

San Joaquin Valley Unified Air Pollution Control District
Meeting of the Governing Board
December 21, 2017

**ADOPT PROPOSED AMENDMENTS TO RULE 9510 (INDIRECT SOURCE
REVIEW)**

Attachment B:

FINAL DRAFT PROPOSED RULE 9510
(21 PAGES)

RULE 9510 INDIRECT SOURCE REVIEW (ISR) (Adopted December 15, 2005; Amended [*Date of Adoption*], but not in effect until [*insert date 90 days after rule adoption*])

1.0 Purpose

The purposes of this rule are to:

- 1.1 Fulfill the District's emission reduction commitments in the PM10 and Ozone Attainment Plans.
- 1.2 Achieve emission reductions from the construction and use of development projects through design features and on-site measures.
- 1.3 Provide a mechanism for reducing emissions from the construction of and use of development projects through off-site measures.

2.0 Applicability

2.1 Effective on and after March 1, 2006, ~~¶~~this rule shall apply to any applicant that seeks to gain a final discretionary approval for a development project, or any portion thereof, which upon full build-out will include any one of the following:

- 2.1.1 50 residential units;
- 2.1.2 2,000 square feet of commercial space;
- 2.1.3 25,000 square feet of light industrial space;
- 2.1.4 100,000 square feet of heavy industrial space;
- 2.1.5 20,000 square feet of medical office space;
- 2.1.6 39,000 square feet of general office space;
- 2.1.7 9,000 square feet of educational space;
- 2.1.8 10,000 square feet of government space;
- 2.1.9 20,000 square feet of recreational space; or
- 2.1.10 9,000 square feet of space not identified above.

2.2 Except as specified in Section 2.3, this rule shall apply to any applicant that seeks to gain approval from a public agency for a large development project, which upon full build-out will include any one of the following:

- 2.2.1 250 residential units;

2.2.2 10,000 square feet of commercial space;

2.2.3 125,000 square feet of light industrial space;

2.2.4 500,000 square feet of heavy industrial space;

2.2.5 100,000 square feet of medical office space;

2.2.6 195,000 square feet of general office space;

2.2.7 45,000 square feet of educational space;

2.2.8 50,000 square feet of government space;

2.2.9 100,000 square feet of recreational space; or

2.2.10 45,000 square feet of space not identified above.

2.3 Section 2.2 shall not apply if any of the following are true:

2.3.1 Final discretionary approval for the large development project has been received prior to March 1, 2006; or

2.3.2 The large development project requires or required a discretionary approval and is subject to the rule under Section 2.1; or

2.3.3 Prior to [insert date 90 days after rule adoption], the applicant received project-level building permits, a conditional use permit, or similar approvals for the particular large development project; or

2.3.4 The large development project qualifies as a Grandfathered Large Development Project.

2.24 Effective on and after March 1, 2006, ~~T~~his rule shall apply to any transportation or transit development project where construction exhaust emissions equal or exceed two (2.0) tons of NOx or two (2.0) tons of PM10.

2.35 Projects on Contiguous or Adjacent Property

235.1 Residential projects with contiguous or adjacent property under common ownership of a single entity in whole or in part, that is designated and zoned for the same development density and land use, regardless of the number of tract maps, and has the capability to accommodate more than fifty (50) residential units when determining applicability of the rule under Section 2.1, or more than 250 residential units when determining applicability of the rule under Section 2.2, are subject to this rule.

235.2 Nonresidential projects with contiguous or adjacent property under common ownership of a single entity in whole or in part, that is designated and zoned for the same development density and land use, and has the capability to accommodate development projects emitting more than two (2.0) tons per year of operational NO_x or PM₁₀ when determining applicability of the rule under Section 2.1, or more than ten (10.0) tons per year of operational NO_x or PM₁₀ when determining applicability of the rule under Section 2.2, are subject to this rule. Single parcels where the individual building pads are to be developed in phases must base emissions on the potential development of all pads when determining the applicability of this rule.

