

RULE 1305

New Source Review Emissions Offsets

(A) General

(1) Purpose

- (a) This Rule provides the procedures to calculate the amount of, determine the eligibility of, and determine the use of Offsets required pursuant to the provisions of District Rule 1303(B).

(B) Calculation of Amount of Offsets Necessary

- (1) The base amount of necessary Offsets shall be calculated based upon the nature of the Facility or Modification.

- (2) The APCO shall first determine the particular Facility or Modification and calculate the base quantity of Offsets required as follows

- (a) For a new Major Facility, the base quantity of Offsets shall be equal to the total Proposed Emissions, calculated pursuant to District Rule 1304(E)(1), for the Facility on a pollutant category specific basis for each Nonattainment Air Pollutant.
- (b) For a Major Modification to a previously existing non-major Facility **located in a Federal Nonattainment Area** for the specific Nonattainment Air Pollutant the base quantity of Offsets shall be equal to the total Proposed Emissions, pursuant to District Rule 1304(E)(1), for the Facility on a pollutant category specific basis.
- (c) For a Major Modification to a previously existing non-major Facility **located outside a Federal Nonattainment Area** for the specific Nonattainment Air Pollutant the base quantity of Offsets shall be equal to the amount of the Facility's Proposed Emissions which exceeds the threshold amounts as set forth in District Rule 1303(B) on a pollutant category specific basis for each Nonattainment Air Pollutant.
- (d) For a Modification to a previously existing non-major Facility which subsequently results in the Facility becoming a Major Facility **located in a Federal Nonattainment Area** for the specific Nonattainment Pollutant, the base quantity of Offsets shall be equal to the Facility's Proposed Emissions, pursuant to District Rule 1304(E)(1), for the Facility on a pollutant category specific basis for each Nonattainment Air Pollutant.
- (e) For a Modification to a previously existing non-major Facility which subsequently results in the Facility becoming a Major Facility **located outside a Federal Nonattainment Area** for the specific Nonattainment

Air Pollutant, the base quantity of Offsets shall be equal to the Facility's Proposed Emissions which exceeds the threshold amounts as set forth in District Rule 1303(B) on a pollutant category specific basis for each Nonattainment Air Pollutant.

- (f) For a non-major Facility which becomes a Major Facility due to the relaxation of a Federal requirement or a Federally Enforceable requirement **located in a Federal Nonattainment Area** for the specific Nonattainment Pollutant, the base quantity of Offsets shall be equal to the total Proposed Emissions, pursuant to District Rule 1304(E)(1), for the Facility on a pollutant category specific basis for each Nonattainment Air Pollutant.
 - (g) For a non-major Facility which becomes a Major Facility due to the relaxation of a Federal requirement or a Federally Enforceable requirement **located outside a Federal Nonattainment Area** for the specific Nonattainment Air Pollutant, the base quantity of Offsets shall be equal to the Facility's Proposed Emissions which exceeds the threshold amounts as set forth in District Rule 1303(B) for the Facility on a pollutant category specific basis for each Nonattainment Air Pollutant.
 - (h) For a Modification to an existing Major Facility the base quantity of Offsets shall be the amount equal to the difference between the Facility's Proposed Emissions and the HAE.
 - (i) Additional Requirements for Seasonal Sources
 - (i) The base quantity of Offsets for new or Modified Seasonal Sources shall be determined on a quarterly basis.
 - (ii) Seasonal emissions used for Offsets shall generally occur during the same consecutive monthly period as the new or Modified Seasonal Source operates.
 - (j) Offset Adjustment for Various Energy Conservation Projects
 - (i) If the facility qualifies as a cogeneration technology project, or is otherwise qualified as an energy conservation project pursuant to California Health and Safety Code §§39019.5, 39019.6, 39047.5 and 39050.5 the amount of offsets shall be adjusted to the extent required by the applicable provisions of Health and Safety Code, including but not limited to California Health and Safety Code §§42314, 42314.1, 42314.5, 41601, and 41605.5.
 - (ii) In no case shall such offset adjustment result in an amount of offsets less than those required pursuant to Federal law.
- (3) After determining the base quantity of Offsets, the APCO shall apply the appropriate Offset ratio and any Adjustments as set forth in section (D) below, dependent upon the location of the Offsets and the location of the proposed new or Modified Facility or Emissions Unit(s).

