

# STAFF REPORT

## Amendments to Regulation IV-PERMITS:

- Rule 400-Permit Requirements**
- Rule 401-Permit Exemptions**
- Rule 430-State New Source Review**
- Rule 432-Federal New Source Review**

Draft Rules Release Date: October 9, 2010  
Proposed for Adoption Release Date: April 25, 2011

### Schedule of Meetings

- Date of Public Workshop on Draft Rules:
  - 2:00 p.m., Thursday, October 21, 2010; District Office, 2525 Dominic Dr., Suite J, Chico, CA
  - 10:00 a.m., Wednesday, November 3, 2010; District Office, 2525 Dominic Dr., Suite J, Chico, CA
- Date of Public Workshop on Proposed Rules:
  - 2:00 p.m., Wednesday, May 11, 2011, District Office, 629 Entler Avenue, Suite 15, Chico, CA

### Schedule of Hearing

- Date of Board Adoption Hearing:
  - 10:00 a.m., Thursday, May 26, 2011, Chico City Council Chambers, 421 Main Street, Chico, CA

**STAFF REPORT**

**Modifications to Regulation IV-PERMITS:**

- Rule 400-Permit Requirements**
- Rule 401-Permit Exemptions**
- Rule 430-State New Source Review**
- Rule 432-Federal New Source Review**

Draft Rules Release Date: October 9, 2010

Proposed Rules for Adoption Release Date: April 25, 2011

Public Adoption Hearing: May 26, 2011 at 10:00 a.m.  
Chico City Council Chambers  
421 Main Street, Chico, CA

<u>Contents</u>	<u>Page</u>
Executive Summary .....	3
1. Program Purpose .....	3
2. Applicability .....	3
3. Discussion .....	3
4. Requirements .....	4
5. Cost Impacts/Cost Effectiveness.....	8
6. Alternatives .....	8
7. Environmental Review .....	9
8. Required Findings .....	9
9. Attachments .....	10

- Attachment A** Rule 400-Permit Requirements (Proposed for Repeal)
- Attachment B** Rule 400-Permit Requirements (Proposed New Rule)
- Attachment C** Rule 401-Standards for Granting Applications (Proposed for Repeal)
- Attachment D** Rule 401-Permit Exemptions (Proposed New Rule)
- Attachment E** Rule 430-State New Source Review (Proposed Amended Rule)
- Attachment F** Rule 432-Federal New Source Review (Proposed for Repeal)
- Attachment G** Rule 432-Federal New Source Review (Proposed New Rule)
- Attachment H** Notices of Public Workshops and Hearing
- Attachment I** Draft Resolution of Adoption

## **STAFF REPORT**

### *Executive Summary*

*The Butte County Air Quality Management District (District) proposes a bifurcated approach for new source review (NSR) permitting minor and major sources for State and federal purposes to comply with the federal Clean Air Act requirements for permitting. Only those requirements of federal law are required to be submitted as a revision to the State Implementation Plan (SIP); therefore, a proposed new, separate rule, Rule 432- Federal New Source Review, will be submitted as a SIP revision that contains the requirements necessary to satisfy federal laws and regulations, and omit provisions required by more stringent state laws. As discussed below, the District does not have a current NSR rule in the SIP and therefore is not subject to SB288 requirements.*

*In evaluating the requirements to amend the current NSR Rule, the District recognized a need to combine administrative application and permit requirements from the various rules into one rule and set forth exemptions from permit requirements in separate rules.*

*The District published draft new and amended rules on October 9, 2010 to obtain comments on the revised rules from the California Air Resources Board (CARB), the United States Environmental Protection Agency (EPA), the public, and regulated entities prior to releasing final proposed versions of the rules for adoption. The District intended to propose rules for adoption on November 8, 2010 and set an adoption hearing date of December 9, 2010; however, the District wanted to revised the drafted rules and obtain further comments from the agencies and the public and continued the adoption hearing until March 24, 2011 and then until May 26, 2011. The District re-published notice of rules proposed for adoption on April 25, 2011.*

### **1.0 PURPOSE**

To re-codify and streamline existing permitting requirements in Regulation IV-PERMITS to prepare the rules for submittal in the District's State Implementation Plan.

