

STAFF REPORT

Proposed Amendments to Rule 266—Reporting Procedures for Excess Emissions and Title Change to Rule 266—Upset and Breakdown Conditions

Date of Release: June 27, 2008

Schedule of Meetings

- Date of Public Workshop: 10:30 a.m., Tuesday, July 22, 2008, District Office, 2525 Dominic Dr. Suite J, Chico, CA.
- Date of Governing Board Adoption Hearing: 10:00 a.m., Thursday, August 28, 2008, Chico City Council Chambers, 421 Main Street, Chico, CA.

STAFF REPORT

Proposed Amendments to Rule 266—*Reporting Procedures for Excess Emission and Title Change to Rule 266—Upset and Breakdown Conditions*

Public Workshop: 10:30 a.m., Tuesday, July 22, 2008, Butte County Air Quality Management District Office, 2525 Dominic Dr. Suite J, Chico, CA.

Public Adoption Hearing: 10:00 a.m., Thursday, August 28, 2008, Chico City Council Chambers, 421 Main Street, Chico, CA.

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Attachment B. Notice of Public Hearing and Workshop

Attachment C. Proposed Resolution of Adoption

STAFF REPORT

Executive Summary

In 2005, the California Air Resources Board (CARB) performed a program review and audit of the Butte County Air Quality Management District (District) program areas. The Equipment Breakdown Program was reviewed as part of the Compliance Program. CARB recommended several improvements to this program including revising existing Rule 266—Reporting Procedures for Excess Emissions to be more consistent with CARB’s “model rule” for upsets and breakdowns. The current Rule 266 was adopted prior to CARB’s developing the model rule. In response to CARB’s recommendation, the District proposes to amend the existing rule and re-title to Rule 266—Upset and Breakdown Conditions.

The proposed amended Rule 266—Upset and Breakdown Conditions has incorporated many elements of the CARB model rule and more clearly define reporting requirements to qualify for enforcement relief. In addition, the proposed amended rule includes provisions for breakdowns of continuous emissions monitoring equipment. The rule instructs that a follow-up report must be submitted if requested by the Air Pollution Control Officer or permit conditions or if the upset or breakdown results in excess emissions. If a breakdown event cannot be corrected by the end of the production shift or 24 hours, the rule requires the source to have been granted an emergency variance or be subject to enforcement actions.

1.0 PURPOSE

The purpose of proposed amended Rule 266—*Upset and Breakdown Conditions* is to set forth procedures for a regulated source and District to follow to resolve an upset and breakdown condition. The rule defines an upset or breakdown condition and provides the procedures for reporting, corrective action, petitioning for an emergency variance or enforcement action.

2.0 APPLICABILITY

This rule is applicable to the owner or operator of any source within Butte County that is subject to District Rules and Regulations, permit conditions, or orders from the Hearing Board.

3.0 REQUIREMENTS

The proposed amended Rule requires an owner or operator to report an upset or breakdown condition, as defined in the Rule, to the district within 2 hours of discovery. This requirement is consistent with the existing rule and other districts within the State. In addition, the proposed

amended Rule identifies the necessary information to report and allows for reporting by phone, phone message, fax, or via email to the District's general air account.

If an owner or operator cannot immediately correct the upset or breakdown condition, the proposed amended rule stipulates the facility must be shutdown within a compliance threshold period, which is defined as the earlier of either the end of the production shift or 24 hours or, if the breakdown is for continuous emissions monitoring equipment, within 96 hours. In lieu of shutting down, the owner or operator may petition the Hearing Board for an emergency variance to continue operating for up to 30 days unless the malfunctioning equipment is corrected sooner. Requests and the procedures for granting an emergency variance are set forth in District Rule 600—*Hearing Board Rules and Procedures*. An emergency variance petition may be heard by one member of the Hearing Board and granted for “good cause” pursuant to the requirements of HSC §42359.5.

