



Air Pollution Control Board
Brian P. Bilbray District 1
Dianne Jacob District 2
Pamela Slater District 3
Leon L. Williams District 4
John MacDonald District 5

Air Pollution Control Officer
R. J. Sommerville

DATE: November 29, 1994
TO: Air Pollution Control Board
SUBJECT: Proposed Rule 27 - Mobile Source Emission Reduction Credits, and
Amendments to Existing Rule 21 - Permit Conditions

SUMMARY:

Both state and federal Clean Air Acts require a District New Source Review Rule to address significant new or modified sources. One New Source Review requirement is that emission increases from such sources be offset. Federal provisions affect such sources with a potential to emit 50 tons or more annually and require 20 percent more emission reductions than the proposed increase. Similarly, state requirements affect such sources with a potential to emit 15 tons or more annually and require an emission increase be offset with an equal reduction.

The demand for offsets is expected to increase. At the same time other state and federal emission control requirements reduce the availability of stationary source offsets. Consequently there is substantial interest in generating cost-effective mobile source offset credits.

Proposed Rule 27 and companion changes to Rule 21 will amend the State Implementation Plan and provide a mechanism for registering mobile source emission credits that can be used for stationary source offsets. This will increase the availability of offsets and help hold down prices, mitigating mandated state and federal program impacts on San Diego businesses.

The proposed Rule includes five methods for creating credits, each consistent with state and federal guidance: accelerated vehicle retirement (scrap programs); purchasing new low-emission Transit Buses; purchasing zero-emission vehicles; retrofitting cars, light-duty trucks, or medium-duty vehicles to low-emission standards; and, retrofitting heavy-duty vehicles to low-emission standards. There is also a general provision providing for any other program generating valid mobile source emission reduction credits. This provides the opportunity for innovative programs without waiting for the regulation to catch up with technology. Industry strongly supports these provisions.

In a related matter, at its September 20, 1994, meeting (Agenda Item 4), the Air Pollution Control Board discussed extending the current pilot program accelerating the retirement of pre-1982 vehicles. The concern was that this proposed mobile source credit rule would not be completed as scheduled, creating a gap when the current pilot program ended. The Board directed the Air Pollution Control Officer to report back in 60 to 90 days with a strategy if a potential gap is perceived.

To date, the pilot program is approximately sixty percent complete and the contractor anticipates program completion in early 1995. Adopting proposed Rule 27, as recommended, would provide a mechanism for an accelerated vehicle retirement program should private market forces dictate, preventing any gap between pilot program expiration and industry's ability to fund such a program to create credits.

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SUBJECT: Proposed Rule 27 - Mobile Source Emission Reduction Credits, and Amendments to Existing Rule 21 - Permit Conditions

Issues

1. Should the Board accept the Air Pollution Control Officer's recommendation to amend the State Implementation Plan by adopting proposed Rule 27, Mobile Source Emission Reduction Credits, and companion changes to existing Rule 21, Permit Conditions, to provide industry flexibility in meeting emission offset requirements?
2. Should the Board accept the Air Pollution Control Officer's recommendation to forego immediate additional funding extending the accelerated vehicle retirement pilot program because the adoption of proposed Rule 27 would provide a mechanism for registering emission reduction credits created by private funding should such a market exist, and consider additional public funding of an accelerated vehicle retirement program when considering all other qualifying programs, including SB 2050?

References

- September 20, 1994 Agenda Item 4 – Directed a review of the accelerated vehicle retirement pilot program and mobile source credit rule development to determine if a “gap” would be created by the pilot program expiring prior to rule adoption.
- September 28, 1993: Agenda Item 1 – Approved Vehicle Registration Funding Allocation Plan, including an accelerated vehicle retirement pilot program and a contract to develop a mobile source emission reduction credit rule.

Recommendations

AIR POLLUTION CONTROL OFFICER

1. Amend the State Implementation Plan by adopting the resolution adding new Rule 27 and amending Rule 21 and make appropriate findings:
 - (i) of necessity, authority, clarity, consistency, nonduplication, and reference as required by Section 40727 of the State Health and Code; and
 - (ii) that because new Rule 27 provides a mechanism for generating emission reduction credits, it does not significantly affect air quality or emission limitations. Therefore, state law (Health and Safety Code Section 40728.5) does not require preparation of a Socioeconomic Impact Assessment; and
 - (iii) that there is no reasonable possibility that new Rule 27 and amended Rule 21 may have a significant adverse effect on the environment, and that they are categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Sections 15300 and 15308, as actions taken to assure the maintenance or protection of the environment, and where there is no possibility of negative impacts on the environment.

SUBJECT: Proposed Rule 27 - Mobile Source Emission Reduction Credits, and Amendments to Existing Rule 21 - Permit Conditions

2. Forego immediate additional funding extending the accelerated vehicle retirement pilot program currently funded by vehicle registration fees, and consider additional public funding of an accelerated vehicle retirement program when considering all other qualifying programs, including SB 2050.

Advisory Statement

The Air Quality Strategy Development Committee unanimously recommended adopting proposed Rule 27 and companion amendments to Rule 21 on November 2, 1994.

Fiscal Impact

Amending the State Implementation Plan by adopting proposed Rule 27 and related proposed amendments to Rule 21 will have no fiscal impact on the District.

Alternatives

- Do not amend the State Implementation Plan by adopting proposed Rule 27 and amendments to existing Rule 21. This alternative is not recommended as it could severely limit credits available to offset emission increases from industrial expansion. Industry has expressed strong support of the proposed rule and identified mobile source credits as key in its ability to meet emission offset requirements.
- Do not accept the Air Pollution Control Officer's recommendation to forego immediate additional funding extending the accelerated vehicle retirement pilot program, and consider such a program when considering all other qualifying programs, including SB 2050. This alternative is not recommended because adopting Rule 27 provides an incentive for private investment in the program to create credits, if such a market exists. Also, such an extension now would reduce funding available for other worthy projects that may provide more cost-effective emission reductions, and may jeopardize the possibility of implementing SB 2050 without increasing vehicle registration fees.

BACKGROUND:

Both state and federal Clean Air Acts require a New Source Review rule addressing significant new or modified stationary sources. One New Source Review provision requires any emission increases from such sources be offset.

Federal New Source Review requires new or modified sources with a potential to emit 50 tons annually or more of smog-related emissions to offset an emission increase with 20 percent more emission reductions than the proposed increase (1.2 to 1.0 offset ratio). State law requires new or modified sources with a potential to emit 15 tons or more annually of smog-related emissions to offset the emission increase with equal emission reductions (1.0 to 1.0 offset ratio). Consequently, the demand for emission offsets is expected to increase.

