apcd air pollution control district
SANTA BARBARA COUNTY

Agenda Item: H-1
Agenda Date: March 21, 2024
Agenda Placement: Regular
Estimated Time: 30 minutes
Continued Item: No

Board Agenda Item

TO: Air Pollution Control District Board

FROM: Aeron Arlin Genet, Air Pollution Control Officer

CONTACT: David Harris, Engineering Division Manager (805) 979-8311

SUBJECT: Amendments to District Rule 210 – Fees, and other Affected Rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201)

RECOMMENDATION:

Consider recommendations as follows:

1. Hold the first public hearing on the proposed amendments to Rule 210 – Fees, and other affected rules; and

2. Direct the Control Officer to return to the Board on May 16, 2024, to consider adoption of the proposed amendments to District Rule 210 – Fees, and other affected rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201).

BACKGROUND:

The mission of the Santa Barbara County Air Pollution Control District (District) is to protect the people and the environment of Santa Barbara County from the effects of air pollution. Accordingly, the District operates a countywide permitting program for stationary sources of air pollution pursuant to federal and state laws. Stationary sources encompass large industrial facilities as well as smaller businesses, such as gas stations and autobody painting shops. A facility's permit outlines the required actions to comply with air pollution control requirements and to protect air quality, the environment, and public health. In accordance with District Rule 210 and California Health and Safety Code, fees are assessed to permitted stationary sources to fund the work performed for the District's programs. Other than the annual adjustments for Consumer Price Index (CPI), the District has not proposed an increase in the Rule 210 fee schedules since 1991.

In 2022, the District contracted with Matrix Consulting Group to conduct a Cost Recovery and Fee Analysis Study (Fee Study) to review the existing fee schedules in Rule 210 and analyze the cost-of-service relationships between the District and the regulated community. The Fee Study focused on the fee schedules for the stationary source permitting and compliance programs, air quality planning, air toxics, and source tests. The results of the Fee Study showed that the District is only recovering 47% of its costs to implement these mandated programs. In October 2023, the District presented the results of the Fee Study to this Board as part of the Long-Range Fiscal Strategy (Strategy). The Strategy included a suite of recommendations designed to provide the District with a long-term mechanism to stay fiscally sound. One of the recommendations was to adopt a Cost Recovery Policy, which was formally adopted at your January 2024 Board meeting. Another recommendation — which is the focus of this discussion item — was to revise Rule 210 to achieve the cost-recovery goals set forth in the newly adopted Cost Recovery Policy.

DISCUSSION:

The proposed Rule 210 amendments serve as a comprehensive update to the District's fee rule. Since Rule 210 has not been thoroughly evaluated since 1991, there are a number of updates that are needed to provide for a clear and consistent rule while also allowing the District to achieve the goals of the Board-adopted Cost-Recovery Policy. These updates can be summarized into four overarching changes:

1) Revising the rates for existing fees to achieve an 85% cost-recovery rate, as described in the Board-adopted Cost Recovery Policy,
2) Adding new fees for specific services and categories of equipment that were not previously addressed by the 1991 version of the fee rule,
3) Modifying the administrative procedures in the rule, and
4) Removing outdated fees and reorganizing the rule text.

For the first main change, the proposed Rule 210 amendments increase the existing fee schedules listed below by up to 12% per year, beginning on July 1, 2024. The annual increases will be applied by fee schedule, and the increases for a fee schedule will stop after 10 years or when the schedule reaches 85% cost-recovery, whichever comes first. As shown in Table 1 below, this means that one of the schedules will achieve 85% cost-recovery after one year, and other schedules will need multiple years to reach the cost-recovery goal. These increases are in addition to the annual CPI adjustments that are performed every year, but the total increase for each schedule will be limited to 15% each calendar year (California Health and Safety Code §41512.7(b)).

Table 1: Matrix Fee Study Results with Proposed Increases Over Time

Fee Schedule	Current Annual Revenue	Total Annual Cost	Current Cost Recovery	Estimated Years of Increases	Future Cost Recovery	Annual Revenue at End
A - Equipment/Facility	$1,157,439	$1,923,856	60%	4	85%	$1,635,277
B - Air Toxics	$113,970	$259,352	44%	6	85%	$220,449
B - Air Quality Planning	$344,135	$428,347	80%	1	85%	$364,095
C - Source Tests	$105,321	$178,882	59%	4	85%	$152,050
F - Other Fees	$294,193	$1,429,956	21%	10	64%	$913,720
G - Hearing Board	$33,344	$95,366	35%	8	85%	$81,061
Total	**$2,048,403**	**$4,315,759**	**47%**	---	**78%**	**$3,366,652**

The proposed Rule 210 amendments also include adding or modifying the following 17 fees, as shown in Table 2 below. Information on the implementation of each of these fees is included in the staff report attached to this Board Letter.

Table 2: New and Modified Fees in Rule 210

Schedule	Fee Type	Proposed Fee	Fee Unit
A	Minimum Permit Evaluation	$1,353	per Permit
B	Emergency Engine Annual Review	$657	First Engine
		$328	Additional Engines
	Gasoline Facility Annual Review	$97.43	per Nozzle
	Annual Air Toxics - Small Sources	$272	per Stationary Source
	Annual Air Quality Planning	Varies (>10 tons)	per Ton (PM + SOx)
D	Sample & Lab Analysis	$287	per Analysis
F	Transfers – Permit Split Evaluation	$1,047	per Permit
	School Public Notices	$3,607	per Permit
	Health Risk Assessment (HRA) Screenings	$877	per Application
	Interim Permit Approval Process (IPAP) Program	$917	per Permit
	Confidential Handling	$1,861	Initial Permits
		$1,452	On-going Permits
	Data Acquisition System (DAS)	$1,323	per Parameter
	California Environmental Quality Act (CEQA) Findings	$1,296	per Permit
	CEQA Notice of Exemption/Notice of Determination Filing	$538	per Permit
	Emission Reduction Credit Reissuance	$986	per Certificate
	Reinstatement of Permit	$1,594	per Permit
G	Product Variance	$4,315	per Variance

Finally, the proposed Rule 210 amendments include a modified delinquency process and penalty structure to promote the on-time payment of all District-issued invoices, the removal of six existing fees that are unnecessary or no longer applicable, and a reorganized rule structure that is clear for both industry and staff. Due to this reorganization effort, 11 other rules within the District's rulebook that contain references to specific sections in Rule 210 also need minor administrative updates to provide for a consistent rulebook.

Today's hearing is to receive a presentation and consider public comments on the proposed amendments to Rule 210 – Fees, and other affected rules. At the conclusion of the comment process, your Board may discuss the proposed rule amendments. As required by California Health and Safety Code §42311(e), a second public hearing is needed to consider the adoption of the proposed amendments. The second public hearing is tentatively scheduled for May 16, 2024, and if the amendments are adopted, the amendments will become effective on July 1, 2024.

FISCAL IMPACTS:

If the proposed amendments are approved at the May 16, 2024 meeting, the amendments will result in increased revenue by approximately $1.0 million in Fiscal Year 2024-25 due to both the new fees proposed and the 12% increase to existing fees that do not meet the cost-recovery goals outlined in the District's Cost Recovery Policy. Additional revenue is also anticipated to be collected in future years as specific schedules are increased by 12% per year for up to 10 years to achieve a cost-recovery rate of 85%.

PUBLIC REVIEW & STAKEHOLDER ENGAGEMENT:

A virtual public workshop meeting was held on December 14, 2023 to present, discuss, and hear comments on the proposed revisions to Rule 210. Ahead of the workshop, on November 30, 2023, the District informed approximately 2,000 stakeholders, potentially affected sources, and subscribers on the District's public noticing listserv about the draft amendments. The District has also consistently published the draft rule and staff report prominently on its website. At the workshop, District staff delivered a 30-minute presentation on the key points of the proposed changes. Staff then answered the questions from the public and asked for written comments to be submitted to be incorporated into the next steps in the rule development process.

Staff conducted a briefing and overview of the draft Rule 210 amendments for the Community Advisory Council (CAC) on November 2, 2023 in Buellton. On January 10, 2024, a CAC special meeting was held to discuss the draft staff report and rule language for Rule 210. Staff provided a presentation on the proposed changes, answered questions from the CAC members, and provided an opportunity for public comment. At the January meeting, six members of the cannabis industry provided comments regarding the draft fee schedule for post-harvest cannabis operations. Due to the public comments, the CAC made a motion to continue the Rule 210 discussion item to allow staff adequate time to reevaluate the cannabis fees.

On February 15, 2024, a follow-up CAC special meeting was held in Buellton. At the meeting, staff discussed three additional changes to the rule based on public comments received.

1) Staff removed the draft fee schedules for cannabis and will instead rely on existing rule language to assess fees to the cannabis industry under the Cost Reimbursement Basis;

2) Staff revised the draft delinquency penalty amounts to an escalating structure of 10%, 20%, and 30% penalties for every 30 days overdue [maximum 60% penalty]; and

3) Staff removed the annual fee increases for the diesel agricultural engine registration program to maintain program reciprocity with the San Luis Obispo County Air Pollution Control District, as allowed by District Rule 1201.

After discussing the proposed changes and hearing all public comments on the fee rule, the CAC voted unanimously to approve staff's recommendation that the Board of Directors adopt the proposed amendments to District Rule 210, Fees.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The California Environmental Quality Act (CEQA) requires environmental review for certain actions. This rulemaking project consists of amending the District's fee rule to adequately recover the costs for service. If the proposed amendments are approved at the May 16, 2024 meeting, a CEQA determination will be made at that time. It is expected that pursuant to §15378(b)(4) of the State CEQA Guidelines, the action is "not a project" under CEQA because it is a government fiscal activity which does not involve any commitment to any specific project that may result in a potentially significant effect on the environment.

ATTACHMENTS:

A. District Board Resolution for amending District Rule 210, Fees, and other affected rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201), which includes the following:
    1) California Environmental Quality Act (CEQA) Findings
    2) General Rule Findings
    3) Rule 210 Staff Report
    4) Proposed Rules

B. Proposed Rules (Track changes)

ATTACHMENT A

District Board Resolution for Amending District Rule 210, Fees, and other Affected Rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201), which include the following:

1) California Environmental Quality Act (CEQA) Findings
2) General Rule Findings
3) Rule 210 Staff Report
4) Proposed Rules

March 21, 2024

Santa Barbara County Air Pollution Control District
Board of Directors

260 San Antonio Road, Suite A
Santa Barbara, California 93110

RESOLUTION OF THE BOARD OF DIRECTORS OF

THE SANTA BARBARA COUNTY

AIR POLLUTION CONTROL DISTRICT

IN THE MATTER OF AMENDMENTS TO DISTRICT RULE 210 – FEES, AND OTHER AFFECTED RULES (RULES 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, AND 1201)	APCD RESOLUTION NO. _____

RECITALS

WHEREAS, the Air Pollution Control District Board of the County of Santa Barbara ("Board") is authorized to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code section 40725 et seq; and

WHEREAS, Health & Safety Code section 42311 provides air districts the authority to adopt a regulation of fees to recover the costs of services it provides;

WHEREAS, the Board has previously reviewed the May 2023 Cost Recovery and Fee Analysis Study prepared by the Matrix Consulting Group and found that the revenues being generated by the fees currently set forth in Rule 210, Fees, are insufficient to recover the costs of District programs;

WHEREAS, on January 18, 2024, the Board adopted a Cost Recovery Policy ("2024 Cost Recovery Policy") that directs the District to recover program costs by assessing fees to regulated entities and that the District should amend Rule 210 in order to increase the overall recovery of the District's program costs to 85 percent;

WHEREAS, on December 14, 2023, a public workshop was held at which the proposed amendments to Rule 210 were discussed and evaluated;

WHEREAS, on January 10, 2024 and February 15, 2024, Community Advisory Council special meetings were held at which the proposed amendments to Rule 210 were discussed and evaluated;

WHEREAS, on March 7, 2024, District staff published in a newspaper of general circulation the notice of public hearings required by Health and Safety Code section 40725 and also distributed and published on the District's website a request for additional public comments on the proposed amendments to Rule 210;

WHEREAS, the Board held a public hearing on March 21, 2024, to consider the proposed amendments to Rule 210 in accordance with all provisions of law;

WHEREAS, an additional public hearing is required by Health and Safety Code section 41512.5 and 42311(e) for regulations establishing fees; and

WHEREAS, the Board held a second public hearing on May 16, 2024, to consider the proposed amendments to Rule 210 in accordance with all provisions of law;

NOW, THEREFORE, IT IS HEREBY RESOLVED, as follows:

1. The California Environmental Quality Act ("CEQA") findings, as set forth in Attachment 1 of this resolution, are hereby adopted as findings of this Board pursuant to CEQA, the State CEQA Guidelines, and the Environmental Review Guidelines for the Santa Barbara County Air Pollution Control District.
2. The General Rule findings, as set forth in Attachment 2 of this resolution, are hereby adopted as findings of this Board pursuant to Health and Safety Code section 40727.
3. The Staff Report, as set forth in Attachment 3 of this resolution, has been presented to this Board, reviewed, and considered prior to approving this project.
4. The proposed Rule 210, Fees, and the other affected rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201), as set forth in Attachment 4 of this resolution, are hereby adopted as rules of the Santa Barbara County Air Pollution Control District pursuant to Health and Safety Code section 40725 et seq.

//

PASSED, APPROVED AND ADOPTED by the Air Pollution Control District Board of the Santa Barbara County, State of California, this ___ day of _____, _____, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

SANTA BARBARA COUNTY
AIR POLLUTION CONTROL DISTRICT

By _____
Chair

Date _____

ATTEST:

AERON ARLIN GENET
Clerk of the Board

By _____
Deputy

APPROVED AS TO FORM:

RACHEL VAN MULLEM
Santa Barbara County Counsel

By _____
District Counsel

Resolution in the Matter of Amendments to District Rule 210 – Fees and Other Affected Rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201)

ATTACHMENT 1

CEQA Findings

CEQA FINDINGS

Pursuant to State CEQA Guidelines, Santa Barbara County Air Pollution Control District (District), as Lead Agency, reviewed the amendments to Rule 210, Fees, and other affected rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201). The District found that there is no potential for significant environmental impacts from the amendment of these rules.

The Board finds that:

- The amendments to District Rule 210 and other affected rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201) will not have significant adverse impacts on the environment.

- No relaxation in meeting ambient air quality standards will result. No cross-media impacts were identified.

- Pursuant to §15378(b)(4) of the State CEQA Guidelines, the action is "not a project" under CEQA because it is a government fiscal activity which does not involve any commitment to any specific project that may result in a potentially significant effect on the environment.

Discussion of CEQA Guidelines §15378(b)(4) finding of no significant effect

District staff has evaluated the environmental impacts related to the amendment of proposed Rule 210 and other affected rules in the context of the California Environmental Quality Act (CEQA) Guidelines §15060, *Preliminary Review*. Subsection (c) of this section states that, "*Once an application is deemed complete, a lead agency must first determine whether an activity is subject to CEQA before conducting an initial study. An activity is not subject to CEQA if: …(3) The activity is not a project as defined in Section 15378."*

This rulemaking project consists of increasing the fee rates for existing services, incorporating new fees for specific tasks and categories of equipment, removing outdated fees that are no longer applicable or necessary, and modifying administrative procedures. Since these rule changes are limited to administrative and fiscal changes, there are no reasonably foreseeable environmental impacts.

Therefore, pursuant to §15378(b)(4) of the State CEQA Guidelines, the action is "not a project" under CEQA because it is a government fiscal activity which does not involve any commitment to any specific project that may result in a potentially significant effect on the environment. Since the activity is not a project, the activity is not subject to CEQA, and no further action is required.

Resolution in the Matter of Amendments to District Rule 210 – Fees and Other Affected Rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201)

ATTACHMENT 2

General Rule Findings

GENERAL RULE FINDINGS

Pursuant to California Health and Safety Code §40727, the Board makes the following findings for the amendments to District Rule 210, and other affected rules.

Necessity

The Board determines that it is necessary to amend District Rule 210 in order to recover the increased District costs of operating stationary source-related and hearing board programs.

Authority

The Board is authorized under state law to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code §40000, §40001, and §40725 through §40728, which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to Health and Safety Code §42311 and §41512, the Board has the authority to adopt a schedule of fees to cover the cost of services related to the stationary source and hearing board program and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.

Clarity

The Board finds that the proposed rules are sufficiently clear. The rules were publicly noticed and reviewed at a public workshop and by the Community Advisory Council. The rules are written or displayed so that their meaning can be easily understood by persons directly affected by them.

Consistency

The Board determines that the proposed rules are consistent with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions, or regulations. Health and Safety Code §41512.7(b) provides that District fees for Authority to Constructs or Permits to Operate may be increased to reflect the District's actual costs as long as the annual increase does not exceed 15 percent. The proposed amendments are in harmony with Health and Safety Code §41512.7(b).

Nonduplication

The Board finds that the proposed rules do not impose the same restrictions as any existing state or federal regulation, and the proposed rules are necessary and proper to execute the powers and duties granted to, and imposed upon, the District.

Reference

The Board finds that the proposed amendments specify fees in accordance with Health and Safety Code §42311 and §41512.7(b).

Resolution in the Matter of Amendments to District Rule 210 – Fees and Other Affected Rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201)

ATTACHMENT 3

Staff Report

air pollution control district
SANTA BARBARA COUNTY

Staff Report for Rule 210 – Fees

Date: March 14, 2024

*Revised from March 7th version to include additional public comment

Aeron Arlin Genet
Air Pollution Control Officer

Prepared By:
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Our Mission

Our mission is to protect the people and the environment of Santa Barbara County from the effects of air pollution.

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1. Executive Summary

Santa Barbara County Air Pollution Control District's (District) Rule 210, Fees, is intended to recover District costs associated with programs related to permitted stationary sources and for other District activities mandated by state and/or federal regulations. The rule includes administrative and technical evaluation fees for the initial installation and operation of equipment that discharges air contaminants, ongoing fees to inspect and verify that operations continue to comply with all applicable requirements, and project-specific fees for other activities or programs in which staff time is expended.

Permit fees in Rule 210 have not been increased in more than 33 years, with the exception of the annual Consumer Price Index (CPI) adjustment which has failed to keep up with increased operating costs. During this time, the District has deferred fee increases by adhering to fiscally conservative principles. Specifically, in Fiscal Year 2018-19, the District implemented an agency reorganization which reduced staffing levels, streamlined the leadership structure, and enhanced efficiency efforts. With the Fiscal Year 2018-19 reorganization, the District was able to stave off raising fees on regulated industry beyond the annual CPI. However, the District now faces new challenges related to its fiscal stability with revenues projected to decrease due to changes in the oil and gas sector, rising costs, and a growing workload.

In 2022, the District hired Matrix Consulting Group to conduct a Cost Recovery and Fee Analysis Study (Fee Study) to review the existing fee schedules in Rule 210 and analyze the cost-of-service relationships between the District and the regulated community. The Fee Study focused on the fees for the stationary source permitting and compliance programs, air quality planning, air toxics, and source tests. The results of the Fee Study showed that the District is only recovering 47% of its costs to implement these mandated programs. The Fee Study also showed that there are several areas where the current fee schedules do not provide a mechanism for the District to recover costs for associated work.

In October 2023, the District presented the results of the Fee Study to its Board of Directors as part of a suite of recommendations designed to provide the District with a long-term mechanism to stay fiscally sound. One of the recommendations was to revise the District's fee rule, Rule 210, to ensure better cost-recovery from the District's stationary source program and align permit fees with individual program costs. The Rule 210 amendments can be summarized by these main points:

1) Revising the rates for existing fees to achieve an 85% cost-recovery rate, as described in the Board-adopted Cost Recovery Policy,[1]
2) Adding new fees for specific services and categories of equipment that were not previously addressed by the 1991 version of the fee rule,
3) Modifying the administrative procedures in the rule, and
4) Removing outdated fees and reorganizing the rule text.

[1] The Cost Recovery Policy was adopted at the January 2024 Board of Directors meeting and can be accessed at: www.ourair.org/wp-content/uploads/2024-01bd-f11.pdf

The proposed amendments to District Rule 210 will provide for a clear and consistent fee structure for the regulated community. Pending the Board of Directors approval, the proposed revisions would be effective on July 1, 2024 and are anticipated to increase revenue by approximately $1.0 million in Fiscal Year 2024-25. Additional revenue is also anticipated to be collected in future years as specific existing fee schedules are increased by up to 12% per year over the course of ten years to achieve an 85% cost-recovery rate.

2. Background

2.1 About the District / Budget

The District is one of 35 local air pollution control agencies in California established pursuant to California Health & Safety Code. The District is a "county" district, with the same jurisdictional boundaries as Santa Barbara County. The District's permit jurisdiction area encompasses:

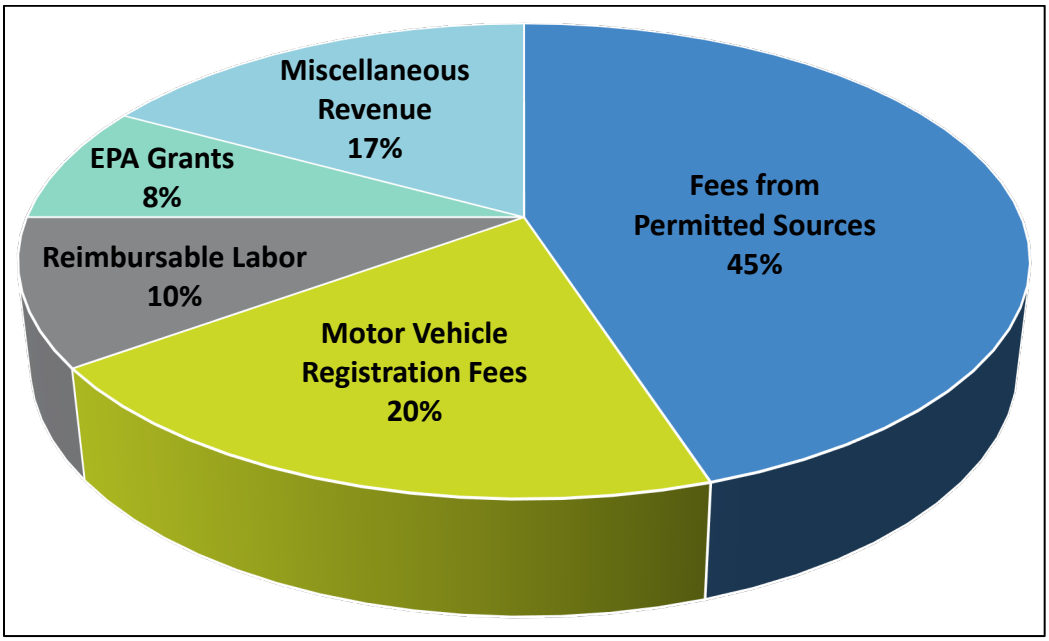
- The unincorporated areas of Santa Barbara County;
- The incorporated cities of Santa Maria, Guadalupe, Lompoc, Buellton, Solvang, Goleta, Santa Barbara, and Carpinteria;
- All federal lands within the county, including Vandenberg Space Force Base;
- The Channel Islands of San Miguel, Santa Rosa, Santa Cruz, and Santa Barbara; and
- All offshore emission sources for which the District is the corresponding onshore area.

Local air districts are charged with the enforcement of local air pollution control rules, the state's non-vehicular air pollution regulations, and certain federal air pollution laws that have been delegated to local agencies. The primary method to regulate and control air pollution created by industrial and institutional sources and commercial businesses is through the issuance of stationary source permits.

Local air districts are also responsible for adopting and implementing air quality plans that seek to achieve and maintain the health-based state and federal ambient air quality standards. Santa Barbara County is classified as nonattainment-transitional for the state ambient air quality standards for ozone, which is an air pollutant that is formed through the precursor pollutants of oxides of nitrogen (NOx) and reactive organic compounds (ROC). The county is also nonattainment for the state standard for PM_{10}, which is particulate matter that is less than 10 microns in aerodynamic diameter. For air quality planning purposes, emission inventories are needed to evaluate all polluting sources within the county. Emission inventories and projections also help determine if any new emission-control measures are needed to help attain the state and federal air quality standards. These air quality planning efforts, and the analyses of whether prior state and local emission control measures have been successful, are verified by the extensive air monitoring network that measures ambient air quality in the county.

In accordance with District Rule 210 and California Health and Safety Code, fees are assessed to permitted stationary sources to fund the work performed for the District's programs. This includes stationary source permitting and inspections, complaint investigations, enforcement activities, air quality planning, emission inventory calculations, control measure development, control of air toxic contaminants, land use commenting, and air monitoring. Other sources of revenue include state and federal grants, automobile registration fees, and miscellaneous revenue such as fees from the state's Portable Equipment Registration Program (PERP). These revenue sources also support other District programs, such as the grant program and public outreach and education. The District does not receive property tax revenue or County General Fund revenue to finance its operations. A breakdown of the operating revenue categories for Fiscal Year 2023-24 is shown below in Figure 2.1.

Figure 2.1 – Operating Revenue Categories for Fiscal Year 2023-2024



2.2 Long-Range Fiscal Strategy and Fee Study

Over the past 33 years since the last major overhaul to District Rule 210, the District workforce has decreased while at the same time staff workload has increased due to new state and federal mandates. The District has deferred fee increases during this period by adhering to fiscal principles that maximize efficiency and minimize costs. In Fiscal Year 2018-19, facing decreased oil and gas activity and associated revenue implications, the District implemented a fiscally conservative agency reorganization to reduce costs and enhance efficiency measures. Staffing levels were further reduced from 43 to 34 full-time positions, through a mix of retirements and permanently leaving select vacant positions unfilled. However, despite these prior efforts and prudent budgeting, costs continue to rise while revenue is anticipated to decline in the coming years.

The Fiscal Year 2023-28 Long-Range Fiscal Strategy (Strategy) was created to ensure that the District has sufficient resources to accomplish its mission and mandates into the foreseeable future. In preparing the Strategy, the District carefully evaluated changes to revenue, impacts to workload, current cost-recovery mechanisms for fee-based programs, existing and projected staffing, and potential cost reductions and revenue enhancements. To help compile the necessary information, the District hired Matrix Consulting Group in 2022 to conduct a Cost Recovery and Fee Analysis Study (Fee Study) to evaluate the existing fee schedules and ensure that they were appropriately recovering the costs for the variety of services provided by the District. The Fee Study also provided the District with a tool for understanding current service levels, the cost for those services, and how these fees for service can be revised consistent with California Health and Safety Code. The Fee Study showed that, overall, the District is only recovering 47% of its costs to implement the mandated programs. This is due, in part, to the progressive nature of our fee schedules where larger and higher emitting sources (typically, oil and gas facilities) have higher annual fees, while allowing smaller permitted sources within the District to have fees that do not achieve full cost-recovery for specific programs.

The full Strategy and the Fee Study were presented to the District Board of Directors in October 2023.[2] At the meeting, staff showed that despite the cost-recovery shortfall in fees, the District has operated with a balanced budget because other revenue sources, such as vehicle registration revenues, have filled the gaps in our various fee-funded programs. Ultimately, this practice is not sustainable, and the District should not be relying on these other revenue sources to subsidize permitting, compliance, and planning work. Of note, the California State Auditor has stated that while air districts have the discretion to utilize vehicle registration revenues for fee-related services, air districts should utilize those funds to help offset mobile emissions and improve air quality through those programs rather than subsidize permit holders. Hence, the Strategy recommended additional measures to safeguard the District's financial health and long-term ability to continue fulfilling its mission to provide public health benefits for local communities. In analyzing the District's fee rule, it became clear that there are several areas where the District is under-recovering or not assessing any fees for the work performed. To address these shortfalls, the Board directed staff to amend Rule 210 and incorporate fee increases of 12% per year over the course of ten years to achieve an 85% cost-recovery rate.

2.3 Fee Rule History and CPI changes

The District's first rulebook was adopted on October 18, 1971. At that time, the fee rule was primarily a placeholder that stated that fees needed to be set at reasonable amounts based as much as possible on the cost of the services performed. Rule 210 went through a number of changes in the 1970s and 1980s to achieve this goal, with many of the changes effectively shifting the District's revenue source from the County General Fund to those industries requiring District permits. Some of the main changes to the fee program are described below in Table 2.1.

Table 2.1 – Major Amendments to the District's Fee Rules

Year	Description
1972	Initial permit fees adopted based on the Los Angeles County APCD fee schedules.
1976	Added the triennial permit reevaluation fees.
1980	Updated the application filing fees and triennial permit reevaluation fees.
1986	Added the Annual Emission and Air Quality Planning (AQP) fee schedules. Added language to allow the fees to be adjusted along with the CPI.
1990	Formalized the Cost Reimbursement provisions and procedures.
1991	Added fee schedules for Air Toxics, the Asbestos Program, Source Tests, Lab Analyses, Requests for Permit Exemption, and Rock Crushers and Stacker Belts. Updated the Annual Emission and AQP fee schedules.
2005	Amended the Air Toxics fee schedule to be based on pounds of toxic pollutants emitted (instead of criteria pollutants as a surrogate for toxics).
2007	Adoption of Rule 213 and Rule 1201 to create a registration program for stationary and portable diesel engines used in agricultural operations in accordance with the state Airborne Toxic Control Measure (ATCM).

[2] The Strategy and Fee Study can be accessed at: www.ourair.org/wp-content/uploads/2023-10bd-g3.pdf

Other than the annual adjustments due to the Consumer Price Index (CPI), the District has not proposed an increase in the Rule 210 fee schedules since 1991. The annual CPI adjustments, which are authorized under the existing rule text, were consistently administered beginning in 1996 after the District separated from the county structure and became an independent special district. To incorporate the annual CPI into Rule 210, the District publishes a fee memo every year at the beginning of July. The most recent memo[3] shows the fee rates for each schedule, as of July 1, 2023.

[3] The CPI fee memo can be accessed at: www.ourair.org/wp-content/uploads/cpi-fees.pdf

3. Rule 210 – Reorganization and Summary of Changes

One of the goals of a rule development proceeding is to make sure that the affected rule is easy to read and understand. To that end, the District proposes to reorganize Rule 210 to provide for a clearer and simpler rule structure. The proposed Rule 210 structure and a short description of each section is listed below.

- **Scope and Purpose:** This overview text in Rule 210 lists the applicable sections of California Health and Safety Code that authorizes the District to assess fees to recover its costs for service.

- **Section A. Stationary Source Fees:** This section primarily describes the fees related to permitted stationary sources of air pollution.

- **Section B. Other Programs:** This section describes the fees associated with the "non-permit" programs that the District works on in accordance with local, state, or federal regulations.

- **Section C. Cost Reimbursement Basis (Time & Materials):** This section describes the procedures in which an applicant or permit holder sets up a Cost Reimbursement account, and the District directly charges the account for the actual time and materials spent on the project. This section is reserved for complicated projects that require more staff time, whereas most projects would use the designated fee schedules.

- **Section D. Hearing Board Fees:** This section describes the fees related to the District Hearing Board.

- **Section E. Governing Provisions:** This section describes the remaining requirements of Rule 210 that apply to all programs, such as the invoicing procedures and the ability to increase the fees annually in accordance with the CPI.

- **Fee Schedules A through H:** The specific fees that are described in Rule 210 are consolidated into seven different schedules. Each schedule groups similar program fees together.

To help the reader navigate between the proposed amendments to Rule 210 and the existing rule text, the following two tables are provided.

- Table 3.1 shows the expanded structure of proposed Rule 210, and it also provides a summary of the proposed changes in each subsection. For more information on the proposed changes, please see Sections 4 - 8 of this staff report and the FAQs in Appendix C.

- Table 3.2 shows the current structure of Rule 210 and where the language has been moved to in proposed Rule 210.

Table 3.1 – Proposed Rule 210 Structure and Major Changes

Proposed Rule 210 Section	**Proposed Changes**
Scope and Purpose	---
A. Stationary Source Fees	---
A.1 Permit Application Filing Fees	---
A.2 Permit Evaluation Fees	Added text for the Transfer of Ownership – Permit Split Evaluation Fee.
A.3 Recurring Fees	Added text for the Emergency Diesel Engine and Gasoline Dispensing Facility (GDF) Annual Review Fees. Modified text for the Air Quality Planning Fees to include PM and SOx.
A.4 Project Specific Fees	Added text for the School Public Notice Fee, Added text for the Health Risk Assessment (HRA) Screening Fee, Added text for the Interim Permit Approval Process (IPAP) Program Fee, Added text for the Confidential Information Handling Fees, Modified text for Sampling and Analysis Fees to address pass-through, Added text for the Monitoring/Data Acquisition System (DAS) Fee, and Added text for the CEQA Findings and Filing Fees.
B. Other Programs	---
B.1 Asbestos Demolition and Renovation Program	---
B.2 Agricultural Diesel Engine Registration Program	Moved text from Rule 213.
B.3 Emission Reduction Credit Program	Added text for the ERC Reissuance Fee.
B.4 Land-use Review	Clarified language.
B.5 Technical Reports	Moved text from Rule 211.
B.6 Areawide and Indirect Sources	---
C. Cost Reimbursement Basis (Time & Materials)	---
C.1 Reimbursable Costs	Removed “Overtime” and added “Services and Supplies” language.
C.2 Notice of Cost Reimbursement and Deposits	Clarified language.
C.3 Audits	Clarified language.
D. Hearing Board Fees	---
D.1 Variance	Added text for the Product Variance Fees.
D.2 Permit/ERC Appeal	Clarified language.
D.3 Abatement Orders	Clarified language.

Proposed Rule 210 Section	**Proposed Changes**
E. Governing Provisions	---
E.1 Payment of Fees and Penalties	Amended the delinquency penalty structure, and Added text on transaction fees.
E.2 Suspension and Reinstatement of Permit	New section to deter the non-payment of the required fees.
E.3 Use of Fee Schedules	Added text for the Minimum Evaluation Fee.
E.4 Consolidation of Existing Permits	---
E.5 Annual CPI Adjustment	---
E.6 Annual Fee Increases	New section to increase some of the existing fee schedules by up to 12% per year to achieve higher cost-recovery rates.
Schedule A - Equipment/Facility	Added the Minimum Evaluation Fee [A.1.a], and Removed the Electrical Energy, Dry Cleaning, and Ethylene Oxide Sterilizer Fees.
Schedule B - Recurring Fees	Added the Annual Review Fee for Emergency Diesel Engines [B.1.a], Added the Annual Review Fee for GDFs [B.1.b], Added the Air Toxics Fee for small sources [B.3.a], and Modified Air Quality Planning Fees to include PM and SOx [B.4].
Schedule C - Source Test	---
Schedule D - Sample and Lab Analysis	Transitioned to pass-through lab analysis fees.
Schedule E - Asbestos Demolition and Renovation	---
Schedule F - Other Stationary Source & ERC Fees	Added the Transfer of Ownership - Permit Split Evaluation Fee [F.4], Added the School Public Notice Fee [F.7], Added the Health Risk Assessment (HRA) Screening Fee [F.8], Added the Interim Permit Approval Process (IPAP) Program Fee [F.9], Added the Confidential Information Handling Fees [F.10], Incorporated the existing Monitoring/DAS Fee [F.11], Added the CEQA Findings and Filing Fees [F.12 and F.13], Added the ERC Reissuance Fee [F.14], Added the Reinstatement of Permit Fee [F.15].
Schedule G - Hearing Board	Added the Product Variance Fees [G.3].
Schedule H - Registration Programs	Moved the Agricultural Diesel Engine fee from Rule 213.

Table 3.2 – Reorganization Table of Current Rule 210 Sections

Current Rule 210 Section	**Proposed Rule 210 Section**
Scope and Purpose	**Scope and Purpose**
I. Fees for Sources With District Permits	**A**
I.A. Filing Fee	A.1
I.B. Fee Schedule Basis	A.2, A.3
I.C. Cost Reimbursement Basis for Fees	**C**
I.D. Source Test and Sampling Fees	A.4
I.E. Other Fees	A.1, A.2
I.F. Air Quality Plans	A.3
I.G. Air Toxics Program	A.3
I.H. Annual Emission Fee	A.3
I.I. Programs Conducted by the ARB	*Removed*
II. Fees for Sources Which Do Not Require District Permits	---
II.A. Fees for Asbestos Demolition and Renovation	B.1
II.B. Fees for Determination of Permit Exemption	A.1
III. Other Cost Reimbursement Activities	---
III.A. Monitoring Fee	A.4
III.B. Other Inspection and Enforcement Fees	*Removed*
III.C. Plans, Agreements, and Studies	A.4, B.4
IV. Hearing Board Fees	**D**
IV.A. Variance	D.1
IV.B. Permit Appeal	D.2
IV.C. Abatement Orders	D.3
V. Governing Provisions	**E**
V.A. Payment of Fees and Penalties	E.1
V.B. Effective Date	Scope and Purpose
V.C. Annual Adjustment in Fees	E.5
V.D. Use of Fee Schedules	E.3
V.E. Consolidation of Existing Permits	E.4
V.F. Rule Precedence and Applicability	*Removed*
V.G. Refund of Filing Fee	E.1
V.H. Reevaluation Date	*Removed*
Schedule A - Facility/Equipment Fee Schedule	Schedule A
Schedule B-1 - Fee for Air Quality Plan	Schedule B
Schedule B-2 - Fee for Air Toxics Program	Schedule B
Schedule B-3 - Annual Emission Fee	Schedule B
Schedule C - Source Test Fees	Schedule C
Schedule D - Sample and Laboratory Analysis Fees	Schedule D
Schedule E - Asbestos Demolition and Renovation	Schedule E
Schedule F	Schedule F and G

4. Rule 210 – New Fees

Pending Board of Directors approval, the following fees are proposed to be added in Rule 210 with an effective date of July 1, 2024. A brief history and the rationale for each amendment is included below. The derivations of each of the new fees are based on the estimated costs to cover staff time and materials for the activity, as shown in Appendix A. The fiscal impacts of each of these fees are included in Appendix B. Each new fee is proposed to achieve 100% cost-recovery for the work performed in accordance with the District's proposed Cost Recovery Policy.

4.1 Minimum Permit Evaluation Fees [Schedule A.1.a]

Most Authority to Construct (ATC) and Permit to Operate (PTO) permits are assessed fees based on the type, size, and amount of equipment at the facility, as prescribed in Schedule A. However, some of the existing equipment fee schedules do not cover the minimum costs to process the permit application. For example, if an oil and gas operator applies for a permit to install a single 15,000 gallon storage tank, the permit evaluation fee would be assessed using the "Stationary Container" schedule, which results in a minimum fee of $85.34. This minimum fee would not cover the District's costs to process the permit and perform the initial inspection.

For these Rule 210 amendments, staff proposes to include a minimum permit evaluation fee of $1,353. If the aggregated total of all equipment on Schedule A is less than the minimum permit evaluation fee, then only the minimum evaluation fee will be assessed. This fee is based on the staff time to perform the evaluation, process the permit, and inspect the equipment. This fee would not apply to Gasoline Dispensing Facility (GDF) permits because GDFs are permitted as stand-alone facilities without any of the other equipment referenced in Schedule A.

4.2 Diesel-Fired Emergency Engine Annual Reviews [Schedule B.1.a]

In 2005, the District amended District Rule 202 to remove the permit exemption for diesel-fired emergency engines rated at 50 horsepower or greater, in accordance with the state Airborne Toxic Control Measure for Stationary Compression Ignition Engines. Once permitted, these engines often have minimal updates to the permit during a reevaluation cycle. Hence, while approving the 2005 rule amendments, the Board expressed concern about the fees for emergency engines and directed staff to reduce the fees for the reevaluation of these emergency units. Staff affirmed that the emergency engines would be assessed reevaluation fees based on the Miscellaneous Equipment schedule, as opposed to the higher Fuel Burning Equipment schedule listed in Rule 210, Schedule A. This resulted in the majority of the engine revaluations being subject to the Minimum Reevaluation Fee.

For these Rule 210 amendments, staff proposes to transition the emergency engine program away from a triennial permit reevaluation cycle to an annual review cycle without any permit reevaluations. The annual review fee is proposed to be $657 per engine, which is similar to the fees charged by neighboring air districts for these units. The review fee is based on staff time to verify compliance and is independent of the size of the emergency engine. If multiple engines are permitted at the same facility, each additional engine will be assessed a fee of $328 to account for a 50% reduction in staff time to verify compliance for each additional engine. These review fees would not apply to stationary sources that are assessed fees under the Cost Reimbursement Basis.

The annual review fees are anticipated to be sent out every year in August. For the affected permits that were recently reevaluated for a three-year period, the total annual review fee for the first fee cycle will be prorated by $30 per engine-year for Part 70 permits and $175 per year for all remaining, non-Part 70 permits. These prorated amounts, as shown in Table 4.1 below, are based on the FY 2023-24 fee rates for the Miscellaneous Equipment Schedule and the Minimum Reevaluation Fee.

Table 4.1 – Transitioning Diesel Emergency Engine Reevaluations to Annual Review

Date Range for Permit Issuance of Most Recent PTO or Reevaluation	Reduction in Annual Review Fee in August 2024	
	Part 70 Operating Permit	Non-Part 70 Permit
July 2023 – June 2024	$60 per engine	$350
July 2022 – June 2023	$30 per engine	$175
June 2022 or earlier	None	None

4.3 Gasoline Dispensing Facilities (GDFs) Annual Reviews [Schedule B.1.b]

Under the existing provisions of Rule 210, GDF permits with Phase II vapor recovery nozzles are assessed fees annually based on the number of nozzles permitted at the facility. There is also a provision in the existing rule where an additional reinspection fee can be assessed if the facility fails a compliance inspection and needs a reinspection to verify that the equipment meets all applicable rules and regulations.

For these Rule 210 amendments, staff proposes to revise the rule language to reflect the current process for GDF permits and inspections. Once issued, GDF permits do not typically require reissuance or renewal (approximately 10% of the GDFs may have their permits reissued annually to correct discrepancies), but inspection time is necessary to verify compliance. The annual review fee is proposed to be $97.43 per nozzle to cover the costs of the compliance program. The annual review fees are anticipated to be sent out every year in August, and these fees would replace the existing renewal fees for GDFs that were previously invoiced after each facility inspection. These review fees would not apply to stationary sources that are assessed fees under the Cost Reimbursement Basis.[4]

4.4 Annual Air Toxics – Small Sources [Schedule B.3.a]

The initial toxics fee was established in 1991 to help implement the Assembly Bill (AB) 2588 "Hot Spots" program and the state ATCMs. The District's emission inventory program did not have a comprehensive calculation procedure for toxic pollutants in 1991, and so the initial fee structure used criteria pollutants (ROC, NOx, SOx, and PM) as a surrogate for toxics until better toxic pollutant information was available.

By 2005, the District's emission inventory program was modified to calculate the toxic pollutant data for the permitted stationary sources, and Rule 210 was amended to convert the fee structure to a "$/pound toxic pollutant" basis. The 2005 rule amendments were designed to be revenue

[4] There are currently no GDFs on the Cost Reimbursement Basis.

neutral, and no fee increases were incorporated at that time. Both the 1991 and 2005 rule language also included gatekeeper provisions that were designed to focus the toxic fees on the larger sources of pollution. Currently, a source is considered a large source of air toxics if it emits more than 2,000 pounds of toxic pollutants in a single year. However, toxics-related work is performed on all permitted sources within the county, even more so due to the recent state mandate associated with AB 617 and the Criteria Air Pollutant and Toxic Air Contaminant Reporting (CTR) regulation adopted by the California Air Resources Board (CARB).

For these Rule 210 amendments, staff proposes to assess a flat air toxics fee for the smaller, permitted stationary sources of air toxics. The flat fee for smaller sources is proposed to be $272 per year, whereas the toxic fee at the 2,000 pound threshold for larger sources is $840 based on the current fee rate ($0.42 per pound of air toxics). The flat air toxics fee would be included on the invoice for the annual emission fee, which is sent out between January and June every year. This fee will help cover the District's costs to implement its toxics program, including the new inventory and reporting requirements under the recent state mandates.

4.5 Transfer of Ownership – Permit Split Evaluation Fee [Schedule F.4]

When a permit is transferred from one owner to another, the new owner is required to submit a transfer of ownership application and the associated filing fee to the District within 30 days of the transfer. Applications to transfer an entire permit can be done quickly and efficiently, which is why there is no processing or evaluation fee associated with transferring an entire permit. However, some applicants request to transfer only a portion of the permitted equipment to a new owner. When this occurs, District staff needs to process new permits for the transferred equipment, making sure that the relevant conditions are included.

For these Rule 210 amendments, staff proposes to include an evaluation fee of $1,047 to cover the cost of processing new permits during a partial transfer of ownership.

4.6 School Public Notice [Schedule F.7]

California Health and Safety Code §42301.6 requires the District to issue a 30-day public notice prior to issuing a permit to construct to a stationary source that increases the emissions of toxic air contaminants within 1,000 feet of a K-12 school. Historically, District staff have used general language in Rule 210 to assess the applicant a fee (not to exceed $1,500) to cover some of the expenses associated with preparing and distributing the 30-day public notice.

For these Rule 210 amendments, staff proposes to add a processing fee of $3,607, which will cover staff time and materials to distribute the notice to the nearby school(s), residents, and businesses.

4.7 Health Risk Assessment (HRA) Screening Fee [Schedule F.8]

The District evaluates health risk for new or modified facilities during the permit process when issuing new Authority to Construct permits. The goal for the District's new source review health risk program is to prevent a new or modified facility from creating a significant risk to the community. The District Board adopted health risk significance thresholds corresponding to projects with a calculated cancer risk of 10 in a million people or greater, or an acute or chronic hazard index over 1.0. If a new permit application is received, and the District determines the

equipment or process has a potential to exceed these thresholds, a health protective HRA screening must be performed for the equipment/process. If the project passes the HRA screening, no further health risk analysis is required. Historically, District staff have performed HRA screenings at no cost for the project applicant. If the project fails the HRA screening, a refined HRA is required, which must be performed by the applicant and reviewed by the District under the Cost Reimbursement Basis.

For these Rule 210 amendments, staff proposes to add a fee for these HRA screenings. The fee is proposed to be $877, which will cover staff time to perform the initial screening. This fee shall not apply to refined HRAs or stationary sources that are assessed fees on the Cost Reimbursement Basis.

4.8 Interim Permit Approval Process (IPAP) Fees [Schedule F.9]

The District has 180 days from the date of application completeness to issue or deny an ATC pre-construction permit. The District typically meets this timeline, with most ATC applications issued by the 120-day mark. However, some applicants do not want to wait for the issuance of the ATC permit, especially if the application is for a simple permit project such as replacing a storage tank or a broken boiler. In response to industry's concerns, the District developed the Interim Permit Approval Process (IPAP) in 2012 to allow certain projects to commence construction before receiving an ATC permit. The IPAP program involves an enforceable agreement between the applicant and the District that bridges the gap between application completeness and ATC permit issuance. An IPAP agreement is, in essence, a temporary ATC permit with some additional caveats. Specific criteria for requesting IPAP approval include:

- The permit application has been deemed complete, and it clearly defines the project description, emissions, and equipment being proposed;
- The project does not require lead agency approval from another agency or, if it does require approval, that approval has already been obtained. If the District is the lead agency for the project, the project must be exempt under our CEQA Guidelines document;
- The project does not require a Best Available Control Technology (BACT) determination, an Air Quality Impact Assessment (AQIA), a refined health risk assessment, or public notice. The BACT exception may be waived in certain cases where the District has determined that the application clearly meets BACT requirements;
- The proposed project is similar to other projects previously permitted by the District and does not present unique permitting challenges; and
- The source agrees to the terms and conditions of the IPAP program.

The IPAP program does not directly save the District time since the ATC permit still needs to be issued. However, the IPAP program has been beneficial to industry, and it is a service that is often requested to allow applicants to construct their project when all air quality regulations are expected to be met.

For these Rule 210 amendments, staff proposes to include an IPAP approval fee of $917, which will cover the additional staff time to review the eligibility of each request and issue the IPAP agreement. This fee would only be assessed if the IPAP is approved.

4.9 Confidential Handling Fees [Schedule F.10]

California Government Code §6254.7 describes which information in a permit is a public record and which information can be considered a trade secret. Specifically, information pertaining to the emissions of a facility are public records, but trade secrets may be requested by the applicant to remain confidential. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

The District explains the confidentiality process on its permit application forms and on the annual throughput ("production data") reports by providing a link to the District's policy on the handling of confidential information.[5] If an applicant's request for confidentiality is approved by the District, staff will generate two versions of all documents (permits, evaluations, inspection reports, etc.); one confidential version with all confidential information highlighted, and one public version with all confidential information redacted, and take additional measures to ensure confidential information is not released to the public.

For these Rule 210 amendments, staff proposes to include a Confidential Handling Fee of $1,861, which would be assessed upon the issuance of the first permit for an application that contains confidential information. Each reevaluation of the permit thereafter shall be assessed a smaller fee of $1,452 to cover the ongoing costs associated with handling any confidential information.

4.10 CEQA Findings Fees [Schedule F.12]

When a project applicant applies for a District permit, the District utilizes our *Environmental Review Guidelines for the Implementation of the California Environmental Quality Act (CEQA)* to implement the requirements of the CEQA Statute (Public Resources Code §21000 et seq.) and State CEQA Guidelines (14 Cal. Admin. Code §15000 et seq.). The District evaluates the project and prepares any necessary documentation and/or findings required by CEQA prior to permit issuance. When issuing District permits, the District acts as either a Lead Agency or Responsible Agency.

When acting as a Responsible Agency, the District coordinates with the Lead Agency (usually County/City planning departments) to ensure that the air quality impacts of the project are adequately addressed and the District can rely on the Lead Agency's CEQA determination. As part of District permit issuance, the District must prepare various findings when relying on the Lead Agency's analysis of the project, and in some instances, prepare subsequent CEQA analysis/documentation. The District also acts as the CEQA Lead Agency for projects that do not require a discretionary permit from any other local or state agency. In these cases. the District must prepare support and findings for its determination on the environmental review requirements for the proposed project prior to permit issuance.

[5] Handling of Confidential Information Policy: www.ourair.org/wp-content/uploads/6100-020.pdf

For these Rule 210 amendments, staff proposes to include a CEQA Findings fee of $1,296 to cover District staff time for evaluating and preparing CEQA findings when acting as either a Lead Agency – for projects that rely on a CEQA exemption other than the list of exempt projects listed in Appendix A of the District's Environmental Review Guidelines – or as a Responsible Agency – for projects that rely on an Environmental Impact Report or Mitigated Negative Declaration. For complex projects, the Control Officer may assess the CEQA findings fee on a case-by-case basis to evaluate whether a project is exempt in accordance with Appendix A of the District's Environmental Review Guidelines or when the District relies on a Lead Agency's CEQA exemption. Larger projects will continue to be assessed all CEQA fees on the Cost Reimbursement Basis.

4.11 CEQA NOE/NOD Filing Fee [Schedule F.13]

If the District determines that a project qualifies for an exemption from CEQA review, a Notice of Exemption (NOE) may be filed by the District with the County of Santa Barbara Clerk of the Board after project approval. Filing a NOE starts a 35-day statute of limitations period on legal challenges to the District's decision that the project is exempt under CEQA. If a NOE is not filed, a 180-day statute of limitations will apply. As standard practice, the District files a NOE when relying on the common-sense exemption afforded by CEQA Guidelines §15061(b)(3). On a case-by-case basis, the District may file a NOE for other classes of exemptions.

The District's CEQA determination may also result in a filing of a Notice of Determination (NOD) when the District acts as a responsible agency and relies on another agency's CEQA document (e.g., a negative declaration (ND), a mitigated negative declaration (MND), or an Environmental Impact Report (EIR)), or when the District acts as a lead agency and prepares a CEQA document for a non-exempt project.

For these Rule 210 amendments, staff proposes to include a NOE/NOD filing fee of $538 to cover the costs of staff time to prepare and conduct the filing and the handling fees assessed by the County for filing the NOE/NOD. This fee would not be assessed if the District is the lead agency and needs to adopt or certify its own ND, MND, or EIR since the costs for these situations would be covered under the Cost Reimbursement Basis.

4.12 ERC Reissuance Fees [Schedule F.14]

Emission Reduction Credits (ERCs) can be registered pursuant to Rule 806 when a company reduces air emissions beyond what is required by permits and rules. Once registered, ERCs are assets that can be used by their owner or sold to other companies that need to offset any increases in their stationary source emissions. In accordance with Rule 806, ERC certificates are renewed every five years, and the District analyzes the credits to verify that the ERCs continue to be real, surplus, permanent, quantifiable, and enforceable. Currently, a filing fee is required to register, renew, transfer, or return an ERC to the source register.

For these Rule 210 amendments, staff proposes to include an ERC reissuance fee of $986 for staff time to reissue any destroyed or lost ERC certificate. The reissuance fee would also apply to projects where an ERC certificate is partially used and needs to be reissued, since these projects would not submit a filing fee. Both of these actions require staff time to review the application, issue the ERC certificate, and update the ERC Source Register.

4.13 Product Variance Fees [Schedule G.3]

The District Hearing Board is a quasi-judicial body established to hear appeals of permit decisions, petitions for variances from District Rules and Regulations, and petitions for abatement orders submitted by the Control Officer. The Hearing Board is a panel made up of five members appointed by, but acting independently of, the Board of Directors. General provisions and procedures for the Hearing Board are codified in California Health and Safety Code and listed in the District's rulebook under Regulation V.

For these Rule 210 amendments, staff proposes to add a type of variance called the "Product Variance" to the fee schedule. Product variances were codified in California Health and Safety Code §42365 – 42372 during the 1994 legislative session, and they can be requested if the manufacture, distribution, offering for sale, application, or use of a product is, or will be, in violation of any District rule or regulation.

Product variances are intended to provide a more workable process for categorical variances from a District rule. For example, a new architectural coating can be developed by a manufacturer to serve a specific industry or business purpose. If the new coating does not comply with District Rule 323.1, a product variance may temporarily allow for the product to be used while the District conducts any necessary rule amendment proceedings. A product variance essentially allows multiple companies to use the new technology on a temporary basis instead of requiring each company that wants to use the product to individually apply for a variance. Staff does not envision any product variances to be needed, but the proposed fee is included to be consistent with California Health and Safety Code.

5. Rule 210 – Modified and Clarified Fees

Pending Board of Directors approval, the following fees are proposed to be modified or clarified in Rule 210 with an effective date of July 1, 2024. A brief history and the rationale for each amendment is included below. The fiscal impacts of each of these fees are included in Appendix B.

5.1 Air Quality Planning Fees [Schedule B.4]

Air Quality Planning (AQP) fees help fund the preparation of air quality plans and other District activities that are necessary for the attainment and maintenance of state and federal ambient air quality standards. Since 1989, District staff has been compiling triennial updates to our ozone plan which focuses on the precursor pollutants of ROC and NOx. Hence, the existing AQP fees in Rule 210 only address those stationary sources of pollution that emit ROC and NOx. Small sources of pollution (those that are permitted or have actual emissions of <10 tons per year of the affected pollutants) are not assessed an air quality planning fee, while the larger sources of pollution pay a progressively higher fee based on their emissions. Table 5.1 below shows the current Rule 210 AQP fee schedule.

Table 5.1 – Existing AQP Fee Structure

EMISSION RANGE (tons per year)	**AIR QUALITY PLANNING FEE (FY 23-24)**
0 to < 10	$0
10 to < 25	$66.59 per ton
25 to < 100	$100.93 per ton
100 or more	$133.18 per ton

Most of the District's planning efforts over the last 30 years have been focused on reducing the precursor pollutants of NOx and ROC. However, the District is still nonattainment for the state PM_{10} standard, and in February 2024, the EPA lowered the federal $PM_{2.5}$ annual standard from 12.0 ug/m^3 to 9.0 ug/m^3.[6] Particulate matter is composed of fine mineral, metal, smoke, and dust particles that have been suspended in the air and that can harm the lungs. For health reasons, the District is most concerned with inhalable PM_{10} and $PM_{2.5}$, since particles of these sizes can permanently lodge in the deepest and most sensitive areas of the lungs, and can aggravate many respiratory illnesses including asthma, bronchitis, and emphysema. High levels of particle pollution have also been associated with a higher incidence of heart problems, including heart attacks.

For these Rule 210 amendments, staff proposes to include both PM and SOx (sulfur oxides) in the AQP fee calculation. Hence, the emission range would be calculated based on the total emissions of ROC, NOx, PM, and SOx. Both PM and SOx are already included in the annual emission fee calculation, and SOx is a precursor pollutant that leads to PM formation. This proposal will allow the District to focus more planning efforts on reducing regional PM concentrations.

[6] www.epa.gov/pm-pollution/national-ambient-air-quality-standards-naaqs-pm

5.2 Sample and Laboratory Analysis Fees [Schedule D]

Prohibitory rules in the District's rulebook often include specific test methods to verify if a material complies with an applicable standard. Currently, Schedule D in Rule 210 addresses the costs for eight different lab analyses such as fuel analyses, vapor pressure tests, and asbestos content tests. The fees in Schedule D were added into the rule in 1991, and they were based on the actual analysis costs provided by a local laboratory and District staff time to coordinate the test.

In practice, the District includes all required sampling for a permitted stationary source in their operating permit. The permittee arranges for the testing to occur, and the results are submitted to the District for review. Hence, the sampling and lab analysis fee schedule has not been used, but the schedule may be needed for future situations where the District needs to verify that the permittee or other responsible entity complies with the applicable regulations.

For these Rule 210 amendments, staff proposes to include a $287 fee for staff labor to coordinate the analysis, as shown in Appendix A to this staff report. In addition to this fee, all laboratory fees would be assessed on a "pass-through" basis, which is necessary since the applicable test methods and costs from a laboratory have changed over the last 33 years. The rule language would also outline the process to assess these fees, which includes notifying the operator about the sampling procedures and the estimated fees prior to conducting the sampling.

5.3 Data Acquisition System (DAS) Fee [Schedule F.11]

Several of the largest stationary sources within the county are required to install, operate, and maintain monitoring equipment that measures ambient pollution, meteorological data, and/or continuous emission data from their permitted equipment or from a nearby monitoring station. This data is then transmitted and stored on the District's Data Acquisition System (DAS) to assess any air pollution impacts from the stationary source and to verify compliance with the operating conditions in the permit. The District recovers its costs for this program under the existing language in Rule 210, which allows the fees for each stationary source to be incorporated into permit conditions or agreements.

For these Rule 210 amendments, staff proposes to clarify the existing DAS fee by incorporating the current fee amount directly into Rule 210. After including the CPI adjustment, the fee amount for FY 24-25 is $1,323 per monitoring parameter for six months of operation. The DAS fee is consistent among all the permitted stationary sources, and so incorporating it into the fee rule will provide an additional level of clarity for both the existing stationary sources and for any new stationary sources that may be required to telemeter data to the District. All other monitoring fees, such as those associated with the operation of the Industrial monitoring stations within the District's Air Monitoring Network, shall continue to be specified in the Permit to Operate for the stationary source.

6. Rule 210 – Removed Fees

The following fees are proposed to be removed from Rule 210. A brief history and the rationale for removing each fee is included in the analysis.

6.1 Electrical Energy Fee Schedule [Schedule A]

The electrical energy fee schedule was incorporated into the District's fee rule in 1972, and it was based on the fee schedule from the Los Angeles County Air Pollution Control District (predecessor to South Coast AQMD). The fee schedule is primarily intended to be used on large electric equipment, except for electric motors. Currently, there are three permitted facilities within Santa Barbara County that have permitted electric ovens, screens, and applicators, which are all assessed fees under the electrical energy fee schedule. Since the existing electrical energy equipment are all small units, they are assessed the minimum fee of $85.34 under the schedule.

For these Rule 210 amendments, staff proposes to remove the electrical energy equipment schedule. This change will result in a negligible impact to the three permitted sources that are currently assessed fees since the equipment would be transitioned to the minimum fee for miscellaneous equipment. This change is being proposed as it effectively consolidates the number of schedules listed in the rule.

6.2 Dry Cleaning Equipment Fee Schedule [Schedule A]

Dry cleaning operations were one of the first permitted source types in the 1970s due to their use of petroleum solvents and perchloroethylene. Although perchloroethylene has been phased out in accordance with the state Airborne Toxic Control Measure (ATCM) for Dry Cleaning Operations (17 CCR §93109), many dry cleaning businesses continue to use ROC-containing petroleum solvents to perform their operations. Currently, there are 12 permitted dry cleaning facilities within Santa Barbara County that use petroleum solvents, and these facilities typically do not have any other permittable equipment at the site.[7]

For these Rule 210 amendments, staff proposes to remove the dry cleaning equipment schedule, which would effectively transition the dry cleaning equipment to the minimum evaluation and reevaluation fees. This change is being proposed because the dry cleaning equipment schedule does not adequately recover staff costs, and the removal also effectively consolidates the number of schedules listed in the rule.

6.3 Ethylene Oxide Sterilizer Fee Schedule [Schedule A]

The Ethylene Oxide (EtO) sterilizer fee schedule was adopted in 1989 concurrently with the adoption of District Rule 336 – Control of Ethylene Oxide Emissions. This prohibitory rule and fee schedule were necessary at the time since CARB was in the process of finalizing the Ethylene Oxide Airborne Toxic Control Measure (ATCM) for Sterilizers and Aerators (17 CCR §93108). EtO is primarily used as a sterilant in the production of medical equipment or for sterilizing supplies at hospitals.

[7] Dry cleaning operations usually have natural gas water heaters, but the water heaters are small enough to be exempt from permit requirements.

During the 1989 rule proceeding, there were nine known sources who used at least one ethylene oxide sterilizer. All nine of these sources have since shutdown or switched to alternative methods to sterilize their equipment, and no new EtO operations are expected to be permitted in the future. Hence, this fee schedule is proposed to be removed, and it will not affect any permitted sources.