3.0 Definitions

- 3.1 APCO: as defined in Rule 1020 (Definitions).
- 3.2 APCO-Approved Model: any computer model that estimates construction, area source and/or operational emissions of NO_x and PM₁₀ from potential land uses, using the most recent approved version of relevant ARB emissions models and emission factors, and has been approved by the APCO and EPA.
- 3.3 Air Impact Assessment (AIA): the calculation of emissions generated by the project and the emission reductions required by the provisions set forth in this rule. The AIA must be based solely on the information provided to the APCO in the AIA application, and must include all information listed in Section 5.6, et seq.
- 3.4 Air Impact Assessment (AIA) Application: the aggregate of documentation supporting the development of an AIA. This includes, but is not limited to, the information listed in Section 5.0, et seq.
- 3.5 Air Resources Board (ARB or CARB): as defined in Rule 1020 (Definitions).
- 3.6 Applicant: any person or entity that undertakes a development project.
- 3.7 Area Source: any multiple non-mobile emissions sources such as water heaters, gas furnaces, fireplaces, wood stoves, landscape equipment, architectural coatings, consumer product, etc., that are individually small but can be significant when combined in large numbers.
- 3.8 Baseline Emissions: the unmitigated NO_x or PM₁₀ emissions as calculated by the APCO-approved model.
- 3.9 Construction: any excavation, grading, demolition, vehicle travel on paved or unpaved surfaces, or vehicle exhaust that occurs for the sole purpose of building a development project.
- 3.10 Construction Baseline: the sum of baseline NO_x or exhaust PM₁₀ for the duration

of construction activities for a project, or any phase thereof, in total tons.

- 3.11 Construction Emissions: any NOx or exhaust PM10 emissions resulting from the use of internal combustion engines related to construction activity, which is under the control of the applicant through ~~either~~ ownership, rental, lease agreements, or contract.
- 3.12 Contiguous or Adjacent Property: a property consisting of two or more parcels of land with a common point or boundary, or separated solely by a public roadway or other public right-of-way.
- 3.13 Development Project: any project, or portion thereof, that is subject to an ~~discretionary~~ approval by a public agency, and will ultimately result in:
- the construction of a new building, facility, or structure; or
 - the reconstruction of a building, facility, or structure for the purpose of increasing capacity or activity.
- 3.14 Discretionary Approval: a decision by a public agency that requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular development project, as distinguished from situations where the public agency merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.
- 3.15 District: the San Joaquin Valley Unified Air Pollution Control District as defined in Rule 1020 (Definitions).
- 3.16 Emission Reduction Measure: an activity taken or conditions incorporated in a project to avoid, minimize, reduce, eliminate, or compensate emissions estimated to occur from new development projects.
- 3.16.1 On-Site Emission Reduction Measure: any feature activity, device, or control technology of a project, which is incorporated into the design of that project or through other means, which will avoid, minimize, reduce or eliminate the project's emissions. All on-site emission reductions achieved beyond District or state requirements shall count towards the mitigated baseline. City, County and other public agency requirements may also be credited towards emission reductions.
- 3.16.2 Off-Site Emission Reduction Measure: any feature, activity, or emission reduction project used, undertaken, or funded to compensate for a project's emission that is not part of the development project.
- 3.17 Grandfathered Large Development Project: a large development project that meets the following to the satisfaction of the APCO:
- 3.17.1 The large development project must be identified by the applicant and be a particular and defined large development project meeting at least one of the

land use categories in Section 2.2; and

3.17.2 The applicant provides written confirmation from the public agency responsible for project-level building permits, conditional use permits, or similar approvals, that the large development project identified under Section 3.17.1 has received a land-use entitlement and requires no discretionary approval prior to starting construction; and

3.17.3 Prior to [insert date 90 days after rule adoption], and in reliance upon the land use entitlement, the applicant has entered into binding agreements or contractual obligations for the large development project identified under Section 3.17.1, which cannot be canceled or modified without substantial loss to the applicant, for designing, developing, or constructing the large development project.

3.178 Indirect Source: any facility, building, structure, or installation, or combination thereof, which attracts or generates mobile source activity that results in emissions of any pollutant, or precursor thereof, for which there is a state ambient standard, as specified in Section 1.1.

3.189 Land Use: any facility, building, structure, installation, activity, or combination thereof, and the purpose, for which it is arranged, designed, intended, constructed, erected, moved, altered or enlarged on, or for which it is or may be occupied or maintained. Land use can be identified in the following categories:

3.189.1 Commercial: any facility, building, structure, installation, activity or combination thereof, that offers goods and services for sale. This can include but is not limited to wholesale and retail stores, food establishments, hotels or motels, and movie theatres.

3.189.2 Educational: any facility, building, structure, installation, activity or combination thereof, whose purpose is to develop knowledge, skill, and character. This can include but is not limited to: schools, day care centers, libraries, and churches.

3.189.3 General Office: any facility, building, structure, installation, activity or combination thereof, where the affairs of a non-medical business are conducted.

3.189.4 Governmental: any facility, building, structure, installation, activity or combination thereof, where the affairs of an entity that exercises authority over a country, or any subdivision thereof, are carried on.

