

**NEW RULE AND AMENDED RULES TO  
IMPLEMENT EPA’S FEDERAL PREVENTION OF SIGNIFICANT DETERIORATION AND PART 70  
GREENHOUSE GAS TAILORING RULE**

**Rules 102, 201, 370, 810, and 1301**

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**BACKGROUND**

The Santa Barbara County Air Pollution Control District (District) proposes new/amended rules to implement the United States Environmental Protection Agency’s (EPA’s) requirements on greenhouse gases.<sup>1</sup> Rulemaking is needed to provide the regulated industry relief from applying “criteria” pollutant emission thresholds to greenhouse gas (GHG) emissions. This rule action will implement the EPA emission thresholds for GHGs, which are higher than those for “criteria” air pollutants. “Criteria” pollutants include oxides of nitrogen, reactive organic compounds, particulate matter, oxides of sulfur, and carbon monoxide, but not GHGs.

On April 7, 2007, the U.S. Supreme Court found that GHGs are air pollutants covered by the federal Clean Air Act (CAA). The U.S. Supreme Court also found that EPA was required to determine whether or not emissions of GHGs from new motor vehicles cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.

On December 7, 2009, EPA’s Administrator made the finding that six key GHGs in the atmosphere threaten the public health and welfare of current and future generations. EPA’s Administrator also found that the combined emissions of these well-mixed gases from new motor vehicle engines contribute to the greenhouse gas pollution which threatens public health and welfare. By determining that GHG emissions from mobile sources contribute or cause air pollution that endanger public health or welfare, EPA also established that it is required to regulate GHG emissions from stationary sources.

On May 13, 2010, EPA issued regulations under the CAA to require permitting of larger stationary

sources of greenhouse gases. These regulations trigger CAA permitting requirements under the federal Prevention of Significant Deterioration (PSD) and Operating Permit (Part 70) programs for GHG emissions. Because GHGs levels of significance are much higher than those for “criteria” and hazardous pollutants, EPA “tailored” their regulations for GHGs emissions. Without this tailoring, GHGs would be subject to the same permit thresholds as “criteria” air pollutants. The federal PSD and Part 70 permitting levels for non-GHG pollutants are:

- **PSD Permitting:** 250 or 100 tons<sup>2</sup> per year (tpy) (depending on the source type), and
- **Part 70 Permitting:** 100 tpy.

These thresholds are based on a source’s potential to emit and are on a per pollutant basis. Sources above these levels are considered major sources.

Treating GHGs as “criteria” air pollutants would greatly increase the number of permitted small sources.[Ref. 1 & 2] To provide an alternative, EPA adopted a “Prevention of Significant Deterioration and Part 70 Greenhouse Gas Tailoring Rule” (Tailoring Rule). This rule, which became final on May 13, 2010 [Ref. 3], establishes thresholds for permitting in two steps:

- A. Step 1 - Beginning January 2, 2011:** This step applies to stationary sources that are major due to their non-GHG pollutant emission rates. The following provisions will apply:

**PSD:** For new major sources (of non-GHG gases), permits will be required to address GHG Best Available Control Technology [BACT]) if they will emit or will have the potential to emit 75,000 tpy carbon dioxide equivalent (CO<sub>2</sub>e) or more.<sup>3</sup>

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<sup>1</sup> “Title V” in the EPA rule title refers to the federal permit program of the Clean Air Act (CAA or Act). The District implements Title V through local Regulation XIII, Part 70 Operating Permits. Part 70 refers to the 40 CFR section that implements Title V. This Background Paper uses the term “Part 70” in lieu of “Title V,” for consistencies with terminology in the local rules.

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<sup>2</sup> One ton equals 2,000 pounds.

<sup>3</sup> Carbon dioxide equivalent is described in item 3 of Appendix B. Click [here](#) to go to that description.

For existing major sources, permits will be required to address GHG Best Available Control Technology [BACT]) if they:

1. Increase net GHG emissions by at least 75,000 tons per year tpy of carbon dioxide equivalent (CO<sub>2</sub>e), and
2. Have a significant net emissions increase in at least one non-GHG pollutant.<sup>1</sup>

Part 70 Sources: Sources must include GHG emission data in their applications and address any applicable GHG requirements when they apply for, renew, or revise their permits.

- B. Step 2 - Beginning July 1, 2011:**<sup>2</sup> Sources not already subject to federal PSD or Part 70 permitting may become subject to such permitting based solely on their GHG emissions. The following provisions will apply:

PSD: New sources with PTE emissions above the 100,000 tpy CO<sub>2</sub>e threshold must obtain PSD permits and address GHG BACT.

Existing sources that are major sources based on criteria pollutant thresholds or GHG emissions above 100,000 tpy CO<sub>2</sub>e will now become subject to PSD permitting if they undertake modifications that increase emissions of GHGs by at least 75,000 tpy CO<sub>2</sub>e or have a significant emissions increase in at least one non-GHG pollutant.