### **2.0 APPLICABILITY**

The proposed new and amended rules affect all sources that emit or may emit air contaminants as the rules revise and re-codify the existing permitting application, review, and issuance requirements. The proposed new and amended rules set thresholds for those sources that may emit less than significant emissions and be exempt from permitting requirements.

### **3.0 DISCUSSION**

#### **Background:**

The District's New Source Review (NSR) program was established in its current form in January 1993 to ensure that the construction and operation of new and modified stationary sources do not interfere with progress towards attainment of the National and State Ambient Air Quality Standards. Because the District has been designated as nonattainment for failure to meet the federal 8-hour

ground-level ozone standard and because portions of the District have been designated as nonattainment for failure to meet the 1 hour particulate matter less than 2.5 microns in diameter (PM<sub>2.5</sub>) standard, the EPA requires the District to implement measures to reduce sources of ozone and its precursors and PM<sub>2.5</sub>. The District makes its commitment to reduce pollution through the State Implementation Plan (SIP). The SIP is federally enforceable through EPA and the federal Clean Air Act. A New Source Review, or Preconstruction Review, is required as part of the SIP. The purpose of the proposed new rule 400 is to set forth the requirements to for a source to apply for and obtain a minor source permit through approval by the Air Pollution Control Officer. The amendments of District Rule 430-*State New Source Review* clarify the minor source NSR requirements and incorporate State permitting requirements. .

The District proposes a bifurcated approach for permitting minor and major sources for State and federal purposes to comply with the federal Clean Air Act requirements for permitting. Only those requirements of federal law are required to be submitted as a revision to the SIP; therefore, a proposed new, separate rule, Rule 432- *Federal New Source Review*, will be submitted as a SIP revision that contains the requirements necessary to satisfy federal laws and regulations, and omit provisions required by more stringent state laws. As discussed below, the District does not have a current NSR rule in the current federally-approved SIP and therefore is not subject to SB288 requirements.

In evaluating the current NSR Rule 430 for completion with the federal permitting requirements, the District recognized a need to combine administrative application and permit requirements from the various rules into one rule and set forth exemptions from permit requirements in separate rules.

### **Protect California Air Act of 2003 (SB 288)**

In September, 2003, the California legislature passed SB 288, which ostensibly prevents the weakening of State NSR rules. Health & Safety Code Section 42504 now states that no air district "may amend or revise its new source review rules or regulations to be less stringent than those that existed on December 20, 2002." This baseline is defined as "district rules that the district has adopted as of December 30, 2002; that the ARB submitted to the EPA for inclusion in the SIP; and that have been approved, or are pending approval by the EPA". This baseline does not apply to the District since our NSR rule in effect in 2002 had not been submitted to the EPA for inclusion in the SIP, had never been approved and was not pending approval. The current version of the District's NSR rule was submitted for inclusion in the SIP in May 1993 but was withdrawn in December 1994. The provisions of the District's NSR rule that was previously in the SIP were contained in Rules 4.3, 4.5A, 4.5B, 4-6, 4-6A, 4.9 and 4-11, which were rescinded by EPA action on May 2, 2001 as published in the Federal Register. The reason for this EPA action is unclear. Therefore, the District is drafting and proposing amended NSR rules at this time to prepare for a SIP submittal and the rules are not subject to SB288 restrictions.

## **4.0 REQUIREMENTS**

Summary of Significant Changes for Each Rule:

Below are brief summaries of the changes for each of the four rules subject to this review:

## **Rule 400-Permit Requirements**

The District's intent is to combine the administrative permit application and review procedures found in the existing rules (400, 401 and 430) into one new rule. Since the revisions proposed require an extensive re-work of the existing Rule 400-*Permit Requirements*, the existing rule is proposed for repeal and a new rule is proposed for adoption in its place.

New Rule 400 includes:

