EL DORADO COUNTY AIR QUALITY MANAGEMENT DISTRICT

RULE 523-1 – FEDERAL NON-ATTAINMENT NEW SOURCE REVIEW

Requirements for New and Modified Major Sources in Federal Non-attainment Areas implementing the provisions of 40 CFR 51.165

(Adopted March 8, 2016, revised ~~(DATE REVISED)~~June 25, 2019)

1 APPLICABILITY PROCEDURES

1.1 PRECONSTRUCTION REVIEW REQUIREMENTS

(a) The preconstruction review requirements of this rule apply to the proposed construction of any new major stationary source or ~~any~~ major modification ~~located at an existing major stationary source~~in the District that is major for a nonattainment pollutant, if the stationary source or modification is ~~major for the regulated NSR pollutant for which~~ located anywhere in the ~~area it is to be located is~~ designated nonattainment~~, as listed in 40 CFR 81.305~~ area, except as provided in Section 9 of this rule~~. Note: the requirements of District Rule 523 are also applicable~~.

(b) Sources subject to this rule may also be subject to other District Rules and Regulations. For purposes of the implementation and enforcement of this rule, the provisions and requirements of this rule, including but not limited to the requirements for obtaining an Authority to Construct, application submittal and content, conditional approval, public participation, and granting an Authority to Construct, shall take precedence over any other such provisions and requirements in other District Rules and Regulations. To the extent that other District Rules or Regulations may affect the stringency or applicability of this rule, such other Rules and Regulations shall not apply for purposes of the implementation or enforcement of this rule.

1.2 AUTHORITY TO CONSTRUCT REQUIREMENT

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

1.3 EMISSION CALCULATION REQUIREMENTS TO DETERMINE NSR APPLICABILITY

1.3.1 New Major Stationary Sources

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

1.3.2 Major Modifications

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

(a) Except as otherwise provided in Section 1.4, a project is a major modification for a ~~regulated NSR~~nonattainment pollutant if it causes two types of emissions increases: a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions

increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(b) The procedure for calculating (before beginning actual construction) whether a significant emissions increase will occur depends upon the type of emissions units being added or modified as part of the project, according to paragraphs (c) through (e) of this S~~ubs~~ection. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source is contained in the definition of *Net Emissions Increase*. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(c) **Actual-to-Projected-Actual Applicability Test for Projects that Only Involve Existing Emissions Units.** A significant emissions increase of a ~~regulated NSR~~nonattainment pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.

(d) **Actual-to-Potential Test for Projects that Only Involve Construction of a New Emissions Unit(s).** A significant emissions increase of a ~~regulated NSR~~nonattainment pollutant is projected to occur if the sum of the difference between the ~~PTE~~potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.

(e) **Hybrid Test for Projects that Involve Multiple Types of Emissions Units.** A significant emissions increase of a ~~regulated NSR~~nonattainment pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (c) or (d) of this S~~ubs~~ection, as applicable, with respect to each emissions unit, equals or exceeds the significant amount for that pollutant.

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

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

1.5 PROJECTS ~~WHICH~~THAT RELY ON A PROJECTED ACTUAL EMISSIONS TEST

Except as otherwise provided in paragraph (g)(iii) of this Section, the provisions of this S~~ubs~~ection shall apply with respect to any ~~regulated NSR~~nonattainment pollutant that is emitted from projects at existing emissions units located at a major stationary source, other than a source with a PAL permit, ~~if~~when there is a reasonable possibility, within the ~~owner or operator has determined~~meaning of paragraph (g) of this Section, that ~~the~~a project that is not a part of a major modification~~, but has a projected emission~~ may result in a significant emissions increase of ~~at least 50% of the amount that is a "signficant emission increase," as defined in this rule;~~such pollutant, and the owner or operator elects to use the method specified in paragraphs (a)(i) through (a)(iv) of the definition of

Projected Actual Emissions to calculate ~~emission increases from the project~~projected actual emissions.

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

(i) A description of the project;

(ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (a)(iv) of the definition of *Projected Actual Emissions* and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(b) If the emissions unit is an existing emissions unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in paragraph (a) of this S~~ubs~~ection to the APCO. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the APCO concerning compliance with Rule 523-1 before beginning actual construction~~, except~~. However, such owner or operator may be subject to the requirements of District ~~Rule 501 General Permit Requirements~~Regulation II, Prohibitions or other applicable requirements.

(c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that are emitted by any emissions unit identified in paragraph (a)(ii) of this S~~ubs~~ection; and calculate and maintain a record of the annual emissions ~~(~~, in ~~tons per year (~~tpy~~)~~, on a calendar year basis~~)~~ for a period of five years following resumption of regular operations after the change, or for a period of ten years following resumption of regular operations after the change if the project increases the design capacity or potential to emit that regulated NSR pollutant at such emissions unit.

(d) If the emissions unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the APCO within sixty days after the end of each calendar year during which records must be generated under paragraph (c) of this S~~ubs~~ection, setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(e) If the emissions unit is an existing emissions unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the APCO if the annual emissions, in tpy, from the project identified in paragraph (a)(ii) of this S~~ubs~~ection exceed the baseline actual emissions by a significant amount for that regulated NSR pollutant, and if such emissions differ from the projected actual emissions (prior to exclusion of the amount of emissions specified under paragraph (a)(iv) of the definition of *Projected Actual Emissions*) as documented and maintained pursuant to paragraph (a)(iii) of this S~~ubs~~ection. Such report shall be

submitted to the APCO within sixty days after the end of such year. The report shall contain the following:

(i) The name, address, and telephone number of the major stationary source;

(ii) The annual emissions, as calculated pursuant to paragraph (c) of this S~~ubs~~ection; and

(iii) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

(f) The owner or operator of the source shall make the information required to be documented and maintained pursuant to this S~~ubs~~ection available for review upon a request for inspection by the APCO or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(g) A "reasonable possibility" under this S~~ubs~~ection occurs when the owner or operator calculates the project to result in either:

(i) A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase," as defined in this rule (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

(ii) A projected actual emissions increase that, added to the amount of emissions excluded under paragraph (a)(iv) of the definition of *Projected Actual Emissions*, sums to at least 50 percent of the amount that is a "significant emissions increase," as defined in this rule (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant.

(iii) For a project ~~for~~in which a reasonable possibility occurs only within the meaning of ~~Subsection 1.5~~paragraph (g)(ii), and not also within the meaning of ~~Subsection 1.5~~ (g)(i), the provisions of paragraphs (b) through (e) of this S~~ubs~~ection do not apply to the project.

1.6 SECONDARY EMISSIONS

Secondary emissions shall not be considered in determining whether a stationary source would qualify as a major stationary source. If a stationary source is subject to this rule on the basis of ~~the~~ direct emissions from the stationary source, the requirements of Section 4~~, but no other provisions of this rule,~~ must also be met for secondary emissions.