Part 70: An existing or newly constructed source will become subject to Part 70 permitting if GHGs equal or exceed the 100,000 tpy CO<sub>2</sub>e (potential to emit) threshold. Such sources have one year to submit a Part 70 application. The Part 70 permits must include any applicable GHG requirements.

EPA has committed to developing a Tailoring Rule Step 3 (effective July 1, 2013). In Step 3, additional sources may become subject to PSD and Part 70 requirements if GHGs thresholds are lowered.

To implement the EPA Tailoring Rule requirements, the District proposes amendments to four rules and the adoption of one new rule:

1. Amended Rule 102, Definitions,
2. Amended Rule 201, Permits Required
3. Amended Rule 370, Potential to Emit – Limitations for Part 70 Sources
4. New Rule 810, Federal Prevention of Significant Deterioration (PSD)
5. Amended Rule 1301, Part 70 Operating Permits – General Information

The proposed new and amended rules include changes to incorporate the GHG applicability thresholds and the two step phase in requirement. Additions and amendments include:

- a. A new "greenhouse gases" definition in Rule 102;
- b. References to federal GHG thresholds in several rules;
- c. Amended definitions for terms like *major stationary source* and *Part 70 Source*; and
- d. A new Rule 201 "applicability" provision to include GHGs.

It is important to note that mainly existing Part 70 permit sources in Santa Barbara County will be required to comply with GHG permitting requirements at this time. Most permit holders in the district will not be impacted by these new requirements. We only anticipate up to two additional stationary source permits that may become subject to Part 70 permits during Step 2.

The Tailoring Rule provisions benefit the regulated community by increasing the GHG emission threshold that would otherwise trigger PSD or a Part 70 permit. For example, without the Tailoring Rule provisions, a source with a mid-size natural-gas fired commercial water heater rated at 0.2 MMBtu/hour would require a Part 70 permit. Under the Tailoring Rule provisions, a source consisting of one boiler will not trigger the Part 70 provisions unless the boiler is 197 MMBtu/hour or greater.<sup>3</sup>

<sup>1</sup> 40 CFR 52.21(b)(49)(iii) provides information on "significant emissions increase."

<sup>2</sup> Sources subject to the Step 1 provisions will continue to be covered by those requirements.

<sup>3</sup> Based on the boiler's CO<sub>2</sub>e emissions alone.

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## PROPOSED REVISIONS

The proposed amendments and new rule requirements for this rule action are described in the following.

### **Rule 102, Definitions**

The District proposes to add a definition for “**Greenhouse Gas**” or “**Greenhouse Gases.**” The definition is substantially the same as the definition provided by EPA in their Tailoring revisions. The District also proposed an amendment to the *major stationary source* definition to establish a higher threshold for GHGs. The Rule 102 changes will affect the applicability of Rule 370 and Rule 1301 provisions.

### **Rule 201, Permits Required**

An addition to Rule 201.A, Applicability, will require stationary sources that exceed the carbon dioxide equivalent emission thresholds listed in the federal PSD regulation to be subject to the Rule 201 permitting provisions.

### **Rule 370, Potential to Emit – Limitations for Part 70 Sources**

Rule 370 provides for sources to be exempt from Rule 1303, Part 70 Permits – Permits based on actual emission levels. Exemptions may apply if actual stationary source emissions are maintained less than 50% of a Part 70 threshold, as demonstrated by 12 months of records consistent with the rule requirements.

The District is proposing amendments to Rule 370 to include the new EPA Tailoring Rule thresholds for GHGs. These amendments modify the definitions of *Major Sources of Regulated Air Pollutants (excluding hazardous air pollutants)* and *Regulated Air Pollutant* to account for GHGs. This will allow

for exemptions from Part 70 permits required solely by GHG potential to emit emissions.

### **Rule 810, Prevention of Significant Deterioration (PSD)**

Proposed new Rule 810 will incorporate by reference the federal *Prevention of Significant Deterioration of Air Quality* rule requirements. Once approved, the District will request EPA to incorporate it into the State Implementation Plan.

Proposed Rule 810 is an EPA-approved model rule. If adopted exactly as proposed, EPA will accept the rule.

The District has an existing PSD rule: Rule 803, *Prevention of Significant Deterioration (PSD)*. On March 3, 2003, EPA revoked the District’s PSD delegation authority. The District is retaining Rule 803 as a locally enforceable rule. This is consistent with Senate Bill 288 anti-backsliding provisions and the California Health and Safety Code, Section 42504(a). Rule 803 was adopted before December 30, 2002 and Section 42504(a) does not allow the District to make the rule less stringent. For these reasons, Rule 803 will continue to be a local PSD rule and Rule 810 will be the federal PSD rule.

### **Rule 1301, Part 70 Operating Permits – General Information**

Proposed amendments to Rule 1301 will add GHGs text in the *Part 70 Source* and the *Regulated Air Pollutant* definitions. In this way, Part 70 permitting requirements will be expanded to include GHGs.

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## EMISSION REDUCTION / COST-EFFECTIVENESS

### Emission Reductions

The new and proposed amended rules are administrative in nature relative to permitting actions. They are not control measures. Hence, there are no emission reductions expected from the proposed rule action.