3.189.5 Industrial: any facility, building, structure, installation, activity or combination thereof that creates, collects, extracts, packages, modifies, and/or distributes goods.

- 3.189.5.1 Light Industrial: ~~U~~usually employs fewer than 500 persons, with an emphasis on activities other than manufacturing and typically have minimal office space. Typical light industrial activities include: print plants, material testing labs, and assemblers of data processing equipment. Light Industrial tends to be free-standing.
- 3.189.5.2 Heavy Industrial: ~~A~~also categorized as manufacturing facilities. Heavy Industrial usually has a high number of employees per industrial plant.
- 3.189.6 Medical Office: any facility, building, structure, installation, activity or combination thereof, where the affairs of a business related to the science and art of diagnosing, treating, and preventing diseases are carried on.
- 3.189.7 Recreational: any facility, building, structure, installation, activity or combination thereof, where individuals may relax or refresh the body or the mind. This can include but is not limited to: parks, fitness clubs, and golf courses.
- 3.189.8 Residential: any facility, building, structure, installation, activity or combination thereof, which provides a living space for an individual or group of individuals.
- 3.1920 Mitigation: synonym of on-site emission reduction measure. For the purposes of this rule, mitigation is all on-site emission reductions achieved beyond District or state requirements. City, County and other public agency requirements may be counted as mitigation, and credited towards emission reductions for the mitigated baseline.
- 3.201 Mitigated Baseline: the NOx or PM10 emission generated by a project after on-site emission reduction measures have been applied.
- 3.242 Mobile Emissions: the NOx or PM10 emissions generated by motorized vehicles.
- 3.223 Monitoring and Reporting Schedule (MRS): a form listing on-site emission reduction measures committed to by the applicant that are not enforced by another public agency along with the implementation schedule and enforcement mechanism for each measure. The Construction Equipment Schedule constitutes a MRS for the construction phase of a development project. The format of the MRS shall be provided by the District. ~~The format of the MRS shall be provided by the District.~~
- 3.234 NOx: any oxides of nitrogen.
- 3.245 Off-Site Emission Reduction Fee (Off-Site Fee): a fee to be paid by the applicant to the District for any emission reductions required by the rule that are not achieved through on-site emission reduction measures. Off-Site Fees shall only apply to off-

site emission reductions required, and shall only be used for funding off-site emission reduction projects.

- 3.256 Off-Site Emission Reduction Fee Deferral Schedule (FDS): a payment schedule requested by the applicant and approved by the District for Off-Site Emission Reduction Fees that ensures contemporaneous off-site emission reductions for the development project. Fee payment shall be made prior to the issuance of a building permit. The District shall provide the FDS format.
- 3.267 On-Site Emission Reduction Checklist (On-Site Checklist): the list provided by the District that identifies potential on-site emission reduction measures. Project applicants must identify those measures that will be implemented and those that will not. There is no minimum required to be selected for implementation.
- 3.278 Operational Baseline: the baseline NO_x or PM₁₀ emissions, including area source and mobile emissions, calculated by the APCO-approved model, for the first year of buildout for that project, or any phase thereof, in tons per year.
- 3.289 Operational Emissions: for the purposes of this rule, the combination of area and mobile emissions associated with an indirect source.
- 3.2930 Phase: a defined portion ~~on a map,~~ or stage of a development project.
- 3.301 PM₁₀ (or PM-10): as defined in Rule 1020 (Definitions).
- 3.312 Public Agency: any federal, state, local, or special agency that exercises discretionary powers on development activities within the San Joaquin Valley Air Basin.
- 3.323 San Joaquin Valley Air Basin (SJVAB): as defined in Rule 1020 (Definitions).
- 3.334 Transit Development Project: any project solely intended to create a passenger transportation service, local, metropolitan or regional in scope, that is available to any person who pays a prescribed fare. Examples of transit development projects include: ~~T~~ransportation by bus, rail, or other conveyance, either publicly or privately owned, which is provided to the public or specialty service on a regular or continuing basis. Also known as “mass transit,” “mass transportation,” or “public transportation.”
- 3.345 Transportation Development Projects: any project solely intended ~~whose sole purpose is to~~ create a new paved surface that is used for the transportation of motor vehicles, or any structural support thereof. Examples of transportation development projects include: streets, highways and any related ramps, freeways and any related ramps, and bridges. This does not include development projects where traffic surfaces are a portion of the project, but not the main land-use.
- ~~3.35 URBEMIS: a computer model that is owned and modified by the local air pollution control districts and air quality management districts in the State of California. URBEMIS estimates construction, area source and~~