Emission offsets can come from anywhere inside the air basin, and must satisfy specified requirements. The offsets must be:

SUBJECT: Proposed Rule 27 - Mobile Source Emission Reduction Credits, and Amendments to Existing Rule 21 - Permit Conditions

- Real – Will actually occur as claimed, and are not just from an accounting procedure.
- Quantifiable – Can be determined with reasonable accuracy.
- Enforceable – The District can enforce whatever conditions are necessary to ensure the claimed reductions are maintained, and declare the offset invalid if necessary.
- Surplus – Are above and beyond what is otherwise required by federal, state, or District law, regulation, or policy, including the State Implementation Plan and Regional Air Quality Strategy.

There are three ways to obtain offsets. First, existing sources may create internal offsets by reducing emissions from existing operations and applying those offsets to in-plant expansion. Second, new or existing sources may use external offsets created by reducing emissions from one of the company's other facilities, or by paying another company to reduce its emissions in return for rights to the emission reductions.

The third source is from the District "bank." The bank contains emission reductions registered with the District as "credits" that can be "withdrawn" later to satisfy a future offset requirement. If internal or external offsets are not available, a source may negotiate a transaction with the registered owner of banked credits; however, the District can not require credits to be sold.

The state and federal emission control requirements are significantly reducing the availability of offsets from stationary sources. This shortage coupled with increased demand may increase offset costs and adversely impact expanding business in San Diego. Consequently, attention is turning to generating cost-effective mobile source credits.

Accordingly, proposed Rule 27 has been developed to reflect federal Environmental Protection Agency (EPA), California Air Resources Board (ARB), and District policies and guidelines. The proposed rule is an amendment to the State Implementation Plan and specifies how emission reductions from mobile sources qualifying as offsets would be calculated and registered.

The proposed rule includes five methods for creating credits:

1. Accelerated Vehicle Retirement – Because older vehicles have less sophisticated emission controls, their accelerated retirement can create credits. A specific credit is based on the difference in emissions between the retired vehicle and a typical replacement vehicle, using applicable data.
2. Purchasing New Low-Emission Transit Buses – Credits may be created by buying low-emission buses. The credit is based on the difference in emission rates between a low-emission transit bus and a standard bus, and the number of miles a transit bus typically travels annually. Currently there are no certified low-emission buses, but the proposed rule may help create market demand.
3. Purchasing Zero-Emission Vehicles – Credits may be created by purchasing zero-emission vehicles (ZEV's) that are not used by vehicle manufacturers to meet state Board requirements for the average emission level of vehicles sold in California. The credit is based on both the difference in emission rates between a ZEV and a new, emitting vehicle, and a ZEV's expected annual mileage.

SUBJECT: Proposed Rule 27 - Mobile Source Emission Reduction Credits, and Amendments to Existing Rule 21 - Permit Conditions

4. Retrofitting Cars, Light-Duty Trucks, or Medium-Duty Vehicles to Low-Emission Standards – Credits are based on both the difference between the state Board-certified emission levels before and after the retrofit, and the vehicle's projected useful life.
5. Retrofitting Heavy-Duty Vehicles to Low-Emission Standards – Credits are based on both the difference between the state Board-certified emission levels before and after the retrofit, and the vehicle's projected useful life.

The rule also includes a general provision for any other program generating mobile source emission credits. This provides the opportunity for innovative programs without waiting for the regulation to catch up with technology. Industry strongly supports these innovative technology provisions.

Emission reductions would be registered with the District by applying for credits prior to implementing the reductions. The District would evaluate the proposed reductions to verify they qualify for credit. Once created, the District would issue a certificate to the credit owner, specifying the quantity and life of the credit, including any necessary conditions.

Like a stationary source credit, a mobile source credit becomes a commodity that can be used by its owner to meet New Source Review offset requirements, or sold to another party. The primary difference between the two is that individual mobile source credits have a comparatively limited duration because mobile sources have lifetimes much shorter than stationary facilities. For example, a credit from a new, low-emission transit bus may be valid for its projected twelve-year vehicle lifetime. Retrofitting any vehicle partway through its life would create credits for only the remainder of its projected useful life. Credits from accelerated retirement programs must be used within five years as these vehicles are retired near the end of their useful life.

As a result, mobile source credits are well-suited for short- and medium-term projects. Examples may include increases in industrial capacity needed only to meet a production contract, or locating a temporary facility, such as a dredging operation or project-specific asphalt plant.

Using these credits for long-term industrial expansion requires a continuous supply to replace credits as they expire. Accordingly, proposed Rule 27 allows programs for generating mobile source credits over an extended period. As long as the facility keeps generating these credits, emission offset requirements are satisfied.

Issues

Integration With The Existing Banking Rule

The Industrial Environmental Association (IEA) initially expressed concern about potential duplication and inconsistency between the existing stationary source banking rule (Rule 26) and the proposed mobile source banking rule (Rule 27). IEA wanted the mobile source credit provisions integrated in a "core" rule (Rule 26) for both stationary and mobile source credit requirements, eliminating potential duplication and building on similarities between the two rules. However, IEA has agreed that a separate rule (Rule 27) is appropriate for three reasons:

- Unique Characteristics – Stationary sources are fixed, and subject to District permitting authority, while mobile sources are not. This creates unique characteristics that integrate poorly with stationary requirements and are best addressed in separate rules.

SUBJECT: Proposed Rule 27 - Mobile Source Emission Reduction Credits, and
Amendments to Existing Rule 21 - Permit Conditions

- Clarity – Potential operators of mobile source credit programs, not ordinarily exposed to stationary source credit procedures, such as transit operators, vehicle fleet operators, and automobile dismantlers, will more easily understand the mobile source emission credit requirements if maintained in a separate rule.
- Accelerated Review – Maintaining mobile source emission credit provisions in a separate rule will allow accelerated state and federal review.

The IEA was also concerned the District may not allow the use of a mobile source credit established under Rule 27 because it was not banked under Rule 26. IEA was advised that mobile source credits issued under proposed Rule 27 can be used in the same manner as stationary source credits issued under Rule 26. Although mobile source credits typically have a shorter life than their stationary counterparts, a mobile source credit is otherwise indistinguishable.

Collectable Cars

Car collectors criticize accelerated vehicle retirement programs because of the impact on parts availability for collectable cars. Comments from collector car interests were received during rule development.

Accordingly, proposed Rule 27 provides collector car interests a full opportunity to purchase, prior to dismantling, any vehicle having value for restorative purposes, provided no emission credits are granted for the vehicle. Additionally, removing reusable automotive components (exclusive of the engine block and pre-1982 catalytic converters) from any vehicle is allowed prior to vehicle destruction. These provisions provide reasonable access to spare parts and minimize impacts on parts availability for collector cars.

Accelerated Vehicle Retirement Program: Public vs. Private

At its September 20, 1994, (Agenda Item 4) meeting, the Air Pollution Control Board discussed extending the pilot program approved by the Board on September 28, 1993, for the accelerated retirement of pre-1981 vehicles. There was a concern that the mobile source credit rule would not be completed as scheduled, creating a gap when the current pilot program ended. The Board directed the Air Pollution Control Officer to report back in 60 to 90 days with a strategy if a potential gap is perceived.