### Cost-Effectiveness and Incremental Cost-Effectiveness

There are no cost-effectiveness or incremental cost-effectiveness figures relative to this rulemaking task. The new/amended rules are not implementing a control measure or retrofit control requirements. Further, there are no emission reductions anticipated from them. Thus, the requirements of California Health and Safety Code (H&SC) Section 40703 and Section 40920.6 do not apply.

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## ANALYSIS OF EXISTING FEDERAL AND DISTRICT REGULATIONS

H&SC Section 40727.2(a) requires districts to provide a written analysis of existing regulations prior to adopting, amending or repealing a regulation. However, the proposed rule action is consistent with categories described in H&SC Section 40727.2(g). Hence, the requirements of H&SC Section 40727.2(a) are satisfied.

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## COMMENTS AND PUBLIC MEETINGS

### Comments

*[If comments are received, staff will add them here with responses.]*

### Public Meetings

STAKEHOLDERS MEETING, *[to be announced]*

The District met individually with representatives of sources that are anticipated to require Part 70 permits for the first time due to the rule action. Table 2 in the "Impacts to Industry and the District" section of this Background Paper provides a list of these sources.

COMMUNITY ADVISORY COUNCIL MEETING, (TENTATIVELY SCHEDULED FOR DECEMBER 8, 2010)

Staff will brief the CAC on:

1. the EPA Tailoring Rule requirements, and
2. on how the new/amended rules will implement them.

The District will ask the Community Advisory Council to pass a motion to recommend that the Board approve the proposed amended rules and new Rule 810.

PUBLIC HEARING ON THE ADOPTION OF THE PROPOSED AMENDED RULES, (TENTATIVELY SCHEDULED FOR MARCH 17, 2011)<sup>1</sup>

The Board is scheduled to consider the adoption of the new/amended rules at the March 17, 2011 Public Hearing.<sup>1</sup>

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<sup>1</sup> This Public Hearing could occur earlier (e.g., January 20, 2011).

**COMPARISON OF ADJOINING AIR POLLUTION CONTROL DISTRICT RULES**

The adjoining air districts are in the progress of adopting similar rule provisions to implement the EPA Tailoring Rule requirements.

**IMPACTS TO INDUSTRY AND THE DISTRICT**

Step 1 of the Tailoring Rule will only have a minor impact on existing Part 70 source permit holders. Table 1 identifies the sources that currently have Part 70 permits and will need to comply with Step 1 of the Tailoring Rule. In addition Table 1 lists EPA major sources that could possibly trigger PSD requirements for GHG in the future.

Table 1. EXISTING SOURCES EPA MAJOR SOURCES (250 tpy or Greater)  
 AND/OR PART 70 PERMIT SOURCES

Stationary Source	Stationary Source Name	EPA Major Source (250 tpy)	Part 70
02667	BreitBurn Energy- Orcutt Hill	1	1
01735	Celite Corporation	1	1
08713	City of Santa Maria Landfill		1
03707	County of SB-Tajiguas Landfill		1
08003	Dos Cuadras - South County		1
01073	E & B - South Cuyama	1	1
01482	ExxonMobil - SYU Project	1	1
02658	Greka South Cat Canyon	1	1
08001	Pacific Operators - Carpinteria		1
04632	Pt. Pedernales/Lompoc Oil Fields		1
05019	So Cal Gas - La Goleta	1	1
01325	The Point Arguello Project	1	1
00027	Venoco - Carpinteria	1	1
01063	Venoco - Ellwood		1
10344	Wm. Bolthouse Farms	1	1
	TOTALS	9	15

Table 2 identifies the sources with CO<sub>2</sub>e of 100,000 tons per year and greater. These sources will be subject to Part 70 permitting requirements under the Tailoring Rule Step 2. If a qualifying modification is made to these sources, they will also be subject to federal PSD permitting requirements.

Table 2. EXISTING SOURCES THAT MAY BECOME SUBJECT TO  
THE PART 70 PERMITTING REQUIREMENTS

Stationary Source	Stationary Source Name
02795	UCSB
01195	Vandenberg Air Force Base

According to the EPA Overview of Part 70 [Ref. 1 & 2]:

A source generally must apply for a Part 70 permit within 1 year of first becoming subject to permitting - for new sources; this is usually within one year of commencing operation. The application must include, among other things, identifying information, a description of emissions and other information necessary to determine applicability of requirements and information concerning compliance with those requirements. The permitting authority uses this information to develop the source's operating permit. [. . .]

