

REGULATION I - GENERAL PROVISIONS

RULE 100. TITLE

Adopted: 09/05/74

These rules and regulations shall be known as the rules and regulations of the Great Basin Unified Air Pollution Control District, and shall have jurisdiction throughout the counties of Inyo, Mono and Alpine.

[Intentionally left blank.]

RULE 101. DEFINITIONS

Adopted: 09/05/74 Revised: 03/10/76, 10/01/76, 06/25/79, 02/09/81, 11/04/92, 05/08/96, 11/07/01, 09/24/03

Except as otherwise specifically provided in these rules and except where the content otherwise indicates, words used in these rules are used in exactly the same sense as the same words are used in Part 1 of Division 26 of the Health and Safety Code.

A. AGRICULTURAL BURNING

1. "Agricultural burning" means open outdoor fires used in agricultural operations in the growing of crops or raising of fowl or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat, or disease or pest prevention.
2. "Agricultural burning" also means open outdoor fires used in the operation or maintenance of a system for the delivery of water for the purposes specified in Subsection 1.
3. "Agricultural burning" also means open outdoor fires used in wildland vegetation management burning. Wildland vegetation management burning is the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency, to burn land predominantly covered with chaparral, trees, grass, tule, or standing brush. Prescribed burning is the planned application of fire to vegetation to achieve any specific objective on lands selected in advance of that application. The planned application of fire may also include natural or accidental ignition.

B. AGRICULTURAL OPERATION

"Agricultural operation" means the growing of crops, the raising of fowl, animals or bees, as a gainful occupation.

C. AGRICULTURAL WASTES

"Agricultural wastes" are defined as unwanted or unsalvageable material produced wholly from agricultural operations directly related to the growing of crops or the raising of animals for the primary purpose of making a profit or for a livelihood. This also includes, for the purpose of cultural practice burns, the burning of fence rows and ditch banks for weed control and weed maintenance and burning in nontillage orchards operations and of paper raisin trays, but does not include such items as shop wastes, demolition materials, garbage, oil filters, tires, pesticide containers (except paper pesticide containers), broken boxes, pallets, and other similar material, or orchard or vineyard wastes removed for land use conversion to non-agricultural purposes.

D. AIR CONTAMINANTS

"Air Contaminant" includes smoke, charred paper, dust colloids, soot, grime, carbon, noxious acid, noxious fumes, noxious gases, odors, or particulate matter, or any combination thereof.

E. ATMOSPHERE

"Atmosphere" means the air that envelopes or surrounds the earth. Where air contaminants are emitted into a building or structure not designed specifically as a piece of air pollution control equipment such emission into the building or structure shall be considered an emission into the atmosphere.

F. BOARD

"Board" means the Air Pollution Control Board of the Great Basin Unified Air Pollution Control District.

G. BRUSH TREATED

"Brush treated" means that the material to be burned has been felled, crushed or uprooted with mechanical equipment, has been desiccated with herbicides, or is dead.

H. BURN DAY

"Burn day," or "permissive-burn day" means any day on which agricultural burning, including prescribed burning, is not prohibited by the state board within the Great Basin Unified Air Pollution Control District and is authorized by the Air Pollution Control Officer consistent with District regulations related to open outdoor fires.

I. COMBUSTIBLE REFUSE

"Combustible Refuse" is any solid or liquid combustible waste material containing carbon in a free or combined state.

J. COMBUSTION CONTAMINANTS

"Combustion Contaminants" are solid or liquid particles discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.

K. DUSTS

"Dusts" are minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, blasting, shoveling, conveying, covering, bagging and sweeping or any combination thereof.

L. FLUE

"Flue" means any duct or passage for air, gases, or the like, such as a stack or chimney.

M. FOREST MANAGEMENT BURNING

"Forest Management Burning" means the use of open fires, as a part of a forest practice, to remove forest debris. Forest management practices include timber operations, silvicultural practices or forest protection practices.

1. "Timber Operations" means cutting or removal of timber or other forest vegetation.
2. "Silvicultural" means the establishment, development, care and reproduction of stands of timber.

