.2.2 below.

4.2.2 In areas other than Area A or Area A Impact Zones, offsets as specified in 4.3.3 shall be required for an affected pollutant from a new or modified stationary source with a net emissions increase equal to or exceeding 150 pounds per day for volatile organic compounds, or nitrogen oxides or sulfur oxides, or total suspended particulates(TSP); 550 pounds per day of carbon monoxide; or 82 pounds per day of PM_{10}, as summarized in table 4.2.2 below:

Table 4.2.2 Emissions Thresholds for Offsets

POLLUTANT	EMISSIONS INCREASE IN AREA A AND AREA A IMPACT ZONES	EMISSIONS INCREASE IN B,C,D,E AND F AREAS
VOC	150 pounds per day	150 pounds per day
NO_x as NO_2	150 pounds per day	150 pounds per day
SO_x as SO_2	150 pounds per day	150 pounds per day
CO	150 pounds per day	550 pounds per day
TSP	150 pounds per day	150 pounds per day
PM_{10}	82 pounds per day	82 pounds per day

4.2.3 Offsets for increases in carbon monoxide shall not be required if the applicant demonstrates to the satisfaction of the District, through the use of the air quality impact table contained in Section 9.4 of this Rule, or by approved air quality

modeling as in Section 9.1 herein, that the ambient air quality standards are not violated in the areas to be affected, and such emissions will not cause or contribute to a violation of ambient air quality standards.

4.2.4 Offsets shall be actual, quarterly, enforceable emissions reductions for existing sources, sufficient to offset all anticipated quarterly emission increases as calculated according to Sections 7.3, 7.4 and 7.5 of this Rule, associated with new or modified stationary sources and which will result in a net air quality benefit.

4.2.5 The amount of offsets obtained shall be at least equal to the net emissions increase from the proposed new source or modification.

4.2.6 Increases in emissions shall be determined in accordance with the calculation methods described in Subsections 2.36.1, 2.36.2, Sections 7.3, 7.4 and 7.5 of this Rule, or an equivalent calculation procedure approved by the District.

4.2.7 Reductions in emissions shall be valid for determining net emissions increases only if they are established pursuant to an Authority to Construct and a Permit to Operate.

4.2.8 Mandated reductions of emissions shall not be used as offsets, pursuant to Section 3.4 herein.

4.2.9 All emission reductions must be identified and enforceable prior to issuance of the Authority to Construct.

4.2.9.1 The emission reductions must be eligible under the provisions of District Rule 215; and

4.2.9.2 must be entered in the District ERC Registry, unless the emission reductions are made at the same time as the permit application is made and on-site at the same stationary source.

4.2.9.2.1 For emission reductions made at the same time as the permit application is made and on-site at the same stationary source, permit modifications to ensure permanent emission reductions must be made.

4.2.10 In no case shall exempt compounds as defined in Section 2.24, 2.26 of this Rule, be used as offsets for volatile organic compounds as defined in Section 2.63of this Rule.

4.2.11 If a source is required to obtain offsets for a pollutant pursuant to this Section, then that source must obtain offsets, at least equal to the net emissions increase, for any increase in emissions of all the following pollutants: volatile organic compounds, nitrogen oxides, sulfur oxides, total suspended particulates (TSP), and PM_{10}.

4.2.12 The District may exempt a source from offset requirements for all the attainment pollutants, and any nonattainment pollutants which do not exceed levels specified in Subsections 4.2.1 and 4.2.2 provided that the applicant demonstrates to the satisfaction of the District all of the following:

4.2.12.1 that the requirement of offsets will result in little or no air quality benefit; and

4.2.12.2 that emissions offsets are not available or would not be cost-effective; and

4.2.12.3 that any net emissions increases from the new or modified stationary source or in conjunction with other increases in emissions will be consistent with reasonable further progress and will not cause a violation of an ambient air quality standard or exceed an air quality increment.

4.3 Location of Offsets and Offset Ratios

Table 4.3 Summary of Offset Ratio Requirements

Source Location/Area Offset Obtained	Ratio for Non-Attainment Pollutants	Ratio for Attainment Pollutants
Area A/Area A <15 miles radius	1.2:1	1.2:1
Area A Impact Zone/Area A or Area A Impact Zone <15 miles radius	1.2:1	1.2:1
Non-A/Same Source <15 miles radius	1:1 (or 1.15:1 if a major source or major modification)	1:1
Non-A/Different Source <15 miles radius	1.2:1	1.1:1
Non-A/≥15 miles radius	2:1	1.2:1
Non-A/different air basin	2.5:1	1.3:1

4.3.1 The emissions from a proposed source, subject to this Rule, which is to be located within an Area A must be offset by emissions reductions obtained from within the same Area A, at a minimum ratio of 1.2 to 1 and within a 15-mile radius of the proposed source if that will provide for a net air quality benefit; or at a ratio and distance to be approved by the District based on air quality analysis or modeling sufficient to demonstrate a net air quality benefit in the Area A. In no case shall the offset ratio for nonattainment pollutants be lower than the 1.2 to 1 ratio required above in this Section.