The proposed amended Rule requires a report to be filed with the District within fifteen (15) days of the occurrence if excess emissions occurred or if requested by the Air Pollution Control Officer or if required by a permit condition.

In the event the reported upset or breakdown condition is falsely reported or determined to not be an “upset or breakdown” covered by the rule, the proposed amended Rule allows the APCO to take actions to enforce the provisions of the District Rules and Regulations, including, but not limited to, notices of noncompliance, penalties, abatement orders or injunctions against further operation.

4.0 COST IMPACTS/COST EFFECTIVENESS

No additional cost impacts are expected as a result of this rule adoption.

5.0 ALTERNATIVES

The Hearing Board may choose to:

- a) Approve the proposed rule;
- b) Modify the proposed rule after receiving public comments during the hearing; or
- c) Take no action.

6.0 ENVIRONMENTAL REVIEW AND COMPLIANCE

The adoption of proposed amended Rule 266 is categorically exempt from the California Environmental Quality Act (CEQA) under Sections 15307 and 15308 of the State CEQA Guidelines and no exceptions to these exemptions apply. This exemption is allowed when the rule will help improve air quality in Butte County. California Public Resources Code (Section 21159) requires an environmental analysis of the reasonably foreseeable methods of compliance. The District has concluded that no reasonably foreseeable adverse environmental impacts will be caused by adoption of the proposed rule.

7.0 REQUIRED FINDINGS

Findings required by Division 26 of the California Health and Safety Code requires local air districts to comply with a rule adoption protocol as set forth in Section 40727 of the Code. This section has been revised through legislative mandate to contain six findings that the District must make when developing, amending, or repealing a rule or regulation. These findings, and their definitions are included in the following table.

Required Findings

FINDING	DEFINITION	REFERENCE
Authority	A district shall adopt rules and regulations and do such acts as may be necessary or proper to execute the powers and duties granted to and imposed upon the district by Division 26 and other statutory provisions.	California Health and Safety Code, Sections 40000, 40001, 40701, 40702, and 41511, are provisions of law that provide the District with the authority to amend the proposed rule.
Necessity	The District has demonstrated that a need for the rule or for rule amendment or repeal exists.	The adoption of proposed amended Rule 266 is necessary to comply with recommendations by the California Air Resources Board to inform and clarify procedures in reporting and taking action on upset or breakdown events at permitted sources.
Clarity	The rule is written or displayed so that its meaning can easily be understood by the persons directly affected by it.	The proposed amended Rule is written in such a manner that persons affected by the rule can easily understand it. The sections have been formatted for easier reference and definitions and reporting methods have been included.
Consistency	This rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or State or federal regulations.	The proposed amended Rule 266 requirements are consistent with applicable statutory requirements and similar rules in other districts.
Non-Duplication	The rule does not impose the same requirements as an existing State or federal regulation, unless the District finds that the requirements are necessary and proper to execute the powers and duties granted to, and imposed upon, the district.	The proposed amended rule does not impose requirements that duplicate existing laws or regulations.
Reference	Any statute, court decision, or other provision of law that the district implements, interprets, or makes specific by adopting, amending, or repealing a regulation.	California Health and Safety Code, Division 26, Part 3, Sections 40000, 40001, 40701, 40702, and 41511.

8.0 REFERENCES

California Air Resources Board Upset and Breakdown Conditions “Model Rule” (no date)

9.0 ATTACHMENTS

Attachment A. Proposed Amended Rule 266—*Upset and Breakdown Conditions*

Attachment B. Notice of Public Hearing and Workshop

Attachment C. Proposed Resolution of Adoption

Attachment A

Proposed Amended Rule 266 – *Upset and Breakdown Conditions*

Attachment B

Notice of Public Hearings and Workshops

Attachment C

Proposed Resolutions of Adoption for
Governing Board

Attachment D

Proposed Rule Repeal:
Rule 266—*Procedures for Reporting Excess Emissions*