1.7 STATIONARY SOURCES

For purposes of this rule, the term stationary source does not refer to the source of emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in ~~s~~Section 216 of the Clean Air Act (42 U.S.C. §7550 Definitions).

1.8 ENVIRONMENTAL PROTECTION AGENCY DETERMINATION

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

2 DEFINITIONS

For the purposes of this rule, the definitions provided below apply to the terms used in this rule. In the event of any discrepancy between the definitions specified below, the definition in the Section that is listed first below shall control. ~~Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of this rule.~~

2.1 40 CFR 51.165(a)(1) AND GENERAL DEFINITIONS

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with this definition. This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Section 9. Instead, projected actual emissions and baseline actual emissions shall apply for those purposes.

(a) In general, actual emissions as of a particular date shall equal the average rate, in tpy, at which the emissions unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The APCO shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) The APCO may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(c) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the PTE of the unit on that date.

"Air Pollution Control Officer (APCO)" means the Air Pollution Control Officer of the Air ~~Pollution Control~~Quality Management District of El Dorado County.

"Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, hours of operation, or both) and the most stringent of the following:

(a) Any applicable standards set forth in these ~~Local District~~ Rules and Regulations and 40 CFR Parts 60, 61, or 63;

(b) Any applicable emission limitation in the ~~Local APCD~~District portion of the State SIP, including those with a future compliance date; or

(c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

"Baseline actual emissions" means the rate of emissions, in tpy, of a regulated NSR pollutant, as determined in accordance with paragraphs (a) through (d) of this definition.

(a) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tpy, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The APCO shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(i) The average rate shall include fugitive emissions, to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by section (a)(ii) of this definition.

(b) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tpy, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the APCO for a permit required under these ~~Local District~~ Rules and Regulations, whichever is earlier.

(i) The average rate shall include fugitive emissions to the extent quantifiable.

(ii) The average rate shall include emissions associated with startups, shutdowns, and malfunctions.

(iii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iv) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the ~~Local~~ District has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

(v) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(vi) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by sections (b)(iii) and (iv) of this definition.

(c) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's PTE.

(d) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (a) of this definition; for other existing emissions units, in accordance with the procedures contained in paragraph (b) of this definition; and for a new emissions unit, in accordance with the procedures contained in paragraph (c) of this definition.

"Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

"Best Available Control Technology (BACT)" means an emission limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or

major modification which the APCO , on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60, 61 or 63. If the APCO determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

"Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same two-digit code) as described in either the *Standard Industrial Classification* (SIC) *manual*, 1972, as amended by the 1977 Supplement or the *North American Industry Classification System* (NAICS) manual.

"Categorical stationary source" means any stationary source of air pollutants that belongs to one of the following categories of stationary sources:

Coal cleaning plants (with thermal dryers);
Kraft pulp mills;
Portland cement plants;
Primary zinc smelters;
Iron and steel mills;
Primary aluminum ore reduction plants;
Primary copper smelters;
Municipal incinerators capable of charging more than 250 tons of refuse per day;
Hydrofluoric, sulfuric, or nitric acid plants;
Petroleum refineries;
Lime plants;
Phosphate rock processing plants;
Coke oven batteries;
Sulfur recovery plants;
Carbon black plants (furnace process);
Primary lead smelters;
Fuel conversion plants;

Sintering plants;
Secondary metal production plants;
Chemical process plants-The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;
Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
Taconite ore processing plants;
Glass fiber processing plants;
Charcoal production plants;
Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input; and
Any other stationary source category, which as of August 7, 1980 is being regulated under Section 111 or 112 of the Act.

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

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

"*Clean coal technology*" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"*Clean Coal Technology Demonstration Project*" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of $2.5 billion for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The federal contribution for a qualifying project shall be at least twenty percent of the total cost of the demonstration project.

"Commence," as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits, including an Authority to Construct, and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source, to be completed within a reasonable time.

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

"Construction" means any physical change, or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit), that would result in a change in emissions.

"Continuous Emissions Monitoring System (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of this rule, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous Emissions Rate Monitoring System (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous Parameter Monitoring System (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of this rule, to monitor process and control device operational parameters and other information (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations) and to record average operational parameter value(s) on a continuous basis.

"District" means the El Dorado County Air Quality Management District.

"Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity, and more than 25 MW of electrical output, to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emission Reduction Credit (ERC)" means ~~R~~reductions of actual emissions from emissions units that are certified by a~~n~~ California air district in accordance with applicable district rules and ~~are~~ issued by the air district in the form of ERC certificates.

"Emissions Unit" means any part of a stationary source that emits or would have the potential to emit, any regulated NSR pollutant and includes an electric utility steam generating unit. For purposes of this rule, there are two types of emissions units as described in paragraphs (a) and (b) of this definition:

(a) A “new emissions unit” is any emissions unit which is (or will be) newly constructed and which has existed for less than two years from the date such emissions unit first operated. For the purposes of this definition, the date an emissions unit first operated shall not be extended by any shakedown period established pursuant to paragraph (f) of the definition of *Net Emissions Increase*.

(b) An “existing emissions unit” is any emissions unit that does not meet the requirements in paragraph (a) of this definition. A replacement unit is an existing emissions unit.

“Federally Enforceable” means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR parts 60, 61, and 63, requirements within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

“Federal Land Manager” means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

“Fugitive Emissions” means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

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

~~*“Local Permit Agency”* or *“reviewing authority”* means the State air pollution control agency, local agency, other State agency, Indian tribe, or other agency authorized by the Administrator to carry out a permit program under this rule.~~

“Lowest Achievable Emission Rate (LAER)” means, for any source, the more stringent rate of emissions based on the following:

(a) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed major stationary source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a major modification, means the LAER for the new or modified emissions units within the stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

For purposes of this definition only, the term "any State" means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and includes the Commonwealth of the Northern Mariana Islands.

"Major Modification" means any physical change in or change in the method of operation of, a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source.

(a) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.

(b) A physical change or change in the method of operation shall not include:

(i) Routine maintenance, repair, and replacement;

(ii) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(iii) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

(iv) Use of an alternative fuel at a steam generating unit, to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternative fuel or raw material by a stationary source which:

A. The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I; or

B. The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I.

(vi) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR part 51 subpart I;

(vii) Any change in ownership at a stationary source;

(viii) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

A. The State Implementation Plan for the State in which the project is located, and

B. Other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.

(c) This definition shall not apply with respect to a particular regulated NSR pollutant when the Major Stationary Source is complying with the requirements under Section 9 for a PAL for that regulated NSR pollutant. Instead, the definition of *PAL major modification* shall apply.

(d) The fugitive emissions of a major stationary source shall not be included in determining for any of the purposes of this rule, whether a particular physical change or change in the method of operation is a major modification, unless the source is a categorical stationary source.