4.3.2 Emissions from a proposed source, subject to this Rule, which is to be located in an Area A Impact Zone must be offset by emissions reductions obtained from within the impact zone, or from the affected Area A, at a minimum ratio of 1.2 to 1, and within a 15-mile radius of the proposed source if that will provide for a net air quality benefit; or at a ratio and distance to be approved by the District based on air quality analysis or modeling sufficient to demonstrate a net air quality benefit in the Area A. In no case shall the offset ratio for nonattainment pollutants be lower than the 1.2 to 1 ratio required above in this Section.

4.3.3 Emissions from a proposed source subject to this Rule which is to be located outside an Area A or Area A Impact Zone are to be offset with emissions reductions from within a 15-mile radius of the proposed source. The emissions shall be offset at a minimum ratio of 1 to 1 if the offsets are from the same source, unless the proposed source is a major stationary source or a major modification to an existing source. In such cases, the emissions shall be offset at a minimum ratio of 1.15 to 1 if the offsets are from the same source. The emissions shall be offset at a minimum ratio of 1.2 to 1 for nonattainment pollutants for offsets located outside of the proposed source but within the 15-mile radius and shall result in a net air quality benefit. The emissions for all other pollutants designated in Section 4.2.2 herein shall be offset at a minimum ratio of 1.1 to 1 for offsets located outside of the proposed source but within the 15-mile radius, and the District shall analyze the impact on the air quality increment. Based on air quality analysis or modeling, approved by the District, which demonstrates a net air quality benefit, offset ratios and distances other than those above may be applied. In no case shall the offset ratios be lower than the ratios required above in this Section.

4.3.3.1 If an applicant demonstrates to the satisfaction of the District that sufficient offsets do not exist at sources owned by the applicant, and are not available at other sources within a 15-mile radius of the proposed source, offsets shall be obtained from an upwind area within the air basin at a minimum ratio of 2.0 to 1 for nonattainment pollutants and minimum ratio of 1.2 to 1 for all other pollutants designated in Section 4.2.2 herein; or, at a ratio and distance to be approved by the District based on air quality analysis and modeling sufficient to demonstrate a net air quality benefit, or to demonstrate that no emissions increments will be exceeded within the air basin. In no case shall the offset ratios be lower than the ratios required above in this Section.

4.3.3.2 If an applicant demonstrates to the satisfaction of the District that sufficient offsets do not exist at sources owned by the applicant, and are not available at an upwind area within the air basin, offsets may be obtained from an upwind area outside the air basin at a minimum ratio of 2.5 to 1 for nonattainment pollutants and minimum ratio of 1.3 to 1 for all other pollutants designated in Section 4.2.2 herein; or, at a ratio and distance to be approved by the District based on air quality analysis and modeling sufficient to demonstrate a net air quality benefit, or to demonstrate that no emissions increments will be exceeded within the air basin. In no case shall the offset ratios be lower than the ratios required above in this Section.

4.3.3.2.1 Any offset credited pursuant to Subsection 4.3.3.2 shall be approved by a resolution adopted by the governing board of the upwind district and the District Board. In adopting a resolution pursuant to this Subsection, the District Board shall consider the impact of the offset on air quality, public health, and the regional economy.

4.3.3.2.2 The offsets may only be obtained from an upwind area that has been designated by EPA to have a nonattainment status equal to or more serious than the North Central Coast air basin.

4.3.3.2.3 The offsets may only be obtained from an upwind area that could contribute to violations of the national ambient air quality standards in the North Central Coast air basin.

4.3.3.3 If an applicant demonstrates to the satisfaction of the District that sufficient offsets, for emissions that do not exceed ambient air quality standards, do not exist at sources owned by the applicant and are not available at other sources within a 15-mile radius or in an upwind area, the District may choose to allow an applicant to use a percentage, not to exceed 50 percent, of the remaining emissions increments, as determined by the District.

4.4 Offsets, Seasonal Sources

Emissions offset ratios stated in Section 4.3 herein shall be required for new or modified seasonal sources (as defined in Section 2.54 herein), provided that the offsets occur within the same season during which the seasonal source operates. Offsets obtained in a season other than that in which the proposed source will be operating may be used only if the applicant demonstrates to the satisfaction of the District that such interseason tradeoffs will result in a net air quality benefit.

