

MEMORANDUM

TO: APCD Community Advisory Council

FROM: Ron Tan (961-8812)

SUBJECT: Response to June 2010 CAC Requests

DATE: June 30, 2010

At its June 2010 meeting the Community Advisory Council requested that the following items be discussed at its July 2010 meeting:

1. Inclusion of a Land Use chapter in the 2010 Clean Air Plan,
2. Adoption of an Indirect Source Review Rule (“ISR Rule”), and
3. Inclusion of “Activity Centers” as a Transportation Control Measure in the 2010 Clean Air Plan.

As a starting point for this discussion, staff has prepared a brief history of the Land Use chapter in previous Clean Air Plans, a summary of ISR rules and policies adopted by various California APCD’s and the definition of “activity centers” provided in the 1990 federal Clean Air Act.

HISTORY OF LAND USE CHAPTER IN CLEAN AIR PLANS

2001 Clean Air Plan

This plan included a “Land Use Strategies” chapter (“Chapter 9”) which discussed the connection between land use development and air quality, and set forth specific policies and sustainable ways in which air pollution impacts of growth could be minimized. Those policies and standards included appropriate location and density, mixed-use neighborhoods, balancing jobs and housing, and transportation system management policies and programs.

2004 Clean Air Plan

The APCD Community Advisory Council recommended that the 2004 Clean Air Plan contain a Chapter devoted to Land Use. The purpose of the Land Use Chapter was to discuss the connection between land use development, transportation and air quality, and set forth policies and strategies to minimize the air pollution impacts of growth.

In response to that recommendation, the draft 2004 Clean Air Plan included an updated version of the 2001 Clean Air Plan's Chapter 9. At its October 2004 hearing the APCD Board ("Board") reviewed the draft 2004 Clean Air Plan and "directed staff to return with options for Chapter 7 – Land Use, which would be less specific regarding land use planning and more as general reference guidelines".

Staff brought the draft 2004 Clean Air Plan, including a Land Use chapter revised as per Board direction, back to the Board for adoption in December 2004. At that hearing, the Board rejected inclusion of a Land Use Strategies chapter in that plan and emphasized that the APCD should not be dictating local land use decisions. Rather, staff was directed to work with city and county planning departments to determine whether they wished to have such a chapter included in APCD's next clean air plan (i.e., the 2007 Plan). The Board, however, in its resolution adopting the 2004 Plan did encourage "local governments to plan and design communities to minimize motor vehicle miles traveled and trips".

In November 2005, APCD staff discussed the Clean Air Plan Land Use Strategies chapter with members of the Santa Barbara County Association of Government's Technical Planning Advisory Committee. At that time there were mixed opinions from local planning agencies on including such a chapter in future Clean Air Plans.

2007 Clean Air Plan

In March 2006, the CAC once again recommended that the Board include a Land Use Strategies chapter in the 2007 Plan. The Board directed staff in June 2006 to bring back the issue of including a Land Use chapter for further consideration at a future meeting.

As a prelude to bringing back the issue of whether to include a land use chapter, staff once again polled Planning Directors from each jurisdiction in the county in April 2007 regarding including a Land Use Strategies chapter in the 2007 Plan. The cities of Carpinteria and Santa Barbara, and Santa Barbara County were supportive, while Solvang raised several concerns but did not express a preference for including a Land Use Strategies chapter. The remaining jurisdictions, Guadalupe, Santa Maria, Lompoc, Buellton and Goleta, did not respond.

At its June 2007 meeting the Board directed staff not to include a Land Use chapter in the 2007 Plan and again emphasized that it did not want APCD to dictate local land use decisions.

LOCAL AIR DISTRICT INDIRECT SOURCE REVIEW RULES AND POLICIES

San Joaquin Valley APCD (Attachment 1)

The purpose of San Joaquin's Indirect Source Review (ISR) Program is to reduce emissions of NO_x and PM₁₀ from new development projects and applies to development projects that have not yet gained discretionary approval.