6.4 Cooling Tower Compliance Plans [Schedule F]

The fee schedule for Cooling Tower Compliance Plans was adopted in January 1990 concurrently with the adoption of District Rule 335 – Hexavalent Chrome Cooling Towers. This prohibitory rule and fee schedule were necessary at the time since CARB finalized the ATCM for Chromate Treated Cooling Towers (17 CCR §93103). Hexavalent chromium was historically used in cooling towers for corrosion control, and Rule 335 required facilities to discontinue using hexavalent chromium in cooling towers by July 1, 1990. The fees in Rule 210 covered the costs for District staff to review the facility compliance plans and verify compliance with the regulation.

During the 1990 rule proceeding, there was only one known source who used hexavalent chromium in its cooling tower. This source has since complied with the requirements of District Rule 335 and stopped using hexavalent chromium. Since the necessary work under this rule is complete and cooling towers can no longer use hexavalent chromium, the fee schedule for the compliance plan is no longer necessary. Hence, this fee schedule is proposed to be removed, and it will not affect any permitted sources.

6.5 Atmospheric Acidity Protection Program (AAPP) Administrative Fees [Schedule F]

As authorized by California Health and Safety Code §39904, AAPP fees were historically assessed by CARB on stationary sources that emitted 500 tons or more per year of either sulfur oxides (SOx) or nitrogen oxides (NOx). These fees were used by CARB to determine the nature and extent of potential damage to public health and the state's ecosystem due to atmospheric acidity. To cover District costs for the collection of the AAPP fees for CARB, a small administrative fee was included in the 1991 amendments to District Rule 210.

The AAPP was eventually discontinued in 1994 and the authorizing language in California Health and Safety Code was fully repealed in 2012 per Assembly Bill 1459. Hence, the administrative fee for this program can be removed from Rule 210, and it will not affect any permitted sources.

6.6 California Clean Air Act (CCAA) Administrative Fees [Schedule F]

As authorized by California Health and Safety Code §39612, CCAA fees were historically assessed by CARB on stationary sources that emitted 500 tons or more per year of any nonattainment pollutant or its precursors. The fees were used by CARB to help recover the costs of State programs related to nonvehicular sources. To cover District costs for the collection of the CCAA fees for CARB, a small administrative fee was included in the 1991 amendments to District Rule 210.

In 2003, the State Legislature enacted Assembly Bill (AB) 10X which made a number of changes to the CCAA program. Specifically, it lowered the applicability threshold from 500 tons to 250 tons of nonattainment pollutants, and it authorized CARB to collect the fees directly

instead of requiring the air districts to collect the fees. Hence, the administrative fee for this program can be removed from Rule 210 since CARB can directly collect any required CCAA fee. This change will not affect any permitted sources.[8]

[8] Stationary sources within Santa Barbara County have been below the 250 ton threshold for the last 15 years and are not currently assessed the CCAA fees from CARB.

7. Rule 210 – Governing Provisions

The following section describes the proposed amendments to the Governing Provisions, which describe the District's invoicing procedures and the fee increases over time. A brief history of each provision and the rationale for amending it is included in the analysis.

7.1 Delinquency Penalties

In accordance with the existing rule provisions, all invoices are due within 30 calendar days of the date that they are issued. If payment is not received within 30 days, District staff shall promptly notify the entity in writing that the payment is overdue and remind them that delinquency penalties (or "late fees") will be imposed if payment is not received within 60 calendar days of the invoice date. The existing delinquency penalty is 10% of the originally invoiced amount, and it increases by 10% for each 30-day period that the invoice is overdue.

Delinquent payments have been slowly increasing over time, and it takes additional staff time and effort to follow up and collect the outstanding invoices. Such processing includes reminder phone calls about the invoice due, production and mailing of a delinquent letter and invoice, and inspector surveillance and follow-up with the facility in question. If additional enforcement methods are necessary, the costs to the District increase exponentially, especially if the case is brought before the Hearing Board or referred to legal counsel.

For these Rule 210 amendments, staff proposes to include an escalating penalty structure for invoices that are overdue. Staff proposes to assess a 10% penalty when the invoice is more than 30 days overdue (Day 61), an additional 20% penalty when the invoice is more than 60 days overdue (Day 91), and an additional 30% penalty when the invoice is more than 90 days overdue (Day 121). This results in an aggregated 60% penalty when the invoice is more than 90 days overdue. The proposed rule language will also allow delinquency penalties to be assessed to overdue invoices assessed on the Cost Reimbursement Basis. This escalating penalty structure is a deterrent measure to ensure prompt payment of all District invoices. Fewer late payments will result in less time spent by staff in trying to collect these fees.

7.2 Permit Suspension & Reinstatement Filing Fees [Schedule F.16]

As described in the Delinquency Penalty section above, District staff make multiple attempts to collect the fees for work performed by the District. If a facility does not respond to any of these notices by paying the fees and associated penalties, staff's only option under the existing rule text is to bring the matter before the Hearing Board. The Hearing Board may then issue an abatement order to directly order the facility to halt all operations that emit air contaminants, or the Hearing Board may permanently revoke the facility's permit. This process is time consuming for District staff and the Hearing Board itself, and so a new protocol is being proposed.

For these Rule 210 amendments, staff proposes to add rule language that if payment is not received within 150 calendar days of the invoice date, staff will begin the process of suspending the operator's permit. To do this, staff will notify the owner/operator, in writing, that the existing permits for the stationary source may be suspended unless all prior fees and associated penalties are paid within 14 calendar days. If payment is not received within 14 days, staff could then issue a suspension letter and any operation of the equipment shall constitute a violation of the District's Rules and Regulations. Using the suspension and Notice of Violation (NOV) process is

more expedient and efficient compared to bringing the item to the Hearing Board, and so it can be used to further promote the payment of fees on time.

If the permit holder wants to reactivate a suspended permit, the permit holder will need to submit an application to reinstate the permit along with the associated reinstatement filing fee of $1,355. A permit may only be reinstated within 180 days of the suspension date, and District staff will not work on the reinstatement application until all prior fees and associated penalties have been paid. Table 7.1 below provides an overview of the proposed invoicing protocol, as it demonstrates the progressive steps taken by the District to promote the payment of fees on time. The table compares the existing steps to the proposed steps under these rule amendments.

Table 7.1 – Existing and Proposed Rule 210 Invoicing Protocols

Day #	Existing Rule 210 Protocol	Proposed Rule 210 Protocol
Day 1	Invoice issued.	Invoice issued.
Day 31	Invoice due. Written notice/reminder of invoice.	Invoice due. Written notice/reminder of invoice.
Day 61	10% delinquent penalty assessed. (10% total penalty)	10% delinquent penalty assessed. (10% total penalty)
Day 91	10% delinquent penalty assessed. (20% total penalty)	20% delinquent penalty assessed. (30% total penalty)
Day 121	10% delinquent penalty assessed. (30% total penalty)	30% delinquent penalty assessed. (60% total penalty)
Day 151	10% delinquent penalty assessed. (40% total penalty)	Suspension warning letter issued.
Day 165+	**1)** 10% delinquent penalties continue to be assessed for every 30-day period. (100% cap on AB 2588 fees) **2)** District may seek permit revocation through the Hearing Board.	Suspension letter may be issued. District may also seek permit revocation through the Hearing Board at any time. **<u>If suspended</u>:** **1)** Facility may submit an application to reinstate their permit and pay all overdue fees and penalties within 180 days; **2)** District staff may inspect the facility and issue a Notice of Violation (NOV) for operating with a suspended permit.

7.3 Transaction Fees

In accordance with Government Code §6159, the District allows some types of services and fees to be paid for through credit cards, debit cards, and electronic fund transfers. These options provide our clients with payment flexibility, and they improve the District's collection efforts.

However, accepting credit cards, debit cards, and electronic fund transfers can often include the associated cost of "convenience charges" or other charges from the processing company. A resolution was authorized by the District Board in 2018 to pass those direct costs associated with the use of these payment types on to the card/account holder, not to exceed the costs incurred by the District. Language is now proposed to be included in Rule 210 to clearly inform the public about these transaction fees.

7.4 Existing Fee Increases Over Time – Matrix Fee Study

California Health and Safety Code §41512.7 prevents any existing fees for Authority to Construct permits or Permits to Operate from being increased by more than 15% in any calendar year. Hence, the District may not increase its permit fees beyond this statutorily limited percentage in any calendar year in response to changing conditions. The Matrix Fee Study[9] showed the overall cost-recovery is currently 47% for the District's existing fees, and it will take a multi-year, phased approach for the agency to reach its cost-recovery goal of 85% due to this restriction in the Health and Safety Code.

Based on guidance and direction provided by the District's Board of Directors, staff proposes to increase the existing fee schedules listed below by up to 12% per year, beginning on July 1, 2024. The annual increase would be applied by fee schedule, and the increases for a fee schedule will stop when the schedule reaches 85% cost-recovery based on the Matrix Fee Study results. As shown in Table 7.2, this means that one of the schedules will achieve 85% cost-recovery after one year, but other schedules will need four to eight years to meet the cost-recovery goal. Schedule F would be the only schedule that cannot meet the cost-recovery goal after the ten year period due to the limits prescribed in the Health and Safety Code. These increases are in addition to the annual CPI adjustments that are performed every year, but the total increase would not exceed 15% in any calendar year.

Table 7.2 – Matrix Fee Study Results with Proposed Increases Over Time

Fee Schedule	Current Annual Revenue	Total Annual Cost	Current Cost Recovery	Estimated Years of Increases	Future Cost Recovery	Annual Revenue at End
A - Equipment/Facility	$1,157,439	$1,923,856	60%	4	85%	$1,635,277
B - Air Toxics	$113,970	$259,352	44%	6	85%	$220,449
B - Air Quality Planning	$344,135	$428,347	80%	1	85%	$364,095
C - Source Tests	$105,321	$178,882	59%	4	85%	$152,050
F - Other Fees	$294,193	$1,429,956	21%	10	64%	$913,720
G - Hearing Board	$33,344	$95,366	35%	8	85%	$81,061
Total	**$2,048,403**	**$4,315,759**	**47%**	---	**78%**	**$3,366,652**

[9] The Matrix Fee Study can be found online at: www.ourair.org/wp-content/uploads/2023-10bd-g3.pdf

This proposal to increase the existing fees in each schedule would not apply to the following:

1) Any of the new fees described in Section 4 of this staff report,
2) The schedules that were not evaluated in the Matrix Fee Study (such as the annual emission fees in Schedule B or the asbestos fees in Schedule E), and
3) The agricultural diesel engine registration fees in Schedule H. These fees were removed from the analysis to maintain program reciprocity with the San Luis Obispo County APCD, as allowed by District Rule 1201.

Also, it's important to note that the Matrix Fee Study represents a snapshot in time, as the results are based on data and records from recent fiscal years. Hence, the proposal to increase the fees based on this snapshot excludes any forecasted revenue decreases and cost-of-service increases that may occur in the future. In accordance with the District's Cost Recovery Policy, District staff will continue to analyze the program activity costs and cost recovery for each fee schedule on an on-going basis. To complete this analysis, the District is developing a cost recovery tool that will be used in-house on an annual basis to calculate cost recovery for each fee schedule. Once the goal of 85% is reached for each fee schedule, the 12% fee increases will stop and will no longer apply. The District will include this analysis with the annual budget process every year.

8. Other Affected District Rules

The following section describes the changes being made to other District rules due to the reorganization of District Rule 210, as described in Section 3 of this staff report. These amendments are all administrative and do not change or alter the meaning of each rule.

8.1 Consolidation of Rule 211 – Technical Reports

Rule 211 was part of the initial District rulebook in 1971, and it describes the basic provisions to assess fees for the various projects that the District could be asked to work on. The current language in Rule 211 is shown below:

> "Information, circulars, reports of technical work, and other reports prepared by the District for special interest groups or individuals, may be charged for by the District in a sum not to exceed the cost of preparation and distribution of such documents. The charge will be based on direct labor hours used, supplies and service expended, and indirect costs incurred. All such monies collected shall be turned into the general funds of the said District."

To simplify and consolidate the rulebook, most of this language has been moved to Rule 210 under Section B.5 – Technical Reports. Rule 211 can then effectively be repealed.

8.2 Consolidation of Rule 213 – Fees for Registration Programs

Rule 213 was adopted in 2007 to coincide with the diesel agricultural engine registration requirements in District Rule 1201 and the State ATCM for Stationary Compression Ignition Engines (17 CCR §93115). To simplify and consolidate the rulebook, the language in Rule 213 has been moved to Rule 210 under Section B.2, Agricultural Diesel Engine Registration Program, and the fee was moved to Rule 210, Schedule H. Rule 213 can then effectively be repealed.

8.3 Other Affected District Rules

Other rules within the District's rulebook contain references to specific sections in Rule 210. Since Rule 210 is proposed to be reorganized, the references in the rules listed below need to be updated to provide for a clear and consistent rulebook. Removal of outdated information and other minor formatting changes are also incorporated, where applicable.

- District Rule 203 – Transfers
- District Rule 342 – Boilers, Steam Generators, and Process Heaters (5 MMBtu/hr and greater)
- District Rule 359 – Flares and Thermal Oxidizers
- District Rule 361 – Boilers, Steam Generators, and Process Heaters (2 - 5 MMBtu/hr)
- District Rule 364 – Refinery Fenceline and Community Air Monitoring
- District Rule 370 – Potential To Emit – Limitations for Part 70 Sources
- District Rule 502 – Filing Petitions
- District Rule 806 – Emission Reduction Credits
- District Rule 1201 – Registration of Agricultural Diesel Engines

9. Rule Impacts and Other Rule Evaluations

9.1 Fiscal Impacts

There are more than 1,000 facilities/entities subject to the fees in District Rule 210. The impact on individual facilities will vary depending on the size and number of emission sources. For most existing permitted sources, their permit fees will increase by 12% per year for the next 3 years. The revisions to Rule 210 will increase revenue by approximately $1.0 million in Fiscal Year 2024-25 due to both the new fees proposed and the 12% increase to existing fees that do not meet the cost-recovery goals outlined in the District's Cost Recovery Policy. Additional revenue is also anticipated to be collected in future years as specific schedules are increased by 12% per year over the course of ten years to achieve a cost-recovery rate of 85%. Table 9.1 below demonstrates the fiscal impacts over the next four years, and supporting information for these calculations can be found in Appendix B.

Figure 9.1 – Fiscal Impacts of Amended Rule 210 - Fee Schedules[10]

		FY 2023-2024	FY 2024-2025	FY 2025-2026	FY 2026-2027	FY 2027-2028
Operating Costs (Fee Schedules)		**$4,315,759**	**$4,303,857**	**$4,456,214**	**$4,613,964**	**$4,777,298**
Base Revenue (Fee Schedules)		**$2,048,403**	**$1,927,061**	**$1,983,331**	**$2,041,244**	**$2,100,849**
Fee Schedule Deficit		**$2,267,356**	**$2,376,796**	**$2,472,883**	**$2,572,719**	**$2,676,449**
Rule 210	**Existing Fee Increases**	**---**	**$231,027**	**$473,515**	**$751,372**	**$863,547**
	New & Modified Fees	**---**	**$773,986**	**$796,587**	**$819,847**	**$843,786**
Amended Operating Revenue		**$2,048,403**	**$2,932,074**	**$3,253,432**	**$3,612,463**	**$3,808,182**
Blended Cost Recovery[11]		**47%**	**68%**	**73%**	**78%**	**80%**

9.2 Environmental Impacts

California Public Resources Code §21159 requires the District to perform an analysis of the reasonably foreseeable environmental impacts if a rule or regulation sets a performance standard or requires the installation of pollution-control equipment. The proposed rule amendments are administrative in nature and do not involve performance standards or pollution-control

[10] Includes CPI and operating cost adjustments.
[11] Blended Cost Recovery represents the combined cost recovery of the existing fee schedules and the new & modified fees proposed under the Rule 210 amendments.

equipment. Therefore, there is no reasonable possibility that the proposed amendments will have a significant effect on the environment.

9.3 California Environmental Quality Act (CEQA) Requirements

The California Environmental Quality Act (CEQA) requires environmental review for certain actions. This rulemaking project consists of amending the District's fee rule to adequately recover the costs for service. It is expected that pursuant to §15378(b)(4) of the State CEQA Guidelines, the action is "not a project" under CEQA because it is a government fiscal activity which does not involve any commitment to any specific project that may result in a potentially significant effect on the environment. A CEQA determination will be made when the proposed rule package is brought to the District Board for adoption.

9.4 Socioeconomic Impacts

California Health and Safety Code §40728.5 requires air districts with populations greater than 500,000 people to consider the socioeconomic impact of any new rule if air quality or emission limits are significantly affected. Based on the 2020 census data, the population of Santa Barbara County was approximately 450,000 persons. Using the expected growth rates for the County, the current population estimate is still below the 500,000 person threshold. Furthermore, the proposed amendments will not strengthen an emission limitation. Therefore, the District is not required to perform a socioeconomic impact analysis for the proposed rule amendments.

10. Public Review & Stakeholder Engagement

10.1 Rule Workshops and Outreach

The District held a virtual public workshop to present, discuss, and hear comments on the draft rule package on December 14, 2023. Ahead of the workshop, on November 30, 2023, the District informed approximately 2,000 stakeholders, potentially affected sources, and subscribers on the District's public noticing listserv about the draft amendments. The District has also consistently published the draft rule and staff report prominently on its website.

At the workshop, District staff delivered a 30-minute presentation on the key points of the proposed changes. Staff then answered the questions from the public and asked for written comments pertaining to the rule amendments to be submitted by December 29, 2023 to be incorporated into the next steps in the rule development process. After the workshop, staff added a new function to the District's rules webpage where stakeholders could request a virtual office hours appointment. These appointments were available for 15-30 minute periods so the stakeholders would have an additional opportunity to ask their facility-specific questions to staff.

On December 14, staff also provided an update on the draft amendments to the Santa Barbara County Agricultural Advisory Council (AAC). At the meeting, staff received verbal comments pertaining to the annual increases to the existing fee programs, specifically, the agricultural engine registration fees.

10.2 Community Advisory Council

To facilitate the participation of the public and the regulated community in the development of the District's regulatory program, the District created the Community Advisory Council (CAC). The CAC is composed of representatives appointed by the District's Board of Directors. Its charter is, among other things, to review proposed changes to the District's Rules and Regulations and make recommendations to the Board of Directors on these changes.

At the CAC meeting on November 2, 2023 in Buellton, staff conducted a briefing and overview of the draft Rule 210 amendments. The District then held a CAC Meeting to discuss the full draft revisions to District Rule 210, Fees on January 10, 2024 in Buellton. Staff provided a 30 minute presentation on all of the proposed changes, answered questions from the CAC members, and provided an opportunity for public comment. At the meeting, six members of the cannabis industry provided comments regarding the draft fee schedule for post-harvest cannabis operations. Due to the public comments, the CAC made a motion to continue the Rule 210 discussion item to allow staff adequate time to reevaluate the cannabis fees. For more information on the draft cannabis fees, please see the section below.

The District held a second CAC meeting on February 15, 2024 in Buellton. At the meeting, staff discussed three additional changes to the rule based on public comments.

1) Staff removed the draft fee schedules for cannabis and will instead rely on existing rule language to assess fees to the cannabis industry under the Cost Reimbursement Basis;
2) Staff revised the draft delinquency penalty amounts from 25% for every 30 days overdue [maximum 100% penalty] to an escalating structure of 10%, 20%, and 30% penalties for every 30 days overdue [maximum 60% penalty]; and

3) Staff removed the diesel agricultural engine registration fees from the annual fee increases to maintain program reciprocity with the San Luis Obispo County APCD, as allowed by Rule 1201.

After discussing the proposed changes and hearing all of the public comments on the fee rule, the CAC voted unanimously to approve staff's recommendation that the Board of Directors adopt the proposed amendments to District Rule 210, Fees. For a summary of the questions and comments at the January and February CAC meetings, please see Appendix D and E.

10.3 Post-Harvest Cannabis Operation Fees and Public Commenters

This section provides additional information surrounding the draft cannabis fee schedule that was originally proposed in the initial draft of Rule 210 revisions and the public comments provided at the CAC meetings. Post-harvest cannabis operations and equipment require District permits due to the potential to release air contaminants. Cannabis operations that require a permit include processing (drying, trimming, curing, flash freezing, packaging, etc.), manufacturing (volatile extraction, non-volatile extraction, post extraction refinement, etc.), and the storage and distribution of the cannabis. The District began issuing advisories and permitting this source category beginning in 2019.[12]

The existing fee schedules of Rule 210 do not contain cannabis specific fees, and the fee schedules that can apply to cannabis operations do not adequately cover the associated costs with regulating and permitting this industry and responding to public complaints. Therefore, in the initial draft of the Rule 210 amendments (workshop version), staff proposed to create a cannabis fee schedule for post-harvest activities that was broken up into three distinct parts due to the various operations that can be permitted at these facilities. The proposal focused on assessing fees for building area, extraction equipment, and odor-control devices. However, based on public comments, staff removed the draft fee schedules for cannabis and will instead rely on existing rule language to assess fees to the cannabis industry. Specifically, Section A.2 of Rule 210 states that "For projects determined by the District to require additional analysis such that the use of Schedule A will not enable the District to recover its costs, the evaluation cost may instead be assessed on the Cost Reimbursement Basis as specified in Section C."

The cannabis industry is relatively new and the required time to permit, inspect, and verify compliance can vary greatly based on the equipment and operations at each individual facility. By using the Cost Reimbursement Basis, cannabis projects will be assessed fees for the actual time spent by staff on each specific facility. This proposal was discussed at the February 2024 CAC meeting, and it provides an effective solution to address the cost-recovery gap for permitting the cannabis industry. Consistent with the second motion made at the February 2024 CAC meeting, staff will provide an update to the CAC on permitting the cannabis industry under the Cost Reimbursement Basis in the Spring of 2025.

[12] District permitting information for the cannabis industry can be found at: www.ourair.org/cannabis/

10.4 Public Hearings

In accordance with California Health and Safety Code §40725, the proposed amendments have been publicly noticed on March 7, 2024 and made available at the District offices and on the District's website. Furthermore, California Health and Safety Code §41512.5 and §42311(e) require two public hearings to be held prior to the adoption of any new fee. The first public hearing is scheduled for March 21, 2024 and the second public hearing is scheduled for May 16, 2024. Members of the public may attend each Board meeting and can provide comments on the proposed amendments prior to or at each hearing.

APPENDICES

Appendix A - Derivation of New Fees

In accordance with California Health and Safety Code, the following tables present the estimated costs to cover District services related to permitted stationary sources and other activities authorized by local, state, and federal regulations. The derivations are based on timecard data for recent fiscal years along with supplemental time estimates, as needed, demonstrating the number of hours needed for each type of employee for the given task and any additional materials or fees connected to the task. The tables show that the proposed fees in Rule 210 are designed to achieve 100% cost-recovery for the work performed.

Schedule A.1.a – Minimum Evaluation Fee			
Task	**AQ Engr. III**	**AQ Spec. III**	**Div Mgr. or Supv.**
Permit Evaluation	2.34	--	0.66
Compliance Inspection	--	2.28	0.72
Total Estimated Hours	**2.34**	**2.28**	**1.38**
FY 24-25 Fee Rate	$219.43	$191.74	$291.99
Estimated Cost	$1,353.59 per permit		
Proposed Fee in Rule	**$1,353 per permit**		

Schedule B.1.a – Annual Diesel Emergency Engine Review		
Task	**AQ Spec. III**	**Div Mgr. or Supv.**
Compliance Inspection	6.00	1.00
Compliance Program Support	4.50	0.75
Estimated Hours per Facility	**10.50**	**1.75**
FY 24-25 Fee Rate	$191.74	$291.99
Facilities with Emergency Engines	417	
Estimated Program Cost	$1,052,606 per 3-year period; or $350,869 per year	
	First Engine	**Additional Engines**
Affected Engines	417	234
Adjustment Factor	100%	50%
Cost per Engine	$657.06 per year	$328.53 per year
Proposed Fee in Rule	**$657 per year**	**$328 per year**

Schedule B.1.b – Annual GDF Review			
Task	**AQ Spec. III**	**AQ Engr. III**	**Div. Mgr. or Supv.**
Compliance Inspection	0.23	--	0.07
Compliance Program Support	--	0.11	0.03
Total Estimated Hours	**0.23**	**0.11**	**0.10**
FY 24-25 Fee Rate	$191.74	$219.43	$291.99
Estimated Cost	$97.43 per nozzle		
Proposed Fee in Rule	**$97.43 per nozzle**		

Schedule B.3.a – Annual Air Toxics - Small Sources (< 2,000 lbs)			
Task	**Permit Tech**	**AQ Engr. III**	**Div. Mgr. or Supv.**
Total Program Oversight	0.25	0.78	0.22
Total Estimated Hours	**0.25**	**0.78**	**0.22**
FY 24-25 Fee Rate	$150.38	$219.43	$291.99
Estimated Cost	$272.99 per stationary source		
Proposed Fee in Rule	**$272 per stationary source**		

Schedule D - Sampling and Lab Analysis	
Task	**AQ Spec. III**
Coordinate Testing with Lab	1.50
Total Estimated Hours	**1.50**
FY 24-25 Fee Rate	$191.74
Estimated Cost	$287.61 per sampling
Proposed Fee in Rule	**$287 per sampling**

Schedule F.4 - Transfer of Ownership/Operator - Permit Split Evaluation				
Task	**Permit Tech**	**AQ Engr. III**	**AQ Spec. III**	**Div. Mgr. or Supv.**
Update Database Records	0.66	--	--	--
Generate Draft & Final Permits	--	2.34	--	--
Issue Final Permit	--	--	--	0.66
Inspection Report	--	--	0.50	0.50
Total Estimated Hours	**0.66**	**2.34**	**0.50**	**1.16**
FY 24-25 Fee Rate	$150.38	$219.43	$191.74	$291.99
Estimated Cost	$1,047.31 per permit			
Proposed Fee in Rule	**$1,047 per permit**			

Schedule F.7 - School Public Notice					
Task	**Permit Tech**	**AQ Engr. III**	**Div. Mgr. or Supv.**	**Office Tech**	**PIO**
Obtain School Mailing Labels	1.00	--	0.50	--	--
Draft School Notice	--	0.50	--	--	--
Issue School Notice	1.00	--	--	9.00	0.75
Respond to Public Comments	--	2.00	1.00	--	--
Total Estimated Hours	**2.00**	**2.50**	**1.50**	**9.00**	**0.75**
FY 24-25 Fee Rate	$150.38	$219.43	$291.99	$113.71	$185.77
Mailing Materials Cost	$1,081.80 per application				
Estimated Cost	$3,607.07 per application				
Proposed Fee in Rule	**$3,607 per application**				

Schedule F.8 - HRA Screening	
Task	**AQ Engr. III**
HRA Completeness Review	0.50
Toxic Emission Calculations and Modelling	2.00
Permit Attachment Write-up	1.50
Total Estimated Hours	**4.00**
FY 24-25 Fee Rate	$219.43
Estimated Cost	$877.74 per screening
Proposed Fee in Rule	**$877 per screening**

Schedule F.9 - IPAP Program			
Task	**Permit Tech**	**AQ Engr. III**	**Div. Mgr. or Supv.**
IPAP Eligibility Review	--	0.50	0.50
IPAP Document Preparation	1.00	0.50	--
IPAP Issuance	--	0.50	0.50
IPAP Compliance Support	--	--	0.50
Total Estimated Hours	**1.00**	**1.50**	**1.50**
FY 24-25 Fee Rate	$150.38	$219.43	$291.99
Estimated Cost	$917.52 per application		
Proposed Fee in Rule	**$917 per application**		

Schedule F.10 - Confidential Handling						
Task	**Initial**			**Reevaluation**		
	AQ Engr. III	**AQ Spec. III**	**Div. Mgr. or Supv.**	**AQ Engr. III**	**AQ Spec. III**	**Div. Mgr. or Supv.**
Application Review	1.00	--	0.50	--	--	--
PSA Data Entry	0.20	--	--	--	--	--
Information Check-Out	--	--	0.50	--	--	0.50
Permit Preparation	2.00	--	0.50	2.00	--	0.50
Inspection Preparation	--	3.00	0.50	--	3.00	0.50
Total Estimated Hours	**3.20**	**3.00**	**2.00**	**2.00**	**3.00**	**1.50**
FY 24-25 Fee Rate	$219.43	$191.74	$291.99	$219.43	$191.74	$291.99
Estimated Cost	$1,861.39 per initial permit			$1,452.07 per reevaluation		
Proposed Fee in Rule	**$1,861 per initial permit**			**$1,452 per reevaluation**		

Schedule F.12 - CEQA Findings		
Task	**AQ Spec. III**	**Div. Mgr. or Supv.**
Confirmation of CEQA Determination	3.00	--
Prepare CEQA Findings for Permit	3.00	0.50
Total Estimated Hours	**6.00**	**0.50**
FY 24-25 Fee Rate	$191.74	$291.99
Estimated Cost	$1,296.43 per permit	
Proposed Fee in Rule	**$1,296 per permit**	

Schedule F.13 - CEQA NOE/NOD Filing			
Task	**Permit Tech**	**AQ Spec. III**	**Div. Mgr. or Supv.**
Prepare Draft NOE/NOD	--	1.00	--
Review and Sign NOE/NOD	--	--	0.50
Physical Filing with Clerk of the Board	1.00	--	--
Total Estimated Hours	**1.00**	**1.00**	**0.50**
FY 24-25 Fee Rate	$150.38	$191.74	$291.99
County Clerk Filing Fee	$50 per filing		
Estimated Cost	$538.11 per filing		
Proposed Fee in Rule	**$538 per filing**		

Schedule F.14 - ERC Reissuance		
Task	**AQ Engr. III**	**Div. Mgr. or Supv.**
ERC Document Preparation	2.00	--
ERC Issuance	0.50	0.50
Update Source Register & Database	--	1.00
Total Estimated Hours	**2.50**	**1.50**
FY 24-25 Fee Rate	$219.43	$291.99
Estimated Cost	$986.57 per application	
Proposed Fee in Rule	**$986 per application**	

Schedule F.15 - Reinstatement of Permit			
Task	**Permit Tech**	**AQ Spec. III**	**Div. Mgr. or Supv.**
Issue Permit Suspension Warning Letter	--	--	1.00
Issue Permit Suspension Letter	--	--	1.00
Confirm Operations Ceased Following Suspension	--	2.20	0.50
Issue Permit Reinstatement Letter	--	--	1.00
Update Database Throughout Process	1.00	--	--
Total Estimated Hours	**1.00**	**2.20**	**3.50**
FY 24-25 Fee Rate	$150.38	$191.74	$291.99
Estimated Cost	$1,594.17 per permit		
Proposed Fee in Rule	**$1,594 per permit**		

Schedule G.3 - Product Variance				
Task	**Initial**		**After 3 Months**	
	AQ Spec. III	**Div. Mgr. or Supv.**	**AQ Spec. III**	**Div. Mgr. or Supv.**
Review Variance Petition	2.00	0.50	--	--
Compile Variance Findings	11.20	2.30	--	--
Attend Hearing	2.00	2.00	--	--
Additional Tracking and Reporting	--	--	3.04	0.96
Total Estimated Hours	**15.20**	**4.80**	**3.04**	**0.96**
FY 24-25 Fee Rate	$191.74	$291.99	$191.74	$291.99
Estimated Cost	$4,315.97 per petition		$863.19 per month	
Proposed Fee in Rule	**$4,315 per petition**		**$863 per month**	

Appendix B - Fiscal Impacts

Table 1: Estimated Fiscal Impacts of New and Modified Fee Schedules

Schedule	Item	Fee Type	Anticipated Number of Affected Units		Proposed Fee	Cost Recovery	FY 24/25 Increase
A	1.a	Minimum Permit Evaluation	50	Permits	$1,353	100%	$47,650
B	1.a	Emergency Engine Annual Review	417	First Engines	$657	100%	$204,697
			234	Additional Engines	$328	100%	$37,880
	1.b	GDF Phase II Annual Review	1,018	Nozzles	$97.43	100%	$68,583
	3.a	Annual Air Toxics - Small Sources	867	Stationary Sources	$272	100%	$235,824
	4	Annual Air Quality Planning	547	Tons (PM + SOx)	Varies (>10 tons)	--	$75,111
D	---	Sample & Lab Analysis	0	Analyses	$287	100%	$0
F	4	Transfers – Permit Split Evaluation	1	Permit	$1,047	100%	$1,047
	7	School Public Notices	8	Permits	$3,607	100%	$16,856
	8	HRA Screenings	19	Applications	$877	100%	$16,663
	9	IPAP Program	36	Permits	$917	100%	$33,012
	10	Confidential Handling	2	Initial Permits	$1,861	100%	$3,722
			15	On-going Permits	$1,452	100%	$7,260
	11	Data Acquisition System (DAS)	141	Parameters	$1,323	--	$0
	12	CEQA Findings	12	Permits	$1,296	100%	$15,552
	13	CEQA NOE/NOD Filing	6	Permits	$538	100%	$3,228
	14	ERC Reissuance	7	Certificates	$986	100%	$6,902
	15	Reinstatement of Permit	0	Permits	$1,594	100%	$0
G	3	Product Variance	0	Variances	$4,315	100%	$0
							$773,986

Table 2: Matrix Fee Study Results with Proposed Increases Over Time

Schedule	Items	Schedule Description	Current Revenue	Matrix Cost Recovery	Estimated Years of Increases	Future Cost Recovery	Revenue at End[1]
A	1.b, 2-10	Equipment/Facility	$1,157,439	60%	**4**	85%	$1,635,277
B	3.b	Annual Air Toxics	$113,970	44%	**6**	85%	$220,449
	4	Annual Air Quality Planning	$344,135	80%	**1**	85%	$364,095
C	All	Source Tests	$105,321	59%	**4**	85%	$152,050
F	1-3, 5-6	Other Fees	$294,193	21%	**10**	64%	$913,720
G	1-2, 4-5	Hearing Board	$33,344	35%	**8**	85%	$81,061
		Total	**$2,048,403**	**47%**	---	**78%**	**$3,366,652**

Table 3: Fiscal Impacts of Existing Fee Schedule Annual Increases[1]

Schedule	Items	FY 24/25 Increase	FY 25/26 Increase	FY 26/27 Increase	FY 27/28 Increase	FY 28/29 Increase	FY 29/30 Increase	FY 30/31 Increase	FY 31/32 Increase	FY 32/33 Increase	FY 33/34 Increase
A	1.b, 2-10	$138,893	$155,560	$174,227	$9,159	---	---	---	---	---	---
B	3.b	$13,676	$15,318	$17,156	$19,214	$21,520	$19,595	---	---	---	---
	4	$19,960	---	---	---	---	---	---	---	---	---
C	All	$12,639	$14,155	$15,854	$4,081	---	---	---	---	---	---
F	1-3, 5-6	$35,303	$39,540	$44,284	$49,598	$55,550	$62,216	$69,682	$78,044	$87,409	$97,899
G	1-2, 4-5	$4,001	$4,481	$5,019	$5,622	$6,296	$7,052	$7,898	$7,348	---	---
		$224,472	**$229,054**	**$256,540**	**$87,674**	**$83,366**	**$88,863**	**$77,580**	**$85,392**	**$87,409**	**$97,899**

[1] Excludes CPI adjustments.

Appendix C - Frequently Asked Questions (FAQs)

The following text provides rule clarifications in the format of frequently asked questions. Topic sections are provided to group similar questions together.

Topic Section	FAQs
General Rule Implementation	#1 - 5
Recurring Fee Implementation	#6 - 9
Delinquency Penalties and Permit Suspension	#10 - 12
Miscellaneous	#13 - 18

Topic: General Rule Implementation

1) **Question:** If the rule amendments are adopted by the Board of Directors, when would the rule be effective?

   Response: The rule amendments would be effective on July 1, 2024. Any new and modified fees addressed in the rule will start to be assessed on and after this date, even if a permit application was submitted prior to July 1, 2024.

2) **Question:** Will the new fees be increased by the CPI on July 1, 2024?

   Response: No, the new fees will not be increased by the CPI on July 1, 2024 since they are established based on the FY 2024-25 billing rate.

3) **Question:** Will the existing fees be increased by the CPI on July 1, 2024?

   Response: Yes, the existing fees are anticipated to be increased by the CPI. Since the amendments to Rule 210 are proposed to be effective on July 1, 2024, both the CPI of 4.2% and the first annual increase for the affected schedules (pursuant to Rule 210, Section E.6) are already incorporated directly into the proposed rule language.

4) **Question:** Is there a limit to the annual increases for existing fees?

   Response: Yes, California Health and Safety Code §41512.7 limits existing ATC and PTO fee increases to no more than 15% in a single year. Building off this requirement, staff proposes to limit all existing fee increases to a maximum of 15% per year to provide for a simpler rule and to ensure that the increases are not excessive.

5) **Question:** How can I verify the annual fee increases and the CPI for each schedule?

Response: The District publishes a fee memo at the following website www.ourair.org/district-fees/ every year at the beginning of July. The fee memo explains the CPI increases and it will also explain the annual fee increases prescribed in Rule 210, Section E.6. For example, since the CPI adjustment will be 4.2% on July 1, 2024, only 10.8% of the 12% increase allowed by Rule 210, Section E.6 will be applied to the existing schedules for the first year to prevent the total increase from exceeding 15%.

Topic: Recurring Fee Implementation

6) **Question:** When are the Recurring Fees invoiced?

Response: Please see the calendar below for the typical invoicing time frames for the existing recurring fees and the proposed time frame for the annual reviews for emergency diesel engines and GDFs.

Recurring Fee Calendar	
Recurring Fee	**Invoice Issued**
Permit Reevaluations	3 years from last PTO issuance
Air Quality Planning	January
Annual Emission and Air Toxics	January - June
Agricultural Diesel Engine Registrations	February
Annual Reviews for Emergency Diesel Engine and GDFs	August

7) **Question:** Why is there a 6-month time range where the Annual Emission and Air Toxics fees are invoiced?

Response: Annual Emission and Air Toxics fees are typically invoiced between January and June each year. Since these fees are based on the actual emissions from each stationary source, District staff can't process all the fees until the necessary throughput ("production data") records are received. Each stationary source is required to submit their throughput records by March 1 every year, but there may be delays in the source's throughput submittal, which would effectively delay the District's issuance of these two fees.

8) **Question:** I know I need to cancel my permit in the near future. Is there a specific date that I should request to cancel my permit by to stop any new Annual Emission, Air Toxics, or Air Quality Planning fee invoices from being created? Would this also apply to the new Annual Review fees for emergency diesel engines and GDFs?

   Response: To be excluded from the annual billing cycle, the source must submit a request to cancel their permit, in writing, prior to July 31. This applies to the Annual Emission, Air Toxics, and Air Quality Planning fees as well as the proposed Annual Review fees. Requests may be submitted electronically by sending an e-mail to engr@sbcapcd.org. Please note that a request to cancel a permit would not be acted upon until all prior invoices and enforcement actions are resolved.

9) **Question:** I have portable equipment that is currently permitted by the District, but it won't operate in Santa Barbara County for the next year. Can the permit be inactivated so the recurring fees don't accrue?

   Response: No. All recurring fees must be paid in accordance with the rule, and the failure to do so will result in delinquency penalties and permit suspension.

Topic: Delinquency Penalties and Permit Suspension

10) **Question:** I recently purchased an existing, permitted operation within Santa Barbara County, and so I'm looking to submit a Transfer of Ownership form. However, the District has informed me that the permit has outstanding fees and delinquency penalties associated with it. Can the delinquency penalties be waived since I'm a new operator?

    Response: No. The District cannot waive the delinquency penalties at the time of transfer. All prior fees (including delinquency penalties) must be provided with the application to transfer ownership.

11) **Question:** My permit has been suspended due to the failure to pay the fees, but I need to operate in Santa Barbara County again. Can I submit a brand new application rather than paying the outstanding fees and delinquency penalties for the existing permit?

    Response: No. All prior fees (including delinquency penalties) must be provided with the application to reinstate the permit.

12) **Question:** For stationary sources that have two separate operators, what happens if one of the operators fails to pay the applicable fees?

    Response: If the operators share a single permit, the permit will be suspended. However, if the operators each have their own permit for the stationary source, the District may suspend only those permits belonging to the delinquent operator.

Topic: Miscellaneous

13) **Question:** I already have a cost reimbursement account with the District and I need to submit a new permit application with the required filing fee. Can I authorize the District to charge the filing fee to my account?

Response: Yes, you can authorize the District to charge the filing fee to your account. The "Services, Equipment, Supplies, and Materials" section that has been added to the rule clarifies that a Cost Reimbursement account can cover "the cost of filing any required documents."

14) **Question:** Can I request to have my permit application expedited by requesting District staff to work overtime?

Response: No, there is currently no process to allow District permitting staff to work overtime to expedite a permit. This is because permitting staff are classified as FLSA (Fair Labor Standards Act) exempt. The Rule 210 language for overtime has been removed to prevent any confusion on the potential for overtime work.

15) **Question:** If the lead agency determined my project to be exempt under CEQA, why would the District need to assess a CEQA findings fee?

Response: The District is not bound by a lead agency determination on CEQA if it was based on a CEQA exemption. Prior to issuing a permit, District staff must conduct a review of the project to determine whether the project may qualify for an exemption from CEQA. There are several different types of exemptions that the District may consider and evaluate for applicability including: an exemption afforded by statute, an exemption pursuant to a categorical exemption, the common sense exemption from CEQA, and/or the District's *List of Exempt Projects* as specified in *Appendix A* of the District's *Environmental Review Guidelines*. In many cases, such reviews are relatively straightforward and involve minimal staff time. In other cases, the exemption determination involves extensive effort, including information requests and documentation to provide the substantial evidence necessary to support the District's determination.

16) **Question:** What is the Increment Fee and how does it relate to the Annual Emission Fee?

Response: The Increment Fee is a mitigation fee assessed to some of the larger stationary sources within the District under Rule 805 - Air Quality Impact Analysis (AQIA). The Increment Fee is based on the maximum modeled concentration of the projected peak emissions year for the project, and the fee depreciates by 10% per year over a 10-year project life. Only a handful of these evaluations have been performed in the District.

During the 1986 amendments to Rule 210, language was added that required the Annual Emission Fee to be reduced by the Increment Fee. However, the old rule language effectively negates any mitigation efforts since it simply takes the fees from one District program and transfers it to another District program. Hence, the language allowing for this adjustment is proposed to be removed from Rule 210.

17) **Question:** On the source testing schedule, what's the timeframe for source testing additional engines to qualify for the reduced fee?

Response: To qualify for the reduced fee schedule for source testing multiple engines, all engines must be source tested on the same day.

18) **Question:** I have additional questions about the District's fee program and the proposed amendments.

Response: For more information or assistance on the existing fee program, please visit www.ourair.org/apcd-permit-process/ or call the District's Business Assistance Line at (805) 979-8050 or send an e-mail to engr@sbcapcd.org. For questions and comments on the proposed amendments to District Rule 210, please contact staff at (805) 979-8329 or send an e-mail to rules@sbcapcd.org.

Appendix D - Summary of CAC Discussion - January 10, 2024

The following document contains a summary of the questions and public comments raised during the Community Advisory Council meeting on January 10, 2024. Please note that some of the questions and comments have been reordered to group similar topics together. Also, additional information has been added to some of the Staff Responses to provide for a more thorough response. The five groupings in this document are listed as follows:

1) CAC Member General Questions on Rule 210, Fees
2) CAC Member Cannabis-related Questions
3) Public Comments Received at the CAC Meeting
4) Follow-up CAC Member Questions
5) General Comments from CAC Members

CAC Member General Questions on Rule 210, Fees

Question #1: What is the basis for the 85% cost recovery goal?

Staff Response: Matrix Consulting recommended an 85% cost recovery goal. Matrix identified that 100% is an ideal goal for an agency, but acknowledged that 100% is difficult at this point in time. The Bay Area AQMD and San Diego APCD started at 85% cost recovery when they went through a similar process with their fee rules.

Question #2: If permitted stationary source fees don't cover your expenses, how do you make up your budget?

Staff Response: Currently, the District is using other funding sources to cover the costs to implement the stationary source permit program. We receive state and federal grants, DMV fees, and some administrative funds to conduct grant programs such as the Carl Moyer Grant Program. We receive no taxpayer funds. Please see Figure 2.1 in the staff report which demonstrates the Operating Revenue by Category for Fiscal Year 2023-2024. While the District has been able to carry out the permit program using other funding sources, it is not the original intent of these funding sources to subsidize that program.

Question #3: What are the DMV fees used for?

Staff Response: Assembly Bill 2766 was adopted in 1990 to assess a $4 fee on each vehicle registration. These DMV fees provide a revenue stream for implementing the California Clean Air Act and programs to reduce air pollution from motor vehicles and for related planning, monitoring, enforcement, and technical studies. When the DMV fees are freed up from subsidizing the permit program, the District could start other projects to put those funds back into the community.

Question #4: Are you prohibited from using the DMV funds as you have been for the permitting program?

Staff Response: It is not the legislative intent to use DMV fees to subsidize the stationary source permitting program. In 2020, the California State Auditor reviewed the San Diego County APCD's program and made recommendations that the DMV fees should be used to help reduce mobile source emissions instead of subsidizing the permit program. The Auditor also made recommendations to the

state legislature that each air district increase the transparency of, and promote accountability for, the use of the vehicle registration fees. Santa Barbara County APCD is not bound by this audit, but we incorporated the recommendations into the District's Cost Recovery Policy, where we aim to recover the costs for the stationary source program by assessing fees to the permitted sources.

Question #5: For businesses, we obviously want to avoid the delinquency penalty, but processing an invoice often takes time due to all the different departments and procedures needed to cut the check. Can we arrange for e-mailed invoices, or can we use an online payment system?

Staff Response: The Rule 210 language and invoices require the fees to be paid within 30 calendar days ("net 30"). However, the delinquency penalty is not assessed until day 61. Sources can request an e-mailed invoice and may pay for invoices through the District's online payment system. Sources may also pay by ACH or can arrange for a payment plan if the source calls the Fiscal Department to work out the details.

Question #6: When do the 12% increases for the existing fees start?

Staff Response: Pending Board approval, the initial increases would be effective on July 1, 2024 as they are already incorporated into the draft rule language. This clarification is described in the first few FAQs of the staff report.

Question #7: How much has the CPI increased the District's fees since 1991?

Staff Response: Since 1991, the District has adjusted its fees by 113% in accordance with the annual CPI changes. For example, the filing fee for an ATC permit was $230 in 1991 and it is $491 in 2023. The District uses an April-to-April calculation for each CPI adjustment based on the California calculator for all Urban Consumers. Please note that the full CPI change between 1991 and 2023 is 137%, as the District did not perform any CPI adjustments between 1991 and 1995.

Question #8: Did the Matrix report bring out a per capita cost comparison to other larger air districts?

Staff Response: Matrix Consulting did not provide any sort of per capita cost or comparison to the other air districts.

Question #9: You mentioned that the Matrix report did not evaluate the asbestos fees or the annual emission fees. Are you going to increase those two fees in the future?

Staff Response: For asbestos, the District currently implements the federal NESHAP (National Emission Standards for Hazardous Air Pollutants), but we are looking to develop our own rule that is more complete and easier to implement. We will review the cost recovery and fees associated with the asbestos program at that time. As for the annual emission fee, it wasn't evaluated by Matrix since it's hard to silo that fee to hourly work associated with a specific project. The annual emission fee is used for operational funds to cover tasks such as general planning review and maintaining the air quality monitoring stations. There are no plans to increase the annual emission fee beyond the CPI at this time.

Question #10: With Particulate Matter (PM) coming into the Air Quality Planning fee equation and industrial sources controlling their dust, will agricultural operations take any responsibility for their operations?

Staff Response: Additional requirements on agricultural fugitive dust would require a new prohibitory rule. At this time, we're focusing on the fee provisions in Rule 210. No regulations impacting agricultural fugitive dust are being considered.

Question #11: For the prorated discount for the first annual review cycle for diesel emergency engines, why are the Title V sources getting a lower discount than a non-Title V source?

Staff Response: As identified in Section 4.2 of the staff report, the first cycle of the emergency engine annual review fee will be prorated for permits that were recently reevaluated for a three-year period. The prorated discount amount takes into account the permit fees already charged for diesel emergency engines. Title V sources are currently assessed the Miscellaneous Equipment fee ($85.90 for a 3-year reevaluation permit) while non-Title V sources are currently assessed the Minimum Reevaluation fee ($535 for a 3-year reevaluation permit). Since the current Title V permit fees for emergency engines are lower than the non-Title V fees, the prorated discount is lower for Title V sources.

Question #12: Why is there no reduction for the number of nozzles at a gas station?

Staff Response: Gas station fees have had reduced revenue since the State switched the requirements from six-pack (6 nozzles per dispenser) to uni-hose (two nozzles per dispenser) dispensers about 15 years ago. When that happened, there was a large reduction in permit fees from this source category. For this Rule 210 project, we initially considered going away from the "per nozzle" fee and switching to a "throughput" fee, but it proved to be more complicated. We're proposing to stick with the existing "per nozzle" methodology to achieve cost-recovery.

Question #13: If a source pays an Interim Permit Approval Process (IPAP) fee, should they be given a reduction in the ATC (Authority to Construct) fee?

Staff Response: The IPAP fee was calculated to cover only the cost of creating and issuing the IPAP agreement. All of the work associated with an ATC permit still has to be performed, and issuing an IPAP agreement doesn't reduce the workload associated with the ATC permit.

CAC Member Cannabis-related Questions

Question #14: What are the emission implications of the cannabis industry and why is permitting the industry complicated?

Staff Response: The cannabis industry is a relatively new industry, and the Air District only regulates the post-harvest operations, as the growing and harvesting of cannabis are agricultural operations that are exempt from district permit. Post-harvest cannabis operations include processing (e.g., trimming, drying, curing, flash freezing, etc.) of the plants, the manufacturing process of turning the cannabis into oils and other products (e.g., extraction, refinement, etc.), and the distribution, storage, and/or packaging of the products. The California Health and Safety Code requires the District to regulate post-harvest cannabis operations because they emit air pollution.

Manufacturing by far is the largest emission source due to the use of solvents with a high ROC (Reactive Organic Compound) content. Although the systems recycle the solvent, we've found that the

systems are achieving less than a 100% recycle rate. Cannabis manufacturing can be compared to operations like a distillation column at an oil and gas plant, as they require time for our engineers to review and permit. Facilities that only process, distribute, store, or package cannabis may have lower criteria pollutants, but they often have odors associated with them. We've found that there are a lot of variations among the cannabis facilities since they are not standardized and have their own specific ways of performing their operations.

As specified in the California Health and Safety Code, the District is required to observe and enforce air quality requirements such as rules and regulations, permit conditions, and nuisance for all sources of air pollution, including post-harvest cannabis sources. The focus of permitting cannabis operations is to ensure the criteria pollutant emissions are accurately quantified and controlled, and the odor-control equipment is working and being maintained properly. The District achieves this by conducting routine inspections, responding to air quality complaints, and reviewing records and reports. Staff has provided permitting information to cannabis stakeholders through notifications and advisories, and the District will continue to do more surveillance to identify all applicable facilities.

Question #15: How many cannabis complaints do you receive (relative to other types)?

Staff Response: It ebbs and flows and depends on the situation and the individual facility. We have had nuisance complaints related to post-harvest cannabis facilities that were impacting the surrounding community. We had to work with the facility to address the complaints, make sure the facility was operating with an Air District permit, and verify that the odor-control system changes were successful.

Question #16: The cannabis industry seems to be doing their due diligence with the County to have an odor abatement plan verified by professional engineers. These businesses can have narrow margins, so have you thought of combining efforts with the County?

Staff Response: All air quality regulations fall within the purview of the District. We often collaborate and look into the requirements from other agencies, but regardless of what other agencies require, the District's responsibility is to ensure that all air quality rules and regulations are being implemented in an equitable and efficient manner. Our engineers ensure the odor-control systems are being operated properly and the operators are following the required maintenance procedures. We have permit conditions that, when followed, should allow the facility to operate without causing an impact to the surrounding community. During the inspection, we review their records and make sure they're following their permit conditions. We're focusing our efforts to make sure that there is continued compliance. Also note that not all cannabis operations fall within County jurisdiction, as some are under City jurisdiction.

Question #17: Do your permits reference the County odor-abatement plans?

Staff Response: Our permits do not incorporate the County odor-abatement plans by reference, as enforceable conditions. Our permits require inspection and maintenance plans to ensure odor systems are inspected regularly and being maintained. We collect all the manufacturer literature for the control systems, and make sure we have permit conditions that provide for the successful on-going operation and maintenance of the system.

Public Comments Received at the CAC Meeting

Commenters #1-2: Amanda Clark & Whitney Collie - Coastal Blooms Nursery & Sublime Processing

The commenters focused on 3 requests:

1) The District should issue a waiver since it undermines the permitting under the County's (Planning & Development) system.
2) If using a recommended control system from the District's Advisory, the District should set a flat fee for the odor-control system, and
3) The District should set the odor-control fee by system, not by device.

The commenters informed the group that the County requires the facility to pay for a consultant and perform odor monitoring for the first five quarters of initial operation. If there are no complaints within those five quarters, the facility can then continue their odor-monitoring on their own. If there are complaints, the County can pull a cannabis facility's land use permit. The commenters also addressed the different land use determinations and jurisdictions, as cannabis facilities in the City of Goleta do not have this quarterly monitoring requirement.

Commenter #3: Ambrose Curry [aka "Kapono"] - Bay Kinetic

The commenter focused on incentivizing industry to move toward best practices, and not being punitive. The commenter proposed reducing fees for smaller emitters and increasing fees for manufacturing operations that use solvents. The commenter also provided information relating to the maintenance of odor-control systems, referencing the applicable ASTM for predicting carbon breakthrough in carbon canisters. The commenter noted that the County recently received $1.5 million to address odor issues through Geosyntec.

Commenter #4: Lindsay Cokeley – Local Cannabis Company

The commenter said that their facilities are triple-regulated, between the City, the County, and the District. The commenter recommended re-looking at the fee calculation for the square foot amount and adding definitions for how the fees would apply to the equipment types. The commenter recommended that the District should also consider looking at differences between cannabis operations. As an example, if a facility is using half the building space for just storage, the square foot fee is penalizing the storage operation compared to a facility that is using their whole building for more odorous processing operations.

Commenter #5: Mario De La Piedra - Farming First Holdings

The commenter said that his processing facility is in the middle of a residential neighborhood. The facility has already spent $500,000 on odor-abatement plans and is spending $33,000 per year on carbon replacement. The commenter offers tours of the facility to show how well the equipment works.

Commenter #6: Travis Nichter – Local Cannabis Processing Company

The commenter began by asking questions to District staff about the estimated income from the new cannabis fees, the number of facilities currently permitted, and the total number of facilities within the County. The commenter explained that his facility is 70,000 square feet with 10 carbon scrubbers of all the same type, so he believes that it's not going to take the District extra work to understand each individual scrubber. The commenter estimated his fees to be $70,000 under the draft rule language and

asked staff about the fee amount. Staff responded that the draft fee schedule was based on the workload for the permitting evaluations and compliance inspections that have been performed to date.

The commenter addressed learning curves and how he understands permitting the first facilities at the beginning probably took more time. The commenter asked the District to wait and re-evaluate the cannabis fees after more time is spent understanding the cannabis industry. The commenter noted that the fee proposal would have a significant impact on their operational cost.

The commenter verified that no combustion equipment is used for the drying process and the facility dehumidifies the cannabis in a closed loop system. The commenter was also asked if he was interested in the District's Cost Reimbursement Basis where the District assesses fees based on the hourly rates for staff time, but the commenter said he would have to look into it some more.

Follow-up CAC Member Questions

Question #18: Can the District reevaluate the cannabis costs in the future in 1-2 years from now?

Staff Response: Rule 210 can always be reopened in the future if there are new staff or industry efficiency measures that reduce the workload and fees associated with permitting and inspecting this industry. However, the District is currently under-recovering the cost to implement the permit program for the post-harvest cannabis operations.

Question #19: The public comments are very compelling. Does the District have any responses?

Staff Response: Staff has discussed potential options in response to the one written comment and one office hours appointment. We don't want to disincentivize the use of multiple odor-control devices, as we would rather facilities over-install control devices to prevent public nuisances. However, after hearing all the comments and public discussion, we'll want to bring this item back to the CAC in February after we evaluate this topic further. We will talk to both the County and the cannabis sources to gather additional input.

General Comments from CAC Members

- Suggested reevaluating the fee rule more regularly (every 5-10 years).
- Suggested showing a graph of how the proposed fee increases relate to the projected deficits.
- Clarified that the District is the appropriate agency to address nuisance and criteria pollutants, independent of what the County is doing for the cannabis industry. The role of the CAC is not to decide if the District is going to permit sources. The CAC is here to address the cost and cost estimates to the District.
- Suggested the District check in with the County to see how their cannabis program is working and how they evaluate the long-term maintenance of the odor-control systems, beyond the initial five quarters.
- Suggested the District establish definitions in the fee rule for cannabis operations. The definitions should address odor-control systems and the differences between storage, processing, and manufacturing operations.

- Suggested incentivizing the cannabis industry to go above minimum requirements and ensure smaller operators aren't unfairly affected by the fee structure.

- Suggested the District look at outreach options to ensure industries affected by the fee rule know of the changes, and once the rule is final and approved, ensure awareness and compliance.

- Encouraged affected industries to share feedback with the District as soon as possible to allow the District to consider comments while the process is still underway.

Appendix E - Summary of CAC Discussion – February 15, 2024

The following document contains a summary of the questions and public comments raised during the Community Advisory Council meeting on February 15, 2024. Please note that some of the questions and comments have been reordered to group similar topics together. The four groupings in this document are listed as follows:

1) CAC Member Questions on the Three Additional Changes to Rule 210, Fees
2) Public Comments Received at the CAC Meeting
3) Staff Response to Public Comments Received at the CAC Meeting
4) Concluding Comments from CAC Members

CAC Member Questions on the Three Additional Changes to Rule 210, Fees

Question #1: How many companies are currently on the Cost Reimbursement Basis? And how do you determine the Cost Reimbursement rates?

Staff Response: Around 5% of the permitted stationary sources are on the Cost Reimbursement Basis, which is about 50 stationary sources. The District has flat rates for each job class that stay consistent throughout each fiscal year. The rates are then reassessed on July 1 to factor in changes to salaries, benefits, and overhead.

Question #2: Is the District required to put together a cost estimate and notify the applicant if there are any changes?

Staff Response: Yes, the initial estimate that the District compiles is for the first 90 days of work. We obtain a deposit for this amount and bill for our time once a month. Rule 210 provides for this protocol, and the deposit can be adjusted to ensure sufficient funds are available for the estimated workload.

Question #3: Do you feel that cannabis companies are incentivized to make improvements to their odor control equipment under the Cost Reimbursement Basis?

Staff Response: Yes, the cost reimbursement fee basis incentivizes companies to implement effective odor control systems to avoid potential compliance issues, such as odor impacts to the surrounding community. This is because compliance issues result in additional fees associated with the District staff time to investigate and document the situation, as well as work with the company until the issues are addressed. Although a permit application is required to install additional control devices, these permit modifications are expected to have lower costs than the costs associated with compliance issues.

Question #4: Do the delinquency penalty changes affect the budget?

Staff Response: The District's budget doesn't anticipate for penalty revenue, so the rule amendments to the delinquency penalty provision will not affect the budget.

Question #5: If the agricultural engine fee increase is removed from the rule, does it affect the budget?

Staff Response: Removing the agricultural engine fee increase from the proposed amendments will have a negligible impact since these fees make-up less than 1% of the budget.

Question #6: For the agricultural engine reciprocity condition, is San Luis Obispo (SLO) County APCD the only reciprocal county?

Staff Response: SLO County APCD and Ventura County APCD both have the reciprocity conditions built into their implementing agricultural engine rule. However, Ventura County APCD has not increased its agricultural engine fees in accordance with the CPI. Hence, only SLO County APCD is reciprocal at this time since their fees are within 15% of the SBCAPCD's fees.

Public Comments Received at the CAC Meeting

Commenter #1: Eric Edwards, Headwaters

The cannabis industry is nervous that under the Cost Reimbursement Basis, the inspection frequency will increase and we have no input. The Planning Department for Santa Barbara County has a similar system, and they can send 3-4 people that all get paid for by us. Northern California counties are cutting taxes on cannabis at this time, but Santa Barbara County is seemingly going the other direction and passing the bill to us.

Commenter #2: Hanna Brand, Autumn Brands

The commenter is concerned with the potential permit fees associated with moving or changing equipment at cannabis facilities, such as the fans and processing equipment. Cannabis facilities are actively trying to improve their process, but this is difficult to perform when they are unsure of the permit fees. These fee estimates are needed from a business standpoint.

Commenter #3: David Billeshauh, Pacific Dutch Group

The commenter stated that he has some post-harvest cannabis operations, and that the APCD mitigation requirements from 2017 have been incorporated into the County documents. Projects with odor-abatement plans are already complying with these requirements, and the commenter suggested that the APCD work with County Planning to make sure job responsibilities are shared and not duplicated.

Staff Response to Public Comments Received at the CAC Meeting

- Staff summarized our efforts since the last CAC meeting, which includes additional engagement with County Planning. We have and will continue to coordinate with agencies with jurisdiction over post-harvest cannabis facilities. All cannabis facilities that have been permitted by the APCD to date have implemented some form of odor abatement strategy and have installed odor-control equipment. The District's permitting requirements are complimentary to these odor control strategies and build off of their initial design and implementation through the District's ongoing inspection and maintenance activities.

- In response to comments about the District's regulatory authority for cannabis operations, staff shared that the District has regulatory authority for post-harvest cannabis operations. Specifically, the District is mandated by the California Health and Safety Code to regulate the criteria pollutant emissions and potential for nuisance from stationary sources of air pollution, including post-harvest cannabis operations. The District implements these mandates by issuing permits to ensure compliance, and by conducting routine inspections, responding to air quality complaints, and reviewing records and reports. These tasks are conducted by the District regularly and for the life of the project. The California Health and Safety Code mandates are independent of what other

agencies, such as the County, require for the cannabis industry. Nonetheless, we have and will continue to coordinate with agencies with jurisdiction over post-harvest cannabis facilities.