~~operational emissions of NOx and PM10 from potential land uses, using the most recent approved version of relevant ARB emissions models and emission factors and/or District specific emission factors; and estimates emissions reductions. The model has the capacity for changes to defaults when new or project specific information is known.~~

- 3.36 Vehicle Trip: a trip by a single vehicle regardless of the number of persons in the vehicle, which is one way starting at one point and ending at another. A 'round trip' is counted as two separate trips.
- 4.0 Exemptions
- 4.1 Transportation development projects shall be exempt from the requirements in Sections 6.2 and 7.1.2.
- 4.2 Transit development projects shall be exempt from the requirements in Sections 6.2 and 7.1.2.
- 4.3 Development projects that have a mitigated baseline below two (2.0) tons per year of NOx and two (2.0) tons per year of PM10 shall be exempt from the requirements in Sections 6.0 and 7.0.
- 4.4 The following shall be exempt from the requirements of this rule:
- 4.4.1 Reconstruction of any development project that is damaged or destroyed, or is retrofitted solely for seismic safety, and is rebuilt to essentially the same use and intensity.
- 4.4.2 Transportation development Pprojects that consist solely of:
- 4.4.2.1 A modification of existing roads subject to District Rule 8061 that is not intended to increase single occupancy vehicle capacity, or,
- 4.4.2.2 Transportation control measures included in a District air quality attainment plan.
- 4.4.3 A development project on a facility whose primary functions are subject to Rule 2201 (New and Modified Stationary Source Review Rule) or Rule 2010 (Permits Required), including but not limited to the following industries:
- 4.4.3.1 Aggregate Mining or Processing;
- 4.4.3.2 Almond Hulling, Canning Operations, Food Manufacturing, Grain Processing and Storage, Vegetable Oil Manufacturing, and Wineries;

- 4.4.3.3 Animal Food Manufacturing;
- 4.4.3.4 Confined Animal Facilities;
- 4.4.3.5 Coatings and Graphic Arts;
- 4.4.3.6 Cotton Ginning Facilities;
- 4.4.3.7 Energy Production Plants;
- 4.4.3.8 Ethanol Manufacturing;
- 4.4.3.9 Gas Processing and Production, Oil Exploration, Production, Processing, and Refining;
- 4.4.3.10 Glass Plants;
- 4.4.3.11 Solid Waste Landfills;
- 4.4.3.12 Petroleum Product Transportation and Marketing Facilities.

5.0 Application Requirements

Any applicant subject to this rule shall submit an Air Impact Assessment (AIA) application no later than applying for a final discretionary approval with the public agency. ~~An applicant for a project for which a discretionary approval is pending at the date of rule effectiveness, shall also submit an AIA application by 30 days after the rule effectiveness date.~~ Nothing in this rule shall preclude an applicant from submitting an AIA application prior to filing an application for a final discretionary approval with the public agency. It is preferable for the applicant to submit an AIA application as early as possible in the process for that final discretionary approval.

Any applicant for a large development project subject to this rule under Section 2.2 shall submit an AIA application no later than applying for, or otherwise seeking to gain, approval from a public agency for the project. An applicant for a large development project subject to this rule under Section 2.2 who has applied for, or otherwise sought to gain, approval from a public agency for the project prior to [insert date 90 days after rule adoption], shall submit an AIA application prior to [insert date 120 days after rule adoption].

The AIA application shall be submitted on a form provided by the District and shall contain the following information:

- 5.1 Applicant name and address;
- 5.2 Detailed project description including, but not limited to:

- 5.2.1 Site Size;
 - 5.2.2 Site Plans;
 - 5.2.3 Proposed Project Schedule;
 - 5.2.4 Associated Project;
 - 5.2.5 If residential, the number and type of dwelling units;
 - 5.2.6 If commercial, the type, square footage and loading facilities;
 - 5.2.7 If industrial, the type, estimated employment per shift, and loading facilities;
 - 5.2.8 Amount of off-street parking provided for non-residential projects;
- 5.3 On-site Emission Reduction Checklist (On-Site Checklist): The District shall provide an On-Site Checklist that includes quantifiable on-site measures that reduce operational NO_x and/or PM₁₀ emissions.
- 5.3.1 The applicant shall identify measures voluntarily selected and how those measures will be enforced. On-Site measures must be fully enforceable through permit conditions, development agreements, or other legally binding instrument entered into by the applicant and the public agency; or, if the measure is not a requirement by another public agency, by a MRS contract with the District. Enforcement mechanisms can include:
 - 5.3.1.1 Applicable local ordinance or section of a regulation that requires the measure, if any,
 - 5.3.1.2 A District approved MRS, as identified in Section 5.4 below.
 - 5.3.2 The applicant shall also include justification for those measures not selected.
 - 5.3.3 All selected on-site measures, regardless of enforcement mechanism, shall count towards on-site emission reductions.
- 5.4 Monitoring and Reporting Schedule (MRS): The District shall provide a standardized MRS format. The applicant shall include in the AIA application a completed proposed MRS for on-site emission reduction measures selected that are not subject to other public agency enforcement, and the timeline for submittal of the construction equipment schedule. A proposed MRS shall outline how the measures will be implemented and enforced, and will include, at minimum, the following:
- 5.4.1 A list of on-site emission reduction measures included;