N. FUMES

"Fumes" are minute solid particles generated by the condensation of vapors from solid matter after volatilization from the molten state, or generated by sublimation, distillation, calcination or chemical reaction, when these processes create air-borne particles.

O. HOUSEHOLD RUBBISH

"Household Rubbish" means combustible waste material and trash, including garden trash and prunings, normally accumulated by a family in a residence in the course of ordinary day to day living. See also Rule 101 BB. Waste.

P. INCINERATOR

"Incinerator" means any furnace or other closed fire chamber used for the burning of combustible refuse from which the products of combustion are directed through a chimney or flue. "Incinerator" also means any device constructed of nonflammable materials, including containers commonly known as burn barrels, for the purpose of burning therein trash, debris, and other flammable materials for volume reduction or destruction.

Q. MULTIPLE-CHAMBER INCINERATOR

"Multiple-chamber incinerator" is any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

R. OIL-EFFLUENT WATER SEPARATOR

"Oil-effluent Water Separator" is any tank, box, sump or other container in which any petroleum or product thereof, floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

S. OPEN OUTDOOR FIRE

"Open Outdoor Fire" means the burning or smoldering of any combustible material of any type outdoors in the open air, either inside or outside a fireproof container, where the products of combustion are not directed through a chimney or flue.

T. PARTICULATE MATTER

"Particulate matter (PM)" means any airborne finely divided material, except uncombined water, which exists as a solid or liquid at standard conditions (e.g., dust, smoke, mist, fumes or smog). "PM2.5" means particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers. "PM10" means particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (including PM2.5).

U. PERSON

"Person" means any person, firm, association, organization, partnership, business trust, corporation, company contractor, supplier, installer, user, owner, or any Federal, State or local governmental agency or public district, or any officer, or employee thereof. "Person" also means the United States or its agencies, to the extent authorized by Federal Law.

V. PRESCRIBED BURNING

"Prescribed burning" means the planned application of fire to vegetation on lands selected in advance of such application, where any of the purposes of the burning are specified in the definition of agricultural burning as set forth in Health and Safety Code Section 39011.

W. PROCESS WEIGHT PER HOUR

"Process Weight" is the total weight of all materials introduced into any specific process which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. The "Process Weight per Hour" will be derived by dividing the total process weight by the number of hours in one cycle of operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

X. RANGE IMPROVEMENT BURNING

"Range Improvement Burning" means the use of open fires to remove vegetation for a wildlife, game or livestock habitat or for the initial establishment of an agricultural practice on previously uncultivated land.

Y. REGULATION

"Regulation" means one of the major subdivisions of the rules of the Great Basin Unified Air Pollution Control Districts.

Z. RULE

"Rule" means a rule of the Great Basin Unified Air Pollution Control District.

AA. SECTION

"Section" means the section of the Health and Safety Code of the State of California, as amended, effective January 1, 1976, unless some other statute is specifically mentioned.

AB. SOURCE OPERATION

"Source Operation" means the last operation preceding the emission of an air contaminant for which the operation both:

1. Results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel; and
2. Is not an air pollution abatement operation.

AC. WILDLAND VEGETATION MANAGEMENT BURNING

"Wildland vegetation management burning" means the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency, to burn land predominantly covered with chaparral (as defined in Title 14, California Code of Regulations, Section 1561.1), trees, grass, tule, or standing brush.

AD. NON-INDUSTRIAL WOOD WASTE

"Non-industrial wood waste" means wood waste from trees, vines and brush that is not produced as a result of an industrial process.

AE. OPEN BURN/OPEN DETONATION OPERATIONS (OB/OD)

"Open burn/open detonation operations" refers to the treatment of propellants, explosives, and pyrotechnics (PEP) at military bases. During "open burning," raw material mixes with air and burns at temperatures which can exceed 3500 degrees Kelvin and pressures greater than 1000 pounds per square inch absolute. The open burning process entails a rapid oxidation of some fuel with a heat release and formation of combustion products. The burning of waste munitions converts the solid materials to gaseous products and particulate matter. Open detonation produces temperatures and pressures that are considerably greater than open burning. Detonation is an explosion in which a chemical transformation passes through the material faster than the speed of sound.