"Major Stationary Source" means:

(a) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tpy or more of any regulated NSR pollutant or a precursor, except if a lower emission threshold listed below is applicable:

(i) For an area designated nonattainment for ozone, a source with the potential to emit VOC or NOx in the following amounts shall be considered a major stationary source:

A ≥100 tpy in areas classified as "marginal" or "moderate";

B ≥50 tpy in areas classified as "serious";

C ≥25 tpy in areas classified as "severe"; and

D ≥10 tpy in areas classified as "extreme."

(ii) For an area designated nonattainment for PM_{10} and classified as "serious," a major stationary source is a stationary source which emits, or has the potential to emit, 70 tpy or more of PM_{10}.

(iii) For an area designated nonattainment for $PM_{2.5}$ and classified as "serious," a major stationary source is a stationary source which emits, or has the potential to emit, 70 tpy or more of $PM_{2.5}$.

(iv) For an area designated nonattainment for CO and classified as "serious," a major stationary source is a stationary source which emits, or has the potential to emit, 50 tpy or more of CO, where stationary sources significantly contribute to ambient CO levels, as determined under regulations issued by EPA pursuant to the Act.

(b) Any physical change that would occur at a stationary source not qualifying as a major stationary source under paragraph (a) of this definition, if the change would constitute a major stationary source by itself under paragraph (a).

(c) A major stationary source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone.

(d) The fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the source is a categorical stationary source.

"Necessary preconstruction approvals or permits" means those permits or approvals required under air quality control laws and regulations that are part of the SIP or federal air quality control laws and regulations, including any permits issued pursuant to this rule.

"Net Emissions Increase" means, with respect to any regulated NSR pollutant emitted by a major stationary source, the following:

(a) The amount by which the sum of the following exceeds zero:

(i) The increase in emissions from a particular physical change, or change in the method of operation, at a stationary source as calculated pursuant to S~~ub~~section 1.3; and

(ii) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. For the purposes of this paragraph, baseline actual emissions for calculating increases and decreases shall be determined as provided in the definition of *Baseline Actual Emissions*, except that paragraphs (a)(iii) and (b)(v) of that definition shall not apply.

(b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(i) The date five years before construction on the particular change commences; and

(ii) The date that the increase from the particular change occurs.

(c) An increase or decrease in actual emissions is creditable only if it is contemporaneous and the APCO has not relied on it in issuing a permit for the source under this rule, or any other regulation approved by the Administrator pursuant to 40 CFR Part 51 Subpart I or 40 CFR Part 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(iii)The APCO has not relied on it in issuing any permit under any other regulations approved pursuant to 40 CFR Part 51, Subpart I, nor has the

District relied on it in demonstrating attainment or reasonable further progress; and

(iv) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown, or any new emissions unit that replaces an existing emissions unit and that requires shakedown, becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(g) Paragraph (~~b~~a) of the definition of *Actual Emissions* shall not apply for determining creditable increases and decreases or after a change.

"Nonattainment Major New Source Review (NSR) Program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the ~~Local~~ District portion of the California SIP, or a program that implements 40 CFR Part 51, Appendix S, Sections I through VI. Any permit issued under such a program is a major NSR permit.

~~*"Nonattainment pollutant"* means any pollutant and any precursors of such pollutants which have been designated "nonattainment" for the Local Air District as codified in 40 CFR 81.305.~~

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

"$PM_{2.5}$" means particulate matter with an aerodynamic diameter smaller than or equal to a nominal 2.5 microns. Gaseous emissions which condense to form $PM_{2.5}$ shall also be counted as $PM_{2.5}$.

"PM_{10}" means particulate matter with an aerodynamic diameter smaller than or equal to a nominal 10 microns. Gaseous emissions which condense to form PM_{10} shall also be counted as PM_{10}.

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

"Potential to Emit (PTE)" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the types or amounts of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the PTE of a stationary source.

"Predictive Emissions Monitoring System (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate on a continuous basis.

"Prevention of Significant Deterioration (PSD) Permit" means any permit that is issued under a major source preconstruction permit program that has been approved by the Administrator to implement the requirements of 40 CFR 51.166 or 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

"Project" means a physical change in, or change in the method of operation of, an existing stationary source.

"Projected Actual Emissions" means the maximum annual rate, in tpy, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the ten years following that date, if the project involves increasing the design capacity or PTE of any emissions unit for that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

(a) In determining the projected actual emissions (before beginning actual construction), the owner or operator of the major stationary source:

(i) Shall consider all relevant information, including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the county, state or federal regulatory authorities, and compliance plans under the SIP; and

(ii) Shall include fugitive emissions to the extent quantifiable; and

(iii) Shall include emissions associated with startups, shutdowns, and malfunctions; and

(iv) Shall exclude, only for calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

(v) In lieu of using the method set out in paragraphs (a)(i) through (a)(iv) of this definition, the owner or operator of the major stationary source may elect to use the emissions unit's PTE in tpy.

"Real" means, as it pertains to emission reductions, emissions that were actually emitted.

"Regulated NSR Pollutant" means:

(a) Any pollutant for which a National Ambient Air Quality Standard has been promulgated and any constituents or precursors identified by the Administrator provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(i) Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.

(ii) Sulfur dioxide, volatile organic compounds, ~~and~~ nitrogen oxides, and ammonia are precursors to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas.

~~(iii) Volatile organic compounds and ammonia are precursors to PM2.5 in all PM2.5 nonattainment areas.~~

(iii) Volatile organic compounds (VOCs), nitrogen oxides (NOx) and sulfur oxides (SOx) are precursors to PM_{10} in all PM_{10} nonattainment areas.

(b) $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. Such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in nonattainment major NSR permits. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to January 1, 2011 shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable SIP. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the SIP required condensable particulate matter to be included.

"Replacement Unit" means an emissions unit for which all the criteria listed in paragraphs (a) through (d) of this definition are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

(a) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(b) The emissions unit is identical to, or functionally equivalent to, the replaced emissions unit.

(c) The replacement does not alter the basic design parameters of the process unit.

(d) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Reviewing authority" means the Air Pollution Control Officer (APCO).

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

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

"Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

~~Carbon monoxide: 100 tpy~~
Nitrogen oxides: 40 tpy.
~~Sulfur dioxide: 40 tpy.~~
Ozone: 40 tpy of VOCs or nitrogen oxides in areas classified as "marginal" or "moderate"; ~~or~~
25 tpy of VOCs or nitrogen oxides in areas classified as "serious" or "severe"; or
0 tpy of VOCs or nitrogen oxides in areas classified as "extreme."
PM_{10}: 15 tpy.
$PM_{2.5}$: 10 tpy of direct $PM_{2.5}$emissions;
40 tpy of sulfur dioxide emissions;
40 tpy of nitrogen dioxide emissions;
40 tpy of volitle organic compound emissions; or
40 tpy of ammonia emissions.