- In regards to the inspection frequencies, we have an inspection frequency policy which guides the implementation to be quarterly to every 3 years. Staff does not anticipate inspecting cannabis operations weekly, and we are not hiring brand new staff & engineers to spend a lot of time on cannabis. If we had staff shadow another staff member for training, the time spent on training would not be assessed to the facility.

- In regards to permit applications, District Rule 202 provides for an exemption for moving equipment at the facility. We can also make our permits flexible for certain equipment, which would allow for adding or substituting different exhaust fans at the facility.

Concluding Comments from CAC Members

- It looks like you listened to public comment and are providing reasonable solutions. If industry has questions on permits, they should call the District and ask for guidance to make a proper business decision. The District encourages pre-application submittal meetings to streamline the permitting process, and these are done free of charge.

Appendix F - Written Public Comments

COASTAL BLOOMS
NURSERY

December 21, 2023

RE: Amendments to District Rule 210, Fees
NOTICE OF OPPOSITION

Dear Santa Barbara County Air Pollution Control District:

Coastal Blooms Nursery writes in opposition to the amendments to District Rule 210, which impose unwarranted fees on the cannabis industry that will hamper legal businesses while indirectly benefiting the illicit cannabis industry.

We operate cultivation, processing, packaging, manufacturing, and retail locations. We pride ourselves on not only the quality and consistency of our products, but also our commitment to continue working with our community and County on the abatement of cannabis odor.

A key pillar of following through on our commitment to drive the ball forward on odor control has been continuous research, exploration, testing, deployment, and the operational refinement of odor control systems and technology. The proposed amendments will financially restrict our ability to continue to do so.

Specifically, we **oppose** the amendments to Rule 210 for the following reasons:

- **Unnecessary Redundancy:** Existing code already evaluates the efficacy of odor control technology (County Code Chapter 50, CZO Section 35-144U, LUDC Section 35.42.075). In unincorporated areas of the County, operators are required to have an Odor Abatement Plan (OAP) certified by a Professional Engineer or Certified Industrial Hygienist that is approved through the Land Use Permitting process. Once permitted and operating, the operator is required to pay for a County contractor to perform quarterly inspections that confirm the efficacy of the odor-control system. The District permitting odor-control devices undermines the discretion of the Planning and Development Department to evaluate OAPs and could ultimately exacerbate public nuisance rather than improve it. Comment #1-1

- **Counterproductive Prohibitions:** The odor-device fee structure proposed in the amendments do not incentivize cannabis operators to go above and beyond to ensure odor abatement. The District requires operators to undergo a modification of the permit and pay new fees every time an upgrade is made to the odor-control system. Best available Comment #1-2

control technology (BACT) is always evolving and should not be taxed. Operators should be encouraged to develop and deploy new methods to abate odor.

- **Unjust Treatment:** The proposed fees set an unreasonable precedent for departments to regulate an already overly-regulated industry. Many agricultural sectors emit odors but are not targeted as a public nuisance. Why should cannabis be singled out by yet another department? Comment #1-3

Alternate Solutions: The District's Cannabis Advisory recommends effective odor-abatement systems. If an operator uses a recommended system, the District should not have to confirm that the system is effective. The District will only have to confirm that the system was installed as promised. Therefore, the District should establish a base fee to permit recommended systems as an incentive for operators to use them. Comment #1-4

Operators that do not use a recommended system should be charged the permitting fee per system, not per device. The current permitting process is already set-up to determine efficacy of the overall odor-control system, not each device within the system. Moreover, odor-control devices are typically redundant throughout the system. Comment #1-5

Finally, the District should provide operators that have approved OAPs from other jurisdictions with waivers to eliminate permitting redundancy. The District could require operators to submit approved OAPs to receive a waiver so that it can confirm the operator is using an effective odor-control system. Comment #1-6

In summary, these amendments would be another detrimental blow to the County's struggling regulated cannabis marketplace if passed as written. For these reasons, Coastal Blooms Nursery respectfully opposes the amendments and requests that you consider other options to recover costs.

Sincerely,

Whitney Collie

Whitney Collie
Vice President of Compliance
Coastal Blooms Nursery

From: QuanHandley, Patty
To: Timothy J. Mitro
Cc: Rules; Diggins, Sean
Subject: Comments to Rule 210 "Invoicing Protocols"
Date: Wednesday, January 31, 2024 10:40:29 AM
Attachments: image001.png
image002.png

To: Santa Barbara County Air Pollution Control District
I have recently been made aware of the proposed changes to the existing Rule 210 regarding "invoicing protocols." I understand that my comments on this proposed rule are being submitted a month after the date published date for commenting on this proposed rule. However, I feel it is important to make my concerns known. I am writing specifically in regard to the proposed Day 61 delinquent penalties to be assessed at 25% of the total due. Assessing a 25% penalty is egregious, especially in light of the fact that 3-year permit renewal fees for Granite Construction Company (Granite) where I am employed are in the tens of thousand dollar range. With any corporations with a remote administration site (e.g., Granite's is in Watsonville, CA), there can be delays in requesting payment processing. A 25% penalty exceeds the previous penalty by a factor of 2.5x, and exceeds a standard CPI of 5% by a factor 5x! I believe that in order to promote businesses to remain operating in Santa Barbara County, the Rule 210 invoicing protocols should remain the same with Day 61 delinquent penalties assessed at 10% of the total due… Day 91 at 20%... Day 121 at 30%. I understand that the penalty for Day 151 and beyond should be harsher and include a suspension warning letter.

Comment #2-1

Table 7.1 – Existing and Proposed Rule 210 Invoicing Protocols

Day #	Existing Rule 210 Protocol	Proposed Rule 210 Protocol
Day 1	Invoice issued.	Invoice issued.
Day 31	Invoice due. Written notice/reminder of invoice.	Invoice due. Written notice/reminder of invoice.
Day 61	Delinquent penalty assessed. (10% total penalty)	Delinquent penalty assessed. (25% total penalty)
Day 91	Delinquent penalty assessed. (20% total penalty)	Delinquent penalty assessed. (50% total penalty)
Day 121	Delinquent penalty assessed. (30% total penalty)	Delinquent penalty assessed. (75% total penalty)
Day 151	Delinquent penalty assessed. (40% total penalty)	Suspension warning letter; and Delinquent penalty assessed. (100% total penalty)
Day 165+	**1)** Delinquent penalties continue to aggregate for every 30-day period. (100% cap on AB 2588 fees) **2)** District may seek permit revocation through the Hearing Board.	Suspension letter may be issued. District may also seek permit revocation through the Hearing Board at any time. **<u>If suspended</u>:** **1)** Facility may submit an application to reinstate their permit and pay all overdue fees and penalties within 180 days; **2)** District staff may inspect the facility and issue a Notice of Violation (NOV) for operating with a suspended permit.

I appreciate the SBCAPCD taking into consideration Granite Construction Company's comments here.

Sincerely,

PATTY QUAN-HANDLEY
Regional Environmental Manager
patty.quan-handley@gcinc.com
805-879-5316 805-722-0167
graniteconstruction.com

GOOD FARMERS GREAT NEIGHBORS

www.goodfarmersgreatneighbors.com

Comment #3-1

Attention: **Aeron Arlin Genet, APCD Control Officer**
ArlinggenetA@sbapcd.org
Alex Economou, APCD
AJE@sbapcd.org
Tim Mitro, Air Quality Engineer
MitroT@sbapcd.org

From: **Good Farmers Great Neighbors Trade Association**
Sam Rodriguez, Policy Director,
Sam@goodfarmersgreatneighbors.com
Sara Rotman, President
Stacey Wooten, Treasurer

RE: **APCD/Community Advisory Meeting**
Feb. 15th 2024
Agenda Item: Cost Recovery Recommendations for Cannabis Farmers and Manufacturers

First and foremost **Good Farmers Great Neighbors** looks forward to working in partnership with **SBAPCD staff** and helping to facilitate meetings, briefings, tours and working groups to better understand the **duali-licensing system** of the **State's Cannabis Regulated System**. To date, they are more than a **dozen combined local and state governmental agencies with oversight and jurisdictional** authority over the cannabis industry. Moreover, each cannabis business must receive a local and state permit or license to be fully operational -

more than 99% of the regulatory process requires applicants to obtain **CEQA** approval, **California Department of Fish and Wildlife** sign-off and **California State Water Resources** permission to name a few. At the State level it is an **extensive environmental and scientific review** of every application submitted to the **California Department of Cannabis Control**. It is a detailed, laborious and costly endeavor. No other industry in California has the same mandates and oversight!

Good Farmers Great Neighbors (GFGN) is an alliance of primarily outdoor, sungrown cannabis farmers, greenhouse operators, manufacturers and auxiliary businesses throughout the central coast. We advocate for a supportive legal and regulated market.

Our ***"Network"*** of ***"Best of Class"*** expertise unites cannabis farmers, distributors, manufacturers and supply chain vendors who are committed to exceed the required environmental and public health standards and also spur economic growth and community development. Thousands of workers are employed by local cannabis farmers and many farming operations are vertically integrated and also operate manufacturing and distribution facilities in the City of Lompoc.

In ***May of 2022***, our very own **U.S. Representative Salud Carbajal** underscored our value in the region in the Congressional Record declaring that *"...cannabis cultivation is not significantly different from farming strawberries, wine grapes, cut flowers, vegetables and other crops grown in the district [Santa Barbara and San Luis Obispo Counties] and throughout California. California Farmers are among the most productive and innovative in the world."*

As we all are aware, **California Farming** generates **1.2 million** jobs and **$263** billion in state revenues and cannabis cultivators remain active contributors to the state and local economies. However, both cannabis and non-cannabis producers are now facing headwinds with excessive regulations and out of state competition.

A couple of years ago our **'trade association'** partnered with other groups and organizations and commissioned the first comprehensive **"Cannabis Tax Study"** to help inform the **Governor and State Legislative Leaders** to include the **elimination of the cultivation tax** in a budget trailer bill. The "**Cannabis Tax Study"** underscored that **one-third of all cannabis sales in the market are being conducted in the illicit market** and hence, ***undermining the legal, licensed industry.*** It also highlights and outlines other regulatory hurdles of the disjointed dual licensing system compared to other states such as Oregon, Washington and Colorado. The **"Cannabis Tax Study"** produced by the not-for-profit **Reason Foundation** is attached for your review.

We remain supportive of reasonable and pragmatic oversight of all cannabis and non-cannabis farmers and manufacturers. That said, it is imperative that governmental agencies and sub-agencies take into account the total picture of regulatory oversight, costs and conditions already placed on all farmers that essentially are a vital contributor to the region's economic growth and job creation. Many of our members have attended and are planning to attend the upcoming Community Advisory Meeting on February 15th at 4:PM at the Sideways Inn.

Study: Eliminating the cultivation tax would double California's monthly cannabis tax revenue

California's high cannabis taxes, as much as $90 per ounce in some areas, are hurting legal farmers and businesses while the black market continues to capture two-thirds of cannabis sales.

Los Angeles (For Release May 4, 2022) — California could increase legal cannabis sales and bring in 123% more in total monthly cannabis-related tax revenue by 2024 by eliminating its cannabis cultivation tax, according to a new study published by Reason Foundation, Good Farmers Great Neighbors, and Precision Advocacy.

As a result of its high taxes, California's legal cannabis market has failed to meet expectations and is just one-third the size that would be expected based on its population and adult-usage rates found in surveys by the Substance Abuse and Mental Health Services Administration. Nearly two-thirds of cannabis sales in California are still taking place on the illicit market, the report estimates.

California's state and local taxes on legal cannabis can be as high as $90 per ounce, or $1,441 per pound. For comparison, legal cannabis taxes average $340 per pound in Oregon and $526 a pound in Colorado. Due to lower taxes and greater access to legal cannabis products, residents in neighboring Oregon spend 378% more per capita on legal cannabis and residents of Colorado spend 335% more per capita on legal cannabis products than Californians spend per capita.

"High cannabis taxes are the biggest reason California's legal cannabis market is struggling. Eliminating the cultivation tax is how the state can start to fix it," says Geoffrey Lawrence, director of drug policy at Reason Foundation and author of the study. "State leaders could double current monthly cannabis tax revenues by 2024 by eliminating the cultivation tax. Lower prices and increased sales of legal cannabis products would increase the government's general sales tax revenue and more than replace losses from the eliminated cultivation tax."

"We are experiencing first-hand a serious price compression in the California supply-chain in part as a result of the illegal market, high taxes and fees and a patchwork of inconsistent local taxes driving legal operators to the brink of a financial cliff," says Amy O'Gorman Jenkins, president of Precision Advocacy and legislative advocate of the California Cannabis Industry Association. "We cannot allow the largest cannabis market in the world to fail. This study provides a roadmap of tax policy solutions for the governor and state legislative leaders to consider immediately."

"Cannabis farmers throughout the state are experiencing the biggest challenges of their time. Many farmers are considering going fallow this year. For example, Busy Bee Organics, one of the first woman-owned, sun-grown farmers in Santa Barbara County, has already declared she's not planting this year," warns Sam Rodriguez, policy director of Good Farmers Great Neighbors, a collective of Santa Barbara County cannabis businesses and leaders. "California's cultivation tax is regressive and has only contributed to more and more uncertainty about the future of the state's cannabis farmland economy and whether it can survive. The immediate elimination of the cultivation tax

would be a first step in the right direction in a addressing critical issues impacting the state's entire legal cannabis market from seed to sale."

"The report provides a helpful roadmap for cannabis tax reform in California. In the end, it projects that even with substantial tax reductions, the state can expect total revenues to rise substantially in the next two years due to increased consumer demand. Substantive tax cuts therefore seem to be a feasible strategy for reducing demand for the illicit market, while still retaining reasonable revenues for the state programs funded in Prop. 64," Dale Gieringer, director of California NORML, writes in the study's foreword.

The study also recommends reducing retail excise taxes, which, combined with eliminating the cultivation tax, would help legal cannabis products better compete with the illicit market. It also encourages state leaders to examine revenue-sharing options and other policies that could incentivize California's local governments to stop banning the sale of legal cannabis products in their jurisdictions.

Oregon has one legal cannabis retailer for every 6,145 residents and Colorado has one legal retailer for every 13,838 residents while California has just one legal cannabis retailer for every 29,292 residents, the study finds. And since the vast majority of California localities have banned the sale of cannabis, more than half of the state's legal storefronts are located in just 18 cities.

"California's voters legalized cannabis, but there are massive sections of the state, basically large cannabis deserts, where adults have no access to legal cannabis products and still have to turn to the black market," Lawrence adds.

The full study, "The impact of California's cannabis taxes on participation within the legal market," is available here and here (.pdf).

About

Reason Foundation is a non-profit think tank that advances a free society and promotes free minds and free markets by producing respected public policy research and critically-acclaimed *Reason*.

Good Farmers, Great Neighbors is an alliance of mostly outdoor, sun-grown cannabis farmers and auxiliary businesses throughout the central coast that advocates for a supportive legal and regulated market.

Precision Advocacy is a Sacramento-based lobbying firm that brings over two decades of experience in state legislative and regulatory development, and public affairs at the state and local levels.

Contacts

Geoffrey Lawrence, Director of Drug Policy, Reason Foundation, (202) 459-7887
Sam Rodriguez, Policy Director, Good Farmers Great Neighbors, (916) 849-4300
Amy O'Gorman Jenkins, President, Precision Advocacy, (916) 354-5652
Chris Mitchell, Director of Communications, Reason Foundation, (310) 367-6109

COASTAL BLOOMS
NURSERY

March 12th, 2024

RE: Revisions to District Rule 210, Fees

Dear Santa Barbara County Air Pollution Control District Board of Directors:

Coastal Blooms Nursery appreciates the work that staff has done on revising Rule 210. The amendments are an improvement from the original proposal and we appreciate the time staff has taken to listen to the cannabis industry during this process. However, we respectfully ask that the Board require staff to reevaluate the Cannabis Permitting program.

Comment #4-1

Comment #4-2

We operate cultivation, processing, packaging, manufacturing, and retail locations. We pride ourselves on not only the quality and consistency of our products, but also our commitment to continue working with our community and County on abatement of cannabis odor. Over the past six years, our community has been vocal about their dedication to odor abatement and the County ensured the Land Use Permitting process closely examined our odor control technology and practices as a result.

As outlined in Chapter 35 of the Land Use and Development Code and the Coastal Zoning Ordinance, operators in unincorporated areas of the County are required to have an Odor Abatement Plan (OAP) certified by a Professional Engineer or Certified Industrial Hygienist that is approved through the Land Use Permitting process. The OAPs include but are not limited to: spec sheets, maintenance plans, best management practices, and response protocols. Once permitted and operating, the operator is required to pay for a County contractor to perform quarterly inspections for five quarters that confirms their odor control systems continued compliant operation. After the five quarters of contractor evaluation are complete, the County planning department inspects operations bi-annually to verify all operations including odor control systems are effective and in compliance with the operation's approved plans.

The District permitting odor-control devices undermines the discretion of the Planning and Development Department to evaluate OAPs and its six years of work to develop the Odor Abatement program thus far. The County has defined certain post-harvest cannabis operations (processing) as an agricultural operation as defined in County code of ordinances 50.2(i), whereas the District has not. Any conflicting enforcement or permit conditions from the District resulting in this or any other differing rules will not only confuse operators but will also

Comment #4-3

compromise the Planning and Development's permits and vice versa. If both programs are to continue existing in tandem, effective collaboration between the two governing agencies is essential for them to successfully mitigate air contaminants.

Comment #4-3 (continued)

Although the California Health and Safety Code is clear that Air Districts must permit sources that emit air contaminants, it does not specify the requirement to permit cannabis odor. In fact, the majority of California Air Districts don't have rules or programs to permit cannabis. Out of the 35 Air Districts in California, only 6 permit cannabis. 2 out of those 6 only permit cannabis manufacturers that conduct volatile and non-volatile extraction due to the use of solvents in both types of extraction processes. The remaining 3 permit odor control for various types of cannabis activity, and 1 of those only permits odor control that vents to the atmosphere.

Comment #4-4

Why do 94% of the Air Districts in California not permit post-harvest, storage, distribution, and packaging operations? Because these operations don't use solvents and they are typically conducted within enclosed warehouses outfitted with negative pressure systems and carbon scrubbers and other means of odor control that ensure the facility does not release air contaminants or vents to the atmosphere.

Comment #4-5

Alternate Solutions: Although we can only speak from our experience in the County of Santa Barbara, we know that other jurisdictions covered by the District require OAPs. The District could provide operators that have approved OAPs from other governing agencies with waivers to eliminate permitting redundancy. The District could require operators to submit approved OAPs to receive a waiver so that it can confirm the operator is using an effective odor-control system.

If the District needs to maintain authority over the air quality, they could require operators to submit approved OAPs and use them as an enforceable document instead of a permit. An enforceable document will allow the District to inspect annually and enforce when necessary, i.e. in the case of a complaint.

Comment #4-6

In summary, we are grateful for the work done to amend Rule 210 but respectfully ask the Board to require staff to reevaluate the Cannabis Permitting program.

Sincerely,

Whitney Collie

Whitney Collie
Vice President of Compliance
Coastal Blooms Nursery

Appendix G - Response to Written Public Comments

#	Summarized Comment	District Response
1-1	Unnecessary Redundancy: The District permitting odor-control devices undermines the discretion of the Planning and Development Department to evaluate Odor Abatement Plans.	Staff disagrees with the comment. Under District Rule 201 and California Health and Safety Codes §42300 et seq., any person who builds, erects, alters, replaces, operates or uses any article, machine, equipment, or other contrivance which may cause the issuance of air contaminants or the use of which may eliminate or reduce or control the issuance of air contaminants, shall first obtain an Authority to Construct for such construction or use. The District is the appropriate agency to address nuisance complaints and criteria pollutant emissions on an on-going basis, independent of what the County is doing. Furthermore, District permitting requirements apply to all operations within Santa Barbara County, not just the unincorporated areas subject to County requirements. The District works with lead agencies during the Land-use permitting process to make sure that the necessary air quality conditions are incorporated, thereby mitigating the project's environmental impacts and helping the facility comply with the District's rules on an on-going basis.
1-2	Counterproductive Prohibitions: The odor-device fee structure does not incentivize cannabis operators to go above and beyond to ensure odor abatement. The District requires operators to undergo a modification of the permit and pay new fees every time an upgrade is made to the odor-control system. Operators should be encouraged to develop and deploy new methods to abate odor.	Staff agrees with the public comment that the originally proposed odor control device fee structure did not incentivize operators to go above and beyond to ensure odor abatement. Based on this written public comment and the input provided at the January 2024 Community Advisory Council meeting, staff proposes to remove the draft cannabis fee schedule and will instead rely on existing rule language to assess fees on the Cost Reimbursement Basis. Operators are encouraged to utilize the necessary amount of control equipment to mitigate public nuisance complaints. However, pursuant to District Rule 201, applications for additional odor control devices are necessary to incorporate the equipment into the operating permit.

#	Summarized Comment	District Response
1-3	Unjust Treatment: The proposed fees set an unreasonable precedent for departments to regulate an already overly-regulated industry. Many agricultural sectors emit odors but are not targeted as a public nuisance. Why should cannabis be singled out by yet another department?	Under District Rule 303, the District is required to take enforcement action to abate odors and other air contaminants discharged from operations that create a public nuisance. This includes post-harvest operations, such as cannabis processing, storage, distribution, manufacturing, and retail operations that may emit odors. Whereas odors from agricultural operations (such as the growing and harvesting of cannabis) are specifically exempt from air district authority under §41705 of the California Health and Safety Code.
1-4	Alternate Solutions: The District's Cannabis Advisory recommends effective odor-abatement systems. If an operator uses a recommended system, the District should not have to confirm that the system is effective. Therefore, the District should establish a base fee to permit recommended systems as an incentive for operators to use them.	See response to Comment #1-2. Staff has removed the draft Cannabis fee schedule.
1-5	Alternate Solutions: Operators that do not use a recommended system should be charged the permitting fee per system, not per device. The current permitting process is already set-up to determine efficacy of the overall odor-control system, not each device within the system. Moreover, odor-control devices are typically redundant throughout the system.	See response to Comment #1-2. Staff has removed the draft Cannabis fee schedule.
1-6	Alternate Solutions: The District should provide operators that have approved OAPs from other jurisdictions with waivers to eliminate permitting redundancy.	See response in Comment #1-1. District Rule 201 requires any person who operates equipment that causes or eliminates air contaminants to obtain a District permit. The District is the appropriate agency to address nuisance complaints and criteria pollutant emissions on an on-going basis.

#	Summarized Comment	District Response
2-1	Assessing a 25% penalty at Day 61 is too high. Since some corporations have remote administration, there can be delays in payment processing. The delinquency penalty should remain at the existing amount of 10% every 30 days, but it can still incorporate harsher penalties after Day 151+.	As shown in the revised Section 7.1 and 7.2 of this report, Staff amended the penalty structure to remain at 10% at Day 61. Past that point, the penalties would escalate to an additional 20% penalty at Day 91 and an additional 30% penalty at Day 121. This penalty structure is designed to ensure the prompt payment of all invoices. Please note that the District provides multiple options to assist sources pay for their invoice. Sources can request e-mailed invoices and may pay for invoices through the District's online payment system. Sources may also pay by ACH if the source calls us to work out the details. So even if businesses have remote administration, staff affirm that a 60-day period to pay an invoice is sufficient.
3-1	We remain supportive of reasonable and pragmatic oversight of all cannabis and non-cannabis farmers and manufacturers. That said, it is imperative that governmental agencies take into account the total picture of regulatory oversight, costs and conditions already placed on all farmers that essentially are a vital contributor to the region's economic growth and job creation.	The comment goes beyond the scope of this project, which is focused on Rule 210, Fees. District staff cannot evaluate all non-air quality regulations and costs pertaining to the cannabis industry. Furthermore, the majority of the comment is focused on cannabis farming and cultivation, which are exempt from air district permitting requirements.
4-1	Coastal Blooms Nursery appreciates the work that staff has done on revising Rule 210. The amendments are an improvement from the original proposal and we appreciate the time staff has taken to listen to the cannabis industry during this process.	Thank you for the comment.

#	Summarized Comment	District Response
4-2	We respectfully ask that the Board require staff to reevaluate the Cannabis Permitting program.	The comment goes beyond the scope of this project, which is focused on Rule 210, Fees. Notwithstanding the above, staff has addressed the California Health and Safety Code mandates for permitting within the staff report. Air Districts are required to regulate the criteria pollutant emissions and potential for nuisance from stationary sources of air pollution, including post-harvest cannabis operations.
4-3	The District permitting odor-control devices undermines the discretion of the Planning and Development Department to evaluate OAPs and its six years of work to develop the Odor Abatement program thus far.	See response to Comment #1-1.
4-4	Although the California Health and Safety Code is clear that Air Districts must permit sources that emit air contaminants, it does not specify the requirement to permit cannabis odor.	As defined in California Health and Safety Code §39013 and District Rule 102, **"air contaminant"** includes, but is not limited to, smoke, charred paper, dust soot, grime, carbon, noxious acids, fumes, gases, **odors**, or particulate matter, or any combination thereof. *(Emphasis added)* Odors are included in the list of air contaminants, and so permitting requirements apply to cannabis odors in post-harvest operations.
4-5	In fact, the majority of California Air Districts don't have rules or programs to permit cannabis.	Staff disagrees with the comment. The District participates in various workgroups among the California Air Districts to discuss permitting requirements, and if such operations did occur in their region, the majority of Air Districts would permit post-harvest cannabis operations.
4-6	Alternate Solutions: The District could provide operators that have approved OAPs from other governing agencies with waivers to eliminate permitting redundancy.	See response to Comment #1-6.

Resolution in the Matter of Amendments to District Rule 210 – Fees and Other Affected Rules (Rules 203, 211, 213, 342, 359, 361, 364, 370, 502, 806, and 1201)

ATTACHMENT 4

Proposed Rules

1) Rule 210 – Fees
2) Rule 203 – Transfers
3) Rule 211 – Technical Reports – Charges For *[Repealed]*
4) Rule 213 – Fees for Registration Programs *[Repealed]*
5) Rule 342 – Boilers, Steam Generators, and Process Heaters (5 MMBtu/hr and greater)
6) Rule 359 – Flares and Thermal Oxidizers
7) Rule 361 – Boilers, Steam Generators, and Process Heaters (2 - 5 MMBtu/hr)
8) Rule 364 – Refinery Fenceline and Community Air Monitoring
9) Rule 370 – Potential To Emit – Limitations for Part 70 Sources
10) Rule 502 – Filing Petitions
11) Rule 806 – Emission Reduction Credits
12) Rule 1201 – Registration of Agricultural Diesel Engines

RULE 210. FEES

(Adopted 10/18/1971, revised 5/1/1972, 6/16/1975, 6/1976 and 7/24/1978, readopted 10/23/1978, revised 5/19/1980, 6/1980, 12/14/1981, 6/30/1986, 12/15/1986, 8/8/1988, 5/2/1989, 12/12/1989, 2/13/1990, 3/27/1990, 6/5/1990, 12/18/1990, 3/5/1991, 5/7/1991, 4/17/1997, 3/17/2005, xx/xx/xxxx)

SCOPE AND PURPOSE

This rule establishes the framework for a comprehensive system for recovering expenses incurred for the regulatory programs, plans, procedures and tasks necessary for the Santa Barbara County Air Pollution Control District (the District) to carry out its mandates under the Clean Air Act and California law. The purpose of this rule is to allow the District to recover its reasonable costs incurred for direct and incidental costs associated with its activities, including, but not limited to: the issuance of permits, inspection, enforcement, planning, research, and administration. Authority to establish this rule is provided for in Health & Safety Code §40701.5, §41512, §41512.5, §41512.7, §42311, and §42364. This rule shall be effective on July 1, 2024.

A. STATIONARY SOURCE FEES

Stationary source fees are assessed for District activities, which include, but are not limited to: review and evaluation of applications; reevaluation of permits; source testing; inspections; report review; ambient air quality and continuous emission monitoring; planning and implementation of measures to attain and maintain air quality standards; and control of air toxics.

1. **Permit Application Filing Fees**
   a. Permit Filing Fees
   The application filing fee for a new or modified Authority to Construct (ATC) or a Permit to Operate (PTO) is specified in item 1 of Schedule F.

   b. Transfer of Ownership/Operator Filing Fee
   The application filing fee to transfer a permit from one permit holder to another is specified in item 2 of Schedule F. A change in business name only shall not be assessed a filing fee.

   c. Request for Written Determination of Permit Exemption
   The filing fee for a written determination of whether equipment is exempt from a District permit is specified in item 3 of Schedule F.

2. **Permit Evaluation Fees**
   a. Evaluation Fee
   The fee for evaluating a new or modified ATC or PTO shall be calculated according to Schedule A (Equipment/Facility Fees). For projects determined by the District to require additional analysis such that the use of Schedule A will not enable the District to recover its costs, the evaluation cost may instead be assessed on the Cost Reimbursement Basis as specified in Section C.

   If an application is withdrawn by the applicant or denied by the District for failing to meet all applicable District, State, and Federal Rules and Regulations, the applicant shall be assessed a percentage of the evaluation fees as determined by the District based on the work completed to date.

   b. Other Permit Changes
   Any change to an existing permit, other than those changes described below, shall be assessed evaluation fees for a new or modified ATC or PTO as prescribed in Section A.2.a above.

      1) Transfer of Ownership/Operator
      Transferring an entire permit from one permit holder to another shall not be assessed any evaluation fees. If a transfer of ownership/operator requires permit(s) to be split into multiple permits, the applicant shall be assessed an evaluation fee as specified in item 4 of Schedule F.

2) Administrative Changes
The evaluation fee for changes, as determined by the Control Officer to be administrative, is specified in item 5 of Schedule F.

3) Decrease in Permitted Production Rate
The evaluation fee to decrease the permitted production rate or throughput limits is specified in item 6 of Schedule F. If the District determines the costs for the permit modification will not be recovered from item 6 of Schedule F or if the District determines the modification has the potential to increase emissions or impacts, the evaluation fee prescribed in Section A.2.a above shall be assessed instead.

3. **Recurring Fees**

a. Permit Reevaluation Fees
Every three years, the District shall reevaluate a PTO to ensure compliance by the owner/operator with the listed permit conditions and all applicable District, State, and Federal Rules and Regulations. The fee shall be assessed in the same manner as the PTO evaluation fees prescribed in Section A.2.a. The fee for any permit reevaluation may be switched to the Cost Reimbursement Basis if the District determines that the permit reevaluation and/or subsequent District activities associated with the stationary source will require additional time such that the use of the fee schedules shown in Schedule A will not enable the District to recover its costs. The reevaluation fee shall not apply to equipment subject to the annual review fees as prescribed in Section A.3.b below.

b. Annual Review Fees
Every year, the District shall review the following equipment categories at each stationary source to ensure compliance by the owner/operator with all applicable permit conditions and District, State, and Federal Rules and Regulations. The annual review fees do not apply to any equipment where the stationary source is reevaluated on the Cost Reimbursement Basis.

1) Diesel-Fired Emergency Standby Engine Annual Reviews
The annual review fee for a permitted diesel-fired emergency standby engine is specified in item 1.a of Schedule B. If more than one engine is located at the same facility, the permittee shall be assessed a fee for each additional engine, as specified in item 1.a.i of Schedule B.

2) Gasoline Dispensing Facility (with Phase II) Annual Reviews
The annual review fee for a gasoline dispensing facility equipped with Phase II vapor recovery nozzles is specified in item 1.b of Schedule B. This fee does not apply to gasoline bulk plants.

c. Annual Emission Fees
All stationary sources subject to District permit shall be assessed an annual emission fee, as prescribed in item 2 of Schedule B, based on the total actual annual emissions of ROC, NOx, SOx, and PM. Actual emissions shall be based on data provided by the permit holder and verified by the District. Such data shall be sufficient to calculate the total emissions of each air contaminant for all permitted equipment at a stationary source. Pursuant to Health and Safety Code §42303, all permit holders shall submit the necessary data to calculate actual emissions by March 1 of each year.

d. Annual Air Toxics Fees
All stationary sources subject to District permit shall be assessed an annual air toxics fee, as prescribed in item 3 of Schedule B, based on the total annual air toxic emissions. The annual air toxic emissions shall be calculated by the District pursuant to the data supplied for the annual emission fees in Section A.3.c.

e. Annual Air Quality Planning Fees
All stationary sources subject to District permit shall be assessed an annual air quality planning fee, as prescribed in item 4 of Schedule B, based on the total emissions of ROC, NOx, SOx, and PM. For this fee, the emissions of the stationary source shall be determined as follows:

1) For a stationary source which held a PTO prior to January l, 1988, the fee shall be based on the most recent actual annual emissions calculated pursuant to Section A.3.c. If the total emissions for the year are less than 10 tons, no fee shall be assessed.

2) For all other stationary sources which hold a valid ATC or PTO, the fee shall be based on the maximum annual Potential to Emit for the stationary source. If the Potential to Emit is less than 10 tons per year, no fee shall be assessed.

4. **Project Specific Fees**

a. School Public Notice Fees
Pursuant to Health and Safety Code §42301.6, an applicant for a permit to construct or modify a stationary source that proposes to increase emissions of toxic air contaminants within 1,000 feet of a K-12 school shall be assessed a fee, as specified in item 7 of Schedule F, to cover the expense of preparing and distributing the 30-day public notice. The distance between the stationary source and a school shall be measured from property boundary to property boundary.

b. Health Risk Assessment (HRA) Screening Fee
Any stationary source that the District prepares a health risk assessment (HRA) screening for shall be assessed a fee, as specified in item 8 of Schedule F, to cover the expense of preparing the HRA screening. This provision shall not apply to stationary sources that are assessed fees on the Cost Reimbursement Basis.

c. Interim Permit Approval Process (IPAP) Program Fee
If an applicant requests to install and temporarily operate equipment prior to obtaining an ATC pursuant to the Interim Permit Approval Process (IPAP) Program, and the District issues an IPAP agreement, the applicant shall be assessed a fee as specified in item 9 of Schedule F.

d. Confidential Information Handling Fee
If a submittal includes information that is claimed to be confidential in accordance with California Government Code §6254.7, the applicant shall be assessed a fee, as specified in item 10 of Schedule F, upon the issuance of the first permit for an application that contains confidential information. Each reevaluation thereafter shall be assessed a fee as specified in item 10.a of Schedule F.

e. Source Test Fees
The Control Officer may order source tests to determine the nature, extent, or amount of pollutants being discharged into the atmosphere or to determine compliance with permit conditions or with any federal, state, or local law, order, rule or regulation relating to air pollution, including potential emissions which may endanger the health, comfort or repose of the public, or which may have a tendency to cause injury or damage to business or property. The Control Officer may order the testing to be performed by either qualified personnel of the District, an independent contractor selected by the Control Officer, or by the source's independent contractor. The District costs to review the source test plan, observe or perform the source test, and evaluate the results shall be assessed on the Cost Reimbursement Basis for the following scenarios:

1) If a source is already permitted on the Cost Reimbursement Basis;

2) If source testing is conducted to determine the emissions for non-criteria pollutants (e.g., toxic air contaminants); or

3) If source testing is conducted by the District or its agent.

All other source tests shall be assessed fees in accordance with Schedule C. The fees listed in Schedule C shall be increased by 25 percent if the source test is conducted offshore, and the fees shall be increased by 50 percent if the source test includes determining the efficiency of an emission control device. Schedule C may also be used to assess source test fees if the source does not have a District permit.

f. Sampling and Analysis of Products and Materials

1) Pursuant to Health and Safety Code §41512, if the District determines that sampling and analysis of products or materials is required to determine compliance with District, State, or Federal Rules and Regulations, the permit holder or other responsible entity shall be assessed fees in accordance with Schedule D. Schedule D may also be used to assess sampling and analysis fees if the source does not have a District permit.

2) Prior to conducting the sampling, the District shall notify the owner/operator about the basis for requiring the sampling, the pollutants being sampled for, the duration of the sampling, and the estimated fees. Sampling shall be accomplished by the collection and analyses of samples by qualified personnel of the District or by an independent testing laboratory arranged for by the District.

3) After completion of the analysis, the owner/operator of the source shall be notified by the District of the total fees assessed in accordance with Schedule D. If the initial sampling and analysis indicates that the source is in violation of a permit condition or any law, order, rule, or regulation relating to air pollution, any subsequent sampling or analysis conducted in order to verify the compliance status shall also be assessed fees in accordance with Schedule D.

g. Monitoring Fees

For ambient pollution monitoring, meteorological monitoring, continuous emission monitoring, and all other monitoring required under District rules, permit conditions, or agreements, the owner/operator of a stationary source shall be assessed fees for all District costs associated with the installation, operation, and maintenance of the equipment and for the transmittal, review, and storage of the data. These costs shall be assessed in accordance with the governing provisions of this rule.

1) The owner/operator of the stationary source shall be assessed a semi-annual fee, as specified in item 11 of Schedule F, for each parameter that is required to be transmitted in real-time to the District's Data Acquisition System (DAS).

2) All other monitoring fees shall be specified in the operating permit for the stationary source.

h. CEQA Fees

When the District is the Lead Agency or Responsible Agency for a project pursuant to the California Environmental Quality Act (CEQA, Public Resources Code §21000 et seq.) and the state CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, §15000 et seq.), the project applicant may be assessed fees when the application requires District staff to review for CEQA compliance. If the applicant or permit holder has a permit that is evaluated on the Cost Reimbursement Basis, the CEQA review costs shall also be assessed on the Cost Reimbursement Basis. All other applicants shall be assessed fees for the preparation of the necessary CEQA documentation, as listed below:

1) The preparation of CEQA findings as a Lead Agency – for projects that rely on a CEQA exemption other than the list of exempt projects listed in Appendix A of the District's Environmental Review Guidelines – or as a Responsible Agency – for projects that rely on an Environmental Impact Report or Mitigated Negative Declaration – shall be assessed a fee as specified in item 12 of Schedule F. Notwithstanding the above, the Control Officer may assess the CEQA findings fee to evaluate whether a project is exempt in accordance with Appendix A of the District's Environmental Review Guidelines or when the District relies on a Lead Agency's CEQA exemption. If the Control Officer determines that the District's projected CEQA preparation costs and staff time will exceed the fee, the project applicant, upon notification from the District, shall instead be assessed fees on the Cost Reimbursement Basis.

2) A filing for a Notice of Exemption or a Notice of Determination with the Santa Barbara County Clerk of the Board of Supervisors shall be assessed a fee as specified in item 13 of Schedule F.

3) The cost of preparing any other CEQA documentation, including, but not limited to, an initial study, an Environmental Impact Report, a Negative Declaration, a Mitigated Negative Declaration, or an addendum, shall be assessed fees on the Cost Reimbursement Basis.

i. Plans, Agreements, Studies, and Reports

Fees shall be assessed for District activities, identified below, which may be performed for a stationary source. The fees shall be assessed on the Cost Reimbursement Basis and shall be paid by the owner/operator of the stationary source to the extent the District determines the need for the activity is caused by the stationary source. The activities include the following:

1) Review and/or preparation of plans including, but not limited to, Curtailment Plans, Episode Plans, Odor Monitoring Plans, and Fuel Use Monitoring Plans.

2) Review and/or preparation of special agreements, including offset agreements.

3) Review and/or preparation of special studies and reports required by the District or requested by the applicant.

B. OTHER PROGRAMS

1. **Asbestos Demolition and Renovation Program**

A fee shall be assessed for asbestos demolition and renovation operations subject to the notification provisions of District Rule 1001, National Emission Standards for Hazardous Air Pollutants. The fee shall be assessed in accordance with Schedule E.

2. **Agricultural Diesel Engine Registration Program**

The fee for registering and renewing the registration of an agricultural diesel-fired engine subject to Rule 1201 shall be assessed in accordance with Schedule H.

3. **Emission Reduction Credit Program**

The fees for Emission Reduction Credits (ERCs) subject to Regulation VIII, New Source Review, are shown below.

a. Filing Fees

The application filing fee to register, renew, transfer, or return an Emission Reduction Credit is specified in item 1 of Schedule F.

b. Evaluation and Processing Fees
All evaluation and processing costs associated with registering new Emission Reduction Credits shall be assessed on the Cost Reimbursement Basis.

c. Reissuance Fee
When an Emission Reduction Credit is reissued due to the destruction or loss of the original certificate, or when a portion of an ERC is used for a project, the applicant shall be assessed a reissuance fee as specified in item 14 of Schedule F.

4. **Land-use Review**
When the District is not the Lead Agency for a project, but the District is requested or required to conduct analyses, review or prepare documents, or conduct and/or participate in administrative procedures, meetings or hearings pursuant to CEQA or the National Environmental Policy Act (NEPA), the District costs shall be paid by the project proponent. District costs shall be assessed on the Cost Reimbursement Basis, through direct billing for District Labor, or by separate agreement with local agencies. Such costs may include, but are not limited to:

a. Reviewing and commenting on all or portions of a CEQA or NEPA document;

b. Reviewing and commenting on air quality technical reports, emission inventories, air dispersion modeling, and health risk assessments; or

c. Assisting lead agencies with developing and implementing mitigation measures.

5. **Technical Reports**
Information, circulars, reports of technical work, and other reports prepared by the District for special interest groups or individuals, may be assessed fees by the District in a sum not to exceed the cost of preparation and distribution of such documents. The fees shall be based on direct labor hours used, supplies and service expended, and indirect costs incurred.

6. **Areawide and Indirect Sources**
The District may adopt, by regulation, a schedule of fees to be assessed on areawide or indirect sources which are regulated, but for which permits are not issued by the District, to recover the costs of District programs related to these sources.

C. COST REIMBURSEMENT BASIS (TIME & MATERIALS)

1. **Reimbursable Costs**
Reimbursable costs include all costs associated with District Labor, Contractors/Consultants, and Services, Equipment, Supplies, and Materials, as described below:

a. District Labor
District Labor is defined as the costs incurred as a result of time spent by District employees and District Counsel for conducting necessary work with regard to an application, permit, project, or study. District employees include full-time, part-time, and extra-help staff. Hourly rates for District employees, including overhead costs, shall be established by the Control Officer based on the job classification labor rate for the date when work is performed. District Counsel rates shall be established by the County Auditor-Controller.

b. Contractors/Consultants
Outside consultants and contractors may be hired by the District when necessary to assist in conducting the work, subject to the provisions below:

1) Prior to utilizing the services of any outside consultant, the District shall notify the applicant or permit holder in writing of the reasons why an outside consultant will be retained, provide the applicant or permit holder with the proposed scope of work, and identify the consultant proposed

by the District. The applicant or permit holder shall have the right to review and comment on the scope of work and to propose no more than three additional consultants or contractors; however, such consideration shall not require a competitive bidding process or a written decision by the District. If at any time the District deems it necessary to make additions, deletions, or other modifications to the scope of work, the applicant or permit holder shall have the right to review and provide comment on the modified scope of work. If the District elects not to revise the scope of work which an applicant or permit holder desires to revise, the District shall notify the applicant or permit holder in writing of the reasons for the District's decision.

2) Proposed contracts will be competitively bid if requested in writing by the applicant or permit holder prior to an application being deemed complete. If this occurs, the application shall be automatically deemed incomplete for the purposes of District Rules and Regulations, and any applicable timelines specified under the Permit Streamlining Act (Government Code §65943) shall be waived by the applicant pending selection of an outside consultant and execution of a contract. Requests for Proposals (RFPs) will then be sent to all bidders deemed qualified by the District, and all District costs for administering the bidding process are reimbursable costs. The applicant shall have the right to appeal the District's selection of and/or the need for a consultant or contractor within 10 days to the Control Officer, whose decision shall be final. The Control Officer shall notify the applicant or permit holder in writing of the decision and the reasons thereof.

c. Services, Equipment, Supplies, and Materials
Additional services, equipment, supplies, and materials may be needed including, but not limited to, newspaper public notices, language translations, and the cost of filing any required documents with the District or other agencies. The applicant or permit holder shall be assessed the actual costs incurred by the District in providing such services. District costs shall not be recovered pursuant to this provision when funding for the service is obtained from the use of the fee schedules.

2. **Notice of Cost Reimbursement and Deposits**

a. The District shall notify the applicant or permit holder in writing that the District has determined the work will be done on the Cost Reimbursement Basis, the grounds for such determination, and the initial deposit amount. The initial deposit amount is an estimate of the projected costs to cover the first 90 days of work on the project, permit, study, or application.

b. The applicant or permit holder shall submit the initial deposit amount within 30 days of the date of District invoice.

c. On a monthly basis, the District shall invoice the applicant or permit holder for all incurred expenses, and the applicant or permit holder shall reimburse the District within 30 days of the date of the invoice. This process shall ensure sufficient funds are kept on deposit with the District to authorize necessary expenditures without delay.

d. If the District determines that the deposit amount should be adjusted based on new projections for the reimbursable costs for the next 90 days, the District shall notify the applicant or permit holder in writing.

1) If an additional deposit is required to meet the new projection, the applicant or permit holder shall pay the additional funds within 30 days of the date of the new invoice.

2) If the new projection is less than the current deposit amount, the District shall return the amount of the deposit which exceeds the projected costs.

3) If the District determines Schedule A (Equipment/Facility Fees) will adequately recover the costs associated with the permit, the District shall return the deposit and begin assessing fees in accordance with Schedule A. This determination may only occur prior to performing work on a permit on the Cost Reimbursement Basis.

e. If the project, permit, study, or application is withdrawn or the permit is terminated or canceled, the amount remaining in the applicant or permit holder's deposit account shall be refunded, provided that all reimbursable costs for said application or permit have been deducted by the District, including costs reasonably incurred after the date of notification as well as all other outstanding amounts due to the District.

f. Funds placed on deposit shall be subject to the handling charges and credited with interest payments specified in the policy of the Santa Barbara County Auditor Controller's Office, including updates.

3. **Audits**

a. The applicant or permit holder shall have the right to audit any reimbursable cost charged by the District. If an applicant or permit holder elects to audit a reimbursable cost, the applicant or permit holder shall notify the District in writing within 30 days of the date of the invoice and shall identify the reason for the dispute.

b. The District shall provide the applicant or permit holder with documentation supporting the basis and accuracy of the reimbursable cost within 30 days of receipt of written request, except that the Control Officer may extend the deadline for good cause.

c. An applicant or permit holder may dispute any alleged fraudulent reimbursable cost by notifying the Control Officer in writing within 30 days of the District providing the support documentation. Such notice shall contain a detailed description of the facts and any available evidence that supports the dispute.

d. The Control Officer shall issue a determination, in writing, within 60 days of receipt of the notice, which may be extended by the Control Officer for good cause. The Control Officer may order all or a portion of the disputed cost to be reimbursed to the applicant or permit holder.

e. If the dispute still remains, the applicant or permit holder may request an independent audit within 15 days of receipt of the Control Officer’s determination. The audit shall be conducted by an independent auditor approved by the applicant and the District. Costs incurred by the District that are related to the independent audit, including the cost of the independent auditor, are reimbursable costs under this rule.

D. HEARING BOARD FEES

1. **Variance**

Every petitioner for a variance shall be assessed fees as specified below:

a. For District permits that are assessed fees under Schedule A (Equipment/Facility Fees), the filing fee for the applicable variance type is specified in item 1 of Schedule G. For regular variances, the petitioner shall be assessed an additional fee as specified in item 1.d.i of Schedule G for each month, or portion thereof, over three months that the variance is granted.

b. For District permits that are assessed fees on the Cost Reimbursement Basis, the filing fee for the applicable variance type is specified in item 2 of Schedule G. Additional costs associated with the variance shall be assessed on the Cost Reimbursement Basis.

c. For product variances, the filing fee is specified in item 3 of Schedule G. The petitioner shall be assessed an additional fee as specified in item 3.a of Schedule G for each month, or portion thereof, over three months that the variance is granted.

d. Each ton of excess pollutant emissions, or portion thereof, allowed as the result of the issuance of any variance shall result in an excess emission fee as specified in item 4 of Schedule G.

e. A petitioner requesting to modify a Hearing Board order or a schedule of increments of progress shall be assessed a new filing fee and additional fees for each month, or portion thereof, over three months that the variance is granted for the applicable variance type being modified.

2. **Permit/ERC Appeal**
Every petitioner in a proceeding before the Hearing Board to appeal the denial, suspension, or conditional approval of a permit or an ERC or the associated fees shall be assessed fees as specified below:

a. The filing fee for the appeal is specified in item 5 of Schedule G. If the appeal is not resolved during the first hearing, an additional fee, as specified in item 5.a of Schedule G, shall be assessed for each hour, or portion thereof, of hearing time.

b. No appeal shall be heard unless all fees have been paid, including those cases where the fee itself is being appealed. Furthermore, the appeal shall be dismissed by the Hearing Board if the appellant accepted and used the permit by commencing any activity applied for and authorized by the permit, or did not first exhaust all administrative remedies with the District, including, but not limited to, auditing the permit evaluation fees as prescribed in Section C.3 above.

c. The appeal fees shall be refunded if the Hearing Board determines the appellant has prevailed on the appeal. The permit evaluation fees, or portions thereof, may be refunded to the extent determined by the Hearing Board.

d. Notwithstanding any fees assessed for evaluating or reevaluating a permit, if the Hearing Board directs the District and the petitioner to negotiate the resolution of the issues under appeal and the negotiations are not conducted during a Hearing Board hearing, the Hearing Board shall establish a specified time limit for negotiation, and the petitioner shall be assessed fees on the Cost Reimbursement Basis to recover costs for District Labor incurred during such negotiations.

3. **Abatement Orders**
Upon investigation and determination that a violation of any permit condition, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air is found to exist, the Control Officer may petition the Hearing Board for an abatement order in accordance with Health and Safety Code §42307 and §42451. The Control Officer shall notify the violator in writing of the District's intent to assess fees to recover all costs, including District Counsel costs, associated with the preparation, issuance, and/or implementation of the abatement order and of the violator's right to a hearing on objections thereto. When an abatement order petition is filed and every 30 calendar days thereafter until the matter is concluded or withdrawn, an invoice, payable by the violator, shall be issued summarizing the District Labor hours and associated costs incurred beginning with the preparation of the abatement order petition. If the violator objects to the invoiced amount, the violator may pursue the audit provisions listed in Section C.3 within thirty (30) calendar days of the invoice date. These fees do not preclude penalties collected during the mutual settlement process for Notices of Violation.

E. GOVERNING PROVISIONS

1. **Payment of Fees and Penalties**
Unless otherwise provided in this rule, this section is applicable to all fees mandated by this rule and by the Health and Safety Code.

a. Payment of Filing Fees
Payment of the applicable filing fee shall be made at the time an application, petition, or notice is filed, and the application shall not be accepted unless the required filing fee has been paid. Except as otherwise provided in this rule, any required filing fee or portion thereof shall not be refunded or applied to any subsequent application or petition.

b. Payment of Invoices
Payment of any fee other than a filing fee shall be made to the District within thirty (30) calendar days of the invoice date.

c. Penalty for Nonpayment of Fees
Payments are due thirty (30) calendar days from the date of invoice, and a penalty shall be imposed if payment is not received within sixty (60) calendar days of the invoice date. The penalty shall be ten (10) percent of the fee initially invoiced. If payment for the invoice and penalty is not received within ninety (90) calendar days of the original invoice date, an additional twenty (20) percent penalty of the fee initially invoiced shall be assessed. If payment for the invoice and revised penalty is not received within 120 calendar days of the original invoice date, an additional thirty (30) percent penalty of the fee initially invoiced shall be assessed. The total penalties pursuant to this section are shown below:

61 calendar days after the invoice date: 10 percent of the fee initially invoiced;
91 calendar days after the invoice date: 30 percent of the fee initially invoiced;
121 calendar days after the invoice date: 60 percent of the fee initially invoiced.

d. Nonpayment of Fees – General
For any source that fails to pay the fees required by this rule, the District may discontinue work on the project, deny the permit application, initiate the permit suspension process pursuant to Section E.2, and/or initiate the permit revocation process pursuant to Health and Safety Code §42307 and §42451. The District may refuse to accept an application or issue or reissue any permit until all fees and delinquent penalties are paid by the responsible entity.

e. Penalty for Failure to Obtain Permit
An applicant seeking an ATC or PTO for equipment for which an ATC was required but not obtained shall be assessed filing and evaluation fees double the amount that is prescribed for the ATC in Section A.1 and A.2. If operation of equipment is conducted without a valid PTO, the fee prescribed in Section A.2 for the PTO plus the recurring fees that would have been assessed with a valid PTO under Section A.3 may be doubled.

f. Transaction Fees
If any person chooses to pay using a method that charges a transaction fee (e.g. credit card), the person shall also pay any costs imposed on the District by the entity processing the transaction.

2. **Suspension and Reinstatement of Permit**

a. Suspension of Permit
If payment is not received within 150 calendar days of the invoice date, the District shall notify the owner/operator, in writing, that the existing permits for the stationary source may be suspended unless the owner/operator submits payment for all prior fees and associated penalties within 14 calendar days. Failure to submit the required fees and penalties within the 14-day period may result in the suspension of the permit by the Control Officer, which would be effective immediately. The District shall notify the owner/operator, in writing, when the suspension is finalized, and any operation of the equipment after the suspension date shall constitute a violation of the District's Rules and Regulations.

b. Reinstatement of Permit
An applicant seeking to reinstate a suspended permit shall pay a reinstatement filing fee, as specified as item 15 in Schedule F, within 180 days of the suspension date. No permit shall be issued until all prior fees and associated penalties have been paid.

c. Revocation of Permit
This section does not preclude the District from seeking a permit revocation at any time in accordance with Health and Safety Code §42307 and §42451.

3. **Use of Fee Schedules**
In the event more than one fee schedule is applicable to an item of equipment, article, machine or other contrivance, the higher fee schedule shall prevail.

Where several items of equipment are included under a single permit, the assessed fee shall be the sum of the fees for the individual items. Except for gasoline dispensing facilities subject to item 7 or item 8 of Schedule A, the assessed evaluation fee shall not be less than the minimum fee, as specified in item 1.a of Schedule A. In no case shall the assessed triennial reevaluation fee be less than the minimum fee, as specified in item 1.b of Schedule A.

4. **Consolidation of Existing Permits**
When more than one PTO has been issued for the equipment at a stationary source, and one of the permits is being modified or is due for reevaluation, the District may consolidate the PTOs into a single permit. At the time of consolidation, a single date will be set for permit reevaluation of all equipment included in the consolidated permit. In determining the fee for the consolidated permit, credit will be given on a prorated basis for any PTO which has not yet expired on the issuance date of the consolidated permit.

5. **Annual CPI Adjustment**
Any fee prescribed in this rule may be adjusted annually on July 1 by the Control Officer based on the change in the California Consumer Price Index (CPI) for the preceding year, as determined pursuant to Revenue and Taxation Code §2212.

6. **Annual Fee Increases**
Effective July 1, 2025, fees for the following schedules and items shall be increased by 12% each year unless the increase would exceed the limitations in the District's Cost Recovery Policy or Health and Safety Code §41512.7(b). Notwithstanding the above, the Control Officer may decide to delay or forgo any increase in this section due to an economic emergency. These annual increases are in addition to any annual adjustments in fees due to the CPI, as specified in Section E.5. If the annual fee increases and CPI adjustment exceeds 15% for a specific year, the fees shall instead be increased by a lesser amount to reach 15% in total for that year. The last fee increase allowed by this section shall be performed on July 1, 2033.

Schedule	Schedule Description	Items	Annual Fee Increase
A	Equipment/Facility Fees	1.b and 2 - 10	12%
B	Recurring Fees	3.b and 4	12%
C	Source Test Fees	All	12%
F	Other Stationary Source & ERC Fees	1 - 3 and 5 - 6	12%
G	Hearing Board Fees	1 - 2 and 4 - 5	12%

SCHEDULE A
EQUIPMENT/FACILITY FEES

The fees prescribed in this section pertain to any article, machine, equipment or other contrivance (hereinafter, "equipment") which emits air contaminants, or causes such emissions, and which is not exempted under Rule 202.

ITEM #

1. Minimum Fees

a. The assessed evaluation fee shall not be less than the minimum fee of $1,353. This provision shall not apply to gasoline dispensing facilities subject to item 7 or item 8 below.

b. The assessed triennial reevaluation fee shall not be less than the minimum fee of $615.

2. Miscellaneous Equipment

Miscellaneous equipment is any equipment not included in a fee schedule listed below and which emits or may emit air contaminants, or causes such emissions. Miscellaneous equipment shall be assessed a fee of $98.79 per item of equipment.

3. Electric Motor Horsepower

Any equipment where an electric motor is used to drive the equipment shall be assessed a fee based on the total rated motor horsepower of each motor included in any such equipment, in accordance with the following formula:

Fee = $51.22 times (X), where:
"X" is the horsepower of the motor, and
Minimum fee = $98.15 and Maximum fee = $9,915.90.

This fee schedule does not apply to oilfield wellhead pumping units and items 9 (rock crushers) and 10 (stacker belts).

4. Fuel Burning Equipment

Any equipment in which fuel is burned shall be assessed a fee based upon the maximum design fuel consumption of the equipment expressed in British thermal units (Btu) per hour, using gross heating values of the fuel in accordance with the following formula:

Fee = $741.08 times (X), where:
"X" is the maximum fuel consumption in 1,000,000 Btu per hour, and
Minimum fee = $98.15 and Maximum fee = $9,915.90.

This fee schedule does not apply to incinerators which are covered under item 5.

5. Incinerator

Any incinerator, crematory, or equipment used primarily to dispose of combustible refuse by wholly consuming the material charged, leaving only ashes or residue, shall be assessed a fee based on the maximum cross-sectional area of the combustion chamber(s), in accordance with the following formula:

Fee = $123.49 times (X), where:
"X" is the total horizontal inside cross-sectional area in square feet, and
Minimum fee = $98.15 and Maximum fee = $4,956.78.

6. Stationary Container

Any stationary tank, reservoir, or other container shall be assessed a fee based on volumetric capacity, in accordance with the following formula:

Fee = $5.66 times (X), where:
"X" is the capacity in 1,000 gallons, and
Minimum fee = $98.15 and Maximum fee = $4,956.78.

This fee schedule does not apply to gasoline storage tanks at gasoline dispensing facilities.

7. Gasoline Dispensing Facilities (with Phase II)

Gasoline dispensing facilities equipped with Phase II vapor recovery dispensing nozzles shall be assessed a fee in accordance with the following formula:

Fee = $56.81 times (X), where:
"X" is the number of nozzles, and
Minimum fee = $394.93.

This fee schedule does not apply to gasoline bulk plants.

8. Gasoline Dispensing Facilities (without Phase II)

Gasoline dispensing facilities without Phase II vapor recovery dispensing nozzles shall be assessed a fee of $740.83 regardless of the number of dispensing nozzles.

This fee schedule does not apply to gasoline bulk plants.

9. Rock Crusher

Equipment used to crush rocks shall be assessed a fee of $98.79 for each item of equipment. This schedule applies to jaw crushers, cone crushers, impact crushers, and gyratory crushers.

10. Stacker Belt

A belt used to stack minerals to form a storage pile shall be assessed a fee of $98.79 for each stacker belt.

SCHEDULE B
RECURRING FEES

ITEM #

1. Annual Review Fees

a. **Diesel-Fired Emergency Standby Engines**
A diesel-fired emergency standby engine that is reviewed on an annual basis shall be assessed a fee of $657.

i. If more than one engine is located at the same facility, the permittee shall be assessed a fee of $328 for each additional engine.

b. **Gasoline Dispensing Facilities (with Phase II)**
Any gasoline dispensing facility equipped with Phase II vapor recovery dispensing nozzles that is reviewed on an annual basis shall be assessed a fee of $97.43 per nozzle.

2. Annual Emission Fees
All stationary sources subject to District permit shall be assessed an annual emission fee in accordance with the following table. Emission range shall be determined as the sum of Reactive Organic Compounds, Oxides of Nitrogen (expressed as nitrogen dioxide), Oxides of Sulfur (expressed as sulfur dioxide), and Particulate Matter.

Subitem	EMISSION RANGE (tons per year)	EMISSION FEE
a	0 to < 10	$559.01 total
b	10 to < 25	$154.43 per ton
c	25 to < 100	$232.77 per ton
d	100 or more	$308.88 per ton

3. Annual Air Toxics Fees
All stationary sources subject to District permit shall be assessed an annual air toxics fee in accordance with the following table. Emission range shall be determined as the sum of all Toxic Air Contaminants (TACs).

Subitem	EMISSION RANGE (pounds of air toxics per year)	AIR TOXICS FEE
a	0 to < 2,000	$272 total
b	2,000 or more	$0.48 per pound

4. Annual Air Quality Planning Fees
All stationary sources subject to District permit shall be assessed an annual air quality planning fee in accordance with the following table. Emission range shall be determined as the sum of Reactive Organic Compounds, Oxides of Nitrogen (expressed as nitrogen dioxide), Oxides of Sulfur (expressed as sulfur dioxide), and Particulate Matter.

Subitem	EMISSION RANGE (tons per year)	AIR QUALITY PLANNING FEE
a	0 to < 10	$0
b	10 to < 25	$73.24 per ton
c	25 to < 100	$111.02 per ton
d	100 or more	$146.50 per ton

SCHEDULE C
SOURCE TEST REVIEW, OBSERVATION, AND EVALUATION FEES*

ITEM #	Source Type	FEE **
1.	Boiler or Heater	$2,532
2.	Piston Type Engine	$2,532
	a. Each additional engine	$674
3.	Thermal Oxidizer	$2,532
4.	Wet Scrubber (gaseous)	$2,532
5.	Wet Scrubber (particulates)	$3,371
6.	Baghouse	$3,371
7.	Gas Turbine	$3,371
8.	Heater Treater	$3,371
9.	Other	$3,371

* This fee schedule shall not be used for source testing non-criteria pollutants, including hydrogen sulfide and toxic air contaminants. Such source tests shall be assessed fees on the Cost Reimbursement Basis (Section C).