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#### REFERENCES

1. *Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule*, 40 CFR Parts 51, 52, 70, and 71, Federal Register, Volume 75, No. 106, U.S. Environmental Protection Agency, June 3, 2010.
2. Federal Regulation citation: 75 FR 31514, June 3, 2010.
3. *Fact Sheet, Final Rule: Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule*, U.S. Environmental Protection Agency, April 13, 2010. (Available at: <http://www.epa.gov/nsr/actions.html#may10>)

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#### APPENDICES

- Appendix A: [Proposed Amended Rule 102, Definitions](#), [Proposed Amended Rule 201, Permits Required](#), [Proposed Amended Rule 370, Potential to Emit - Limitations for Part 70 Sources](#), [Proposed Rule 810, Federal Prevention of Significant Deterioration](#), and [Proposed Amended Rule 1301, Part 70 Operating Permits – General Information](#)
- Appendix B: [Clarification of Rule Issues](#)

**RULE 102. DEFINITIONS.** (Adopted 10/18/1971, revised 1/12/1976, readopted 10/23/1978, revised 7/11/1989, 7/10/1990, 7/30/1991, 7/18/1996, 4/17/1997, 1/21/1999, 5/20/1999, 6/19/2003, 1/20/2005, 6/19/2008, 1/15/2009, ~~and 9/20/2010~~, [date of amended rule adoption])

These definitions apply to the entire rulebook. Definitions specific to a given rule are defined in that rule or in the first rule of the relevant regulation. Except as otherwise specifically provided in these Rules where the context otherwise indicates, words used in these Rules are used in exactly the same sense as the same words are used in Division 26 of the Health and Safety Code.

[...]

“Greenhouse Gas” or “Greenhouse Gases” means all of the following gases: carbon dioxide, nitrous oxides, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

[...]

**“Major Stationary Source”** means a stationary source of air pollutants which emits or has the potential to emit:

1. \_\_\_\_\_ one hundred tons per year or more of any pollutant, except greenhouse gases.
2. \_\_\_\_\_ greenhouse gases equal to or exceeding the greenhouse gas thresholds as specified in 40 CFR 52.21 in effect [date of amended rule adoption].

[...]

Click [here](#) to return to the list of Appendices in the Background Paper.

**RULE 201. PERMITS REQUIRED.** (Adopted 10/18/1971, revised 5/1/1972, readopted 10/23/1978, revised 7/2/1979, 4/17/1997, ~~and 6/19/2008~~, and [date of amended rule adoption])

**A. Applicability**

1. This rule applies to any person who builds, erects, alters, replaces, operates or uses any article, machine, equipment, or other contrivance which may cause the issuance of air contaminants.
2. For the purposes of greenhouse gases, this rule applies to any person who builds, erects, alters, replaces, operates or uses any article, machine, equipment, or other contrivance which has the potential to emit any greenhouse gas or combination of greenhouse gases that exceeds the carbon dioxide equivalent emissions thresholds specified in Title 40, Code of Federal Regulations, Part 52, Section 52.21 (40 CFR 52.21) in effect [date of amended rule adoption].

[...]

Click [here](#) to return to the list of Appendices in the Background Paper.



**RULE 370. POTENTIAL TO EMIT – LIMITATIONS FOR PART 70 SOURCES. (Adopted 6/15/1995, revised 1/18/2001 and [date of amended rule adoption])**

[...]

**C. Definitions**

All terms shall retain the definitions provided under 40 CFR Part 70.2 in effect [date of amended rule adoption] or District Rule 1301, Part 70 Operating Permits - General Information, as applicable, unless otherwise defined herein.

[...]

**"Major Source of Regulated Air Pollutants (excluding hazardous air pollutants)"** means ~~a~~any stationary source:

a. ~~\_\_\_\_\_~~ that emits or has the potential to emit a regulated air pollutant (excluding hazardous air pollutants) in quantities equal to or exceeding the following thresholds:

a. ~~\_\_\_\_\_ 100 tons per year (tpy) of any regulated air pollutant, or lower threshold as applicable for the District under Title I, Part D of the federal Clean Air Act and its implementing regulations.~~

b. ~~\_\_\_\_\_ For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tons per year or more in areas classified as "serious", 25 tons per year or more in areas classified as "severe", and 10 tons per year or more in areas classified as "extreme".~~

1) ~~\_\_\_\_\_ one hundred tons per year or more of any pollutant, except greenhouse gases.~~

2) ~~\_\_\_\_\_ greenhouse gases equal to or exceeding the greenhouse gas thresholds as specified in 40 CFR 70.2 in effect [date of amended rule adoption].~~

3) ~~\_\_\_\_\_ any lesser quantity thresholds established by Environmental Protection Agency rulemaking.~~

b. ~~\_\_\_\_\_ defined by the Environmental Protection Agency as major for the District under Title I, Part D (Plans for Nonattainment Areas) of the Clean Air Act and its implementing regulations including:~~

1) ~~\_\_\_\_\_ For ozone nonattainment areas, stationary sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme."~~

Fugitive emissions of these pollutants shall be considered in calculating total emissions for stationary sources in accordance with 40 CFR Part 70.2 "Definitions- Major source(2)-" in effect [date of amended rule adoption].

[...]