There are several sources that are exempt. These include transportation projects that meet certain conditions; reconstruction projects that result from a natural disaster; and development projects whose primary functions are from District permitted stationary sources. Also, development projects that have a mitigated baseline below 2.0 tons per year for NO_x and PM₁₀ are exempt from the mitigation requirement of the rule.

San Joaquin has two rules, Rules 9510 and 3180, regarding ISR. Rule 9510 specifies which sources are subject to the ISR Program and those which are exempt, application requirements, mitigation requirements and the fee schedule. Rule 3180 spells out how the San Joaquin APCD recovers its costs for administering the requirements of Rule 9510, including filing and application fees.

The California Building Industry Association (BIA) challenged Rule 9510 in state court, asserting that the San Joaquin APCD had no authority to regulate development and impose fees through its enactment of Rule 9510. In January 2010 the California Supreme Court refused to grant the BIA's petition for review which effectively ended the suit. In a related matter, the National Association of Home Builders (NAHB) is challenging the rule in federal courts. The claim in that case is that the rule imposes an engine standard on construction equipment that is pre-empted by the Clean Air Act. The NAHB lost at the trial court level and the case is pending in the Ninth Circuit Court of Appeals.

Because of these legal challenges, the San Joaquin APCD has not spent any of the fees collected to date.

Imperial County APCD (Attachment 2)

Imperial County's Rule 310 provides their Air District with a method for mitigating the emissions produced from the operation of new commercial and residential development projects throughout Imperial County. This rule is intended to assist the Imperial County APCD in attaining the state and federal ambient air quality standards for PM₁₀ and Ozone.

Rule 310 requires the payment of a one-time fee which is based on project type (i.e., residential single or multiple-family, commercial) and pollutant (PM₁₀ or ozone precursors); or for the project proponent to provide off-site mitigation (e.g., reduce emissions at another source); or a combination of fees and off-site mitigation.

Colusa County APCD (Attachment 3)

Colusa County APCD's Rule 4.8, adopted in 1991, requires any applicant for a building permit with the County of Colusa, the City of Colusa or the City of Williams to pay the following fees:

Residential - \$25.00 per unit

Commercial - \$0.10 per square foot

Industrial - \$0.05 per square foot

The planning departments of the county and cities may retain an administrative fee for the collection and transfer of collected funds. All revenue from this rule is placed in a fund used to offset the Air Pollution Control District's costs.

Feather River Air Quality Management District (Attachment 4)

The purpose of Feather River AQMD's Rule 7.10 is to recover the cost associated with providing assistance to city and county land use agencies in reviewing the air quality impact of development projects.

Placer County APCD (Attachment 5)

Working with their local planning agencies, Placer County APCD operates an Offsite Air Quality Mitigation Fund which allows a project proponent to offset a project's emissions by contributing to this fund. These funds are then used to secure offsite emission reductions (aka offsets).

ACTIVITY CENTERS

Section 108(f)(1)(A) of the 1990 federal Clean Air Act Amendments requires the USEPA administrator to make available information "regarding the formulation and emission reduction potential of transportation control measures related to criteria pollutants and their precursors". And as specified in Section 108(f)(1)(A)(xiv) this information includes:

"programs and ordinances to facilitate non-automobile travel, provision and utilization of mass transit, and to generally reduce the need for single-occupant vehicle travel, as part of transportation planning and development efforts of a locality, *including programs and ordinances applicable to new shopping centers, special events and other centers of vehicle activity*" (emphasis added).

ATTACHMENT 1
SAN JOAQUIN VALLEY APCD RULES 9510 AND 3180

RULE 9510 INDIRECT SOURCE REVIEW (ISR) (Adopted December 15, 2005)

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 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 buildout 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 This rule shall apply to any transportation or transit project where construction exhaust emissions equal or exceed two (2.0) tons of NOx or two (2.0) tons of PM10.

2.3 Projects on Contiguous or Adjacent Property

2.3.1 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 are subject to this rule.