To date, the pilot program is approximately 60 percent complete and the contractor anticipates completion in early 1995. Adopting proposed Rule 27, as recommended, would provide a mechanism for an accelerated vehicle retirement program should private market forces dictate, thus preventing any gap between pilot program expiration and industry's ability to fund such a program to create credits.

Section 40728.5 of the State Health and Safety Code requires the District to perform a socioeconomic impact assessment (SIA) for new and revised rules and regulations significantly affecting air quality or emission limitations. New proposed Rule 27 only provides a mechanism for generating emission reduction credits. Air quality is not significantly affected by the emission reductions creating credits because credits may be later used to permit an emission increase. New proposed Rule 27 and amendments to Rule 21 will not significantly affect air quality or emission limitations. Therefore, a socioeconomic impact assessment is not required.

On February 2, 1993, the Air Pollution Control board directed that, with the exception of a regulation requested by business or a regulation for which a socioeconomic impact assessment is not required, no new or revised regulation shall be implemented unless specifically required

SUBJECT: Proposed Rule 27 - Mobile Source Emission Reduction Credits, and
Amendments to Existing Rule 21 - Permit Conditions

by federal or state law. New proposed Rule 27 was requested by business and is consistent with the February 2, 1993, Board direction.

California Environmental Quality Act

The California Environmental Quality Act requires an environmental review for certain actions. No significant adverse impacts on the environment have been suggested; no such impacts are reasonably possible. Adopting the new proposed Rule 27 and amending Rule 21 will not have a significant effect on the environment and is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Sections 15300 and 15308, as an action taken to assure the maintenance or protection of the environment where the regulatory process involves procedures for protection of the environment.

A public workshop was held on September 28, 1994. The workshop report, including written comments from IEA and ARB, is attached.

Concurrence:

DAVID E. JANSSEN
Chief Administrative Officer

Respectfully submitted,



R. J. SOMMERVILLE
Air Pollution Control Officer

**AIR POLLUTION CONTROL BOARD
AGENDA ITEM
INFORMATION SHEET**

SUBJECT: Proposed Rule 27 - Mobile Source Emission Reduction Credits, and
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SUPV DIST.: All

COUNTY COUNSEL APPROVAL: Form and Legality Yes N/A
 Standard Form Ordinance Resolution

AUDITOR APPROVAL: N/A Yes **4 VOTES:** Yes No

FINANCIAL MANAGEMENT REVIEW: Yes No

CONTRACT REVIEW PANEL: Approved _____ N/A

CONTRACT NUMBER(S): N/A

PREVIOUS RELEVANT BOARD ACTION: N/A

BOARD POLICIES APPLICABLE: N/A

CITIZEN COMMITTEE STATEMENT: The Air Quality Strategy Development Committee
unanimously recommended adopting proposed
Rule 27 and companion amendments to Rule 21
on November 2, 1994.

ORIGINATING DEPARTMENT: Air Pollution Control District

CONTACT PERSON: Morris Dye, Deputy Director (Acting) 750-3303 MS: 0-176



R.J. SOMMERVILLE
DEPARTMENT AUTHORIZED REPRESENTATIVE

NOVEMBER 29, 1994
MEETING DATE

FINDINGS OF THE SAN DIEGO COUNTY AIR POLLUTION
CONTROL BOARD IN RESPECT TO ADOPTION OF
NEW RULE 27 (MOBILE SOURCE EMISSION REDUCTION CREDITS)
AND AMENDMENTS TO RULE 21 (PERMIT CONDITIONS)

- A. Pursuant to section 40727 of the Health and Safety Code, the Air Pollution Control Board of the San Diego County Air Pollution Control District makes the following findings:
1. (Necessity) The adoption of the proposed new District Rule 27 and amendments to District Rule 21 is necessary to provide a mechanism for creating credits for emission reductions from mobile sources, which can be used to offset emission increases from industrial expansion.
 2. (Authority) The adoption of the proposed new Rule 27 and amendments of Rule 21 is authorized by Health and Safety Code sections 40001 and 40702.
 3. (Clarity) The proposed new rule and rule amendments are written so that their meaning can be easily understood by persons directly affected by the rules.
 4. (Consistency) The proposed new rule and rule amendments are in harmony with, and not in conflict with or contrary to, existing statutes, court decisions, and state and federal regulations.
 5. (Nonduplication) The proposed new rule and rule amendments do not impose the same requirements as existing state or federal regulations.
 6. (Reference) The adoption of the proposed new rule and rule amendments implements section 40709 of the California Health and Safety Code and section 173 of the federal Clean Air Act.
- B. The Air Pollution Control Board further finds that adoption of the proposed new rule and rule amendments will not significantly affect air quality or emissions limitations, and therefore an assessment of socioeconomic impacts of the proposed rule amendments was not required by Health and Safety Code section 40728.5.
- C. The Air Pollution Control Board further finds that there is no reasonable possibility that the new rule and amended rule may have a significant effect on the environment, and that the adoption of the new rule and rule amendments is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, title 14, sections 15300 and 15308, as an action taken to assure the protection of the environment which will not have a significant effect on the environment and where the regulatory process involves procedures for protection of the environment.
- D. The Air Pollution Control Board further finds in accordance with Health and Safety Code section 40001 that the adoption of the proposed rule and rule amendments is necessary to provide a mechanism for creating credits for emission reductions from mobile sources, which can be used to offset emission increases from industrial expansion, and that the proposed rule and rule amendments will promote the attainment of state and federal ambient air quality standards.

APCD Meeting 11/29/94
Agenda Item #1

OFFICIAL RECORD

Clerk of the Board of Supervisors

Exhibit No. _____ Agenda No. APCB 1

Meeting Date 11.29.94 ()

Presented by Co Counsel

Document No. 761576

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

Re Rules and Regulations of the)
Air Pollution Control District)
of San Diego County)

**RESOLUTION ADDING RULE 27 AND AMENDING RULE 21
OF REGULATION II
OF THE RULES AND REGULATIONS OF THE
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT**

On motion of Member MacDonald, seconded by Member Williams the following resolution is adopted:

WHEREAS, the San Diego County Air Pollution Control Board, pursuant to Section 40702 of the Health and Safety Code, adopted Rules and Regulations of the Air Pollution Control District of San Diego County; and

WHEREAS, said Board now desires to amend said Rules and Regulations; and

WHEREAS, notice has been given and a public hearing has been had relating to the amendment of said Rules and Regulations pursuant to Section 40725 of the Health and Safety Code.