**"Regulated Air Pollutant"** means ~~the following air pollutants as regulated under the federal Clean Air Act:~~ any air pollutant (a) which is emitted into and otherwise enters the ambient air, as defined in 40 CFR 50.1 in effect [date of amended rule adoption], and (b) for which the Environmental Protection Agency has adopted an emission limit, standard or other requirement. Regulated air pollutants include:

a. Oxides of nitrogen and volatile organic compounds (as defined in 40 CFR 51.166 in effect [date of amended rule adoption]);

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- b. Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the Clean Air Act and its implementing regulations;
- ~~e. Any Class I or Class II ozone depleting substance subject to a standard promulgated under Title VI of the federal Clean Air Act;~~
- ~~d.c.~~ Any pollutant ~~that is~~ subject to any standard promulgated under Section 111 (New Source Performance Standards) of the ~~federal~~ Clean Air Act and its implementing regulations;
- d. Any ozone-depleting substance specified as class I or II substance pursuant to Title VI of the Clean Air Act and its implementing regulations; and
- e. Any pollutant subject to a standard ~~or requirement~~ promulgated ~~pursuant to~~ under Section 112 (Hazardous Air Pollutants) of the ~~federal~~ Clean Air Act and its implementing regulations, including:
  - 1) Any pollutant listed pursuant to Section 112(r) (~~Prevention of Accidental Releases~~) of the Clean Air Act and its implementing regulations shall be considered a regulated air pollutant upon promulgation of the list.
  - 2) Any hazardous air pollutant subject to a standard or other requirement promulgated by the ~~USEPA-Environmental Protection Agency~~ pursuant to Section 112(d) of the Clean Air Act or adopted by the District pursuant to 112(g) and (j) of the Clean Air Act shall be considered a regulated air pollutant for all sources or source categories ~~of sources~~: (i) upon promulgation of the standard or requirement, or (ii) 18 months after the standard or requirement was scheduled to be promulgated pursuant to Section 112(e)(3) of the Clean Air Act.
  - 3) Any hazardous air pollutant subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the ~~USEPA-Environmental Protection Agency~~ promulgation or scheduled promulgation of an emissions limitation, shall be considered a regulated air pollutant when the determination is made pursuant to Section 112(g)(2) of the Clean Air Act and its implementing regulations. In case-by-case emissions limitation determinations, the hazardous air pollutant shall be considered a regulated air pollutant only for the individual source for which the emissions limitation determination was made.
- f. Greenhouse gases as defined in 40 CFR 70.2 in effect [date of amended rule adoption].

[...]

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**RULE 810. FEDERAL PREVENTION OF SIGNIFICANT DETERIORATION (PSD). (Adopted [date of adoption])**

**A. Purpose**

The federal Prevention of Significant Deterioration (PSD) program is a construction permitting program for new major stationary sources and major modifications to existing major stationary sources located in areas classified as attainment or in areas that are unclassifiable for any criteria air pollutant. Rule 201 (Permits Required) contains application requirements and Rule 204 (Applications), Rule 205 (Standards for Granting Applications), Rule 206 (Conditional Approval of Authority to Construct or Permit to Operate), Rule 207 (Denial of Applications), and Rule 208 (Action on Applications - Time Limits) contain processing requirements for permit actions. The purpose of this rule is to incorporate the federal Prevention of Significant Deterioration rule requirements into the District's Rules and Regulations by incorporating the federal requirements by reference.

**B. Applicability**

The provisions of this rule shall apply to any source and the owner or operator of any source subject to any requirement under 40 Code of Federal Regulations, Part 52, Section 52.21 (40 CFR 52.21) in effect [date of adoption] as incorporated into this rule.

**C. Incorporation by Reference**

Except as provided below, the provisions of Title 40 CFR 52.21 in effect [date of adoption] are incorporated herein by reference and made part of the Rules and Regulations of the Santa Barbara County Air Pollution Control District.

1. The following subsections of 40 CFR 52.21 are excluded: (a)(1), (b)(55-58), (f), (g), (i)(1)(i-v), (i)(1)(ix-x), (i)(6-8), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z), and (cc).
2. The following definitions found in 40 CFR 52.21(b) are revised as follows:
  - a. The definition of "potential to emit" contained in 40 CFR 52.21(b)(4) is revised so that the phrase "is federally enforceable" shall read "is federally enforceable or enforceable as a practical matter."
  - b. The definition of "allowable emissions" contained in 40 CFR 52.21(b)(16) is revised so that:
    - 1) the phrase "unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both" shall read, "unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both."
    - 2) paragraph (iii) shall read as follows: "The emissions rate specified as an enforceable permit condition, including those with a future compliance date."
3. The following terms found in 40 CFR 52.21(b) are revised as follows:
  - a. The term "administrator" means:

- 1) “federal administrator” in 40 CFR 52.21(b)(17), (b)(37)(i), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (l)(2) and (p)(2); and
  - 2) “Control Officer” elsewhere, as defined in Rule 102 (Definitions).
- b. The phrase “paragraph (q) of this section” in 40 CFR 52.21(p)(1) shall read as follows: “the public notice and comment provisions of Section E below.”