** If source testing is conducted offshore, the fee shall be increased by 25 percent. If source testing includes determining the efficiency of an emission control device, the fee shall be increased by 50 percent.

SCHEDULE D
SAMPLE AND LABORATORY ANALYSIS FEES

ITEM #		FEE
1.	Sample and Laboratory Analysis	
	a. District Labor to Coordinate the Sampling and Analysis	$287
	b. Laboratory Analysis *	As charged by outside laboratory (pass-through fees)

* Laboratory Analysis may include, but is not limited to, fuel analyses, vapor pressure tests, asbestos content tests, and Volatile Organic Compound (VOC) content tests.

SCHEDULE E
ASBESTOS DEMOLITION AND RENOVATION FEES

At the time written notice is required to be submitted to the District, contractors for asbestos demolition/renovation operations subject to District Regulation X, Rule 1001, Subpart M of Attachment I and federal regulation 40 CFR, Part 61, Subpart 61.145, shall pay the following fees:

Quantity of Asbestos	**FEE**
Demolition only:	
Less than 260 linear feet or 160 square feet	$167
Demolitions and renovations:	
Greater than 260 linear feet or 160 square feet but less than 500 linear or square feet	$671
Greater than 500 but less than 1,000	$951
1,000 or greater but less than 2,500	$1,275
2,500 or greater but less than 5,000	$1,577
5,000 or greater but less than 10,000	$1,846
10,000 or greater	$2,182

SCHEDULE F
OTHER STATIONARY SOURCE & ERC FEES

ITEM #		FEE
	Filing Fees	
1.	ATC, PTO, or ERC Application Filing Fee	$565 per application
2.	Transfer of Ownership/Operator – Application Filing Fee	$565 per application
3.	Request for Written Determination of Permit Exemption	$862 per application
	Other Permit Changes	
4.	Transfer of Ownership/Operator – Permit Split Evaluation Fee	$1,047 per permit
5.	Administrative Change Evaluation Fee	$615 per permit
6.	Decrease in Permitted Throughput Limits Evaluation Fee	$615 per permit
	Project-Specific Fees	
7.	School Public Notice pursuant to Health and Safety Code §42301.6	$3,607 per application
8.	Health Risk Assessment (HRA) Screening Fee	$877 per application
9.	Interim Permit Approval Process (IPAP) Program Fee	$917 per application
10.	Confidential Information Handling Fee	$1,861 per initial permit
	a. Confidential Information Reevaluation Fee	$1,452 per permit reevaluation
11.	Data Acquisition System (DAS) Operation & Maintenance Fee	$1,323 per parameter-semiannually
12.	CEQA Findings – Lead Agency or Responsible Agency	$1,296 per application
13.	CEQA Filing – Notice of Exemption or Notice of Determination	$538 per filing
14.	ERC Reissuance Fee	$986 per application
	Other Fees	
15.	Reinstatement of Permit Fee	$1,594 per permit

SCHEDULE G
HEARING BOARD FEES

ITEM #		FEE
	Variances	
1.	Fixed Fee (Schedule A) Permit	
	a. Emergency Variance Filing Fee	$293 per petition
	b. Interim Variance Filing Fee	$341 per petition
	c. 90-day Variance Filing Fee	$1,850 per petition
	d. Regular Variance Filing Fee	$1,850 per petition
	i. Fee for each month over three (3) months	$677 per month
2.	Cost Reimbursement Permit	
	a. Emergency Variance Filing Fee	$145 per petition
	b. Interim Variance Filing Fee	$850 per petition
	c. 90-day Variance Filing Fee	$850 per petition
	d. Regular Variance Filing Fee	$850 per petition
3.	Product Variance Filing Fee	$4,315 per petition
	a. Fee for each month over three (3) months	$863 per month
4.	Excess Emissions Fee	$395 per ton
	Appeals	
5.	Permit/ERC Appeal Filing Fee	$984 per petition
	a. Additional Hearing Time	$493 per hour

SCHEDULE H
REGISTRATION PROGRAM FEES

ITEM #		FEE
1.	Agricultural Diesel Engine – Registration or Renewal	$314

RULE 203. TRANSFER
(Adopted 10/18/1971, revised 5/1/1972, readopted 10/23/1978, revised 4/17/1997, xx/xx/xxxx)

A. Applicability

This rule shall apply to any person transferring operation or ownership of permitted equipment.

B. Exemptions

None.

C. Definitions

See Rule 102 for definitions.

D. Requirements

1. Transfer of Permits

An Authority to Construct or Permit to Operate shall not be transferable, whether by operation of law or otherwise, either from one location to another, or from one piece of equipment to another, except for those items specifically noted on the permit as being portable and/or relocatable.

Any application to transfer a permit from one permit holder to another shall be accompanied by a filing fee as specified in Rule 210, Fees. A change in business name only is not a transfer and shall not be assessed a fee. Transferring an entire permit from one permit holder to another shall not be assessed any evaluation fees. If a transfer of ownership/operator requires permit(s) to be split into multiple permits, the applicant(s) shall be assessed evaluation fee(s) as specified in Rule 210.

An application for the transfer of ownership only shall constitute a temporary Permit to Operate if authorized by Health and Safety Code Section 42301(f). The Control Officer shall approve an application for the transfer of a permit if all of the following requirements are met:

a. the article, machine, equipment, or contrivance subject to the permit is in compliance with all applicable orders, rules, and regulations of the District, Air Resources Board and the Environmental Protection Agency;

b. a written agreement or other written proof of transfer of ownership deemed sufficient by the Control Officer which specifies the date of ownership transfer has been submitted to the District;

c. the permit has been reviewed by the District to determine that permit conditions are adequate to ensure compliance with, and enforceability of, District rules and regulations applicable to the article, machine or contrivance for which the permit was issued;

d. where D(1)(c) has not been met, the Control Officer shall require that the permit be revised to specify the permit conditions necessary in accordance with all applicable rules and regulations; and

e. all fees associated with the permit have been paid.

2. An application for transfer of a permit shall be filed within 30 days of change of ownership or operator.

RULE 211. TECHNICAL REPORTS - CHARGES FOR
(Adopted 10/18/1972, revised 6/1976, readopted 10/23/1978, and repealed on 5/16/2024)

Repealed by the Santa Barbara County Air Pollution Control District Board on May 16, 2024.

RULE 213. FEES FOR REGISTRATION PROGRAMS
(Adopted 10/18/2007 and repealed on 5/16/2024)

Repealed by the Santa Barbara County Air Pollution Control District Board on May 16, 2024.

RULE 342. BOILERS, STEAM GENERATORS, AND PROCESS HEATERS (5 MMBtu/hr and greater)
(Adopted 3/10/1992, revised 4/17/1997, 6/20/2019, xx/xx/xxxx)

A. Applicability

This rule shall apply to any boiler, steam generator, or process heater with a rated heat input capacity greater than or equal to 5 million British thermal units per hour.

B. Exemptions

1. This rule shall not apply to:

    a. Boilers used by public electric utilities to generate electricity.

    b. Process heaters, kilns, and furnaces, where the products of combustion come into direct contact with the material to be heated.

    c. Waste heat recovery boilers that are used to recover or augment heat from the exhaust of combustion turbines or reciprocating internal combustion engines.

    d. Equipment that does not require a permit under the provisions of Rule 202, Exemptions to Rule 201. Notwithstanding the above, this exemption shall not apply to any AB 617 Industrial Unit.

2. Section D.1, D.3, and D.5 shall not apply to any unit while forced to burn non-gaseous fuel during times of public utility imposed natural gas curtailment. This exemption shall not exceed 168 cumulative hours of operation per calendar year excluding equipment testing time not exceeding 24 hours per calendar year.

3. The emission limits of Section D.1, D.3, and D.5 shall not apply during startup and shutdown periods provided that all of the following conditions are met:

    a. Each startup and shutdown period shall not exceed two hours, unless otherwise allowed in a District Permit to Operate. In no case shall the startup period exceed 12 hours or the shutdown period exceed 9 hours, and

    b. Startup or shutdown intervals shall not last longer than is necessary to reach stable temperatures and conditions, and

    c. All emission control systems shall be in operation and emissions shall be minimized, to the extent possible, during startup and shutdown periods.

4. Section D.4 and Section K shall not apply to an emission unit that has implemented District Best Available Control Technology (BACT) due to a permit revision or a new permit issuance since 2007.

C. Definitions

See Rule 102, Definitions, for definitions not limited to this rule. For the purposes of this rule, the following definitions shall apply:

"AB 617 Industrial Unit" means any unit located at a facility that, as of January 1, 2017, was subject to a market-based compliance mechanism adopted by the state board pursuant to Health and Safety Code §38562(c).

"Annual Heat Input" means the total heat input of fuels burned by a unit in a calendar year, as determined from the higher heating value and cumulative annual usage of each fuel.

"Boiler or Steam Generator" means any external combustion equipment fired with liquid and/or gaseous and/or solid fuel that is used to produce steam or to heat water. Boiler or Steam Generator does not include any fired or unfired waste heat recovery boiler that is used to recover or augment heat from the exhaust of any combustion equipment.

"Digester Gas" means gas derived from the decomposition of organic matter in a digester.

"Gaseous Fuel" means any fuel which is a gas at standard conditions.

"Landfill Gas" means gas derived from the decomposition of waste in a landfill.

"Modification" or "Modify" means any of the following actions:

1. Replacing a burner or burners on a unit; or

2. Removing a unit from the site of its original installation and installing it at a different location. A unit that is reinstalled within the same stationary source is not modified.

"Non-gaseous Fuel" means any fuel which is not a gas at standard conditions.

"Parts Per Million" or "ppm" means parts per million by volume expressed on a dry gas basis.

"Process Heater" means any external combustion equipment fired with liquid and/or gaseous and/or solid fuel and which transfers heat from combustion gases to water or process streams. Process Heater does not include any kiln or oven used for drying, baking, curing, cooking, calcinating or vitrifying or any unfired waste heat recovery heater that is used to recover sensible heat from the exhaust of any combustion equipment.

"Rated Heat Input Capacity" means the heat input capacity specified on the nameplate of the combustion unit, typically reported in million Btu per hour. If the combustion unit has been physically modified such that its maximum heat input is different than the heat input capacity specified on the nameplate, the modified maximum heat input shall be considered as the rated heat input. The new maximum heat input must be certified, in writing, by the manufacturer or installer and engineering calculations supporting the new maximum heat input rating must be submitted to and approved by the District. The District may require the modified maximum heat input capacity to be demonstrated by a fuel meter while operating the unit at maximum capacity.

"Shutdown Period" means the period of time during which a unit is taken from an operational to a non-operational status by allowing it to cool down from its operating temperature to a cold or ambient temperature as the fuel supply is turned off.

"Startup Period" means the period of time during which a unit is brought from a shutdown status to its operating temperature and pressure.

"Unit" means any boiler, steam generator, or process heater.

D. Requirements – Emission Standards

1. For units that are installed prior to January 1, 2020 with a permitted annual heat input of greater than or equal to 9 billion British thermal units, oxides of nitrogen (NO_x) emissions shall not exceed the following limits:

a. 30 parts per million at 3 percent oxygen or 0.036 pounds per million British thermal units of heat input when operated on gaseous fuel; and

b. 40 parts per million at 3 percent oxygen or 0.052 pounds per million British thermal units of heat input when operated on non-gaseous fuel; and

c. the heat-input weighted average of the limits specified in D.1.a and D.1.b when operated on combinations of gaseous and non-gaseous fuel.

d. Emissions from units shall not exceed a carbon monoxide (CO) concentration of 400 parts per million at 3 percent oxygen.

2. Units that are installed prior to January 1, 2020 with a permitted annual heat input of less than 9 billion British thermal units shall be:

a. operated in a manner that maintains stack-gas oxygen concentrations at less than 3.00 percent by volume on a dry basis; or

b. operated with a stack-gas oxygen trim system set at 3.00 ±0.15 percent oxygen by volume on a dry basis; or

c. tuned at least once every twelve months in accordance with the procedure described in Attachment 1; or

d. operated in compliance with the applicable emission limits specified in Section D.1.

3. On or after January 1, 2020, no owner or operator shall install or modify any unit unless the unit complies with the emission limits set forth in Table 1 below.

Table 1: Emission Limits for Units Installed On or After January 1, 2020

Rated Heat Input (million Btu/hr)	Fuel Type	NOx Emission Limit (ppm at 3% O_2)	CO Emission Limit (ppm at 3% O_2)
5 - 20	Gaseous, except landfill or digester gas	9	400
> 20	Gaseous, except landfill or digester gas	7	400
≥ 5	Landfill Gas	25	400
≥ 5	Digester Gas	15	400
≥ 5	Non-gaseous	40	400
≥ 5	Multiple Fuels	heat-input weighted average limit	400

4. On or before December 31, 2023, all AB 617 Industrial Units that have an annual heat input of greater than or equal to 9 billion British thermal units shall operate in compliance with the emission limits specified in Section D.3.

5. In lieu of meeting the requirements of Section D.3, any boiler that directs the exhaust gases into a greenhouse as a means of supplementing carbon dioxide (CO_2) to a crop shall operate in compliance with the following emission limits:

a. 30 parts per million oxides of nitrogen (NOx) at 3 percent oxygen; and

b. 10 parts per million carbon monoxide (CO) at 3 percent oxygen.

E. Requirements – Equipment

1. Owners or operators of units which simultaneously fire combinations of different fuels and are subject to the requirements of Section D.1, D.3, or D.5 shall install totalizing mass or volumetric flow rate meters in each fuel line. Gas flow rate meters shall be installed in conjunction with temperature and pressure probes.

2. Owners or operators of units which employ flue-gas NO_x reduction technology and are subject to the requirements of Section D.1, D.3, or D.5 shall install meters as applicable to allow instantaneous monitoring of the operational characteristics of the NO_x reduction equipment.

3. On or after March 10, 1992, no person shall install an anhydrous ammonia system to meet the requirements of this rule.

F. Requirements – Compliance Determination

1. All emission determinations shall be made in the as-found operating condition, at the maximum attainable firing rate allowed by the District permit. No determination of compliance with the requirements of Section D.1, D.3, or D.5 shall be established during unit startup, shutdown, or under breakdown conditions. Compliance determinations shall be conducted at least 250 operating hours or at least thirty days after the tuning or servicing of the unit, unless it is an unscheduled repair.

2. All parts per million emission limits specified in Section D.1, D.3, and D.5 are referenced at dry stack-gas conditions and 3.00 percent by volume stack-gas oxygen. Emission concentrations shall be corrected to 3.00 percent oxygen as follows:

$$[\text{ppm } NO_x]_{\text{corrected}} = \frac{20.95\% - 3.00\%}{20.95\% - [\%\, O_2]_{\text{measured}}} \text{ X } [\text{ppm } NO_x]_{\text{measured}}$$

$$[\text{ppm CO}]_{\text{corrected}} = \frac{20.95\% - 3.00\%}{20.95\% - [O_2]_{\text{measured}}} \text{ X } [\text{ppm CO}]_{\text{measured}}$$

3. All pounds-per-million-British thermal unit NO_x emission rates shall be calculated as pounds of nitrogen dioxide per million British thermal unit of heat input.

4. All heat input weighted average NOx limits shall be calculated as follows:

$$\text{Weighted Limit} = \frac{(CL_A \text{ x } Q_A) + (CL_B \text{ x } Q_B)}{Q_A + Q_B}$$

Where: CL_A = compliance limit for fuel A
CL_B = compliance limit for fuel B
Q_A = annual heat input from fuel A
Q_B = annual heat input from fuel B

G. Requirements – Source Testing

1. All units subject to Sections D.1, D.2.a, D.2.b, D.2.d, D.3, D.4, and D.5 shall be tested for compliance not less than once every 24 months.

2. The owner or operator of any unit subject to the source testing provisions of this rule shall submit a Source Test Plan to the District and obtain District written approval prior to the start of any source test. The Source Test Plan shall be filed with the District at least 30 days before the start of each source test. The District shall be notified of the date of source testing at least 14 days prior to testing to arrange a mutually agreeable test date.

3. Source testing shall be performed by a source test contractor certified by the California Air Resources Board. District required source testing shall not be performed by an owner or operator unless approved by the Control Officer.

4. The owner or operator of any unit which is found to be in noncompliance with Section D as a result of a source test shall comply with the following:

    a. A repeat source test shall be performed to demonstrate compliance with Section D within the time period specified by the District.

    b. Annual source tests shall be conducted on any noncompliant unit until two consecutive tests demonstrate compliance with Section D. When the unit is demonstrated to be in compliance with Section D by two consecutive source tests, the unit shall comply with the provisions of Section G.1.

5. All source tests shall consist of a minimum of three 40 minute tests. The average concentration from the test runs shall be used for determining compliance.

H. Test Methods

1. The owner or operator of any unit subject to the source test requirements of this rule shall use the test methods and procedures listed below:

    a. Oxides of Nitrogen - Environmental Protection Agency Method 7E or California Air Resources Board Method 100.

    b. Carbon Monoxide - Environmental Protection Agency Method 10 or California Air Resources Board Method 100.

    c. Stack Gas Oxygen - Environmental Protection Agency Method 3 or 3A or California Air Resources Board Method 100.

    d. NO_x Emission Rate (Heat Input Basis) - Environmental Protection Agency Methods 2 and 4 if applicable, or Method 19.

2. If certification of the Higher Heating Value is not provided by the third party fuel supplier, it shall be determined by one of the following test methods:

    a. For solid fuels: ASTM D5865-13 “Standard Method for Gross Calorific Value of Coal and Coke;”

    b. For liquid hydrocarbon fuels: ASTM D240-17, “Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuel by the Bomb Calorimeter,” or ASTM D4809-13 “Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method);” or

c. For gaseous fuels: ASTM D1826-94 (2010), "Standard Test Method for Calorific (Heating) Value of Gases in Natural Gas Range by Continuous Recording Calorimeter," or ASTM D1945-14, "Standard Test Method for Analysis of Natural Gas by Gas Chromatography," in conjunction with ASTM D3588-98 (2011), "Standard Practice for Calculating Heat Value, Compressibility Factor, and Relative Density of Gaseous Fuels."

I. Requirements – Recordkeeping

All owners or operators of units subject to this rule shall keep all records listed below onsite for a period of five years and the records shall be made readily available to the District upon request:

1. *Rule 342 Tune-Up Reports*.

2. Source test reports.

3. The cumulative annual fuel usage and the Higher Heating Value of each fuel used.

4. Records of emergency non-gaseous fuel use per Section B.2. These records shall include the dates, operating hours, and volumes of non-gaseous fuel used.

J. Requirements – Reporting

1. The records required pursuant to Section I.1, I.3, and I.4 shall be submitted to the District by March 1st for the prior calendar year.

2. Source test reports required pursuant to Section I.2 shall be submitted to the District within 45 days of test completion.

K. Compliance Schedule – AB 617 Industrial Units

1. The owner or operator of any AB 617 Industrial Unit that has a Permit to Operate shall apply for an Authority to Construct permit prior to January 30, 2023. This provision shall not apply to any unit that already meets the requirements in Section D.4, as listed in the unit's Permit to Operate.

2. The owner or operator of any AB 617 Industrial Unit that does not have a Permit to Operate shall submit a *Rule 342 Compliance Plan* for District review and approval prior to January 30, 2023 or 90 days prior to unit installation, whichever occurs earlier. All costs incurred by the District for the review and enforcement of the *Rule 342 Compliance Plan* shall be reimbursable costs pursuant to Rule 210, Fees. The *Rule 342 Compliance Plan* shall include:

   a. The company name, facility address, and facility contact information.

   b. A list of all subject units with their rated heat input capacity.

   c. Any proposed modifications to the unit so that the unit complies with the requirements in Section D.4 of this rule by December 31, 2023 and for the remaining life of the unit.

   d. For gaseous fuels, the proposed non-resettable temperature and pressure corrected totalizing fuel meter(s) specifications. For liquid fuels, the proposed non-resettable totalizing fuel meter(s) specifications. For solid fossil fuels, provide the methods of fuel throughput monitoring to be used that will achieve the same level of fuel monitoring accuracy as the meters required for the measurement of gaseous and liquid fuels described above. Include the fuel meter manufacturer, model number, technical brochure, and manufacturer recommended calibration schedule.

3. On or before December 31, 2023, the owner or operator of any AB 617 Industrial Unit shall operate in compliance with the requirements in Section D.4.

4. For AB 617 Industrial Units that are exempt from the requirements of Section D.4 on December 31, 2023 because they have an annual heat input of less than 9 billion British thermal units, but that subsequently no longer qualify for that exemption, the owner or operator shall submit an Authority to Construct permit application within 30 days of exceeding the threshold and shall operate in compliance with the requirements in Section D.4 within one year of exceeding the threshold.

ATTACHMENT 1

SBCAPCD Rule 342 Tune-Up Procedures [1]

PROCEDURE A
Equipment Tuning Procedure for Forced Draft-Fired Equipment

Nothing in this Equipment Tuning Procedure shall be construed to require any act or omission that would result in unsafe conditions or would be in violation of any regulation or requirement established by Factory Mutual, Industrial Risk Insurers, National Fire Prevention Association, the California Department of Industrial Relations (Occupational Safety and Health Division), the Federal Occupational Safety and Health Administration, or other relevant regulations and requirements.

1. Operate the unit at the firing rate most typical of normal operation. If the unit experiences significant load variations during normal operation, operate it at its average firing rate.

2. At this firing rate, record stack gas temperature, oxygen concentration, and CO concentration (for gaseous fuels) or smoke-spot number[2] (for liquid fuels), and observe flame conditions after unit operation stabilizes at the firing rate selected. Note these readings in the *Rule 342 Tune-Up Report* as the *"Initial As-Found Conditions."* If the excess oxygen in the stack is at the lower end of the range of typical minimum values[3], and if the CO emissions are low and there is no smoke, the unit is probably operating at near optimum efficiency at this particular firing rate. However, complete the remaining portion of this procedure to determine whether still lower oxygen levels are practical.

3. Increase combustion air flow to the furnace until stack gas oxygen levels increase by one to two percent over the level measured in Step 2. As in Step 2, record the stack gas temperature, CO concentration (for gaseous fuels) or smoke-spot number (for liquid fuels), and observe flame conditions for these higher oxygen levels after boiler operation stabilizes.

4. Decrease combustion air flow until the stack gas oxygen concentration is at the level measured in Step 2. From this level, gradually reduce the combustion air flow in small increments. After each increment, record the stack gas temperature, oxygen concentration, CO concentration (for gaseous fuels) and smoke-spot number (for liquid fuels). Also observe the flame and record any changes in its condition.

5. Continue to reduce combustion air flow stepwise until one of these limits in reached:

    a. Unacceptable flame conditions - such as flame impingement on furnace walls or burner parts, excessive flame carryover, or flame instability.

    b. Stack gas CO concentrations greater than 400 ppm.

    c. Smoking at the stack.

    d. Equipment-related limitations - such as low windbox/furnace pressure differential, built in air-flow limits, etc.

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1. This tuning procedure is based on a tune-up procedure developed by KVB, Inc. for the EPA.

2. The smoke-spot number can be determined with ASTM Test Method D2156-09 (2013), "Standard Test Method for Smoke Density Flue Gases from Burning Distillate Fuels," or with the Bacharach method.

3. Typical minimum oxygen levels for boilers at high firing rates are:

    1. For natural gas: 0.5% - 3%
    2. For liquid fuels: 2% - 4%

6. Develop an oxygen/CO curve (for gaseous fuels) or oxygen/smoke curve (for liquid fuels) similar to those shown in Figures 1 and 2 using the excess oxygen and CO or smoke-spot number data obtained at each combustion air flow setting.

7. From the curves prepared in Step 6, find the stack gas oxygen levels where the CO emissions or smoke-spot number equal the following values:

Fuel	**Measurement**	**Value**
Gaseous	CO Emissions	400 ppm
#1 & #2	smoke-spot number	number 1
#4 oil	smoke-spot number	number 2
#5 oil	smoke-spot number	number 3
Other oils	smoke-spot number	number 4

The above conditions are referred to as the CO or smoke threshold, or as the minimum excess oxygen level.

Compare this minimum value of excess oxygen to the expected value provided by the combustion unit manufacturer. If the minimum level found is substantially higher than the value provided by the combustion unit manufacturer, burner adjustments can probably be made to improve fuel and air mixing, thereby allowing operation with less air.

8. Add 0.5 to 2.0 percent to the minimum excess oxygen level found in Step 7 and reset burner controls to operate automatically at this higher stack gas oxygen level. This margin above the minimum oxygen level accounts for fuel variations, variations in atmospheric conditions, load changes, and nonrepeatability or play in automatic controls.

9. If the load of the combustion unit varies significantly during normal operation, repeat Steps 1-8 for firing rates that represent the upper and lower limits of the range of the load. Because control adjustments at one firing rate may affect conditions at other firing rates, it may not be possible to establish the optimum excess oxygen level at all firing rates. If this is the case, choose the burner control settings that give best performance over the range of firing rates. If one firing rate predominates, settings should optimize conditions at that rate.

10. Verify that the new settings can accommodate the sudden changes that may occur in daily operation without adverse effects. Do this by increasing and decreasing load rapidly while observing the flame and stack. If any of the conditions in Step 5 result, reset the combustion controls to provide a slightly higher level of excess oxygen at the affected firing rates. Next, verify these new settings in a similar fashion. Then make sure that the final control settings are recorded at steady-state operating conditions for future reference.

11. Take a final combustion analysis for carbon monoxide concentration and oxygen concentration (also record the smoke-spot number for liquid fuels only). Note these readings, as well as the stack temperature and flame condition, in the *Rule 342 Tune-Up Report* as the *"Final As-Tuned Conditions."*

12. When the above checks and adjustments have been made, prepare a *Rule 342 Tune-Up Report.* The report shall include all recorded data and combustion analysis data for the unit; the name, title, signature, company name, and contact information of person performing the tune-up; and date the tune-up was performed. The *Rule 342 Tune-Up Report* shall clearly indicate the *"Initial As-Found Conditions"* and the *"Final As-Tuned Conditions"* and shall (if applicable) state whether the Carbon Monoxide emission standards were met.

NOTE

The owner/operator may propose an alternative tuning procedure that meets the same basic requirements of the procedure outlined above for District review and approval. The District may assess fees to reimburse its costs associated with the review of the alternative procedure under the cost reimbursement provisions of Rule 210, Fees. District approval of the alternative tuning procedure must be obtained prior to its use.

Figure 1
Oxygen/CO Characteristic Curve

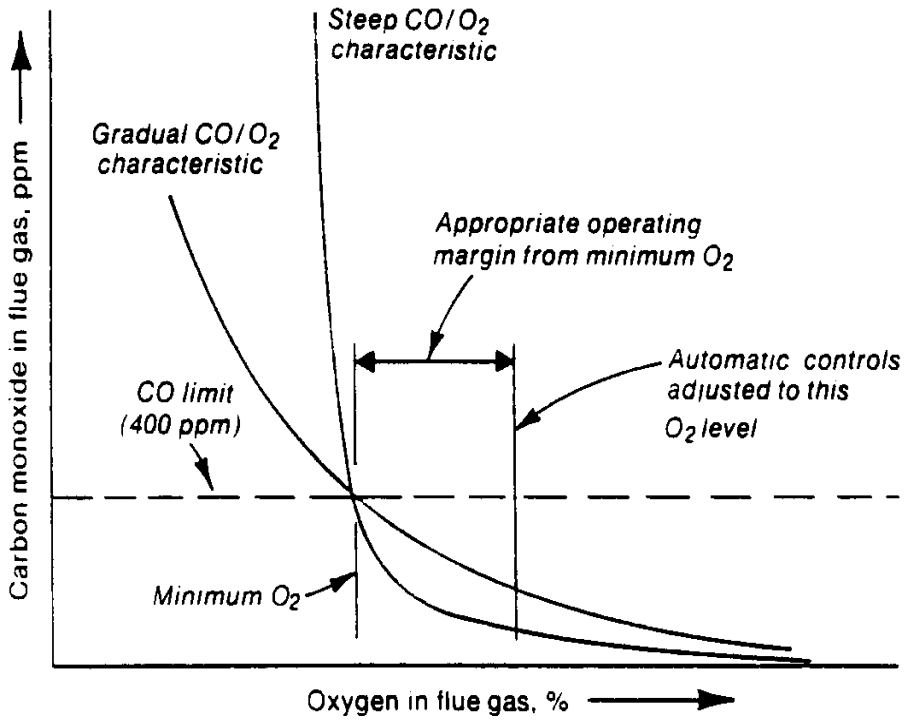
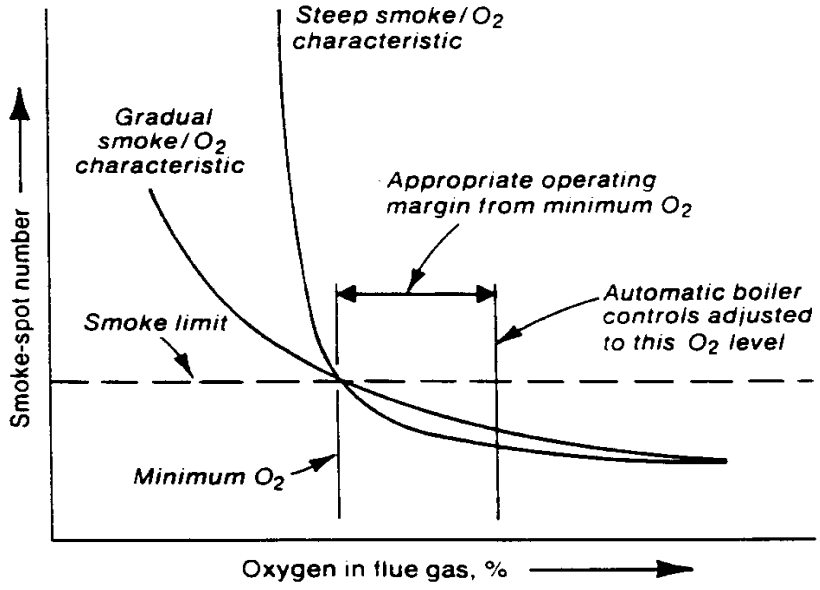


Figure 2
Oxygen/Smoke Characteristic Curve



PROCEDURE B
Equipment Tuning Procedure for Natural Draft-Fired Equipment

Nothing in this Equipment Tuning Procedure shall be construed to require any act or omission that would result in unsafe conditions or would be in violation of any regulation or requirement established by Factory Mutual, Industrial Risk Insurers, National Fire Prevention Association, the California Department of Industrial Relations (Occupational Safety and Health Division) the Federal Occupational Safety and Health Administration, or other relevant regulations and requirements.

1. PRELIMINARY ANALYSIS

    a. Verify that the boiler, steam generator, or process heater (unit) is operating at the lowest pressure or temperature that will satisfy load demand. This pressure or temperature will be used as a basis for comparative combustion analysis before and after tune-up.

    b. Verify that the unit operates for the minimum number of hours and days necessary to perform the work required.

    c. Verify that the size of air supply openings is in compliance with applicable codes and regulations. Air supply openings must be fully open when the burner is firing and air flow must be unrestricted.

    d. Verify that the vent is in good condition, properly sized and free from obstruction.

    e. Perform an as-found (i.e., prior to any adjustments) combustion analysis for carbon monoxide concentration, oxygen concentration and measure the stack temperature and note the flame condition at both high and low fire, if possible. Note these readings in the *Rule 342 Tune-Up Report* as the *"Initial As-Found Conditions"*. Also record the following:

        (1) Inlet fuel pressure at burner at high and low firing rates.

        (2) Pressure above draft hood or barometric damper at high, medium, and low firing rates.

        (3) Steam pressure, water temperature, or process fluid pressure or temperature entering and leaving the unit.

        (4) Inlet fuel use rate if meter is available.

2. CHECKS AND CORRECTIONS

    a. Clean all dirty burners or burner orifices. Verify that fuel filters and moisture traps are in place, clean, and operating properly. Confirm proper location and orientation of burner diffuser spuds, gas canes, etc. Replace or repair all damaged or missing burner parts.

    b. Remove external and internal sediment and scale from heating surfaces.

    c. Verify that the necessary water or process fluid treatment is being used to minimize scale and corrosion. Confirm flushing and/or blowdown schedule.

    d. Repair all leaks. In addition to the high-pressure lines, check the blow-off, drain, safety valve, bypass lines, and, if used, the feed pump.

3. SAFETY CHECKS

    a. Test primary and secondary low water level controls.

    b. Check operating and limit pressure and temperature controls.

c. Check pilot safety shut off operation.

d. Check safety valve pressure setting and verify that the setting is consistent with unit load requirements.

e. Check limit safety control and spill switch.

4. ADJUSTMENTS

Perform the following checks and adjustments on a warm unit at high fire:

a. Adjust unit to fire at the maximum inlet fuel use rate: record fuel manifold pressure.

b. Adjust draft and/or fuel pressure to obtain acceptable, clean combustion at high, medium, and low firing rates. The carbon monoxide value should not exceed 400 parts per million at 3% oxygen.

c. Verify that unit light-offs are smooth and safe. Perform a reduced fuel pressure test at both high and low firing rates in accordance with the manufacturer's instructions.

d. Check and adjust the modulation controller. Verify proper, efficient, and clean combustion through the range of firing rates.

When optimum performance has been achieved, record all data.

5. FINAL TEST

After adjustments, perform a final combustion analysis for carbon monoxide concentration, oxygen concentration, and measure the stack temperature and note the flame condition on the warm unit at high, medium, and low firing rates, if possible. Note these readings in the *Rule 342 Tune-Up Report* as the "*Final As-Tuned Conditions*". Also record the following:

i. Inlet fuel pressure at burner at high, medium, and low firing rates.

ii. Pressure above draft hood or barometric damper at high, medium, and low firing rates.

iii. Steam pressure, water temperature, or process fluid pressure or temperature entering and leaving the unit.

iv. Inlet fuel use rate if meter is available.

NOTE
The owner or operator may propose an alternative tuning procedure that meets the same basic requirements of the procedure outlined above for review and approval by the Control Officer. The District may assess fees to reimburse its costs associated with the review of the alternative procedure under the cost reimbursement provisions of Rule 210, Fees. Control Officer approval of the alternative tuning procedure must be obtained in writing prior to its use.

RULE 359. FLARES AND THERMAL OXIDIZERS

(Adopted 6/28/1994, revised xx/xx/xxxx)

A. Applicability

The provisions of this rule shall apply to the use of flares and thermal oxidizers at oil and gas production sources (SIC code 13), petroleum refinery and related sources (SIC code 29), natural gas services and transportation sources (SIC code 49) and wholesale trade in petroleum/petroleum products (SIC code 51). This rule shall supersede the fuel combustion provisions of Rule 311 only insofar as these fuel combustion provisions apply to flares and thermal oxidizers.

B. Exemptions

1. The provisions of this rule shall not apply to the burning of sulfur, hydrogen sulfide, acid sludge or other sulfur compounds in the manufacturing of sulfur or sulfur compounds. For oil and gas sources (SIC Code 13) that recover sulfur as a by-product of gas treating/sweetening processes, the exemption for manufacturing shall apply only to those specific processes (e.g. sulfur recovery plant).

2. The provisions of this rule, with the exception of Section D.2 (Technology Standards), shall not apply to the burning of any gas with a net heating value of less than 300 British Thermal Unit (Btu) per standard cubic foot (scf) provided the fuel used to incinerate such gas does not contain sulfur compounds in excess of the following:

    a. 15 grains/100 cu.ft. (calculated as H_2S at standard conditions) in the Southern Zone, and

    b. 50 grains/100 cu.ft. (calculated as H_2S at standard conditions) in the Northern Zone of Santa Barbara County.

3. The provisions of this rule, with the exception of Sections D.1 (Sulfur Content in Gaseous Fuels), D.2 (Technology Standards), G (Monitoring and Recordkeeping) and H (Reporting), shall not apply to flares or thermal oxidizer units rated, per their operating permits, at 1.7 MMBtu/hour or less. However, if the total cumulative rating of all such rated units at a source exceeds 5 MMBtu/hr, then this exemption shall not apply.

4. The following are exempt only from Section D.3 (Flare Minimization Plan) of this rule:

    a. Flare and thermal oxidizer units rated, per their operating permits, at less than 15 MMBtu/hour. However, if the total cumulative rating of all such rated units at a source exceeds 50 MMBtu/hr, then this exemption shall not apply.

    b. Flares and thermal oxidizers whose flaring operations solely consist of planned, continuous flaring due to the non-availability of a produced gas pipeline outlet.

C. Definitions

See Rule 102, Definitions, for definitions not limited to this rule. For purposes of this rule, the following definitions shall apply:

"**Burn**" means combustion of any fuel including a gaseous fuel, whether for useful heat or by incineration without heat recovery.

"**Day**" or "**days**" means calendar day(s) unless otherwise stated.

"**Emergency**" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the permittee, including acts of God. An emergency situation requires immediate corrective action to restore normal, safe operation. It also causes an exceedance of an emission standard or a limit stipulated in this rule, due to unavoidable increases in emissions attributable to the emergency situation only. Events which have been deemed as planned events (for definition, see later in this section) by a federal regulatory agency shall be precluded from being considered as emergency events.

"Emergency Flare Event" means the combustion (flaring) of gaseous fuels caused by an emergency event.

"**Flare**" means a direct combustion device in which air and all combustible gases react at the burner with the objective of complete and instantaneous oxidation of the combustible gases. Flares are used either continuously or intermittently and are not equipped with devices for fuel-air mix control or for temperature control.

"**Flare Gas**" means produced gas or natural gas burned in a flare or thermal oxidizer.

"**Gaseous fuel**" means gases used as combustion fuel which include, but are not limited to, any natural, process, synthetic, landfill, sewage digester, or waste gases. Gaseous fuel includes produced gas, pilot gas and, when burned, purge gas.

"**Month**" or "**monthly**" means calendar month or refers to calendar month.

"**Net Heating Value**" means the heating value of the flare gas being combusted, as specified under 40 CFR 60.18(f)(3) [1992 Edition].

"**Pilot Gas**" means gas that is used to ignite or continually ignite flare gas. Pilot gas may be PUC quality gas, liquefied petroleum gas (LPG), or produced gas.

"**Planned Flaring**" means a flaring operation that constitutes a designed and planned process at a source, and which would have been reasonably foreseen ahead of its actual occurrence, or is scheduled to occur. Planned flaring includes, but is not limited to, the following activities:

1. Flaring during well tests, well-related work, or tests ordered by applicable regulatory agencies;

2. Flaring due to equipment depressurization for preventive maintenance that includes: (a) routine engine overhauls; (b) turbine start-ups; (c) compressor start-ups; (d) engine exchange/removal; (e) platform modification/construction; (f) hot-jobs (welding, etc.); (g) new platform/well start-up; (h) well work-over; (i) maintenance at onshore sources supporting offshore production; (j) Installation of Sulferox etc., system; (k) planned plant shut-downs; (l) unloading from new wells; (m) rupture disc maintenance; (n) acid jobs; (o) source testing; or (p) any pipeline depressurization not due to breakdown conditions (e.g., pigging);

3. Flaring of produced gas at production sources for which no gas handling, gas injection, or gas transmission facilities currently exist;

4. Flaring of "off-specification" gas (e.g. non-PUC quality gas), unless the permittee can demonstrate that the gas must be flared for engineering or safety reasons (e.g. under an emergency).

"**Planned continuous flaring**" shall include flare purge and flare pilot operations, and continuous flaring of produced gas which is not otherwise processed at the source.

"**Planned intermittent flaring**" shall include all other planned flaring of limited duration in time and volume of gaseous fuel (e.g. pigging or equipment depressurization for maintenance).

"**Preventive Maintenance**" means a regularly scheduled course of procedure designed to prevent equipment failure or decline of equipment function.

"**Produced gas**" means organic compounds that are both: (a) gaseous at standard pressure and temperature (1 atmosphere and 60°F), and (b) associated with the production, gathering, separation, or processing of crude oil and/or natural gas.

"**Public Utilities Commission (PUC) Quality Gas**" means, in the context of sulfur content of the gaseous fuel, gas containing no more than one-fourth (0.25) grain of hydrogen sulfide per one hundred (100) standard cubic feet and no more than five grains of total sulfur per one hundred (100) standard cubic feet. PUC quality gas shall also mean high methane (at least 80 % by volume) gas as specified in PUC's General Order 58-A.

"**Purge Gas**" means an inert gas mixture, LPG, PUC quality gas, or produced gas, any of which can be used to maintain a non-explosive mixture of gases in the flare header or provide sufficient exit velocity to prevent any regressive flame travel back into the flare header.

"**Smokeless**" means, in the context of flare or thermal oxidizer combustion, operation with visible emissions not exceeding an opacity level, for a period or periods aggregating more than three minutes in any one hour, as dark or darker in shade as that designated as No. 1 on the Ringelmann Chart as published by the U.S. Bureau of Mines.

"**Thermal Oxidizer**" means a combustion device that includes enclosed, ground-level flares and in which the gases to be flared pass through one or more staged burners which may be steam quenched or assisted to control smoke. The products of combustion are funneled through a naturally drafted stack to above ground elevations. Thermal oxidizers come equipped with controls for combustion chamber temperature and often with combustion fuel-air mix controls.

"**Unplanned Flaring**" means a flaring event that is not planned or scheduled to occur. An emergency event is an example of an unplanned event (emergency event is a subset of unplanned event).

D. Requirements

1. Sulfur Content in Gaseous Fuels

    a. Any planned flaring shall not burn gaseous fuel which contains sulfur compounds in excess of 15 grains per 100 cubic feet (239 ppmv) in the Southern Zone of Santa Barbara County or 50 grains per 100 cubic feet (796 ppmv) in the Northern Zone of Santa Barbara County -- calculated as hydrogen sulfide at standard conditions (i.e., 1 atmosphere and 60°F).

    b. An owner or operator of a source may apply for an exemption from Section D.1.a, by doing the following:

        1) Demonstrate to the Control Officer that it is infeasible to comply with Section D.1.a. The demonstration shall provide a detailed explanation analyzing all engineering, safety or cost constraints. This demonstration shall be submitted within 90 days of June 28, 1994; and,

        2) Submit an offset plan as a compliance plan, mitigating the SO_2 emissions from the source associated with planned flaring which are in excess of the limits in section D.1.a at an offset ratio of 1:1. The offset plan shall meet all federal and District criteria and guidelines for emission reductions; and may include an inter-pollutant offset scheme, if allowed under the USEPA and the State of California air quality regulations and guidelines. This plan shall be submitted with the demonstration required under Section D.1.b.1). If the exemption is granted by the Control Officer, the owner or operator shall implement the offset plan.

c. All costs associated with the District's review and approval of the exemption determination and offset plan shall be reimbursable by the owner or operator, in accordance with the cost reimbursement provisions of District Rule 210, Fees.

d. Emergency flare events are exempt from the provisions of Section D.1.a.

2. Technology-based Standard

The owner or operator of any source subject to this rule shall comply with the following technology standards:

a. All flares and thermal oxidizers installed or operating after June 28, 1994 shall be smokeless.

b. All new and existing flares and thermal oxidizers shall comply with the following:

1) The outlet shall be equipped with an automatic ignition system including a pilot-light gas source or equivalent system, or, shall operate with a pilot flame present at all times -- with the exception of purge periods for automatic-ignition equipped flares or thermal oxidizers.

2) The presence of the flame in the pilot of the flare or the thermal oxidizer shall be continuously monitored using a thermocouple or an equivalent device that detects the presence of a flame, unless such device(s) can be demonstrated by the permittee to be infeasible, based on engineering, safety or costs constraints, and to the satisfaction of the Control Officer; and,

3) The flame shall be operating at all times when combustible gases are vented through the flare or thermal oxidizer.

c. The following provisions shall apply to low-pressure, open pipe flare operations where the flare gas pressure at the flare tip inlet is less than 5 psig:

1) Steam-assisted or air-assisted flares shall be operated only if the gaseous fuel burned in such flares has a net heating value of 300 Btu/scf or greater. Non-assisted flares shall be operated only if the gaseous fuel burned in such flares has a net heating value of 200 Btu/scf or greater.

2) Steam-assisted, air-assisted and non-assisted flares burning gaseous fuel with a net heating value between 300 (200 for non-assisted flares) and 1,000 Btu/scf shall be operated with an actual exit velocity not exceeding a design maximum velocity V_{max}, defined in Appendix B to this rule. The "actual exit velocity" of a flare shall be determined by dividing the volumetric flow rate (in units of standard temperature and pressure) by the unobstructed (free) cross-sectional area of the flare tip.

3) Steam-assisted, air-assisted and non-assisted flares burning gaseous fuel with net heating value exceeding 1,000 Btu/scf shall be operated with an actual exit velocity not exceeding 400 ft/sec.

3. Flare Minimization Plan

a. Any source subject to this rule and operating a flare or thermal oxidizer rated at 15 MMBtu/hour or greater as listed in the source's operating permits, or in the source's ATC if no operating permit has been issued, shall submit a flare minimization plan to the

Control Officer. The plan shall meet the requirements set forth in Appendix A to this rule.

b. For planned flaring, the minimization plan for all sources subject to this rule shall list a targeted maximum monthly flared gas volume. The target volume shall not exceed five (5) percent of the average monthly gas handled/produced/treated at the source, calculated per Section D.3.c below. This targeted volume limit will be placed in the source permit at the next operating permit issuance/renewal/reevaluation for the source owner or operator.

However, a higher limit may be granted by the Control Officer, if the owner or operator can demonstrate such a maximum volume limit to be infeasible based on safety, engineering or cost constraints and proposes a different percentage as volume limit, based on the same considerations. The proposed limit shall be included in the flare minimization plan for approval by the Control Officer. After approval, the new throughput limit will be placed on the Permit to Operate at the next permit renewal/reevaluation.

c. For sources which have operated for more than three years as of June 28, 1994, the average monthly gas volume referred to in Section D.3.b. shall be based on the last three calendar years of historical data for such volume. However, any three consecutive calendar years of data may be used for such purpose if the permittee requests and demonstrates to the satisfaction of the Control Officer that such period is more representative of the permitted operations at the source. For new or modified sources or sources operating for less than three years, five (5) percent of the source design capacity for gas handled/produced/treated shall be the target monthly volume for the first three years of operation. Following three years of operation, the data history obtained shall establish a new, planned flaring volume limit, which limit shall be incorporated in the next operating permit for the source.

For existing sources, an increase in the monthly flared gas volume limit due to produced/handled/treated gas volume increases shall not be considered a part of the source's net emission increase, provided neither the permitted emission limits nor the permitted volumes for gas produced/handled/treated are exceeded, and the Control Officer has been notified, in writing, of such increases within 30 days of the end of the month on which the increase occurs and the basis thereof.

d. Where limits have been established for sources pursuant to Section D.3.b above, the owner or operator shall develop and submit an emissions mitigation plan, if both of the following apply to the source's operations:

1) The permitted or proposed volume limit exceeds ten (10) percent of the average monthly volume of handled/produced/treated gas (calculated per Section D.3.c above); and,

2) The sulfur content of the flared gas exceeds the fuel sulfur limits stipulated in Section D.1.a.

e. The emissions mitigation plan shall achieve the following:

Reduction by 50 percent, of either the actual average monthly flare gas volume (calculated per Section D.3.c above) or the proposed volume limit, not later than five (5) years after June 28, 1994, whichever reduction volume is greater. Such reduction shall also follow the volume reduction schedule listed in the flare mitigation plan.

After the plan is approved, the plan listed limit(s) will be placed in the source permit at the next operating permit issuance/renewal/reevaluation.

f. All costs associated with the District's review and approval of plans submitted pursuant to Section D.3 shall be reimbursable by the owner or operator, in accordance with the requirements of District Rule 210.

4. Emergency Events

Any flaring which causes an exceedance of the emission limits or standards of this rule shall not be a violation of this rule if the owner or operator of the source demonstrates that the exceedance resulted from an emergency event. To demonstrate that an emergency event occurred, the owner or operator shall do the following:

a. Inform the Control Officer (Attn: Compliance Manager), via e-mail or phone , of the commencement of any emergency event not later than four (4) hours after the start of the next regular business day;

b. Contemporaneously document that an emergency event has occurred and the causes have been identified in an operating log, and properly sign in each entry. Such logs shall be available to the Control Officer on request;

c. Submit to the Control Officer within seven (7) days of the end of the emergency event:

1) a complete description of the event and all mitigating and corrective actions implemented at the source per Appendix A; and,

2) a demonstration that all reasonable steps were taken to minimize emissions in excess of permit conditions or other permit requirements; and,

3) a demonstration that the emergency was not caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, operator error or willful misconduct.

4) a document that the source was being properly operated at the time the emergency event occurred;

In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency event has the burden of proof. A list of typical causes for emergency flare events is provided in Appendix C of this rule as guidance to the permittees.

5. Emission and Operational Limits

The following emission and operating limits shall apply to any source subject to this rule:

a. Flares and thermal oxidizers which use flow-sensing automatic ignition systems and which do not use a continuous flame pilot shall use inert gas or PUC quality gas for purging.

b. Flares or thermal oxidizers rated at fifteen (15) million Btu/hour or greater shall not exceed, for planned flaring, the targeted (cumulative) monthly volume limit of flare gas (expressed as scf/month), established pursuant to Section D.3 (Flare Minimization Plan).

c. Pollutant emissions from all thermal oxidizers and ground-level enclosed flares with planned continuous flaring (per definition in Section C) exceeding 120,000 scf/day (daily maximum basis) shall meet the following emission standards:

FLARE TYPE	Heat Release Rate (MMBtu/hr)	Emissions Standards (in lbs/MMBtu)	
		NO_x	ROC
w/o Steam-assist	<10 MMBtu/hr	0.0952	0.0051
	10-100 MMBtu/hr	0.1330	0.0027
	>100 MMBtu/hr	0.5240	0.0013
with Steam Assist	All	0.068	0.14--as TOG

E. Test Methods

The standard test methods listed below shall be used during required tests, as applicable, by the source owner or operator to demonstrate compliance with this rule. Test methods not listed may be used if the owner or operator demonstrates to the Control Officer that the method is an equivalent test method, and obtains the USEPA or ARB approval of this method prior to its use.

1. Visible emissions shall be determined using the USEPA Reference Method 9.

2. For an open pipe flare, the volumetric flow rate for actual velocity shall be determined by the USEPA Reference Methods 2, 2A, 2C or 2D as appropriate.

3. The net heating value of gaseous fuel shall be determined by ASTM D4891-89, or ASTM D1945-81, or ASTM D1946-90.

4. For total gas sulfur content measurement:

    a. Total reduced sulfur in the gaseous fuel shall be measured using the USEPA Reference Method 16 (Gas Chromatography-Flame Photometric Detector analysis) or 16A or BAAQMD ST-21.

    b. Gas sampling using the USEPA Method 18 and laboratory gas analysis using ASTM D1072-90 or ASTM D4468-85 may be used in limited circumstances when pre-approved by the Control Officer to determine the total reduced sulfur in gaseous fuels. Strict controls on sampling materials and analysis turnaround time shall be required.

    c. For field determination of H_2S level during emergency flaring events, color detection tube methods (e.g., Draeger, Sensidyne or other methods) may be used if the H_2S level in the gas stream is within the acceptable limits for the method.

5. NO_x and ROC levels in the exhaust of thermal oxidizers or ground-level enclosed flares shall be measured following procedures outlined in the applicable reference test methods listed in 40 CFR 60.17. The reference test methods include, but are not limited to the following:

    a. NO_x -- USEPA Method 7 or CARB 100

    b. ROC -- USEPA Method 18 or USEPA Method 25.

    c. Flow rate and mass emission rate -- USEPA Method 19

    d. CO_2 and O_2 concentrations -- USEPA Method 3 or CARB 100.

6. Hydrogen sulfide in the gaseous fuel shall be measured using the USEPA Reference Method 11, modified as applicable for concentrations greater than 500 ppmv H_2S.

F. Source Testing

Any owner or operator of a source subject to this rule shall perform the following:

1. Measure triennially the NO_x and ROC emissions through the stack of any thermal oxidizer or ground-level enclosed flare operated for planned continuous flaring of 120,000 scf/day of gases or more (daily maximum basis), by source testing (annually for sources subject to federal Part 70 operating permits, or more frequently if required by applicable rules). A source test plan/schedule shall be submitted to the Control Officer as part of the required permit application for the source.

2. Measure (a) the purge gas fuel sulfur content, if such gas is not a PUC quality gas or an inert gas, and (b) the gaseous fuel sulfur content and the net heating value for all gaseous fuel which constitute planned flaring. Measurement shall be performed triennially, except for sources which require federal Part 70 operating permits, in which case annual or more frequent testing shall be performed as required by applicable Part 64 Rules.

3. For emergency flare events, the owner or operator shall estimate the H_2S content of the flare gas using available operation and measurement records, provided that the owner or operator can demonstrate to the satisfaction of the APCO that such records are representative of the gas stream flared.

G. Monitoring and Recordkeeping

Any owner or operator of a source subject to this rule shall perform the following, as applicable:

1. Monitor the volume (in scf/month) of all gaseous fuel flared as part of planned/unplanned flaring, if subject to Section D.3. A flare volume monitoring plan shall be submitted to the Control Officer for approval as part of the flare minimization plan. A record of monitored volumes shall be kept by the owner or operator in a format prescribed and approved by the Control Officer, and shall be available for inspection upon request by the District.

2. Monitor the volume of gaseous fuel flared during each emergency event as part of the required emergency event description report.

H. Reporting

Any owner or operator of a source subject to this rule shall provide the following reports, as applicable:

1. Results of each source test for NO_x and ROC, obtained pursuant to Section F.1, shall be submitted to the Control Officer within 45 days of the completion of source testing.

2. The result of each test report for (a) purge gas S content (if applicable), (b) gaseous fuel S content and (c) gaseous fuel net heating value, obtained pursuant to Section F.2, shall be submitted to the Control Officer by March 1st of the year following the calendar year on which the testing occurred.

3. Data for the monthly volumes (in scf/month) of gas flared per (i) planned continuous and (ii) planned intermittent flaring categories, obtained pursuant to Section G.1, shall be submitted annually to the Control Officer. Each calendar year data report shall be submitted by March 1st of the following calendar year.

4. An annual summary of the total gas volume released during emergencies and the weighted-average H_2S content for the entire volume, obtained pursuant to Sections G.2 and F.3, to be provided to the Control Officer. The annual report for each calendar year shall be submitted by March 1st of the following year.

5. Report on any exceedance of the allowable monthly volume of gases for planned flaring, to be submitted to the Control Officer within sixty (60) days of the end of the exceedance month. The report shall list the exceedance volume (volume in excess of the allowed volume) and the estimated sulfur content of the gaseous fuel flared.

I. Compliance Schedule

1. New sources shall comply with this rule on June 28, 1994.

2. Existing sources shall comply with this rule as follows:

   a. Offsets required pursuant to Section D.1.b. shall be implemented within 180 days after the Control Officer grants the request for exemption. Extensions may be granted by the Control Officer for good cause shown. Notwithstanding any other provision of this rule, an owner or operator of a source who receives an exemption shall have offsets in place no later than 1 year after the date the exemption request has been filed with the Control Officer.

   b. All flares and thermal oxidizers subject to Section D.2 shall comply within one (1) year of June 28, 1994.

   c. The flare minimization plan and emissions mitigation plan required pursuant to Sections D.3.a. and D.3.d shall be submitted within 90 days after June 28, 1994, and approval of the same shall be obtained within 180 days after June 28, 1994. Full compliance with the targeted volume limits required under Sections D.3.b and D.3.e shall be achieved within five (5) years of June 28, 1994.

   d. Flares and thermal oxidizers subject to D.5.a. shall comply within 180 days of June 28, 1994.

   e. If any new equipment is proposed for installation to comply with Section D.2, an authority to construct application with all necessary information shall be submitted to the Control Officer within ninety (90) days of June 28, 1994.

   f. The flare volume monitoring plan required under Section G.1. shall be implemented by the owner or operator within 30 days of the Control Officer approval of the plan.

3. Sources on the OCS which become subject to this rule shall comply with all provisions of this rule by the dates specified in the rule or when the USEPA promulgates this rule as applicable to the OCS sources, whichever is later.

APPENDIX A – Flare Minimization Plan

The flare minimization plan shall include the following, where applicable:

1. Details of measures implemented at each source subject to this rule to decrease the total monthly volume of flare gas being combusted and to reduce the number of planned flaring activities.

2. Descriptions of measures in place to prevent the recurrence of emergency flaring events, and reduce the occurrence of unplanned flaring events. Such measures may include installation of redundant equipment.

The flare minimization plan shall also incorporate the following:

a. A detailed description of the flare system including process flow diagram(s), flare tip design details and the manufacturer's information on flare operation and maintenance;

b. A detailed description of the flare gas monitoring system that records the gas throughput, (e.g. make and model of the meter, precision and accuracy of the meter, data management, maintenance/calibration or manufacturer's specifications), and of the method to determine the flare gas sulfur content;

c. The design and operation features of the pilot and purge gas system which minimize the volume of gas consumed;

d. A description of the design features that demonstrate the capability of the flare to handle the nominal and peak gas flows and the range of gas composition encountered at the source; all calculations showing anticipated flare exit velocities for maximum flare gas flow rates;

e. Plans for reduction of emissions from planned flaring activities including those which result from planned depressurizing of vessels, compressors, and pipelines;

f. Charts outlining the possibility of coordination of schedules to reduce planned shutdowns;

g. Any proposed study program involving operating set points on controllers and safety devices to determine if a different setting could minimize emissions (for OCS sources, this study may be submitted to the appropriate safety agency for approval prior to the Control Officer submittal);

h. Summary of scheduled/typical planned flaring including frequency and volume; also, summary of each of these parameters after implementation of the proposed plan; data on gas production rates including the current actual and the maximum anticipated production rates.

The flare owner or operator shall review the flare minimization plan every five (5) years, and shall submit to the District any findings of new procedures or technologies for flare minimization that were not addressed in earlier plans. If any such procedures or technologies are identified, the owner or operator shall also submit a schedule for the implementation of such procedures and technologies.

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APPENDIX B – Design Velocity

No flare shall operate with an actual exit velocity exceeding a designed maximum velocity V_{max}. This design velocity V_{max} is computed, as follows:

1. For steam-assisted and non-assisted flares, the design maximum velocity V_{max1} is calculated according to the equation:

   $$\text{Log}_{10}(V_{max1}) = (H_T + 1214)/852, \text{ where}$$

   V_{max1} = maximum permitted velocity (in ft/sec); 1214 = a constant; 852 = a constant; and, H_T = net heating value of the gaseous fuel (in Btu/scf), provided $300 < H_T < 1000$ for steam-assist and $200 < H_T < 1000$ for non-assist.

2. For air-assisted flares, the design maximum velocity V_{max2} is calculated by the following equation:

   $$V_{max2} = 28.56 + 0.0867\,(H_T), \text{ where}$$

   V_{max2} = maximum permitted velocity (in ft/sec): 28.56 = a constant: 0.0867 = a constant; and, H_T = net heating value of the gaseous fuel (in Btu/scf), provided $300 < H_T < 1000$.

3. If H_T exceeds 1000 Btu/scf, then H_T shall equal 1000 Btu/scf for the purpose of applying these equations to compute the value of V_{max}.

Appendix B shall not apply to high-pressure flares where the flare gas pressure at the flare tip inlet is greater than 5 psig.

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APPENDIX C – Emergency Events

The following events comprise a brief list of events that would qualify as emergency events. Note that these events must also meet the criteria of emergency specified in this rule, before they can be considered as emergency events.

1. Equipment Breakdowns:	Electrical equipment (transformer, motors) and internal combustion engine breakdowns. Major equipment breakdowns (turbine-generator, compressor, compressor stage fall-outs etc.)
2. Relief Valve Events:	All unintentional safety valve releases as caused by emergency shutdown valve(s) and shut-in valve(s) events, temperature control events and high/low fluid temperature and pressure level events.
3. Source/Pipeline Shutdowns:	All offshore and onshore process and source or plant breakdowns and pipeline breakdown events.
4. Other Events:	Fire hazard avoidance events, toxic and flammable gas alarm events, faulty-sensor-caused shutdowns, high/low temperature and pressure indicated shutdowns.

The following shall also be considered as emergency flaring events:
Sudden power failure at onshore source, sudden process problems including foaming within production units, process-computer problems at production and pollution control units, pollution control equipment breakdowns, power supply system breakdowns, pipeline or fuel line breakdowns.

Emergency events continue in duration until the operator gets the emergency situation under control including the emission exceedances, or shuts down the source, or reroutes production to a different source.

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RULE 361. BOILERS, STEAM GENERATORS, AND PROCESS HEATERS (Between 2-5 MMBtu/hr)
(Adopted 1/17/2008, revised 6/20/2019, xx/xx/xxxx)

A. Applicability

This rule shall apply to any boiler, steam generator, or process heater with a rated heat input capacity greater than 2 million British thermal units per hour and less than 5 million British thermal units per hour.

B. Exemptions

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

    a. Process heaters, kilns, furnaces, and dryers, where the products of combustion come into direct contact with the material to be heated.

    b. Equipment that does not require a permit under the provisions of Rule 202, Exemptions to Rule 201. Notwithstanding the above, this exemption shall not apply to any AB 617 Industrial Unit.

2. Section D.1 and D.3 requirements shall not apply to any unit while forced to burn non-gaseous fuel during times of public utility imposed natural gas curtailment. This exemption shall not exceed 168 cumulative hours of operation per calendar year excluding equipment testing time not exceeding 24 hours per calendar year.

C. Definitions

See Rule 102, Definitions, for definitions not limited to this rule. For the purposes of this rule, the following definitions shall apply:

"AB 617 Industrial Unit" means any unit located at a facility that, as of January 1, 2017, was subject to a market-based compliance mechanism adopted by the state board pursuant to Health and Safety Code §38562(c).

"Annual Heat Input" means the total heat input of fuels burned by a unit in a calendar year, as determined from the higher heating value and cumulative annual usage of each fuel.

"Atmospheric Unit" means any unit with a non-sealed combustion chamber in which natural draft is used to exhaust combustion gases.