4.5 Protection of Class I Areas

4.5.1 Any new or modified stationary source shall be subject to the requirements of this Rule if it will:

4.5.1.1 have any net emissions increase greater than zero pounds per day of volatile organic compounds, or nitrogen oxides, or sulfur oxides, or total suspended particulate; and

4.5.1.2 be constructed within a designated Area A or Area A Impact Zone after July 18, 1979; and

4.5.1.3 increase ambient pollutant concentration of the Area A by one microgram per cubic meter (24-hour average) or more.

4.5.2 Any new or modified stationary source shall be subject to the requirements of this Rule if it will:

4.5.2.1 have a net emissions increase of PM_{10} more than zero pounds per day; and

4.5.2.2 be constructed within a designated Area A or Area A Impact Zone after August 19, 1983; and

4.5.2.3 increase PM_{10} ambient concentration of the Area A by 0.57 microgram per cubic meter (24-hour average) or more.

4.5.3 The air quality impact table in Section 9.4, or appropriate air quality modeling as in Section 9.1 herein, shall be used to estimate the impact of the source on Area A.

PART 5 CALIFORNIA CLEAN AIR ACT (CCAA) REQUIREMENTS

This Part contains additional provisions required under the California Clean Air Act as amended.

5.1 Parallel Review and Stringency of Requirements

Each project subject to New Source Review shall undergo a review under the federal requirements contained within all other parts of this Rule, and a parallel review under the requirements of this Part. In cases where the requirements under the federal Clean Air Act and the California Clean Air Act differ, the most stringent applicable provisions shall apply.

5.2 CCAA Best Available Control Technology (BACT) Requirements

BACT shall be required for any new or modified permit unit with a potential to emit 25 pounds per day or more of VOCs or NO_x.

5.3 CCAA Offset Requirements

5.3.1 Any new or modified stationary source with a potential to emit 137 pounds per day or more of VOCs or NO_x shall be required to provide offsets at the ratios specified in Section 4.3 herein.

5.3.2 Offsets shall be actual, quarterly, enforceable emissions reductions from existing sources, sufficient to offset all anticipated quarterly emissions increases as calculated according to Subsections 5.3.3 and 5.3.4 of this Rule, associated with new or modified stationary sources, and which will result in a net air quality benefit.

5.3.3 The amount of offsets obtained shall be at least equal to the potential to emit from the proposed new source.

5.3.4 For any modified source, the amount of offsets obtained shall be at least equal to the difference between the emissions of the modified source, and the emissions of the existing source.

5.4 CCAA Stationary Source Calculations

For the purposes of determining offset requirements under this Part, emissions profiles for new sources, existing sources or modified sources shall be based on the potential to emit as described under Section 7.1 herein. Comparison of new, modified or existing

sources shall be done in accordance with Sections 7.3 and 7.5 herein. Calculation of emission reductions shall be done in accordance with Section 7.6 herein.

PART 6 ADMINISTRATIVE REQUIREMENTS

The following administrative requirements shall apply to activities pursuant to this Rule, except for the review of power plants over 50 megawatts. Power plants over 50 megawatts shall be subject to the review requirements of Part 8.

6.1 Alternative Siting

For those sources for which an analysis of alternative sites, sizes, and production processes is required under 42 U.S.C. Section 7401 *et seq.*, the District shall require the applicant to prepare an analysis functionally equivalent to the requirements of Division 13 of the Public Resources Code.

6.2 Complete Application

The District shall determine whether the application is complete no later than 30 days after receipt of the application, or after such longer time as both the applicant and the District may agree is acceptable.

If the District determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information required. Upon receipt of any resubmittal of the application, a new 30-day period to determine completeness shall begin.

Completeness of an application or resubmitted application shall be evaluated on the basis of the information requirements set forth in District regulations (adopted pursuant to Article 3, Sections 65940 through 65944 of Chapter 4.5 of Division 1 of Title 7 of the Government Code) and application guidance as they exist on the date on which the application or resubmitted application was received.

Upon determination that the application is complete, the District shall notify the applicant in writing. The District may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.

6.3 Plantwide Applicability Limit (PAL)

The operator of a major stationary source may apply to the APCO for approval to use a PAL to avoid the requirements of Sections 1.6.2 (Statewide Compliance) and 6.1 (Alternative Siting) only. The APCO shall approve use of a PAL if the source operator

demonstrates that the PAL will conform with the provisions specified in 40 CFR §51.165(f)(1) through (15).

6.4 Proposed Sources in Federal Class I Areas

6.4.1 Permit Notice: The District shall provide notice within ten days of determining that an application is complete which has been submitted for a proposed major stationary source or major modification of an existing source, whose emissions would affect a federal Class I Area, to the Federal Land Manager and the federal official charged with direct responsibility for management of the specified lands. The Federal Land Manager shall be provided a copy of the complete application and shall be notified of all subsequent actions relating to the consideration of such permit.