**D. Requirements:**

1. An owner or operator must obtain a federal Prevention of Significant Deterioration permit pursuant to this rule before beginning actual construction of a new major stationary source, a major modification, or a plantwide applicability limitation (PAL) major modification, as defined in 40 CFR 52.21(b).
2. Notwithstanding the provisions of any other District Rule or Regulation, the Control Officer shall require compliance with this rule prior to issuing a federal Prevention of Significant Deterioration permit as required by Clean Air Act Section 165.
3. The applicant shall pay the applicable fees specified in Rule 210 (Fees).

**E. Public Participation**

Prior to issuing a federal Prevention of Significant Deterioration permit pursuant to this rule and after receipt of a complete application, the Control Officer shall:

1. Make a preliminary determination whether construction should be approved with conditions or disapproved.
2. Make available in at least one location in Santa Barbara County a copy of all materials the applicant submitted, a copy of the preliminary determination, a copy of the proposed permit and a copy or summary of other materials, if any, considered in making the preliminary determination.
3. Notify the public, by advertisement in a newspaper of general circulation in Santa Barbara County of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for written public comment.
4. Send a copy of the notice of public comment to the applicant, United States Environmental Protection Agency Region 9, any persons requesting such notice and any other interested parties such as: Any other State or local air pollution control agencies; the chief executives of the cities in the County; the County Executive Officer; any comprehensive regional land use planning agency; and any State, Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification.
5. Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the Control Officer’s judgment such a hearing is warranted.
6. Consider all written comments that were submitted within 30 days after the notice of public comment is published and all comments received at any public hearing(s) in making a final decision on the approvability of the application and make all comments available for public inspection in the same locations where the District made available preconstruction information relating to the proposed source or modification.

7. Make a final determination whether construction should be approved with conditions or disapproved.
8. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the District made available preconstruction information and public comments relating to the source.

Click [here](#) to return to the list of Appendices in the Background Paper.

**RULE 1301. PART 70 OPERATING PERMITS – GENERAL INFORMATION. (Adopted 11/09/1993, revised 8/15/1996, 9/18/1997, 1/18/2001, ~~and 6/19/2003~~, and [date of amended rule adoption])**

[. . .]

**C. Definitions**

For purposes of this Rule and of Rules 1302 through 1305, the definitions listed below shall apply:

[. . .]

"**Part 70 Source**" means stationary sources included in the following source categories:

1. A stationary source with the potential to emit a regulated air pollutant or a hazardous air pollutant (~~HAP~~) in quantities equal to or exceeding any of the following thresholds:
  - a. 100 tons/ per year of any regulated air pollutant except greenhouse gases.
  - b. greenhouse gases equal to or exceeding the thresholds as specified in 40 CFR 70.2 in effect [date of amended rule adoption].
  - ~~bc.~~ 10 tons/ per year of any individual HAPhazardous air pollutant or 25 tons/ per year of a combination of HAPhazardous air pollutant s, or any lesser quantity thresholds for any HAPhazardous air pollutant established by USEPA-Environmental Protection Agency rulemaking. Fugitive emissions of HAPhazardous air pollutants must be counted for the purposes of determining applicability. However, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units are Part 70 sources.
  - ~~ed.~~ Any lesser quantity thresholds established by USEPA-Environmental Protection Agency rulemaking.
2. Any stationary source defined by the USEPA-Environmental Protection Agency as major for the District under Title I, Part D (Plans for Nonattainment Areas) of the CAAClean Air Act and its implementing regulations including:
  - a. For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate"; 50 tons per year or more in areas classified as "serious"; 25 tons per year or more in areas classified as "severe"; and 10 tons per year or more in areas classified as "extreme";
3. Acid rain sources included under the provisions of Title IV of the CAAClean Air Act and its implementing regulations.
4. Any source required to have a preconstruction review permit pursuant to the requirements of the ~~nNew sSource rReview (NSR)/or pPrevention of sSignificant eDeterioration (PSD)~~-program under Title I, Parts C and D of the CAAClean Air Act and its implementing regulations.
5. Any solid waste incineration unit required to obtain a Part 70 permit pursuant to Section 129(e) of the CAAClean Air Act and its implementing regulations.

[draft of November 24, 2010]

6. Any stationary source ~~in a source category~~ required to obtain a Part 70 permit pursuant to regulations promulgated by the ~~USEPA~~[Environmental Protection Agency](#) Administrator.

[. . .]

