

RULE 804. OFFSETS
(Adopted 4/17/1997, revised [*date of revised rule adoption*])

A. Applicability

This rule shall apply to any applicant required to obtain offsets under Rule 802, New Source Review, and to any applicant who creates emission reduction credits under Rule 806, Emission Reduction Credits.

B. Exemptions

None.

C. Definitions

See Rule 102, Definitions, and Rule 801, New Source Review – Definitions and General Requirements, for definitions.

D. Requirements – General

1. Emission reductions shall be actual average annual reductions of emissions from existing sources that are enforceable, are sufficient to offset the annual potential to emit of the project and which will result in a net air quality benefit using the offset ratios listed in Sections D.8, D.9 and D.10 below.
2. No emission reduction shall be eligible as an emission offset unless the Control Officer finds that the emission reduction is real, surplus, permanent, quantifiable, and enforceable and has complied with Rule 806, Emission Reduction Credits. Emission reductions resulting from any permits, agreements or orders, or from requirements of federal, State, or District laws, rules and regulations or required by the District approved federal or State attainment or maintenance plan shall not be available for offsets.
3. In no case shall halogenated hydrocarbons be used as offsets for reactive organic compounds.
4. In no case shall the following be allowed as offsets:
 - a. Emission reductions achieved through a shift-in-load; or
 - b. Emission reductions from gas stations, dry cleaners, body shops, and other businesses characterized by inelastic demand.
5. Inter-pollutant offsets may be allowed between precursor contaminants. Such offsets shall be approved by the District (using Environmental Protection Agency guidelines) on a case-by-case basis, provided that the applicant demonstrates, on the basis of the Environmental Protection Agency-approved methods (where possible), that the emission increases from the new or modified source will not cause or contribute to a violation of an ambient air quality standard. In such cases, the Control Officer shall, based on air quality analyses, impose offset ratios equal to or greater than those specified by this rule. Precursor contaminants are as follows:
 - a. Precursors of secondarily-formed PM₁₀ may include reactive organic compounds which forms secondary organic compounds, sulfur dioxide which forms sulfate compounds, and oxides of nitrogen which forms nitrate compounds. Inter-pollutant offsets between PM₁₀ and PM₁₀ precursors may only be allowed if PM₁₀ precursors contribute significantly to PM₁₀ levels that exceed the PM₁₀ ambient standards.
 - b. Precursors of ozone are oxides of nitrogen and reactive organic compounds.

In no case shall exempt compounds or the other compounds excluded from the definition of reactive organic compounds be used as offsets for reactive organic compounds.

6. In order to verify that emission sources used as offsets will be maintained throughout the operation of the new or modified source:
 - a. Permitted sources which provide emission reductions as offsets will have their Authority to Construct and Permit to Operate revised or canceled.
 - b. Statutorily exempt sources used as emissions offsets will require a written contract between the applicant and the non-permitted source which shall be agreeable to and enforceable by the Control Officer and names the District as third party beneficiary. Notwithstanding any exemption from permit authorized by these Rules and Regulations any source exempt from permit that provides emission reductions as Emission Reduction Credits shall, as a condition of being allowed to obtain an Emission Reduction Credit, obtain an Authority to Construct and Permit to Operate as required by this rule. A violation of the emission limitation provisions of any such contract shall be chargeable to the applicant.
 - c. The operation of any source which provides offsets shall be subject to enforceable permit conditions, containing specific emission limitations, to ensure that the emission reductions will be provided in accordance with the provisions of this Rule and shall continue for the reasonably expected life of the proposed new or modified source using the offsets.
7. Except as otherwise provided in Rule 802, Section I.3.a.3, all emission reductions used as offsets shall occur at the same time as, or before, the emission increases from the project.
8. Emission reductions occurring at the same stationary source as an emission increase shall be provided at an offset ratio of 1.1 to 1.
9. Emission reductions that do not occur at the same stationary source as an emission increase shall be provided at an offset ratio of 1.3 to 1, except as provided in Section D.10.
10. Pursuant to California Health and Safety Code Section 40709.6, emission reductions located in Ventura County and San Luis Obispo County may be considered for use at stationary sources in the District. A minimum offset ratio of 1.5 to 1 shall apply to these reductions. A higher offset ratio may be established on a case-by-case determination by the District.

E. Requirements – Baseline Calculations for Affected Pollutants

The emissions from an existing source to be used as an offset shall be based upon the actual operating conditions of the existing source averaged over the three consecutive years immediately preceding the date of application, or such shorter period as may be applicable in cases where the existing source has not been in operation for three consecutive years. The Control Officer may approve any other time period of at least three years within five years prior to the date of application that is more representative of normal source operation. If a violation of laws, rules, regulations, permit conditions or orders of the District, the Air Resources Board or the Environmental Protection Agency occurred during the period used to determine the operating conditions, an adjustment shall be made to determine the emissions the existing source would have caused without such violation.