"Boiler or Steam Generator" means any combustion equipment fired with liquid and/or gaseous and/or solid fuel that is used to produce steam or to heat water. Boiler or Steam Generator does not include any fired or unfired waste heat recovery boiler that is used to recover or augment heat from the exhaust of any combustion equipment.

"Digester Gas" means gas derived from the decomposition of organic matter in a digester.

"Existing Unit" means any unit installed prior to January 17, 2008 which has not been modified as defined herein. Any unit that is an AB 617 Industrial Unit, as defined in this rule, is not considered an existing unit.

"Field Gas" means any gaseous fuel extracted from a production well that:

1. is processed and/or used as fuel in equipment located in the same oil and gas production field as the production well, and

2. does not meet the California Public Utility Commission quality pipeline standards as specified in *General Order 58-A*.

"Landfill Gas" means gas derived from the decomposition of waste in a landfill.

"Modification" or "Modify" means any of the following actions:

1. Replacing a burner or burners on a unit; or

2. Removing a unit from the site of its original installation and installing it at a different location. A unit that is reinstalled within the same stationary source is not modified.

"Process Heater" means any external combustion equipment fired with liquid and/or gaseous and/or solid fuel and which transfers heat from combustion gases to water or process streams. Process Heater does not include any kiln or oven used for drying, baking, curing, cooking, calcinating or vitrifying or any unfired waste heat recovery heater that is used to recover sensible heat from the exhaust of any combustion equipment.

"Rated Heat Input Capacity" means the heat input capacity specified on the manufacturer's nameplate of the combustion unit, typically reported in million Btu per hour. If the combustion unit has been physically modified such that its maximum heat input is different than the heat input capacity specified on the nameplate, the modified maximum heat input shall be considered as the rated heat input. The new maximum heat input must be certified, in writing, by the manufacturer or installer and engineering calculations supporting the new maximum heat input rating must be submitted to and approved by the District. The District may require the modified maximum heat input capacity to be demonstrated by a fuel meter while operating the unit at maximum capacity.

"Parts Per Million" or "ppm" means parts per million by volume expressed on a dry gas basis.

"Shutdown Period" means the period of time during which a unit is taken from an operational to a non-operational status by allowing it to cool down from its operating temperature to a cold or ambient temperature as the fuel supply is turned off.

"Startup Period" means the period of time during which a unit is brought from a shutdown status to its operating temperature and pressure.

"Unit" means any boiler, steam generator, or process heater.

D. Requirements – Emission Standards

1. For units that are installed prior to January 1, 2020:

   a. By January 1, 2020, no owner or operator shall operate any existing unit in excess of the emission limits set forth in Table 1 below; and

   b. No owner or operator shall operate any unit that was installed or modified between January 17, 2008 and December 31, 2019 in excess of the emission limits set forth in Table 1 below.

Table 1: Emission Limits for Units Installed Prior to January 1, 2020

Fuel Type	NOx Emission Limit (ppm at 3% O2)	CO Emission Limit (ppm at 3% O2)
All Fuels	30	400

2. The provisions of Section D.1 shall not apply to any existing unit that meets the following:

   a. The existing unit operates with an annual heat input, from all fuels, at or below 1.8 billion British thermal units per calendar year as verified by a District-approved, non-resettable, temperature and pressure corrected, totalizing fuel meter; and

   b. The owner or operator implements the District-approved *Rule 361 Compliance Plan* that was submitted to the District prior to March 15, 2016; and

   c. The owner or operator demonstrates to the Control Officer compliance with the requirements specified in Sections F, G, I, and J.

3. On or after January 1, 2020, no owner or operator shall install or modify any unit unless the unit complies with the emission limits set forth in Table 2 below.

Table 2: Emission Limits for Units Installed On or After January 1, 2020

Fuel Type	NOx Emission Limit (ppm at 3% O2)	CO Emission Limit (ppm at 3% O2)
Natural Gas or Field Gas: non-atmospheric units	9	400
Natural Gas or Field Gas: atmospheric units	12	400
Landfill Gas	25	400
Digester Gas	15	400
Liquefied Petroleum Gas	20	400
All other fuels	30	400

4. On or before June 20, 2020, all AB 617 Industrial Units shall operate in compliance with the emission limits specified in Section D.3.

E. Requirement - Loss of Low-Use Exemption

Any owner or operator of any existing unit that qualified for the Section D.2 low-use exemption where the unit's annual heat input in any calendar year exceeds 1.8 billion British thermal units shall comply with the following:

1. Within 120 days after the end of the calendar year during which the unit exceeded 1.8 billion British thermal units of annual heat input, submit an Authority to Construct permit application for installation of control equipment or a replacement unit; and

2. Within 365 days after the end of the calendar year during which the unit exceeded 1.8 billion British thermal units of annual heat input, demonstrate to the Control Officer and maintain compliance with Section D.3 for the life of the unit; and

3. Maintain compliance with the remaining requirements of Section D.2 until compliance with Section D.3 is achieved.

F. Requirements – Compliance Determination

1. Any owner or operator of any unit fired exclusively on natural gas and any unit subject to the Section D.2 low-use exemption shall be tuned-up pursuant to the requirements of Section G. The District may, at its discretion, require any owner or operator of any unit subject to this rule to perform a source test per the test methods listed in Section H. An owner or operator may choose to comply with this section by performing District-approved source testing in lieu of tune-ups.

2. Except for units subject to the Section D.2 low-use exemption, any owner or operator of any unit fired on fuels other than natural gas shall perform District-approved source testing not less than once every 24 months using the source test methods listed in Section H. After the third required compliance source test, the District may, at its discretion, allow the owner or operator of the unit to perform tune-ups in lieu of source testing per the requirements of Section G.

3. All emission determinations shall be made in the as-found operating condition, except no compliance determination shall be established during unit startup, shutdown, or under breakdown conditions.

4. Startup or shutdown intervals shall not last longer than is necessary to reach stable temperatures and conditions. All emission control systems shall be in operation and emissions shall be minimized, to the extent possible, during startup and shutdown periods.

G. Requirements – Unit Tuning

The owner or operator of any unit subject to the tune-up requirements of this rule shall comply with the following requirements:

1. Perform tuning at least twice per year, (at intervals from 4 to 8 months apart) in accordance with the procedures described in the attached District Rule 361 Tune-Up Procedures. Units subject to the Section D.1 or D.3 emission standards shall follow the procedure requirements to measure oxides of nitrogen and carbon monoxide levels using a District-approved, calibrated portable analyzer.

2. If the unit does not operate throughout a continuous six-month period within a calendar year, then only one tune-up is required for that calendar year.

3. No tune-up is required during a calendar year for any unit that is not operated during that calendar year. The unit may still be test fired to verify availability of the unit for its intended use, but once test firing is completed, it shall be shutdown. If test firing exceeds 24 hours per year, then within thirty (30) days of exceeding the 24 hour per year limit, a tune-up shall be conducted pursuant to this section.

4. Any owner or operator of any unit found to be in noncompliance with Section D requirements as a result of the tune-up procedure shall notify the District in writing within 7 days. The notification shall include a copy of the *Rule 361 Tune-Up Report*, the actions taken to get the unit into compliance, and the next steps to achieve compliance. Failure to bring the unit into compliance with the requirements of Section D.1 and D.3 within 15 days of the initial tune-up attempt shall constitute a violation of this rule.

H. Requirements - Source Testing

1. The owner or operator of any unit subject to the source testing provisions of this rule shall submit a Source Test Plan to the District and obtain District written approval prior to the start of any source test. The Source Test Plan shall be filed with the District at least 30 days before the start of each source test. The District shall be notified of the date of source testing at least 14 days prior to testing to arrange a mutually agreeable test date.

2. Source testing shall be performed by a source test contractor certified by the California Air Resources Board. District required source testing shall not be performed by an owner or operator unless approved by the Control Officer.

3. The owner or operator of any unit subject to the source test requirements of this rule shall use the test methods and procedures listed below:

   a. Oxides of Nitrogen: Environmental Protection Agency Method 7E or California Air Resources Board Method 100.

   b. Carbon Monoxide: Environmental Protection Agency Method 10 or California Air Resources Board Method 100.

   c. Stack Gas Oxygen: Environmental Protection Agency Method 3 or 3A or California Air Resources Board Method 100.

   d. Fuel rate: District-approved metering system, calibrated within 60 calendar days of the test date. Public Utility Company regulated fuel meters relied on by operators for testing may be allowed an alternative calibration schedule upon approval by the Control Officer. Results must be corrected for pressure and temperature to standard conditions.

   e. All source tests shall consist of a minimum of three 30 minute tests. The average concentration from the test runs shall be used for determining compliance.

I. Requirements – Recordkeeping

All owners or operators of units subject to this rule shall keep all records listed below onsite for a period of five years and the records shall be made readily available to the District upon request:

1. *Rule 361 Tune-Up Reports* and test-firing records.

2. Source test reports.

3. For existing units subject to the Section D.2 low-use exemption:

   a. Monthly and annual fuel use logs for each fuel type.

   b. Fuel meter calibration records.

4. Records of emergency non-gaseous fuel use per Section B.2. These records shall include the dates, operating hours, and volumes of non-gaseous fuel used.

J. Requirements – Reporting

1. The records required pursuant to Section I.1, I.3, and I.4 shall be submitted to the District by March 1st for the prior calendar year.

2. Source test reports, required pursuant to Section I.2, shall be submitted to the District within 45 days of test completion.

K. Compliance Schedule – Existing Units

The owner or operator of any existing unit subject to this rule shall meet the following compliance schedule:

1. On or before January 1, 2020, the owner or operator of any existing unit shall:

   a. For units subject to the Section D.1 emission standards, demonstrate final compliance with the emission standards in Section D.1.

   b. For units subject to the Section D.2 low-use exemption, conduct the initial tune-up pursuant to Section G.

L. Compliance Schedule – AB 617 Industrial Units

1. On or before September 20, 2019, the owner or operator of any AB 617 Industrial Unit that does not meet the emission standards in Section D.3, as listed in the unit's Permit to Operate, shall apply for an Authority to Construct permit.

2. On or before June 20, 2020, the owner or operator of any AB 617 Industrial Unit shall operate in compliance with the emission standards in D.3.

ATTACHMENT

SBCAPCD Rule 361 Tune-Up Procedures[1]

PROCEDURE A
Equipment Tuning Procedure for Forced Draft-Fired Equipment[2]

Nothing in this Equipment Tuning Procedure shall be construed to require any act or omission that would result in unsafe conditions or would be in violation of any regulation or requirement established by Factory Mutual, Industrial Risk Insurers, National Fire Prevention Association, the California Department of Industrial Relations (Occupational Safety and Health Division), the Federal Occupational Safety and Health Administration, or other relevant regulations and requirements.

As used in this procedure, the requirement to measure Oxides of Nitrogen (NO_x) is only required if the unit being tuned is subject to the requirements of Section D.1 or D.3. NOx (as NO_2) measurements shall be taken with a portable analyzer in accordance with the South Coast Air Quality Management District (SCAQMD) Combustion Gas Periodic Monitoring Protocol (May 1, 2009), or an equivalent method approved by the Control Officer. The portable analyzer shall be calibrated in accordance with the SCAQMD Combustion Gas Periodic Monitoring Protocol (May 1, 2009), and calibration records shall be submitted as part of the *Rule 361 Tune-Up Report*. Steps in the Tune-Up Procedure below not applicable to specific units may be omitted.

1. Operate the unit at the firing rate most typical of normal operation. If the unit experiences significant load variations during normal operation, operate it at its average firing rate.

2. At this firing rate, record stack gas temperature, oxygen concentration, and carbon monoxide concentration and NO_x concentration (also record the smoke-spot number[3] for liquid fuels only) and the observed flame condition after unit operation stabilizes at the firing rate selected. Note these readings in the *Rule 361 Tune-Up Report* as the *"Initial As-Found Conditions."* If the excess oxygen in the stack gas is at the lower end of the range of typical minimum values[4], and if the carbon monoxide emissions are low and there is no smoke, the unit is probably operating at near optimum efficiency at this particular firing rate. However, complete the remaining portion of this procedure to determine whether still lower oxygen levels are practical. Note whether the NO_x and carbon monoxide values comply with the applicable limits specified in the unit's Permit to Operate.

3. Increase combustion air flow to the furnace until stack gas oxygen levels increase by one to two percent over the level measured in Step 2. As in Step 2, record the stack gas temperature, oxygen concentration, carbon monoxide concentration, NO_x concentration (also record the smoke-spot number for liquid fuels only), and the observed flame condition for these higher oxygen levels after boiler operation stabilizes.

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[1] These Rule 361 tune-up procedures differ from SCAQMD Rule 1146.1 and Ventura Rule 74.15.1 since NO_x readings are required to be taken in addition to the CO reading if the unit is subject to a 30 ppm (or lower) NOx limit, as specified in the rule.

[2] This tuning procedure is based on a tune-up procedure developed by KVB, Inc. for the EPA.

[3] The smoke-spot number can be determined with ASTM Test Method D2156-09 (2013), "Standard Test Method for Smoke Density in Flue Gases from Burning Distillate Fuels," or with the Bacharach method.

[4] Typical minimum oxygen levels for boilers at high firing rates are:
a. For natural gas: 0.5% - 3%
b. For liquid fuels: 2% - 4%

4. Decrease combustion air flow until the stack gas oxygen concentration is at the level measured in Step 2. From this level, gradually reduce the combustion air flow in small increments. After each increment, record the stack gas temperature, oxygen concentration, carbon monoxide concentration, NO_x concentration, smoke-spot number (for liquid fuels) and the observed flame condition.

5. Continue to reduce combustion air flow stepwise until one of these limits in reached:

   a. Unacceptable flame conditions - such as flame impingement on furnace walls or burner parts, excessive flame carryover, or flame instability.

   b. Stack gas carbon monoxide concentrations greater than 400 ppm or NO_x concentrations greater than the applicable limit as specified in the unit's Permit to Operate.

   c. Smoking at the stack.

   d. Equipment-related limitations - such as low windbox/furnace pressure differential, built in air-flow limits, etc.

6. Develop an oxygen/carbon monoxide curve (for gaseous fuels) or oxygen/smoke curve (for liquid fuels) similar to those shown in Figures 1 and 2 using the excess oxygen and carbon monoxide or smoke-spot number data obtained at each combustion air flow setting.

7. From the curves prepared in Step 6, find the stack gas oxygen levels where the carbon monoxide emissions or smoke-spot number equal the following values:

Fuel	Measurement	Value
Gaseous	carbon monoxide emissions	400 parts per million
#1 & #2 oils	smoke-spot number	number 1
#4 oil	smoke-spot number	number 2
#5 oil	smoke-spot number	number 3
Other oils	smoke-spot number	number 4

   The above conditions are referred to as the carbon monoxide or smoke threshold, or as the minimum excess oxygen level.

   Compare this minimum value of excess oxygen to the expected value provided by the combustion unit manufacturer. If the minimum level found is substantially higher than the value provided by the combustion unit manufacturer, burner adjustments can probably be made to improve fuel and air mixing, thereby allowing operation with less air.

8. Add 0.5 to 2.0 percent to the minimum excess oxygen level found in Step 7 and reset burner controls to operate automatically at this higher stack gas oxygen level. This margin above the minimum oxygen level accounts for fuel variations, variations in atmospheric conditions, load changes, and nonrepeatability or play in automatic controls.

9. If the load of the combustion unit varies significantly during normal operation, repeat Steps 1-8 for firing rates that represent the upper and lower limits of the range of the load. Because control adjustments at one firing rate may affect conditions at other firing rates, it may not be possible to establish the optimum excess oxygen level at all firing rates. If this is the case, choose the burner control settings that give best performance over the range of firing rates. If one firing rate predominates, settings should optimize conditions at that rate.

10. Verify that the new settings can accommodate the sudden changes that may occur in daily operation without adverse effects. Do this by increasing and decreasing load rapidly while observing the flame and stack. If any of the conditions in Step 5 result, reset the combustion controls to provide a slightly higher level of excess oxygen at the affected firing rates. Next, verify these new settings in a similar fashion. Then

make sure that the final control settings are recorded at steady-state operating conditions for future reference.

11. Take a final combustion analysis for NO_x concentration, carbon monoxide concentration and oxygen concentration (also record the smoke-spot number for liquid fuels only). Note these readings, as well as the stack temperature and flame condition, in the *Rule 361 Tune-Up Report* as the *"Final As-Tuned Conditions."* Confirm that the final settings result in compliance with the regulatory limits. **If compliance with the emission limits specified in the unit's Permit to Operate is not achievable, take actions and provide notification to the District pursuant to the requirements of Section G.4**.

12. When the above checks and adjustments have been made, prepare a *Rule 361 Tune-Up Report*. The report shall include all recorded data and combustion analysis data for the unit; the manufacturer, model number and serial number of the portable NOx/CO analyzer; the name, title, signature, company name, and contact information of person performing the tune-up; and date the tune-up was performed. The *Rule 361 Tune-Up Report* shall clearly indicate the *"Initial As-Found Conditions"* and the *"Final As-Tuned Conditions"* and shall (if applicable) state whether Section D.1 and D.3 emission standards for NO_x and CO were met. Calibration records shall be submitted as part of the *Rule 361 Tune-Up Report*.

NOTE

The owner/operator may propose an alternative tuning procedure that meets the same basic requirements of the procedure outlined above for District review and approval. The District may assess fees to reimburse its costs associated with the review of the alternative procedure using the cost reimbursement provisions under Rule 210, Fees. District approval of the alternative tuning procedure must be obtained prior to its use.

Figure 1
Oxygen/Carbon Monoxide Characteristic Curve

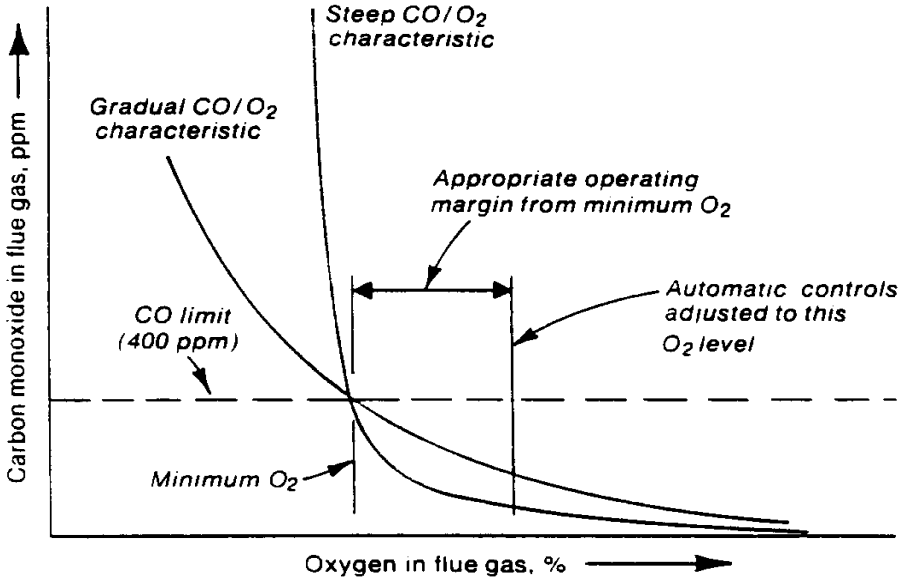
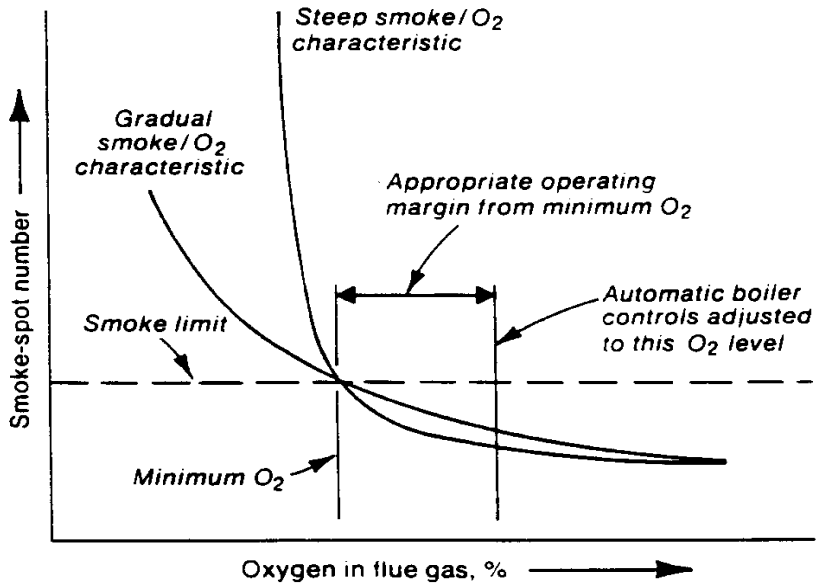


Figure 2
Oxygen/Smoke Characteristic Curve



PROCEDURE B
Equipment Tuning Procedure for Natural Draft-Fired Equipment

Nothing in this Equipment Tuning Procedure shall be construed to require any act or omission that would result in unsafe conditions or would be in violation of any regulation or requirement established by Factory Mutual, Industrial Risk Insurers, National Fire Prevention Association, the California Department of Industrial Relations (Occupational Safety and Health Division), the Federal Occupational Safety and Health Administration, or other relevant regulations and requirements.

As used in this procedure, the requirement to measure Oxides of Nitrogen (NO_x) is only required if the unit being tuned is subject to the requirements of Section D.1 or D.3 NOx (as NO_2) measurements shall be taken with a portable analyzer in accordance with the South Coast Air Quality Management District Combustion Gas Periodic Monitoring Protocol (May 1, 2009), or an equivalent method approved by the Control Officer. The portable analyzer shall be calibrated in accordance with the SCAQMD Combustion Gas Periodic Monitoring Protocol (May 1, 2009), and calibration records shall be submitted as part of the *Rule 361 Tune-Up Report*. Steps in the Tune-Up Procedure below not applicable to specific units may be omitted.

1. PRELIMINARY ANALYSIS

    a. Verify that the boiler, steam generator, or process heater (unit) is operating at the lowest pressure or temperature that will satisfy load demand. This pressure or temperature will be used as a basis for comparative combustion analysis before and after tune-up.

    b. Verify that the unit operates for the minimum number of hours and days necessary to perform the work required.

    c. Verify that the size of air supply openings is in compliance with applicable codes and regulations. Air supply openings must be fully open when the burner is firing and air flow must be unrestricted.

    d. Verify that the vent is in good condition, properly sized and free from obstruction.

    e. Perform an as-found (i.e., prior to any adjustments) combustion analysis for carbon monoxide concentration, NO_x concentration, oxygen concentration and measure the stack temperature and note the flame condition at both high and low fire, if possible. Note these readings in the *Rule 361 Tune-Up Report* as the *"Initial As-Found Conditions"*. Also record the following:

        (1) Inlet fuel pressure at burner at high and low firing rates.

        (2) Pressure above draft hood or barometric damper at high, medium, and low firing rates.

        (3) Steam pressure, water temperature, or process fluid pressure or temperature entering and leaving the unit.

        (4) Inlet fuel use rate if meter is available.

2. CHECKS AND CORRECTIONS

    a. Clean all dirty burners or burner orifices. Verify that fuel filters and moisture traps are in place, clean, and operating properly. Confirm proper location and orientation of burner diffuser spuds, gas canes, etc. Replace or repair all damaged or missing burner parts.

    b. Remove external and internal sediment and scale from heating surfaces.

    c. Verify that the necessary water or process fluid treatment is being used to minimize scale and corrosion. Confirm flushing and/or blowdown schedule.

d. Repair all leaks. In addition to the high-pressure lines, check the blow-off, drain, safety valve, bypass lines, and, if used, the feed pump.

3. SAFETY CHECKS

a. Test primary and secondary low water level controls.

b. Check operating and limit pressure and temperature controls.

c. Check pilot safety shut off operation.

d. Check safety valve pressure setting and verify that the setting is consistent with unit load requirements.

e. Check limit safety control and spill switch.

4. ADJUSTMENTS

Perform the following checks and adjustments on a warm unit at high fire:

a. Adjust unit to fire at the maximum inlet fuel use rate: record fuel manifold pressure.

b. Adjust draft and/or fuel pressure to obtain acceptable, clean combustion at high, medium, and low firing rates. The carbon monoxide value should not exceed 400 parts per million at 3% oxygen.

c. Verify that unit light-offs are smooth and safe. Perform a reduced fuel pressure test at both high and low firing rates in accordance with the manufacturer's instructions.

d. Check and adjust the modulation controller. Verify proper, efficient, and clean combustion through the range of firing rates.

When optimum performance has been achieved, record all data.

5. FINAL TEST

After adjustments, perform a final combustion analysis for carbon monoxide concentration, NO_x concentration, oxygen concentration, and measure the stack temperature and note the flame condition on the warm unit at high, medium, and low firing rates, if possible. Note these readings in the *Rule 361 Tune-Up Report* as the "*Final As-Tuned Conditions*". Also record the following:

a. Inlet fuel pressure at burner at high, medium, and low firing rates.

b. Pressure above draft hood or barometric damper at high, medium, and low firing rates.

c. Steam pressure, water temperature, or process fluid pressure or temperature entering and leaving the unit.

d. Inlet fuel use rate if meter is available.

If the unit is subject the Section D.1 or D.3 limits for NO_x and carbon monoxide, confirm that the final settings result in compliance with the regulatory limits. **If compliance with the emission limits specified in the unit's Permit to Operate is not achievable, take actions and provide notification to the District pursuant to the requirements of Section G.4**.

6. RULE 361 TUNE-UP REPORT

When the above checks and adjustments have been made, prepare a *Rule 361 Tune-Up Report*. The report shall include all recorded data and combustion analysis data for the unit; the manufacturer, model number and serial number of the portable NO_x/CO analyzer; the name, title, signature, company name and contact information of person performing the tune-up; and date the tune-up was performed. The *Rule 361 Tune-Up Report* shall clearly indicate the "*Initial As-Found Conditions*" and the "*Final As-Tuned Conditions*" and shall (if applicable) state whether Section D.1 and D.3 emission standards for NO_x and CO were met. Calibration records shall be submitted as part of the *Rule 361 Tune-Up Report*.

NOTE

The owner or operator may propose an alternative tuning procedure that meets the same basic requirements of the procedure outlined above for review and approval by the Control Officer. The District may assess fees to reimburse its costs associated with the review of the alternative procedure under the cost reimbursement provisions of Rule 210. Control Officer approval of the alternative tuning procedure must be obtained in writing prior to its use.

RULE 364. REFINERY FENCELINE AND COMMUNITY AIR MONITORING
(Adopted 5/21/2020, revised xx/xx/xxxx)

A. Applicability

This rule shall apply to petroleum refineries.

B. Exemptions

None.

C. Definitions

See Rule 102, Definitions, for definitions not limited to this rule. For the purposes of this rule, the following definitions shall apply:

"Community Air Monitoring System" means a combination of equipment that measures and records air pollutant concentrations in communities near a petroleum refinery that is currently refining or storing oil products.

"Fenceline Air Monitoring System" means a combination of equipment that measures and records air pollutant concentrations at or near the property boundary of a petroleum refinery.

"Petroleum Refinery" means a facility that is permitted to process petroleum, as defined in the Standard Industrial Classification Manual as Industry No. 2911.

"Real-time" means the actual or near actual time during which pollutant levels occur at or near the property boundary of a petroleum refinery or in a nearby community.

"Refinery Fenceline Air Monitoring Guidelines" means a written framework to be used by the Control Officer to evaluate a refinery fenceline air monitoring plan, as shown in Attachment A.

D. Requirements – Fenceline Monitoring Plan

1. No later than August 21, 2020, the owner or operator of a petroleum refinery shall submit to the Control Officer a written fenceline air monitoring plan for establishing and operating a real-time fenceline air monitoring system.

2. All fenceline air monitoring plans shall be consistent with the attached Rule 364 Refinery Fenceline Air Monitoring Guidelines. At a minimum, the fenceline air monitoring plan shall provide the following detailed information:

    a. Equipment to be used to continuously monitor, record, and report air pollutant levels for the pollutants specified in Table 1 – Pollutants For Fenceline Air Monitoring in real-time, at or near the property boundary of the petroleum refinery;

    b. Equipment to be used to continuously record wind speed and wind direction data in at least one on-site location at the petroleum refinery;

    c. Siting and equipment specifications;

    d. A timeline and procedures for implementing the fenceline air monitoring plan, including information pertaining to the installation, operation, maintenance, and quality assurance, for the fenceline air monitoring system;

e. Procedures for air monitoring equipment maintenance and failures. The procedures for equipment maintenance and failures shall include a plan that describes the maintenance activities necessary to maintain proper performance of the fenceline air monitoring equipment and a plan that deals with equipment failures. At a minimum, the maintenance and failure plan shall describe the following:

1. Routine maintenance requirements for equipment;
2. A planned schedule for routine maintenance performed on equipment;
3. Length of time that equipment will not be operating during routine maintenance activities;
4. Notification procedures to inform the Control Officer of any failures to accurately provide monitoring data for 24 hours or longer; and
5. Temporary air monitoring measures that will be implemented in the event of an equipment failure or during routine maintenance activities, and that will be used until the fenceline air monitoring system is restored to normal operating conditions;

f. Procedures for implementing quality assurance by a qualified independent party, including quality control and audits of the fenceline air monitoring systems;

g. Methods for dissemination of data collected by the equipment specified in Sections D.2.a and D.2.b to the public, local response agencies, and the District as expeditiously as possible.

3. The fenceline air monitoring plan shall address real-time air monitoring for the air pollutants specified in Table 1 on a continuous basis.

TABLE 1 - POLLUTANTS FOR FENCELINE AIR MONITORING

Air Pollutants
Benzene
Toluene
Ethylbenzene
Xylene
Sulfur Dioxide
Hydrogen Sulfide

E. Requirements – Fenceline Monitoring Plan Review and Updates

1. The Control Officer shall notify the owner or operator in writing whether the fenceline air monitoring plan is approved or whether modifications are necessary. Determination of approval status for the fenceline air monitoring plan shall be based on, at a minimum, submittal of information that satisfies the criteria in Section D.

a. If modifications are necessary, the owner or operator shall resubmit the fenceline air monitoring plan within 30 days after the notification by the Control Officer. The resubmitted plan shall include any information necessary to address deficiencies identified by the District.

b. The Control Officer may either approve the revised and resubmitted fenceline air monitoring plan or modify the plan and approve it as modified.

2. The owner or operator of a petroleum refinery shall revise and submit an updated fenceline air monitoring plan to the Control Officer as follows:

a. Forty-five (45) days before the date of implementation of any planned facility, equipment, process or administrative modification that could result in changes to an approved fenceline air monitoring plan.

b. Ten (10) days after the date of any unplanned facility, equipment, process or administrative modification that could result in changes to an approved fenceline air monitoring plan.

c. Sixty (60) days after the date of receiving information that an approved fenceline air monitoring plan does not adequately measure one or more pollutants identified in Table 1. This includes equipment failures that result in a failure to accurately provide continuous, real-time air monitoring information for more than 30 days.

3. Failure to comply with the requirements of Section E.2 shall result in revocation of an approved fenceline air monitoring plan. Thirty (30) days after revocation of an approved fenceline air monitoring plan, the owner or operator shall submit a new fenceline air monitoring plan to the Control Officer that meets the requirements of this rule.

F. Requirements – Fenceline Air Monitoring System

Beginning no later than 365 days after the fenceline air monitoring plan is approved by the Control Officer, the owner or operator of a petroleum refinery shall complete installation and begin operation of a real-time fenceline air monitoring system in accordance with the approved fenceline air monitoring plan.

G. Requirements – Recordkeeping

The owner or operator shall maintain records of all information required under this rule for at least five years and shall make the information available to District staff upon request. Records for at least the two most recent years shall be kept onsite.

H. Requirements – Refinery Fenceline and Community Air Monitoring Fees

1. Pursuant to California Health and Safety Code §42705.6, an owner or operator of a petroleum refinery shall pay the following fees associated with the refinery fenceline and community air monitoring system.

a. An owner or operator of a petroleum refinery shall make a payment to the District in the amount of $7,500 for the review of a refinery fenceline monitoring plan. The review fee shall be submitted with the initial monitoring plan pursuant to Section D.1 and with any new monitoring plans pursuant to Section E.3 of this rule. All costs incurred by the District for the review and revision of a District-approved monitoring plan, pursuant to Section E.2, shall be reimbursable costs pursuant to Rule 210, Fees.

b. No later than November 21, 2020, the owner or operator of a petroleum refinery shall make a payment to the District in the amount to cover the shared cost of the initial installation of the co-located community air monitoring system. Consistent with California Health and Safety Code §42705.6, these costs shall be shared in a reasonably equitable manner.

c. In the event that the community air monitoring system is not co-located with a District-operated monitoring station and is an independent monitoring station, the owner or operator of a petroleum refinery shall make an additional payment to the District in the amount to cover any additional costs for the initial installation of the community air monitoring system. This fee shall be due and payable no later than sixty (60) days after written notification by the District.

d. Beginning in calendar year 2021, the owner or operator of a petroleum refinery shall make a payment to the District in the amount to cover the cost of the annual operation and maintenance of the community air monitoring system. Consistent with California Health and Safety Code §42705.6, if the community air monitoring system is co-located with a District-operated monitoring station, these costs will be shared in a reasonably equitable manner. Invoices for the annual operation and maintenance fee will be issued during the month of January. If the fees required by this section are not paid in full within sixty (60) days of the invoice date, a ten percent (10%) penalty shall be imposed for every thirty (30) days, or portion thereof, that the payment is overdue.

2. Any fee prescribed in this rule shall be adjusted annually by the Control Officer based on the change in the California Consumer Price Index (CPI) for the preceding year, as determined pursuant to Section 2212 of the Revenue and Taxation Code.

3. The refinery fenceline and community air monitoring fees required in this section are in addition to permit and other fees otherwise authorized to be collected from such facilities. Any subsequent owner(s) or operator(s) of a petroleum refinery shall be responsible for all unpaid fees listed in this rule. The Control Officer may initiate action to revoke the permit for any unpaid fees listed in this rule.

4. No later than January 1, 2026 and every five years thereafter, the Control Officer shall conduct a refinery fenceline and community air monitoring assessment to evaluate adequate coverage and/or need for equipment upgrades. The Control Officer shall also reassess the fees required by this section to ensure that the fees are consistent with the requirements of California Health and Safety Code §42705.6.

RULE 370. POTENTIAL TO EMIT – LIMITATIONS FOR PART 70 SOURCES
(Adopted 6/15/1995, revised 1/18/2001, 1/20/2011, xx/xx/xxxx)

A. Applicability

1. General Applicability:

   This rule shall apply to any stationary source which would, if it did not comply with the limitations set forth in this rule, have the potential to emit air contaminants equal to or in excess of the threshold for a major source of regulated air pollutants or a major source of hazardous air pollutants and which meets one of the following conditions:

   a. In every 12-month period, the actual emissions of the stationary source are less than or equal to the emission limitations specified in Section D.1 below; or

   b. In every 12-month period, at least 90 percent of the emissions from the stationary source are associated with an operation limited by any one of the alternative operational limits specified in Section G.1 below.

2. Stationary Source with De Minimis Emissions:

   The recordkeeping and reporting provisions in Sections E, F, and G below shall not apply to a stationary source with de minimis emissions or operations as specified in either Subsection a or b below:

   a. In every 12-month period, the stationary source emits less than or equal to the following quantities of emissions:

      1) 5 tons per year of a regulated air pollutant (excluding hazardous air pollutants),
      2) 2 tons per year of a single hazardous air pollutant,
      3) 5 tons per year of any combination of hazardous air pollutants, and
      4) 20 percent of any lesser threshold for a single hazardous air pollutant that the United States Environmental Protection Agency (USEPA) may establish by rule.

   b. In every 12-month period, at least 90 percent of the stationary source's emissions are associated with an operation for which the throughput is less than or equal to one of the quantities specified in Subsections 1) through 9) below:

      1) 1,400 gallons of any combination of solvent-containing materials but no more than 550 gallons of any one solvent-containing material, provided that the materials do not contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene;
      2) 750 gallons of any combination of solvent-containing materials where the materials contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, but not more than 300 gallons of any one solvent-containing material;
      3) (a) 1,200 gallons of solvent-containing (or volatile organic compound containing) material, including no more than 480 gallons of solvent-containing (or volatile organic compound containing) material that also contains any hazardous air pollutants, used at a paint spray unit(s);

(b) The volatile organic compound/solvent content of the material used at a paint spray unit(s) shall not exceed 1,000 grams solvent per liter coating, as applied, less water and exempt compounds.

4) 4,400,000 gallons of gasoline dispensed from equipment with Phase I and II vapor recovery systems;
5) 470,000 gallons of gasoline dispensed from equipment without Phase I and II vapor recovery systems;
6) 1,400 gallons of gasoline combusted;
7) 16,600 gallons of diesel fuel combusted;
8) 500,000 gallons of distillate oil combusted, or
9) 71,400,000 cubic feet of natural gas combusted.

Within 30 days of a written request by the Air Pollution Control District (District) or the USEPA, the owner or operator of a stationary source not maintaining records pursuant to Sections E or G shall demonstrate that the stationary source's emissions or throughput are not in excess of the applicable quantities set forth in Subsection a or b above.

3. Provision for Air Pollution Control Equipment:

The owner or operator of a stationary source may take into account the operation of air pollution control equipment on the capacity of the source to emit an air contaminant if the equipment is required by Federal, State, or District rules and regulations or permit terms and conditions. The owner or operator of the stationary source shall maintain and operate such air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. This provision shall not apply after January 1, 1999 unless such operational limitation is federally enforceable or unless the District Board specifically extends this provision and it is submitted to the USEPA. Such extension shall be valid unless, and until, the USEPA disapproves the extension of this provision.

4. List of Sources to Which This Rule Applies

The Air Pollution Control District shall maintain and make available to the public upon request, for each stationary source subject to this rule, information identifying the provisions of this rule applicable to the source.

5. Compliance by Sources with Pre-construction Permit Conditions

This rule shall not relieve any stationary source from complying with requirements pertaining to any otherwise applicable preconstruction permit, or to replace a condition or term of any preconstruction permit, or any provision of a preconstruction permitting program (e.g. Prevention of Significant Deterioration, New Source Review, or Authority to Construct). This does not preclude issuance of any preconstruction permit with conditions or terms necessary to ensure compliance with this rule.

B. Exemptions

1. Stationary Source Subject to Regulation XIII (Part 70 Operating Permit Program)

This rule shall not apply to the following stationary sources:

a. Any stationary source whose actual emissions, throughput, or operation, is greater than the quantities specified in Sections D.1 or G.1 below and which meets both of the following conditions:

1) The owner or operator has notified the District at least 30 days prior to any exceedance that s/he will submit an application for a Part 70 permit, or otherwise obtain federally-enforceable permit limits, and
2) A complete Part 70 permit application is received by the District, or the permit action to otherwise obtain federally-enforceable limits is completed, within 12 months of the date of notification.

However, the stationary source may be immediately subject to applicable federal requirements, including but not limited to, a maximum achievable control technology (MACT) standard.

b. Any stationary source that has applied for a Part 70 permit in a timely manner and in conformance with Regulation XIII, and is awaiting final action by the District and USEPA.

c. Any stationary source required to obtain an operating permit under Regulation XIII for any reason other than being a major source.

d. Any stationary source with a valid Part 70 permit.

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

2. Stationary Source with a Limitation on Potential to Emit:

This rule shall not apply to any stationary source which has a valid operating permit with federally-enforceable conditions or other federally-enforceable limits limiting its potential to emit to below the applicable threshold(s) for major sources of regulated air pollutants and hazardous air pollutants as defined in Section C (Definitions) below.

C. Definitions

All terms shall retain the definitions provided under 40 CFR Part 70.2 in effect August 2, 2010 or District Rule 1301, Part 70 Operating Permits - General Information, as applicable, unless otherwise defined herein.

"**12-month period**" means a period of twelve consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.

"**Actual Emissions**" means the emissions of a regulated air pollutant from a stationary source for every 12-month period. Valid continuous emission monitoring data or source test data shall be preferentially used to determine actual emissions. In the absence of valid continuous emissions monitoring data or source test data, the basis for determining actual emissions shall be: throughputs of process materials; throughputs of materials stored; usage of materials; data provided in manufacturer's product specifications, material volatile organic compound (VOC) content reports or laboratory analyses; other information required by this rule and applicable District, State and Federal regulations; or information requested in writing by the District. All calculations of actual emissions shall use USEPA, California Air Resources Board (CARB) or District approved methods, including emission factors and assumptions.

"**Alternative Operational Limit**" means a limit on a measurable parameter, such as hours of operation, throughput of materials, use of materials, or quantity of product, as specified in Section G, Alternative Operational Limit and Requirements.

"**Emission Unit**" means any article, machine, equipment, operation, contrivance or related groupings of such that may produce and/or emit any regulated air pollutant or hazardous air pollutant.

"**Federal Clean Air Act**" means the federal Clean Air Act (CAA) as amended in 1990 (42 U.S.C. Section 7401 et seq.) and its implementing regulations.

"**Hazardous Air Pollutant**" means any air pollutant listed pursuant to Section 112(b) of the federal Clean Air Act.

"**Major Source of Regulated Air Pollutants (excluding hazardous air pollutants)**" means any stationary source:

a. that emits or has the potential to emit a regulated air pollutant (excluding hazardous air pollutants) in quantities equal to or exceeding any of the following thresholds:

   1) one hundred tons per year of any pollutant, except greenhouse gases.
   2) greenhouse gases that are “subject to regulation” as defined in 40 CFR 70.2 in effect August 2, 2010.
   3) any lesser quantity thresholds established by Environmental Protection Agency rulemaking.

b. defined by the Environmental Protection Agency as major for the District under Title I, Part D (Plans for Nonattainment Areas) of the Clean Air Act and its implementing regulations including:

   1) For ozone nonattainment areas, stationary sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme."

Fugitive emissions of these pollutants shall be considered in calculating total emissions for stationary sources in accordance with 40 CFR Part 70.2 "Definitions- Major source(2)" in effect August 2, 2010.

"**Major Source of Hazardous Air Pollutants**" means a stationary source that emits or has the potential to emit 10 tons per year or more of a single hazardous air pollutant listed in Section 112(b) of the CAA, 25 tons per year or more of any combination of hazardous air pollutants, or such lesser quantity as the USEPA may establish by rule. Fugitive emissions of hazardous air pollutants shall be considered in calculating emissions for all stationary sources. The definition of a major source of radionuclides shall be specified by rule by the USEPA.

"**Part 70 Permit**" means an operating permit issued to a stationary source pursuant to an interim, partial, or final Title V program approved by the USEPA.

"**Potential to Emit**" means the maximum capacity of a stationary source to emit a regulated air pollutant based on its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation is federally enforceable.

"**Process Statement**" means an annual report on permitted emission units from an owner or operator of a stationary source certifying under penalty of perjury the following: throughputs of process materials; throughputs of materials stored; usage of materials; fuel usage; any available continuous emissions monitoring data; hours of operation; and any other information required by this rule or requested in writing by the District.

"**Regulated Air Pollutant**" means any air pollutant (a) which is emitted into or otherwise enters the ambient air, as defined in 40 CFR 50.1 in effect August 2, 2010, and (b) for which the Environmental Protection Agency has adopted an emission limit, standard or other requirement. Regulated air pollutants include:

a. Oxides of nitrogen and volatile organic compounds, as defined in 40 CFR 51.166 in effect August 2, 2010;

b. Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the Clean Air Act and its implementing regulations;

c. Any pollutant subject to any standard promulgated under Section 111 (New Source Performance Standards) of the Clean Air Act and its implementing regulations.

d. Any ozone-depleting substance specified as class I or II substance pursuant to Title VI of the Clean Air Act and its implementing regulations; and

e. Any pollutant subject to a standard promulgated under Section 112 (Hazardous Air Pollutants) of the Clean Air Act and its implementing regulations, including:

1) Any pollutant listed pursuant to Section 112(r) of the Clean Air Act shall be considered a regulated air pollutant upon promulgation of the list.

2) Any hazardous air pollutant subject to a standard or other requirement promulgated by the Environmental Protection Agency pursuant to Section 112(d) of the Clean Air Act or adopted by the District pursuant to 112(g) and (j) of the Clean Air Act shall be considered a regulated air pollutant for all sources or source categories: (i) upon promulgation of the standard or requirement, or (ii) 18 months after the standard or requirement was scheduled to be promulgated pursuant to Section 112(e)(3) of the Clean Air Act.

3) Any hazardous air pollutant subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the Environmental Protection Agency promulgation or scheduled promulgation of an emissions limitation, shall be considered a regulated air pollutant when the determination is made pursuant to Section 112(g)(2) of the Clean Air Act. In case-by-case emissions limitation determinations, the hazardous air pollutant shall be considered a regulated air pollutant only for the individual source for which the emissions limitation determination was made.

f. Greenhouse gases that are “subject to regulation” as defined in 40 CFR 70.2 in effect August 2, 2010.

D. Emission Limitations

1. Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in Section G.1 below, no stationary source subject to this rule shall emit in every 12-month period more than the following quantities of emissions:

a. 50 percent of the major source thresholds for regulated air pollutants (excluding hazardous air pollutants),

b. 5 tons per year of a single hazardous air pollutant,

c. 12.5 tons per year of any combination of hazardous air pollutants, and

d. 50 percent of any lesser threshold for a single hazardous air pollutant as the USEPA may establish by rule.

2. The Control Officer shall evaluate a stationary source's compliance with the emission limitations in Section D.1 above annually. In performing the evaluation, the Control Officer shall consider any annual process statement submitted pursuant to Section F, Reporting Requirements. In the absence of valid continuous emission monitoring data or source test data, actual emissions shall be calculated using emissions factors approved by the USEPA, the California Air Resources Board, or the Control Officer.

3. Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in Section G.1 below, the owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in actual emissions that exceed the limits specified in Section D.1 above.

E. Recordkeeping Requirements

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

1. A stationary source previously covered by the provisions in Section A.2 above shall comply with the applicable provisions of Section E above and Sections F and G below if the stationary source exceeds the quantities specified in Section A.2.a above.

2. The owner or operator of a stationary source subject to this rule shall keep and maintain records for each permitted emission unit or groups of permitted emission units sufficient to determine actual emissions. Such information shall be summarized in a monthly log, maintained on site for five years, and be made available to District, the California Air Resources Board, or USEPA staff upon request.

   a. Coating/Solvent Emission Unit
   The owner or operator of a stationary source subject to this rule that contains a coating/solvent emission unit or uses a coating, solvent, ink or adhesive shall keep and maintain the following records:

      1) A current list of all coatings, solvents, inks and adhesives in use. This list shall include: information on the manufacturer, brand, product name or code, VOC content in grams per liter or pounds per gallon, hazardous air pollutants content in grams per liter or pounds per gallon, or manufacturer's product specifications, material VOC content reports or laboratory analyses providing this information;
      2) A description of any equipment used during and after coating/solvent application, including type, make and model; maximum design process rate or throughput; control device(s) type and description (if any); and a description of the coating/solvent application/drying method(s) employed;
      3) A monthly log of the consumption of each solvent (including solvents used in clean-up and surface preparation), coating, ink and adhesive used; and
      4) All purchase orders, invoices, and other documents to support information in the monthly log.

   b. Organic Liquid Storage Unit
   The owner or operator of a stationary source subject to this rule that contains a permitted organic liquid storage unit shall keep and maintain the following records:

      1) A monthly log identifying the liquid stored and monthly throughput; and

2) Information on the tank design and specifications including control equipment.

c. Combustion Emission Unit
The owner or operator of a stationary source subject to this rule that contains a combustion emission unit shall keep and maintain the following records:

1) Information on equipment type, make and model, maximum design process rate or maximum power input/output, minimum operating temperature (for thermal oxidizers) and capacity, control device(s) type and description (if any) and all source test information; and
2) A monthly log of hours of operation, fuel type, fuel usage, fuel heating value (for non-fossil fuels; in terms of Btu/lb or Btu/gal), percent sulfur for fuel oil and coal, and percent nitrogen for coal.

d. Emission Control Unit
The owner or operator of a stationary source subject to this rule that contains an emission control unit shall keep and maintain the following records:

1) Information on equipment type and description, make and model, and emission units served by the control unit;
2) Information on equipment design including where applicable: pollutant(s) controlled; control effectiveness; maximum design or rated capacity; inlet and outlet temperatures, and concentrations for each pollutant controlled; catalyst data (type, material, life, volume, space velocity, ammonia injection rate and temperature); baghouse data (design, cleaning method, fabric material, flow rate, air/cloth ratio); electrostatic precipitator data (number of fields, cleaning method, and power input); scrubber data (type, design, sorbent type, pressure drop); other design data as appropriate; all source test information; and
3) A monthly log of hours of operation including notation of any control equipment breakdowns, upsets, repairs, maintenance and any other deviations from design parameters.

e. General Emission Unit
The owner or operator of a stationary source subject to this rule that contains an emission unit not included in Subsections a, b, or c above shall keep and maintain the following records:

1) Information on the process and equipment including the following: equipment type, description, make and model; maximum design process rate or throughput; control device(s) type and description (if any);
2) Any additional information requested in writing by the Control Officer;
3) A monthly log of operating hours, each raw material used and its amount, each product produced and its production rate; and
4) Purchase orders, invoices, and other documents to support information in the monthly log.

F. Reporting Requirements

1. By March 1 every year, each owner or operator of a stationary source subject to this rule shall submit to the District a process statement. The statement shall be signed by the owner or operator and certify that the information provided is accurate and true.

2. For the purpose of determining compliance with this rule, this requirement shall not apply to stationary sources which emit in every 12-month period less than or equal to the following quantities:

a. For any regulated air pollutant (excluding hazardous air pollutants), 25 tons per year including a regulated air pollutant,

b. 2.5 tons per year of a single hazardous air pollutant,

c. 6.25 tons per year of any combination of hazardous air pollutants, and

d. 25 percent of any lesser threshold for a single hazardous air pollutant as the USEPA may establish by rule.

3. A stationary source previously covered by provisions in Section F.2 above shall comply with the provisions of Section F.1 above if the stationary source exceeds the quantities specified in Section F.2.

4. Any additional information requested by the Control Officer under Section F.1 above shall be submitted to the Control Officer within 30 days of the date of request.

G. Alternative Operational Limit and Requirements

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

1. Upon choosing to operate a stationary source subject to this rule under any one alternative operational limit, the owner or operator shall operate the stationary source in compliance with the alternative operational limit and comply with the specified recordkeeping and reporting requirements.

   a. The owner or operator shall report within 24 hours to the Control Officer any exceedance of the alternative operational limit.

   b. The owner or operator shall maintain all purchase orders, invoices, and other documents to support information required to be maintained in a monthly log. Records required under this section shall be maintained on site for five years and be made available to District or USEPA staff upon request.

   c. Gasoline Dispensing Facility Equipment with Phase I and II Vapor Recovery Systems

      The owner or operator shall operate the gasoline dispensing equipment in compliance with the following requirements:

      1) No more than 7,000,000 gallons of gasoline shall be dispensed in every 12-month period.
      2) A monthly log of gallons of gasoline dispensed in the preceding month with a monthly calculation of the total gallons dispensed in the previous 12 months shall be kept on site.
      3) A copy of the monthly log shall be submitted to the Control Officer with the annual report specified in Section F.1. The owner or operator shall certify that the log is accurate and true.

   d. Degreasing or Solvent-Using Unit

      The owner or operator shall operate the degreasing or solvent-using unit(s) in compliance with the following requirements:

1) (a) If the solvents do not include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 5,400 gallons of any combination of solvent-containing materials and no more than 2,200 gallons of any one solvent-containing material shall be used in every 12-month period, or

(b) If the solvents include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 2,900 gallons of any combination of solvent-containing materials and no more than 1,200 gallons of any one solvent-containing material shall be used in every 12-month period.

2) A monthly log of amount and type of solvent used in the preceding month with a monthly calculation of the total gallons used in the previous 12 months shall be kept on site.

3) A copy of the monthly log shall be submitted to the Control Officer with the annual report specified in Section F.1. The owner or operator shall certify that the log is accurate and true.

e. Paint Spraying Unit

The owner or operator shall operate the paint spraying unit(s) in compliance with the following requirements:

1) (a) The total usage rate of all volatile organic compound-containing materials at the paint spray units shall not exceed 19,200 gallons in every 12-month period, with no more than 1,920 gallons of volatile organic compound-containing materials that also contain any hazardous air pollutant in every 12-month period.

(b) The volatile organic compound/solvent content of the material used at a paint spray unit(s) shall not exceed 1000 gms solvent per liter of coating, as applied, less water and exempt compounds.

2) A monthly log of the gallons of VOC-containing materials used in the preceding month with a monthly calculation of the gallons of volatile organic compound-containing materials that also contain hazardous air pollutants used in the previous 12 months, and of the total gallons of volatile organic compound-containing materials used in the previous 12 months, shall be kept on site.

3) A copy of the monthly log shall be submitted to the Control Officer with the annual report specified in Section F.1. The owner or operator shall certify that the log is accurate and true.

f. Diesel-Fueled Emergency Standby Engine(s) with Output Less Than 1,000 Brake Horsepower

The owner or operator shall operate the emergency standby engine(s) in compliance with the following requirements:

1) For a federal ozone area designation of attainment, unclassified, transitional, or moderate nonattainment, the emergency standby engine(s) shall not operate more than 5,200 hours in every 12-month period and shall not use more than 265,000 gallons of diesel fuel in every 12-month period.

2) A monthly log of hours of operation, gallons of fuel used, and a monthly calculation of the total hours operated and gallons of fuel used in the previous 12 months shall be kept on site.

3) A copy of the monthly log shall be submitted to the Control Officer with the annual report specified in Section F.1. The owner or operator shall certify that the log is accurate and true.

2. The owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in an exceedance of an applicable operational limit specified in Section G.1 above.

H. Violations

1. Failure to comply with any of the applicable provisions of this rule shall constitute a violation of this rule. Each day during which a violation of this rule occurs is a separate offense.

2. A stationary source subject to this rule shall be subject to applicable federal requirements for a major source, including Regulation XIII (Part 70 Operating Permit Program) when the conditions specified in either Subsections a or b below, occur:

   a. Commencing on the first day following every 12-month period in which the stationary source exceeds a limit specified in Section D.1 above and any applicable alternative operational limit specified in Section G.1, above, or

   b. Commencing on the first day following every 12-month period in which the owner or operator can not demonstrate that the stationary source is in compliance with the limits in Section D.1 above or any applicable alternative operational limit specified in Section G.1 above.

I. Applicability Review

The owner or operator of a stationary source may request the District to review the applicability of this rule to the source. Such request shall be submitted with appropriate support materials, as follows:

1. Sources subject to Section D (Emission Limitations) will submit appropriate information providing data for "actual emissions" from the source, as specified in Section C of this rule. All work performed by the Air Pollution Control District staff to process such a request shall be cost-reimbursable and subject to Rule 210, Fees.

2. Sources subject to Section G (Alternative Operational Limit and Requirements) will submit information providing data on "operational parameters" appropriate for the source as listed in Section E of this rule. All work performed by the Air Pollution Control District staff to process such a request shall be cost-reimbursable and subject to Rule 210, Fees.

RULE 502. FILING PETITIONS

(Adopted 10/18/1971, readopted 10/23/1978, revised 5/7/1991, xx/xx/xxxx)

Requests for hearing shall be initiated by the filing of a complete petition with the Clerk of the Hearing Board, and the payment of the filing fee provided for in Rule 210. Service of a copy of the petition shall be made to the Control Officer and to the holder of the permit or variance, if any involved. Service may be made in person or by mail and may be proved by written acknowledgement of the person served or by the affidavit of the person making the service.

RULE 806. EMISSION REDUCTION CREDITS
(Adopted 4/17/1997, revised 8/25/2016, xx/xx/xxxx)

A. Applicability

This rule shall apply to any person seeking to register emission reductions of affected pollutants as Emission Reduction Credits for use as offsets pursuant to Rule 804, Offsets.

B. Exemptions

None.

C. Definitions

See Rules 102, Definitions, and Rule 801, New Source Review – Definitions and General Requirements, for definitions.

D. Requirements – Eligibility of Emission Reductions

1. Emission Reduction Credits shall be allowed for actual emission reductions which have been demonstrated to the satisfaction of the Control Officer to be real, surplus, permanent, quantifiable, and enforceable and which meet the requirements of these Rules and Regulations.

2. Emission reductions shall meet all requirements specified in Rule 804.D for sources which provide emission offsets and all requirements of this rule to be eligible for registration as offsets. Emission Reduction Credits shall not be allowed for emission reductions occurring in another district or for Outer Continental Shelf Sources for which the District is not the corresponding onshore area.

3. Emission reductions which occur prior to the Control Officer's determination that the application for the Emission Reduction Credit is complete shall not be eligible as Emission Reduction Credits.

4. Emission reductions for Toxic Air Contaminants shall be eligible for Emission Reduction Credits only as the appropriate criteria pollutant.

5. Emission Reduction Credits shall be subject to all requirements of the Environmental Protection Agency prior to use.

6. Withdrawal of an application by an applicant shall result in the cancellation of the application. Any resubmittal shall be evaluated using a baseline calculated as of the date of application completeness.

7. **Department of Defense Credits:** Emission reduction credits recognized though a memorandum of agreement between the Board and the Department of Defense shall be registered pursuant to this rule in order to be used as Emission Reduction Credits.

    a. The applicant shall be subject to and comply with the requirements of Section F (Application Procedures), G (Source Register), H.1 (Certificates), J (Use), K (Moratoriums) and L (Fees) of this rule. The applicant shall file an application to register such Emission Reduction Credits pursuant to Section F.1 within 90 days after the date of adoption of this rule.

    b. Notwithstanding any other provisions of these Rules, Emission Reduction Credits held by the Department of Defense that were created pursuant to a memorandum of agreement between the Board and the Department of Defense shall:

1) Be used solely for a single stationary source whose activities have a standard industrial classification code for national defense or space research and technology;

2) Not be transferable;

3) Not be subject to Reasonably Available Control Technology discounting upon use; and

4) After use, may be re-registered for the full original value as Emission Reduction Credits pursuant to Section G and be used in accordance with this rule.

E. Requirements – Emission Reduction Discounts

Emission reductions that result from a shutdown or a reduction in throughput shall be discounted by the greater of the following:

1. The amount of the emission reductions that could be controlled by the application of Best Available Control Technology on the date the application to register emission reduction credits is deemed complete if:

   a. The actual emission reductions are greater than 25 pounds per day, and

   b. There is no reasonably available control technology for the emission unit.

2. Twenty (20) percent.

F. Requirements – Emission Reduction Credit Application Procedures

1. **Application Form and Completeness:** The Application Form and Completeness procedures of Rule 208, Action on Applications – Time Limits, shall apply to the submission of applications for Emission Reduction Credits. An application to register new Emission Reduction Credits shall include a filing fee as specified in Rule 210, Fees.

2. **Source Tests:** The Control Officer may require source test results, continuous emission monitoring, production records, fuel use records and any other information necessary to evaluate an application. All source testing shall be conducted in accordance with District-approved protocols.

3. **Preliminary Decision:** After an application has been deemed complete, the Control Officer shall analyze the application based on applicable federal, state, and local control strategies and the requirements of these Rules and Regulations. Such analysis shall be completed within 120 days after a determination that the application is complete.

4. **Publication and Public Comment:** Within 10 days of any preliminary decision pursuant to F.3, above, which proposes to allow the registration of emissions which exceed the emission reduction thresholds specified in Table 1, below, the Control Officer shall publish in at least one newspaper of general circulation throughout the District a public notice stating the preliminary decision of the Control Officer, noting how pertinent information can be obtained, and inviting written public comment for a 30-day period following the date of publication. The notice shall identify the applicant and the quantity of emission reductions requested as Emission Reduction Credits.

Table 1: Public Notice Thresholds for Emission Reduction Credit Approvals

Pollutant	Proposed Emission Reduction Credit (Tons per Year)
PM_{10}	15
Carbon Monoxide	25
All Nonattainment pollutants (except CO and PM_{10})	10
All Attainment pollutants (except CO and PM_{10})	20

5. **Decision**

Within 180 days after the applicant submits a complete application pursuant to F.1, above, and after considering all comments received pursuant to F.4, above, the Control Officer shall reach a decision and notify the applicant. If the Control Officer approves the application for Emission Reduction Credits, the Control Officer shall:

a. Approve a Decision of Issuance that approves the Emission Reduction Credits subject to appropriate conditions;

b. Issue an Authority to Construct permit or, for sources which are providing emission reductions due to being shutdown, the Control Officer shall cancel the Permit to Operate; and

c. Publish a notice of that decision in accord with the provisions of F.4, above, if the amount of the approved Emission Reduction Credits exceed any threshold set forth in Table 1.

6. **Appeals**

a. The applicant may appeal the Control Officer's decision to the Hearing Board within 30 days after receipt of the Control Officer's decision.

b. Within 30 days of any decision to issue an Emission Reduction Credit, any aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in the action before the District, may request the Hearing Board to hold a public hearing to determine whether the Emission Reduction Credit application was properly issued.

c. Any appeal shall follow the procedures for filing petitions set forth in Regulation V, Hearing Board, and pay fees set forth in Rule 210, Fees, that apply to appeals of permit decisions.

7. **Modification/Cancellation of Permit to Operate**

Prior to the issuance of any Certificate or entry in the Source Register of any Emission Reduction Credit, the applicant shall modify the Permit to Operate or, for emission reduction due to shutdowns, the Permit to Operate shall be cancelled or revised, for the source providing the emission reduction.

G. Requirements – Source Register

Upon the Control Officer's determination to approve an Emission Reduction Credit and the issuance or cancellation of the Permit to Operate for the source providing the emission reduction, the Control Officer shall register such Emission Reduction Credit in the Source Register. The Source Register shall provide the name of the owner(s), amount and type of pollutant qualified as Emission Reduction Credits, the date of registration, the location of the source supplying the emission reduction, and any other information deemed necessary by the Control Officer. The Emission Reduction Credits shall be registered until cancelled or nullified by operation of law.