**"Regulated Air Pollutant"** means any air pollutant (a) which is emitted into and otherwise enters the ambient air, as defined in 40 CFR 50.1 ~~in effect [date of amended rule adoption]~~, and (b) for which the ~~USEPA~~[Environmental Protection Agency](#) has adopted an emission limit, standard or other requirement. Regulated air pollutants include:

1. Oxides of nitrogen (~~NO<sub>x</sub>~~); ~~also, and~~ volatile organic compounds (~~VOC~~) as defined in 40 CFR 51.166 ~~in effect [date of amended rule adoption]~~;
2. Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the ~~CAA~~[Clean Air Act](#) and its implementing regulations;
3. Any pollutant subject to any standard promulgated under Section 111 (New Source Performance Standards) of the ~~CAA~~[Clean Air Act](#) and its implementing regulations;
4. Any ozone-depleting substance specified as class I or II substance pursuant to Title VI of the ~~CAA~~[Clean Air Act](#) and its implementing regulations;
5. Any pollutant subject to a standard promulgated under Section 112 (Hazardous Air Pollutants) of the ~~CAA~~[Clean Air Act](#) and its implementing regulations, including:
  - a. Any pollutant listed pursuant to Section 112(r) of the ~~CAA~~[Clean Air Act](#) and its implementing regulations shall be considered a regulated air pollutant upon promulgation of the list.
  - b. Any ~~HAP~~[hazardous air pollutant](#) subject to a standard or other requirement promulgated by the ~~USEPA~~[Environmental Protection Agency](#) pursuant to Section 112(d) of the ~~CAA~~[Clean Air Act](#) or adopted by the District pursuant to Sections 112(g) and 112(j) of the ~~CAA~~[Clean Air Act](#) shall be considered a regulated air pollutant for all sources or source categories: (a) upon promulgation of the standard or requirement, or (b) 18 months after the standard or requirement was scheduled to be promulgated pursuant to Section 112(e)(3) of the ~~CAA~~[Clean Air Act](#).
  - c. Any ~~HAP~~[hazardous air pollutant](#) subject to a District case-by-case emissions limitation determination for a new or modified source, prior to ~~USEPA~~[Environmental Protection Agency](#) promulgation or scheduled promulgation of an emissions limitation, shall be considered a regulated air pollutant when the determination is made pursuant to Section 112(g)(2) of the ~~CAA~~[Clean Air Act](#) and its implementing regulations. In case-by-case emissions limitation determinations, the ~~HAP~~[hazardous air pollutant](#) shall be considered a regulated air pollutant only for the individual source for which the emission limitation determination was made.

6. ~~Greenhouse gases as defined in 40 CFR 70.2 in effect [date of amended rule adoption]~~.

[. . .]

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**Appendix B**  
**Santa Barbara County**  
**Clarification of Rule Issues**

The following text provides clarification of rule issues and consolidates comments/responses.<sup>1</sup> To help the reader locate a specific issue, a table of contents is provided below.

Table 1. TABLE OF CONTENTS FOR THE CLARIFICATION OF RULE ISSUES

<b>Rule Section or 40 CFR Part</b>	<b>Topic</b>	<b>Page</b>
40 CFR 52.21 and 70	Request to Clarify PSD and Part 70 Requirements under Step 2 of the Tailoring Rule	<a href="#">B-1</a>
40 CFR 52.21 and 70	Availability of a Guidance Document on How PSD and Part 70 GHG Requirements Apply for the Two Phases	<a href="#">B-2</a>
40 CFR 51.166(b)(48)(ii), 52.21(b)(49)(ii), and 70.2	Meaning of the “Carbon Dioxide Equivalent” or “CO <sub>2</sub> e” term and a description of how it is calculated	<a href="#">B-3</a>

**40 CFR 52.21 and 70**

Request to Clarify PSD and Part 70 Requirements under Step 2 of the Tailoring Rule

Questions/Issues: The following is based on information in an EPA fact sheet:

- Step 2 will build on Step 1. In this phase, PSD permitting requirements will cover for the first time new construction projects that emit GHG emissions of at least 100,000 tpy even if they do not exceed the permitting thresholds for any other pollutant. Modifications at existing major sources that increase GHG emissions by at least 75,000 tpy will be subject to permitting requirements, even if they do not significantly increase emissions of any other pollutant.
  - based on their GHG emissions even if they would not apply based on emissions of any other pollutant. Facilities that emit at least 100,000 tpy CO<sub>2</sub>e will be subject to Part 70 permitting requirements.
1. Regarding the first bullet, if a new major source or a major modification results based on GHG emissions only, does the PSD analysis have to consider BACT and an Air Quality Impact Analysis (AQIA) for all pollutants, or solely GHG?
  2. Regarding the second bullet, if GHG emissions alone cause a source to become a Part 70 source, we presume the permit has to address all applicable requirements in the Part 70 permit, and not just applicable requirements for GHG. Correct?

Answer/Response: Yes for a given project where the only significant increase in emissions is for GHG (not any other PSD pollutant, such as NO<sub>x</sub> at 40 tpy), then a BACT analysis is only required for GHG. No AQIA is required for GHG, since there is no National Ambient Air Quality Standard for GHG. In general, the PSD requirements apply to any pollutant for which a significant increase occurs, even if the source is not major for that particular pollutant, as long as they are major for at least one PSD pollutant.

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<sup>1</sup> Comments received during the formal public comment period preceding the Board adoption hearing on the proposed rule changes, and staff’s response to these comments, will be presented to the District Board of Directors as part of the rule adoption process.



For the second question, you are correct. Once the requirement to obtain a Part 70 permit is triggered, because the source is a major source of GHGs, then just like any other Part 70 permit, it must identify all applicable requirements and include them in the Part 70 permit.