AF. "Air quality" means the characteristics of the ambient air as indicated by state ambient air quality standards which have been adopted by the state board pursuant to section 39606 of the Health and Safety Code and by National Ambient Air Quality Standards which have been established pursuant to sections 108 and 109 of the federal Clean Air Act pertaining to criteria pollutants and section 169A of the federal Clean Air Act pertaining to visibility.

- AG. "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
- AH. "CARB," "ARB" or "state board" means the California Air Resources Board.
- AI. "Burn plan" means an operational plan for managing a specific fire to achieve resource benefits and specific management objectives. The plan includes, at a minimum, the project objectives, contingency responses for when the fire is out of prescription with the smoke management plan, the fire prescription (including smoke management components), and a description of the personnel, organization, and equipment.
- AJ. "Burn project" means an active or planned prescribed burn or a naturally ignited wildland fire managed for resource benefits.
- AK. "Class I Area" means a mandatory visibility protection area designated pursuant to section 169A of the federal Clean Air Act.
- AL. "Fire protection agency" means any agency with the responsibility and authority to protect people, property, and the environment from fire, and having jurisdiction within a district or region.
- AM. "Land manager" means any federal, state, local, or private entity that administers, directs, oversees, or controls the use of public or private land, including the application of fire to the land.
- AN. "National Ambient Air Quality Standards (NAAQS)" mean standards promulgated by the United States Environmental Protection Agency that specify the maximum acceptable concentrations of pollutants in the ambient air to protect public health with an adequate margin of safety, and to protect public welfare from any known or anticipated adverse effects of such pollutants (e.g., visibility impairment, soiling, harm to wildlife or vegetation, materials damage, etc.) in the ambient air.
- AO. "No-burn day" means any day on which agricultural burning, including prescribed burning, is prohibited by the state board, or the Air Pollution Control Officer.
- AP. "Open burning in agricultural operations in the growing of crops or raising of fowl or animals" means:
1. The burning in the open of materials produced wholly from operations in the growing and harvesting of crops or raising of fowl or animals for the primary purpose of making a profit, of providing a livelihood, or of conducting agricultural research or instruction by an educational institution.
 2. In connection with operations qualifying under paragraph 1:
 - a. The burning of grass and weeds in or adjacent to fields in cultivation or being prepared for cultivation.

- b. The burning of materials not produced wholly from such operations, but which are intimately related to the growing or harvesting of crops and which are used in the field, except as prohibited by district regulations. Examples are trays for drying raisins, date palm protection paper, and fertilizer and pesticide sacks or containers, where the sacks or containers are emptied in the field.
- AQ. "Prescribed fire" means any fire ignited by management actions to meet specific objectives, and includes naturally-ignited wildland fires managed for resource benefits.
- AR. "Smoke Management Plan" means a document prepared for each prescribed fire by land managers or fire managers that provides the information and procedures required in Rule 411.
- AS. "Smoke sensitive areas" are populated areas and other areas where the Air Pollution Control Officer determines that smoke and air pollutants can adversely affect public health or welfare. Such areas can include, but are not limited to, towns and villages, campgrounds, trails, populated recreational areas, hospitals, nursing homes, schools, roads, airports, public events, shopping centers, and mandatory Class I areas.
- AT. "State ambient air quality standards" means specified concentrations and durations of air pollutants which reflect the relationship between the intensity and composition of air pollution to undesirable effects, as established by the state board pursuant to Health and Safety Code section 39606.
- AU. "Wildfire" means an unwanted wildland fire.
- AV. "Wildland" means an area where development is generally limited to roads, railroads, power lines, and widely scattered structures. Such land is not cultivated (i.e., the soil is disturbed less frequently than once in 10 years), is not fallow, and is not in the United States Department of Agriculture (USDA) Conservation Reserve Program. The land may be neglected altogether or managed for such purposes as wood or forage production, wildlife, recreation, wetlands, or protective plant cover. "Wildland" also means any lands that are contiguous to lands classified as a state responsibility area if wildland fuel accumulation is such that a wildland fire occurring on these lands would pose a threat to the adjacent state responsibility area. For California Department of Forestry (CDF) only, "Wildland" as specified in California Public Resources Code (PRC) section 4464(a) means any land that is classified as a state responsibility area pursuant to article 3 (commencing with section 4125) of chapter 1, part 2 of division 4 and includes any such land having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage.
- AW. "Wildland fire" means any non-structural fire, other than prescribed fire, that occurs in the wildland. For CDF only, "wildland fire" as specified in PRC section 4464(c) means any uncontrolled fire burning on wildland.
- AX. "Wildland/urban interface" means the line, area, or zone where structures and other human development meet or intermingle with the wildland.
- AY. "Approved ignition device" means an instrument or material that will ignite open fires without the production of black smoke by the ignition device, as approved by the APCO.