~~Lead: 0.6 tpy~~

"Significant Emissions Increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

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

"State Implementation Plan (SIP)" means the State Implementation Plan approved or promulgated for the State of California under section 110 or 172 of the CAA.

"Surplus" means the amount of emission reductions that are, at the time of generation and at time of use of an Emissions Reduction Credit (ERC), not otherwise required by federal, state, or local law, not required by any legal settlement or consent decree, and not

relied upon to meet any requirement related to the California State Implementation Plan (SIP). However, emission reductions required by a state statute that provides that the subject emission reductions shall be considered surplus may be considered surplus for purposes of this Rule if those reductions meet all other applicable requirements. Examples of federal, state, and local laws, and of SIP-related requirements, include, but are not limited to, the following:

(a) The federally-approved California SIP;

(b) Other adopted state air quality laws and regulations not in the SIP, including but not limited to, any requirement, regulation, or measure that: (1) the ~~Local Air~~ District or the state has included on a legally-required and publicly-available list of measures that are scheduled for adoption by the ~~Local Air~~ District or the State in the future; or (2) is the subject of a public notice distributed by the District or the State regarding an intent to adopt such revision;

(c) Any other source- or source-category specific regulatory or permitting requirement, including, but not limited to, Reasonable Available Control Technology (RACT), New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Best Available Control Measures (BACM), Best Available Control Technology (BACT), and the Lowest Achievable Emission Rate (LAER); and

(d) Any regulation or supporting documentation that is required by the federal ~~Clean Air Act~~CAA but is not contained or referenced in 40 CFR Part 52, including but not limited to: assumptions used in attainment and maintenance demonstrations (including Reasonable Further Progress demonstrations and milestone demonstrations), including any proposed control measure identified as potentially contributing to an enforceable near-term emissions reduction commitment; assumptions used in conformity demonstrations; and assumptions used in emissions inventories.

"Temporary source" means ~~temporary~~ an emission source~~s~~ such as a pilot plant~~s~~ or a ~~,~~ ~~and~~ portable facility~~ies~~ which will be ~~terminated or~~ located outside the ~~Local Air District~~ nonattainment area after less than a cumulative total of 90 days of operation in any 12 continuous months.

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State Implementation Plan for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

~~*Volatile organic compounds (VOC)* is as defined in 40 CFR 51.100(s).~~

"Tons per year (tpy)" means annual emissions in tons.

2.2 ~~40~~ 40 CFR 51.100 DEFINITIONS

The definitions contained in 40 CFR 51.100 shall apply, and are hereby incorporated by reference.

2.3 40 CFR 51.301 DEFINITIONS

The definitions contained in 40 CFR 51.301 shall apply, and are hereby incorporated by reference.

3 APPLICATION REQUIREMENTS

3.1 APPLICATION SUBMITTAL

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

3.2 APPLICATION CONTENT

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

(a) Identification of the applicant, including contact information.

(b) Identification of address and location of the new or modified source.

~~(a)~~(c) An identification and description of all emission points, including information regarding all regulated NSR pollutants emitted by all emissions units included in the ~~project~~new source or modification.

~~(b)~~(d) A process description of all activities, including design capacity, which may generate emissions of regulated NSR pollutants in sufficient detail to establish the basis for the applicability of standards and fees.

~~(c)~~(e) A projected schedule for commencing construction and operation for all emissions units included in the ~~project~~new source or modification.

~~(d)~~(f) A projected operating schedule for each emissions unit included in the ~~project~~new source or modification.

~~(e)~~(g) A determination as to whether the ~~project~~new source or modification will result in any secondary emissions.

~~(f)~~(h) The emission rates of all regulated NSR pollutants, including fugitive and secondary emission rates, if applicable. The emission rates must be described in

~~tons per year~~tpy and for such shorter ~~-~~term rates as are necessary to establish compliance using the applicable standard reference test method or other methodology specified (i.e., grams/liter, ppmv or ppmw, lbs/MMBtu).

~~(g)~~(i) The calculations on which the emission rate information ~~are~~is based, including fuel specifications, if applicable and any other assumptions used in determining the emission rates (e.g., HHV, sulfur content of natural gas).

~~(h)~~(j) The calculations, pursuant to S~~ubs~~ection 1.3, used to determine applicability of this rule, including the emission calculations (increases or decreases) for each project that occurred during the contemporaneous period.

~~(i)~~(k) The calculations, pursuant to S~~ubs~~ection 4.3 (offset), used to determine the quantity of offsets required for the ~~proposed project~~new source or modification.

~~(j)~~(l) Identification of existing emission reduction credits or identification of internal emission reductions, including related emission calculations and proposed permit modifications required to ensure emission reductions meet the offset integrity criteria of being real, surplus, quantifiable, permanent and federally enforceable or enforceable as a practical matter.

~~(k)~~(m) If applicable, a description of how performance testing will be conducted, including test methods and a general description of testing protocols.

3.3 LOWEST ACHIEVABLE EMISSION RATE (LAER)

The applicant shall submit an analysis demonstrating that ~~the Lowest Acheivable Emission Rate (~~LAER~~)~~ has been proposed for each emission~~s~~ unit included in the ~~project which~~new major stationary source or major modification that emits a ~~NSR regulated~~ nonattainment pollutant for which the ~~area the project~~new stationary source or modification is ~~to be located in has been~~ classified as ~~nonattainment by EPA and for which the new stationary source or modificaiton is classified as major.~~ major.

3.4 STATEWIDE COMPLIANCE

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

3.5 ANALYSIS OF ALTERNATIVES

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

3.6 SOURCES IMPACTING CLASS I AREAS

The applicant ~~of~~for a proposed new major source or major modification that may affect visibility of ~~a~~any Mandatory Class I Federal Area shall provide the APCO with an analysis of impairment to visibility that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the ~~project~~source or modfication, as required by 40 CFR Section 51.307(b)(2~~) and 40 CFR Section 51.166(o~~).

3.7 APPLICATION FEES

The applicant shall pay the applicable fees specified in District ~~Rule~~ Regulation VI~~601 Stationary Source~~ FEES.

4 EMISSIONS OFFSETS

4.1 OFFSET REQUIREMENTS

(a) ~~Pollutant-specific emissions~~The emission increases of a nonattainment pollutant for which the new stationary source or modification is classified as major, shall be offset with federally enforceable ERCs or with internal emission reductions.

(b) ERCs from one or more sources may be used, alone or in combination with internal emission reductions, in order to satisfy offset requirements.