2.3.2 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 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 NO_x 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 a discretionary approval by a public agency, and will ultimately result in the construction of a new building, facility, or structure, or 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 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.

3.18 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:

3.18.1 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.

3.18.2 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.

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

3.18.4 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.

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

3.18.5.1 Light Industrial: 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

3.18.5.2 Heavy Industrial: Also categorized as manufacturing facilities. Heavy Industrial usually has a high number of employees per industrial plant.

3.18.6 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.

3.18.7 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.

3.18.8 Residential: any facility, building, structure, installation, activity or combination thereof, which provides a living space for an individual or group of individuals.

3.19 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.

3.20 Mitigated Baseline: the NO_x or PM₁₀ emission generated by a project after on-site emission reduction measures have been applied.

3.21 Mobile Emissions: the NO_x or PM₁₀ emissions generated by motorized vehicles.

3.22 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.

3.23 NO_x: any oxides of nitrogen.

3.24 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.

3.25 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.

3.26 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.

3.27 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.

3.28 Operational Emissions: for the purposes of this rule, the combination of area and mobile emissions associated with an indirect source.

3.29 Phase: a defined portion on a map, of a development project.

3.30 PM₁₀ (or PM-10): as defined in Rule 1020 (Definitions).

3.31 Public Agency: any federal, state, local, or special agency that exercises discretionary powers on development activities within the San Joaquin Valley Air Basin.

3.32 San Joaquin Valley Air Basin (SJVAB): as defined in Rule 1020 (Definitions).

3.33 Transit: any passenger transportation service, local, metropolitan or regional in scope, that is available to any person who pays a prescribed fare. Transportation 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.”

3.34 Transportation Projects: any project 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 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 NO_x 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 projects shall be exempt from the requirements in Sections 6.2 and 7.1.2.

4.2 Transit 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 NO_x 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 and is rebuilt to essentially the same use and intensity.

4.4.2 Transportation Projects 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. 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 NOx 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;

5.5.8 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.

5.5.9 The cost of reductions corresponding to the payment schedule;

5.5.10 Applicable project termination and delay clauses; and

5.5.11 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 NO_x emissions, and

6.1.1.2 45% of the total PM₁₀ exhaust 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 NO_x Emissions

Applicants shall reduce 33.3%, of the project's operational baseline NO_x 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 NOx Emissions, as documented in the APCO approved Air Impact Assessment application, in total tons

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

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

7.1.1.2 PM10 Emissions

The applicant shall pay a monetary sum necessary to offset the required construction PM10 exhaust emissions not reduced onsite. 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.

7.1.2 Operational and Area Source Activities

7.1.2.1 NOx 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:

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

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.

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: $PM10OF$

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

Where,

$PM10OF$ = 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.

7.2 Fee Schedules

7.2.1 The costs of NO_x reductions are as follows:

Year

Year	Cost of NO _x reductions (\$/ton)
2006	\$4,650
2007	\$7,100
2008 and beyond	\$9,350

7.2.2 The costs of PM10 reductions are as follows:

Year	Cost of PM ₁₀ reductions (\$/ton)
2006	\$2,907
2007	\$5,594
2008 and beyond	\$9,011

7.3 The applicant shall pay the Off-Site Fees in full by the invoice due date 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, 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: 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.

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.

ATTACHMENT 1 (cont'd)

**RULE 3180 ADMINISTRATIVE FEES FOR INDIRECT SOURCE REVIEW (ISR)
(Adopted December 15, 2005; Amended January 17, 2008, effective July 1, 2009)**

Note: This rule is effective on and after July 1, 2009.

1.0 Purpose The purpose of this rule is to recover District's costs for administering the requirements of District Rule 9510 (Indirect Source Review).