- (4) If eligible interpollutant Offsets are being used the APCO shall apply the appropriate ratio to determine the final amount of Offsets necessary.

(C) Eligibility of Offsets

- (1) ERCs are eligible to be used as Offsets when:

- (a) Such ERCs are Real, Surplus, Permanent, Quantifiable, and Enforceable; and have been calculated pursuant to District Rule 1304(E) and issued by the District pursuant to the provisions in District Rule 1309; and are obtained from a Facility (or combination of Facilities) which are:
 - (i) Located within the same Federal Nonattainment, attainment or unclassified area as that where the Offsets are to be used; or
 - (ii) Located in an area with a Federal designation (in the case of attainment or unclassified areas) or classification (in the case of nonattainment areas) which is greater than or equal to the designation or classification of the area where the Offsets are to be used so long as the emissions from that area cause or contribute to a violation of the Ambient Air Quality Standards in the area in which the Offsets are to be used.
- (b) Such ERCs have been calculated and issued in another air district under a program developed pursuant to California Health & Safety Code §§40700-40713 so long as the source of such credits is contained within the same air basin as the District and the use of the ERCs comply with the provisions of subsection (C)(4) below.
- (c) Such ERCs have been calculated and issued in another air district under a program developed pursuant to California Health & Safety Code §§40709-40713 and the transfer of such credits complies with the requirements of California Health & Safety Code §40709.6 and the use of the ERCs comply with the provisions of section (C)(5) below.

- (2) SERs are eligible for use as Offsets when:

- (a) They have been calculated, adjusted and meet all the requirements of District Rule 1304(C).
- (b) In no case shall any excess SERs be eligible for Banking pursuant to the provisions of District Rule 1309.

- (3) Mobile, Area and Indirect Source Emissions Reductions

- (a) Mobile Source ERCs are eligible to be used as Offsets when:
 - (i) Such Mobile, Area, or Indirect Source ERCs have been calculated and banked pursuant to the provisions of District Regulation XVII and District Rule 1309; and

- (ii) The applicant demonstrates sufficient control over the Mobile Area or Indirect Sources to ensure the claimed reductions are Real, Surplus, Permanent, Quantifiable and Enforceable; and
 - (iii) For Mobile Sources, such Mobile Source ERCs are consistent with Mobile Source emissions reduction guidelines issued by CARB; and
 - (iv) The specific Mobile, Area, or Indirect Source ERCs are approved for use prior to the issuance of the NSR document and the issuance of any ATCs by the APCO in concurrence with CARB; and
 - (v) For a new or Modified Major Facility or a Major Modification which is located in a Federal Nonattainment Area the specific Mobile, Area, or Indirect Source ERCs are calculated and adjusted pursuant to a SIP approved calculation method and represent Actual Emissions Reductions from a USEPA approved emissions inventory; and
 - (vi) Such Mobile, Area, or Indirect Source ERCs comply with the applicable provisions of section (C)(1) above.
- (4) ERCs Obtained from Other Air Districts and Within the Air Basin
- (a) ERCs occurring within the air basin but outside the District are eligible to be used as Offsets upon approval of the APCO as follows:
 - (i) For a new or Modified Major Facility or a Major Modification which is located in a Federal Nonattainment Area the APCO's approval shall be made in consultation with CARB and the USEPA, on a case-by-case basis; and
 - (ii) For all other Facilities or Modifications subject to this provision the APCO's approval shall be made in consultation with CARB on a case-by-case basis; and
 - (iii) The ERCs are obtained in a nonattainment area which has a greater or equal nonattainment classification than the area where the Offsets are to be used; and
 - (ii) The emissions from the other nonattainment area contribute to a violation of the Ambient Air Quality Standards in the area where the Offsets are to be used.
 - (b) Such emissions reductions shall also comply with the applicable requirements of subsection (C)(1) above.
- (5) Offsets from Other Air Districts and Outside the Air Basin
- (a) ERCs from outside the air basin are eligible to be used as Offsets upon approval of the APCO as follows.
 - (i) For a new or Modified Major Facility or a Major Modification, which is located in a Federal Nonattainment Area the APCO's approval shall be made in consultation with CARB and the USEPA, on a case-by-case basis; and