NOW THEREFORE IT IS RESOLVED AND ORDERED by the San Diego County Air Pollution Control Board that the Rules and Regulations of the Air Pollution Control District of San Diego County be and hereby are amended as follows:

- 1. Proposed new Rule 27 is to read as follows:

RULE 27. BANKING OF MOBILE SOURCE EMISSION REDUCTION CREDITS

(a) APPLICABILITY

This rule applies to any person creating, owning, transferring, or using Mobile Source Emission Reduction Credits (MERC's).

(b) DEFINITIONS

For the purposes of this rule, the following definitions shall apply:

(1) **"Accelerated Vehicle Retirement Program"** means a program creating actual emission reductions by the accelerated retirement of onroad motor vehicles for purposes of establishing MERC's pursuant to this rule.

(2) **"Actual Emission Reductions"** means emission reductions occurring or projected to occur within San Diego County which are real, surplus, enforceable, quantifiable, and permanent.

(3) **"Alternative Fuel"** means any fuel used for certifying a low-emission vehicle, other than gasoline or diesel fuel.

(4) **"Banking"** means a regulatory system that recognizes and reserves actual emission reductions achieved by any person for later use.

(5) **"Baseline Emissions"** means annual emissions generated within the District from a mobile source prior to its use in a MERC Program.

(6) **"Certificate"** means a District-issued document specifying information regarding a MERC including, at a minimum, the legal owner(s) of the MERC, the MERC certificate identification number, date of issuance, pollutant(s) reduced, quantity of actual emission reduction, the time period for which the MERC is valid, and any other records as may be required as a condition of MERC issuance.

(7) **"Electric Trolley Bus"** means a bus which is propelled by electric power supplied through any external power system and which is driven along a specified route to provide regularly scheduled public transportation.

(8) **"Electrically-Powered Urban Bus"** means any urban bus, including accessories, powered solely by electricity, provided the electricity is not generated onboard the urban bus by the combustion of any fuel.

(9) **"Enforceable"** means can be enforced by the District through conditions of a MERC certificate established pursuant to Subsection (c)(4)(i).

(10) **"Fleet Vehicle"** means one of a group of ten (10) or more motor vehicles under common ownership or control and dispatched from a location within San Diego County.

(11) **"Heavy-Duty Engine"** means an engine which is used to propel a heavy-duty vehicle.

(12) **"Heavy-Duty Vehicle"** means "any motor vehicle having a manufacturer's gross vehicle weight rating greater than 6,000 pounds, except passenger cars" (Title 13, California Code of Regulations, Section 1900 [13 CCR §1900]).

(13) **"Light-Duty Truck"** means "any motor vehicle, rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use" (13 CCR §1900).

(14) **"Low-Emission Urban Bus"** means:

(i) Any 1994-1995 model year urban bus certified for sale in California to an exhaust oxides of nitrogen (NO_x) emission standard from 0.5 to 3.5 grams per brake horsepower-hour, inclusive, in 0.5 grams per brake horsepower-hour increments; or

(ii) A 1996 and subsequent model year urban bus certified as above to an exhaust NO_x emission standard of 0.5 to 2.5 grams per brake horsepower-hour, inclusive, in 0.5 grams per brake horsepower-hour increments.

(15) **"Low-Emission Vehicle"** means any vehicle certified by the California Air Resources Board (ARB) to the transitional-, low-, ultra-low-, or zero-emission vehicle standards established in 13 CCR §1960.1.

(16) **"Medium-Duty Vehicle"** means "any pre-1995 model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of 8,500 pounds or less, any 1992 and

subsequent model year heavy-duty low-emission vehicle or ultra-low-emission vehicle having a manufacturer's gross vehicle weight rating of 14,000 pounds or less, or any 1995 and subsequent-model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of 14,000 pounds or less" (13 CCR §1900).

(17) **"Mobile Source Control Measure"** means any strategy or rule adopted by the District, or proposed by the District subject to the time limits established in Subsection (b)(27)(iii), to reduce existing or future motor vehicle emissions.

(18) **"Mobile Source Emission Reduction Credit" or "MERC"** means an actual emission reduction which is banked, registered with the District, and a MERC certificate is issued pursuant to this rule.

(19) **"MERC Program" or "Program"** means any activity undertaken by a person which produces actual mobile source emission reductions within San Diego County for purposes of establishing MERC's pursuant to this rule. A program can be a one-time action, a series of one-time actions, or a continuous set of actions.

(20) **"MERC Registry"** means a tracking system maintained by the District which lists each MERC and related information including, at a minimum, the MERC certificate identification number, date of issuance, name and address of registered owner(s), type and quantity of pollutant(s) reduced, source of the emission reduction(s), MERC expiration date, conditions established for MERC issuance, and the status of the MERC (e.g., being used, held, transferred, or sold).

(21) **"Passenger Car"** means "any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less" (13 CCR §1900).

(22) **"Permanent"** means enduring and enforceable for the duration of the credit life.

(23) **"Projected Emissions"** means annual emissions generated within the District from a mobile source during its use in an existing or proposed MERC Program.

(24) **"Quantifiable"** means that a reliable and accurate basis for calculating the amount, rate, nature, and characteristics of an emission reduction can be established, considering United States Environmental Protection Agency (EPA), ARB, and District policies and procedures.

(25) **"Real"** means actually occurring and not artificially devised.

(26) **"State Implementation Plan" or "SIP"** means approved by the Air Pollution Control Board for inclusion in the State Implementation Plan (SIP) or contained in the SIP approved by the EPA.

(27) **"Surplus "** means in excess of any emission reduction which is:

(i) Required by any adopted federal, state, or District law, regulation, rule, agreement, or order; or

(ii) Attributed to a Mobile Source Control Measure that is included in the adoption schedule identified in the most recent San Diego Regional Air Quality Strategy (RAQS) adopted by Air Pollution Control Board; or

(iii) Attributed to a proposed Mobile Source Control Measure noticed for workshop in the District unless, at the time of application, two years have elapsed beyond the date of the latest workshop notice and no corresponding rule or other

measure, if necessary for Mobile Source Control Measure implementation, has been adopted; or

(iv) Funded by vehicle registration fees, pursuant to California Health & Safety Code, Division 26, Part 5, Chapter 7. However, the Air Pollution Control Board may determine that the emission reductions funded by such fees may be claimed as emission reduction credits to be placed in the District Community Bank pursuant to Rule 26.4, to provide emission reduction offsets pursuant to Rules 20.1 through 20.10.

(28) **"Urban Bus"** means a passenger-carrying vehicle powered by a heavy-duty engine with a load capacity of fifteen or more passengers and intended primarily for operation within San Diego County.

(29) **"Vehicle Class"** means either a passenger car, light-duty truck, medium-duty vehicle, or heavy-duty vehicle as defined in 13 CCR §1900.

(30) **"Volatile Fuel"** means any fuel having a Reid vapor pressure of greater than 3.0 pounds per square inch when tested pursuant to the American Society of Testing and Materials (ASTM) Reid Vapor Pressure test method, or having a true vapor pressure of greater than 3.0 pounds per square inch absolute at 100° F if the ASTM Reid Vapor Pressure test is not applicable.