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Availability of a Guidance Document on How the PSD and Part 70 GHG Requirements Apply for the Two Phases

Questions/Issues: Is there a guidance document on how the PSD and Part 70 GHG requirements apply for the two phases? We think it may be a useful to have such a document to facilitate the explanation on how the different provisions are triggered and at what thresholds.

Answer/Response: The EPA Greenhouse Gas Tailoring Rule Federal Register (75 FR 31514, June 3, 2010) includes general information and an overview of the requirements. The following summary tables and information are provided to help clarify the major EPA Tailoring Rule requirements.

TYPE	STEP 1: 01/02/2011 - 06/30/2011	STEP 2: 07/01/2011 - 06/30/2013
<b>Part 70</b>		
	Covers Existing Part 70 Sources	All sources $\geq$ 100,000 tpy CO <sub>2</sub> e, including new construction projects.
<b>PSD</b>		
	Covers Existing EPA Major Source (250 tpy or greater) Sources with modifications that result in emission increases $\geq$ 75,000 tpy CO <sub>2</sub> e	New construction projects with $\geq$ 100,000 tpy CO <sub>2</sub> e  Modifications at existing major source facilities with increase of $\geq$ 75,000 tpy CO <sub>2</sub> e

Note: The 75,000 tpy and 100,000 tpy figures are in terms of potential to emit (not actuals).

**Final PSD/T-V GHG Tailoring Rule  
Step 1: Permit Issuance Dates of  
January 2, 2011 – June 30, 2011**

- ◆ Only sources currently subject to PSD or Title V permitting programs
- ◆ Any increase of  $\geq$ 75,000 tpy of CO<sub>2</sub>e at a PSD or T-V Source is subject to PSD (i.e. GHG BACT)
- ◆ No sources are subject to Clean Air Act permitting requirements solely for GHG emissions

**Final PSD/T-V GHG Tailoring Rule  
Step 2: Permit Issuance Dates of  
July 1, 2011 – June 30, 2013**

PSD Permitting

- ◆ New construction projects with emissions of  $\geq 100,000$  tpy of CO<sub>2</sub>e
- ◆ Modifications at any existing facility with increase of  $\geq 75,000$  tpy of CO<sub>2</sub>e

Title V Permitting

- ◆ All new and existing sources  $\geq 100,000$  tpy CO<sub>2</sub>e

The following clarifying information is based on correspondence from EPA staff:

It should be noted that for Part 70, there are only two things that changes come January 2, 2011. First, all new Part 70 applications must include sufficient GHG emission data in their application so that the District can determine if any GHG requirements apply. Second, for now, the only GHG applicable requirement are PSD permit terms and conditions related to GHGs. So, unless a source has a pending PSD permit action that will address GHGs, nothing will change for an existing Part 70 source. Come July 1, 2011, nothing changes for existing Part 70 sources, but if an existing or new source is now classified as a major source because of their GHG emissions, then they have 12 months to submit a complete Part 70 application. For the PSD program, if a source that needs a federal PSD permit does not obtain it before January 2, 2011, then the PSD permit must also evaluate GHGs. If it would only need a PSD permit because of GHGs, it must either begin actual construction prior to July 1, 2011, or obtain a PSD permit.

Note: It is our understanding that the above statement, “For the PSD program, if a source that needs a federal PSD permit does not obtain it before January 2, 2011, then the PSD permit must also evaluate GHGs,” means:

1. The existing major source requires a revised federal PSD permit because of an increase in emissions of a pollutant other than GHGs,
2. “Evaluate GHG” refers to calculating and verifying whether any GHG emission increases, based on potential to emit, are also subject to PSD requirements during the federal PSD permit process, and
3. The source will be subject to the PSD GHG BACT requirement if the GHGs have the potential to emit 75,000 tpy CO<sub>2</sub>e or more unless the source accepts a synthetic minor limit in their PSD permit to limit their PTE below the 75K tpy CO<sub>2</sub>e threshold.

**40 CFR 51.166(b)(48)(ii), 52.21(b)(49)(ii), and 70.2**

Meaning of the “Carbon Dioxide Equivalent” or “CO<sub>2</sub>e” term and a description of how it is calculated

Questions/Issues: What does the term *carbon dioxide equivalent* or *CO<sub>2</sub>e* mean and how is it calculated?

Answer/Response: This term is defined in various new 40 CFR subparts as follows:

1. **40 CFR Part 51.166(b)(48)(ii) and Part 52.21(b)(49)(ii):** [ . . . ] the term *tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e)* shall represent an amount of GHGs emitted, and shall be computed as follows:
  - (a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of part 98 of this chapter— Global Warming Potentials.
  - (b) Sum the resultant value from paragraph (b)(48)(ii)(a) of this section for each gas to compute a tpy CO<sub>2</sub>e.
  
2. **40 CFR Part 70.2:** The term *tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e)* shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of part 98 of this chapter—Global Warming Potentials, and summing the resultant value for each to compute a tpy CO<sub>2</sub>e.

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