- (ii) For all other Facilities or Modifications subject to this provision the APCO's approval shall be made in consultation with CARB on a case-by-case basis; and
 - (iii) The ERCs are obtained in a nonattainment area which has a greater or equal nonattainment classification than the area where the Offsets are to be used; and
 - (vi) The emissions from the other nonattainment area contribute to a violation of the Ambient Air Quality Standards in the area where the Offsets are to be used.
- (b) Such emissions reductions shall comply with the applicable requirements of subsection (C)(1) above.
- (6) Interpollutant Offsets¹
 - (a) Emissions reductions of one type of Air Pollutant may be used as Offsets for another type of Air Pollutant upon approval of the APCO.
 - (i) For a new or Modified Major Facility or a Major Modification which is located in a Federal Nonattainment Area the APCO's approval shall be made in consultation with CARB and with the approval of USEPA pursuant to the provisions of District Rule 1302(D)(2), on a case-by-case basis as long as the provisions of subsection(C)(6)(b) below are met.
 - (ii) For all other Facilities or Modifications subject to this provision the APCO's approval shall be made in consultation with CARB on a case-by-case basis.
 - (b) In approving the use of interpollutant offsets the APCO shall determine that:
 - (i) The trade is technically justified; and
 - (ii) The applicant has demonstrated, to the satisfaction of the APCO, that the combined effect of the Offsets and emissions increases from the new or Modified Facility will not cause or contribute to a violation of an Ambient Air Quality Standard.
 - (c) The APCO shall, based upon an air quality analysis, determine the amount of Offsets necessary, as appropriate.
 - (d) Interpollutant trades between PM₁₀ and PM₁₀ precursors may be allowed on a case by case basis. PM₁₀ emissions shall not be allowed to Offset Nitrogen Oxides or Volatile Organic Compounds emissions within any ozone nonattainment area.
 - (e) Such ERCs comply with the applicable provisions of subsection (C)(1) above.

¹ Use of this subsection subject to the Ruling in *Sierra Club v. USEPA* 985 F.3d 1055 (D.C. Cir, 2021) and subsequent guidance as issued by USEPA.

(D) Offset Ratio and Adjustment

- (1) Offsets for Net Emissions Increases of Nonattainment Air Pollutants shall be provided on a pollutant category specific basis, calculated as provided in section (B) above and multiplied by the appropriate Offset ratio listed in the following table:

TABLE OF OFFSET RATIOS

<u>POLLUTANT</u>	<u>OFFSET RATIO</u> (Within a Federal Ozone Nonattainment Area)	<u>OFFSET RATIO</u> (Within a Federal PM ₁₀ Nonattainment Area)
PM ₁₀	1.0 to 1.0	1.0 to 1.0
Oxides of Nitrogen (NO _x)	1.3 to 1.0	1.0 to 1.0
Oxides of Sulfur (SO _x)	1.0 to 1.0	1.0 to 1.0
Volatile Organic Compounds (VOC)	1.3 to 1.0	1.0 to 1.0

- (2) If a Facility is located within more than one Federal nonattainment area, the largest applicable Offset ratio for each Nonattainment Air Pollutant shall apply.
- (3) The ratio for Offsets obtained from outside the District for any Nonattainment Air Pollutant shall be equal to the offset ratio which would have applied had such Offsets been obtained within the District.
- (4) The APCO shall Adjust any Offsets proposed to be used to reflect any emissions reductions in excess of RACT in effect at the time such Offsets are used if such reductions have not already been reflected in the calculations required pursuant to District Rules 1304(C)(2).

[SIP: See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans> _____]