- An explanation that the PURPOSE of the proposed new rule is to provide an orderly procedure for applying for a permit and for the APCO to review applications for new and modified sources of air pollution.
- Provisions for categories of emissions units identified in proposed new Rule 401-*Exemptions* as exempt from the requirements to obtain a permit.
- Definitions of terms used in applying, reviewing and acting on applications submitted for permitting.
- The standards for approving or denying an application include: any potential source of air contaminants must obtain an authority to construct; the source must meet all applicable rules and regulations; requirements for notifying an applicant whose application has been denied; and provisions to ensure compliance with Health and Safety Code requirements related to toxic air contaminant (Note: toxic section is not included in SIP submittal). This section includes the requirements for sources that have sufficient emissions to provide offsets are subject to public notice to allow the public the ability to comment and requests a hearing prior to approval of the ATC permit. This section also includes provisions for the Air Pollution Control Officer (APCO) to request information to assess the nature and extent of emissions, provisions to have a Permit to Operate an emissions unit, the procedures for renewing a Permit to Operate including the review of existing conditions to ensure compliance with current applicable requirements. This section includes a mechanism to transfer the ownership of a permit and identifies that a "transfer" of location or to another piece of equipment constitutes a new permit and requires an Authority to Construct application. The standards section contains requirements to provide monitoring and sampling stations as required by permit conditions and demonstration of compliance with permit emission limits by source performance testing an emissions unit when required by the APCO. The section includes an indemnification clause in which the applicant agrees to indemnify and hold harmless the APCO and District for actions relating to permit requirements. The indemnification clause will not be included in the submittal to the federal SIP.
- Administrative requirements that allow for the receipt and processing of applications including time schedules for review and response, requirements to pay fees in accordance with District rules, a certification statement process for applicants, various steps in reviewing the application including a completeness determination, the APCO preliminary decision, and the cancellation of an application. In addition, this section includes the options for resolving an application and issuing a permit. Administrative requirements for permits after issuance include restrictions on defacing the permit, requirements to maintain the permit at the site, procedures for the APCO to suspend, cancel, or recommend revocation of a permit, and procedures for an applicant or aggrieved party to appeal an APCO determination.

- Requirements and standards for monitoring and source testing methodologies and recordkeeping requirements to demonstrate compliance with permit conditions and all applicable requirements.

### **Rule 401-Permit Exemptions**

The existing Rule 401-*Standards for Granting an Application* requirements have been incorporated into the proposed new Rule 400, and, therefore, the existing rule is proposed for repeal. District staff has proposed to move, expand, and clarify the listing of emissions units that would not be subject to the permitting requirements of proposed new Rule 400 and has included provisions to keep records to ensure compliance with the exemption criteria and a schedule of compliance for sources that lose exempt status. An exempt source must still comply with any other applicable rule or regulation.

The proposed new rule will replace the existing Rule 4-4 currently in the SIP. The proposed rule is more prescriptive and identifies the types and sizes of equipment that will be exempt from permitting requirements. Rule 4-4 includes exemptions for vehicles, residential equipment, heating, air, ventilation, and refrigeration equipment, internal combustion engines, cooling towers, steam cleaners, extrusion presses, space heaters, food preparation equipment, natural gas or LPG heated steam, mobile construction equipment, agricultural equipment and “other sources of minor significance”. The proposed rule clarifies the existing “exemptions” and expands on the list based on past APCO evaluations and determinations of the equipment as “sources of minor significance”. As a general rule, the limits are to approximate the California air districts generally recognized exemption threshold of 2 lb/day of any regulated pollutant.

The proposed new rule specifies that a permit application is not required for the source categories listed in the rule unless a specific determination by the APCO is required. In addition, the APCO is granted authority to request information from the person claiming an exemption to verify the source meets the exemption criteria.

Rule 401 provides that an emissions unit would not be eligible for exemption if:

- The APCO determines the source needs a permit;
- The source has actual emission that exceed the Best Available Control Technology thresholds set in Rule 430-*State New Source Review*;
- The Title V permit program requires a source to obtain a permit;
- The source is subject to the New National Emissions Standards for Hazardous Air Pollutants (NESHAP) or the New Source Performance Standards (NSPS), except for internal combustion engines rated at less than 50 horsepower which are subject to an NSPS but will continue to not require a District permit; or
- The APCO determines the source is a significant source of toxic emissions.

The following source categories are included for exemptions subject to the thresholds and limitations in the rule:

- Combustion and heat transfer sources including steam cleaners, cooling towers, small boilers, space heaters, certain internal combustion engines, fuel cells and microturbines, and certain process heaters like small crucibles and ceramic kilns.