(31) **"Volatile Organic Compounds (VOC's)"** means "volatile organic compounds" as defined in Rule 20.1.

(32) **"Zero-Emission Vehicle"** means any vehicle certified by the ARB as producing zero emissions under any and all possible operational modes and conditions (13 CCR §1900).

(c) **STANDARDS**

(1) **ELIGIBLE EMISSION REDUCTION STRATEGIES**

(i) **Accelerated Vehicle Retirement Program**

This Subsection (c)(1)(i) contains the provisions for creating actual emission reductions by the accelerated retirement of onroad motor vehicles.

(A) The only pollutants for which MERC's may be granted from an accelerated vehicle retirement program are volatile organic compounds (VOC's), oxides of nitrogen (NO_x), and carbon monoxide (CO).

(B) For each vehicle for which a MERC is requested, the operator of an accelerated vehicle retirement program or its agents must, at the time of vehicle acquisition for the accelerated vehicle retirement program, verify, compile, and retain records demonstrating:

(1) the vehicle was registered for highway use with the California Department of Motor Vehicles (DMV) at a San Diego County address for a period of at least two continuous years immediately prior to vehicle acquisition for the accelerated vehicle retirement program, except that registration with the DMV as a nonoperable vehicle for up to two months cumulatively, not occurring within three months before such acquisition, shall be acceptable under this Subsection. For a vehicle to be considered registered, smog checks must have been performed as required by the DMV, but vehicles

operating under waiver shall be acceptable. A vehicle registration is considered continuous if the vehicle registration fee is paid within a six-month period beyond the DMV registration fee due date, so long as all outstanding registration fees have been paid and the current registration has been issued by the DMV prior to vehicle acquisition for the accelerated vehicle retirement program;

(2) the person surrendering the vehicle has legal authority to transfer vehicle ownership and possesses either a valid Certificate of Title or an Application for Duplicate Title (DMV Registration Form 227);

(3) the vehicle was driven under its own power to the dismantling site and was not previously damaged to make continued operation unlikely;

(4) the ignition switch, starter motor, engine, and vehicle transmission, in reverse and forward gears, are operable; and

(5) the vehicle contains functional lighting, brakes, exhaust system, bumpers, doors, fenders, side and quarter panels, hood and trunk lids, mirrors, windshields, seats, and instrumentation and gauges.

(C) The operator of an accelerated vehicle retirement program or its agents shall, within 14 days subsequent to taking possession of the vehicle:

(1) permanently render unusable the cylinder block of all engines except, as determined by the Air Pollution Control Officer in collaboration with antique or collector car interests, engines that have value for the purposes of restoring antique or collector cars; and

(2) permanently destroy the Vehicle Identification Number (VIN) and license plates pursuant to DMV procedures for permanently dismantling vehicles.

(D) The operator of an accelerated vehicle retirement program or its agents shall, within 90 days subsequent to taking possession of the vehicle:

(1) permanently render unusable the catalytic converter of any acquired vehicle of model year 1981 or earlier; and

(2) except as provided in Subsection (c)(1)(i)(E), permanently render unusable the rest of the vehicle, including the body/frame structure.

Notwithstanding the requirements of Subsection (c)(1)(i)(C) and this Subsection (c)(1)(i)(D), any vehicle acquired by the operator of an accelerated vehicle retirement program and identified by antique or collector car interests as having value for automobile restorative purposes may be sold to antique or collector car interests or their agents in conformance with applicable DMV requirements, provided no emission reduction credits are claimed for the acquisition of the vehicle.

(E) Removal of reusable automotive components (e.g., doors, fenders, bumpers, disassembled engine components, and interior and exterior body parts) exclusive of cylinder block [except as provided for in Subsection (c)(1)(i)(C)(1)] and frame, and catalytic converter of any acquired vehicle of model year 1981 or earlier, is allowed prior to permanent destruction of the vehicle.

(F) The operator of an accelerated vehicle retirement program shall require any vehicle dismantler used to satisfy the requirements of Subsections (c)(1)(i)(C), (c)(1)(i)(D), and (c)(1)(i)(E) to provide a written statement certifying it is licensed as a vehicle dismantler with the Department of Motor Vehicles and identifying its DMV license number and expiration date.

(G) The operator of an accelerated vehicle retirement program shall require any scrap metal processing facility or vehicle dismantler used to satisfy the requirements of Subsections (c)(1)(i)(C) and (c)(1)(i)(D) to provide a written statement certifying compliance with local water conservation regulations; state, county, and city energy and hazardous materials response regulations; and local water agency soil, surface, and ground water contamination regulations associated with permanently dismantling and/or scrapping motor vehicles.

(H) The maximum credit life of a MERC resulting from the accelerated retirement of a vehicle is five (5) years from the date of issuance of the associated MERC certificate. The MERC may be used at any time during the five-year period, with the limitation that no more than one-third of the MERC may be used by one-year from the date of MERC issuance and no more than two-thirds of the MERC may be used by two years from the date of MERC issuance.

(I) Quantification of Actual Emission Reductions

(1) Actual emission reductions shall be calculated separately for each vehicle and each pollutant.

(2) The following equation shall be used to calculate actual emission reductions:

Total Actual Emission Reductions per vehicle (total pounds)

$$= 3 \times \{[(EX_{ret} + EVAP_{ret}) - (EX_{rep} + EVAP_{rep})] \times Mile_{ret}\} / 453.6 \text{ g/lb}$$

where:

"EX_{ret}" is the average exhaust emission rate (grams/mile) of all registered vehicles in California of the same vehicle class and model year as the retired vehicle.

"EVAP_{ret}" is the average evaporative emission rate (grams/mile) of all registered vehicles in California of the same vehicle class and model year as the retired vehicle.

"EX_{rep}" is the average exhaust emission rate (grams/mile) of all registered vehicles in California.

"EVAP_{rep}" is the average evaporative emission rate (grams/mile) of all registered vehicles in California, adjusted for lower average annual mileage of vehicles of the same vehicle class and model year as the retired vehicle (i.e., multiplied by Mile_{rep}/Mile_{ret}).

"Mile_{ret}" is the average annual mileage among all registered vehicles in California of the same vehicle class and model year as the retired vehicle (miles/year).

(3) Emission rates and annual mileages specified in the equation in Subsection (c)(1)(i)(I)(2) shall be determined by the Air Pollution Control Officer and shall be consistent with any applicable assumptions used for the SIP current at the time of the application.