- 5.4.2 Standards for determining compliance, such as funding, record keeping, reporting, installation, and/or contracting;
- 5.4.3 A reporting schedule;
- 5.4.4 A monitoring schedule;
- 5.4.5 Identification of the responsible entity for implementation;
- 5.4.6 Provisions for failure to comply;
- 5.4.7 Applicants proposing on-site emission reduction measures that require ongoing funding, shall provide evidence in the proposed MRS of continued funding, including, but not limited to:
 - 5.4.7.1 Bonds; or
 - 5.4.7.2 Community Service Districts; or
 - 5.4.7.3 Contracts.
- 5.4.8 The schedule for submitting a construction equipment schedule.
- 5.5 Off-Site Fee Deferral Schedule (FDS): The District shall provide a standardized Fee Deferral Schedule form. ~~An applicant may propose a FDS with the District if the total Off Site Fee exceeds \$50,000.~~ The payment schedule must provide assurance that reductions from off-site emission reduction projects can be obtained reasonably contemporaneous with emissions increases associated with the project and shall, at minimum, include the following:
 - 5.5.1 Identification of the person or entity responsible for payment;
 - 5.5.2 Billing address;
 - 5.5.3 Total required off-site operational emissions for the development project and any phase thereof;
 - 5.5.4 Total required off-site construction emissions for the development project and any phase thereof;
 - 5.5.5 Year of build-out, and any phase thereof;
 - 5.5.6 Any applicable milestones;
 - ~~5.5.7 Off Site Fee down payment, to be not less than \$50,000;~~
 - 5.5.7~~8~~ Payment schedule not to exceed or go beyond the issuance of a

building permit. For development projects with multiple phases, the payment schedule shall connect fee deadlines for off-site emission reductions required by each phase prior to the issuance of building permits for those phases.

5.5.~~89~~ The cost of reductions corresponding to the payment schedule;

5.5.~~94~~ Applicable project termination and delay clauses; and

5.5.~~104~~ Provisions for failure to comply.

5.6 Air Impact Assessment (AIA): An AIA shall be produced for the project from the project specific information identified in the AIA application. An AIA may be produced by or for the applicant. If an AIA is not provided by the applicant, the District shall perform the AIA during the AIA application review period. The AIA shall meet the following requirements:

5.6.1 The analysis of the proposed project shall be conducted according to the information provided in the application;

5.6.2 The analysis shall employ an APCO-approved model or calculator and include detailed documentation and reasons for all changes to the default input values;

5.6.3 If the AIA is conducted by or for the applicant, a hard copy and an electronic copy of all model runs conducted for the project and each phase thereof, shall be submitted;

5.6.4 The applicant shall include any other information and documentation that supports the calculation of emissions and emissions reductions;

5.6.5 The AIA shall quantify construction and operational NO_x and PM₁₀ emissions associated with the project. This shall include the estimated construction and operational baseline emissions, and the mitigated emissions for each applicable pollutant for the development project, or each phase thereof;

5.6.6 The AIA shall quantify the Off-Site Fee, if applicable.

6.0 General Mitigation Requirements

6.1 Construction Equipment Emissions

6.1.1 The exhaust emissions for construction equipment greater than fifty (50) horsepower used or associated with the development project shall be reduced by the following amounts from the statewide average as estimated by the ARB:

6.1.1.1 20% of the total NOx emissions, and

6.1.1.2 45% of the total PM10 exhausts emissions.

6.1.2 An applicant may reduce construction emissions on-site by using less-polluting construction equipment, which can be achieved by utilizing add-on controls, cleaner fuels, or newer lower emitting equipment.

6.2 Operational Emissions

6.2.1 NOx Emissions

Applicants shall reduce 33.3%, of the project’s operational baseline NOx emissions over a period of ten years as quantified in the approved AIA as specified in Section 5.6.