- Food and beverage processing equipment including equipment used in eating establishments for human consumption, small coffee roasters, non-commercial barbecues, ovens at small bakeries, and small brewing operations.
- Small spray coatings, solvent cleaning and composting operations.
- Vehicles and mobile equipment.
- Residential and commercial uses including equipment at residences, ventilation or comfort air systems, refrigeration units not serving as pollution controls, and coatings applied to structures.
- Portable handheld and certain abrasive blasting equipment.
- Certain agricultural sources.
- Replacement equipment meeting the rule criteria.
- Small printing and reproduction operations.
- Certain wastewater facilities.
- Certain woodworking and fabrication operations
- Pilot tests for soil remediation projects
- Specific walnut hulling and drying processes

The Rule includes conditionally exempt sources which require the source to apply for an exemption and a determination by the APCO. This section includes provisions for:

- Replacement of Equipment
- Other low emitting sources that emit less than 2 lb/day or no more than 75 lb/year of a regulated pollutant that is reviewed and confirmed by the APCO.

The proposed rule requires the owner or operator claiming an exemption to keep documentation of the applicable information that demonstrates compliance with the exemption criteria. This documentation must current for the previous two years.

If a source loses “exempt” status with the adoption of this rule, the source shall have six (6) months to apply for a permit under the provisions of Rule 400. In addition, a source that was exempt and exceeds the exemption limitations set by the proposed new rule shall have 30 days to submit an application for a permit or other written authorization from the APCO.

### ***Rule 430-State New Source Review***

Staff proposes to amend existing Rule 430-*New Source Review* to regulate all non-attainment pollutants for major and minor sources and all attainment or unclassified pollutants for State purposes. Most of the administrative requirements related to application review have been incorporated into Rule 400. The definitions have been amended to be compatible with the Rule’s focus on State new source requirements. In additions, definitions that were in specific sections of the rule have been revised and moved into this section.

The “REQUIREMENTS” section of the amend rule continues to include the BACT thresholds for the criteria pollutants and their precursors. In addition, a BACT threshold has been added for PM2.5. Staff has proposed to remove the non-criteria pollutants previously included in this list that are reviewed under the District’s toxic review program. The subsection on Offsets has been amended to clarify the requirements and update the descriptions of the calculation methods; however, no substantive changes to the procedures or calculation process are intended or proposed from the existing rule although the language is different.

The section on air quality analysis has been updated to reference the now codified modeling requirements by EPA.

The final section of the rule continues to facilitate the review of larger power plants over 50MW in size whose permitting authority lies with the California Energy Commission. The section continues to demonstrate the parallel path of authorization between the CEC process and the Rule requirements; however, references to administrative requirements that have been moved to Rule 400 have been updated and a new paragraph explaining the equivalency of the Determination of Compliance to an Authority to Construct has been included to satisfy federal concerns regarding issuing a Permit to Operate without first granting an Authority to Construct.

### **Rule 432-Federal New Source Review**

The proposed new rule will serve as the new source review rule for major source and major modifications for Federal purposes. A portion of the existing Rule 432-*Federal Major Modifications* will remain intact; however, due to the extensive changes, the District proposes to repeal the existing Rule 432 and propose a new Rule 432 for adoption. The proposed rule is formatted like Rule 430; however, the applicable thresholds and review periods have been changed to reflect federal requirements.

The existing Rule 430 lacked three major elements of the federal program requirements that are now included in the administrative requirements section of the proposed new rule. These include the Alternate Siting requirement, Certification of Compliance and Potential Visibility Impacts review.

The previous sections relating to federal New Source Review Reforms that were adopted by the District in September 2006 have been incorporated into the Standards requirements of this proposed new rule and the references have been updated.

### **5.0 COST IMPACTS/COST EFFECTIVENESS:**

The proposed new and amended rules do not implement an emission control measure and therefore are not subject to the cost effectiveness mandate. The proposed new and amended rules are administrative in nature and no additional costs to either the District or stakeholders are expected. In addition, because BACT requirements and feasible control measures are not involved, an incremental cost-effectiveness analysis under Health & Safety Code Section 40920.6 is not required.

### **6.0 ALTERNATIVES:**

The Governing Board may choose to:

- a) Approve the rules as proposed;
- b) Direct staff to modify the proposed amended and new rules after receiving public comments during the hearing; or
- c) Take no action.

## 7.0 ENVIRONMENTAL REVIEW AND COMPLIANCE

Staff has determined that proposed amended and new rule are exempt from CEQA requirements and is therefore considered to be ministerial in nature and thus is statutorily exempt from CEQA, pursuant to state CEQA Guidelines Section 15268 – Ministerial Projects, as defined by CEQA Guidelines Section 15369.