(J) Recordkeeping

An applicant for a MERC pursuant to Subsection (c)(1)(i) shall compile and retain for a period of three (3) years beyond the credit life, and make available for District inspection upon request, the following records of each permanently destroyed vehicle for which a MERC has been granted under this subsection:

- (1) vehicle make, model, and model year;
- (2) vehicle identification and license plate numbers;
- (3) copy of California Certificate of Title or an Application for Duplicate Title (DMV Registration Form 227);
- (4) copy of DMV registration card;
- (5) name, address, telephone number, and driver license number of the person from whom the vehicle was acquired;
- (6) proof of compliance with the requirements of Subsection (c)(1)(i)(B);
- (7) name of person(s) conducting vehicle visual and functional inspections required by Subsection (c)(1)(i)(B), with employer's name, address, and telephone number;
- (8) date of vehicle acquisition for the accelerated vehicle retirement program;
- (9) vehicle mileage upon taking acquisition for the accelerated vehicle retirement program;
- (10) a duplicate copy of Report of Vehicle to be Dismantled and Notice of Acquisition (DMV Registration Form 42) validated by the DMV with line date stamping on the front of the form, except for any vehicle given a "junk" status by the DMV prior to dismantling. For any vehicle given a "junk" status by the DMV prior to dismantling, written verification of such status from the DMV must be kept on file;
- (11) date of cylinder block destruction, and by whom it was destroyed;
- (12) date of destruction of the rest of the vehicle, and by whom it was destroyed;
- (13) quantity of the actual emission reduction as determined pursuant to Subsection (c)(1)(i)(I); and
- (14) other records as may be required as a condition of MERC issuance.

(ii) **New Low-Emission Urban Buses**

This Subsection (c)(1)(ii) contains the provisions for creating actual emission reductions by the purchase and operation of new low-emission urban buses in lieu of standard diesel urban buses.

(A) The only pollutant for which a MERC may be granted from the purchase and operation of new low-emission urban buses in lieu of standard diesel urban buses is oxides of nitrogen (NO_x).

(B) To ensure that actual emission reductions are created, the applicant shall demonstrate to the Air Pollution Control Officer that each low-emission urban bus for which a MERC is requested is surplus, as defined in Subsection (b)(27), to the low-emission bus provisions of the Transit Improvements and Expansion measure of the RAQS.

(C) The maximum credit life of a MERC resulting from the purchase and operation of a new low-emission urban bus shall be equal to the urban bus life, pursuant to Subsection (c)(1)(ii)(D)(5).

(D) **Quantification of Actual Emission Reductions**

(1) The following equation shall be used to calculate actual emission reductions for each vehicle:

$$\text{Annual Actual Emission Reductions per vehicle (pounds/year)} \\ = [(E_{\text{std}} \times CF_{\text{std}} \times M) - (E_{\text{low}} \times CF_{\text{low}} \times M)] / [(Y) \times (453.6 \text{ g/lb})]$$

where:

"E_{std}" is the urban bus NO_x emission standard (grams/bhp-hr) for the model year of the bus being purchased.

"E_{low}" is the ARB-certified NO_x emission standard (grams/bhp-hr) for the low-emission bus being purchased.

"CF_{std}" is the conversion factor (bhp-hr/mile) for converting the urban bus emission standard in grams of NO_x per brake horsepower-hour to grams of NO_x per mile.

"CF_{low}" is the conversion factor (bhp-hr/mile) for converting the certified emission standard for the low-emission bus in grams of NO_x per brake horsepower-hour to grams of NO_x per mile.

"M" is the urban bus mileage life (miles).

"Y" is the urban bus life (years).

(2) The urban bus NO_x emission standard shall be the emission standard with which urban buses are required to comply for certification for sale in California.

(3) The certified NO_x emission standard for a low-emission urban bus shall be as shown on the applicable certification Executive Order issued by the ARB. For urban buses propelled exclusively by electricity, including electric trolley buses, the certified emission rate shall be presumed to equal zero (0).

(4) The conversion factors for converting grams per brake horsepower-hour to grams per mile shall be consistent with any applicable assumptions used for the SIP current at the time of application. Alternative conversion factors may be used by the Air Pollution Control Officer or requested by the applicant if substantial evidence demonstrates the alternatives are more appropriate. Any alternative that increases actual emission reductions requires concurrence from the ARB.

(5) The urban bus mileage life shall be 500,000 miles over a 12-year urban bus life, except for urban buses propelled exclusively by electricity. For urban buses propelled exclusively by electricity, including electric trolley buses, the urban bus mileage life shall be 750,000 miles over an 18-year bus life. An alternative urban bus life or mileage life may be used by the Air Pollution Control Officer or requested by the applicant if substantial evidence demonstrates an alternative is more appropriate. Any alternative that increases total or annual actual emission reductions requires concurrence from the ARB.

(E) In-Use Testing

The operator of a low-emission urban bus for which a MERC has been granted shall implement or participate in an in-use testing program approved by the Air Pollution Control Officer with concurrence from the ARB, to ensure that the actual emission reductions are maintained for the life of the vehicle or MERC. This subsection shall not apply to electrically-powered urban buses.

(F) Extended Life MERC Plans

An extended life MERC plan may be implemented to create MERC's with a credit life longer than the expected life of an individual low-emission urban bus pursuant to Subsection (c)(1)(ii)(D)(5) by purchasing a number of low-emission urban buses, in lieu of standard diesel urban buses, at periodic intervals. An extended life MERC plan shall contain the following:

(1) a schedule for purchasing low-emission urban buses over a specified time period; and

(2) the actual emission reductions for each bus purchased shall be calculated using the equation in Subsection (c)(1)(ii)(D). Actual emission reductions projected for a low-emission bus purchased in the year 2003 or later based on current emission certification standards shall be reduced by 50 percent, unless otherwise approved by the Air Pollution Control Officer.

(G) Recordkeeping

An applicant for a MERC pursuant to Subsection (c)(1)(ii) shall compile and retain for a period of three (3) years beyond the credit life, and make available for District inspection upon request, the following records of each low-emission urban bus for which a MERC has been granted under this subsection:

- (1) vehicle make, model, model year, and engine type;
 - (2) vehicle identification, engine identification, and license plate numbers;
 - (3) copy of current DMV registration card;
 - (4) proof of compliance with Subsection (c)(1)(ii)(B);
 - (5) the dates, mileage, and description of maintenance and repairs;
- and
- (6) other records as may be required as a condition of MERC issuance.

(iii) Purchase of Zero-Emission Vehicles

This Subsection (c)(1)(iii) contains the provisions for creating actual emission reductions by the purchase of zero-emission vehicles.

(A) The only pollutants for which MERC's may be granted from the purchase of zero-emission vehicles are volatile organic compounds (VOC's), oxides of nitrogen (NO_x), and carbon monoxide (CO).

(B) To ensure that actual emission reductions are created, the applicant shall demonstrate to the Air Pollution Control Officer that each zero-emission vehicle for which a MERC is requested was not included by the manufacturer in calculating its fleet average emission rate, nor were any resulting emission reductions otherwise banked or reserved, to satisfy the ARB's low-emission vehicle regulation requirements.