6.4.2 Source Impacting Class I Areas: The District shall accept and consider comments offered within public comment period following the date of publication by the Federal Land Manager of any lands contained within a federal Class I Area impacted by a proposed major stationary source or major modification to an existing stationary source. If the Federal Land Manager demonstrates that the emissions from a proposed major source or major modification would have an adverse impact on the air quality-related values (including visibility) of any federal mandatory Class I Areas, and if the District concurs with such demonstration, then the District shall deny the Authority to Construct.

6.4.3 Federal Land Manager Appeals: If the District recommends a permit with which the Federal Land Manager or the federal official charged with direct responsibility over the specified lands does not concur, the decision may be appealed to the Hearing Board.

6.5 Preliminary Decision

Following acceptance of an application as complete, the District shall perform the evaluations required to determine compliance with this Rule and make a preliminary written decision as to whether a permit to construct should be approved, conditionally approved, or disapproved.

6.6 Air Quality Increment Analysis

The District shall evaluate the impact on the air quality increment of the emissions from the proposed source and any offsets obtained pursuant to Section 4.2 herein. Any emissions from secondary source growth associated with the source shall be included in the determination of increment consumption. The District shall not grant a permit to a source which is subject to Section 4.2 herein if its emissions will exceed 50 percent of the remaining emissions increment.

6.7 Review of Air Quality Increment Consumption

The District shall assess the remaining air quality increment at least every five years, or every two years in areas where a source subject to Section 4.2 herein has been sited since the last assessment of the respective air quality increment has occurred. The reassessment of the remaining air quality increment shall be based on the changes in emissions including area sources and any changes in air quality background levels. The emissions from major stationary sources constructed since January 6, 1975 shall be included in the air quality increment consumption. Within 60 days of a determination of an increment violation the District will initiate action to mitigate the violation.

6.8 Air Quality Models

All air quality models used for the purposes of this Rule shall be consistent with the requirements provided in the most recent revision of the United States Environmental Protection Agency "Guidelines on Air Quality Models" unless the District finds that such a model is inappropriate for use. However, the District, on a case-by-case basis, may approve alternate models with the concurrence of the United States Environmental Protection Agency after allowing for a public comment period. Credit shall not be given for stacks higher than that dictated by good engineering practice. All modeling costs associated with the siting of a stationary source shall be borne by the applicant.

6.9 Publication and Public Comment

Within ten calendar days following a preliminary decision pursuant to Section 1.3 or Part 4 or Part 5 of this Rule, where the emission levels are greater than or equal to those threshold limits listed for Sections 4.2 or 5.3; or within ten calendar days following a preliminary decision pursuant to Subsection 1.3.2.1; or within ten calendar days following a preliminary decision on a source's application for a modification pursuant to Section 2.33.5, the District shall publish in at least one newspaper of general circulation in the District a notice stating the preliminary decision of the District, noting how the pertinent information can be obtained, and inviting written public comment for a 30-day period following the date of publication.

6.10 Public Inspection

The District shall make available for public inspection at the District's office the information submitted by the applicant and the District's analysis no later than the time the notice of the preliminary decision is published, pursuant to Section 6.9 herein. No later than the noticed date, all such information, including the proposed permit, shall be transmitted to the Air Resources Board, the United States Environmental Protection Agency, and any other interested public agency or party requesting it.

6.11 Authority to Construct, Final Action

Within 180 days after acceptance of an application as complete, the District shall take final action on the application after considering all written comments. The District shall provide written notice of the final action to the applicant, the United States

Environmental Protection Agency, and the Air Resources Board, and shall publish such notice in a newspaper of general circulation and shall make the notice and all supporting documents available for public inspection at the District's office. The District must provide a copy of the final permit to EPA.

6.12 Requirements, Permit to Operate

As a condition for the issuance of a Permit to Operate, the District shall require that the new source or modification, and any sources which provide offsets, be operated in the manner assumed in making the analysis to determine compliance with this Rule, or as conditioned in the Authority to Construct. The Permit to Operate shall include specific emissions limitations which reflect BACT.

6.12.1 The operation of any stationary source which provides offsets shall be subject to enforceable permit conditions, containing specific emissions limitations, to ensure that the emissions reductions will be provided in accordance with the provisions of this Rule and shall continue for the reasonable expected life of the proposed source. The emission reductions used for offset purposes must be certified, approved and registered by the District in the ERC Registry, unless the emission reductions are made at the same time as the permit application is made and on-site at the same stationary source. The emission reductions must be surplus, quantifiable, real, permanent, and enforceable.