### 8.0 REQUIRED FINDINGS:

Findings required by Division 26 of the California Health and Safety Code requires local 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.

Table 7

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 this division and other statutory provisions.	California Health and Safety Code Division 26, Part 3, Sections 40000 and 40001, 40702, and 42300 et. seq., are provisions of law that provide the District with the authority to adopt these proposed rules.
Necessity	The District has demonstrated that a need for the Rule, or for Rule amendment or repeal.	Federal and State law requires the District maintain a minor and major source permitting program. The proposed rules collectively implement the state and federal requirements.
Clarity	The Rule is written or displayed so that its meaning can easily be understood by the persons directly affected by it.	There is no indication that the proposed rules are written in such a manner that persons affected by the rule cannot easily understand it.
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 District has found that the proposed new and amended rules are consistent with applicable statutory requirements
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 rule duplicates federal rules or regulations for permitting programs. The duplicative requirements are necessary in order to execute the powers and duties imposed upon the District.
Reference	Any statute, court decision, or other provision of law that the district implements, interprets, or makes specific by adopting, amending, or	California Health and Safety Code Division 26, Part 3, Sections 40000 and 40001, 40702, and 42300; Clean Air Act amendments of 1990 and

## 9.0 ATTACHMENTS

<b>Attachment A</b>	<b>Rule 400-Permit Requirements (Proposed for Repeal)</b> <i>See separate attachment file</i>
<b>Attachment B</b>	<b>Rule 400-Permit Requirements (Proposed New Rule)</b> <i>See separate attachment file</i>
<b>Attachment C</b>	<b>Rule 401-Standards for Granting Applications (Proposed for Repeal)</b> <i>See separate attachment file</i>
<b>Attachment D</b>	<b>Rule 401-Permit Exemptions (Proposed New Rule)</b> <i>See separate attachment file</i>
<b>Attachment E</b>	<b>Rule 430-State New Source Review (Proposed Amended Rule)</b> <i>See separate attachment file</i>
<b>Attachment F</b>	<b>Rule 432-Federal New Source Review (Proposed for Repeal)</b> <i>See separate attachment file</i>
<b>Attachment G</b>	<b>Rule 432-Federal New Source Review (Proposed New Rule)</b> <i>See separate attachment file</i>
<b>Attachment H</b>	<b>Notices of Public Workshops and Hearing</b>
<b>Attachment I</b>	<b>Draft Resolution of Adoption</b>

**Attachment A**  
**Rule 400-Permit Requirements (Proposed for Repeal)**  
*See separate attachment file*

**Attachment B**  
**Rule 400-Permit Requirements (Proposed New Rule)**  
*See separate attachment file*

**Attachment C**  
**Rule 401-Standards for Granting Applications (Proposed for Repeal)**  
*See separate attachment file*

**Attachment D**  
**Rule 401-Permit Exemptions (Proposed New Rule)**  
*See separate attachment file*

**Attachment E**  
**Rule 430-State New Source Review (Proposed Amended Rule)**  
*See separate attachment file*

**Attachment F**  
**Rule 432-Federal New Source Review (Proposed for Repeal)**  
*See separate attachment file*

**Attachment G**  
**Rule 432-Federal New Source Review (Proposed New Rule)**  
*See separate attachment file*

**Attachment H**  
Notices of Public Workshops and Hearing

## NOTICE OF PUBLIC WORKSHOPS AND HEARING

**PUBLIC NOTICE IS HEREBY GIVEN**, pursuant to and in compliance with all public notice requirements in effect, that the Butte County Air Quality Management District (District) Governing Board of Directors will hold a Public Hearing on Thursday, December 9, 2010 at 10:00 a.m. to consider adoption of proposed modifications to Regulation IV-PERMITS, including amendments to Rule 430-*New Source Review* and the repeal of existing District Rule 400-*Permit Requirements*, Rule 401-*Standards for Granting Applications*, and Rule 432-*Federal Major Modifications*, and proposed adoption of new Rule 400-*Permit Requirements*, Rule 401-*Exemptions*, and Rule 432-*Federal New Source Review*. The draft/proposed rules collectively set forth standards and procedures for the review of applications for new sources of air pollution and for the modification and operation of existing sources and for the granting or denial of permits. The changes are proposed to update the regulations for current local, State and federal requirements and ensure the rules include all necessary provisions for submittal into the District's State Implementation Plan. The hearing will be held at the Chico City Council Chambers, 421 Main Street in Chico, CA.