(C) The maximum credit life of a MERC resulting from the purchase of a zero-emission vehicle shall be equal to the zero-emission vehicle life, pursuant to Subsection (c)(1)(iii)(D)(6).

(D) Quantification of Actual Emission Reductions

(1) Actual emission reductions shall be calculated separately for each vehicle and each pollutant.

(2) The quantity of actual emission reductions per vehicle shall be the sum of the actual exhaust, fuel evaporative, running loss, and gasoline marketing emission reductions per vehicle.

(3) Gasoline marketing VOC emission reductions resulting from the purchase of a zero-emission vehicle shall be determined by the Air Pollution Control Officer and shall be consistent with any applicable assumptions used for the SIP current at the time of the application.

(4) The following equation shall be used to calculate actual exhaust, evaporative, and running loss emission reductions:

Annual Actual Exhaust, Evaporative, and Running Loss Emission Reductions per vehicle (pounds/year)

$$= [(E_{\text{base}} \times M)] / [(Y) \times (453.6 \text{ g/lb})]$$

where:

"E_{base}" is the average emission rate of an applicable pollutant generated by a new emitting vehicle which was not purchased because a zero-emission vehicle of the same vehicle class was purchased instead (grams/mile).

"M" is the zero-emission vehicle mileage life (miles).

"Y" is the zero-emission vehicle life (years).

(5) The average emission rate of a new emitting vehicle shall be determined by the Air Pollution Control Officer and shall be consistent with any applicable assumptions used for the SIP current at the time of the application.

(6) The mileage life of the zero-emission vehicle shall be 100,000 miles over a ten year zero-emission vehicle life. An alternative zero-emission vehicle life or mileage life may be used by the Air Pollution Control Officer or requested by the applicant if substantial evidence demonstrates an alternative is more appropriate. Any alternative that increases total or annual actual emission reductions requires concurrence from the ARB.

(E) Recordkeeping

An applicant for a MERC pursuant to Subsection (c)(1)(iii) shall compile and retain for a period of three (3) years beyond the credit life, and make available for District inspection upon request, the following records of each zero-emission vehicle for which a MERC has been granted under this subsection:

- (1) vehicle make, model, and model year;
 - (2) vehicle identification and license plate numbers;
 - (3) copy of current DMV registration card;
 - (4) proof of compliance with Subsection (c)(1)(iii)(B);
 - (5) the dates, mileage, and description of maintenance and repairs;
- and
- (6) other records as may be required as a condition of MERC issuance.

(iv) Retrofitting Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles to Reduce Emissions

This Subsection (c)(1)(iv) contains the provisions for creating actual emission reductions by retrofitting passenger cars, light-duty trucks, or medium-duty vehicles to an emission standard which is certified by the ARB as below the applicable pre-retrofit emission standard.

(A) The only pollutants for which MERC's may be granted from retrofitting a passenger car, light-duty truck, or medium-duty vehicle are volatile organic compounds (VOC's), oxides of nitrogen (NOx), and carbon monoxide (CO).

(B) The maximum credit life of a MERC resulting from retrofitting a passenger car, light-duty truck, or medium-duty vehicle shall be equal to the life remaining in years, considering the mileage life and miles actually driven, until the retrofitted vehicle is expected to retire pursuant to Subsection (c)(1)(iv)(C)(5).

(C) Quantification of Actual Emission Reductions

(1) Actual emission reductions shall be calculated separately for each vehicle and each pollutant.

(2) The quantity of actual emission reductions per vehicle shall be the sum of the actual exhaust and, where applicable, fuel evaporative, running loss, and gasoline marketing emission reductions per vehicle.

(3) The following equation shall be used to calculate actual exhaust emissions reductions:

Annual Actual Exhaust Emissions Reductions per vehicle
(pounds/year)

$$= [(E_{\text{orig}} - E_{\text{rtro}}) \times M_{\text{yr}}] / (453.6 \text{ g/lb})$$

where:

"E_{orig}" is the original ARB-certified exhaust emission standard of an applicable pollutant for the vehicle (grams/mile).

"E_{rtro}" is the ARB-certified exhaust emission standard of an applicable pollutant for the retrofitted vehicle (grams/mile).

"M_{yr}" is the yearly mileage of the vehicle (miles/year).

(4) The yearly mileage of passenger cars and light-duty trucks shall be 10,000 miles, and the yearly mileage of medium-duty vehicles shall be 12,000 miles. For fleet vehicles, the yearly mileage shall be adjusted to exclude the projected mileage to be traveled outside San Diego County.

(5) The mileage life of passenger cars and light-duty trucks shall be 100,000 miles over a ten-year vehicle life, and the mileage life of medium-duty vehicles shall be 120,000 miles over a ten-year vehicle life. The mileage life shall be adjusted to exclude the projected mileage to be traveled outside San Diego County, consistent with the annual mileage adjustment in Subsection (c)(1)(iv)(C)(4).

(6) Where a retrofitted vehicle uses more than one fuel and the ARB-certified emission standard for the retrofit is not applicable to all fuels, the annual mileage shall be adjusted to consider the projected mileage to be traveled using only those fuels to which the lower certified emission standard or standards apply.

(7) The following equation shall be used to calculate actual fuel evaporative, running loss, and gasoline marketing VOC emission reductions resulting from retrofitting a passenger car, light-duty truck, or medium-duty vehicle to use a non-volatile fuel:

Annual Actual Evaporative, Running Loss, and Gasoline Marketing Emissions Reductions per vehicle (pounds/year)

$$= (E_{\text{evap}} + E_{\text{rl}} + E_{\text{mrkt}}) \times (M_{\text{yr}}/M_{\text{life}})$$

where:

"E_{evap}" is the evaporative VOC emissions over the life of the vehicle being retrofitted (pounds).

"E_{rl}" is the running loss VOC emissions over the life of the vehicle being retrofitted (pounds).

"E_{mrkt}" is the gasoline marketing VOC emissions over the life of the vehicle being retrofitted (pounds).

"M_{yr}" is the yearly mileage of the vehicle (miles/year).

"M_{life}" is the mileage life of the vehicle (miles).

(8) The gasoline marketing VOC emission reductions pursuant to Subsection (c)(1)(iv)(C)(7) shall be determined by the Air Pollution Control Officer and shall be consistent with any applicable assumptions used for the SIP current at the time of the application.

(9) The calculations of running loss and evaporative VOC emission reductions pursuant to Subsection (c)(1)(iv)(C)(7) shall be determined by the Air Pollution Control Officer and shall be consistent with any applicable assumptions used for the SIP current at the time of the application.

(10) Where a retrofitted vehicle uses more than one fuel and any of those fuels is a volatile fuel, the annual mileage shall be adjusted to consider the projected mileage to be traveled using only the non-volatile fuel.