6.12.2 Where the source of offsets is not subject to a District permit, a District permit with enforceable permit conditions, containing specific emission limitations, must be obtained by the recipient of such offsets. A written agreement shall be required between the applicant and the owner or operator of such a source of offsets, which agreement, by its terms, shall be enforceable by the District as a third party beneficiary. Any breach of such an agreement shall be a violation of this Rule. The permit and agreement shall be submitted to the California Air Resources Board to be forwarded to the United States Environmental Protection Agency as part of the State Implementation Plan.

6.13 Issuance, Permit to Operate

The District shall issue a Permit to Operate to a stationary source subject to the requirements of this Rule if it is determined that all offsets required as a condition of an Authority to Construct or amendment to a Permit to Operate, will commence not later than the initial operation of the new or modified source, and that the offsets shall be maintained throughout the operation of the new or modified source which is the beneficiary of the offsets. Further, a Permit to Operate shall not be issued unless the source has complied with all conditions specified on the Authority to Construct, unless the District approves the incorporation of the unmet Authority to Construct conditions into the Permit to Operate.

6.13.1 Where a new or modified stationary source is, in whole or in part, a replacement for an existing stationary source on the same property, the District may allow a

maximum of 90 days as a startup period for simultaneous operation of the existing stationary source and the new source or replacement.

6.14 Regulations in Force will Govern

The granting or denial of an Authority to Construct shall be governed by the requirements of this Rule in force on the date the application is deemed complete.

PART 7 CALCULATIONS

7.1 Determination of the Potential to Emit

The maximum design capacity of a new stationary source or modification shall be used to determine the potential to emit from the new source or modification. However, the applicant may agree to limitations on the operations on the new source or modification. If those limitations are included in both Authorities to Construct and Permits to Operate issued according to New Source Review, then those limitations shall be used to establish the potential to emit from the new source or modification.

7.2 Historical Emissions from Existing Sources

The emissions from an existing source shall be the historical emissions based on the actual operating conditions of the existing source averaged over the three consecutive years immediately preceding the date of application.

7.2.1 In cases where the existing source has not been in operation for three consecutive years or under unusual circumstances, a shorter period or three consecutive years within the five-year period immediately preceding the date of application that best represent the normal source operations may be applicable and approved by the District.

7.2.2 If violations of laws, rules, regulations, permit conditions, or orders of the District, the California Air Resources Board, State or the United States Environmental Protection Agency occurred during the period used to determine the operating conditions, then adjustments to the operating conditions shall be made to determine the emissions the existing source would have caused without such violations.

7.3 General Stationary Source Calculations

The increase in emissions from new stationary sources and modifications which are not seasonal sources shall be determined using quarterly emissions profiles.

7.3.1 Quarterly emissions profiles for an existing or proposed stationary source or modification shall be constructed by plotting the average daily emissions from such a source.

7.3.2 A separate profile shall be constructed for each pollutant.

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

7.3.4 The emissions from all marine vessels which load or unload at the stationary source shall be considered as emissions from the stationary source (as defined in Section 2.58 herein) while such vessels are operating in District waters and in California coastal waters adjacent to the District.

7.3.4.1 The emissions from marine vessels shall include volatile organic compounds that are displaced into the atmosphere; fugitive emissions; combustion emissions in District waters; and emissions from loading and unloading of cargo.

7.3.5 The emissions from all trains dedicated to a specified stationary source, while operating in the air basin, including directly emitted and fugitive emissions, shall be considered as emissions from the stationary source.

7.4 Increases in Emissions: Calculation Requirements for BACT and Offsets

7.4.1 Emissions profiles for new sources or modified sources shall be based on the potential to emit as described under Section 7.1 herein. Emissions profiles for existing sources shall be based on the historical emissions as described under Section 7.2 herein. Comparison of emissions profiles shall be done in accordance with the provisions of Sections 7.3 and 7.5 herein

7.4.2 The new emissions increase, as defined in Section 2.37 herein, occurring after August 19, 1983 for PM_{10} or after July 18, 1976 for any other affected pollutant, shall be used to determine BACT requirements for any new source or for any modifications to an existing source.

7.4.3 The net emissions increase, as defined in Section 2.36 herein, shall be used to determine offset requirements for any new source or for any modifications to an existing source.

7.4.3.1 When computing the net emissions increases for modifications, the District shall take into account the emissions increases and decreases, excluding any emissions reductions required to comply with federal, State, Air Resources Board, or District law, rules, regulations, agreements, or orders, and also excluding any reductions of emissions which were originally permitted under the provisions of any exemption contained in Section 1.3. All emissions

decreases used in computing the net emissions increase shall be incorporated into the Authority to Construct and Permit to Operate.