**DRAFT RULES AND PUBLIC WORKSHOPS:** Prior to finalizing and releasing the proposed rules for adoption to Regulation IV, draft rules will be release October 9, 2010 and available for public and State and federal agencies review and comment. Two (2) workshops are planned to review the draft changes and receive public comment. The workshops are scheduled for Thursday, October 21, 2010 at 2:00 p.m. and for Wednesday, November 3, 2010 at 10:00 a.m. at the District office.

**PROPOSED RULES FOR ADOPTION WORKSHOP:** After receiving public and agency comments, the final rules proposed for adoption will be released on November 8, 2010 for further public review and comment. A public workshop will be held on Thursday, November 18, 2010 at 2:00 p.m. at the District Office.

**COMMENTS:** Interested parties may review the related Staff Report and the draft rules on or after October 9, 2010 and final proposed rules on or after November 8, 2010, either online at [www.bcaqmd.com](http://www.bcaqmd.com) or at the District Office at 2525 Dominic Drive, Suite J, Chico, CA. The District office telephone number is (530) 891-2882. The public may comment verbally or in writing prior to the time of the hearing. All written comments should be filed with the District BOARD CLERK, at the District Office, no later than December 2, 2010.

**HEARING:** All persons planning to attend the Public Hearing are advised that this item may be taken up after 10:00 a.m. pursuant to the order of items set forth in the Agenda. Comments, statements, or arguments relating to the matters publicized in this Notice may be presented orally or in writing. Following the Public Hearing on December 9, 2010, and without further notice, the District Board may take action consistent with the terms of this Notice.

DATED: October 9, 2010  
By: W. James Wagoner  
AIR POLLUTION CONTROL OFFICER

## NOTICE OF PUBLIC WORKSHOP AND HEARING

NOTICE IS HEREBY GIVEN that the Butte County Air Quality Management District (District) Governing Board will hold a public hearing to consider adoption of proposed modifications to Regulation IV-PERMITS, including amendments to Rule 430-*New Source Review* and the concurrent repeal of existing Rule 400-*Permit Requirements*, Rule 401-*Standards for Granting Applications*, and Rule 432-*Federal Major Modifications* and proposed adoption of new Rule 400-*Permit Requirements*, Rule 401-*Permit Exemptions*, and Rule 432-*Federal New Source Review*. The proposed amended and new rules set forth standards and procedures for the review of applications and for the granting or denial of permits for new and modified sources. The proposed rules include sections that will not be submitted for State Implementation Plan approval. The time, date, and location of the public workshop and hearing are given below:

Public Workshop: 2:00 p.m. May 11, 2011, District office, (address below)

Public Hearing: 10:00 a.m. May 26, 2011, City of Chico Council Chambers, 421 Main Street, Chico

The Staff Report and proposed rules may be reviewed at the District office at the address below or on the District website: [www.bcaqmd.org](http://www.bcaqmd.org). For additional information please contact David Lusk at (530) 332-9400, ext. 107. Written comments on the proposed rules must be submitted by May 19, 2011 to: Board Clerk, Butte County Air Quality Management District, 629 Entler Avenue, Suite 15, Chico, CA 95928.

**Attachment I**

Draft Resolution of Adoption

**DRAFT RESOLUTION 2011-  
BEFORE THE BOARD OF DIRECTORS OF  
BUTTE COUNTY AIR QUALITY MANAGEMENT DISTRICT  
STATE OF CALIFORNIA**

Resolution 2011-.....)  
Repeal Existing Rules 400, 401, and 432.....)  
Adopt Proposed New Rule 400 .....)  
Adopt Proposed New Rule 401 .....)  
Adopt Proposed Amended Rule 430 .....)  
Adopt Proposed New Rule 432.....)