6.2.2 PM10 Emissions

Applicants shall reduce of 50% of the project’s operational baseline PM10 emissions over a period of ten years as quantified in the approved AIA as specified in Section 5.6.

6.3 The requirements listed in Sections 6.1 and 6.2 above can be met through any combination of on-site emission reduction measures or off-site fees.

7.0 Off-site Emission Reduction Fee (Off-Site Fee) Calculations and Fee Schedules

7.1 Off-site Fee Calculations

7.1.1 Construction Activities

7.1.1.1 NOx Emissions

The applicant shall pay to the District a monetary sum necessary to offset the required construction NOx emissions not reduced on-site. The off-site fee shall be calculated as follows:

$$CN\ OF = \sum_{i=1}^n [NACE_i - (0.8 \times NSEE_i)] \times CNR_i$$

Where,

CN OF = Construction NOx Off-Site Fee, in dollars

i = each phase

n = last phase

NACE = Actual Estimated Equipment NO_x Emissions, as documented in the APCO approved Air Impact Assessment application, in total tons

NSEE = Statewide Average Equipment NO_x Emissions, as calculated by the APCO, in total tons

CNR = Cost of NO_x Reductions identified in Section 7.2.1 below, in dollars per ton. ~~For projects with an approved FDS, the cost of reductions shall be based on the year each payment is made.~~ The cost of emissions reductions, in dollars per ton, shall be based on the applicable rate at the time the invoice is issued.

7.1.1.2 PM10 Emissions

The applicant shall pay a monetary sum necessary to offset the required construction PM10 exhaust emissions not reduced on-site. The off-site fee shall be calculated as follows:

$$CPM\ OF = \sum_{i=1}^n [PMACE_i - (0.55 \times PSEE_i)] \times CPR_i$$

Where,

CPM OF = Construction PM10 Off-Site Fee, in dollars

i = each phase

n = last phase

PMACE = Actual Estimated Equipment PM10 Emissions, as documented in the APCO approved AIA application, in total tons

PSEE = Statewide average Equipment PM10 Emissions, as calculated by the APCO, in total tons

CPR = Cost of PM10 Reductions identified in Section 7.2.2 below, in dollars per ton. ~~For projects with an approved FDS, the fees shall be based on the year each payment is made.~~ The cost of emissions reductions, in dollars per ton, shall be based on the applicable rate at the time the invoice is issued.

7.1.2 Operational and Area Source Activities

7.1.2.1 NO_x Emissions

The applicant shall pay a monetary sum necessary to offset the

excess NOx emissions not reduced on-site. The off-site fee shall be calculated as follows:

$$NOxOF = \sum_{i=1}^n \left[\left(\frac{NEB_i \times 7.5}{3} \right) - (NEB_i \times 7.5 \times NAPOR_i) \right] \times CNR_i$$

Where,

NOx OF = Operational NOx Off-Site Fee, in dollars

i = each phase

n = last phase

NEB = Estimated Baseline Emissions, of Operational NOx, as documented in the APCO approved AIA application, in tons per year

NAPOR = NOx Actual Percent of On-Site Reductions, as documented in the APCO approved air impact assessment application, as a fraction of one, calculated as (NEB-NOx Mitigated Baseline)/NEB

CNR = Cost of NOx Reductions identified in Section 7.2.1 below, in dollars per ton. ~~For projects with an approved FDS, the cost of reductions shall be based on the year each payment is made. The cost of emissions reductions, in dollars per ton, shall be based on the applicable rate at the time the invoice is issued.~~

7.1.2.2 PM10 Emissions

The applicant shall pay a monetary sum necessary to offset the excess PM10 emissions not reduced on-site for a period of ten years. The off-site fee shall be calculated as follows:

$$PM10OF = \sum_{i=1}^n [(PMMB - 0.5PEB_i)(10)] \times CPR_i$$

Where,

PM10 OF = Operational PM Off-Site Fee, in dollars

i = each phase

n = last phase

PEB = Estimated Baseline Emissions, of Operational PM10, as documented in the APCO approved AIA application, in tons per year

PMMB = Mitigated Baseline Emissions, as documented in the APCO approved AIA application, in tons per year

CPR = Cost of PM10 Reductions, identified in Section 7.2.2 below, in dollars per ton. ~~For projects with an approved FDS, the fees shall be based on the year each payment is made. The cost of emissions reductions, in dollars per ton, shall be based on the applicable rate at the time the invoice is issued.~~