H. Requirements – Emission Reduction Certificates

1. Upon registration in the Source Register, the Control Officer shall issue a Certificate evidencing all approved reductions of emissions of pollutants to the owner(s) of the emissions source. Certificates evidencing ownership of approved reductions shall not constitute instruments, securities or any other form of property.

2. Emission Reduction Credits shall be valid for a period of 5 years from the date of registration. Such credits may be renewed if all requirements of these Rules and Regulations are met and an application for renewal is submitted to the District prior to expiration. The application shall be on a form approved by the Control Officer and shall be accompanied by a filing fee pursuant to Rule 210, Fees. Failure to timely file an application for renewal may result in the termination of the Emission Reduction Credit.

I. Requirements – Transfers

1. Transfer of all or any portion of an Emission Reduction Credit shall be in writing and signed by the transferor in a form authorized by law. Involuntary transfers shall conform to the requirements of Health and Safety Code §40711. The instrument shall be filed with the District within 30 days of signing and shall specify or be accompanied by the following:

    a. The amount and type of Emission Reduction Credits transferred;

    b. A copy of the current Emission Reduction Credit Certificate which is to be cancelled or modified and reissued by the District;

    c. An application on a form prescribed by the Control Officer requesting the issuance of a new Emission Reduction Credit Certificate; and

    d. The cost, in dollars per ton of each pollutant, paid for the purchase of the Emission Reduction Credit.

2. A filing fee as specified in Rule 210, Fees, shall accompany any application to transfer an Emission Reduction Credit.

3. No transfer shall be effective until the required written notice, filing fee, and all delinquent fees due to the District are paid.

4. Upon filing a copy of the instrument of transfer, application and filing fee, and all delinquent fees with the District, the transfer shall be complete and the title so transferred shall vest in the transferee. A new Certificate shall be issued to the transferee and the last previous original Certificate shall be cancelled or modified as necessary. The new Certificate and cancelled or modified Certificate shall be recorded in the Source Register.

J. Requirements – Use of Emission Reduction Credits

An Emission Reduction Credit may be used by the owner to provide offsets required by these Rules and Regulations to the extent allowed by state and federal law. An Emission Reduction Credit shall qualify as an offset upon surrender of the Certificate to the District subject to the requirements of these Rules and Regulations. Such Emission Reduction Credit shall be used in a manner consistent with the Certificate and in accordance with all other requirements of these Rules and Regulations at the time of use, including the applicable offset ratio.

K. Requirements – Moratorium on Registered Emission Reduction Credits

If the Control Officer determines that additional mandatory emission reductions will be necessary to attain an ambient air quality standard, the Control Officer may declare a full or partial moratorium on the use of emission reduction credits, after opportunity for public comment which complies with the notice requirements of Section F.4. Such a moratorium shall be lifted after the Control Officer determines that the District's air quality attainment plan demonstrates attainment of such standards.

L. Requirements – Fees

An application to register, renew, transfer, or return an Emission Reduction Credit shall include a filing fee as specified in Rule 210, Fees. Processing of applications to register new Emission Reduction Credits shall be subject to the Cost Reimbursement provisions of Rule 210, Fees. When an Emission Reduction Credit is reissued due to the destruction or loss of the original certificate, or when a portion of an Emission Reduction Credit is used for a project, the applicant shall be assessed a reissuance fee as specified in Rule 210, Fees.

RULE 1201. REGISTRATION OF AGRICULTURAL DIESEL ENGINES

(Adopted 8/16/2007, revised xx/xx/xxxx)

A. Applicability

This rule applies to stationary and portable diesel engines rated at 50 brake horsepower or greater that are used in agricultural operations.

B. Exemptions

The provisions of this rule shall not apply to the following equipment:

1. Agricultural wind machines.

2. Motor vehicles, as defined in the California Vehicle Code, Division 1, section 415.

3. Engines registered in the State Portable Equipment Registration Program that are not used as a stationary agricultural diesel engine.

4. Agricultural diesel engines subject to District permit.

C. Definitions

See Rule 102 for definitions not limited to this rule. For the purposes of this rule, the following definitions shall apply:

"Agricultural operations" means the growing and harvesting of crops or the raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution. Agricultural operations do not include activities involving the processing or distribution of crops or fowl.

"Agricultural wind machine" means a stationary diesel engine-powered fan used exclusively in agricultural operations to provide protection to crops during cold weather by mixing warmer atmospheric air with the colder air surrounding a crop.

"Date of initial installation" means the date on which an applicable engine is placed into service at a location in order to be operated for the first time since delivery from the manufacturer, distributor, or other source.

"Diesel engine" means a compression ignition engine fueled by five (5) percent or more of either diesel fuel, California Air Resources Board diesel fuel, or jet fuel.

"Owner or operator" means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation including, but not limited to, a government corporation.

"Rated brake horsepower" means the published rated brake horsepower from any one of the following sources:

a. the manufacturer's sales and service literature;
b. the nameplate of the engine; or
c. if applicable, as shown in the application for certification of the engine.

For an engine installed on or after August 16, 2007, the owner or operator must reflect the engine's configuration on the date of initial installation. For other engines, the owner or operator must reflect the engine's configuration as of August 16, 2007.

"**Remotely-located agricultural engine**" means a stationary diesel-fueled engine used in agriculture that is:

a. located in a federal ambient air quality area that is designated as unclassifiable or attainment all particulate matter and ozone national ambient air quality standards (title 40, Code of Federal Regulations, section 81.305 et seq.); and

b. located more than one-half mile from any residential area, school or hospital.

"**Residential area**" means three or more permanent residences (i.e., homes) located anywhere outside the facility's property.

"Seasonal agricultural operation" means an agricultural operation that remains in a single location for two years or more and that operates at that single location at least three months each year.

"Stationary agricultural diesel engine" means a diesel engine used in agricultural operations that can perform its operation at one location, or remains in one location. An engine is stationary if any of the following are true:

a. The engine is attached to a foundation, or if not so attached, resides at the same agricultural operation for more than 12 consecutive months. A backup, standby or replacement engine, that replaces an engine at an agricultural operation and is intended to perform the same or similar function as the engine being replaced, shall be included in calculating the consecutive time period. The cumulative time of all engines, including the time between the removal of the original engine and installation of the replacement engine, shall counted toward the consecutive time determination; or

b. The engine is not attached to a foundation but is located at a seasonal agricultural operation for less than 12 consecutive months. The engine or its replacement must operate during the full annual operating period of the seasonal operation; or

c. The engine is moved from one location to another in an attempt to circumvent the 12 month residence time requirement. The period during which the engine is maintained at a storage facility shall be excluded from the time determination.

d. The engine is, or is designed to be carried or moved and serves the same primary function at a single agricultural operation as defined by the definition of "Installation" or "Building, Structure or Facility" found in Rule 102.

D. Requirements

1. The owner or operator of an applicable engine shall register the engine within 90 days of initial installation.

2. To register an engine, an owner or operator shall submit a completed registration form, any additional information requested by the Control Officer, and the applicable fee specified in Rule 210.

3. The owner or operator of a registered engine shall pay the applicable fee specified in Rule 210 annually thereafter. Annual registration fees shall cover the period from March 1st to the last day of February in the following year.

E. Registration Renewal

Any registration for any engine subject to this Rule shall be renewable annually upon payment of applicable fees and by updating the registration information that has changed since the last renewal. The registration shall be invalid if all applicable fees are not paid prior to March 1st of each applicable year and if the registration holder has been given a 30-day notice of delinquent fees.

F. South Central Coast Air Basin Reciprocity

An engine registered with the San Luis Obispo or Ventura County Air Pollution Control Districts will be considered registered with the Santa Barbara County Air Pollution Control District (SBCAPCD) if the following conditions are met:

1 The District where the engine is registered has equivalent registration requirements as SBCAPCD.

2. The registration fee at the District where the engine is registered is within 15% of the SBCAPCD fee.

3. The District where the engine is registered also allows engines registered in SBCAPCD to be considered registered in their District.

Registrations for engines operating under the exception for "Remotely-located Agricultural Engines" in California Code of Regulations, Title 17, Section 93115 are not valid for use at multiple locations unless written approval is obtained from the Control Officer in the county where the engine is proposed to be relocated; this includes relocation within the county where the engine is registered.

ATTACHMENT B

Proposed Rules (Track changes)

March 21, 2024

Santa Barbara County Air Pollution Control District
Board of Directors

260 San Antonio Road, Suite A
Santa Barbara, California 93110

RULE 210. FEES. (Adopted 10/18/1971, revised 5/1/1972, 6/16/1975, 6/1976 and 7/24/1978, readopted 10/23/1978, revised 5/19/1980, 6/1980, 12/14/1981, 6/30/1986, 12/15/1986, 8/8/1988, 5/2/1989, 12/12/1989, 2/13/1990, 3/27/1990, 6/5/1990, 12/18/1990, 3/5/1991, 5/7/1991, 4/17/1997, and 3/17/2005)

Note: The proposed 2024 amendments to Rule 210 include a comprehensive reorganization effort. Please refer to Section 3 of the staff report for a description of which sections were added, deleted, or moved within the rule. The clean text of the 2005 version of Rule 210 is provided here for reference.

SCOPE AND PURPOSE

This rule establishes the framework for a comprehensive system for recovering expenses incurred for the regulatory programs, plans, procedures and tasks necessary for the Santa Barbara County Air Pollution Control District (the District) to carry out its mandate under the Clean Air Act and California law. The purpose of this rule is to allow the District to recover its reasonable costs incurred for direct and incidental costs associated with its activities, including but not limited to the issuance of permits, inspection, enforcement, planning, research and administration. Authority to establish said regulation is provided for in Health & Safety Code Sections 41512, 41512.5, 42311, and 42364.

I. FEES FOR SOURCES WITH DISTRICT PERMITS

Permit related fees are assessed for District activities which are related to stationary sources requiring a District permit. The activities include, but are not limited to: review and evaluation of applications; reevaluation of permits; source testing; ambient air quality and continuous emissions monitoring; review, evaluation, implementation of plans, agreements, studies, programs and notices; research; planning and implementation of measures to attain and maintain air quality standards and control of air toxics.

A. Filing Fee

The application filing fee for an Authority to Construct or a Permit to Operate is specified in item 1 of Schedule F.

B. Fee Schedule Basis

1. Evaluation Fee

The fee for processing any application for a new or modified Authority to Construct or Permit to Operate shall be calculated according to the Facility/Equipment Description (see Schedule A), except where (1) the application is for a source which the District determines has the potential to require offsets (or trade-offs), air quality impact analysis, computer modeling or monitoring pursuant to Regulation VIII, or (2) the application is for any of the categories of equipment listed below in (a) through (e), in which case the fee shall be assessed on the Cost Reimbursement Basis set forth in Section I.C., below.

a. Equipment associated with landfill or storage/treatment pond projects.

b. Equipment associated with resource recovery projects.

c. Equipment associated with energy cogeneration projects.

d. Equipment associated with power plant projects.

e. Other projects and the related equipment, determined by the District for good cause to require sufficient analysis such that the use of fee schedules shown in Attachment A will not enable the District to recover the cost of permit evaluation.

If an application is withdrawn or the District stops work on the processing of a permit at the request of the applicant, the applicant shall pay a percentage of the evaluation fees as determined by the District based on the work completed to date.

2. Reevaluation Fee

Every three years the District shall reevaluate a PTO to insure compliance by the operator with listed permit conditions and all applicable District Rules and Regulations. The fee shall be calculated in the same manner as the PTO evaluation fees prescribed in Section I.B.1., with the following exceptions:

a. The minimum triennial reevaluation fee for a stationary source is specified in item 2 of Schedule F to cover costs of District inspection visits as well as the engineering work related to the permits.

b. For motor vehicle fueling facilities equipped with Phase II vapor recovery nozzles, reevaluation of nozzles (and storage tanks) shall be on an annual basis; the minimum fee specified in item 2 of Schedule F shall not be applicable. The annual fee shall be calculated as specified in item 3 of Schedule F. If the equipment fails the first inspection, fees for any additional inspections shall be assessed specified in item 4 of Schedule F. The annual fee shall be paid within 30 days after notification by the District of the amount due.

c. Consecutive triennial reevaluations shall not be billed within any one 12 month consecutive period.

The fee for any stationary source, for which a valid PTO exists on the date of adoption of this rule, may be reevaluated on the basis of District cost reimbursement, as prescribed in Section I.C., if any of three conditions is satisfied: (1) the sum of the emissions of Reactive Organic Compounds, Oxides of Nitrogen, Gaseous Sulfur Compounds, and Particulate Matter from all equipment exceeds 25 tons per year, (2) the existing permit is for any category of equipment identified in Section I.B.1.a. through Section I.B.1.e., (3) a prior ATC, PTO or reevaluation was conducted under the provisions of Section I.C. (Cost Reimbursement). The next scheduled permit reevaluation date after adoption of this rule shall be the date for determining the permit reevaluation fee on the cost reimbursement basis. The District shall notify the permit holder of the deposit amount required and no permit reevaluation expenses shall be incurred until the deposit is received. The fee shall include any expenses for inspection, source testing or plan development that is part of the permit reevaluation. Subsequent to the first reevaluation on the cost reimbursement basis, all costs for District activities associated with the stationary source shall be charged to the permit holder on the basis of cost reimbursement.

C. Cost Reimbursement Basis for Determining Fees

a. Reimbursable Costs

1) The applicant or permit holder shall reimburse the District for all "reimbursable costs," as defined below.

2) Reimbursable costs are defined as:

a) District Labor. District labor costs incurred as a result of time spent by District employees and County Counsel for conducting necessary work with regard to a permit application or permit. Hourly rates, including District overhead costs, and County Counsel rates shall be established by the County Auditor-Controller. The rates charged are those established for the dates when work is performed.

b) Overtime. Overtime costs reasonably incurred by the District. Overtime shall be charged at 1.50 times the base hourly rate. Overhead will be charged only on the base rate. Overtime shall only be charged to an application, permit or source upon which overtime effort is expended.

c) Contractors. Outside consultants and contractors. Outside consultants and contractors may be hired by the District, when necessary to assist in conducting the necessary work subject to the provisions below.

i. Prior to utilizing the services of any outside consultant, the District shall (a) notify the applicant or permit holder, in writing, of the reasons why an outside consultant will be retained and (b) provide the applicant or permit holder with the proposed scope of work and (c) identify the consultant proposed by the District. The applicant or permit holder shall have the right to review and comment on the scope of work and to propose no more than three (3) additional consultants or contractors; however, such consideration shall not require a competitive bidding process or a written decision by the District. If at any time the District deems it necessary to make additions, deletions or other modifications to the scope of work, the applicant or permit holder shall have the right to review, and provide comment on the modified scope of work. If the District elects not to revise the scope of work which an applicant or permit holder desires to revise, the District shall advise the applicant or permit holder in writing as to the reasons for the District's decision.

ii. All proposed contracts which are to be administered under the District's Cost Reimbursement Provisions will be competitively bid if requested in writing by the applicant or permit holder prior to an application being deemed complete. Requests for Proposals (RFPs) with respect to all proposed contracts will be sent to all bidders deemed qualified by the District. District costs for administering the bidding process are reimbursable costs. The applicant shall have the right to appeal the District's selection of and/or the need for a consultant or contractor within ten (10) days to the Air Pollution Control Officer, whose decision shall be final. The Air Pollution Control Officer shall notify the applicant or permit holder in writing of the decision and the reasons therefore.

iii. In the event an applicant requests use of competitively bid contracts an application shall be automatically deemed incomplete for purposes of District Rules and Regulations and any applicable timelines specified under the Permit Streamlining Act, Government Code section 65943, shall be waived by the applicant pending selection of an outside consultant and execution of a contract.

iv. If the need for an outside consultant is determined by the District after an application is deemed complete, the procedure of Section I.C.a.2)c)i. shall apply.

b. Notice of Cost Reimbursement and Appeal

1) The District shall notify the applicant or permit holder in writing that (a) the District has determined the work will be done on the Cost Reimbursement Basis, (b) the grounds for such determination, (c) the projected total cost to obtain the permit applied for, and (d) the initial deposit amount as determined pursuant to Section I.C.d.

2) Upon receipt of such notification, the applicant or permit holder shall have ten (10) days in which to appeal the District's determination to use the cost reimbursement basis to the District Board of Directors. Failure to appeal within said ten (10) days shall bar the applicant or permit holder from contesting the Cost Reimbursement Basis.

3) Prior to the District Board hearing any appeal, the applicant or permit holder shall place on deposit with the District an amount equal to the District's projected costs for the next thirty (30) days of District work on the project. If the District prevails, the amount on deposit shall be applied to the cost reimbursement deposit.

4) Pending conclusion of any appeal pursuant to Section I.C.b., an application for permit shall be automatically deemed incomplete for purposes of District Rules and Regulations and any applicable timelines specified under the Permit Streamlining Act, Government Code section 65943 shall be waived by the applicant.

5) Notwithstanding any other provisions of this rule, the applicant or permit holder shall reimburse the District for costs associated with an appeal if the District prevails. If the appellant prevails, the District Board of Directors may, at its discretion, order that all or a portion of the costs paid be reimbursed to the appellant.

c. Audits

The applicant or permit holder shall have the right to audit any disputed reimbursable cost charged by the District.

1) If an applicant or permit holder elects to audit a disputed reimbursable cost item, the party shall notify the District in writing within thirty (30) days after the date of invoice and shall identify the reasons for the dispute.

2) The District shall provide the applicant or permit holder with documentary evidence supporting the basis and accuracy of the disputed reimbursable cost item. The District shall provide the documentation within thirty (30) days after receipt of written request, except that the Control Officer may extend the deadline for good cause.

3) If within fifteen (15) days of receipt from the District of the documentary evidence supporting the item, the dispute still remains, the applicant or permit holder may request an independent audit. The audit will be conducted by an independent auditor, approved by the applicant and the District.

4) Notwithstanding the provisions of I.C.c.1) and I.C.c.3), above, an applicant or permit holder may dispute any alleged fraudulent reimbursable cost by notifying the Control Officer in writing within 30 days of when the applicant or permit holder discovered or should have discovered the fraud. Such notice shall contain a detailed description of the facts and any available evidence which support the allegation. The Control Officer may order an audit and/or require additional information from the applicant or permit holder. The Control Officer shall issue a determination, in writing, within 60 days after receipt of the notice, which time may be extended by the Control Officer for good cause. The Control Officer may order all or a portion of the disputed cost and any costs incurred pursuant to I.C.c.5, below, be reimbursed to the applicant or permit holder. The Control Officer's decision shall be final.

5) Notwithstanding any ongoing dispute over costs, including where an audit is requested, the applicant or permit holder shall reimburse the District for all reimbursable costs no later than thirty (30) days after the date of invoice. Failure to pay all fees is grounds for discontinuing all District work on the Project and for denial of the permit application or for not renewing an existing permit. Costs incurred by the District pursuant to Sections I.C.c.2), I.C.c.3) and I.C.c.4), above, are reimbursable costs under this rule.

d. Deposits

When the cost reimbursement basis is used for District work, the applicant or permit holder shall place on deposit adequate funds to cover projected reimbursable costs for the next ninety (90) days of District work on the project. The District shall bill the applicant or permit holder monthly for all incurred expenses and the applicant or permit holder shall reimburse the District within thirty (30) days after the date of the monthly invoice. This process shall ensure sufficient funds are kept on deposit with the District to authorize necessary expenditures without delaying the work to be performed.

1) Funds placed on deposit will be subject to the handling charges and credited with interest payments specified in the policy of the Santa Barbara County Auditor Controller's Office including updates.

2) At the time the District requests the deposit of funds, or the payment in lieu of initial deposit, the District shall identify in writing the basis for the estimate of the projected costs to cover the first ninety (90) days of application evaluation.

3) If, at any time during the District's work, the District determines that additional funds are necessary to cover reimbursable costs for the next ninety (90) days, an additional deposit may be required of the applicant or permit holder. The District's request for an additional deposit shall be in writing and specify the basis for such request. The applicant or permit holder shall pay the additional funds within thirty (30) days after the date of an invoice from the District.

4) If at any time the District determines that the amount on deposit is greater than that needed to cover the projected costs for the next ninety (90) day period, the District shall return the amount of the deposit which exceeds the projected costs.

5) An applicant or permit holder shall maintain on deposit with the District, sufficient funds to cover projected District cost for a ninety (90) day period for work performed after permit issuance.

6) If, at any time during the evaluation of an application or permit, the application is withdrawn or a permit is terminated, or canceled, the amount remaining in the applicant's deposit account shall be refunded, provided that all reimbursable costs for said application or permit have been deducted, including costs reasonably incurred after date of notification, by the District prior to refunding.

Notwithstanding the above, if the projected total cost for District review of an application or a permit is less than $1,500, the District may request the total projected amount as a nonrefundable, lump sum payment in lieu of an initial deposit.

D. Source Test and Sampling Fees

These fees shall be in addition to other fees charged pursuant to this section.

1. The District may order Source Testing

a. Pursuant to Rule 205.D., prior to the issuance or reissuance of any permit.

b. If the District has reasonable cause to believe that discharge of air contaminants into the atmosphere from any source violates any permit condition or any federal, state or local law, order, rule or regulation relating to air pollution.

If the source testing is conducted by the District or its agent, the permit holder or other billable entity responsible for complying with District Rules and Regulations shall pay a fee for the source testing based on the provisions of Section I.C. (Cost Reimbursement).

Alternatively, at the request and expense of the permit holder and with the approval of the District, testing may be performed by a private company. In this case, a fee to recover District costs for review of the source test plan, observation of the source test and evaluation of the source test results shall be assessed as follows:

c. Unless otherwise provided in this Rule, if a source was assessed a fee for a District permit under the provisions of Section I.B. (Fee Schedule Basis) or if the source is not required to have a District permit, the fee shall be assessed in accordance with Schedule C.

d. If a source was assessed a fee for a District permit under the provisions of Section I.C. (Cost Reimbursement Basis), the fee shall be assessed in accordance with Section I.C.

2. Sampling of Products and Materials

Pursuant to Health and Safety Code Section 41512, if the District determines that sampling and analysis of products or materials are required to determine compliance with District Rules and Regulations, the permit holder or other billable entity responsible for complying with District Rules and Regulations shall be assessed a fee in accordance with Schedule D.

E. Other Fees

1. Transfer of Ownership

An application filed for purposes of transferring a permit from one permit holder to another shall pay a filing fee as specified in item 1 of Schedule F. A change in business name only shall not be assessed a fee.

2. Change in Location

An application to change the location of a permitted item of equipment within the existing boundaries of the facility, which the District determines will have no potential impact on air quality, shall not be assessed a fee. An application to relocate a permitted item of equipment to a new site, outside the existing boundaries of the facility, shall be assessed the filing fee, plus the permit fee for a new ATC and/or PTO as prescribed in Section I.B. or I.C.

3. Change in Permitted Production Rate

An applicant requesting modification of a permit to decrease production rate or throughput limits shall be assessed a fee as specified in item 5 of Schedule F. If the District determines costs will not be recovered from item 5 of Schedule F the Control Officer shall have the option of placing the request under Cost Reimbursement basis as prescribed in Section I.C. If the District determines the modification has the potential to increase emissions or impacts, the applicant shall be assessed fees for the permit modification(s) as prescribed in Section I.B. or I.C..

4. Fee For Administrative Changes

Changes to permits which are deemed by the Control Officer to be administrative shall be assessed and a fee as specified in item 6 of Schedule F.

5. Cooling Towers with Hexavalent Chromium

a. Any person submitting a compliance plan pursuant to Rule 335, Section I.2. shall pay a fee as specified in item 7 of Schedule F.

b. Any person submitting a compliance plan pursuant to Rule 335, Section I.2. with the delayed compliance date for wooden cooling towers (Section C.4) shall pay an additional plan filing fee as specified in item 8 of Schedule F.

c. The required filing fee shall be paid when the compliance plan is submitted.

6. Other Changes

An application to change any provision of an existing permit, other than those changes described in Section E.1. through E.4 above, shall be assessed all fees for a modified ATC and/or PTO as prescribed in Section I.A., I.B. or I.C.

F. Air Quality Plans

The fees charged under this Section of Rule 210 are earmarked for the preparation of mandated air quality plans necessary for the attainment and maintenance of ambient air quality standards.

Preparation of Air Quality Plans are mandated by a State Implementation Plan (SIP) call, issued by the U.S. Environmental Protection Agency (EPA), or by the State pursuant to Health and Safety Code Section 40910 et. seq. Fees may be assessed to cover District costs incurred upon notification by the U.S. Environmental Protection Agency (EPA) of an upcoming SIP call as well as after formal notification by EPA. The Control Officer shall report to the Executive Board of the District on a triennial basis summarizing the work performed during the proceeding three years, the work planned and the continued adequacy and necessity of this fee.

Fees shall be charged annually to cover costs incurred by the County for preparation of each Air Quality Plan.

1. Applicability.

   a. All holders of District permits for Authority to Construct or Permit to Operate whose stationary source, as defined in Rule 102, discharges pollutants within the District, shall pay an annual fee as follows:

      1) Only the pollutants, including precursor pollutants, identified by the EPA in the SIP call or designated a non-attainment pollutant by the Air Resources Board (ARB) shall be included in determining the annual fee.

      2) Stationary sources that discharge ten (10) tons or more per year of any one of the pollutants identified by the EPA in the SIP call or designated a non-attainment pollutant by the State Board shall be included in assessing the fee.

      3) The stationary source subject to the fee shall be:

         a) for a SIP call, all sources located in the geographic region identified in the SIP call;

         b) for state mandated plans, all sources located in the geographic region identified by the State Board; or

         c) the Control Officer shall designate the planning area if a region is not identified as specified above.

   b. The annual fee shall be calculated and assessed as specified in Sections I.F.2 and I.F.3.

2. Basis of Fee

   a. Fees shall be assessed for stationary sources based on emissions. The emissions shall be determined as follows:

      1) For a stationary source which receives a PTO on or after January 1, 1988, the fee shall be based on the maximum emissions permitted by the PTO except for sources described in Section I.F.2.a.2) below. For a stationary source which

held an ATC, but not a PTO, on or after January 1, 1988, the fee shall be based on maximum annual emissions permitted by the ATC.

2) For a source which receives a PTO after January 1, 1988, to comply with Rule 202 exemptions from permit, as revised December 7, 1987 and January 11, 1988, the fee shall be based on emission quantities used for assessment of fees pursuant to Section I.H. based on actual annual emissions at the stationary source.

3) For a stationary source which held a PTO on or prior to January l, 1988, the fee shall be based on emission quantities used for assessment of fees pursuant to Section I.H.

c. The District may adopt, by regulation, a schedule of fees to be assessed on areawide or indirect sources which are regulated, but for which permits are not issued by the District to recover the costs of District programs related to these sources (Health & Safety Code Section 42311(g).

3. Fee Schedule and Assessment of Fee.

a. The schedule of fees to be charged for each ton of pollutants subject to this Rule is specified in Schedule B-1.

b. The annual fee assessed for each stationary source shall be calculated as the stationary source emissions within the District multiplied by the unit fee prescribed in Schedule B-1.

G. Air Toxics Program

All stationary sources with a District permit shall pay an annual fee based on annual emissions multiplied by the Air Toxics Program unit fee prescribed in Schedule B-2. The annual toxic emissions shall be determined pursuant to Section I.H. The fees assessed under this provision are independent of any permit fees that may be assessed for an ATC, PTO or reissuance of a PTO.

H. Annual Emission Fee

1. All stationary sources subject to District permit shall pay an annual fee based on annual emissions multiplied by the unit fees prescribed in Schedule B-3. Actual emissions shall be based on data provided by the permit holder and verified by the District. Such Data shall be sufficient to calculate the total emissions of each air contaminant for all permitted equipment at a stationary source. Pursuant to Health and Safety Code Section 42303, all permit holders subject to this provision shall submit data which are determined necessary by the District to calculate actual emissions. The necessary data shall be submitted within 30 calendar days after receipt of the request from the District.

2. For stationary sources evaluated under Regulation VIII, the annual fee due for each contaminant shall be reduced by the "increment fee" as specified in Regulation VIII paid for that contaminant during the prior twelve months.

I. Programs Conducted by the State Air Resources Board

The fees assessed under this Section are collected by the District and transmitted to the ARB to enable the ARB to implement the Atmospheric Acidity Protection Program (AAPP) and the California Clean Air Act

(CCAA) mandated by Health and Safety Code Section 39900 et. seq. and Sections 90800-90803, Title 17, California Code of Regulations, respectively. The fees are based on emissions and shall be assessed for certain stationary sources.

AAPP fees shall be assessed for stationary sources with a PTO that discharge 500 tons or more of either nitrogen oxides or sulfur oxides in any calendar year.

CCAA fees shall be assessed for stationary sources with PTO that discharge 500 tons or more, in any calendar year, of any nonattainment pollutant, or precursor.

Both the fees and the calendar year on which the fees are based shall be determined by the ARB, calculated by the following formula:

AAPP Fee amount = A x AAPP Unit Fee

CCAA Fee amount = B x CCAA Unit Fee

where:

A = total tons per year of nitrogen oxides and sulfur oxides, expressed as nitrogen dioxide and sulfur dioxide, respectively, from the stationary source during a calendar year. In calculating the fee amount, the actual emissions of either nitrogen oxides or sulfur oxides, if less than 500 tons per year, shall not be counted.

B = total tons per year of the nonattainment and precursor pollutants form the stationary source during a calendar year. The nitrogen oxide and sulfur oxide pollutants shall be expressed as nitrogen dioxide and sulfur dioxide, respectively. In calculating the fee amount, the actual emissions of any nonattainment pollutant or it's precursors if less than 500 tons per year, shall not be counted.

AAPP and CCAA Unit Fee = fee expressed as dollars per ton specified for each fiscal year, as determined by the ARB for each of the two programs.

To cover District costs for the collection of the AAPP and CCAA fees, an administrative fee as specified in items 9 and 10, respectively, of Schedule F shall be assessed for each stationary source and for each of the two ARB programs.

Payment of the AAPP and CCAA fees shall be made to the District within sixty (60) calendar days after the invoice date.

II. FEES FOR SOURCES WHICH DO NOT REQUIRE DISTRICT PERMITS

Fees shall be charged to sources of emissions which do not require a District permit, if the District incurs cost to evaluate plans required by law or to determine whether a source is in compliance with federal, state or local air quality rules and regulations.

A. Fees for Asbestos Demolition and Renovation

A non-refundable fee shall be assessed for asbestos demolition and renovation operations subject to the notification provisions of District Regulation X, Rule 1001, National Emission Standards for Hazardous Pollutants. The fee shall be assessed in accordance with Schedule E and shall be paid by the asbestos demolition and renovation contractor at the time an asbestos demolition and renovation project notice is filed with the District.

B. Fees for Determination of Permit Exemption

If a request is made for a written determination of whether equipment is exempt from the requirement for a District permit, a fee as specified in item 11 of Schedule F shall be assessed to the equipment owner or operator to determine the eligibility for exemption.

III. OTHER COST REIMBURSEMENT ACTIVITIES

A. Monitoring Fee

The owner/operator of a stationary source shall pay all District costs associated with installation, operation, maintenance of equipment, and the review, transmittal, storage, and evaluation of data for ambient and continuous emission monitoring activities required under District rules, regulations, permit conditions, or agreements. These costs shall be assessed and paid in accordance with Section I.C. (Cost Reimbursement Basis).

B. Other Inspection and Enforcement Fees

If inspection and enforcement activities are required by permit conditions or to investigate or correct a violation, and the District determines a permit holder is responsible, a fee may be assessed and shall be paid by the violator as prescribed in Section I.C. (Cost Reimbursement Basis). Violations are defined as infractions of District rules or specific permit conditions. The District's activities may be triggered by the following conditions:

1. Notice of Violation which leads to a settlement in which the permit holder agrees to pay such cost or where the Notice of Violation results in a finding that the permit holder has committed the alleged violation.

2. Inspections and other activities required by permit conditions, including any plans or procedures which require District action, such emergency procedures.

C. Plans, Agreements, and Studies

Fees shall be assessed for District activities, identified below, which may be performed for a stationary source. The fee shall be assessed in accordance with the provisions of Section I.C. (Cost Reimbursement Basis) and shall be paid by the owner/operator of the stationary source to the extent the District determines the need for the activity is caused by the stationary source. The activities include the following:

1. Review and preparation of plans including, but not limited to, Curtailment Plans, Episode Plans, Source Test Plans, Odor Monitoring Plans.

2. Review and preparation of special agreements, including offset agreements.

3. Review and preparation of special studies required by the District or requested by the applicant.

4. Review and preparation of environmental documents required under CEQA or NEPA in which the District is lead agency, responsible agency or trustee agency.

IV. HEARING BOARD FEE

A. Variance

1. Except as otherwise provided in this Rule, every applicant or petitioner for a variance from these rules, except an emergency variance, shall pay a filing fee as specified in item 12.a of Schedule F.

2. If a petition is filed for a variance from the requirements of a District permit that was assessed a fee under Cost Reimbursement Basis, the petitioner shall pay a fee as specified in accordance with Section I.C. Additionally, every petitioner shall pay a filing fee as set forth in item 12.b of Schedule F.

3. Each additional ton of pollutant emissions or portion thereof allowed as the result of the issuance of any variance shall result in an emission fee, calculated on the basis of each excess ton of emissions and a fee shall be assessed as specified in item 12.e. of Schedule F.

B. Permit Appeal

Every applicant or petitioner in a proceeding before the Hearing Board to appeal the denial, suspension or conditional approval of a permit shall pay a filing fee as specified in item 12.c. of Schedule F. An additional fee as specified in item 12.d. of Schedule F. shall be paid for each two hours, or portion thereof, of hearing in addition to the first hearing day necessary to dispose of the appeal. In the event a petition is withdrawn prior to the hearing, one-half the filing fee may be refunded. No appeal shall be heard unless all permit processing fees have been paid including those cases where the fee itself is being appealed. A portion of the fees may be refunded to the extent determined by the Hearing Board. The Hearing Board shall order the appeal filing fee refunded where the Hearing Board determines the appellant has prevailed on the appeal.

Notwithstanding any fees assessed for evaluating or reevaluating a permit, if the Hearing Board directs the District and the petitioner to negotiate the resolution of the issues under appeal and the negotiations are not conducted during a Hearing Board hearing, the Hearing Board shall establish a specified hour limit for negotiation and the petitioner shall be assessed a fee on the basis of Cost Reimbursement to recover costs for District staff and County Counsel labor incurred during such negotiations.

C. Abatement Orders

Upon investigation and determination that a violation of Health and Safety Code Sections 41700 or 41701 or of any order, permit condition or any District rule or regulation prohibiting or limiting the discharge of air contaminants into the air is found to exist, the Air Pollution Control Officer shall notify the violator in writing of the District's intent to assess fees to recover all administrative costs, including County Counsel costs, associated with the preparation, issuance and implementation of abatement orders and of the violator's right to a hearing on objections thereto. When an abatement order is issued and every thirty (30) calendar days thereafter until the case is concluded, an invoice shall be issued summarizing the labor hours and associated costs actually incurred payable by the violator. The labor costs shall be based on hourly rates, approved by the County Auditor-Controller in effect at the time costs are incurred. If the violator objects to the invoiced amount, a request to the Hearing Board for a hearing shall be filed within ten (10) calendar days of the invoice date. Within thirty (30) calendar days of the filing of a request for hearing and on ten (10) calendar days written notice to the violator, the hearing shall be held on the objection in order to determine the validity thereof. In the event no request for hearing is filed or after the Hearing Board affirms the validity of the invoiced costs, the violator shall pay the District the amount stated within thirty calendar (30) days of the invoice date if no request for hearing is filed or within thirty calendar (30) days of the hearing date if a hearing is held. These fees do not preclude fines collected under mutual settlement policy.

V. GOVERNING PROVISIONS

A. Payment of Fees and Penalties

Unless otherwise provided in this Rule, this section is applicable to all fees mandated by this Rule and by the Health and Safety Code.

1. Payment of Fees

   a. Payment of any filing fee shall be made at the time an application, petition or notice is filed.

   b. Payment of any fee other than a filing fee shall be made to the District within thirty (30) calendar days after the invoice date.

2. Penalty for Nonpayment of Fees Other Than Cost Reimbursement

   If payment is not received within thirty (30) calendar days after the invoice date, the Air Pollution Control Officer shall promptly notify the person subject to the fee in writing that the payment is overdue and a penalty shall be imposed if payment is not received within sixty (60) calendar days of the invoice date. The penalty shall be ten (10) percent of the fee initially invoiced for each thirty (30) calendar day period, or portion thereof, that the payment is overdue and the Air Pollution Control Officer may initiate action to revoke the permit. For fees mandated by Health and Safety Code Section 44300 et. seq., the penalty shall not exceed 100% of the fee.

3. Payment of Deposits and Fees Based on Cost Reimbursement and Requirements for Appeal

   a. The applicant or permit holder shall make a deposit and pay any fee required pursuant to this Rule within thirty (30) days after the date of District invoice. If an applicant or permit holder fails to meet this requirement, the District may discontinue work on the project.

   b. If an application for permit has been deemed complete and the initial deposit or other required fee is not paid within thirty (30) days after the date of District invoice, the Control Officer may deny the permit.

   c. If the initial deposit or other required fee for reevaluation or implementation of an existing permit is not paid within thirty (30) days, after the date of District invoice, the permit may not be reissued and the existing permit may be suspended by the District or may be grounds for permit revocation pursuant to Health and Safety Code Section 42307.

   d. Where an application has been denied or an existing permit has been suspended pursuant to Sections V.A.3.b and V.A.3.c above, and that decision by the Air Pollution Control Officer has been appealed to the Hearing Board, the appeal shall not be heard until all invoiced funds are submitted to the District. Furthermore, the appeal shall be dismissed by the Hearing Board if the appellant did not first exhaust the administrative remedies as set forth in Sections I.C.b. and I.C.c.

4. Failure to Obtain Permit

   An applicant seeking an ATC or PTO for equipment for which an Authority to Construct was required but not obtained, shall pay a fee double that prescribed for the ATC in Section I. If operation of equipment is conducted without a valid PTO, the fee prescribed in Section I. for the PTO plus annual permit renewal and emission fees that would have been assessed with a valid PTO, shall be doubled. The amount due may be reduced by the amount paid under a Notice of Violation issued for the unpermitted equipment.

5. Payment for Reapplication

If a permit has been suspended or voided due to nonpayment of fees and application is made to reinstate the permit, no permit shall be issued and no cost will be incurred by the District with regard to that permit until all prior fees and associated penalties have been paid. If, during the processing/evaluation of a permit application, an application is withdrawn or payment of fees by the applicant does not conform to the provisions of this Rule, the District shall terminate work on the application. No reapplication, or any new application by the same applicant shall be accepted by the District until all fees and penalties for the terminated application have been paid.

6. Nonpayment of Fees - General

The District may refuse to issue or to reissue any permit or accept any application for a permit from an applicant or permit holder responsible for payment of any delinquent fee until all delinquent fees and all associated penalties are paid in full.

B. Effective Date

All fees specified in this Rule shall become effective on the date of Rule adoption.

C. Annual Adjustment in Fees

Any fees prescribed in this Rule may be adjusted annually by the Air Pollution Control Officer based on the change in the California Consumer Price Index (CPI) for the preceding year, as determined pursuant to Section 2212 of the Revenue and Taxation Code. All other revisions of this Rule require approval of the District's Board of Directors. As provided for in Health and Safety Code, 42311, as amended, sufficient fees shall be charged to enable the District to recover estimated reasonable costs of all District programs related to permitted stationary sources.

D. Use of Fee Schedules

In the event more than one fee schedule is applicable to an item of equipment, article, machine or other contrivance, the higher fee schedule shall prevail. Where several items of equipment are permitted under a single PTO, the fee shall be assessed as the sum of the fees for the individual items.

E. Consolidation of Existing Permits

Where more than one PTO has been issued for the equipment at any one stationary source, and one or more of the permits is due for renewal, or an application is filed for permit modification, the District may consolidate permits, including consolidation into a single permit for the entire plant or facility. At the time of consolidation, a single date will be set for permit renewal of all equipment included in the consolidated permit. In determining the fee for a consolidated permit, credit will be given for any PTO which has not yet expired on the issuance date of a consolidated permit. The fee for the consolidated permit will be reduced on a pro rata basis for the time remaining on the unexpired permit in determining the fee for the consolidated permit.

F. Rule Precedence and Applicability

Notwithstanding any rule to the contrary, this Rule shall apply to all permit holders or applicants regardless of the date of their application or permit issuance, and the rules in effect on that date. Pursuant to the Health and Safety Code, Sections 39047 and 42311(a), this section shall apply to all persons applying for a permit or holding a permit.

G. Refund of Filing Fee

Except as otherwise provided in this Rule, any required filing fee or portion thereof shall not be refunded or applied to any subsequent application or petition.

H. Reevaluation Date

The date on which a permit reevaluation is due is three years from the initial issuance of the PTO and every three years thereafter, notwithstanding any delay in reissuance of a PTO due to an appeal.

SCHEDULE A

Facility/Equipment Description / Fee Schedule

The fees prescribed in this section pertain to any article, machine, equipment or other contrivance (hereinafter, "equipment") which emits air contaminants, or causes such emissions, and which is not exempted under Rule 202.

1. Miscellaneous Equipment:

   Miscellaneous equipment is any equipment not included in a fee schedule listed below and which emits or may emit air contaminants or causes such emissions. Miscellaneous equipment shall be assessed a fee as follows:

   a. If equipment other than miscellaneous equipment at a stationary source is included in any fee schedule listed below, the miscellaneous equipment shall be assessed a fee of $40 per item of equipment.

   b. If the miscellaneous equipment is the only equipment at a stationary source, the minimum fee assessed under this schedule for all miscellaneous equipment shall be $250.

2. Electric Motor Horsepower Fee Schedule:

   Any equipment where an electric motor is used to drive the equipment, except for oilfield wellhead pumping units and items 10 and 11 of Schedule A, shall be assessed a fee based on the total rated motor horsepower of each motor included in any such equipment, in accordance with the following formula:

   Fee = $20.75 times (X), (rounded to nearest dollar)
   Where "X" is horsepower, and the
   Minimum fee = $40.34
   Maximum fee = $4,015.00

3. Fuel Burning Equipment Fee Schedule:

   Any equipment in which fuel is burned, with the exception of incinerators which are covered in Schedule 4, shall be assessed a fee based upon the maximum design fuel consumption of the equipment expressed in British thermal units (Btu) per hour, using gross heating values of the fuel in accordance with the following formula:

   Fee = $300 times (X), (rounded to nearest dollar)
   Where "X" is the maximum fuel consumption in 1,000,000 Btu per hour and the
   Minimum fee = $40.34
   Maximum fee = $4,015.00

4. Electrical Energy Fee Schedule:

Any equipment which uses electrical energy shall be assessed a fee based on the total kilovolt amperes (KVA) ratings, in accordance with the following formula:

Fee = $4.03 times (X), (rounded to the nearest dollar)
Where "X" is the KVA rating in 10's, and the
Minimum fee = $40.34
Maximum fee = $4,015.00

5. Incinerator Fee Schedule:

Any equipment used primarily to dispose of combustible refuse by wholly consuming the material charged, leaving only ashes or residue, shall be assessed a fee based on the maximum cross sectional area of the combustion chamber(s), in accordance with the following formula:

Fee = $50 times (X), (rounded to nearest dollar)
Where "X" is the total horizontal inside cross-sectional area in square feet and the
Minimum fee = $40.34
Maximum fee = $2,007.00

6. Stationary Container Fee Schedule:

Any stationary tank, reservoir, or other container, except gasoline storage tanks at motor vehicle fueling facilities, shall be assessed a fee based on volumetric capacity, in accordance with the following formula:

Fee = $2.30 times (X), (rounded to nearest dollar)
Where "X" is the capacity in 1000 gallons and the
Minimum fee = $40.34
Maximum fee = $2,007.00

7. Dry Cleaning Equipment Fee Schedule:

Any equipment used in a dry cleaning operation using organic solvents shall be assessed a fee of $40.00 for each item of equipment.

8. Motor Vehicle Gasoline Fueling Facilities Fee Schedule:

Motor vehicle gasoline fueling facilities equipped with Phase II vapor recovery dispensing nozzles shall be assessed a fee, which includes the fee for gasoline storage tanks, in accordance with the following formula:

Fee = $23 times (X)
Where "X" is the number of nozzles and the
Minimum fee = $160.00
Maximum fee; none

Motor vehicle gasoline fueling facilities without Phase II vapor recovery dispensing nozzles shall be assessed a fee of $300.00 regardless of the number of dispensing nozzles.

9. Ethylene Oxide Sterilizer Fee Schedule:

Any ethylene oxide sterilizer and associated control equipment shall be assessed a fee based on the total amount of ethylene oxide used, in accordance with the following formula:

Amount of Ethylene Oxide Used per Year, in Pounds	**Fee**
250 pounds per year or less	$1600.00
Over 250 pounds per year	$4000.00

10. Rock Crusher Fee Schedule:

Equipment used to crush rocks shall be assessed a fee of $40.00 for each device. This applies to jaw crushers, cone crushers, and hammer mills.

11. Stacker Belt Fee Schedule:

A belt used to stack minerals to form a storage pile shall be assessed a fee of $40 for each stacker belt.

SCHEDULE B-1
FEE FOR AIR QUALITY PLAN

EMISSION RANGE (tons per year)	AIR QUALITY PLAN FEE
0 - 10	0
>10 - 25	$31 per ton
>25 - 100	$47 per ton
>100	$62 per ton

Emission Range shall be determined as the sum of Reactive Organic Compounds and Oxides of Nitrogen (expressed as nitrogen dioxide) for the ozone attainment plan pursuant to the California Clean Air Act of 1988.

SCHEDULE B-2
FEE FOR AIR TOXICS PROGRAM

EMISSION RANGE (pounds/year)	AIR TOXICS PROGRAM UNIT FEE
0 - 2,000	0
> 2,000	$0.25 per pound of air toxic emissions

SCHEDULE B-3
ANNUAL EMISSION FEE
[Effective 5/7/91]

Emission Range (tons per year)	**Emission Fee**
0 - 10	$250 total
>10 - 25	$ 55 per ton
>25 - 100	$ 83 per ton
>100	$110 per ton

Emission Range shall be determined as the sum of Reactive Organic Compounds, Oxides of Nitrogen (expressed as nitrogen dioxide), Gaseous Sulfur Compounds (expressed as sulfur dioxide), and Particulate Matter.

SCHEDULE B - 3
[Effective July 1, 1991]

ANNUAL EMISSION FEE

Emission Range (tons per year)	**Emission Fee**
0 - 10	$250 total
>10 - 25	$69 per ton
>25 - 100	$104 per ton
> 100	$138 per ton

Emission Range shall be determined as the sum of Reactive Organic Compounds, Oxides of Nitrogen (expressed as nitrogen dioxide), Gaseous Sulfur Compounds (expressed as sulfur dioxide), and Particulate Matter.

SCHEDULE C
FEES FOR REVIEW, OBSERVATION AND EVALUATION OF SOURCE TESTS FOR EQUIPMENT EVALUATED UNDER SCHEDULE A*

SOURCE	SOURCE TEST FEE**
Boiler or Heater	$1,025
Piston Type Engine	
- one engine	$1,025
- each additional engine	$ 273
Thermal Oxidizer	$1,025
Wet Scrubber (gaseous)	$1,025
Wet Scrubber (particulates)	$1,365
Baghouse	$1,365
Gas Turbine	$1,365
Heater Treater	$1,365
Other	$1,365

* This fee schedule shall not be used to determine fees for source testing of equipment which discharges non-criteria pollutants, including toxics and heavy metals. Such equipment will be assessed fees on the Cost Reimbursement Basis (Section I.C.)

** If source testing includes determining the efficiency of an emission control device, the fee shall be increased by 50 percent. If source testing is conducted offshore, the fee shall be increased by 25 percent.

SCHEDULE D
SAMPLE AND LABORATORY ANALYSIS FEES

SAMPLE TYPE	COST PER SAMPLE*
Sulfur in Fuel Oil	$123
Sulfur in Fuel Gas	$198
Btu in Fuel Gas	$198
Crude Oil TVP	$313
Coatings - Volatile Content	$238
Solvent Speciation	$348
Asphalt Analysis	$198
Asbestos Content	$ 98

* Fees include costs incurred by the District for sample analysis by an independent laboratory.

SCHEDULE E
FEES FOR ASBESTOS DEMOLITION AND RENOVATION

At the time written notice is required to be submitted to the District, contractors for asbestos demolition/renovation operations subject to District Regulation X., Rule 1001, Subpart M of Attachment I and federal regulation 40 CFR, Part 61, Subpart 61.145, shall pay the following fee:

Quantity of Asbestos	Fee
Demolition only:	
Less than 260 linear feet or 160 square feet	$75
Demolitions and renovations:	
Greater than 260 linear feet or 160 square feet but less than 500 linear or square feet	$300
Greater than 500 but less than 1000	$425
1000 or greater but less than 2500	$570
2500 or greater but less than 5000	$705
5000 or greater but less than 10,000	$825
10,000 or greater	$975

SCHEDULE F

Item #

1. Authority to Construct or Permit to Operate Application Filing Fee - $230.41 per application.

2. Minimum triennial Permit to Operate reevaluation fee (except for motor vehicle fueling facilities) - $250.

3. Annual Permit to Operate reevaluation fee for motor vehicle fueling facilities equipped with Phase II vapor recovery nozzles - $14 per nozzle.

4. Additional reinspection fee for Phase II motor vehicle fueling facilities failing the first inspection - $14 per nozzle per additional inspection.

5. Fee for change in Production rate - $250 per permit.

6. Fee for Administrative Change - $250 per permit.

7. Fee for Cooling Towers with Hexavalent Chromium compliance plan - $310 per compliance plan submitted.

8. Fee for Cooling Towers with Hexavalent Chromium with delayed compliance plan date - $100 per delayed compliance plan submitted.

9. Annual Atmospheric Acidity Protection Program (AAPP) Administrative Fee - $350 per stationary source.

10. Annual California Clean Air Act (CCAA) Administrative Fee - $350 per stationary source.

11. Fee for Written Determination of Permit Exemption - $350 per determination.

12. Hearing Board:

    a. Filing Fee (Fixed Fee Permit):

    - Emergency Variance: $60 if the requested length of the variance is fifteen (15) days or less; $120 if the requested length of the variance is greater than fifteen (15) days.

    - Interim Variance $ 140
    - 90 - day Variance $ 750
    - Regular Variance $ 750

    Additional Fee for Regular Variances:

    Regular Variances: If the requested length of the variance is greater than three (3) month, the petitioner shall pay an additional fee of $275 for each month or portion thereof over three (3) months that the variance is requested.

b. Filing Fee (Cost Reimbursement Permit):

-	Emergency Variance	$60
-	Interim Variance	$345
-	90-day Variance	$345
-	Regular Variance	$345

c. Permit appeal filing fee - $400 per petition.

d. Permit appeal hearing time after first hearing day, for each two hours or portion thereof - $200.

e. Excess emissions fee shall be $160 per ton.

RULE 203. TRANSFER

(Adopted 10/18/1971, revised 5/1/1972, readopted 10/23/1978, revised 4/17/1997, xx/xx/xxxx)

A. Applicability

This rule shall apply to any person transferring operation or ownership of permitted equipment.

B. Exemptions

None.

C. Definitions

See Rule 102 for definitions.

D. Requirements

1. Transfer of Permits

An Authority to Construct or Permit to Operate shall not be transferable, whether by operation of law or otherwise, either from one location to another, or from one piece of equipment to another, except for those items specifically noted on the permit as being portable and/or relocatable.

Any application to transfer a permit from one permit holder to another shall be accompanied by a filing fee as specified in Rule 210, Fees~~, Schedule F~~. A change in business name only is not a transfer and shall not be assessed a fee. Transferring an entire permit from one permit holder to another shall not be assessed any evaluation fees. If a transfer of ownership/operator requires permit(s) to be split into multiple permits, the applicant(s) shall be assessed evaluation fee(s) as specified in Rule 210.

An application for the transfer of ownership only shall constitute a temporary Permit to Operate if authorized by Health and Safety Code Section 42301(f). The Control Officer shall approve an application for the transfer of a permit if all of the following requirements are met:

a. the article, machine, equipment, or contrivance subject to the permit is in compliance with all applicable orders, rules, and regulations of the District, Air Resources Board and the Environmental Protection Agency;

b. a written agreement or other written proof of transfer of ownership deemed sufficient by the Control Officer which specifies the date of ownership transfer has been submitted to the District;

c. the permit has been reviewed by the District to determine that permit conditions are adequate to ensure compliance with, and enforceability of, District rules and regulations applicable to the article, machine or contrivance for which the permit was issued;

d. where D(1)(c) has not been met, the Control Officer shall require that the permit be revised to specify the permit conditions necessary in accordance with all applicable rules and regulations; and

e. all fees associated with the permit have been paid.

2. An application for transfer of a permit shall be filed within 30 days of change of ownership or operator.

RULE 211. TECHNICAL REPORTS - CHARGES FOR
(Adopted 10/18/1972, revised 6/1976, readopted 10/23/1978, and repealed on 5/16/2024)

Repealed by the Santa Barbara County Air Pollution Control District Board on May 16, 2024.
~~Information, circulars, reports of technical work, and other reports prepared by the District for special interest groups or individuals, may be charged for by the District in a sum not to exceed the cost of preparation and distribution of such documents. The charge will be based on direct labor hours used, supplies and service expended, and indirect costs incurred. All such monies collected shall be turned into the general funds of the said District.~~

RULE 213. FEES FOR REGISTRATION PROGRAMS
(Adopted 10/18/2007 and repealed on 5/16/2024)

Repealed by the Santa Barbara County Air Pollution Control District Board on May 16, 2024.

~~**A. Applicability**~~

~~Effective October 18, 2007, this rule applies to diesel engines registered pursuant to Rule 1201.~~

~~**B. Fee**~~

~~The fee for registering and renewing registration of any diesel engine subject to Rule 1201 is set forth in Schedule 213-A.~~

~~**C. Annual Adjustment in Fees**~~

~~Any fee prescribed in this rule may be adjusted annually by the Control Officer based on the change in the California Consumer Price Index (CPI) for the preceding year, as determined pursuant to Section 2212 of the Revenue and Taxation Code. All other revisions of this rule require approval of the District's Board of Directors.~~

~~**SCHEDULE 213-A**~~

~~Registration and registration renewal of agricultural diesel engines~~	~~$200~~

RULE 342. BOILERS, STEAM GENERATORS, AND PROCESS HEATERS (5 MMBtu/hr and greater)

(Adopted 3/10/1992, revised 4/17/1997, 6/20/2019, xx/xx/xxxx)

A. Applicability

This rule shall apply to any boiler, steam generator, or process heater with a rated heat input capacity greater than or equal to 5 million British thermal units per hour.

B. Exemptions

1. This rule shall not apply to:

   a. Boilers used by public electric utilities to generate electricity.

   b. Process heaters, kilns, and furnaces, where the products of combustion come into direct contact with the material to be heated.

   c. Waste heat recovery boilers that are used to recover or augment heat from the exhaust of combustion turbines or reciprocating internal combustion engines.

   d. Equipment that does not require a permit under the provisions of Rule 202, Exemptions to Rule 201. Notwithstanding the above, this exemption shall not apply to any AB 617 Industrial Unit.

2. Section D.1, D.3, and D.5 shall not apply to any unit while forced to burn non-gaseous fuel during times of public utility imposed natural gas curtailment. This exemption shall not exceed 168 cumulative hours of operation per calendar year excluding equipment testing time not exceeding 24 hours per calendar year.

3. The emission limits of Section D.1, D.3, and D.5 shall not apply during startup and shutdown periods provided that all of the following conditions are met:

   a. Each startup and shutdown period shall not exceed two hours, unless otherwise allowed in a District Permit to Operate. In no case shall the startup period exceed 12 hours or the shutdown period exceed 9 hours, and

   b. Startup or shutdown intervals shall not last longer than is necessary to reach stable temperatures and conditions, and

   c. All emission control systems shall be in operation and emissions shall be minimized, to the extent possible, during startup and shutdown periods.

4. Section D.4 and Section K shall not apply to an emission unit that has implemented District Best Available Control Technology (BACT) due to a permit revision or a new permit issuance since 2007.

C. Definitions

See Rule 102, Definitions, for definitions not limited to this rule. For the purposes of this rule, the following definitions shall apply:

"AB 617 Industrial Unit" means any unit located at a facility that, as of January 1, 2017, was subject to a market-based compliance mechanism adopted by the state board pursuant to Health and Safety Code §38562(c).

"Annual Heat Input" means the total heat input of fuels burned by a unit in a calendar year, as determined from the higher heating value and cumulative annual usage of each fuel.

"Boiler or Steam Generator" means any external combustion equipment fired with liquid and/or gaseous and/or solid fuel that is used to produce steam or to heat water. Boiler or Steam Generator does not include any fired or unfired waste heat recovery boiler that is used to recover or augment heat from the exhaust of any combustion equipment.

"Digester Gas" means gas derived from the decomposition of organic matter in a digester.

"Gaseous Fuel" means any fuel which is a gas at standard conditions.

"Landfill Gas" means gas derived from the decomposition of waste in a landfill.

"Modification" or "Modify" means any of the following actions:

1. Replacing a burner or burners on a unit; or

2. Removing a unit from the site of its original installation and installing it at a different location. A unit that is reinstalled within the same stationary source is not modified.

"Non-gaseous Fuel" means any fuel which is not a gas at standard conditions.

"Parts Per Million" or "ppm" means parts per million by volume expressed on a dry gas basis.

"Process Heater" means any external combustion equipment fired with liquid and/or gaseous and/or solid fuel and which transfers heat from combustion gases to water or process streams. Process Heater does not include any kiln or oven used for drying, baking, curing, cooking, calcinating or vitrifying or any unfired waste heat recovery heater that is used to recover sensible heat from the exhaust of any combustion equipment.

"Rated Heat Input Capacity" means the heat input capacity specified on the nameplate of the combustion unit, typically reported in million Btu per hour. If the combustion unit has been physically modified such that its maximum heat input is different than the heat input capacity specified on the nameplate, the modified maximum heat input shall be considered as the rated heat input. The new maximum heat input must be certified, in writing, by the manufacturer or installer and engineering calculations supporting the new maximum heat input rating must be submitted to and approved by the District. The District may require the modified maximum heat input capacity to be demonstrated by a fuel meter while operating the unit at maximum capacity.

"Shutdown Period" means the period of time during which a unit is taken from an operational to a non-operational status by allowing it to cool down from its operating temperature to a cold or ambient temperature as the fuel supply is turned off.

"Startup Period" means the period of time during which a unit is brought from a shutdown status to its operating temperature and pressure.

"Unit" means any boiler, steam generator, or process heater.

D. Requirements – Emission Standards

1. For units that are installed prior to January 1, 2020 with a permitted annual heat input of greater than or equal to 9 billion British thermal units, oxides of nitrogen (NO_x) emissions shall not exceed the following limits:

a. 30 parts per million at 3 percent oxygen or 0.036 pounds per million British thermal units of heat input when operated on gaseous fuel; and

b. 40 parts per million at 3 percent oxygen or 0.052 pounds per million British thermal units of heat input when operated on non-gaseous fuel; and

c. the heat-input weighted average of the limits specified in D.1.a and D.1.b when operated on combinations of gaseous and non-gaseous fuel.

d. Emissions from units shall not exceed a carbon monoxide (CO) concentration of 400 parts per million at 3 percent oxygen.

2. Units that are installed prior to January 1, 2020 with a permitted annual heat input of less than 9 billion British thermal units shall be:

a. operated in a manner that maintains stack-gas oxygen concentrations at less than 3.00 percent by volume on a dry basis; or

b. operated with a stack-gas oxygen trim system set at 3.00 ±0.15 percent oxygen by volume on a dry basis; or

c. tuned at least once every twelve months in accordance with the procedure described in Attachment 1; or

d. operated in compliance with the applicable emission limits specified in Section D.1.

3. On or after January 1, 2020, no owner or operator shall install or modify any unit unless the unit complies with the emission limits set forth in Table 1 below.

Table 1: Emission Limits for Units Installed On or After January 1, 2020

Rated Heat Input (million Btu/hr)	Fuel Type	NOx Emission Limit (ppm at 3% O_2)	CO Emission Limit (ppm at 3% O_2)
5 - 20	Gaseous, except landfill or digester gas	9	400
> 20	Gaseous, except landfill or digester gas	7	400
≥ 5	Landfill Gas	25	400
≥ 5	Digester Gas	15	400
≥ 5	Non-gaseous	40	400
≥ 5	Multiple Fuels	heat-input weighted average limit	400

4. On or before December 31, 2023, all AB 617 Industrial Units that have an annual heat input of greater than or equal to 9 billion British thermal units shall operate in compliance with the emission limits specified in Section D.3.

5. In lieu of meeting the requirements of Section D.3, any boiler that directs the exhaust gases into a greenhouse as a means of supplementing carbon dioxide (CO_2) to a crop shall operate in compliance with the following emission limits:

a. 30 parts per million oxides of nitrogen (NOx) at 3 percent oxygen; and

b. 10 parts per million carbon monoxide (CO) at 3 percent oxygen.

E. Requirements – Equipment

1. Owners or operators of units which simultaneously fire combinations of different fuels and are subject to the requirements of Section D.1, D.3, or D.5 shall install totalizing mass or volumetric flow rate meters in each fuel line. Gas flow rate meters shall be installed in conjunction with temperature and pressure probes.

2. Owners or operators of units which employ flue-gas NO_x reduction technology and are subject to the requirements of Section D.1, D.3, or D.5 shall install meters as applicable to allow instantaneous monitoring of the operational characteristics of the NO_x reduction equipment.

3. On or after March 10, 1992, no person shall install an anhydrous ammonia system to meet the requirements of this rule.