WHEREAS, the Butte County Air Quality Management District Board obtains its authority to adopt, amend, or repeal rules and regulations from California Health and Safety Code Sections 40000, 40001, 40701, 40702;

AND WHEREAS, the Butte County Air Quality Management District Board has determined that the proposed new and amended rules are written such that the meaning can be understood by the persons directly affected by it (Health and Safety Code Section 40727(b)(3));

AND WHEREAS, the Butte County Air Quality Management District Board has determined that the proposed rule adopted herein is in harmony with, and not in conflict with or contradictory to existing statutes, court decisions, or state or federal regulations (Health and Safety Code Section 40727(b)(4));

AND WHEREAS, the Butte County Air Quality Management District Governing Board has determined that the repeal and adoption of new Rule 400-*Permit Requirements*, is necessary to streamline and clarify the administrative requirements for obtaining written authorization in the form of an Authority to Construct Permit or Permit to Operate;

AND WHEREAS, the Butte County Air Quality Management District Governing Board has determined that Sections 4.4.7 and 4.10 of Rule 400 are applicable to local and State requirements and are not be include in the federal SIP submittal;

AND WHEREAS, the Butte County Air Quality Management District Board has determined that the repeal of existing Rule 401 and adoption of new Rule 401-*Permit Exemptions*, is necessary since the requirements of existing Rule 401 have been incorporated into amended Rule 400 to streamline and clarify the administrative requirements of permitting and the proposed new rule specifies and clarifies the size and nature of emissions units, operations and sources that do not require an Authority to Construct Permit or Permit to Operate and specifies recordkeeping requirements to ensure compliance with the exemption status;

AND WHEREAS, the Butte County Air Quality Management District Board has determined that the adoption of amended Rule 430-*State New Source Review*, is necessary to set forth the procedures to evaluate new and modified major and minor sources that emit or may emit nonattainment and attainment

air pollutants to ensure the proposed or modified sources comply with all applicable rules, regulations and laws for State purposes;

AND WHEREAS, the Butte County Air Quality Management District Board has determined that repeal of existing Rule 432 and adoption of new Rule 432-*Federal New Source Review*, is necessary to ensure all major and major modifications to sources meet the applicable federal requirements prior to obtaining a permit;

AND WHEREAS, the Butte County Air Quality Management District Board has determined that the proposed new Rule 400, new Rule 401 and amended Rule 430 do not duplicate local, state or federal rules or regulations for permitting programs;

AND WHEREAS, the Butte County Air Quality Management District Board has determined that the portions of the proposed new Rule 432 duplicates federal rules or regulations for permitting programs and the duplicative requirements are necessary in order to execute the powers and duties imposed upon the District;

AND WHEREAS, the District staff has made notice of and held a public workshop meetings on the draft rules and received comments as included in the staff report and rules prior to proposing the rules for adoption, which are included herein as a record of those proceedings;

AND WHEREAS, the District staff has made notice of and held a public workshop meetings on the draft and proposed amended, repealed and new rules and received comments as included in the board report, which are included herein as a record of those proceedings;

AND WHEREAS, the Butte County Air Quality Management District Board conducted public hearing on December 9, 2010 and continued the hearing until March 24, 2011 and continued the hearing until May 26, 2011 concerning the proposed rules herein;

THEREFORE, BE IT RESOLVED, that the Butte County Air Quality Management District Board hereby repeals existing Rule 400-*Permit Requirements*, Rule 401-*Standards for Granting Applications*, and Rule 432-*Federal Major Modifications* and adopts, with an effective date of May 26, 2011, Rule 400-*Permit Requirements*, Rule 401-*Exemptions*, Rule 430-*New Source Review*, and Rule 432-*Federal New Source Review*, as proposed in the attachments to the April 25, 2011 staff report.

BE IT FURTHER RESOLVED, that the Butte County Air Quality Management District Board directs staff to prepare portions of Rule 400-*Permit Requirements*, Rule 401-*Permit Exemptions*, and Rule 432-*Federal New Source Review* for submittal into the federal ozone and PM2.5 nonattainment State Implementation Plans as noted in the proposed rules and staff report.

On Motion of \_\_\_\_\_, Seconded by \_\_\_\_\_, the foregoing resolution is hereby PASSED AND ADOPTED BY THE Air Quality Management District Board of Directors on this 26th day of May, 2011 by the following:

AYES:  
NOES:

ABSTAIN:  
ABSENT:

---

W. James Wagoner, Air Pollution Control Officer  
Butte County Air Quality Management District

I hereby attest that this is a true and correct copy of the action taken by the Butte County Air Quality Management District Board of Directors on May 26, 2011

ATTEST: \_\_\_\_\_  
Clerk of the Governing Board