7.2 Fee Schedules

7.2.1 The costs of NO_x reductions are as follows:

Year	Cost of NO _x Reductions (\$/ton)
2006	\$4,650.00
2007	\$7,100.00
2008 and beyond	\$9,350.00

7.2.2 The costs of PM10 reductions are as follows:

Year	Cost of PM10 Reductions (\$/ton)
2006	\$2,907.00
2007	\$5,594.00
2008 and beyond	\$9,011.00

7.3 The applicant shall pay the Off-Site Fees in full by the invoice due date or prior to generating emissions associated with the project or any phase thereof, whichever occurs first. ~~within sixty (60) calendar days after the AIA application is approved or in accordance to the schedule contained in the APCO approved FDS.~~

7.4 The applicant shall receive credit for any off-site emission reduction measures that have been completed and/or paid for, prior to ~~the adoption of this rule~~ December 15, 2005, if the following conditions have been met:

7.4.1 The prior off-site emission reduction measures were part of an air quality mitigation agreement with the APCO; or

- 7.4.2 The applicant demonstrates to the satisfaction of the APCO that the off-site emission reduction measures result in real, enforceable, and surplus reductions in emissions.
- 7.5 Refund: If a project is terminated or is cancelled, the building permit or use permit expires, is cancelled, or is voided, no construction has taken place, and the use has never occupied the site, the applicant is entitled to a refund of the unexpended Off-Site fees paid less any administrative costs incurred by the APCO. The applicant must provide a written request for the refund, with proof of the project termination, within thirty (30) calendar days of the termination. Proof of project termination can include a confirmation from a local agency of permit cancellation.
- 7.6 The APCO may adjust the cost of reductions according to the following process:
 - 7.6.1 An Analysis shall be performed that details:
 - 7.6.1.1 The cost effectiveness of projects funded to date;
 - 7.6.1.2 The rule effectiveness of achieving the required emission reductions to date;
 - 7.6.1.3 The availability of off-site emission reduction projects;
 - 7.6.1.4 The cost effectiveness of those projects.
 - 7.6.2 The APCO shall provide a draft revised cost effectiveness based on the analysis.
 - 7.6.3 The process shall include at least one public workshop.
- 8.0 Administrative Process
 - 8.1 Completeness of the AIA application: The APCO shall determine whether the application is complete and contains the necessary information no later than ten (10) calendar days after receipt of the application, or after such longer time as agreed to by both the applicant and the APCO.
 - 8.1.1 Should the application be deemed incomplete, the APCO shall notify the applicant in writing of the decision and shall specify the additional information required. Resubmittal of any portion of the application begins a new ten (10) day calendar period for the determination of completeness by the APCO.
 - 8.1.2 Completeness of an application or resubmitted application shall be evaluated on the basis of the information requirements set forth in the

District Rules and Regulations as they exist on the date on which the application or resubmitted application is received.

- 8.1.3 The APCO shall notify the applicant in writing that the application is deemed complete.
- 8.2 Public Agency Review of the proposed project: The APCO shall forward a copy of the AIA application, including the MRS (if applicable) to the relevant public agencies for review. The public agencies may review and comment at any time on the provisions of the MRS. Comments received by the APCO shall be forwarded to the applicant. The proposed MRS may be modified, if necessary, based on the input from the public agency. If any changes result from their comments, the APCO shall make the appropriate changes and provide the applicant a revised Off-Site Fee, if applicable. No section or provision within this rule requires action on the part of the public agency.
- 8.3 APCO Evaluation of the AIA Application: The AIA application shall be evaluated for content.
 - 8.3.1 If the applicant submits an AIA, the APCO will evaluate the modeling inputs and calculations.
 - 8.3.2 If the applicant does not submit an AIA, the APCO will complete an AIA from the information contained in the AIA application.
 - 8.3.3 The APCO may, during the evaluation of the application, request clarification, amplification, and any correction as needed, or otherwise supplement the information submitted in the application. Any request for such information shall not count towards the time the APCO has to provide notice of approval or disapproval. The clock shall resume once the APCO has received the requested information.
- 8.4 AIA Approval: The APCO shall notify the applicant in writing of its decision regarding the AIA application and its contents within thirty (30) calendar days after determination of an application as complete and provide the following in writing to the applicant, the public agency, all interested parties as identified by the developer, and make available to the public.
 - 8.4.1 APCO approval determination of the AIA application;
 - 8.4.2 The required emission reductions;
 - 8.4.3 The amount of on-site emission reduction achieved;
 - 8.4.4 The amount of off-site emission reduction required, if applicable;
 - 8.4.5 The required Off-Site Fee if applicable;