(c) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours may only be credited for offsets if such reductions are surplus, permanent, quantifiable, and federally enforceable; and

(d) The shutdown or curtailment occurred after the last day of the base year for the attainment plan for the specific pollutant; or

(e) The projected emissions inventory used to develop the attainment plan explicitly includes the emissions from such previously shutdown or curtailed emissions units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

4.2 TIMING

(a) Internal emission reductions used to satisfy an offset requirement must be federally enforceable prior to the issuance of the Authority to Construct, which relies on the emission reductions.

(b) Except as provided by paragraph (c) of this S~~ubs~~ection, the decrease in actual emissions used to generate ERCs or internal emission reductions must occur ~~by~~ no later than the commencement of operation of the new or modified major stationary source.

(c) Where the new emissions unit is a replacement for an emissions unit that is being shut down in order to provide the necessary offsets, the APCO may allow up to one

hundred eighty (180) calendar days for shakedown or commissioning of the new emissions unit before the existing emissions unit is required to cease operation.

4.3 QUANTITY

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

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

(b) The quantity of ERCs or internal emission reductions required shall be calculated as the product of the amount of increased emissions, as determined in accordance with paragraph (c) of this S~~ubs~~ection, and the offset ratio, as determined in accordance with paragraph (d) of this S~~ubs~~ection.

(c) The amount of increased emissions shall be determined as follows:

(i) When the offset requirement is triggered by the construction of a new major stationary source, the amount of increased emissions shall be the sum of the ~~PTE~~potential to emit of all emissions units.

(ii) When the offset requirement is triggered by a major modification of an existing major stationary source, the amount of increased emissions shall be the sum of the differences between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.

(iii) The amount of increased emissions includes fugitive emissions ~~if the stationary source is one of the categorical sources~~.

(d) The ratios listed in Table 1 shall be applied based on the area's designation for each pollutant, as applicable. The offset ratio is expressed as a ratio of emissions increases to emission~~s~~ reductions.

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

Area Designation	Pollutant	Offset Ratio
Marginal Ozone Nonattainment Area	NO_X or VOC	1:1.1
Moderate Ozone Nonattainment Area	NO_X or VOC	1:1.15
Serious ~~or Severe~~ Ozone Nonattainment Area	NO_X or VOC	1:1.2
Severe Ozone Nonattainment Area	NO_X or VOC	1:1.3
PM_{10} Nonattainment Area	PM_{10}, SOx, or NOx	1:1
$PM_{2.5}$ Nonattainment Area	$PM_{2.5}$, SOx, NOx, ~~or~~ VOC, or Ammonia	1:1

4.4 EMISSION REDUCTION REQUIREMENTS

(a) Internal emission reductions or ERCs used to satisfy an offset requirement shall be:

(i) Real, surplus, permanent, quantifiable, and federally enforceable; and

(ii) Surplus at the time of issuance of the Authority to Construct containing the offset requirements.

(b) Permitted sources whose emission reductions are used to satisfy offset requirements must appropriately amend or cancel their Authority to Construct or Permit to Operate to reflect their newly reduced ~~PTE~~potential to emit, including practicably enforceable conditions to limit their ~~PTE~~potential to emit.

(c) Emission reductions must be obtained from the same nonattainment area, ~~except~~however, the APCO may allow emission reductions from another nonattainment area if the following conditions are met:

(i) The other area has an equal or higher nonattainment classification than the area in which the source is located; and

(ii) Emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located.

(d) The use of ERCs shall not provide:

(i) Authority for, or the recognition of, any pre-existing vested right to emit any regulated NSR pollutant;

(ii) Authority for, or the recognition of, any rights that would be contrary to applicable law; or

(iii) An exemption to a stationary source from any emission limitations established in accordance with federal, state, or county laws, rules, and regulations.

4.5 RESTRICTIONS ON TRADING POLLUTANTS

(a) The emission offsets obtained shall be for the same regulated NSR pollutant except as specified below.

~~(a)~~(b) For the purposes of satisfying the offset requirements for the ozone precursors NO_X and VOC, the APCO may approve interpollutant emission offsets for these precursor pollutants on a case by case basis, ~~except for $PM_{2.5}$, which is subject~~if all other requirements for such offsets are also satisfied. The permit applicant shall submit information to ~~paragraph (d)~~the reviewing authority, including the proposed ratio for the precursor substitution for ozone, a description of ~~this Subsection. In such cases,~~the air quality model(s) used, and the technical demonstration substantiating the equivalent or greater air quality benefit for ozone in the nonattainment area. The APCO shall impose, based on ~~an~~the air quality analysis, emission offset ratios in addition to the requirements of Table 1. ~~Interpollutant~~

~~emission offsets must receive written approval by the U.S. Environmental Protection Agency.~~

~~(b)~~(c) PM_{10} emissions shall not be allowed to offset Nitrogen Oxides or Volatile Organic Compound emissions in ozone nonattainment areas.

~~(c)~~(d) In no case, shall the compounds excluded from the definition of *Volatile Organic Compounds* be used as offsets for Volatile Organic Compounds.

~~(d)~~(e) Interpollutant offsets between $PM_{2.5}$ and $PM_{2.5}$ precursors are not allowed unless modeling has been used to demonstrate appropriate $PM_{2.5}$ interpollutant offset ratios as approved in a $PM_{2.5}$ Attainment Plan.

5 ADMINISTRATIVE REQUIREMENTS

5.1 VISIBILITY

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

5.2 AMBIENT AIR QUALITY STANDARDS

The APCO may require the use of an air quality model to estimate the effects of a new or modified stationary source. The analysis shall estimate the effects of the new or modified stationary source, and verify that the new or modified stationary source will not prevent or interfere with the attainment or maintenance of any ambient air quality standard. In making this determination, the APCO shall take into account the mitigation of emissions through offsets pursuant to this rule, and the impacts of transported pollutants on downwind pollutant concentrations. The APCO may impose, based on an air quality analysis, offset ratios greater than the requirements of paragraph (d) of S~~ubs~~ection 4.3.

5.3 AIR QUALITY MODELS

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

5.4 STACK HEIGHT PROCEDURES

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

(a) Before the ~~Control Officer~~APCO issues an Authority to Construct under this rule to a source with a stack height that exceeds good engineering practice (GEP) stack height, the ~~Control Officer~~ APCO shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing.

(b) Any field study or fluid model used to demonstrate GEP stack height and any determination concerning excessive concentration must be approved by the EPA and the ~~Control Officer~~APCO prior to any emission limit being established.

(c) The provisions of Section 5.4 do not restrict, in any manner, the actual stack height of any stationary source or facility.