2.0 Applicability This rule applies to development projects subject to a portion or all the requirements of Rule 9510.

3.0 Application Filing Fee

When a developer submits an Air Impact Assessment (AIA) application in accordance with the provisions of District Rule 9510, the developer shall pay a non-refundable application filing fee according to the following fee schedule:

Residential projects \$467

Non-residential or mixed use projects \$700

4.0 Application Evaluation Fee

4.1 Every developer who files an air impact assessment application in accordance with the provisions of District Rule 9510 shall pay an evaluation fee for the development and/or review of the air quality analysis and the determination of the Off-Site Emission Reduction Fees necessary for off-site emission reductions. The fee shall be calculated using the staff hours expended and the prevailing weighted labor rate. No applicant shall be charged for staff hours associated with staff training or correction of staff errors. All filing fees paid shall be credited towards the evaluation fee.

4.2 All time spent by the District application processing staff on the project, beginning with pre-application meeting through issuance of the final decision, must be logged on a "Application Processing Time" log. Upon formal request by a developer, the District shall provide a current status of actual time expenditure, broken down by major application processing steps within 10 days.

4.3 Notification of Fee Amount and Payment: The developer shall be notified of the evaluation fee in excess of the application fee when it receives the approval or denial of the AIA application. The fee shall be payable within sixty (60) calendar days.

5.0 Administrative Fees for Mitigation Projects

5.1 Each developer that is subject to the off-site emission reduction fees under District Rule 9510 shall pay to the District an administrative fee equal to four percent (4%) of the required off-site fees for the District's cost of administering the off-site emission reduction program as outlined in Rule 9510.

5.2 Notification of Fee Amount and Payment: The administrative fees for off-site projects shall be paid at the same time as the off-site emission reduction fees.

5.3 Refund of Administrative Fees for Off-Site Projects

If a project is terminated or is cancelled, the building permit or use permit expires, is canceled, 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 administrative fees for off-site projects and the off-site emission reduction fees paid less the administrative costs incurred by the District. The developer must provide written request of refund, with proof of termination within thirty (30) calendar days of termination, such as confirmation from local agency of permit cancellation.

6.0 Fee Penalty

If payment of any charges levied under this rule are not received by the District within sixty (60) calendar days of the invoice date, or by the date specified on the invoice, the charges shall be increased in accordance with the schedule provided in Rule 3010 Section 11.0 (Late Fees).

ATTACHMENT 2

IMPERIAL COUNTY APCD RULE 310

RULE 310 OPERATIONAL DEVELOPMENT FEE (Adopted 11/06/2007)

A. Purpose

The purpose of this rule is to provide the Air District with a sound method for mitigating the emissions produced from the operation of new commercial and residential development projects throughout the County of Imperial and incorporated cities. All project proponents have the option to either provide: offsite mitigation, pay the operational development fee, or do a combination of both. This rule will assist the Air District in attaining the State and federal ambient air quality standards for PM10 and Ozone.

B. Definitions

For the purposes of this rule, and in addition to the definitions in Rule 101, Definitions, the following definitions shall apply:

B.1 COMMERCIAL: Commercial means any new construction, including additions of structures, which are not residential or industrial.

B.2 MINOR SUBDIVISION (PARCEL MAPS): Any division of land (real property) consisting of four or less lots.

B.3 MITIGATION: For the purpose of this rule, mitigation means an activity taken or conditions incorporated in a project to avoid, minimize, reduce, eliminate, or compensate emissions estimated to occur from new development projects.

B.4 OPERATIONAL DEVELOPMENT: Operational Development means any facility, building, structure, installation, real property, road or highway which attracts or may attract mobile sources of air pollution.

B.5 RESIDENTIAL: Residential means any construction of a family dwelling unit. Each dwelling shall be considered one unit. Residential projects can be placed in the following two categories:

B.5.a SINGLE FAMILY DWELLING: A building, including accessory buildings, used as living quarters by one family.

B.5.b MULTIPLE FAMILY DWELLING: A building, including accessory buildings, used as living quarters by multiple families residing independent of one another.

C. Exemptions

The following construction units are exempt from provisions of this rule:

C.1 All Minor Subdivision residential projects of four or less single family dwelling units shall be exempted.

C.2 Low income residential projects, as certified by the department of Housing and Urban Development (HUD), directly aided by federal, State, or local housing funds shall be exempted. For multiple family dwelling projects, only those units that are directly aided by federal, State or local housing funds shall be exempt.