7.5 Increases in Emissions: Seasonal Source Calculations

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

7.5.1 Quarterly emissions profiles shall be constructed by plotting the average daily emissions from an existing or proposed seasonal source for the continuous 90-day period during which the greatest emissions from the proposed new or modified source will occur.

7.5.2 A separate profile shall be constructed for each pollutant.

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

7.6 Calculation Requirements for Emissions Reductions

7.6.1 Emissions profiles for new sources or modified sources shall be based on the potential to emit as described under Section 7.1 herein. Emissions profiles for existing sources shall be based on the historical emissions as described under Section 7.2 herein. Comparison of emissions profiles shall be done in accordance with the provisions of Sections 7.3 and 7.5 herein.

PART 8 POWER PLANTS

8.1 General

Part 8 shall apply to all power plants proposed to be constructed in the District and for which a Notice of Intention (NOI) or Application for Certification (AFC) has been accepted by the California Energy Commission. The District may apply for reimbursement of all costs incurred, including lost fees, in order to comply with the provisions of this Part.

8.2 Intent to Participate and Preliminary Report

Within 14 days of receipt of an NOI, the District shall notify the Air Resources Board and the California Energy Commission of the District's intent to participate in the NOI

proceeding. If the District chooses to participate in the NOI proceeding, the District shall prepare and submit a report to the Air Resources Board and the California Energy Commission prior to the conclusion of the nonadjudicatory hearing specified in Section 25509.5 of the Public Resources Code. That report shall include, at a minimum:

8.2.1 a preliminary specific definition of best available control technology (BACT) for the proposed source; and,

8.2.2 a preliminary discussion of whether there is substantial likelihood that the requirements of this Rule and all other District regulations can be satisfied by the proposed source;

8.2.3 a preliminary list of conditions which the proposed source must meet in order to comply with this Rule or any other applicable District regulation. The preliminary determination contained in the report shall be as specific as possible within the constraints of the information contained in the NOI.

8.3 Determination of Compliance Review

Upon receipt of an AFC for a power plant, the District shall conduct a determination of compliance review. This determination shall consist of a review identical to that which would be performed if an application for an Authority to Construct had been received for the power plant. If the information contained in the AFC does not meet the requirements of this Rule, the District shall, within 20 calendar days of receipt of the AFC, so inform the California Energy Commission, and the AFC shall be considered incomplete and returned to the applicant for resubmittal.

8.4 Equivalency of AFC for an Authority to Construct

The District shall consider the AFC to be equivalent to an application for an Authority to Construct during the determination of compliance review, and shall apply all provisions of this Rule which apply to applications for an Authority to Construct.

8.5 Need for Additional Information

The District may request from the applicant any information necessary for the completion of the determination of compliance review. If the District is unable to obtain the information, the District may petition the presiding Commissioner for an order directing the applicant to supply such information.

8.6 Preliminary Determination

Within 180 days of accepting an AFC as complete, the District shall make a preliminary decision on:

8.6.1 whether the proposed power plant meets the requirements of this Rule and all other applicable District regulations, and,

8.6.2 in the event of compliance, what permit conditions will be required including the specific BACT requirements and a description of required mitigation measures.

The preliminary written decision under Section 8.6 of this Rule shall be treated as a preliminary decision under Section 6.5 herein, and shall be finalized by the District only after being subject to the public notice and comment requirements of Sections 6.4, 6.5, and 6.9 herein. The District shall not issue a determination of compliance unless all requirements of this Rule are met.

8.7 Determination of Compliance

Within 240 days of the filing date, the District shall issue and submit to the California Energy Commission a determination of compliance or, if such a determination cannot be issued, shall so inform the California Energy Commission. A determination of compliance shall confer the same rights and privileges as a Authority to Construct permit only when and if the California Energy Commission approves the AFC, and the California Energy Commission certificate includes all conditions of the determination of compliance.

8.8 Permit to Operate

Any applicant receiving a certificate from the California Energy Commission pursuant to this Section and in compliance with all conditions of the certificate shall be issued a Permit to Operate by the District.

PART 9 SOURCE IMPACT ANALYSIS

9.1 Air Quality Impact Analysis

The table in Section 9.4 herein is provided as a screening method to estimate the worst case air quality impact of carbon monoxide, particulate matter, oxides of sulfur and oxides of nitrogen of a proposed point source without the use of sophisticated modeling techniques.