6 AUTHORITY TO CONSTRUCT – DECISION

6.1 PRELIMINARY DECISION

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

6.2 AUTHORITY TO CONSTRUCT – PRELIMINARY DECISION REQUIREMENTS

(a) Prior to issuance of a preliminary written decision to issue an Authority to Construct for a new major stationary source or major modification, the APCO shall determine:

(i) That each emissions unit(s) that constitutes the ~~project~~new source or modification will not violate any applicable requirement of the District's portion of the California State Implementation Plan (SIP); and

(ii) That the emissions from the new or modified stationary source will not interfere with the attainment or maintenance of any applicable national ambient air quality standard; and

(iii) That the emission limit~~i~~ation for each emissions unit that constitutes the ~~project~~new source or modification specifies ~~the lowest achievable emission rate (~~LAER~~)~~ for such units~~, as LAER is defined in this rule~~.

If the APCO determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the APCO may instead prescribe a design, operational or equipment standard. In such cases, the APCO shall make its best estimate as to the emission rate that will be achieved and must specify that rate in the

application review documents. Any ~~permits~~Authority to Construct issued without an enforceable numerical emission standard must contain enforceable conditions which assure that the design characteristics or equipment will be properly maintained or that the operational conditions will be properly performed ~~so as~~ to continuously achieve the assumed degree of control. Such conditions shall be enforceable as emission limitations by private parties under section 304 of the ~~CAA.Clean Air Act~~CAA. The term "emission limitation" shall also include such design, operational, or equipment standards; and

(iv) The quantity of ERCs or internal emission reductions required to offset the ~~project~~new source or modification, pursuant to S~~ubs~~ection 4.3; and

(v) That all ERCs or internal emission reductions required for the ~~proposed project~~new source or modification have been identified and ~~that they~~ have been made federally enforceable or legally and practicably enforcable; and

(vi) That the quantity of ERCs or internal emission reductions determined under paragraph (b) of S~~ubs~~ection 4.3 will be surrendered prior to commencing operation.

(b) Temporary ~~emission~~ sources~~, such as pilot plants, portable facilities which will be relocated outside of the nonattainment area after a short period of time (not to exceed 12 months),~~ and emissions resulting from the construction phase of a new source~~,~~ are exempt from paragraphs (~~d),~~ (~~e~~iv), (v) and (~~f~~vi) of this Section.

6.3 AUTHORITY TO CONSTRUCT CONTENTS

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

(i) which ensure compliance with all applicable requirements and which are enforceable as a legal~~ly~~ and practica~~bl~~e matter.

(ii) sufficient to ensure that the major stationary source or major modification will achieve LAER in accordance with paragraphs (b) and (c) of this Section.

(b) A new major stationary source shall achieve LAER for each nonattainment pollutant for which ~~it would have the potential to emit at levels which equal or exceed the major~~the source ~~threshold for that nonattainment pollutant.~~ is classified as major.

(c) A major modification shall achieve LAER for each nonattainment pollutant for which ~~it~~the modification would result in a significant ~~emissions increase and significant~~ net emissions increase ~~at the stationary source~~. This requirement applies to each proposed emissions unit at which ~~the~~a net emissions increase in the nonattainment pollutant would occur as a result of a physical change, or change in the method of operation~~, in~~ of the emissions unit.

6.4 AUTHORITY TO CONSTRUCT – FINAL DECISION

(a) Prior to making a final decision to issue an Authority to Construct for a new major stationary source or major modification, the APCO shall consider all written comments that ~~we~~are submitted within 30 days ~~after the notice~~ of public ~~comment is published~~notification and all comments received at any public hearing(s) in making a final determination on the approvability of the application and the appropriate Authority to Construct conditions. The District shall make all comments available, including the District's response to the comments, for public inspection in the same locations where the District made ~~available~~ preconstruction information relating to the proposed source or modification available.

(b) The APCO shall deny any application for an Authority to Construct if she/he finds ~~that~~ the ~~project~~new source or modification would not comply with the standards and requirements set forth in District, state, or federal rules or regulations.

(c) The APCO shall make a final decision whether to issue or deny the Authority to Construct ~~proposed in the preliminary decision~~ after determining that the Authority to Construct will or will not ensure compliance with all applicable emission standards and requirements.

(d) The APCO shall notify the applicant in writing of the final decision and make such notification available for public inspection at the same location where the District made ~~available~~ preconstruction information and public comments relating to the source available.

6.5 PERMIT TO OPERATE

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

7 SOURCE OBLIGATIONS

7.1 ENFORCEMENT

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this rule, any changes to the application as required by the APCO, or ~~with~~ the terms of its Authority to Construct~~, Authority~~ or Permit to ~~Construct~~Operate, shall be subject to enforcement action.

7.2 TERMINATION

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

7.3 COMPLIANCE

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

7.4 RELAXATION IN ENFORCEABLE LIMITATIONS

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

8 PUBLIC PARTICIPATION

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

(a) Publish, in at least one newspaper of general circulation in the District, a notice stating the preliminary decision of the APCO, noting how pertinent information can be obtained, including how the public can access the information specified in Section 8(b), and inviting written public comment for a 30-day period following the date of publication. The notice shall include the time and place of any hearing that may be held, including a statement of procedure to request a hearing (unless a hearing has already been scheduled).

(b) No later than the date the notice of the preliminary written determination is published, make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials the applicant submitted, a copy of the preliminary decision, a copy of the proposed ~~permit~~Authority to Construct and a copy or summary of other materials, if any, considered in making the preliminary written decision.

(c) Send a copy of the notice of public comment to the applicant, EPA Region 9, any persons requesting such notice and any other interested parties such as: any other state or local air pollution control agencies, the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency, and any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the source or modification.

(d) Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the ~~APCO's~~APCO's judgment such a hearing is warranted. The APCO shall give notice of any public hearing at least 30 days in advance of the hearing.

9 ~~PLANTWIDE~~PLANT-WIDE APPLICABILITY LIMITS (PAL)

9.1 APPLICABILITY

(a) The APCO may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in ~~Subsection~~Sections 9.1 through 9.15. The term "PAL" shall mean "actuals PAL" throughout Section 9.

(b) Any physical change in, or change in the method of operation of, a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of ~~Subsection~~Sections 9.1 through 9.14, and complies with the PAL Permit:

(i) Is not a major modification for the PAL pollutant;

(ii) Does not have to be approved through the plan's Nonattainment Major NSR Program; and

(iii)Is not subject to the provisions in ~~Subsection~~Section 9.4.

(c) Except as provided under paragraph (b)(3) of ~~Subsection~~Section 9.1, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

9.2 DEFINITIONS

Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 9 of this rule. When a term is not defined in these paragraphs, it shall have the meaning given in Section 2 of this rule or in the ~~Clean Air Act~~CAA.

"Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the source that emit, or have the potential to emit, the PAL pollutant.

"Allowable emissions" means allowable emissions as defined in Section 2 of this rule, except as this definition is modified according to paragraphs (a) and (b) below:

(a) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's PTE.

(b) An emissions unit's PTE shall be determined using the definition in Section 2 for this term, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

"Major emissions unit" means:

(a) Any emissions unit that emits, or has the potential to emit, 100 tpy or more of the PAL pollutant in an attainment area; or

(b) Any emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas.