C.3 Reconstruction of any development project that is damaged or destroyed and is rebuilt to essentially the same use and intensity.

C.4 Remodeling of commercial buildings where no expansion of square footage occurs.

C.5 Remodeling or expansion at existing single family residential dwelling.

C.6 A development project on a facility whose primary functions are subject to Rule 207, New and Modified Stationary Source Review Rule and/or Rule 201, Permits Required. This exemption applies only to those emission units covered under these rules. However, facility generated off-site emissions within Imperial County shall be mitigated through the CEQA environmental review process.

C.7 All project development proponents have the option to develop and implement an Alternative Emission Reduction Plan to provide mitigation of emissions associated with on-site and off-site emissions impacts. The developer has the option to provide full or partial mitigation of emissions, on each instance, the applicable fee will be reduced on a proportional rate to the reduction. The Alternative Emission Reduction Plan shall comply with the requirements of Section F.

D. Applicable Fee

Any applicant applying for a building permit within the County of Imperial, or any incorporated city within Imperial County, shall pay the following one time fees:

		Ozone Precursors	PM10	Total
D.1	Residential Single Family Dwelling	\$ 324.50/Unit	\$191.50/Unit	\$ 516.00/Unit
D.2	Residential Multiple Family Dwelling	\$ 240.00/Unit	\$153.00/Unit	\$ 393.00/Unit
D.3	Commercial	\$ 0.96/sq.ft.	\$ 0.64/sq.ft	. \$ 1.60/sq.ft.

Beginning January 1, 2009, this permit fee will be adjusted annually by multiplying the base permit fee for the previous year by the average percentage rate for the month of August of the previous year (rounded to the nearest half dollar) which is derived by a fraction, the numerator of which is the Revised Consumer Price Index for All Urban Consumer for the Rural Service Area #7 statistical area (All Items, Base 1982-84=100), (the "CPI"), and the denominator of which is the CPI for the same calendar month of the prior year. Notwithstanding the foregoing, in no event shall the permit fee be decreased and in no event shall any increase exceed 4% per year, without formal action by the Air Pollution Control District Board.

E. Administrative Requirements

E.1 The appropriate Operational Development Fees shall be paid to the APCD by the developer at the time of obtaining the building permit. On existing lots the fees shall be paid at the time of obtaining the building permit. If approved by the APCD, the developer may have the option to defer payment of these fees by signing a deferral agreement with the APCD which shall consist of the following:

E.1.a The applicant may request that the payment of Operational Development Fees be deferred to the time that a Certificate of Occupancy (or equivalent documentation) is issued such request must be made to the APCO in writing.

E.1.b Deferral requests shall be limited to developments which submit no less than ten (10) building permit applications at a time.

E.1.c The fees shall be paid at the current applicable rate at the time of final payment of the fees.

E.1.d If the fee is not paid at the time that a Certificate of Occupancy (or equivalent documentation) is issued, the fee shall be increased by one-half ($\frac{1}{2}$) the amount thereof. Non-payment of the increased fee within thirty (30) days shall result in applicant not being allowed for future deferral agreements.

E.1.e All of the foregoing must be set forth in a writing that is in a form acceptable to the County Counsel and executed by both parties.

E.2 Funds established by the fee schedule in Section D will be separated into two accounts. Account 1 will be designated towards the reduction of Ozone Precursor emissions. Account 2 will be designated towards the reduction of PM10 emissions.

E.3 Funds generated by Operational Development Fees shall be redistributed by the APCD for various mitigation projects throughout the County of Imperial.

E.4 Funds will be allocated through a Request For Proposal (RFP) process for proposed mitigation projects based on the cost analysis and emissions reductions of each project.

E.5 RFPs shall be published by the APCD by August 1st of each year, based on the fees collected throughout the previous fiscal year.