- AZ. "Burn Barrel" means a metal container used to hold combustible or flammable waste materials so that they can be ignited outdoors for the purpose of disposal.
- BA. "Natural vegetation" means all plants, including but not limited to grasses, forbs, trees, shrubs, flowers, or vines that grow in the wild or under cultivation. Natural vegetation excludes vegetative materials that have been processed, treated or preserved with chemicals for subsequent human or animal use, including but not limited to chemically-treated lumber, wood products or paper products.
- BB. "Waste" for the purpose of District Rules 406 and 407, means all discarded putrescible and non-putrescible solid, semisolid, and liquid materials, including but not limited to petroleum products and petroleum wastes; construction and demolition debris; coated wire; tires; tar; tarpaper; wood waste; processed or treated wood and wood products; metals; motor vehicle bodies and parts; rubber; synthetics; plastics, including plastic film, twine and pipe; fiberglass; styrofoam; garbage; trash; refuse; rubbish; disposable diapers; ashes; glass; industrial wastes; manufactured products; equipment; instruments; utensils; appliances; furniture; cloth; rags; paper or paper products; cardboard; boxes; crates; excelsior; offal; swill; carcass of a dead animal; manure; human or animal parts or wastes, including blood; fecal- and food-contaminated material. For the purpose of District Rule 406, dry, natural vegetation waste from yard maintenance is excluded from the meaning of "waste," if the material is reasonably free of dirt, soil and surface moisture.

[Intentionally left blank.]

RULE 102. STANDARD CONDITIONS

Adopted: 09/05/74

As used in these regulations, standard conditions are a gas temperature of 60 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute. Results of all analyses and tests shall be reduced to standard conditions and shall be calculated to and reported at this gas temperature and pressure.

[Intentionally left blank.]

RULE 103. EFFECTIVE DATE

Adopted: 09/05/74

These Rules and Regulations replace the District's existing Rules and Regulations and shall take effect on March 11, 1976. Future amendments to these Rules and Regulations shall take effect on the dates specified therein or as specified in the order by which they are adopted.

[Intentionally left blank.]

RULE 104. AMENDMENT PROCEDURES

Adopted: 09/05/74

The procedures for the adoption of these Rules and Regulations, and future amendments herein, shall be in accordance with Sections 40700 through Section 40704 inclusive, of the California Health and Safety Code.

[Intentionally left blank.]

RULE 105. ARRESTS AND NOTICES TO APPEAR

Adopted: 09/05/74

Pursuant to the provisions of Penal Code Section 836.5, the Air Pollution Control Officer and his deputies are authorized to arrest without a warrant and issue written notices to appear whenever they have reasonable cause to believe that the person to be arrested has committed a misdemeanor in their presence which is a violation of a rule or regulation of the Great Basin Unified Air Pollution Control District or a violation of a section in Part 1 or Part 4 of Division 26 of the Health and Safety Code of the State of California, or any provision of the Vehicle Code relating to the emission or control of air contaminants.

[Intentionally left blank.]

RULE 106. INCREMENTS OF PROGRESS

Adopted: 09/05/74

- A. Unless and until the Air Pollution Control District Hearing Board authorizes such operation, no person shall operate any article, machine, equipment or any other contrivance if such person fails to achieve any scheduled increment of progress established pursuant to Sections 42358 or 41703, Health and Safety Code or by the Air Pollution Control Board pursuant to Section 41703 of the Health and Safety Code.
- B. Whenever the Air Pollution Control Board adopts or modifies a rule in Regulation IV of these regulations and such new rule or modified rule contains a compliance schedule with increments of progress, the owner or operator of the affected article, machine, equipment or other contrivance shall, within five days after each of the dates specified in the compliance schedule, certify to the Air Pollution Control Officer, in the form and manner specified by the Air Pollution Control Officer, that the increments of progress have or have not been achieved.
- C. Whenever the Air Pollution Control District Hearing Board approves a compliance schedule with increments of progress, the owner or operator of the affected article, machine equipment or other contrivance shall, within five days after each of the dates specified in the compliance schedule, certify to the Air Pollution Control Officer, in the form and manner specified, that the increments of progress have or have not been achieved.