Modeling shall be used instead of the table if in the judgement of the District any of the following apply: the pollutant is an oxidant; another source with unknown impact is being constructed in the affected area; the impact obtained by using the table indicates concentrations will be near the national or state ambient air quality standards; the proposed source will be located in complex terrain; the source will have a volume flow rate less than 10 cubic meters per second; the stack exit gas temperature is less than 360°K; or, the physical size of the stack is greater than 100 meters. In such instances the models, data bases, and other requirements specified in the most recent revision of the

United States Environmental Protection Agency's "Guidelines on Air Quality Models" must be used.

9.2 Downwind Concentrations

Using the air quality impact table in Section 9.4 herein, the estimated downwind concentrations are determined by reading the value which corresponds to the actual stack height and source strength of the proposed source. The table also provides the estimated distance from the source to the point of maximum ground level impact. If the precise actual stack height for the proposed source is not listed, interpolation can be used to determine the approximate downwind concentrations.

9.3 Example Calculations

To determine the downwind concentrations attributable to a proposed source with an actual stack height of 45 meters and a source strength of 137 pounds per hour:

a. use 40 meter stack height;

b. consider that the source strength lies between maximum one hour concentration values for 120 lb/hr = 1300 ug/m^3 and 140 lb/hr = 120 lb/hr + 20 lb/hr = 1300 ug/m^3 + 220 ug/m^3 = 1520 ug/m^3; and,

c. interpolate such that

$$x \text{ ug/m}^3 = \frac{(1520 - 1300)}{(140 - 120) \times (137-120)} + 1300$$

= 1478 ug/m^3 (this estimated maximum one-hour concentration for the proposed 137-lb/hr source is to be added to ambient concentration levels).

Values for maximum concentrations for 3-hour, 8-hour, and 24-hour time periods may be obtained by multiplying the 1-hour concentrations by following factors:

3-hour = 0.9; 8-hour = 0.8; and, 24-hour = 0.4.

9.4 Air Quality Impact Table

The following table provides the worst case estimates of point source air quality impacts:

Estimated Maximum 1-hr Concentrations (ug/m3)
for Listed Source Strengths

Stack Height (m)	Downwind Distance* (m)	5 lb/hr	10 lb/hr	20 lb/hr	40 lb/hr	80 lb/hr	120 lb/hr
5	100	3150	6300	12800	25200	50400	75700
10	100	945	1890	3840	7560	15120	22700
15	150	380	760	1530	3020	6040	9080
20	200	220	440	900	1760	3530	5300
30	300	90	190	380	760	1510	2270
40	200 to 400	50	110	220	430	870	1300
50	250 to 450	40	70	150	290	580	880
70	350	20	40	80	170	330	500
100	450	10	20	40	90	190	290

NOTE: the wind speed was assumed to be 1 m/s and the effective plume height was assumed equal to the physical stack height.

* Downwind Distances to Maximum Estimated Concentrations (m).

PART 10 FEDERAL ENFORCEABILITY, SIP REVISIONS

This Part shall apply solely for the purposes of federal enforcement of Rule 207.

10.1 Increments for Carbon Monoxide, Nitrogen Dioxide, Hydrogen Sulfide, and Lead

Increments for carbon monoxide, nitrogen dioxide, hydrogen sulfide and lead referenced in Subsection 2.5.2 herein are not submitted as a part of the SIP.

10.2 Subsection 2.5.2 of this Rule

For the purposes of the submittal to the United States Environmental Protection Agency for inclusion in the SIP, the increments of allowable air quality degradation, beyond existing air quality levels, shall be:

10.2.1 for Area A, the increment specified for Class I Areas in 40 CFR Part 51.166 (Prevention of Significant Deterioration of Air Quality), and,

10.2.2 for Areas B, C, D, E, and F, and Area A Impact Zones, the increment specified for Class II Areas in 40 CFR Part 51.166.

10.3 Subsection 2.18.6 of this Rule

is not submitted as a SIP revision.

10.4 Section 2.21 of this Rule

is not submitted as a SIP revision. For the purposes of the SIP, emissions increment means air quality increment as defined in Section 2.5 herein.

10.5 Part 5 of this Rule

is not submitted as a SIP revision.

* * * * *

RULE EVALUATION FORMS

CALIFORNIA AIR RESOURCES BOARD
APCD/AQMD RULE EVALUATION FORM

I. GENERAL

District: Monterey Bay Unified APCD **Date Adopted:** June 21, 2006

Rule No: Rule 207 **Regulation Title:** Review of New or Modified Sources

Date Submitted To ARB: Initially December 12, 2005, then April 20, 2006
Date Last Amended or Revised: December 13, 2000

Pollutants Regulated By This Rule (Check):

✔ NOx ✔ SO2 ✔ PM10 ✔ VOC ___ TAC (Name of TAC) _____

Is this rule intended to be sent to the EPA as a **SIP revision**? X Yes ___ No

SUMMARY OF RULE CHANGES: ___ New rule ✔ Amended rule

Incorporate the required federal New Source Review reforms and eliminate a number of time consuming procedural requirements on minor emission sources.