E.6 Any person seeking funding for a mitigation project shall develop and submit a written Mitigation Project Report. The minimum criteria the proposed mitigation projects shall meet for considerations are the following:

E.6.a The proposed Mitigation Project Report shall contain a detailed project description, including sufficient information and documentation that supports the calculation of emissions and emissions reductions specified in the report.

E.6.b A thorough emission reduction analysis should be performed for the proposed mitigation project using emission factors from EPA document AP-42 "Compliance of Air Pollution Emission Factors", the latest version of EMFAC, or other approved source(s). The emission reduction analysis shall include calculations for estimated emission reductions of all criteria pollutants on a daily and yearly basis. Documentation of emission factors and all assumptions shall be provided with the documentation.

E.6.c Emission reductions produced by the proposed mitigation projects must be above and beyond what is being required by any federal, State, or local regulation, memorandum of agreement/understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate.

E.6.d Mitigation projects must adhere to a minimum cost-effectiveness of the current monetary figure established by the Carl Moyer Program to offset one weighted ton of PM10 or Ozone Precursors.

E.6.e No emission reductions obtained by the proposed mitigation projects shall be utilized as marketable emission reduction credits, or to offset any emission reduction obligation of any individual or entity.

E.6.f Mitigation projects are obligated to have a minimum project life of ten years. Proposed projects possessing shorter life spans may be approved on a case-by-case basis by the review committee, as provided for in Section E.7. In addition, projects with shorter lives may be subject to additional funding restrictions, such as a lower cost-effectiveness limit and/or a project cost cap.

E.6.g Potential mitigation projects that do not meet designated criteria may be considered on a case-by-case basis if evidence supplied to the APCD demonstrates potential surplus, real, quantifiable and enforceable emission reduction benefits.

E.7 A review committee for the proposed mitigation projects shall be established by the APCO. The APCO, or his designee, shall act as the secretary and oversee the meetings and activities of the review committee. However, the APCO or his designee shall have no voting power during the proceedings. The committee will be composed of nine members as followed:

E.7.a. A representative of the county appointed by the APCD Board of Directors; (2) a member of the APCD Advisory Board representing cities, appointed by the APCD Advisory Board; (3) a

representative of the construction industry, nominated by a local construction industry organization; (4) a representative of the planning profession, nominated by a local planning organization; (5) a representative of the public (member-at-large), selected through a public process and appointed by the APCD Advisory Board; (6) a representative of the Joint Chamber of Commerce, appointed by the Joint Chamber of Commerce; (7) a representative of the health service community, nominated by a local recognized health base community organization; (8) a representative of IVAG, appointed by IVAG Regional Council and (9) a representative of an all industrywide agency, nominated by a local industry organization.

E.7.b. The APCD Board of Directors will confirm the appointment of the committee. When more than one nominee or no nominee of a category is proposed, the APCD Advisory Board shall make the appointment.

E.7.c. As the first order of business, the review committee shall develop and adopt the bylaws of the committee. The Air Pollution Control District shall oversee the proper application of the adopted bylaws.

E.7.d. The review committee will evaluate, select, and approve the proposed mitigation projects based on the cost effectiveness of each project. The APCD Board of Directors will authorize expenditure of funds.

E.7.e. The review committee is encouraged to take into consideration the geographic location of the proposed projects when making their recommendations.

E.8 All revenue from this rule shall be placed in two separate funds. No greater than 10% of the funds shall be used by the Air Pollution Control District to offset costs of administration. All excess fees shall be used to mitigate air quality impacts, as directed by the Air Pollution Control Officer. Any balance of the fund shall be carried over to the next fiscal year.

E.9 On August 1st of each year the Imperial County Air Pollution Control District will prepare an annual report which will include the following elements: total amount of off-site fees received; total monies spent; total monies remaining; a list of all projects funded; total emissions reductions realized; and the overall cost-effectiveness factor for the projects funded.

F. Alternative Emission Reduction Plan Requirements

Any person seeking full or partial exemption from this rule shall develop and submit for the Air Pollution Control District's approval a written Alternative Emission Reduction Plan. The Alternative Emission Reduction Plan shall meet all of the following requirements:

F.1 The Plan shall contain detailed project description, including sufficient information and documentation that supports the calculation of emissions and emissions reductions specified in the Plan.

