

RULE 203 PREVENTION OF SIGNIFICANT DETERIORATION**Adopted 2-26-91****(Amended 1-27-11)**

~~The provisions of Part 52.21, Chapter 1, Title 40, of the Code of Federal Regulations (CFR) in effect February 26, 1991 are made part of the Rules and Regulations of the Sacramento Metropolitan Air Quality Management District. Whenever any source is subject to more than one rule, regulation, provision, or requirement relating to the control of any air contaminant, in cases of conflict or duplication, the most stringent rule, regulation, provision, or requirement shall apply.~~

~~For the purposes of this Rule, the word "Administrator" as used in Part 52.21, Chapter 1, Title 40 of the CFR shall mean the Air Pollution Control Officer, except that the Air Pollution Control Officer shall not be empowered to grant a waiver or variance from the requirements of this Part without the written concurrence of U.S. EPA.~~

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100 GENERAL

101 PURPOSE: The Prevention of Significant Deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas classified as attainment or in areas that are unclassifiable for any regulated NSR pollutant including greenhouse gases. The intent of this Rule is to incorporate the federal PSD rule requirements into the District's Rules and Regulations by incorporating the federal requirements by reference.

102 APPLICABILITY: The provisions of this rule shall apply to any source and the owner or operator of any source subject to any requirement under Title 40 Code of Federal Regulations (hereinafter, CFR) Part 52.21 as incorporated into this rule. Whenever any source is subject to more than one rule, regulation, provision, or requirement relating to the control of any regulated NSR pollutant, in cases of conflict or duplication, the most stringent rule, regulation, provision, or requirement shall apply. The applicability procedures contained in 40 CFR 52.21(a)(2) are revised as set forth below:

102.1 No stationary source or modification to which the requirements of subsections (j) through (r) of 40 CFR Part 52.21 apply shall begin actual construction without a District permit stating that the stationary source or modification would meet those requirements.

102.2 The requirements of subsections (j) through (r) of 40 CFR Part 52.21 shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the Act that it would emit, except as this section otherwise provides.

102.3 The requirements of subsections (j) through (r) of 40 CFR Part 52.21 apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the Act.

103 INCORPORATION BY REFERENCE: Except as provided in Sections 104 and 105, the provisions of Title 40 of the Code of Federal Regulations (CFR) Part 52.21, in effect on (date of adoption), are incorporated herein by reference and made part of the Rules and Regulations of the Sacramento Metropolitan Air Quality Management District unless otherwise noted. All references to 40 CFR 52.21 in this Rule refer to the CFR in effect on (date of adoption).

104 EXCLUSION, GENERAL: The following subsections of 40 CFR Part 52.21, in effect (date of adoption), as well as all references to these subsections or the terms defined in these subsections, are excluded in their entirety: (a)(1), (b)(55-58), (f), (g), (i)(1)(i-v) and (ix-xi), (i)(6-8), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z), (aa), and (cc).

105 EXEMPTION, GREENHOUSE GAS AIR QUALITY ANALYSES: Greenhouse gas emissions shall not be subject to the requirements of subsections (k) or (m) of 40 CFR Part 52.21 in effect on (date of adoption).

200 DEFINITIONS: Unless otherwise defined below, the terms used in this rule are defined in 40 CFR Part 52.21(b) in effect on (date of adoption):

201 ACTUAL EMISSIONS: The definition of "actual emissions" contained in 40 CFR 52.21(b)(21) is revised to read as set forth below whenever reference is made to that term or 40 CFR 52.21(b)(21):

201.1 Actual emissions means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with Sections 201.2 through 201.4 of this rule.

201.2 In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year

period which precedes the particular date and which is representative of normal source operation. The Administrator 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.

201.3 The Administrator may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

201.4 For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

202 **ADMINISTRATOR:** The term "administrator" means:

202.1 "Federal administrator" in 40 CFR 52.21(b)(17), (b)(37)(i), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (l)(2) and (p)(2); and

202.2 "Air Pollution Control Officer" elsewhere.

203 **ALLOWABLE EMISSIONS:** The definition of "allowable emissions" contained in 40 CFR 52.21(b)(16) is revised to read as set forth below whenever reference is made to that term or 40 CFR 52.21(b)(16):

203.1 The phrase "unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both" shall read, "unless the source is subject to enforceable limits that restrict the operating rate, or hours of operation, or both."

203.2 Paragraph (iii) shall read as follows: "The emissions rate specified as an enforceable permit condition, including those with a future compliance date."

204 **BASELINE ACTUAL EMISSIONS:** The definition of "baseline actual emissions" contained in 40 CFR 52.21(b)(48) is revised to read as set forth below whenever reference is made to that term or 40 CFR 52.21(b)(48):

204.1 Baseline actual emissions means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with Sections 204.2 through 204.4 of this rule.