"Plantwide Applicability Limitation (PAL)" means an emission limitation, expressed in tpy, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with ~~Subsection~~Sections 9.1 through 9.15 of this rule.

"PAL effective date" generally means the date of issuance of the PAL Permit. The PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

"PAL effective period" means the period beginning with the PAL effective date and ending ten years later.

"PAL major modification" means any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

"PAL Permit" means the major NSR permit, the minor NSR permit, or the Title V permit issued by the APCO that establishes a PAL for a major stationary source.

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

"Project" means a physical change in, or change in the method of operation of, an existing stationary source.

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in Section 2 of this rule or in the ~~Clean Air Act~~CAA, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

"Small emissions unit" means an emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount less than the significant level (as defined in Section 2 of this rule or in the ~~Clean Air Act~~CAA, whichever is lower).

9.3 PERMIT APPLICATION REQUIREMENTS

As part of an application for a Part 70 Operating Permit requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the APCO for approval:

(a) A list of all emissions units at the source designated as small, significant, or major based on their PTE. In addition, the owner or operator of the source shall indicate which, if any, federal, state or county applicable requirements, emission limitations, or work practices apply to each unit;

(b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction;

(c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month, as required by paragraph (a) of ~~Subsection~~Section 9.13.

9.4 GENERAL REQUIREMENTS FOR ESTABLISHING PALS

(a) The APCO may establish a PAL at a major stationary source, provided that, at a minimum, the requirements in paragraphs (a)(i) through (a)(vii) below are met.

(i) The PAL shall impose an annual emission limitation, in tpy, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first twelve months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous twelve consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first eleven months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(ii) The PAL shall be established in a PAL Permit that meets the public participation requirements in ~~Subsection~~Section 9.5 of this rule.

(iii) The PAL Permit shall contain all the requirements of ~~Subsection~~Section 9.7 of this rule.

(iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(v) Each PAL shall regulate emissions of only one pollutant.

(vi) Each PAL shall have a PAL effective period of ten years.

(vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in ~~Subsection~~Sections 9.12 through 9.14 of this rule for each emissions unit under the PAL through the PAL effective period.

(b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of generating offsets unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

9.5 PUBLIC PARTICIPATION REQUIREMENTS FOR PALS

PALs for existing major stationary sources shall be established, renewed, or increased through the public participation procedures in Section 9 of this rule.

9.6 SETTING THE 10-YEAR ACTUALS PAL LEVEL

(a) Except as provided in paragraph (b) of this ~~Subsection~~Section, the Actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant as defined in Section 2 or under the ~~Clean Air Act~~CAA, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The APCO shall specify a reduced PAL level(s) (in tons/yr) in the PAL Permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the APCO is aware of prior to issuance of the permit.

(b) For newly constructed units (which does not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in paragraph (a) of ~~Subsection~~Section 9.6, the emissions must be added to the PAL level in an amount equal to the PTE of the units.

9.7 CONTENTS OF THE PAL PERMIT

The PAL permit shall contain, at a minimum, the following information:

(a) The PAL pollutant and the applicable source-wide emission limitation in tpy;

(b) The effective date and the expiration date of the PAL Permit (PAL effective period).

(c) Specification in the PAL permit that if a major stationary source owner or operator applies to renew the PAL conditions in accordance with ~~Subsection~~Section 9.10 before the end of the PAL effective period, then the PAL conditions shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL Permit is issued by the APCO.

(d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions;

(e) A requirement that, once the PAL Permit expires, the major stationary source is subject to the requirements of ~~Subsection~~Section 9.9;

(f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month, as required by paragraph (a) of ~~Subsection~~Section 9.13;

(g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under ~~Subsection~~Section 9.12;

(h) A requirement to retain the records required under ~~Subsection~~Section 9.13 on-site. Such records may be retained in an electronic format;

(i) A requirement to submit the reports required under ~~Subsection~~Section 9.14 by the required deadlines; and

(j) Any other requirements that the APCO deems necessary to implement and enforce the PAL Permit.

9.8 PAL Effective Period and Reopening of PAL Permit

The PAL shall include the following information:

(a) PAL Effective Period. The APCO shall specify a PAL effective period of ten years from the date of issuance.

(b) Reopening of the PAL Permit.

(i) During the PAL effective period, the plan shall require the APCO to reopen the PAL Permit to:

A. Correct typographical/calculation errors made in setting the PAL, or reflect a more accurate determination of emissions used to establish the PAL.

B. Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets.

C. Revise the PAL to reflect an increase in the PAL as provided under ~~Subsection~~Section 9.11.

(ii) The APCO may reopen the PAL Permit for the following:

A. Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.

B. Reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the APCO may impose on the major stationary source under District Rules.

C. Reduce the PAL if the APCO determines that a reduction is necessary to avoid causing or contributing to a National Ambient Air Quality Standard or PSD increment violation, or to an adverse impact on an air-quality-related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.

(iii) Except for the permit reopening in paragraph (b)(i)(A) of ~~Subsection~~Section 9.8 for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of ~~Subsection~~Section 9.5 of this rule.

9.9 EXPIRATION OF A PAL

Any PAL which is not renewed in accordance with the procedures in ~~Subsection~~Section 9.10 shall expire at the end of the PAL effective period, and the requirements in ~~Subsection~~Section 9.9 of this rule shall apply.

(a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following:

(i) Within the time frame specified for PAL renewals in paragraph (b) of ~~Subsection~~Section 9.10, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the APCO) by distributing the PAL allowable emissions for the affected major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (e) of ~~Subsection~~Section 9.10, such distribution shall be made as if the PAL had been adjusted.

(ii) The APCO will decide whether and how the PAL allowable emissions will be distributed and issue a revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the APCO determines is appropriate.

(b) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The APCO may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

(c) Until the APCO issues the revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (a)(ii) of ~~Subsection~~Section 9.9, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(d) Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of *Major Modification*.

(e) The major stationary source owner or operator shall continue to comply with any federal, state or county applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period except as provided in paragraph (b)(iii) of ~~Subsection~~Section 9.1.

9.10 RENEWAL OF A PAL

(a) The APCO will follow the procedures specified in ~~Subsection~~Section 9.5 in approving any request to renew a PAL Permit for a major stationary source, and will provide both the proposed PAL level and a written rationale for the proposed PAL

level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the APCO .

(b) Application deadline. A major stationary source owner or operator shall submit a timely application to the APCO to request renewal of the PAL Permit. A timely application is one that is submitted at least six months prior to, but not earlier than eighteen months prior to, the date of expiration of the PAL Permit. If the owner or operator of a major stationary source submits a complete application to renew the PAL Permit within this time period, then the PAL Pemit shall continue to be effective until the revised permit with the renewed PAL is issued.