F.2 A thorough emission reduction analysis should be performed for the Alternative Emission Reduction Plan using emission factors from EPA document AP-42 "Compliance of Air Pollution

Emission Factors”, the latest version of EMFAC, or other approved source(s). The emission reduction analysis shall include calculations for estimated emission reductions of all criteria pollutants on a daily and yearly basis. Documentation of emission factors and all assumptions shall be provided with the documentation.

F.3 Emission reductions contained in the Plan shall be Real, Surplus, Quantifiable, and Enforceable.

F.4 Emission reductions contained in the Plan are obligated to have a minimum project life of ten years.

F.5 Emission reductions contained in the Plan can NOT be utilized as marketable emission reduction credits, or to offset any emission reduction obligation of any individual or entity.

F.6 The Air Pollution Control District shall be reimbursed by the applicant for any time and materials expended in the review and evaluation of an Alternative Emission Reduction Plan. The Air Pollution Control District shall provide the applicant a cost estimate for reviewing the Alternative Emission Reduction Plan. A minimum fee of 50% of the cost estimated shall be paid by the applicant at the time of submittal of the Alternative Emission Reduction Plan. The APCD will provide hourly time and materials rates to any applicant upon request.

ATTACHMENT 3
COLUSA COUNTY APCD RULE 4.8

RULE 4.8 INDIRECT SOURCE REVIEW FEE (adopted 2/19/91)

- a. For the purpose of this rule, the following definitions shall apply:
 - 1. **COMMERCIAL**

Commercial means any new construction, including additions of structures, which are not residential or industrial.
 - 2. **INDIRECT SOURCE**

Indirect Source means any facility, building, structure, installation, real property, road or highway which attracts or may attract mobile sources of air pollution.
 - 3. **INDUSTRIAL**

Industrial means any new construction, including additions, of structures for processing, fabricating and warehousing.
 - 4. **RESIDENTIAL**

Residential means any construction of a single or multiple family dwelling. Each dwelling shall be considered one unit.
- b. Any applicant for a building permit with the County of Colusa, the City of Colusa or the City of Williams shall pay the following fees:
 - 1. Residential - \$25.00 per unit
 - 2. Commercial - \$.10 per square foot
 - 3. Industrial - \$.05 per square foot
- c. The planning departments of the county and cities may retain an administrative fee for the collection and transfer of collected funds in the amount not to exceed 10 percent.
- d. All revenue from this rule shall be placed in a fund and shall be used to offset the Air Pollution Control District's costs. All excess fees shall be used to mitigate air quality impacts, as directed by the Air Pollution Control Officer. Any balance of the fund shall be carried over to the next fiscal year.

Attachment 4
Feather River Air Quality Management District Rule 7.10

RULE 7.10 INDIRECT SOURCE FEE (Adopted 7/6/92; Amended 7/1/02; 06/07/04)

A. For the purposes of this Rule the following definitions shall apply:

B.

Commercial: any new construction, including additions, of structures that are not residential or industrial.

Indirect Source: any facility, building, structure, installation, real property, road, or highway that attracts or may attract mobile sources of air pollution.

Industrial: any new construction, including additions, of structures for processing, fabricating, or warehousing.

Residential: any new construction of a single or multiple family dwelling. Each dwelling shall be considered one unit.

B. An applicant for a building permit shall pay the following fees:

B.1 For each residential unit - \$15.00

B.2 For each commercial unit - \$0.06 per sq. ft.

B.3 For each industrial unit - \$0.04 per sq. ft.

C. Indirect Source fees shall not apply to building permits for the construction of projects that will only be used for agricultural purposes.

D. All revenue from indirect source fees shall be used to offset the District's costs. Any excess revenue may be used to mitigate air-quality impacts, as directed by the District Board.