FOR THE PURPOSES OF THIS RULE:

- 1. "Compliance Schedule" means the date or dates by which a source or category of sources is required to comply with specific emission limitations contained in any air pollution rule, regulation, or statute and with any increment of progress toward such compliance.
- 2. "Increments of Progress" means steps toward compliance which will be taken including:
 - a. The date of submittal of the source's final control plan to the Air Pollution Control Officer.
 - b. The date by which contracts for emission control systems of process modifications will be awarded; or the date by which orders will be issued for the purchase of component parts to accomplish modification.
 - c. The date of initiation of onsite construction or installation of emission control equipment or process change.
 - d. The date by which onsite construction or installation of emission control equipment or process modification is to be completed.
 - e. The date by which final compliance is to be achieved.
 - f. Such additional increments of progress as may be necessary or appropriate to permit close and effective supervision.

RULE 107. CONSTITUTIONALITY

Adopted: 09/05/74

If any rule, part of a rule, sentence, clause or phrase of these regulations is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of these regulations.

[Intentionally left blank.]

RULE 108. VIOLATIONS AND DETERMINATION OF COMPLIANCE

Adopted: 03/08/95

A. GENERAL

1. Purpose

The purpose of this rule is to provide standards by which compliance with requirements derived from the federal Clean Air Act may be determined.

2. Applicability

The provisions of this rule shall provide standards for compliance determinations required by, or derived from, federal law for the operation of any article, machine, equipment, or other contrivance within the District which may cause the issuance of air contaminants, or the use of which may eliminate, reduce, or control the issuance of air contaminants.

3. Exemptions

Operations which are exempt from federal permit under Title V of the Clean Air Act Amendments of 1990 are exempt from this Rule.

4. Effective Dates

This Rule becomes effective on March 8, 1995.

5. References

The requirements of this Rule arise from the provisions of Sections 110(a)(2)(A),(C), and (F)(42 U.S.C. Sections 7401(a)(2)(A),(C), and (F): and Sections 113, 114(a)(3)(42 U.S.C. Sections 7413 and 7414(a)(3)) of the federal Clean Air Act.

B. DEFINITIONS

1. "Administrator" means the Administrator of the United States Environmental Protection Agency or delegate.

2. "District" means the Air Pollution Control District.

C. VIOLATIONS OF OTHER LEGAL MANDATES

Nothing in the District Regulations is intended to permit any practice which is a violation of any statute, ordinance, rule or regulation.

D. STANDARDS FOR DETERMINATION OF COMPLIANCE

1. Compliance Certification

Notwithstanding any other provision in any plan approved by the United States Environmental Protection Agency Administrator, for the purpose of submission of

compliance certification required by federal law, the owner or operator is not prohibited from using the following, in addition to any specified compliance methods:

- a. An enhanced monitoring protocol approved for the source pursuant to 40 CFR Part 64.
- b. Any other monitoring method approved for the source pursuant to 40 CFR 70.6(a)(3) and incorporated into a federally enforceable operating permit.

2. Credible Evidence

Notwithstanding any other provision in the District's State Implementation Plan approved by the Administrator, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such plan.

- a. Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at a source:
 - i. An enhanced monitoring protocol approved for the source pursuant to 40 CFR Part 64.
 - ii. A monitoring method approved for the source pursuant to 40 CFR 70.6(a)(3) and incorporated into a federally enforceable operating permit.
 - iii. Compliance test methods specified in the District's State Implementation Plan.
- b. The following testing, monitoring, or information-gathering methods are presumptively credible testing, monitoring, or information-gathering methods:
 - i. Any federally-enforceable monitoring or testing methods, including those in 40 CFR Parts 51, 60, 61 and 75.
 - ii. Other testing, monitoring, or information gathering methods that produce information comparable to that produced by any method in D.2.a. or D.2.b.i herein.