(c) Application Requirements. The application to renew a PAL Permit shall contain the information required in paragraphs (c)(i) through (c)(iv) of ~~Subsection~~Section 9.10 of this rule:

(i) The information required in paragraphs (a) through (c) of ~~Subsection~~Section 9.3;

(ii) A proposed PAL level;

(iii) The sum of the PTE of all emissions units under the PAL (with supporting documentation); and

(iv) Any other information the owner or operator wishes the APCO to consider in determining the appropriate level for renewing the PAL Permit.

(d) PAL Adjustment. In determining whether and how to adjust the PAL, the APCO will consider the options outlined in paragraphs (d)(i) and (d)(ii) of ~~Subsection~~Section 9.10. However, in no case may any such adjustment fail to comply with paragraph (d)(iii) of ~~Subsection~~Section 9.10.

(i) If the emissions level calculated in accordance with ~~Subsection~~Section 9.~~5~~ 6 is equal to or greater than eighty (80) percent of the PAL level, the APCO may renew the PAL at the same level without considering the factors set forth in paragraph (d)(ii) of ~~Subsection~~Section 9.10; or

(ii) The APCO may set the PAL at a level that he determines to be more representative of the source's baseline actual emissions, or that he determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the APCO in his written rationale.

(iii) Notwithstanding paragraphs (d)(i) and (d)(ii) of ~~Subsection~~Section 9.10:

A. If the PTE of the major stationary source is less than the PAL, the APCO shall adjust the PAL to a level no greater than the PTE of the source; and

B. The APCO shall not approve renewed PAL level higher than the current PAL unless the major stationary source has complied with the provisions of ~~Subsection~~Section 9.11.

(e) If the compliance date for a federal or state requirement that applies to the PAL source occurs during the PAL effective period, and if the APCO has not already adjusted for such requirement, the PAL shall be adjusted at the time of the affected Part 70 Operating Permit is renewed.

9.11 INCREASING A PAL DURING THE PAL EFFECTIVE PERIOD

(a) The APCO may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (a)(i) through (a)(iv) of ~~Subsection~~Section 9.11.

(i) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(ii) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT-equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT-equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(iii) The owner or operator obtains an Authority to Construct for all emissions unit(s) identified in paragraph (a)(i) of ~~Subsection~~Section 9.11, regardless of the magnitude of the emissions increase resulting from them. These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment Authority to Construct issuance process, even though they have also become subject to the PAL or continue to be subject to the PAL.

(iv) The PAL Permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modificaiton becomes operational and begins to emit the PAL pollutant.

(b) The APCO shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls as determined in accordance with paragraph (a)(ii) of ~~Subsection~~Section 9.11), plus the sum of the baseline actual emissions of the small emissions units.

(c) The PAL Permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of ~~Subsection~~Section 9.5.

9.12 MONITORING REQUIREMENTS FOR PALS

(a) General requirements.

(i) The PAL Permit must include enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL conditions must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(ii) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(i) through (b)(iv) of ~~Subsection~~Section 9.12 and must be approved by the APCO .

(iii) Notwithstanding paragraph (a)(ii) of ~~Subsection~~Section 9.12, the PAL monitoring system may also employ an alternative monitoring approach that meets paragraph (a)(i) of Section 7.12 if approved by the APCO .

(iv) Failure to use a monitoring system that meets the requirements of ~~Subsection~~Section 9.12 renders the PAL invalid.

(b) Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (c) through (i) of ~~Subsection~~Section 9.12:

(i) Mass balance calculations for activities using coatings or solvents;

(ii) CEMS;

(iii) CPMS or PEMS; and

(iv) Emission factors.

(c) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coatings or solvents shall meet the following requirements:

(i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

(ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(iii) Where the vendor of a material or fuel which is used in or at the emissions unit publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions

unless the APCO determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(i) The CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and

(ii) The CEMS must sample, analyze, and record data at least every fifteen minutes while the emissions unit is operating.

(e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(i) The CPMS or PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(ii) Each CPMS or PEMS must sample, analyze, and record data at least every fifteen minutes, or at another, less frequent interval approved by the APCO while the emissions unit is operating.

(f) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

(i) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

(ii) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(iii) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of permit issuance unless the APCO determines that testing is not required.

(g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time whenever there is no monitoring data unless another method for determining emissions during such periods is specified in the PAL Permit.

(h) Notwithstanding the requirements in paragraphs (c) through (g) of ~~Subsection~~Section 9.12, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the APCO shall, at the time of permit issuance:

(i) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

(ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(i) Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the APCO . Such testing must occur at least once every five years after issuance of the PAL Permit.

9.13 RECORDKEEPING REQUIREMENTS

(a) The PAL Permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Section 9 and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.

(b) The PAL Permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:

(i) A copy of the PAL Permit application and any applications for revisions to the PAL Permit; and

(ii) Each annual certification of compliance pursuant to title V and the data relied on in certifying the compliance.

9.14 REPORTING AND NOTIFICATION REQUIREMENTS

The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the APCO , in accordance with the the applicable title V oerpating permit program. The reports shall meet the requirements in paragraphs (a) through (c) of ~~Subsection~~Section 9.14.

(a) Semiannual Report. The semiannual report shall be submitted to the APCO within thirty days of the end of each reporting period. This report shall contain the information required in paragraphs (a)(i) through (a)(vii) of ~~Subsection~~Section 9.14:

(i) The identification of owner and operator and the permit number;

(ii) Total annual emissions (in tpy) based on a 12-month rolling total for each month in the reporting period pursuant to paragraph (a) of Subection 9.13.

(iii) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;

(iv) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period;

(v) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken;

(vi) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g) of ~~Subsection~~Section 9.12; and

(vii) A signed statement by the responsible official (as defined by the applicable title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

(b) Deviation Report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL conditions, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the affected Part 70 Operating Permit. The reports shall contain the following information:

(i) The identification of owner and operator and the permit number;

(ii) The PAL requirement that experienced the deviation or that was exceeded;

(iii) Emissions resulting from the deviation or the exceedance; and

(iv) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(c) Revalidation Results. The owner or operator shall submit to the APCO the results of any revalidation test or method within three months after completion of such test or method.

9.15 TRANSITION REQUIREMENTS

The APCO may not issue a PAL permit that does not comply with the requirements in S~~ubs~~ection~~s~~ 9~~.1 through 9.15~~ after the EPA has approved regulations incorporating these requirements into the District portion of the California SIP.

10 INVALIDATION

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

11 EFFECTIVE DATE FOR REFERENCED FEDERAL REGULATIONS

All references and citations in this rule to Title 40 of the Code of Federal Regulations (CFR) refer to the referenced federal regulation as in effect on ~~(insert either date of adoption or most recent July 1, 201X date after 7/1/19).~~ June 25, 2019.