Attachment 5
Placer County APCD

POLICY REGARDING LAND USE AIR QUALITY MITIGATION FUNDS

It is the Policy of the Placer County Air Pollution Control District to receive and distribute air quality mitigation funds pursuant to the guidelines listed below. *These Guidelines do not supersede agreements made with applicants prior to adoption of this Policy.*

Guidelines

- The District shall continue to consider permanent on-site air quality mitigation the preferred method of reducing a project's emissions including criteria pollutants and green house gases (GHG) as defined by AB 32¹. However, if sufficient measures cannot be implemented onsite to adequately reduce a project's emissions, then payment into the District's Offsite Air Quality Mitigation Fund is preferred. The District shall continue to allow new development projects to contribute into the District's Offsite Air Quality Mitigation Fund as a means to offset air quality impacts from their development.
- The District shall continue to calculate the amount of the payment for the criteria pollutants into the Offsite Air Quality Mitigation Fund as follows:

Identifying the required emission reduction to the project's pollutants of concern (e.g. ozone precursor emissions over an ozone season of May-October) and applying a cost effectiveness factor (currently \$14,300 per ton) to calculate the funds required to attain the reduction through an offsite emission reduction program. The cost effectiveness factor may be adjusted to reflect current emission reduction market conditions, as reported by the California Air Resources Board Carl Moyer Program Guideline.

Sample Calculation: - A project of approximately 2000 homes is estimated to result in daily nitrogen oxide emissions of 430 pounds per day X 180 days per ozone season / 2000 pounds per ton X \$14,300 per ton to reduce emissions through offsite program = \$553,410

- The District will identify the required emission reduction for the project's related GHG emissions to mitigate the project related global warming impacts.
- An emission reduction project is eligible for mitigation funding only if source of the emissions reduction (public or private project) is not required by existing State or federal law to reduce its emissions to the levels proposed by the project.

¹ *Massachusetts v. EPA*, 549 U.S. 497 (2007)

- For the criteria pollutants, the source of the emissions reduction should be located within Placer County and the source operates primarily within the non-attainment area classified by the National Ambient Air Quality Standards (NAAQS).
- For the criteria pollutants to be reduced that are of localized concern (particulate matter, carbon monoxide), it is preferred that the location of the emissions reduction be as close as possible to the project that is to be mitigated.
- For the GHG emissions, the source of the emissions reduction should be located within California to assist in achieving the objectives of the California Global Warming Solution Act of 2006 (AB 32).
- The type of emissions to be reduced (i.e. criteria pollutants and GHG) are of the same type as those emissions for which the Air Quality Mitigation Fee was paid.
- Leveraging of the mitigation funds to reduce the direct contribution of mitigation funds to achieve emission reductions is preferred.
- Examples of the types of emissions reduction projects that may be qualifying but not limited to:
 - A. Provide monetary incentives to homeowners to replace high polluting non-EPA certified woodstoves with new EPA certified low emission wood, pellet or gas burning appliances.
 - B. Purchase wood chippers for the California Department of Forestry and Fire Protection and or local fire departments to be used in a residential chipper program.
 - C. Provide monetary incentives to local transit operators, public and private owners of heavy duty diesel on-road trucks and off-road equipment to replace older high emission diesel engines with new, low emission diesel or compressed/liquefied natural gas engines.
 - D. Provide funding for regional air quality improvement programs such as the “Mow Down” program implemented by the Sacramento Metropolitan Air Quality Management District.
 - E. Use as matching funds to obtain “Carl Moyer” funding for public and private air quality improvement projects.
 - F. Provide monetary incentives to the agriculture industry to replace high polluting diesel powered water pumps with new cleaner burning diesel or natural gas powered agriculture pumps.

G. Alternative project designs or locations that conserve energy and water, projects that reduce vehicle miles traveled (VMT) by fossil-fueled vehicles, projects that contribute to established regional or programmatic mitigation strategies, and projects that sequester carbon to offset the emissions generating from the land use development project.

Amendment Adopted by the PCAPCD Board of Directors on December 11, 2008