[Intentionally left blank.]

RULE 109. MINOR VIOLATIONS

Adopted: May 26, 1999 Repealed: January 1, 2001
Adopted & Revised: September 12, 2001

A. GENERAL

1. Purpose

The purpose of this rule is to implement the provisions of Chapter 3 of Part I of Division 25 of the California Health and Safety Code (Section 39150 et seq.) which defines a minor violation and establishes guidelines for issuing a Notice to Comply.

2. Applicability

This rule applies to any person subject to a state requirement, or District rule, regulation, permit condition, administrative or procedural plan, or request for information from the District.

3. Severability

If a court of competent jurisdiction issues an order that any provision of this rule is invalid, it is the intent of the Board of Directors of the District that other provisions of this rule remain in full force and effect to the extent allowed by law.

B. DEFINITIONS

1. Administrative Requirements

A provision of a state requirement, District rule, regulation, plan, or permit which requires a specified action but does not directly result in a measurable increase in air contaminant emissions to the atmosphere.

2. Air Contaminant

Any discharge, release, or other propagation into the atmosphere of an air pollutant and includes but is not limited to smoke, charred paper, dust soot, grime, carbon, fumes, gases, odors, Volatile Organic Compounds (VOC), Nitrogen Oxides (NO_x), Sulfur Oxides (SO_x), Carbon Monoxide (CO), Hydrogen Sulfide, particulate matter, acids or any combination thereof.

3. Ambient Air Quality Standard

Any National Ambient Air Quality Standard promulgated pursuant to the provisions of 42 U.S.C. 7406 or any State Ambient Air Quality Standards promulgated pursuant to the provisions of the California Health and Safety Code Section 39006.

4. Chronic Violation

A violation of a state requirement, District rule, regulation, plan or permit by a person that reflects a pattern of neglect, disregard or recurrence of the same or similar violation at the same facility, process, or piece of equipment.

5. Information

Data, records, photographs, analyses, plans or specifications which will disclose the nature, extent, quantity, or degree of air contaminants which are, or may be, discharged by the source for which a permit was issued or applied, or which is subject to a state requirement, District rule, regulation, permit condition, administrative or procedural plan or request for information by the District.

6. Minor Violation

- a. The failure of a person to comply with administrative or procedural requirements of an applicable state requirement, District rule, regulation, permit condition, administrative or procedural plan or request for information by the District which are all of the following;
 - i. It does not result in an increase of emissions of air contaminants; and
 - ii. It does not endanger the health, safety, or welfare of any person or persons; and
 - iii. It does not endanger the environment; and
 - iv. It does not cause or contribute to the violation of any State or National Ambient Air Quality Standard; and
 - v. It does not preclude or hinder the District's ability to determine compliance with other applicable state or federal requirement, District rule, regulation, administrative or procedural plan, permit condition, or request for information.

- b. Notwithstanding Section B.6.a, a violation of an applicable State requirement, District rule, regulation, permit, administrative or procedural plan or request for information by the District shall not be considered a minor violation if:
 - i. The violation involves failure to comply with the emissions standard in the applicable rule or regulation, including a requirement for control equipment, emissions rate, concentration limit, opacity limit, product material limitation, or other rule provision or permit requirement associated with emissions; or
 - ii. The violation is knowing, willful, or intentional; or
 - iii. The violation enables the violator to benefit economically from noncompliance, either by realizing reduced costs or by gaining a competitive advantage; or
 - iv. The violation is chronic; or
 - v. The violation is committed by a recalcitrant violator,
 - vi. The violation results in a nuisance, as defined by Rule 402 – NUISANCE.

7. Notice to Comply

A written method of alleging a minor violation that:

- a. Is written in the course of conducting an inspection or during any review of the stationary source by the District; and
- b. Clearly states all of the following:
 - i. The nature of the alleged minor violation; and
 - ii. A means by which compliance with the requirements cited by the District may be achieved; and
 - iii. A time limit not to exceed 30 calendar days, by which date compliance must be achieved; and
 - iv. A statement that the inspected site or facility may be subject to reinspection at any time.