The major revisions establish:

- Offsets are required from any project that exceeds the federal major modification threshold
- Any source with the potential to emit less than 10 tons per year of all individual criteria pollutant is exempt from offsetting requirements, air quality increment analysis, and visibility, soils and vegetation analyses.
- Any source that does not exceed the federal major modification threshold is not subject to the statewide compliance certification and alternative siting requirements.
- A definition for *federal major modification*.
- The allowance for major sources to apply for a *plantwide applicability limit* to avoid the requirements for *statewide compliance certification* and *alternative siting*.

II. NET EFFECT ON EMISSIONS ___ Increase ___ Decrease X No change ___ N/A

Emissions reduction commitment in SIP for this source category: 0.0 tons/year

SCC/CES Code(s) Affected: na
Affected SIC Code(s): na

Inventory Year to Calculate Changes in Emissions: na **Affected Area:** _____

Future Year Control Profile Estimate (VOC emissions): N/A

Tons/Year Reductions	Baseline Tons/year	Control	Percent	Control	Control

CALIFORNIA AIR RESOURCES BOARD
APCD/AQMD RULE EVALUATION FORM

Year	(increases)	Subject to Rule		Level	Control	Level	Factor
___	N/A /	_____	=	____ *	100 = ___ %	1.00 - ___ =	___
___	_____ /	_____	=	____ *	100 = ___ %	1.00 - ___ =	___
___	_____ /	_____	=	____ *	100 = ___ %	1.00 - ___ =	___

III. SOURCES/ATTAINMENT STATUS District is: __ Attainment __ Nonattainment X Split

Approximate number of minor (<100 TPY) sources controlled by rule: na. Percent in nonattainment area: na.

Number of major (≥ 100 TPY) sources controlled: NONE. Percent in nonattainment area: 0%

Location of Major Sources by City: N/A

IV. EMISSIONS REDUCTION TECHNOLOGY N/A

Does rule include emission limits that are continuous? ____ Yes; ____ No.

If yes, those limits are in Section(s) _____ of the rule.

Other methods in the rule for achieving emissions reductions are: _____

V. OTHER REQUIREMENTS The rule contains:

1) Emission limits in Section(s) na.
2) Work practice standards in Section(s) na.
3) Recordkeeping requirements in Section(s) na.
4) Reporting requirements in Section(s) na.

VI. IMPACT ON AIR QUALITY PLAN X No Impact ___ Impacts RFP __ Impacts Attainment

DISCUSSION:

MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT
SIP COMPLETENESS CHECKLIST

RULE NUMBER: 207 DATE ADOPTED: 6/21/06

REGULATION TITLE: Review of New or Modified Sources

ADMINISTRATIVE MATERIALS

Attached	Not Attached*	
X	—	COMPLETE COPY OF THE RULE. If amended rule, indicate changes in underline and strikeout format, compared to existing approved SIP version.
—	X	REFERENCE TO OTHER RULES. If the rule contains a reference to any other rule, attach a copy of that other rule unless it has already been submitted to EPA as a part of a previous SIP submittal.
X	—	PUBLIC NOTICE EVIDENCE. Include a copy of the newspaper clipping certification with date of publication. Include a copy of notice from each newspaper.
X	—	RESOLUTION/MINUTE ORDER. Must include Board Clerk certification that hearing was held in accordance with information in the public notice; must also include list of rules adopted or amended, date of public hearing, and statement of compliance with H&SC Sections 40725-40728 [Administrative Procedures Act].
X	—	PUBLIC COMMENTS AND RESPONSES: Any written comments submitted to the District during pubic notice period or at the hearing; also include any written responses prepared by the District as normal District procedure.

OTHER INFORMATION

Attached/Not Attached

—	X	MODELING SUPPORT. Provide as appropriate; not required for VOC and NOx rules; required where rule is a relaxation in an attainment area for SO2, PM10, CO, or NOx [for NO2 purposes]; for relaxation or shift of emissions in nonattainment area for SO2, PM10, CO, and NOx, give reference to the approved SIP.
—	X	ECONOMIC/TECHNICAL JUSTIFICATION FOR DEVIATIONS FROM EPA POLICIES: As appropriate, describe special circumstances, i.e., where alternative RACT is used, extended compliance dates included, etc.**
X	—	ADDITIONAL MATERIALS: Any other supporting information, such as staff reports, which are included with the rule package but not specifically required in the checklist above.

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* Attached separate sheet for each rule explaining why any materials are not included and when they will be submitted to the ARB.

** Completed enforcement checklist will fulfill this requirement.