F. Requirements – Compliance Determination

1. All emission determinations shall be made in the as-found operating condition, at the maximum attainable firing rate allowed by the District permit. No determination of compliance with the requirements of Section D.1, D.3, or D.5 shall be established during unit startup, shutdown, or under breakdown conditions. Compliance determinations shall be conducted at least 250 operating hours or at least thirty days after the tuning or servicing of the unit, unless it is an unscheduled repair.

2. All parts per million emission limits specified in Section D.1, D.3, and D.5 are referenced at dry stack-gas conditions and 3.00 percent by volume stack-gas oxygen. Emission concentrations shall be corrected to 3.00 percent oxygen as follows:

$$[\text{ppm } NO_x]_{\text{corrected}} = \frac{20.95\% - 3.00\%}{20.95\% - [\%\, O_2]_{\text{measured}}} \text{ X } [\text{ppm } NO_x]_{\text{measured}}$$

$$[\text{ppm CO}]_{\text{corrected}} = \frac{20.95\% - 3.00\%}{20.95\% - [O_2]_{\text{measured}}} \text{ X } [\text{ppm CO}]_{\text{measured}}$$

3. All pounds-per-million-British thermal unit NO_x emission rates shall be calculated as pounds of nitrogen dioxide per million British thermal unit of heat input.

4. All heat input weighted average NOx limits shall be calculated as follows:

$$\text{Weighted Limit} = \frac{(CL_A \text{ x } Q_A) + (CL_B \text{ x } Q_B)}{Q_A + Q_B}$$

Where: CL_A = compliance limit for fuel A
CL_B = compliance limit for fuel B
Q_A = annual heat input from fuel A
Q_B = annual heat input from fuel B

G. Requirements – Source Testing

1. All units subject to Sections D.1, D.2.a, D.2.b, D.2.d, D.3, D.4, and D.5 shall be tested for compliance not less than once every 24 months.

2. The owner or operator of any unit subject to the source testing provisions of this rule shall submit a Source Test Plan to the District and obtain District written approval prior to the start of any source test. The Source Test Plan shall be filed with the District at least 30 days before the start of each source test. The District shall be notified of the date of source testing at least 14 days prior to testing to arrange a mutually agreeable test date.

3. Source testing shall be performed by a source test contractor certified by the California Air Resources Board. District required source testing shall not be performed by an owner or operator unless approved by the Control Officer.

4. The owner or operator of any unit which is found to be in noncompliance with Section D as a result of a source test shall comply with the following:

    a. A repeat source test shall be performed to demonstrate compliance with Section D within the time period specified by the District.

    b. Annual source tests shall be conducted on any noncompliant unit until two consecutive tests demonstrate compliance with Section D. When the unit is demonstrated to be in compliance with Section D by two consecutive source tests, the unit shall comply with the provisions of Section G.1.

5. All source tests shall consist of a minimum of three 40 minute tests. The average concentration from the test runs shall be used for determining compliance.

H. Test Methods

1. The owner or operator of any unit subject to the source test requirements of this rule shall use the test methods and procedures listed below:

    a. Oxides of Nitrogen - Environmental Protection Agency Method 7E or California Air Resources Board Method 100.

    b. Carbon Monoxide - Environmental Protection Agency Method 10 or California Air Resources Board Method 100.

    c. Stack Gas Oxygen - Environmental Protection Agency Method 3 or 3A or California Air Resources Board Method 100.

    d. NO_x Emission Rate (Heat Input Basis) - Environmental Protection Agency Methods 2 and 4 if applicable, or Method 19.

2. If certification of the Higher Heating Value is not provided by the third party fuel supplier, it shall be determined by one of the following test methods:

    a. For solid fuels: ASTM D5865-13 “Standard Method for Gross Calorific Value of Coal and Coke;”

    b. For liquid hydrocarbon fuels: ASTM D240-17, “Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuel by the Bomb Calorimeter,” or ASTM D4809-13 “Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method);” or

c. For gaseous fuels: ASTM D1826-94 (2010), "Standard Test Method for Calorific (Heating) Value of Gases in Natural Gas Range by Continuous Recording Calorimeter," or ASTM D1945-14, "Standard Test Method for Analysis of Natural Gas by Gas Chromatography," in conjunction with ASTM D3588-98 (2011), "Standard Practice for Calculating Heat Value, Compressibility Factor, and Relative Density of Gaseous Fuels."

I. Requirements – Recordkeeping

All owners or operators of units subject to this rule shall keep all records listed below onsite for a period of five years and the records shall be made readily available to the District upon request:

1. *Rule 342 Tune-Up Reports*.

2. Source test reports.

3. The cumulative annual fuel usage and the Higher Heating Value of each fuel used.

4. Records of emergency non-gaseous fuel use per Section B.2. These records shall include the dates, operating hours, and volumes of non-gaseous fuel used.

J. Requirements – Reporting

1. The records required pursuant to Section I.1, I.3, and I.4 shall be submitted to the District by March 1st for the prior calendar year.

2. Source test reports required pursuant to Section I.2 shall be submitted to the District within 45 days of test completion.

K. Compliance Schedule – AB 617 Industrial Units

1. The owner or operator of any AB 617 Industrial Unit that has a Permit to Operate shall apply for an Authority to Construct permit prior to January 30, 2023. This provision shall not apply to any unit that already meets the requirements in Section D.4, as listed in the unit's Permit to Operate.

2. The owner or operator of any AB 617 Industrial Unit that does not have a Permit to Operate shall submit a *Rule 342 Compliance Plan* for District review and approval prior to January 30, 2023 or 90 days prior to unit installation, whichever occurs earlier. All costs incurred by the District for the review and enforcement of the *Rule 342 Compliance Plan* shall be reimbursable costs pursuant to ~~Section I.C of~~ Rule 210, Fees. The *Rule 342 Compliance Plan* shall include:

   a. The company name, facility address, and facility contact information.

   b. A list of all subject units with their rated heat input capacity.

   c. Any proposed modifications to the unit so that the unit complies with the requirements in Section D.4 of this rule by December 31, 2023 and for the remaining life of the unit.

   d. For gaseous fuels, the proposed non-resettable temperature and pressure corrected totalizing fuel meter(s) specifications. For liquid fuels, the proposed non-resettable totalizing fuel meter(s) specifications. For solid fossil fuels, provide the methods of fuel throughput monitoring to be used that will achieve the same level of fuel monitoring accuracy as the meters required for the measurement of gaseous and liquid fuels described above. Include the fuel meter manufacturer, model number, technical brochure, and manufacturer recommended calibration schedule.

3. On or before December 31, 2023, the owner or operator of any AB 617 Industrial Unit shall operate in compliance with the requirements in Section D.4.

4. For AB 617 Industrial Units that are exempt from the requirements of Section D.4 on December 31, 2023 because they have an annual heat input of less than 9 billion British thermal units, but that subsequently no longer qualify for that exemption, the owner or operator shall submit an Authority to Construct permit application within 30 days of exceeding the threshold and shall operate in compliance with the requirements in Section D.4 within one year of exceeding the threshold.

ATTACHMENT 1

SBCAPCD Rule 342 Tune-Up Procedures [1]

PROCEDURE A
Equipment Tuning Procedure for Forced Draft-Fired Equipment

Nothing in this Equipment Tuning Procedure shall be construed to require any act or omission that would result in unsafe conditions or would be in violation of any regulation or requirement established by Factory Mutual, Industrial Risk Insurers, National Fire Prevention Association, the California Department of Industrial Relations (Occupational Safety and Health Division), the Federal Occupational Safety and Health Administration, or other relevant regulations and requirements.

1. Operate the unit at the firing rate most typical of normal operation. If the unit experiences significant load variations during normal operation, operate it at its average firing rate.

2. At this firing rate, record stack gas temperature, oxygen concentration, and CO concentration (for gaseous fuels) or smoke-spot number[2] (for liquid fuels), and observe flame conditions after unit operation stabilizes at the firing rate selected. Note these readings in the *Rule 342 Tune-Up Report* as the *"Initial As-Found Conditions."* If the excess oxygen in the stack is at the lower end of the range of typical minimum values[3], and if the CO emissions are low and there is no smoke, the unit is probably operating at near optimum efficiency at this particular firing rate. However, complete the remaining portion of this procedure to determine whether still lower oxygen levels are practical.

3. Increase combustion air flow to the furnace until stack gas oxygen levels increase by one to two percent over the level measured in Step 2. As in Step 2, record the stack gas temperature, CO concentration (for gaseous fuels) or smoke-spot number (for liquid fuels), and observe flame conditions for these higher oxygen levels after boiler operation stabilizes.

4. Decrease combustion air flow until the stack gas oxygen concentration is at the level measured in Step 2. From this level, gradually reduce the combustion air flow in small increments. After each increment, record the stack gas temperature, oxygen concentration, CO concentration (for gaseous fuels) and smoke-spot number (for liquid fuels). Also observe the flame and record any changes in its condition.

5. Continue to reduce combustion air flow stepwise until one of these limits in reached:

    a. Unacceptable flame conditions - such as flame impingement on furnace walls or burner parts, excessive flame carryover, or flame instability.

    b. Stack gas CO concentrations greater than 400 ppm.

    c. Smoking at the stack.

    d. Equipment-related limitations - such as low windbox/furnace pressure differential, built in air-flow limits, etc.

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1. This tuning procedure is based on a tune-up procedure developed by KVB, Inc. for the EPA.

2. The smoke-spot number can be determined with ASTM Test Method D2156-09 (2013), "Standard Test Method for Smoke Density Flue Gases from Burning Distillate Fuels," or with the Bacharach method.

3. Typical minimum oxygen levels for boilers at high firing rates are:

    1. For natural gas: 0.5% - 3%
    2. For liquid fuels: 2% - 4%

6. Develop an oxygen/CO curve (for gaseous fuels) or oxygen/smoke curve (for liquid fuels) similar to those shown in Figures 1 and 2 using the excess oxygen and CO or smoke-spot number data obtained at each combustion air flow setting.

7. From the curves prepared in Step 6, find the stack gas oxygen levels where the CO emissions or smoke-spot number equal the following values:

Fuel	**Measurement**	**Value**
Gaseous	CO Emissions	400 ppm
#1 & #2	smoke-spot number	number 1
#4 oil	smoke-spot number	number 2
#5 oil	smoke-spot number	number 3
Other oils	smoke-spot number	number 4

The above conditions are referred to as the CO or smoke threshold, or as the minimum excess oxygen level.

Compare this minimum value of excess oxygen to the expected value provided by the combustion unit manufacturer. If the minimum level found is substantially higher than the value provided by the combustion unit manufacturer, burner adjustments can probably be made to improve fuel and air mixing, thereby allowing operation with less air.

8. Add 0.5 to 2.0 percent to the minimum excess oxygen level found in Step 7 and reset burner controls to operate automatically at this higher stack gas oxygen level. This margin above the minimum oxygen level accounts for fuel variations, variations in atmospheric conditions, load changes, and nonrepeatability or play in automatic controls.

9. If the load of the combustion unit varies significantly during normal operation, repeat Steps 1-8 for firing rates that represent the upper and lower limits of the range of the load. Because control adjustments at one firing rate may affect conditions at other firing rates, it may not be possible to establish the optimum excess oxygen level at all firing rates. If this is the case, choose the burner control settings that give best performance over the range of firing rates. If one firing rate predominates, settings should optimize conditions at that rate.

10. Verify that the new settings can accommodate the sudden changes that may occur in daily operation without adverse effects. Do this by increasing and decreasing load rapidly while observing the flame and stack. If any of the conditions in Step 5 result, reset the combustion controls to provide a slightly higher level of excess oxygen at the affected firing rates. Next, verify these new settings in a similar fashion. Then make sure that the final control settings are recorded at steady-state operating conditions for future reference.

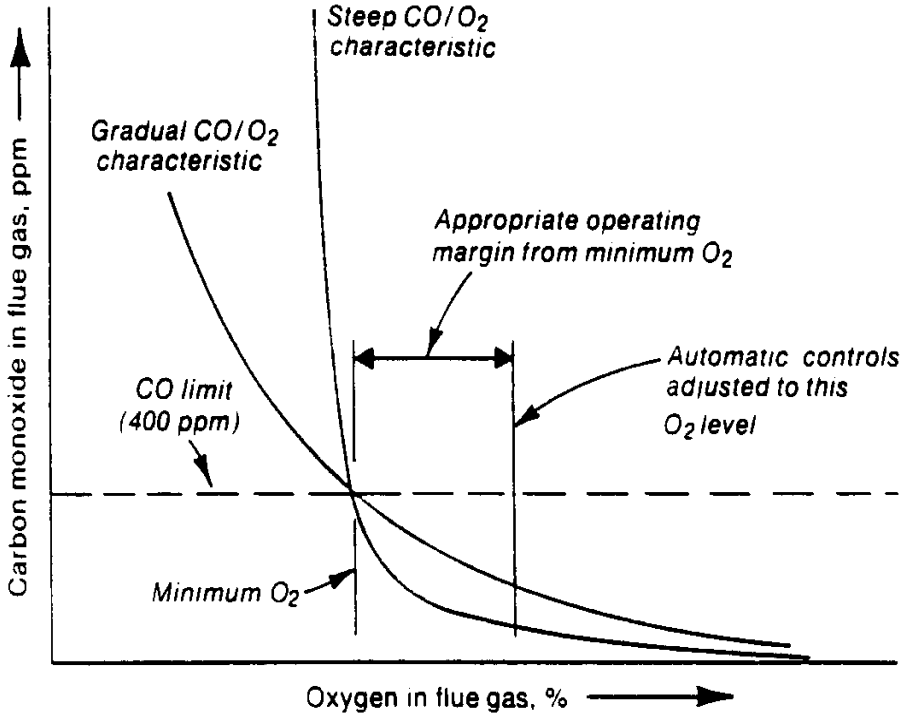
11. Take a final combustion analysis for carbon monoxide concentration and oxygen concentration (also record the smoke-spot number for liquid fuels only). Note these readings, as well as the stack temperature and flame condition, in the *Rule 342 Tune-Up Report* as the *"Final As-Tuned Conditions."*

12. When the above checks and adjustments have been made, prepare a *Rule 342 Tune-Up Report*. The report shall include all recorded data and combustion analysis data for the unit; the name, title, signature, company name, and contact information of person performing the tune-up; and date the tune-up was performed. The *Rule 342 Tune-Up Report* shall clearly indicate the *"Initial As-Found Conditions"* and the *"Final As-Tuned Conditions"* and shall (if applicable) state whether the Carbon Monoxide emission standards were met.

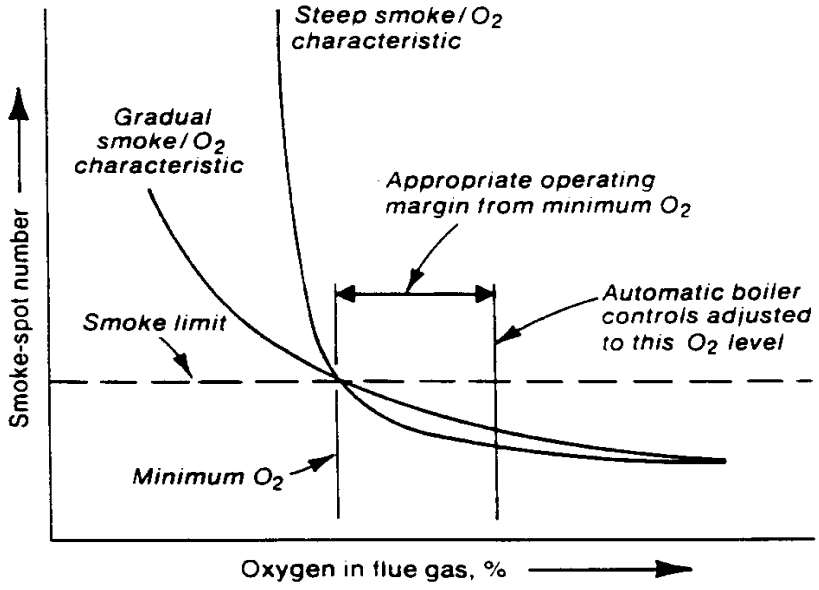
NOTE

The owner/operator may propose an alternative tuning procedure that meets the same basic requirements of the procedure outlined above for District review and approval. The District may assess fees to reimburse its costs associated with the review of the alternative procedure under the cost reimbursement provisions~~using either Section I.C or Section III.C~~ of Rule 210, Fees. District approval of the alternative tuning procedure must be obtained prior to its use.

Figure 1
Oxygen/CO Characteristic Curve



Oxygen/Smoke Characteristic Curve



PROCEDURE B
Equipment Tuning Procedure for Natural Draft-Fired Equipment

Nothing in this Equipment Tuning Procedure shall be construed to require any act or omission that would result in unsafe conditions or would be in violation of any regulation or requirement established by Factory Mutual, Industrial Risk Insurers, National Fire Prevention Association, the California Department of Industrial Relations (Occupational Safety and Health Division) the Federal Occupational Safety and Health Administration, or other relevant regulations and requirements.

1. PRELIMINARY ANALYSIS

    a. Verify that the boiler, steam generator, or process heater (unit) is operating at the lowest pressure or temperature that will satisfy load demand. This pressure or temperature will be used as a basis for comparative combustion analysis before and after tune-up.

    b. Verify that the unit operates for the minimum number of hours and days necessary to perform the work required.

    c. Verify that the size of air supply openings is in compliance with applicable codes and regulations. Air supply openings must be fully open when the burner is firing and air flow must be unrestricted.

    d. Verify that the vent is in good condition, properly sized and free from obstruction.

    e. Perform an as-found (i.e., prior to any adjustments) combustion analysis for carbon monoxide concentration, oxygen concentration and measure the stack temperature and note the flame condition at both high and low fire, if possible. Note these readings in the *Rule 342 Tune-Up Report* as the *"Initial As-Found Conditions"*. Also record the following:

        (1) Inlet fuel pressure at burner at high and low firing rates.

        (2) Pressure above draft hood or barometric damper at high, medium, and low firing rates.

        (3) Steam pressure, water temperature, or process fluid pressure or temperature entering and leaving the unit.

        (4) Inlet fuel use rate if meter is available.

2. CHECKS AND CORRECTIONS

    a. Clean all dirty burners or burner orifices. Verify that fuel filters and moisture traps are in place, clean, and operating properly. Confirm proper location and orientation of burner diffuser spuds, gas canes, etc. Replace or repair all damaged or missing burner parts.

    b. Remove external and internal sediment and scale from heating surfaces.

    c. Verify that the necessary water or process fluid treatment is being used to minimize scale and corrosion. Confirm flushing and/or blowdown schedule.

    d. Repair all leaks. In addition to the high-pressure lines, check the blow-off, drain, safety valve, bypass lines, and, if used, the feed pump.

3. SAFETY CHECKS

    a. Test primary and secondary low water level controls.

    b. Check operating and limit pressure and temperature controls.

c. Check pilot safety shut off operation.

d. Check safety valve pressure setting and verify that the setting is consistent with unit load requirements.

e. Check limit safety control and spill switch.

4. ADJUSTMENTS

Perform the following checks and adjustments on a warm unit at high fire:

a. Adjust unit to fire at the maximum inlet fuel use rate: record fuel manifold pressure.

b. Adjust draft and/or fuel pressure to obtain acceptable, clean combustion at high, medium, and low firing rates. The carbon monoxide value should not exceed 400 parts per million at 3% oxygen.

c. Verify that unit light-offs are smooth and safe. Perform a reduced fuel pressure test at both high and low firing rates in accordance with the manufacturer's instructions.

d. Check and adjust the modulation controller. Verify proper, efficient, and clean combustion through the range of firing rates.

When optimum performance has been achieved, record all data.

5. FINAL TEST

After adjustments, perform a final combustion analysis for carbon monoxide concentration, oxygen concentration, and measure the stack temperature and note the flame condition on the warm unit at high, medium, and low firing rates, if possible. Note these readings in the *Rule 342 Tune-Up Report* as the "*Final As-Tuned Conditions*". Also record the following:

i. Inlet fuel pressure at burner at high, medium, and low firing rates.

ii. Pressure above draft hood or barometric damper at high, medium, and low firing rates.

iii. Steam pressure, water temperature, or process fluid pressure or temperature entering and leaving the unit.

iv. Inlet fuel use rate if meter is available.

NOTE
The owner or operator may propose an alternative tuning procedure that meets the same basic requirements of the procedure outlined above for review and approval by the Control Officer. The District may assess fees to reimburse its costs associated with the review of the alternative procedure under the cost reimbursement provisions~~using either Section I.C or Section III.C~~ of Rule 210, Fees. Control Officer approval of the alternative tuning procedure must be obtained in writing prior to its use.

RULE 359. FLARES AND THERMAL OXIDIZERS
(Adopted 6/28/1994, revised xx/xx/xxxx)

A. Applicability

The provisions of this rule shall apply to the use of flares and thermal oxidizers at oil and gas production sources (SIC code 13), petroleum refinery and related sources (SIC code 29), natural gas services and transportation sources (SIC code 49) and wholesale trade in petroleum/petroleum products (SIC code 51). This rule shall~~, on the date of its adoption,~~ supersede the fuel combustion provisions of Rule 311 only insofar as these fuel combustion provisions apply to flares and thermal oxidizers.

B. Exemptions

1. The provisions of this rule shall not apply to the burning of sulfur, hydrogen sulfide, acid sludge or other sulfur compounds in the manufacturing of sulfur or sulfur compounds. For oil and gas sources (SIC Code 13) that recover sulfur as a by-product of gas treating/sweetening processes, the exemption for manufacturing shall apply only to those specific processes~~,~~ (e.g.~~,~~ sulfur recovery plant).

2. The provisions of this rule, with the exception of Section D.2 (Technology Standards), shall not apply to the burning of any gas with a net heating value of less than 300 British Thermal Unit (Btu) per standard cubic foot (scf) provided the fuel used to incinerate such gas does not contain sulfur compounds in excess of the following:

    a. 15 grains/100 cu.ft. (calculated as H_2S at standard conditions) in the Southern Zone, and

    b. 50 grains/100 cu.ft. (calculated as H_2S at standard conditions) in the Northern Zone of Santa Barbara County.

3. The provisions of this rule, with the exception of Sections D.1 (Sulfur Content in Gaseous Fuels), D.2 (Technology Standards), G (Monitoring and Recordkeeping) and H (Reporting), shall not apply to flares or thermal oxidizer units rated, per their operating permits, at 1.7 MMBtu/hour or less. However, if the total cumulative rating of all such rated units at a source exceeds 5 MMBtu/hr, then this~~e~~ exemption shall not apply.

4. The following are exempt only from Section D.3 (Flare Minimization Plan) of this rule:

    a. Flare and thermal oxidizer units rated, per their operating permits, at less than 15 MMBtu/hour. However, if the total cumulative rating of all such rated units at a source exceeds 50 MMBtu/hr, then this exemption shall not apply.

    b. Flares and thermal oxidizers whose flaring operations solely consist of planned, continuous flaring due to the non-availability of a produced gas pipeline outlet.

C. Definitions

See Rule 102, Definitions, for definitions not limited to this rule. For purposes of this rule, the following definitions shall apply:~~. See Rule 102 (Definitions) for definitions that are not restricted to interpretation of this Rule only.~~

"**Burn**" means combustion of any fuel including a gaseous fuel, whether for useful heat or by incineration without heat recovery.

"**Day**" or "**days**" means calendar day(s) unless otherwise stated.

"**Emergency**" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the permittee, including acts of God. An emergency situation requires immediate corrective action to restore normal, safe operation. It also causes an exceedance of an emission standard or a limit stipulated in this rule, due to unavoidable increases in emissions attributable to the emergency situation only. Events which have been deemed as planned events (for definition, see later in this section) by a federal regulatory agency shall be precluded from being considered as emergency events.

"Emergency Flare Event" means the combustion (flaring) of gaseous fuels caused by an emergency event.

"**Flare**" means a direct combustion device in which air and all combustible gases react at the burner with the objective of complete and instantaneous oxidation of the combustible gases. Flares are used either continuously or intermittently and are not equipped with devices for fuel-air mix control or for temperature control.

"**Flare Gas**" means produced gas or natural gas burned in a flare or thermal oxidizer.

"**Gaseous fuel**" means gases used as combustion fuel which include, but are not limited to, any natural, process, synthetic, landfill, sewage digester, or waste gases. Gaseous fuel includes produced gas, pilot gas and, when burned, purge gas.

"**Month**" or "**monthly**" means calendar month or refers to calendar month.

"**Net Heating Value**" means the heating value of the flare gas being combusted, as specified under 40 CFR 60.18(f)(3) [1992 Edition].

~~"**Northern Zone of the Santa Barbara County**" means that portion of Santa Barbara County described in Section 60103(b) of Title 17 of the California Administrative Code as written on December 21, 1968 (Register 68, No.48). The Northern Zone also includes (a) State waters and, (b) those areas of the OCS waters for which the District has been designated the corresponding onshore area by the USEPA -- which are located offshore of that portion of Santa Barbara County lying north of the latitude of the mouth of Jalama Creek.~~

"**Pilot Gas**" means gas that is used to ignite or continually ignite flare gas. Pilot gas may be PUC- quality gas, liquefied petroleum gas (LPG), or produced gas.

"**Planned Flaring**" means a flaring operation that constitutes a designed and planned process at a source, and which would have been reasonably foreseen ahead of its actual occurrence, or is scheduled to occur. Planned flaring includes, but is not limited to, the following activities:

1. Flaring during well tests, well-related work, or tests ordered by applicable regulatory agencies;

2. Flaring due to equipment depressurization for preventive maintenance that includes: (a) routine engine overhauls; (b) turbine start-ups; (c) compressor start-ups; (d) engine exchange/removal; (e) platform modification/construction; (f) hot-jobs (welding, etc.);~~,~~ (g) new platform/well start-up~~,~~; (h) well work-over~~,~~; (i) maintenance at onshore sources supporting offshore production;~~,~~ (j) Installation of Sulferox etc., system;~~,~~ (k) planned plant shut-downs~~,~~; (l) unloading from new wells~~,~~; (m) rupture disc maintenance~~,~~; (n) acid jobs~~,~~; (o) source testing~~,~~; or~~and~~ (p) any pipeline depressurization not due to breakdown conditions (e.g., pigging);

3. Flaring of produced gas at production sources for which no gas handling, gas injection, or gas transmission facilities currently exist;

4. Flaring of "off-specification" gas (e.g.~~,~~ non-PUC quality gas), unless the permittee can demonstrate that the gas must be flared for engineering or safety reasons~~,~~ (e.g.~~,~~ under an emergency).

"**Planned continuous flaring**" shall include flare purge and flare pilot operations, and continuous flaring of produced gas which is not otherwise processed at the source.

"**Planned intermittent flaring**" shall include all other planned flaring of limited duration in time and volume of gaseous fuel~~,~~ (e.g.~~,~~ pigging or equipment depressurization for maintenance).

"**Preventive Maintenance**" means a regularly scheduled course of procedure designed to prevent equipment failure or decline of equipment function.

"**Produced gas**" means organic compounds that are both: (a) gaseous at standard pressure and temperature (1 atmosphere and 60°F), and (b) associated with the production, gathering, separation, or processing of crude oil and/or natural gas.

"**Public Utilities Commission (PUC) Quality Gas**" means, in the context of sulfur content of the gaseous fuel, gas containing no more than one-fourth (0.25) grain of hydrogen sulfide per one hundred (100) standard cubic feet and no more than five grains of total sulfur per one hundred (100) standard cubic feet. PUC quality gas shall also mean high methane (at least 80 % by volume) gas as specified in PUC's General Order 58-A.

"**Purge Gas**" means an inert gas mixture, LPG, PUC quality gas, or produced gas, any of which can be used to maintain a non-explosive mixture of gases in the flare header or provide sufficient exit velocity to prevent any regressive flame travel back into the flare header.

"**Smokeless**" means, in the context of flare or thermal oxidizer combustion, operation with visible emissions not exceeding an opacity level, for a period or periods aggreg~~r~~ating more than three minutes in any one hour, as dark or darker in shade as that designated as No. 1 on the Ringelmann Chart as published by the U.S. Bureau of Mines.

~~"**Southern Zone of the Santa Barbara County**" means that portion of Santa Barbara County so described in Section 60104 of Title 17 of the California Administrative Code as written on December 21, 1968 (Register 68, No.48). The Southern Zone also includes (a) State waters and, (b) those areas of the OCS waters for which the District has been designated the corresponding onshore area by the USEPA -- which are located offshore of that portion of Santa Barbara County lying south of the latitude of the mouth of Jalama Creek.~~

"**Thermal Oxidizer**" means a combustion device that includes enclosed, ground-level flares and in which the gases to be flared pass through one or more staged burners which may be steam quenched or assisted to control smoke. The products of combustion are funneled through a naturally drafted stack to above ground elevations. Thermal oxidizers come equipped with controls for combustion chamber temperature and often with combustion fuel-air mix controls.

"**Unplanned Flaring**" means a flaring event that is not planned or scheduled to occur. An emergency event is an example of an unplanned event (emergency event is a subset of unplanned event).

D. Requirements

1. Sulfur Content in Gaseous Fuels

   a. ~~Effective June 28, 1994, a~~Any planned flaring shall not burn gaseous fuel which contains sulfur compounds in excess of 15 grains per 100 cubic feet (239 ppmv) in the Southern Zone of Santa Barbara County or 50 grains per 100 cubic feet (796 ppmv) in the Northern Zone of Santa Barbara County -- calculated as hydrogen sulfide at standard conditions (i.e., 1 atmosphere and 60°F).

   b. An owner or operator of a source may apply for an exemption from Section D.1.a, by doing the following:

1) Demonstrate to the Control Officer that it is infeasible to comply with Section D.1.a. The demonstration shall provide a detailed explanation analyzing all engineering, safety or cost constraints. This demonstration shall be submitted within 90 days of June 28, 1994; and,

2) Submit an offset plan as a compliance plan, mitigating the SO_2 emissions from the source associated with planned flaring which are in excess of the limits in section D.1.a at an offset ratio of 1:1. The offset plan shall meet all federal and District criteria and guidelines for emission reductions; and may include an inter-pollutant offset scheme, if allowed under the USEPA and the State of California air quality regulations and guidelines. This plan shall be submitted with the demonstration required under Section D.1.b.1). If the exemption is granted by the Control Officer, the owner or operator shall implement the offset plan.

c. All costs associated with the District's review and approval of the exemption determination and offset plan shall be reimbursable by the owner or operator, in accordance with the cost reimbursement provisions~~requirements~~ of District Rule 210, Fees.~~I.C (Cost Reimbursements).~~

d. Emergency flare events are exempt from the provisions of Section D.1.a~~ of this Rule~~.

2. Technology-based Standard

The owner or operator of any source subject to this rule shall comply with the following technology standards:

a. All flares and thermal oxidizers installed or operating after June 28, 1994 shall be smokeless~~ (cf: Definition in Section C)~~.

b. All new and existing flares and thermal oxidizers shall comply with the following:

1) The outlet shall be equipped with an automatic ignition system including a pilot-light gas source or equivalent system, or, shall operate with a pilot flame present at all times -- with the exception of purge periods for automatic-ignition equipped flares or thermal oxidizers.

2) The presence of the flame in the pilot of the flare or the thermal oxidizer shall be continuously monitored using a thermocouple or an equivalent device that detects the presence of a flame, unless such device(s) can be demonstrated by the permittee to be infeasible, based on engineering, safety or costs constraints, and to the satisfaction of the Control Officer; and,

3) The flame shall be operating at all times when combustible gases are vented through the flare or thermal oxidizer.

c. The following provisions shall apply to low-pressure, open pipe flare operations where the flare gas pressure at the flare tip inlet is less than 5 psig:

1) Steam-assisted or air-assisted flares shall be operated only if the gaseous fuel burned in such flares has a net heating value of 300 Btu/scf or greater. Non-assisted flares shall be operated only if the gaseous fuel burned in such flares has a net heating value of 200 Btu/scf or greater.

2) Steam-assisted, air-assisted and non-assisted flares burning gaseous fuel with a net heating value between 300 (200 for non-assisted flares) and 1,000 Btu/scf shall be operated with an actual exit velocity not exceeding a design maximum velocity V_{max}, defined in Appendix B to this rule. The "actual exit velocity" of a flare shall be determined by dividing the volumetric flow rate (in units of standard temperature and pressure) by the unobstructed (free) cross-sectional area of the flare tip.

3) Steam-assisted, air-assisted and non-assisted flares burning gaseous fuel with net heating value exceeding 1,000 Btu/scf shall be operated with an actual exit velocity not exceeding 400 ft/sec.

3. Flare Minimization Plan

a. Any source subject to this rule and operating a flare or thermal oxidizer ~~units~~ rated at 15 MMBtu/hour or greater ~~(ref: Section B.4 of this Rule)~~ as listed in the source's operating permits, or in the source's ATC if no operating permit has been issued, shall submit a flare minimization plan to the Control Officer. The plan shall meet the requirements set forth in Appendix A to this rule.

b. For planned flaring, the minimization plan for all sources subject to this rule shall list a targeted maximum monthly flared gas volume. The target volume shall not exceed five (5) percent of the average monthly gas handled/produced/treated at the source, calculated per Section D.3.c below. This targeted volume limit will be placed in the source permit at the next operating permit issuance/renewal/reevaluation for the source owner or operator.

However, a higher limit may be granted by the Control Officer, if the ~~following condition is met: The~~ owner or operator can demonstrate such a maximum volume limit to be infeasible based on safety, engineering or cost constraints and proposes a different percentage as volume limit, based on the same considerations. The proposed limit shall be included in the flare minimization plan for approval by the Control Officer. After approval, the new throughput limit will be placed on the Permit to Operate at the next permit renewal/reevaluation.

c. For sources which have operated for more than three years as of June 28, 1994, the average monthly gas volume referred to in Section D.3.b. shall be based on the last three calendar years of historical data for such volume. However, any three consecutive calendar years of data may be used for such purpose if the permittee ~~so~~ requests and demonstrates to the satisfaction of the Control Officer that such period is more representative of the permitted operations at the source. For new or modified sources or sources operating for less than three years, five (5) percent of the source design capacity for gas handled/produced/treated shall be the target monthly volume for the first three years of operation. Following three years of operation, the data history obtained shall establish a new, planned flaring volume limit, which limit shall be incorporated in the next operating permit for the source.

For existing sources, an increase in the monthly flared gas volume limit due to produced/handled/treated gas volume increases shall not be considered a part of the source's net emission increase, provided neither the permitted emission limits nor the permitted volumes for gas produced/handled/treated are exceeded, and the Control Officer has been notified, in writing, of such increases within 30 days of the end of the month on which the increase occurs and the basis thereof.

d. Where limits have been established for sources pursuant to Section D.3.b above, the owner or operator shall develop and submit an emissions mitigation plan, if both of the following apply to the source's operations:

1) The permitted or proposed volume limit exceeds ten (10) percent of the average monthly volume of handled/produced/treated gas (~~this average shall be~~ calculated per Section D.3.c above); and,

2) The sulfur content of the flared gas exceeds the fuel sulfur limits stipulated in Section D.1.a~~. of this rule~~.

e. The emissions mitigation plan shall achieve the following:

Reduction by 50 percent, of either the actual average monthly flare gas volume (calculated per Section D.3.c above) or the proposed volume limit, not later than five (5) years after June 28, 1994, whichever reduction volume is greater. Such reduction shall also follow the volume reduction schedule listed in the flare mitigation plan.

After the plan is approved, the plan listed limit(s) will be placed in the source permit at the next operating permit issuance/renewal/reevaluation.

f. All costs associated with the District's review and approval of plans submitted pursuant to Section D.3 shall be reimbursable by the owner or operator, in accordance with the requirements of District Rule 210~~.I.C (Cost Reimbursements)~~.

4. Emergency Events

Any flaring which causes an exceedance of the emission limits or standards of this rule shall not be a violation of this rule if the owner or operator of the source demonstrates that the exceedance resulted from an emergency event. To demonstrate that an emergency event occurred, the owner or operator shall do the following:

a. Inform the Control Officer (Attn: Compliance Manager), via e-mail or phone ~~or facsimile equipment~~, of the commencement of any emergency event not later than four (4) hours after the start of the next regular business day;

b. Contemporaneously document that an emergency event has occurred and the causes have been identified in an operating log, and properly sign in each entry. Such logs shall be available to the Control Officer on request;

c. Submit to the Control Officer within seven (7) days of the end of the emergency event:

1) a complete description of the event and all mitigating and corrective actions implemented at the source per Appendix A ~~(cf: flare minimization plan)~~; and,

2) a demonstration that all reasonable steps were taken to minimize emissions in excess of permit conditions or other permit requirements; and,

3) a demonstration that the emergency was not caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, operator error or willful misconduct.

4) a document that the source was being properly operated at the time the emergency event occurred;

In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency event has the burden of proof. A list of typical causes for emergency flare events is provided in Appendix C of this rule as guidance to the permittees.

5. Emission and Operational Limits

The following emission and operating limits shall apply to any source subject to this rule:

a. Flares and thermal oxidizers which use flow-sensing automatic ignition systems and which do not use a continuous flame pilot shall use inert gas or PUC quality gas for purging.

b. Flares or thermal oxidizers rated at fifteen (15) million Btu/hour or greater shall not exceed, for planned flaring, the targeted (cumulative) monthly volume limit of flare gas (expressed as scf/month), established pursuant to Section D.3 (Flare Minimization Plan).

c. Pollutant emissions from all thermal oxidizers and ground-level enclosed flares with planned continuous flaring (per definition in Section C) exceeding 120,000 scf/day (daily maximum basis) shall meet the following emission standards:

FLARE TYPE	**Heat Release Rate (MMBtu/hr)**	**Emissions Standards (in lbs/MMBtu)**	
		NO_x	**ROC**
w/o Steam-assist	<10 MMBtu/hr	0.0952	0.0051
	10-100 MMBtu/hr	0.1330	0.0027
	>100 MMBtu/hr	0.5240	0.0013
with Steam Assist	All	0.068	0.14--as TOG

E. Test Methods

The standard test methods listed below shall be used during required tests, as applicable, by the source owner or operator to demonstrate compliance with this rule. Test methods not listed may be used if the owner or operator demonstrates to the Control Officer that the method is an equivalent test method, and obtains the USEPA or ARB approval of this method prior to its use.

1. Visible emissions shall be determined using the USEPA Reference Method 9.

2. For an open pipe flare, the volumetric flow rate for actual velocity shall be determined by the USEPA Reference Methods 2, 2A, 2C or 2D as appropriate.

3. The net heating value of gaseous fuel shall be determined by ASTM D4891-89, or ASTM D1945-81, or ASTM D1946-90.

4. For total gas sulfur content measurement:

a. Total reduced sulfur in the gaseous fuel shall be measured using the USEPA Reference Method 16 (Gas Chromatography-Flame Photometric Detector analysis) or 16A or BAAQMD ST-21.

b. Gas sampling using the USEPA Method 18 and laboratory gas analysis using ASTM D1072-90 or ASTM D4468-85 may be used in limited circumstances when pre-approved by the Control Officer to determine the total reduced sulfur in gaseous fuels. Strict controls on sampling materials and analysis turnaround time shall be required.

c. For field determination of H_2S level during emergency flaring events, color detection tube methods (e.g., Draeger, Sensidyne or other methods) may be used if the H_2S level in the gas stream is within the acceptable limits for the method.

5. NO_x and ROC levels in the exhaust of thermal oxidizers or ground-level enclosed flares shall be measured following procedures outlined in the applicable reference test methods listed in 40 CFR 60.17. The reference test methods include, but are not limited to the following:

   a. NO_x -- USEPA Method 7 or CARB 100

   b. ROC -- USEPA Method 18 or USEPA Method 25.

   c. Flow rate and mass emission rate -- USEPA Method 19

   d. CO_2 and O_2 concentrations -- USEPA Method 3 or CARB 100.

6. Hydrogen sulfide in the gaseous fuel shall be measured using the USEPA Reference Method 11, modified as applicable for concentrations greater than 500 ppmv H_2S.

F. Source Testing

Any owner or operator of a source subject to this rule shall perform the following:

1. Measure triennially the NO_x and ROC emissions through the stack of any thermal oxidizer or ground-level enclosed flare operated for planned continuous flaring of 120,000 scf/day of gases or more (daily maximum basis), by source testing (annually for sources subject to federal Part 70 operating permits, or more frequently if required by applicable rules). A source test plan/schedule shall be submitted to the Control Officer as part of the required permit application for the source.

2. Measure (a) the purge gas fuel sulfur content, if such gas is not a PUC quality gas or an inert gas, and (b) the gaseous fuel sulfur content and the net heating value for all gaseous fuel which constitute planned flaring. Measurement shall be performed triennially, except for sources which require federal Part 70 operating permits, in which case annual or more frequent testing shall be performed as required by applicable Part 64 Rules.

3. For emergency flare events, the owner or operator shall estimate the H_2S content of the flare gas using available operation and measurement records, provided that the owner or operator can demonstrate to the satisfaction of the APCO that such records are representative of the gas stream flared.

G. Monitoring and Recordkeeping

Any owner or operator of a source subject to this rule shall perform the following, as applicable:

1. Monitor the volume (in scf/month) of all gaseous fuel flared as part of planned/unplanned flaring, if subject to Section D.3. A flare volume monitoring plan shall be submitted to the Control Officer for approval as part of the flare minimization plan. A record of monitored volumes shall be kept by the owner or operator in a format prescribed and approved by the Control Officer, and shall be available for inspection upon request by the District.

2. Monitor the volume of gaseous fuel flared during each emergency event as part of the required emergency event description report.

H. Reporting

Any owner or operator of a source subject to this rule shall provide the following reports, as applicable:

1. Results of each source test for NO_x and ROC, obtained pursuant to Section F.1, shall be submitted to the Control Officer within 45 days of the completion of source testing.

2. The result of each test report for (a) purge gas S content (if applicable), (b) gaseous fuel S content and (c) gaseous fuel net heating value, obtained pursuant to Section F.2, shall be submitted to the Control Officer by March 1st of the year following the calendar year on which the testing occurred.

3. Data for the monthly volumes (in scf/month) of gas flared per (i) planned continuous and (ii) planned intermittent flaring categories, obtained pursuant to Section G.1, shall be submitted annually to the Control Officer. Each calendar year data report shall be submitted by March 1st of the following calendar year.

4. An annual summary of the total gas volume released during emergencies and the weighted-average H_2S content for the entire volume, obtained pursuant to Sections G.2 and F.3, to be provided to the Control Officer. The annual report for each calendar year shall be submitted by March 1st of the following year.

5. Report on any exceedance of the allowable monthly volume of gases for planned flaring, to be submitted to the Control Officer within sixty (60) days of the end of the exceedance month. The report shall list the exceedance volume (volume in excess of the allowed volume) and the estimated sulfur content of the gaseous fuel flared.

I. Compliance Schedule

1. New sources shall comply with this rule on June 28, 1994.

2. Existing sources shall comply with this rule as follows:

   a. Offsets required pursuant to Section D.1.b. shall be implemented within 180 days after the Control Officer grants the request for exemption. Extensions may be granted by the Control Officer for good cause shown. Notwithstanding any other provision of this rule, an owner or operator of a source who receives an exemption shall have offsets in place no later than 1 year after the date the exemption request has been filed with the Control Officer.

   b. All flares and thermal oxidizers subject to Section D.2 shall comply within one (1) year of June 28, 1994.

   c. The flare minimization plan and emissions mitigation plan required pursuant to Sections D.3.a. and D.3.d shall be submitted within 90 days after June 28, 1994, and approval of the same shall be obtained within 180 days after June 28, 1994. Full compliance with the targeted volume limits required under Sections D.3.b and D.3.e shall be achieved within five (5) years of June 28, 1994.

   d. Flares and thermal oxidizers subject to D.5.a. shall comply within 180 days of June 28, 1994.

   e. If any new equipment is proposed for installation to comply with Section D.2, an authority to construct application with all necessary information shall be submitted to the Control Officer within ninety (90) days of June 28, 1994.

   f. The flare volume monitoring plan required under Section G.1. shall be implemented by the owner or operator within 30 days of the Control Officer approval of the plan.

3. Sources on the OCS which become subject to this rule shall comply with all provisions of this rule by the dates specified in the rule or when the USEPA promulgates this rule as applicable to the OCS sources, whichever is later.

~~**J. Effective Date of Rule**~~

~~This Rule is effective on June 28, 1994.~~

APPENDIX A – Flare Minimization Plan

The flare minimization plan shall include the following, where applicable:

1. Details of measures implemented at each source subject to this rule to decrease the total monthly volume of flare gas being combusted and to reduce the number of planned flaring activities.

2. Descriptions of measures in place to prevent the recurrence of emergency flaring events, and reduce the occurrence of unplanned flaring events. Such measures may include installation of redundant equipment.

The flare minimization plan shall also incorporate the following:

a. A detailed description of the flare system including process flow diagram(s), flare tip design details and the manufacturer's information on flare operation and maintenance;

b. A detailed description of the flare gas monitoring system that records the gas throughput, (e.g., make and model of the meter, precision and accuracy of the meter, data management, maintenance/calibration or manufacturer's specifications), and of the method to determine the flare gas sulfur content;

c. The design and operation features of the pilot and purge gas system which minimize the volume of gas consumed;

d. A description of the design features that demonstrate the capability of the flare to handle the nominal and peak gas flows and the range of gas composition encountered at the source; all calculations showing anticipated flare exit velocities for maximum flare gas flow rates;

e. Plans for reduction of emissions from planned flaring activities including those which result from planned depressurizing of vessels, compressors, and pipelines;

f. Charts outlining the possibility of coordination of schedules to reduce planned shutdowns;

g. Any proposed study program involving operating set points on controllers and safety devices to determine if a different setting could minimize emissions (for OCS sources, this study may be submitted to the appropriate safety agency for approval prior to the Control Officer submittal);

h. Summary of scheduled/typical planned flaring including frequency and volume; also, summary of each of these parameters after implementation of the proposed plan; data on gas production rates including the current actual and the maximum anticipated production rates.

The flare owner or operator shall review the flare minimization plan every five (5) years, and shall submit to the District any findings of new procedures or technologies for flare minimization that were not addressed in earlier plans. If any such procedures or technologies are identified, the owner or operator shall also submit a schedule for the implementation of such procedures and technologies.

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APPENDIX B – Design Velocity

No flare shall operate with an actual exit velocity exceeding a designed maximum velocity V_{max}. This design velocity V_{max} is computed, as follows:

1. For steam-assisted and non-assisted flares, the design maximum velocity V_{max1} is calculated according to the equation:

   $$Log_{10} (V_{max1}) = (H_T + 1214)/852, \text{ where}$$

   V_{max1} = maximum permitted velocity (in ft/sec); 1214 = a constant; 852 = a constant; and, H_T = net heating value of the gaseous fuel (in Btu/scf), provided $300 < H_T < 1000$ for steam-assist and $200 < H_T < 1000$ for non-assist.

2. For air-assisted flares, the design maximum velocity V_{max2} is calculated by the following equation:

   $$V_{max2} = 28.56 + 0.0867 (H_T), \text{ where}$$

   V_{max2} = maximum permitted velocity (in ft/sec): 28.56 = a constant: 0.0867 = a constant; and, H_T = net heating value of the gaseous fuel (in Btu/scf), provided $300 < H_T < 1000$.

3. If H_T exceeds 1000 Btu/scf, then H_T shall equal 1000 Btu/scf for the purpose of applying these equations to compute the value of V_{max}.

Appendix B shall not apply to high-pressure flares where the flare gas pressure at the flare tip inlet is greater than 5 psig.

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APPENDIX C – Emergency Events

The following events comprise a brief list of events that would qualify as emergency events. Note that these events must also meet the criteria of emergency specified in this rule, before they can be considered as emergency events.

1. Equipment Breakdowns:	Electrical equipment (transformer, motors) and internal combustion engine breakdowns. Major equipment breakdowns (turbine-generator, compressor, compressor stage fall-outs etc.)
2. Relief Valve Events:	All unintentional safety valve releases as caused by emergency shutdown valve(s) and shut-in valve(s) events, temperature control events and high/low fluid temperature and pressure level events.
3. Source/Pipeline Shutdowns:	All offshore and onshore process and source or plant breakdowns and pipeline breakdown events.
4. Other Events:	Fire hazard avoidance events, toxic and flammable gas alarm events, faulty-sensor-caused shutdowns, high/low temperature and pressure indicated shutdowns.

The following shall also be considered as emergency flaring events:
Sudden power failure at onshore source, sudden process problems including foaming within production units, process-computer problems at production and pollution control units, pollution control equipment breakdowns, power supply system breakdowns, pipeline or fuel line breakdowns.

Emergency events continue in duration until the operator gets the emergency situation under control including the emission exceedances, or shuts down the source, or reroutes production to a different source.

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RULE 361. BOILERS, STEAM GENERATORS, AND PROCESS HEATERS (Between 2-5 MMBtu/hr)
(Adopted 1/17/2008, revised 6/20/2019, xx/xx/xxxx)

A. Applicability

This rule shall apply to any boiler, steam generator, or process heater with a rated heat input capacity greater than 2 million British thermal units per hour and less than 5 million British thermal units per hour.

B. Exemptions

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

   a. Process heaters, kilns, furnaces, and dryers, where the products of combustion come into direct contact with the material to be heated.

   b. Equipment that does not require a permit under the provisions of Rule 202, Exemptions to Rule 201. Notwithstanding the above, this exemption shall not apply to any AB 617 Industrial Unit.

2. Section D.1 and D.3 requirements shall not apply to any unit while forced to burn non-gaseous fuel during times of public utility imposed natural gas curtailment. This exemption shall not exceed 168 cumulative hours of operation per calendar year excluding equipment testing time not exceeding 24 hours per calendar year.

C. Definitions

See Rule 102, Definitions, for definitions not limited to this rule. For the purposes of this rule, the following definitions shall apply:

"AB 617 Industrial Unit" means any unit located at a facility that, as of January 1, 2017, was subject to a market-based compliance mechanism adopted by the state board pursuant to Health and Safety Code §38562(c).

"Annual Heat Input" means the total heat input of fuels burned by a unit in a calendar year, as determined from the higher heating value and cumulative annual usage of each fuel.

"Atmospheric Unit" means any unit with a non-sealed combustion chamber in which natural draft is used to exhaust combustion gases.

"Boiler or Steam Generator" means any combustion equipment fired with liquid and/or gaseous and/or solid fuel that is used to produce steam or to heat water. Boiler or Steam Generator does not include any fired or unfired waste heat recovery boiler that is used to recover or augment heat from the exhaust of any combustion equipment.

"Digester Gas" means gas derived from the decomposition of organic matter in a digester.

"Existing Unit" means any unit installed prior to January 17, 2008 which has not been modified as defined herein. Any unit that is an AB 617 Industrial Unit, as defined in this rule, is not considered an existing unit.

"Field Gas" means any gaseous fuel extracted from a production well that:

1. is processed and/or used as fuel in equipment located in the same oil and gas production field as the production well, and

2. does not meet the California Public Utility Commission quality pipeline standards as specified in *General Order 58-A*.

"Landfill Gas" means gas derived from the decomposition of waste in a landfill.

"Modification" or "Modify" means any of the following actions:

1. Replacing a burner or burners on a unit; or

2. Removing a unit from the site of its original installation and installing it at a different location. A unit that is reinstalled within the same stationary source is not modified.

"Process Heater" means any external combustion equipment fired with liquid and/or gaseous and/or solid fuel and which transfers heat from combustion gases to water or process streams. Process Heater does not include any kiln or oven used for drying, baking, curing, cooking, calcinating or vitrifying or any unfired waste heat recovery heater that is used to recover sensible heat from the exhaust of any combustion equipment.

"Rated Heat Input Capacity" means the heat input capacity specified on the manufacturer's nameplate of the combustion unit, typically reported in million Btu per hour. If the combustion unit has been physically modified such that its maximum heat input is different than the heat input capacity specified on the nameplate, the modified maximum heat input shall be considered as the rated heat input. The new maximum heat input must be certified, in writing, by the manufacturer or installer and engineering calculations supporting the new maximum heat input rating must be submitted to and approved by the District. The District may require the modified maximum heat input capacity to be demonstrated by a fuel meter while operating the unit at maximum capacity.

"Parts Per Million" or "ppm" means parts per million by volume expressed on a dry gas basis.

"Shutdown Period" means the period of time during which a unit is taken from an operational to a non-operational status by allowing it to cool down from its operating temperature to a cold or ambient temperature as the fuel supply is turned off.

"Startup Period" means the period of time during which a unit is brought from a shutdown status to its operating temperature and pressure.

"Unit" means any boiler, steam generator, or process heater.

D. Requirements – Emission Standards

1. For units that are installed prior to January 1, 2020:

   a. By January 1, 2020, no owner or operator shall operate any existing unit in excess of the emission limits set forth in Table 1 below; and

   b. No owner or operator shall operate any unit that was installed or modified between January 17, 2008 and December 31, 2019 in excess of the emission limits set forth in Table 1 below.

Table 1: Emission Limits for Units Installed Prior to January 1, 2020

Fuel Type	NOx Emission Limit (ppm at 3% O2)	CO Emission Limit (ppm at 3% O2)
All Fuels	30	400

2. The provisions of Section D.1 shall not apply to any existing unit that meets the following:

   a. The existing unit operates with an annual heat input, from all fuels, at or below 1.8 billion British thermal units per calendar year as verified by a District-approved, non-resettable, temperature and pressure corrected, totalizing fuel meter; and

   b. The owner or operator implements the District-approved *Rule 361 Compliance Plan* that was submitted to the District prior to March 15, 2016; and

   c. The owner or operator demonstrates to the Control Officer compliance with the requirements specified in Sections F, G, I, and J.

3. On or after January 1, 2020, no owner or operator shall install or modify any unit unless the unit complies with the emission limits set forth in Table 2 below.

Table 2: Emission Limits for Units Installed On or After January 1, 2020

Fuel Type	NOx Emission Limit (ppm at 3% O2)	CO Emission Limit (ppm at 3% O2)
Natural Gas or Field Gas: non-atmospheric units	9	400
Natural Gas or Field Gas: atmospheric units	12	400
Landfill Gas	25	400
Digester Gas	15	400
Liquefied Petroleum Gas	20	400
All other fuels	30	400

4. On or before June 20, 2020, all AB 617 Industrial Units shall operate in compliance with the emission limits specified in Section D.3.

E. Requirement - Loss of Low-Use Exemption

Any owner or operator of any existing unit that qualified for the Section D.2 low-use exemption where the unit's annual heat input in any calendar year exceeds 1.8 billion British thermal units shall comply with the following:

1. Within 120 days after the end of the calendar year during which the unit exceeded 1.8 billion British thermal units of annual heat input, submit an Authority to Construct permit application for installation of control equipment or a replacement unit; and

2. Within 365 days after the end of the calendar year during which the unit exceeded 1.8 billion British thermal units of annual heat input, demonstrate to the Control Officer and maintain compliance with Section D.3 for the life of the unit; and

3. Maintain compliance with the remaining requirements of Section D.2 until compliance with Section D.3 is achieved.

F. Requirements – Compliance Determination

1. Any owner or operator of any unit fired exclusively on natural gas and any unit subject to the Section D.2 low-use exemption shall be tuned-up pursuant to the requirements of Section G. The District may, at its discretion, require any owner or operator of any unit subject to this rule to perform a source test per the test methods listed in Section H. An owner or operator may choose to comply with this section by performing District-approved source testing in lieu of tune-ups.

2. Except for units subject to the Section D.2 low-use exemption, any owner or operator of any unit fired on fuels other than natural gas shall perform District-approved source testing not less than once every 24 months using the source test methods listed in Section H. After the third required compliance source test, the District may, at its discretion, allow the owner or operator of the unit to perform tune-ups in lieu of source testing per the requirements of Section G.

3. All emission determinations shall be made in the as-found operating condition, except no compliance determination shall be established during unit startup, shutdown, or under breakdown conditions.

4. Startup or shutdown intervals shall not last longer than is necessary to reach stable temperatures and conditions. All emission control systems shall be in operation and emissions shall be minimized, to the extent possible, during startup and shutdown periods.

G. Requirements – Unit Tuning

The owner or operator of any unit subject to the tune-up requirements of this rule shall comply with the following requirements:

1. Perform tuning at least twice per year, (at intervals from 4 to 8 months apart) in accordance with the procedures described in the attached District Rule 361 Tune-Up Procedures. Units subject to the Section D.1 or D.3 emission standards shall follow the procedure requirements to measure oxides of nitrogen and carbon monoxide levels using a District-approved, calibrated portable analyzer.

2. If the unit does not operate throughout a continuous six-month period within a calendar year, then only one tune-up is required for that calendar year.

3. No tune-up is required during a calendar year for any unit that is not operated during that calendar year. The unit may still be test fired to verify availability of the unit for its intended use, but once test firing is completed, it shall be shutdown. If test firing exceeds 24 hours per year, then within thirty (30) days of exceeding the 24 hour per year limit, a tune-up shall be conducted pursuant to this section.

4. Any owner or operator of any unit found to be in noncompliance with Section D requirements as a result of the tune-up procedure shall notify the District in writing within 7 days. The notification shall include a copy of the *Rule 361 Tune-Up Report*, the actions taken to get the unit into compliance, and the next steps to achieve compliance. Failure to bring the unit into compliance with the requirements of Section D.1 and D.3 within 15 days of the initial tune-up attempt shall constitute a violation of this rule.

H. Requirements - Source Testing

1. The owner or operator of any unit subject to the source testing provisions of this rule shall submit a Source Test Plan to the District and obtain District written approval prior to the start of any source test. The Source Test Plan shall be filed with the District at least 30 days before the start of each source test. The District shall be notified of the date of source testing at least 14 days prior to testing to arrange a mutually agreeable test date.

2. Source testing shall be performed by a source test contractor certified by the California Air Resources Board. District required source testing shall not be performed by an owner or operator unless approved by the Control Officer.

3. The owner or operator of any unit subject to the source test requirements of this rule shall use the test methods and procedures listed below:

   a. Oxides of Nitrogen: Environmental Protection Agency Method 7E or California Air Resources Board Method 100.

   b. Carbon Monoxide: Environmental Protection Agency Method 10 or California Air Resources Board Method 100.

   c. Stack Gas Oxygen: Environmental Protection Agency Method 3 or 3A or California Air Resources Board Method 100.

   d. Fuel rate: District-approved metering system, calibrated within 60 calendar days of the test date. Public Utility Company regulated fuel meters relied on by operators for testing may be allowed an alternative calibration schedule upon approval by the Control Officer. Results must be corrected for pressure and temperature to standard conditions.

   e. All source tests shall consist of a minimum of three 30 minute tests. The average concentration from the test runs shall be used for determining compliance.

I. Requirements – Recordkeeping

All owners or operators of units subject to this rule shall keep all records listed below onsite for a period of five years and the records shall be made readily available to the District upon request:

1. *Rule 361 Tune-Up Reports* and test-firing records.

2. Source test reports.

3. For existing units subject to the Section D.2 low-use exemption:

   a. Monthly and annual fuel use logs for each fuel type.

   b. Fuel meter calibration records.

4. Records of emergency non-gaseous fuel use per Section B.2. These records shall include the dates, operating hours, and volumes of non-gaseous fuel used.

J. Requirements – Reporting

1. The records required pursuant to Section I.1, I.3, and I.4 shall be submitted to the District by March 1st for the prior calendar year.

2. Source test reports, required pursuant to Section I.2, shall be submitted to the District within 45 days of test completion.

K. Compliance Schedule – Existing Units

The owner or operator of any existing unit subject to this rule shall meet the following compliance schedule:

1. On or before January 1, 2020, the owner or operator of any existing unit shall:

   a. For units subject to the Section D.1 emission standards, demonstrate final compliance with the emission standards in Section D.1.

   b. For units subject to the Section D.2 low-use exemption, conduct the initial tune-up pursuant to Section G.

L. Compliance Schedule – AB 617 Industrial Units

1. On or before September 20, 2019, the owner or operator of any AB 617 Industrial Unit that does not meet the emission standards in Section D.3, as listed in the unit's Permit to Operate, shall apply for an Authority to Construct permit.

2. On or before June 20, 2020, the owner or operator of any AB 617 Industrial Unit shall operate in compliance with the emission standards in D.3.

ATTACHMENT

SBCAPCD Rule 361 Tune-Up Procedures[1]

PROCEDURE A
Equipment Tuning Procedure for Forced Draft-Fired Equipment[2]

Nothing in this Equipment Tuning Procedure shall be construed to require any act or omission that would result in unsafe conditions or would be in violation of any regulation or requirement established by Factory Mutual, Industrial Risk Insurers, National Fire Prevention Association, the California Department of Industrial Relations (Occupational Safety and Health Division), the Federal Occupational Safety and Health Administration, or other relevant regulations and requirements.

As used in this procedure, the requirement to measure Oxides of Nitrogen (NO_x) is only required if the unit being tuned is subject to the requirements of Section D.1 or D.3. NOx (as NO_2) measurements shall be taken with a portable analyzer in accordance with the South Coast Air Quality Management District (SCAQMD) Combustion Gas Periodic Monitoring Protocol (May 1, 2009), or an equivalent method approved by the Control Officer. The portable analyzer shall be calibrated in accordance with the SCAQMD Combustion Gas Periodic Monitoring Protocol (May 1, 2009), and calibration records shall be submitted as part of the *Rule 361 Tune-Up Report*. Steps in the Tune-Up Procedure below not applicable to specific units may be omitted.

1. Operate the unit at the firing rate most typical of normal operation. If the unit experiences significant load variations during normal operation, operate it at its average firing rate.

2. At this firing rate, record stack gas temperature, oxygen concentration, and carbon monoxide concentration and NO_x concentration (also record the smoke-spot number[3] for liquid fuels only) and the observed flame condition after unit operation stabilizes at the firing rate selected. Note these readings in the *Rule 361 Tune-Up Report* as the *"Initial As-Found Conditions."* If the excess oxygen in the stack gas is at the lower end of the range of typical minimum values[4], and if the carbon monoxide emissions are low and there is no smoke, the unit is probably operating at near optimum efficiency at this particular firing rate. However, complete the remaining portion of this procedure to determine whether still lower oxygen levels are practical. Note whether the NO_x and carbon monoxide values comply with the applicable limits specified in the unit's Permit to Operate.