8. Permit

An Authority to Construct or Permit to Operate issued pursuant to Rule 200 PERMITS REQUIRED.

9. Procedural Requirement

A provision of a rule, regulation or permit condition that establishes a manner, method, or course of action, but does not specify, limit or otherwise affect air contaminant emissions.

10. Recalcitrant Violator

A person that has engaged in a pattern of neglect or disregard with respect to an applicable federal or state requirement, District rule, regulation, permit condition, administrative or procedural plan or request for information by to District.

C. STANDARDS

1. Notice to Comply

A Notice to Comply shall be issued for all minor violations cited as the result of the same inspection and the Notice to Comply shall separately list each cited minor violation and the manner in which each minor violation may be brought into compliance.

- a. Except as otherwise provided in Section D.2 of this regulation, a Notice to Comply shall be the only means by which the Air Pollution Control Officer shall cite a minor violation. The Air Pollution Control Officer shall not take any other enforcement action regarding a minor violation against a person who has received a Notice to Comply if the person is in compliance with Section C.3.

- b. If the Air Pollution Control Officer determines that the circumstances surrounding a particular minor violation are such that immediate enforcement is warranted to prevent harm to the public health or safety, or to the environment, including requirements of state and federal law, the Air Pollution Control Officer may take any needed enforcement action authorized by law.

2. Immediate On-Site Corrections

A Notice to Comply shall not be issued for any minor violation that is corrected immediately and in the presence of the inspector. Immediate compliance in this manner may be noted in the inspection report or other District documents, but the person shall not be subject to any further action by the District as a result of that minor violation.

- a. Corrected minor violations may be used to show a pattern of neglect or disregard by a recalcitrant violator, or a chronic violation.

3. Correction Requirements

Notwithstanding an appeal of the Notice to Comply pursuant to Section D.4, a person who receives a Notice to Comply pursuant to Section C.1 shall have no more than the period specified in the Notice to Comply from the date of receipt of the Notice to Comply in which to achieve compliance with the requirements cited on the Notice to Comply.

- a. Within 5 calendar days of achieving compliance, the person shall sign, date, and return the Notice to Comply to the Air Pollution Control Officer stating that the person has complied with the Notice to Comply, and how compliance was achieved.
- b. Notwithstanding any other provision of this rule if a person fails to comply with a Notice to Comply within the prescribed period, or if the Air Pollution Control Officer determines that the circumstances surrounding a particular minor violation are such that immediate enforcement is warranted to prevent harm to the public health or safety, or to the environment, the Air Pollution Control Officer may take any needed enforcement action authorized by law.

4. Federal Requirements

Notwithstanding any other provision of this regulation, if the Air Pollution Control Officer determines that the circumstances surrounding a particular minor violation are such that the assessment of a penalty pursuant to this rule is warranted or required by federal law, in addition to issuance of a Notice to Comply, the District shall assess a penalty in accordance with Division 26 of the Health and Safety Code, Section 42400, et seq., if the Air Pollution Control Officer makes written findings that set forth the basis for the determination of the District.

- a. The issuance of a Notice to Comply for a violation of state law will not interfere with an agency's duty and ability to enforce all federal requirements or laws.

D. ADMINISTRATIVE REQUIREMENTS

1. Appeal Process

If a person receives a Notice to Comply pursuant to Section C.1 and disagrees with one or more of the alleged violations cited in the Notice to Comply, the person may give written notice of appeal to the District within 5 working days of issuance of the Notice to Comply, stating in sufficient detail the grounds for challenging the Notice to Comply.

- a. The Air Pollution Control officer shall grant or deny the appeal within 5 calendar days of receipt of the appeal. If the Air Pollution Control Officer fails to respond, the appeal shall be deemed denied - The Air Pollution Control Officer's decision shall be final.

2. Penalty

Any person who fails to resolve a Notice to Comply by the date specified on the Notice to Comply or submits a false statement that compliance has been achieved shall be issued a Notice of Violation which may be subject to further legal action pursuant to the California Health and Safety Code, Section 42400, et seq.

[Intentionally left blank.]