- 8.4.6 A statement of tentative rule compliance;
- 8.4.7 A copy of the final MRS, if applicable; and
- 8.4.8 An approved FDS, if applicable.
- 8.5 Off-Site Fee: After the APCO approves the AIA application and its contents; the APCO shall provide the applicant with an estimate for the projected off-site fees, if applicable. The applicant shall pay the off-site fee ~~within 60 days, unless a FDS has been approved by the District~~ in accordance with Section 7.3.
- 8.6 Fee Deferral Schedule: In the event that the applicant had not previously submitted FDS in the AIA application, but desires one, the applicant shall ensure that the proposed FDS is submitted to the APCO no later than fifteen (15) calendar days after receipt of the AIA Approval. The District shall have fifteen (15) calendar days to approve the FDS request.
- 8.7 MRS Compliance: After the APCO approves the AIA application and its contents; the APCO shall enact the MRS contract, if applicable. The applicant is responsible for implementation and/or maintenance of those measures identified within the MRS. Upon completion of Monitoring and Reporting, the District shall provide to the applicant, the public agency, and make available to the public, an MRS Compliance letter.
 - 8.7.1 Operational On-Site Measures: On-site emission reduction measures that are active operational measures, such as providing a service, must be implemented for 10 years after buildout of the project, if applicable.
 - 8.7.2 Construction Equipment Schedule: The construction equipment schedule shall be submitted to the District if identified in the MRS prior to the start of construction, but not to exceed the issuance of a grading permit, if applicable.
- 8.8 In the event the applicant significantly changes the AIA application or any portion thereof during the Administrative Process, the APCO shall re-start the evaluation process pursuant to Section 8.3.
- 9.0 Changes to the Project
 - 9.1 Changes Proposed By The Applicant
 - 9.1.1 The applicant may substitute equivalent or more effective on-site emission reduction measures upon written approval from the APCO.
 - 9.1.2 Changes in the project or to the build-out schedule that increase the emissions associated with the project shall require submission of a new

AIA application. A new AIA shall be conducted and the off-site fees shall be recalculated in accordance with the applicable provisions of this rule. The APCO shall notify the applicant of the new off-site fees, the difference of which shall be payable by the due date specified on the billing invoice.

9.1.3 If a project, or portion thereof, changes ownership, the seller shall inform the District of the change in ownership by filing a “Change of Developer” form with the District prior to the buyer generating emissions associated with the project.

9.2 Changes Required By The Public Agency or Any Court Of Law

Project changes that result in an increase in the emissions shall require submission of a new AIA application within 60 days of said changes, or prior to the start of project construction, whichever is less. A new AIA shall be conducted and the off-site fees shall be recalculated in accordance with the applicable provisions of this rule.

10.0 APCO Administration of the Off-Site Fee Funds

10.1 The District shall establish and maintain separate accounts for NO_x and for PM₁₀ for funds collected under this rule. Any off-site fees collected by the District shall be deposited into these accounts.

10.2 The District shall utilize monies from the accounts to fund quantifiable and enforceable Off-Site projects that reduce surplus emissions of NO_x and PM₁₀ in an expeditious manner.

10.2.1 The District shall set forth funding criteria for each category of off-site projects that may be funded by this rule.

10.2.2 The District shall ensure that the emission reductions calculations for the off-site projects are accurate.

10.2.3 If the off-site project involves the replacement of existing equipment, the District shall inspect the existing equipment.

10.2.4 The District shall enter into a binding contract with the applicant of the off-site project, which will, at minimum, require an annual report from the applicant that includes information necessary to ensure that emissions reductions are actually occurring.

10.2.5 The District shall conduct inspections on the off-site project to verify that the project is installed or implemented and operating for the life of the contract.

- 10.2.6 The District may substitute NO_x reductions for PM₁₀ in a 1.5 to 1 ratio.
 - 10.3 Any interest that accrues in the off-site account(s) shall remain in the account, to be used in accordance with Section 10.2 above.
 - 10.4 The District shall prepare an annual report that will be available to the public regarding the expenditure of those funds, and shall include the following:
 - 10.4.1 Total amount of Off-Site Fees received;
 - 10.4.2 Total monies spent;
 - 10.4.3 Total monies remaining;
 - 10.4.4 Any refunds distributed;
 - 10.4.5 A list of all projects funded;
 - 10.4.6 Total emissions reductions realized; and
 - 10.4.7 The overall cost-effectiveness factor for the projects funded.
 - ~~11.0 Effective date of this rule~~
- ~~The provisions of this rule shall become effective on March 1, 2006.~~