3. Increase combustion air flow to the furnace until stack gas oxygen levels increase by one to two percent over the level measured in Step 2. As in Step 2, record the stack gas temperature, oxygen concentration, carbon monoxide concentration, NO_x concentration (also record the smoke-spot number for liquid fuels only), and the observed flame condition for these higher oxygen levels after boiler operation stabilizes.

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[1] These Rule 361 tune-up procedures differ from SCAQMD Rule 1146.1 and Ventura Rule 74.15.1 since NO_x readings are required to be taken in addition to the CO reading if the unit is subject to a 30 ppm (or lower) NOx limit, as specified in the rule.

[2] This tuning procedure is based on a tune-up procedure developed by KVB, Inc. for the EPA.

[3] The smoke-spot number can be determined with ASTM Test Method D2156-09 (2013), "Standard Test Method for Smoke Density in Flue Gases from Burning Distillate Fuels," or with the Bacharach method.

[4] Typical minimum oxygen levels for boilers at high firing rates are:
a. For natural gas: 0.5% - 3%
b. For liquid fuels: 2% - 4%

4. Decrease combustion air flow until the stack gas oxygen concentration is at the level measured in Step 2. From this level, gradually reduce the combustion air flow in small increments. After each increment, record the stack gas temperature, oxygen concentration, carbon monoxide concentration, NO_x concentration, smoke-spot number (for liquid fuels) and the observed flame condition.

5. Continue to reduce combustion air flow stepwise until one of these limits in reached:

   a. Unacceptable flame conditions - such as flame impingement on furnace walls or burner parts, excessive flame carryover, or flame instability.

   b. Stack gas carbon monoxide concentrations greater than 400 ppm or NO_x concentrations greater than the applicable limit as specified in the unit's Permit to Operate.

   c. Smoking at the stack.

   d. Equipment-related limitations - such as low windbox/furnace pressure differential, built in air-flow limits, etc.

6. Develop an oxygen/carbon monoxide curve (for gaseous fuels) or oxygen/smoke curve (for liquid fuels) similar to those shown in Figures 1 and 2 using the excess oxygen and carbon monoxide or smoke-spot number data obtained at each combustion air flow setting.

7. From the curves prepared in Step 6, find the stack gas oxygen levels where the carbon monoxide emissions or smoke-spot number equal the following values:

Fuel	Measurement	Value
Gaseous	carbon monoxide emissions	400 parts per million
#1 & #2 oils	smoke-spot number	number 1
#4 oil	smoke-spot number	number 2
#5 oil	smoke-spot number	number 3
Other oils	smoke-spot number	number 4

   The above conditions are referred to as the carbon monoxide or smoke threshold, or as the minimum excess oxygen level.

   Compare this minimum value of excess oxygen to the expected value provided by the combustion unit manufacturer. If the minimum level found is substantially higher than the value provided by the combustion unit manufacturer, burner adjustments can probably be made to improve fuel and air mixing, thereby allowing operation with less air.

8. Add 0.5 to 2.0 percent to the minimum excess oxygen level found in Step 7 and reset burner controls to operate automatically at this higher stack gas oxygen level. This margin above the minimum oxygen level accounts for fuel variations, variations in atmospheric conditions, load changes, and nonrepeatability or play in automatic controls.

9. If the load of the combustion unit varies significantly during normal operation, repeat Steps 1-8 for firing rates that represent the upper and lower limits of the range of the load. Because control adjustments at one firing rate may affect conditions at other firing rates, it may not be possible to establish the optimum excess oxygen level at all firing rates. If this is the case, choose the burner control settings that give best performance over the range of firing rates. If one firing rate predominates, settings should optimize conditions at that rate.

10. Verify that the new settings can accommodate the sudden changes that may occur in daily operation without adverse effects. Do this by increasing and decreasing load rapidly while observing the flame and stack. If any of the conditions in Step 5 result, reset the combustion controls to provide a slightly higher level of excess oxygen at the affected firing rates. Next, verify these new settings in a similar fashion. Then

make sure that the final control settings are recorded at steady-state operating conditions for future reference.

11. Take a final combustion analysis for NO_x concentration, carbon monoxide concentration and oxygen concentration (also record the smoke-spot number for liquid fuels only). Note these readings, as well as the stack temperature and flame condition, in the *Rule 361 Tune-Up Report* as the *"Final As-Tuned Conditions."* Confirm that the final settings result in compliance with the regulatory limits. **If compliance with the emission limits specified in the unit's Permit to Operate is not achievable, take actions and provide notification to the District pursuant to the requirements of Section G.4**.

12. When the above checks and adjustments have been made, prepare a *Rule 361 Tune-Up Report*. The report shall include all recorded data and combustion analysis data for the unit; the manufacturer, model number and serial number of the portable NOx/CO analyzer; the name, title, signature, company name, and contact information of person performing the tune-up; and date the tune-up was performed. The *Rule 361 Tune-Up Report* shall clearly indicate the *"Initial As-Found Conditions"* and the *"Final As-Tuned Conditions"* and shall (if applicable) state whether Section D.1 and D.3 emission standards for NO_x and CO were met. Calibration records shall be submitted as part of the *Rule 361 Tune-Up Report*.

NOTE

The owner/operator may propose an alternative tuning procedure that meets the same basic requirements of the procedure outlined above for District review and approval. The District may assess fees to reimburse its costs associated with the review of the alternative procedure using the cost reimbursement provisions under~~either Section I.C or Section III.C of~~ Rule 210, Fees. District approval of the alternative tuning procedure must be obtained prior to its use.

Figure 1
Oxygen/Carbon Monoxide Characteristic Curve

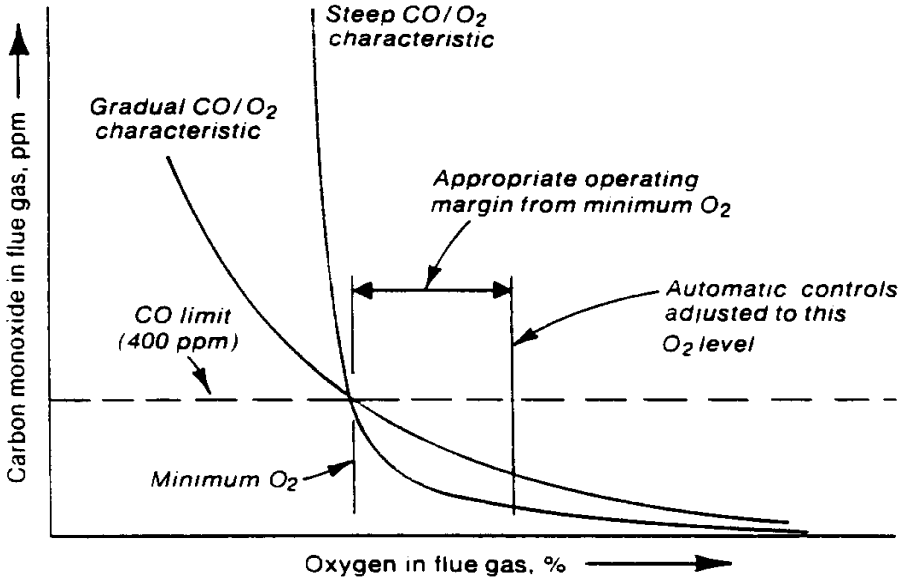
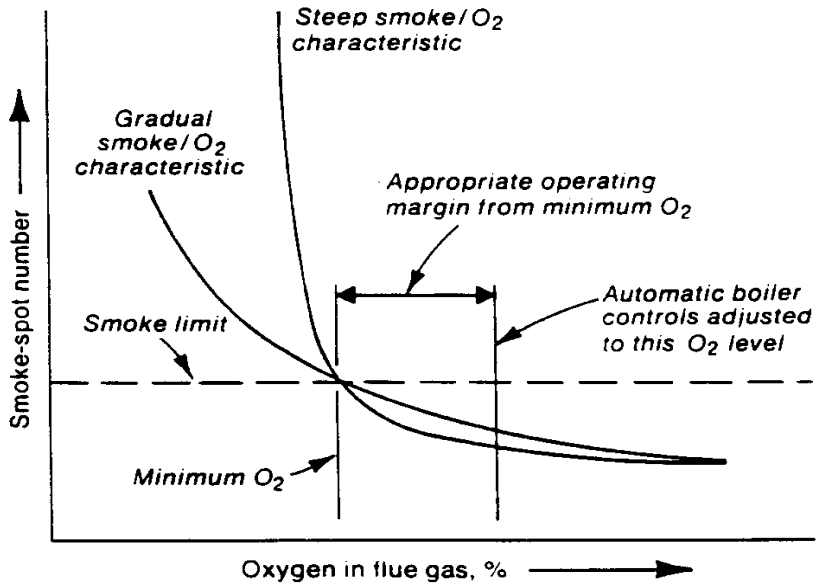


Figure 2
Oxygen/Smoke Characteristic Curve



PROCEDURE B
Equipment Tuning Procedure for Natural Draft-Fired Equipment

Nothing in this Equipment Tuning Procedure shall be construed to require any act or omission that would result in unsafe conditions or would be in violation of any regulation or requirement established by Factory Mutual, Industrial Risk Insurers, National Fire Prevention Association, the California Department of Industrial Relations (Occupational Safety and Health Division), the Federal Occupational Safety and Health Administration, or other relevant regulations and requirements.

As used in this procedure, the requirement to measure Oxides of Nitrogen (NO_x) is only required if the unit being tuned is subject to the requirements of Section D.1 or D.3 NOx (as NO_2) measurements shall be taken with a portable analyzer in accordance with the South Coast Air Quality Management District Combustion Gas Periodic Monitoring Protocol (May 1, 2009), or an equivalent method approved by the Control Officer. The portable analyzer shall be calibrated in accordance with the SCAQMD Combustion Gas Periodic Monitoring Protocol (May 1, 2009), and calibration records shall be submitted as part of the *Rule 361 Tune-Up Report*. Steps in the Tune-Up Procedure below not applicable to specific units may be omitted.

1. PRELIMINARY ANALYSIS

    a. Verify that the boiler, steam generator, or process heater (unit) is operating at the lowest pressure or temperature that will satisfy load demand. This pressure or temperature will be used as a basis for comparative combustion analysis before and after tune-up.

    b. Verify that the unit operates for the minimum number of hours and days necessary to perform the work required.

    c. Verify that the size of air supply openings is in compliance with applicable codes and regulations. Air supply openings must be fully open when the burner is firing and air flow must be unrestricted.

    d. Verify that the vent is in good condition, properly sized and free from obstruction.

    e. Perform an as-found (i.e., prior to any adjustments) combustion analysis for carbon monoxide concentration, NO_x concentration, oxygen concentration and measure the stack temperature and note the flame condition at both high and low fire, if possible. Note these readings in the *Rule 361 Tune-Up Report* as the *"Initial As-Found Conditions"*. Also record the following:

        (1) Inlet fuel pressure at burner at high and low firing rates.

        (2) Pressure above draft hood or barometric damper at high, medium, and low firing rates.

        (3) Steam pressure, water temperature, or process fluid pressure or temperature entering and leaving the unit.

        (4) Inlet fuel use rate if meter is available.

2. CHECKS AND CORRECTIONS

    a. Clean all dirty burners or burner orifices. Verify that fuel filters and moisture traps are in place, clean, and operating properly. Confirm proper location and orientation of burner diffuser spuds, gas canes, etc. Replace or repair all damaged or missing burner parts.

    b. Remove external and internal sediment and scale from heating surfaces.

    c. Verify that the necessary water or process fluid treatment is being used to minimize scale and corrosion. Confirm flushing and/or blowdown schedule.

d. Repair all leaks. In addition to the high-pressure lines, check the blow-off, drain, safety valve, bypass lines, and, if used, the feed pump.

3. SAFETY CHECKS

a. Test primary and secondary low water level controls.

b. Check operating and limit pressure and temperature controls.

c. Check pilot safety shut off operation.

d. Check safety valve pressure setting and verify that the setting is consistent with unit load requirements.

e. Check limit safety control and spill switch.

4. ADJUSTMENTS

Perform the following checks and adjustments on a warm unit at high fire:

a. Adjust unit to fire at the maximum inlet fuel use rate: record fuel manifold pressure.

b. Adjust draft and/or fuel pressure to obtain acceptable, clean combustion at high, medium, and low firing rates. The carbon monoxide value should not exceed 400 parts per million at 3% oxygen.

c. Verify that unit light-offs are smooth and safe. Perform a reduced fuel pressure test at both high and low firing rates in accordance with the manufacturer's instructions.

d. Check and adjust the modulation controller. Verify proper, efficient, and clean combustion through the range of firing rates.

When optimum performance has been achieved, record all data.

5. FINAL TEST

After adjustments, perform a final combustion analysis for carbon monoxide concentration, NO_x concentration, oxygen concentration, and measure the stack temperature and note the flame condition on the warm unit at high, medium, and low firing rates, if possible. Note these readings in the *Rule 361 Tune-Up Report* as the "*Final As-Tuned Conditions*". Also record the following:

a. Inlet fuel pressure at burner at high, medium, and low firing rates.

b. Pressure above draft hood or barometric damper at high, medium, and low firing rates.

c. Steam pressure, water temperature, or process fluid pressure or temperature entering and leaving the unit.

d. Inlet fuel use rate if meter is available.

If the unit is subject the Section D.1 or D.3 limits for NO_x and carbon monoxide, confirm that the final settings result in compliance with the regulatory limits. **If compliance with the emission limits specified in the unit's Permit to Operate is not achievable, take actions and provide notification to the District pursuant to the requirements of Section G.4**.

6. RULE 361 TUNE-UP REPORT

When the above checks and adjustments have been made, prepare a *Rule 361 Tune-Up Report*. The report shall include all recorded data and combustion analysis data for the unit; the manufacturer, model number and serial number of the portable NO_x/CO analyzer; the name, title, signature, company name and contact information of person performing the tune-up; and date the tune-up was performed. The *Rule 361 Tune-Up Report* shall clearly indicate the "*Initial As-Found Conditions*" and the "*Final As-Tuned Conditions*" and shall (if applicable) state whether Section D.1 and D.3 emission standards for NO_x and CO were met. Calibration records shall be submitted as part of the *Rule 361 Tune-Up Report*.

NOTE

The owner or operator may propose an alternative tuning procedure that meets the same basic requirements of the procedure outlined above for review and approval by the Control Officer. The District may assess fees to reimburse its costs associated with the review of the alternative procedure under the cost reimbursement provisions~~using either Section I.C or Section III.C~~ of Rule 210. Control Officer approval of the alternative tuning procedure must be obtained in writing prior to its use.

RULE 364. REFINERY FENCELINE AND COMMUNITY AIR MONITORING
(Adopted 5/21/2020, revised xx/xx/xxxx)

A. Applicability

This rule shall apply to petroleum refineries.

B. Exemptions

None.

C. Definitions

See Rule 102, Definitions, for definitions not limited to this rule. For the purposes of this rule, the following definitions shall apply:

"Community Air Monitoring System" means a combination of equipment that measures and records air pollutant concentrations in communities near a petroleum refinery that is currently refining or storing oil products.

"Fenceline Air Monitoring System" means a combination of equipment that measures and records air pollutant concentrations at or near the property boundary of a petroleum refinery.

"Petroleum Refinery" means a facility that is permitted to process petroleum, as defined in the Standard Industrial Classification Manual as Industry No. 2911.

"Real-time" means the actual or near actual time during which pollutant levels occur at or near the property boundary of a petroleum refinery or in a nearby community.

"Refinery Fenceline Air Monitoring Guidelines" means a written framework to be used by the Control Officer to evaluate a refinery fenceline air monitoring plan, as shown in Attachment A.

D. Requirements – Fenceline Monitoring Plan

1. No later than August 21, 2020, the owner or operator of a petroleum refinery shall submit to the Control Officer a written fenceline air monitoring plan for establishing and operating a real-time fenceline air monitoring system.

2. All fenceline air monitoring plans shall be consistent with the attached Rule 364 Refinery Fenceline Air Monitoring Guidelines. At a minimum, the fenceline air monitoring plan shall provide the following detailed information:

    a. Equipment to be used to continuously monitor, record, and report air pollutant levels for the pollutants specified in Table 1 – Pollutants For Fenceline Air Monitoring in real-time, at or near the property boundary of the petroleum refinery;

    b. Equipment to be used to continuously record wind speed and wind direction data in at least one on-site location at the petroleum refinery;

    c. Siting and equipment specifications;

    d. A timeline and procedures for implementing the fenceline air monitoring plan, including information pertaining to the installation, operation, maintenance, and quality assurance, for the fenceline air monitoring system;

e. Procedures for air monitoring equipment maintenance and failures. The procedures for equipment maintenance and failures shall include a plan that describes the maintenance activities necessary to maintain proper performance of the fenceline air monitoring equipment and a plan that deals with equipment failures. At a minimum, the maintenance and failure plan shall describe the following:

1. Routine maintenance requirements for equipment;
2. A planned schedule for routine maintenance performed on equipment;
3. Length of time that equipment will not be operating during routine maintenance activities;
4. Notification procedures to inform the Control Officer of any failures to accurately provide monitoring data for 24 hours or longer; and
5. Temporary air monitoring measures that will be implemented in the event of an equipment failure or during routine maintenance activities, and that will be used until the fenceline air monitoring system is restored to normal operating conditions;

f. Procedures for implementing quality assurance by a qualified independent party, including quality control and audits of the fenceline air monitoring systems;

g. Methods for dissemination of data collected by the equipment specified in Sections D.2.a and D.2.b to the public, local response agencies, and the District as expeditiously as possible.

3. The fenceline air monitoring plan shall address real-time air monitoring for the air pollutants specified in Table 1 on a continuous basis.

TABLE 1 - POLLUTANTS FOR FENCELINE AIR MONITORING

Air Pollutants
Benzene
Toluene
Ethylbenzene
Xylene
Sulfur Dioxide
Hydrogen Sulfide

E. Requirements – Fenceline Monitoring Plan Review and Updates

1. The Control Officer shall notify the owner or operator in writing whether the fenceline air monitoring plan is approved or whether modifications are necessary. Determination of approval status for the fenceline air monitoring plan shall be based on, at a minimum, submittal of information that satisfies the criteria in Section D.

a. If modifications are necessary, the owner or operator shall resubmit the fenceline air monitoring plan within 30 days after the notification by the Control Officer. The resubmitted plan shall include any information necessary to address deficiencies identified by the District.

b. The Control Officer may either approve the revised and resubmitted fenceline air monitoring plan or modify the plan and approve it as modified.

2. The owner or operator of a petroleum refinery shall revise and submit an updated fenceline air monitoring plan to the Control Officer as follows:

a. Forty-five (45) days before the date of implementation of any planned facility, equipment, process or administrative modification that could result in changes to an approved fenceline air monitoring plan.

b. Ten (10) days after the date of any unplanned facility, equipment, process or administrative modification that could result in changes to an approved fenceline air monitoring plan.

c. Sixty (60) days after the date of receiving information that an approved fenceline air monitoring plan does not adequately measure one or more pollutants identified in Table 1. This includes equipment failures that result in a failure to accurately provide continuous, real-time air monitoring information for more than 30 days.

3. Failure to comply with the requirements of Section E.2 shall result in revocation of an approved fenceline air monitoring plan. Thirty (30) days after revocation of an approved fenceline air monitoring plan, the owner or operator shall submit a new fenceline air monitoring plan to the Control Officer that meets the requirements of this rule.

F. Requirements – Fenceline Air Monitoring System

Beginning no later than 365 days after the fenceline air monitoring plan is approved by the Control Officer, the owner or operator of a petroleum refinery shall complete installation and begin operation of a real-time fenceline air monitoring system in accordance with the approved fenceline air monitoring plan.

G. Requirements – Recordkeeping

The owner or operator shall maintain records of all information required under this rule for at least five years and shall make the information available to District staff upon request. Records for at least the two most recent years shall be kept onsite.

H. Requirements – Refinery Fenceline and Community Air Monitoring Fees

1. Pursuant to California Health and Safety Code §42705.6, an owner or operator of a petroleum refinery shall pay the following fees associated with the refinery fenceline and community air monitoring system.

a. An owner or operator of a petroleum refinery shall make a payment to the District in the amount of $7,500 for the review of a refinery fenceline monitoring plan. The review fee shall be submitted with the initial monitoring plan pursuant to Section D.1 and with any new monitoring plans pursuant to Section E.3 of this rule. All costs incurred by the District for the review and revision of a District-approved monitoring plan, pursuant to Section E.2, shall be reimbursable costs pursuant to ~~Section I.C of~~ Rule 210, Fees.

b. No later than November 21, 2020, the owner or operator of a petroleum refinery shall make a payment to the District in the amount to cover the shared cost of the initial installation of the co-located community air monitoring system. Consistent with California Health and Safety Code §42705.6, these costs shall be shared in a reasonably equitable manner.

c. In the event that the community air monitoring system is not co-located with a District-operated monitoring station and is an independent monitoring station, the owner or operator of a petroleum refinery shall make an additional payment to the District in the amount to cover any additional costs for the initial installation of the community air monitoring system. This fee shall be due and payable no later than sixty (60) days after written notification by the District.

d. Beginning in calendar year 2021, the owner or operator of a petroleum refinery shall make a payment to the District in the amount to cover the cost of the annual operation and maintenance of the community air monitoring system. Consistent with California Health and Safety Code §42705.6, if the community air monitoring system is co-located with a District-operated monitoring station, these costs will be shared in a reasonably equitable manner. Invoices for the annual operation and maintenance fee will be issued during the month of January. If the fees required by this section are not paid in full within sixty (60) days of the invoice date, a ten percent (10%) penalty shall be imposed for every thirty (30) days, or portion thereof, that the payment is overdue.

2. Any fee prescribed in this rule shall be adjusted annually by the Control Officer based on the change in the California Consumer Price Index (CPI) for the preceding year, as determined pursuant to Section 2212 of the Revenue and Taxation Code.

3. The refinery fenceline and community air monitoring fees required in this section are in addition to permit and other fees otherwise authorized to be collected from such facilities. Any subsequent owner(s) or operator(s) of a petroleum refinery shall be responsible for all unpaid fees listed in this rule. The Control Officer may initiate action to revoke the permit for any unpaid fees listed in this rule.

4. No later than January 1, 2026 and every five years thereafter, the Control Officer shall conduct a refinery fenceline and community air monitoring assessment to evaluate adequate coverage and/or need for equipment upgrades. The Control Officer shall also reassess the fees required by this section to ensure that the fees are consistent with the requirements of California Health and Safety Code §42705.6.

RULE 370. POTENTIAL TO EMIT – LIMITATIONS FOR PART 70 SOURCES
(Adopted 6/15/1995, revised 1/18/2001, ~~and~~ 1/20/2011, xx/xx/xxxx)

A. Applicability

1. General Applicability:

This rule shall apply to any stationary source which would, if it did not comply with the limitations set forth in this rule, have the potential to emit air contaminants equal to or in excess of the threshold for a major source of regulated air pollutants or a major source of hazardous air pollutants and which meets one of the following conditions:

a. In every 12-month period, the actual emissions of the stationary source are less than or equal to the emission limitations specified in Section D.1 below; or

b. In every 12-month period, at least 90 percent of the emissions from the stationary source are associated with an operation limited by any one of the alternative operational limits specified in Section G.1 below.

2. Stationary Source with De Minimis Emissions:

The recordkeeping and reporting provisions in Sections E, F, and G below shall not apply to a stationary source with de minimis emissions or operations as specified in either Subsection a~~.~~ or b~~.~~ below:

a. In every 12-month period, the stationary source emits less than or equal to the following quantities of emissions:

1) 5 tons per year of a regulated air pollutant (excluding hazardous air pollutants),
2) 2 tons per year of a single hazardous air pollutant,
3) 5 tons per year of any combination of hazardous air pollutants, and
4) 20 percent of any lesser threshold for a single hazardous air pollutant that the United States Environmental Protection Agency (USEPA) may establish by rule.

b. In every 12-month period, at least 90 percent of the stationary source's emissions are associated with an operation for which the throughput is less than or equal to one of the quantities specified in Subsections 1) through 9) below:

1) 1,400 gallons of any combination of solvent-containing materials but no more than 550 gallons of any one solvent-containing material, provided that the materials do not contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene;
2) 750 gallons of any combination of solvent-containing materials where the materials contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, but not more than 300 gallons of any one solvent-containing material;
3) (a) 1,200 gallons of solvent-containing (or~~,~~ volatile organic compound containing) material, including no more than 480 gallons of solvent-containing (or~~,~~ volatile organic compound containing) material that also contains any hazardous air pollutants, used at a paint spray unit(s);

(b) The volatile organic compound/solvent content of the material used at a paint spray unit(s) shall not exceed 1,000 grams solvent per liter coating, as applied, less water and exempt compounds.

4) 4,400,000 gallons of gasoline dispensed from equipment with Phase I and II vapor recovery systems;
5) 470,000 gallons of gasoline dispensed from equipment without Phase I and II vapor recovery systems;
6) 1,400 gallons of gasoline combusted;
7) 16,600 gallons of diesel fuel combusted;
8) 500,000 gallons of distillate oil combusted, or
9) 71,400,000 cubic feet of natural gas combusted.

Within 30 days of a written request by the Air Pollution Control District (District) or the USEPA, the owner or operator of a stationary source not maintaining records pursuant to Sections E or G shall demonstrate that the stationary source's emissions or throughput are not in excess of the applicable quantities set forth in Subsection a. or b. above.

3. Provision for Air Pollution Control Equipment:

The owner or operator of a stationary source may take into account the operation of air pollution control equipment on the capacity of the source to emit an air contaminant if the equipment is required by Federal, State, or District rules and regulations or permit terms and conditions. The owner or operator of the stationary source shall maintain and operate such air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. This provision shall not apply after January 1, 1999 unless such operational limitation is federally enforceable or unless the District Board specifically extends this provision and it is submitted to the USEPA. Such extension shall be valid unless, and until, the USEPA disapproves the extension of this provision.

4. List of Sources to Which This Rule Applies

~~Within three years of the effective date of Regulation XIII (Part 70 Operating Permit Program), t~~The Air Pollution Control District shall maintain and make available to the public upon request, for each stationary source subject to this rule, information identifying the provisions of this rule applicable to the source.

5. Compliance by Sources with Pre-construction Permit Conditions

This rule shall not relieve any stationary source from complying with requirements pertaining to any otherwise applicable preconstruction permit, or to replace a condition or term of any preconstruction permit, or any provision of a preconstruction permitting program~~,~~ (e.g.~~,~~ Prevention of Significant Deterioration, New Source Review, or Authority to Construct). This does not preclude issuance of any preconstruction permit with conditions or terms necessary to ensure compliance with this rule.

B. Exemptions

1. Stationary Source Subject to Regulation XIII (Part 70 Operating Permit Program)

This rule shall not apply to the following stationary sources:

a. Any stationary source whose actual emissions, throughput, or operation, ~~at any time after the effective date of this Rule,~~ is greater than the quantities specified in Sections D.1 or G.1 below and which meets both of the following conditions:

1) The owner or operator has notified the District at least 30 days prior to any exceedance that s/he will submit an application for a Part 70 permit, or otherwise obtain federally-enforceable permit limits, and

2) A complete Part 70 permit application is received by the District, or the permit action to otherwise obtain federally-enforceable limits is completed, within 12 months of the date of notification.

However, the stationary source may be immediately subject to applicable federal requirements, including but not limited to, a maximum achievable control technology (MACT) standard.

b. Any stationary source that has applied for a Part 70 permit in a timely manner and in conformance with Regulation XIII, and is awaiting final action by the District and USEPA.

c. Any stationary source required to obtain an operating permit under Regulation XIII for any reason other than being a major source.

d. Any stationary source with a valid Part 70 permit.

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

2. Stationary Source with a Limitation on Potential to Emit:

This rule shall not apply to any stationary source which has a valid operating permit with federally-enforceable conditions or other federally-enforceable limits limiting its potential to emit to below the applicable threshold(s) for major sources of regulated air pollutants and hazardous air pollutants as defined in Section C (Definitions) below.

C. Definitions

All terms shall retain the definitions provided under 40 CFR Part 70.2 in effect August 2, 2010 or District Rule 1301, Part 70 Operating Permits - General Information, as applicable, unless otherwise defined herein.

"**12-month period**" means a period of twelve consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.

"**Actual Emissions**" means the emissions of a regulated air pollutant from a stationary source for every 12-month period. Valid continuous emission monitoring data or source test data shall be preferentially used to determine actual emissions. In the absence of valid continuous emissions monitoring data or source test data, the basis for determining actual emissions shall be: throughputs of process materials; throughputs of materials stored; usage of materials; data provided in manufacturer's product specifications, material volatile organic compound (VOC) content reports or laboratory analyses; other information required by this rule and applicable District, State and Federal regulations; or information requested in writing by the District. All calculations of actual emissions shall use USEPA, California Air Resources Board (CARB) or District approved methods, including emission factors and assumptions.

"**Alternative Operational Limit**" means a limit on a measurable parameter, such as hours of operation, throughput of materials, use of materials, or quantity of product, as specified in Section G, Alternative Operational Limit and Requirements.

"**Emission Unit**" means any article, machine, equipment, operation, contrivance or related groupings of such that may produce and/or emit any regulated air pollutant or hazardous air pollutant.

"**Federal Clean Air Act**" means the federal Clean Air Act (CAA) as amended in 1990 (42 U.S.C. Section 7401 et seq.) and its implementing regulations.

"**Hazardous Air Pollutant**" means any air pollutant listed pursuant to Section 112(b) of the federal Clean Air Act.

"**Major Source of Regulated Air Pollutants (excluding hazardous air pollutants)**" means any stationary source:

a. that emits or has the potential to emit a regulated air pollutant (excluding hazardous air pollutants) in quantities equal to or exceeding any of the following thresholds:

   1) one hundred tons per year of any pollutant, except greenhouse gases.
   2) greenhouse gases that are "subject to regulation" as defined in 40 CFR 70.2 in effect August 2, 2010.
   3) any lesser quantity thresholds established by Environmental Protection Agency rulemaking.

b. defined by the Environmental Protection Agency as major for the District under Title I, Part D (Plans for Nonattainment Areas) of the Clean Air Act and its implementing regulations including:

   1) For ozone nonattainment areas, stationary sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme."

Fugitive emissions of these pollutants shall be considered in calculating total emissions for stationary sources in accordance with 40 CFR Part 70.2 "Definitions- Major source(2)" in effect August 2, 2010.

"**Major Source of Hazardous Air Pollutants**" means a stationary source that emits or has the potential to emit 10 tons per year or more of a single hazardous air pollutant listed in Section 112(b) of the CAA, 25 tons per year or more of any combination of hazardous air pollutants, or such lesser quantity as the USEPA may establish by rule. Fugitive emissions of hazardous air pollutants shall be considered in calculating emissions for all stationary sources. The definition of a major source of radionuclides shall be specified by rule by the USEPA.

"**Part 70 Permit**" means an operating permit issued to a stationary source pursuant to an interim, partial, or final Title V program approved by the USEPA.

"**Potential to Emit**" means the maximum capacity of a stationary source to emit a regulated air pollutant based on its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation is federally enforceable.

"**Process Statement**" means an annual report on permitted emission units from an owner or operator of a stationary source certifying under penalty of perjury the following: throughputs of process materials; throughputs of materials stored; usage of materials; fuel usage; any available continuous emissions monitoring data; hours of operation; and any other information required by this rule or requested in writing by the District.

"**Regulated Air Pollutant**" means any air pollutant (a) which is emitted into or~~and~~ otherwise enters the ambient air, as defined in 40 CFR 50.1 in effect August 2, 2010, and (b) for which the Environmental

Protection Agency has adopted an emission limit, standard or other requirement. Regulated air pollutants include:

a. Oxides of nitrogen and volatile organic compounds. (as defined in 40 CFR 51.166 in effect August 2, 2010);

b. Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the Clean Air Act and its implementing regulations;

c. Any pollutant subject to any standard promulgated under Section 111 (New Source Performance Standards) of the Clean Air Act and its implementing regulations.

d. Any ozone-depleting substance specified as class I or II substance pursuant to Title VI of the Clean Air Act and its implementing regulations; and

e. Any pollutant subject to a standard promulgated under Section 112 (Hazardous Air Pollutants) of the Clean Air Act and its implementing regulations, including:

1) Any pollutant listed pursuant to Section 112(r) of the Clean Air Act shall be considered a regulated air pollutant upon promulgation of the list.

2) Any hazardous air pollutant subject to a standard or other requirement promulgated by the Environmental Protection Agency pursuant to Section 112(d) of the Clean Air Act or adopted by the District pursuant to 112(g) and (j) of the Clean Air Act shall be considered a regulated air pollutant for all sources or source categories: (i) upon promulgation of the standard or requirement, or (ii) 18 months after the standard or requirement was scheduled to be promulgated pursuant to Section 112(e)(3) of the Clean Air Act.

3) Any hazardous air pollutant subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the Environmental Protection Agency promulgation or scheduled promulgation of an emissions limitation, shall be considered a regulated air pollutant when the determination is made pursuant to Section 112(g)(2) of the Clean Air Act. In case-by-case emissions limitation determinations, the hazardous air pollutant shall be considered a regulated air pollutant only for the individual source for which the emissions limitation determination was made.

f. Greenhouse gases that are "subject to regulation" as defined in 40 CFR 70.2 in effect August 2, 2010.

D. Emission Limitations

1. Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in Section G.1 below, no stationary source subject to this rule shall emit in every 12-month period more than the following quantities of emissions:

a. 50 percent of the major source thresholds for regulated air pollutants (excluding hazardous air pollutants),

b. 5 tons per year of a single hazardous air pollutant,

c. 12.5 tons per year of any combination of hazardous air pollutants, and

d. 50 percent of any lesser threshold for a single hazardous air pollutant as the USEPA may establish by rule.

2. The ~~Air Pollution~~ Control Officer shall evaluate a stationary source's compliance with the emission limitations in Section D.1 above annually. In performing the evaluation, the ~~Air Pollution~~ Control Officer shall consider any annual process statement submitted pursuant to Section F, Reporting Requirements. In the absence of valid continuous emission monitoring data or source test data, actual emissions shall be calculated using emissions factors approved by the USEPA, the California Air Resources Board, or the ~~Air Pollution~~ Control Officer.

3. Unless the owner or operator has chosen to operate the stationary source under an alternative operational limit specified in Section G.1 below, the owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in actual emissions that exceed the limits specified in Section D.1 above.

E. Recordkeeping Requirements

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

1. A stationary source previously covered by the provisions in Section A.2 above shall comply with the applicable provisions of Section E above and Sections F and G below if the stationary source exceeds the quantities specified in Section A.2.a above.

2. The owner or operator of a stationary source subject to this rule shall keep and maintain records for each permitted emission unit or groups of permitted emission units sufficient to determine actual emissions. Such information shall be summarized in a monthly log, maintained on site for five years, and be made available to District, the California Air Resources Board, or USEPA staff upon request.

   a. Coating/Solvent Emission Unit
   The owner or operator of a stationary source subject to this rule that contains a coating/solvent emission unit or uses a coating, solvent, ink or adhesive shall keep and maintain the following records:

      1) A current list of all coatings, solvents, inks and adhesives in use. This list shall include: information on the manufacturer, brand, product name or code, VOC content in grams per liter or pounds per gallon, hazardous air pollutants content in grams per liter or pounds per gallon, or manufacturer's product specifications, material VOC content reports or laboratory analyses providing this information;
      2) A description of any equipment used during and after coating/solvent application, including type, make and model; maximum design process rate or throughput; control device(s) type and description (if any); and a description of the coating/solvent application/drying method(s) employed;
      3) A monthly log of the consumption of each solvent (including solvents used in clean-up and surface preparation), coating, ink and adhesive used; and
      4) All purchase orders, invoices, and other documents to support information in the monthly log.

   b. Organic Liquid Storage Unit
   The owner or operator of a stationary source subject to this rule that contains a permitted organic liquid storage unit shall keep and maintain the following records:

1) A monthly log identifying the liquid stored and monthly throughput; and
2) Information on the tank design and specifications including control equipment.

c. Combustion Emission Unit
The owner or operator of a stationary source subject to this rule that contains a combustion emission unit shall keep and maintain the following records:

1) Information on equipment type, make and model, maximum design process rate or maximum power input/output, minimum operating temperature (for thermal oxidizers) and capacity, control device(s) type and description (if any) and all source test information; and
2) A monthly log of hours of operation, fuel type, fuel usage, fuel heating value (for non-fossil fuels; in terms of Btu/lb or Btu/gal), percent sulfur for fuel oil and coal, and percent nitrogen for coal.

d. Emission Control Unit
The owner or operator of a stationary source subject to this rule that contains an emission control unit shall keep and maintain the following records:

1) Information on equipment type and description, make and model, and emission units served by the control unit;
2) Information on equipment design including where applicable: pollutant(s) controlled; control effectiveness; maximum design or rated capacity; inlet and outlet temperatures, and concentrations for each pollutant controlled; catalyst data (type, material, life, volume, space velocity, ammonia injection rate and temperature); baghouse data (design, cleaning method, fabric material, flow rate, air/cloth ratio); electrostatic precipitator data (number of fields, cleaning method, and power input); scrubber data (type, design, sorbent type, pressure drop); other design data as appropriate; all source test information; and
3) A monthly log of hours of operation including notation of any control equipment breakdowns, upsets, repairs, maintenance and any other deviations from design parameters.

e. General Emission Unit
The owner or operator of a stationary source subject to this rule that contains an emission unit not included in Subsections a, b, or c above shall keep and maintain the following records:

1) Information on the process and equipment including the following: equipment type, description, make and model; maximum design process rate or throughput; control device(s) type and description (if any);
2) Any additional information requested in writing by the ~~Air Pollution~~ Control Officer;
3) A monthly log of operating hours, each raw material used and its amount, each product produced and its production rate; and
4) Purchase orders, invoices, and other documents to support information in the monthly log.

F. Reporting Requirements

1. By March 1 every year, ~~At the time of annual renewal of a permit to operate under Regulation II (Permits),~~ each owner or operator of a stationary source subject to this rule shall submit to the District a process statement. The statement shall be signed by the owner or operator and certify that the information provided is accurate and true.

2. For the purpose of determining compliance with this rule, this requirement shall not apply to stationary sources which emit in every 12-month period less than or equal to the following quantities:

   a. For any regulated air pollutant (excluding hazardous air pollutants), 25 tons per year including a regulated air pollutant,

   b. 2.5 tons per year of a single hazardous air pollutant,

   c. 6.25 tons per year of any combination of hazardous air pollutants, and

   d. 25 percent of any lesser threshold for a single hazardous air pollutant as the USEPA may establish by rule.

3. A stationary source previously covered by provisions in Section F.2 above shall comply with the provisions of Section F.1 above if the stationary source exceeds the quantities specified in Section F.2.

4. Any additional information requested by the ~~Air Pollution~~ Control Officer under Section F.1 above shall be submitted to the ~~Air Pollution~~ Control Officer within 30 days of the date of request.

G. Alternative Operational Limit and Requirements

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

1. Upon choosing to operate a stationary source subject to this rule under any one alternative operational limit, the owner or operator shall operate the stationary source in compliance with the alternative operational limit and comply with the specified recordkeeping and reporting requirements.

   a. The owner or operator shall report within 24 hours to the ~~Air Pollution~~ Control Officer any exceedance of the alternative operational limit.

   b. The owner or operator shall maintain all purchase orders, invoices, and other documents to support information required to be maintained in a monthly log. Records required under this section shall be maintained on site for five years and be made available to District or USEPA staff upon request.

   c. Gasoline Dispensing Facility Equipment with Phase I and II Vapor Recovery Systems

      The owner or operator shall operate the gasoline dispensing equipment in compliance with the following requirements:

      1) No more than 7,000,000 gallons of gasoline shall be dispensed in every 12-month period.
      2) A monthly log of gallons of gasoline dispensed in the preceding month with a monthly calculation of the total gallons dispensed in the previous 12 months shall be kept on site.
      3) A copy of the monthly log shall be submitted to the ~~Air Pollution~~ Control Officer with the annual report specified in Section F.1~~at the time of annual permit renewal~~. The owner or operator shall certify that the log is accurate and true.

d. Degreasing or Solvent-Using Unit

The owner or operator shall operate the degreasing or solvent-using unit(s) in compliance with the following requirements:

1) (a) If the solvents do not include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 5,400 gallons of any combination of solvent-containing materials and no more than 2,200 gallons of any one solvent-containing material shall be used in every 12-month period, or.

(b) If the solvents include methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, no more than 2,900 gallons of any combination of solvent-containing materials and no more than 1,200 gallons of any one solvent-containing material shall be used in every 12-month period.

2) A monthly log of amount and type of solvent used in the preceding month with a monthly calculation of the total gallons used in the previous 12 months shall be kept on site.

3) A copy of the monthly log shall be submitted to the Air Pollution Control Officer with the annual report specified in Section F.1at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

e. Paint Spraying Unit

The owner or operator shall operate the paint spraying unit(s) in compliance with the following requirements:

1) (a) The total usage rate of all volatile organic compound-containing materials at the paint spray units shall not exceed 19,200 gallons in every 12-month period, with no more than 1,920 gallons of volatile organic compound-containing materials that also contain any hazardous air pollutant in every 12-month period.

(b) The volatile organic compound/solvent content of the material used at a paint spray unit(s) shall not exceed 1000 gms solvent per liter of coating, as applied, less water and exempt compounds.

2) A monthly log of the gallons of VOC-containing materials used in the preceding month with a monthly calculation of the gallons of volatile organic compound-containing materials that also contain hazardous air pollutants used in the previous 12 months, and of the total gallons of volatile organic compound-containing materials used in the previous 12 months, shall be kept on site.

3) A copy of the monthly log shall be submitted to the Air Pollution Control Officer with the annual report specified in Section F.1at the time of annual permit renewal. The owner or operator shall certify that the log is accurate and true.

f. Diesel-Fueled Emergency Standby Engine(s) with Output Less Than 1,000 Brake Horsepower

The owner or operator shall operate the emergency standby engine(s) in compliance with the following requirements:

1) For a federal ozone area designation of attainment, unclassified, transitional, or moderate nonattainment, the emergency standby engine(s) shall not operate

more than 5,200 hours in every 12-month period and shall not use more than 265,000 gallons of diesel fuel in every 12-month period.

2) A monthly log of hours of operation, gallons of fuel used, and a monthly calculation of the total hours operated and gallons of fuel used in the previous 12 months shall be kept on site.

3) A copy of the monthly log shall be submitted to the ~~Air Pollution~~ Control Officer with the annual report specified in Section F.1~~at the time of annual permit renewal~~. The owner or operator shall certify that the log is accurate and true.

2. The owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in an exceedance of an applicable operational limit specified in Section G.1 above.

H. Violations

1. Failure to comply with any of the applicable provisions of this rule shall constitute a violation of this rule. Each day during which a violation of this rule occurs is a separate offense.

2. A stationary source subject to this rule shall be subject to applicable federal requirements for a major source, including Regulation XIII (Part 70 Operating Permit Program~~District Title V rules~~) when the conditions specified in either Subsections a~~.~~ or b~~.~~ below, occur:

   a. Commencing on the first day following every 12-month period in which the stationary source exceeds a limit specified in Section D.1 above and any applicable alternative operational limit specified in Section G.1, above, or

   b. Commencing on the first day following every 12-month period in which the owner or operator can not demonstrate that the stationary source is in compliance with the limits in Section D.1 above or any applicable alternative operational limit specified in Section G.1 above.

I. Applicability Review

The owner or operator of a stationary source may request the District ~~(Attn: Engineering Manager)~~ to review the applicability of this rule to the source. Such request shall be submitted with appropriate support materials, as follows:

1. Sources subject to Section D (Emission Limitations) will submit appropriate information providing data for "actual emissions" from the source, as specified in Section C of this rule. All work performed by the Air Pollution Control District staff to process such a request shall be cost-reimbursable and subject to ~~the provisions of the Air Pollution Control District~~ Rule 210, Fees~~.I.C~~.

2. Sources subject to Section G (Alternative Operational Limit and Requirements) will submit information providing data on "operational parameters" appropriate for the source as listed in Section E of this rule. All work performed by the Air Pollution Control District staff to process such a request shall be cost-reimbursable and subject to Rule 210, Fees.~~A fee for work performed by the Air Pollution Control District staff to process such request shall be charged to the source, based on the provisions listed in the Air Pollution Control District Rule 210.II.B.~~

~~**J. Effective Date of Rule**~~

~~This Rule becomes effective on the date of its adoption by the District Board.~~

RULE 502. FILING PETITIONS

(Adopted 10/18/1971, readopted 10/23/1978, revised 5/7/1991, xx/xx/xxxx)

Requests for hearing shall be initiated by the filing of a complete petition~~, in triplicate,~~ with the Clerk of the Hearing Board ~~at Santa Barbara, California, or elsewhere as designated by the Control Officer~~, and the payment of the filing fee provided for in Rule 210.~~, Schedule F. Fees, content and form of petitions shall be complete upon application.~~ Service of a copy of the petition shall be made ~~on~~to the Control Officer ~~at Santa Barbara, California,~~ and ~~on~~to the holder of the permit or variance, if any~~,~~ involved. Service may be made in person or by mail~~,~~ and may be proved by written acknowledgement of the person served or by the affidavit of the person making the service.

RULE 806. EMISSION REDUCTION CREDITS
(Adopted 4/17/1997, revised 8/25/2016, xx/xx/xxxx)

A. Applicability

This rule shall apply to any person seeking to register emission reductions of affected pollutants as Emission Reduction Credits for use as offsets pursuant to Rule 804, Offsets.

B. Exemptions

None.

C. Definitions

See Rules 102, Definitions, and Rule 801, New Source Review – Definitions and General Requirements, for definitions.

D. Requirements – Eligibility of Emission Reductions

1. Emission Reduction Credits shall be allowed for actual emission reductions which have been demonstrated to the satisfaction of the Control Officer to be real, surplus, permanent, quantifiable, and enforceable and which meet the requirements of these Rules and Regulations.

2. Emission reductions shall meet all requirements specified in Rule 804.D for sources which provide emission offsets and all requirements of this rule to be eligible for registration as offsets. Emission Reduction Credits shall not be allowed for emission reductions occurring in another district or for Outer Continental Shelf Sources for which the District is not the corresponding onshore area.

3. Emission reductions which occur prior to the Control Officer's determination that the application for the Emission Reduction Credit is complete shall not be eligible as Emission Reduction Credits.

4. Emission reductions for Toxic Air Contaminants shall be eligible for Emission Reduction Credits only as the appropriate criteria pollutant.

5. Emission Reduction Credits shall be subject to all requirements of the Environmental Protection Agency prior to use.

6. Withdrawal of an application by an applicant shall result in the cancellation of the application. Any resubmittal shall be evaluated using a baseline calculated as of the date of application completeness.

7. **Department of Defense Credits:** Emission reduction credits recognized though a memorandum of agreement between the Board and the Department of Defense shall be registered pursuant to this rule in order to be used as Emission Reduction Credits.

    a. The applicant shall be subject to and comply with the requirements of Section F (Application Procedures), G (Source Register), H.1 (Certificates), J (Use), K (Moratoriums) and L (Fees) of this rule. The applicant shall file an application to register such Emission Reduction Credits pursuant to Section F.1 within 90 days after the date of adoption of this rule.

    b. Notwithstanding any other provisions of these Rules, Emission Reduction Credits held by the Department of Defense that were created pursuant to a memorandum of agreement between the Board and the Department of Defense shall:

1) Be used solely for a single stationary source whose activities have a standard industrial classification code for national defense or space research and technology;

2) Not be transferable;

3) Not be subject to Reasonably Available Control Technology discounting upon use; and

4) After use, may be re-registered for the full original value~~,~~ as Emission Reduction Credits pursuant to Section G and be used in accordance with this rule.

E. Requirements – Emission Reduction Discounts

Emission reductions that result from a shutdown or a reduction in throughput shall be discounted by the greater of the following:

1. The amount of the emission reductions that could be controlled by the application of ~~the b~~Best ~~a~~Available ~~e~~Control ~~t~~Technology ~~applicable~~ on the date the application to register emission reduction credits is deemed complete if:

   a. The actual emission reductions are greater than 25 pounds per day, and

   b. There is no reasonably available control technology for the emission unit.

2. Twenty (20) percent.

F. Requirements – Emission Reduction Credit Application Procedures

1. **Application Form and Completeness:** The Application Form and Completeness procedures of Rule 208, Action on Applications – Time Limits, shall apply to the submission of applications for Emission Reduction Credits. An application to register new~~for an~~ Emission Reduction Credits shall include a filing fee as specified in Rule 210, Fees. ~~an application for an Authority to Construct or to cancel or revise the Permit to Operate for the source providing the emission reduction. For purposes of processing, the application for the Emission Reduction Credit and the application for the modification to the Authority to Construct or cancellation or revision of the Permit to Operate shall be considered one application.~~

2. **Source Tests:** The Control Officer may require source test results, continuous emission monitoring, production records, fuel use records and any other information necessary to evaluate an application. All source testing shall be conducted in accordance with District-approved protocols.

3. **Preliminary Decision:** After an application has been deemed complete, the Control Officer shall analyze the application based on applicable federal, state, and local control strategies and the requirements of these Rules and Regulations. Such analysis shall be completed within 120 days after a determination that the application is complete.

4. **Publication and Public Comment:** Within 10 days of any preliminary decision pursuant to F.3, above, which proposes to allow the registration of emissions which exceed the emission reduction thresholds specified in Table 1, below, the Control Officer shall publish in at least one newspaper of general circulation throughout the District a public notice stating the preliminary decision of the Control Officer, noting how pertinent information can be obtained, and inviting written public comment for a 30-day period following the date of publication. The notice shall identify the applicant and the quantity of emission reductions requested as Emission Reduction Credits.

Table 1: Public Notice Thresholds for Emission Reduction Credit Approvals

Pollutant	Proposed Emission Reduction Credit (Tons per Year)
PM_{10}	15
Carbon Monoxide	25
All Nonattainment pollutants (except CO and PM_{10})	10
All Attainment pollutants (except CO and PM_{10})	20

5. **Decision**

Within 180 days after the applicant submits a complete application pursuant to F.1, above, and after considering all comments received pursuant to F.4, above, the Control Officer shall reach a decision and notify the applicant. If the Control Officer approves the application for Emission Reduction Credits, the Control Officer shall:

a. Approve a Decision of Issuance that approves the Eemission ~~r~~Reduction ~~c~~Credits subject to appropriate conditions;

b. Issue an Authority to Construct permit or, for sources which are providing emission reductions due to being shutdown, the Control Officer shall cancel the Permit to Operate; and

c. Publish a notice of that decision in accord with the provisions of F.4, above, if the amount of the approved Emission Reduction Credits exceed~~s~~ any threshold set forth in Table 1.

6. **Appeals**

a. The applicant may appeal the Control Officer's decision to the Hearing Board within 30 days after receipt of the Control Officer's decision.

b. Within 30 days of any decision to issue an Emission Reduction Credit, any aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in the action before the District, may request the Hearing Board to hold a public hearing to determine whether the Emission Reduction Credit application was properly issued.

c. Any appeal shall follow the procedures for filing petitions set forth in Regulation V, Hearing Board, and pay fees set forth in ~~Schedule F.12 of~~ Rule 210, Fees, that apply to appeals of permit decisions.

7. **Modification/Cancellation of Permit to Operate**

Prior to the issuance of any Certificate or entry in the Source Register of any Emission Reduction Credit, the applicant shall modify the Permit to Operate or, for emission reduction due to shutdowns, the Permit to Operate shall be cancelled or revised, for the source providing the emission reduction.

G. Requirements – Source Register

Upon the Control Officer's determination to approve an Emission Reduction Credit and the issuance or cancellation of the Permit to Operate for the source providing the emission reduction, the Control Officer shall register such Emission Reduction Credit in the Source Register. The Source Register shall provide the name of the owner(s), amount and type of pollutant qualified as Emission Reduction Credits, the date of registration, the location of the source supplying the emission reduction, and any other information deemed necessary by the Control Officer. The Emission Reduction Credits shall be registered until cancelled or nullified by operation of law.

H. Requirements – Emission Reduction Certificates

1. Upon registration in the Source Register, the Control Officer shall issue a Certificate evidencing all approved reductions of emissions of pollutants to the owner(s) ~~or owners~~ of the emissions source. Certificates evidencing ownership of approved reductions shall not constitute instruments, securities or any other form of property.

2. Emission Reduction Credits shall be valid for a period of 5 years from the date of registration. Such credits may be renewed if all requirements of these Rules and Regulations are met and an application for renewal is submitted to the District prior to expiration. The application shall be on a form approved by the Control Officer and shall be accompanied by a filing fee pursuant to ~~item 1 of Schedule F of~~ Rule 210, Fees. Failure to timely file an application for renewal may result in the termination of the Emission Reduction Credit.

I. Requirements – Transfers

1. Transfer of all or any portion of an Emission Reduction Credit shall be in writing and signed by the transferor in a form authorized by law. Involuntary transfers shall conform to the requirements of Health and Safety Code §~~section~~ 40711. The instrument shall be filed with the District within 30 days of signing and shall specify or be accompanied by the following:

   a. The amount and type of Emission Reduction Credits transferred;

   b. A copy of the current Emission Reduction Credit Certificate which is to be cancelled or modified and reissued by the District;

   c. An application on a form prescribed by the Control Officer requesting the issuance of a new Emission Reduction Credit Certificate; and

   d. The cost, in dollars per ton of each pollutant, paid for the purchase of the Emission Reduction Credit.

2. A filing fee as specified in ~~item 1 of Schedule F of~~ Rule 210, Fees, shall accompany any application to~~for~~ transfer an Emission Reduction Credit.

3. No transfer shall be effective until the required written notice, filing fee ~~for transfer~~, and all~~any other~~ delinquent fees due to the District are paid.

4. Upon filing a copy of the instrument of transfer, application and filing fee ~~for transfer~~, and all delinquent fees with the District, the transfer shall be complete and the title so transferred shall vest in the transferee. A new Certificate shall be issued to the transferee and the last previous original Certificate shall be cancelled or modified as necessary. The new Certificate and cancelled or modified Certificate shall be recorded in the Source Register.

J. Requirements – Use of Emission Reduction Credits

An Emission Reduction Credit may be used by the owner to provide offsets required by these Rules and Regulations to the extent allowed by state and federal law. An Emission Reduction Credit shall qualify as an offset upon surrender of the Certificate to the District subject to the requirements of these Rules and Regulations. Such Emission Reduction Credit shall be used in a manner consistent with the Certificate and in accordance with all other requirements of these Rules and Regulations at the time of use, including the applicable offset ratio.

K. Requirements – Moratorium on Registered Emission Reduction Credits

If the Control Officer determines that additional mandatory emission reductions will be necessary to attain an ambient air quality standard, the Control Officer may declare a full or partial moratorium on the use of emission reduction credits, after opportunity for public comment which complies with the notice requirements of Section F.4. Such a moratorium shall be lifted after the Control Officer determines that the District's air quality attainment plan demonstrates attainment of such standards.

L. Requirements – Fees

An application to register, renew, transfer, or return an Emission Reduction Credit shall include a filing fee as specified in Rule 210, Fees. Processing of applications to register new~~for~~ Emission Reduction Credits shall be subject to the Cost Reimbursement provisions of Rule 210, Fees. When an Emission Reduction Credit is reissued due to the destruction or loss of the original certificate, or when a portion of an Emission Reduction Credit is used for a project, the applicant shall be assessed a reissuance fee as specified in Rule 210, Fees.

RULE 1201. REGISTRATION OF AGRICULTURAL DIESEL ENGINES

(Adopted 8/16/2007, revised xx/xx/xxxx)

A. Applicability

~~Effective August 16, 2007, this~~This rule applies to ~~diesel engines used in agricultural operations, specifically to~~ stationary and portable diesel engines rated at 50 brake horsepower or greater that are used in agricultural operations.

B. Exemptions

The provisions of this rule shall not apply to the following equipment:

1. Agricultural wind machines.

2. Motor vehicles, as defined in the California Vehicle Code, Division 1, section 415.

3. Engines registered in the State Portable Equipment Registration Program that are not used as a stationary agricultural diesel engine.

4. Agricultural diesel engines subject to District permit. ~~In order to qualify for this exemption, the owner/operator of an engine installed prior to August 16, 2007 shall submit a permit application to modify the engine's operating permit to incorporate the requirements of the State Airborne Toxic Control Measure for Stationary Compression Ignition Engines by no later than March 1, 2008.~~

C. Definitions

See Rule 102 for definitions not limited to this rule. For the purposes of this rule, the following definitions shall apply:

~~1.~~ **"Agricultural operations"** means the growing and harvesting of crops or the raising of fowl or animals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution. Agricultural operations do not include activities involving the processing or distribution of crops or fowl.

~~2.~~ **"Agricultural wind machine"** means a stationary diesel engine-powered fan used exclusively in agricultural operations to provide protection to crops during cold weather by mixing warmer atmospheric air with the colder air surrounding a crop.

~~3.~~ **"Date of initial installation"** means the date on which an applicable engine is placed into service at a location in order to be operated for the first time since delivery from the manufacturer, distributor, or other source.

~~4.~~ **"Diesel engine"** means a compression ignition engine fueled by five (5) percent or more of either diesel fuel, California Air Resources Board diesel fuel, or jet fuel.

~~5.~~ **"Owner or operator"** means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation including, but not limited to, a government corporation.

~~6.~~ **"Rated brake horsepower"** means the published rated brake horsepower from any one of the following sources:

a. the manufacturer's sales and service literature;
b. the nameplate of the engine; or
c. if applicable, as shown in the application for certification of the engine.

For an engine installed on or after August 16, 2007, the owner or operator must reflect the engine's configuration on the date of initial installation. For other engines, the owner or operator must reflect the engine's configuration as of August 16, 2007.

~~7.~~ "**Remotely-located agricultural engine**" means a stationary diesel-fueled engine used in agriculture that is:

a. located in a federal ambient air quality area that is designated as unclassifiable or attainment all particulate matter and ozone national ambient air quality standards (title 40, Code of Federal Regulations, section 81.305 et seq.); and

b. located more than one-half mile from any residential area, school or hospital.

~~8.~~ "**Residential area**" means three or more permanent residences (i.e., homes) located anywhere outside the facility's property.

~~9.~~ **"Seasonal agricultural operation"** means an agricultural operation that remains in a single location for two years or more and that operates at that single location at least three months each year.

~~10.~~ **"Stationary agricultural diesel engine"** means a diesel engine used in agricultural operations that can perform its operation at one location, or remains in one location. An engine is stationary if any of the following are true:

a. The engine is attached to a foundation, or if not so attached, resides at the same agricultural operation for more than 12 consecutive months. A backup, standby or replacement engine, that replaces an engine at an agricultural operation and is intended to perform the same or similar function as the engine being replaced, shall be included in calculating the consecutive time period. The cumulative time of all engines, including the time between the removal of the original engine and installation of the replacement engine, shall counted toward the consecutive time determination; or

b. The engine is not attached to a foundation but is located at a seasonal agricultural operation for less than 12 consecutive months. The engine or its replacement must operate during the full annual operating period of the seasonal operation; or

c. The engine is moved from one location to another in an attempt to circumvent the 12 month residence time requirement ~~in Section C.10.a above~~. The period during which the engine is maintained at a storage facility shall be excluded from the time determination.

d. The engine is, or is designed to be carried or moved and serves the same primary function at a single agricultural operation as defined by the definition of "Installation" or "Building, Structure or Facility" found in Rule 102.

D. Requirements

1. The ~~owner or operator of an applicable engine shall register the engine by March 1, 2008. For those engines installed after August 16, 2007 the~~ owner or operator of an applicable engine shall register the engine within 90 days of initial installation. ~~Engines initially installed between January 1, 2005 and August 16, 2007 shall register within 90 days of August 16, 2007 or within 90 days of the effective date of the State Airborne Toxic Control Measure for Stationary Compression Ignition Engines set forth in section 93115, Title 17, CCR and as amended on April 10, 2007, whichever is earlier.~~

2. To register an engine, an owner or operator shall submit a completed registration form, any additional information requested by the Control Officer, and the applicable fee specified in Rule 210~~213~~.

3. The owner or operator of a~~n applicable~~ registered engine shall pay the applicable fee specified in Rule 210~~213 upon application and~~ annually thereafter. ~~Until March 1, 2008, the initial yearly registration fee shall cover the time period from application to March 1, 2009.~~ Annual registration fees ~~thereafter~~ shall cover the period from March 1st to the last day of February in the following year.

E. Registration Renewal

Any registration for any engine subject to this Rule shall be renewable annually upon payment of applicable fees and by updating the registration information that has changed since the last renewal. The registration shall be invalid if all applicable fees are not paid prior to March 1st of each applicable year and if the registration holder has been given a 30-day notice of delinquent fees.

F. South Central Coast Air Basin Reciprocity

An engine registered with the San Luis Obispo or Ventura County Air Pollution Control Districts will be considered registered with the Santa Barbara County Air Pollution Control District (SBCAPCD) if the following conditions are met:

1 The District where the engine is registered has equivalent registration requirements as SBCAPCD.

2. The registration fee at the District where the engine is registered is within 15% of the SBCAPCD fee.

3. The District where the engine is registered also allows engines registered in SBCAPCD to be considered registered in their District.

Registrations for engines operating under the exception for "Remotely-located Agricultural Engines" ~~as defined~~ in California Code of Regulations, Title 17, Section 93115 ~~of the California Health and Safety Code~~ are not valid for use at multiple locations unless written approval is obtained from the Control Officer in the county where the engine is proposed to be relocated; this includes relocation within the county where the engine is registered.