204.2 In general, baseline actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Administrator shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Baseline 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.

204.3 The Administrator may presume that source-specific allowable emissions for the unit are equivalent to the baseline actual emissions of the unit.

204.4 For any emissions unit which has not begun normal operations on the particular date, baseline actual emissions shall equal the potential to emit of the unit on that date.

205 **MAJOR MODIFICATION:** The definition of "major modification" contained in 40 CFR 52.21(b)(2) is revised to read as set forth below whenever reference is made to that term or 40 CFR 52.21(b)(2):

205.1 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 net emissions increase of any pollutant subject to regulation under the Act.

205.2 Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

205.3 A physical change or change in the method of operation shall not include:

a. Routine maintenance, repair and replacement;

- b. 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 plant pursuant to the Federal Power Act;
- c. Use of an alternative fuel by reason of an order or rule under section 125 of the Act;
- d. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- e. Use of an alternative fuel or raw material by a stationary source which:
 - 1. The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR subpart I or 40 CFR 51.166; or
 - 2. The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166;
- f. An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR subpart I or 40 CFR 51.166.
- g. Any change in ownership at a stationary source.

206 **NET EMISSIONS INCREASE:** The definition of "net emissions increase" contained in 40 CFR 52.21(b)(3) is revised to read as set forth below whenever reference is made to that term or 40 CFR 52.21(b)(3):

- 206.1 Net emissions increase means the amount by which the sum of the following exceeds zero:
- a. Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and
 - b. Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
- 206.2 An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:
- a. The date five years before construction on the particular change commences; and
 - b. The date that the increase from the particular change occurs.
- 206.3 An increase or decrease in actual emissions is creditable only if the Administrator has not relied on it in issuing a permit for the source under this section, which permit is in effect when the increase in actual emissions from the particular change occurs.
- 206.4 An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxide, which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM-10 emissions can be used to evaluate the net emissions increase for PM-10.
- 206.5 An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- 206.6 A decrease in actual emissions is creditable only to the extent that:
- a. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

- b. It is federally enforceable at and after the time that actual construction on the particular change begins; and
- c. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

206.7 [Reserved]

206.8 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 becomes operational only after a reasonable shakedown period, not to exceed 180 days.

207 **PARAGRAPH (g):** The phrase “paragraph (g) of this section” in 40 CFR 52.21(p)(1) shall read as follows: within ten calendar days following a preliminary decision pursuant to Section 300, Standards, of this rule, the Air Pollution Control Officer shall publish in at least one newspaper of general circulation in the District a notice stating the preliminary decision of the Air Pollution Control Officer, noting how pertinent information can be obtained, and inviting written public comment for a 30-day period following the date of publication. The notice shall 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). The Air Pollution Control Officer shall give notice of any public hearing at least 30 days in advance of the hearing.

208 **POTENTIAL TO EMIT:** The definition of “potential to emit” contained in 40 CFR 52.21(b)(4), is revised so that the phrase “is federally enforceable” shall read “is federally enforceable or enforceable as a practical matter.”

300 STANDARDS

301 REQUIREMENTS

- 301.1 An owner or operator must obtain a Prevention of Significant Deterioration (PSD) permit pursuant to this Rule before beginning actual construction of a new major stationary source or a major modification as defined in 40 CFR 52.21(b).
- 301.2 Notwithstanding the provisions of any other District Rule or Regulation, the Air Pollution Control Officer shall require compliance with this rule prior to issuing a federal Prevention of Significant Deterioration permit as required by Clean Air Act (CAA) Section 165.
- 301.3 The applicant shall pay the applicable fees specified in Rule 301 – PERMIT FEES – STATIONARY SOURCE.

400 ADMINISTRATIVE REQUIREMENTS

401 **PUBLIC PARTICIPATION:** Prior to issuing a federal PSD permit pursuant to this rule and after receipt of a complete application, the Air Pollution Control Officer shall:

- 401.1 Make a preliminary determination whether construction should be approved with conditions or disapproved.
- 401.2 Make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, a copy of the proposed permit and a copy or summary of other materials, if any, considered in making the preliminary determination.
- 401.3 Notify the public, by notice in at least one newspaper of general circulation in the District, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for written public comment.
- 401.4 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.
- 401.5 Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the Air Pollution Control Officer's judgment such a hearing is warranted.
- 401.6 Consider all written comments that were submitted within 30 days after the notice of public comment is published and all comments received at any public hearing(s) in making a final decision on the approvability of the application and make all comments available for public inspection in the same locations where the District made available preconstruction information relating to the proposed source or modification.
- 401.7 Make a final determination whether construction should be approved with conditions or disapproved.
- 401.8 Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the District made available preconstruction information and public comments relating to the source

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