(D) Recordkeeping

An applicant for a MERC pursuant to Subsection (c)(1)(iv) shall compile and retain for a period of three (3) years beyond the credit life, and make available for District inspection upon request, the following records of each retrofitted vehicle for which a MERC has been granted under this subsection:

- (1) vehicle make, model, and model year;
- (2) vehicle identification and license plate numbers;
- (3) copy of current DMV registration card;
- (4) retrofit hardware model and serial numbers;

(5) proof of compliance with the ARB's retrofit certification standards;

(6) certificate of Compliance required by the smog check program established pursuant to Part 5 of Division 26 of the California Health and Safety Code, or other documentation of compliance as provided by the smog check program;

(7) the dates, mileage, and description of maintenance and repairs;

(8) for fleet vehicles, a log of odometer readings sufficient to demonstrate mileage traveled inside and outside San Diego County, to identify the number of miles traveled using fuels for which the certified emission standard of the retrofitted vehicle does and does not apply, and to identify the number of miles traveled using non-volatile and volatile fuels. As an alternative to a log of odometer readings for number of miles traveled by fuel type, a log of fuel use by fuel type may be substituted; and

(9) other records as may be required as a condition of MERC issuance.

(v) Retrofitting Onroad Heavy-Duty Vehicles and Engines to Low-Emission Configurations

This Subsection (c)(1)(v) contains the provisions for creating actual emission reductions by retrofitting onroad heavy-duty vehicles or engines to low-emission standards.

(A) The only pollutants for which MERC's may be granted from retrofitting an onroad heavy-duty vehicle or engine to a low-emission standard are oxides of nitrogen (NO_x), particulate matter (PM), carbon monoxide (CO), and volatile organic compounds (VOC's).

(B) The maximum credit life of a MERC resulting from retrofitting a heavy-duty vehicle shall be equal to the life remaining until the retrofitted vehicle is expected to retire, pursuant to Subsections (c)(1)(v)(C)(8) and (c)(1)(v)(C)(9).

(C) Quantification of Actual Emission Reductions

(1) Actual emission reductions shall be calculated separately for each vehicle and each pollutant.

(2) The following equation shall be used to calculate actual emission reductions:

$$\text{Annual Actual Emission Reductions per vehicle (pounds/year)} \\ = \{[(E_{\text{orig}} \times C_{\text{forig}}) - (E_{\text{low}} \times C_{\text{flow}})] \times (M_{\text{life}} - \text{OD})\} / Y / (453.6 \text{ g/lb})$$

where:

"E_{orig}" is the original ARB-certified exhaust emission standard of an applicable pollutant for the heavy-duty engine.

"E_{low}" is the ARB-certified low-emission standard of an applicable pollutant for the retrofitted heavy-duty engine (grams/bhp-hr).

"C_{Forig}" is the conversion factor for converting the original emission standard in grams per brake horsepower-hour to grams per mile.

"C_{Flow}" is the conversion factor for converting the low-emission standard in grams per brake horsepower-hour to grams per mile.

"M_{life}" is the mileage life of the heavy-duty vehicle (miles).

"OD" is the odometer reading of the heavy-duty vehicle immediately after the retrofit equipment is installed (miles).

"Y" is the expected life remaining until the vehicle is retired (years).

(3) The original exhaust emission rate for CO and hydrocarbons (HC) shall be the original certification value for that engine, as shown on the applicable certification Executive Order issued by the ARB, rather than the original certification standard.

(4) The ARB-certified exhaust HC emission rate shall be converted to an exhaust VOC emission rate for calculating actual VOC emission reductions pursuant to this Subsection (c)(1)(v)(C). The conversion factor shall be determined by the Air Pollution Control Officer and shall be consistent with any applicable assumptions used for the SIP current at the time of the application.

(5) Original exhaust emission rates for diesel engines certified to a combined HC + NO_x standard shall be based on the combined certification standard as pro-rated for each pollutant by the original emission certification value of each pollutant, as shown on the certification Executive Order issued by the ARB.

(6) For diesel engines of model years 1987 and earlier, the original exhaust emission rate for PM shall be 0.6 grams/bhp-hr.

(7) The conversion factors for converting grams per brake horsepower-hour to grams per mile shall be consistent with any applicable assumptions used for the SIP current at the time of application. Alternative conversion factors may be used by the Air Pollution Control Officer or requested by the applicant if substantial evidence demonstrates the alternatives are more appropriate. Any alternative that increases actual emission reductions requires concurrence from the ARB.

(8) The mileage life of the heavy-duty vehicle shall be the number of miles the vehicle is expected to travel in San Diego County during its life. The mileage life of the heavy-duty vehicle shall be determined by the Air Pollution Control Officer.

(9) The expected life remaining until the vehicle retires shall be the number of years the vehicle has been in service subtracted from the vehicle's expected life. The vehicle's expected life shall be determined by the Air Pollution Control Officer.

(10) Where a retrofitted vehicle uses more than one fuel and the ARB-certified emission rate for the retrofit is not applicable to all fuels, the annual mileage shall be adjusted to consider the projected mileage to be traveled using only those fuels to which the lower certified emission standard or standards apply.

(D) In-Use Testing

The applicant shall implement or participate in an in-use testing program approved by the Air Pollution Control Officer with concurrence from the ARB, to ensure that the actual emission reductions are maintained for the life of the vehicle or MERC.

(E) Recordkeeping

An applicant for a MERC pursuant to Subsection (c)(1)(v) shall compile and retain for a period of three (3) years beyond the credit life, and make available for District inspection upon request, the following records of each retrofitted vehicle for which a MERC has been granted under this Subsection:

- (1) vehicle make, model, model year, and engine type;
- (2) vehicle identification, engine identification, and license plate numbers;
- (3) copy of current DMV registration card;
- (4) retrofit hardware model and serial numbers;
- (5) proof of compliance with the ARB's retrofit certification standards;
- (6) the dates, mileage, and description of maintenance and repairs;
- (7) a log of odometer readings sufficient to demonstrate mileage traveled inside and outside San Diego County, to identify the number of miles traveled using fuels for which the certified emission rate of the retrofitted vehicle does and does not apply. As an alternative to a log of odometer readings for number of miles traveled by fuel type, a log of fuel use by fuel type may be substituted; and
- (8) other records as may be required as a condition of MERC issuance.

(vi) Other Emission Reduction Strategies

(A) In addition to the mobile source emission reduction programs identified in Subsections (c)(1)(i) through (c)(1)(v), any other mobile source emission reduction program which creates actual emission reductions is eligible to receive MERC pursuant to this rule, subject to the approval of the Air Pollution Control Officer and concurrence from ARB. The life of such credit shall be dependent on the duration of the actual emission reductions activity.

(B) Quantification of Actual Emission Reductions

(1) The applicant shall demonstrate to the satisfaction of the Air Pollution Control Officer a reliable and accurate basis for calculating the amount, rate, nature, and characteristics of an actual emission reduction. Quantification of actual emission reductions shall be consistent with any applicable assumptions used for the SIP current at the time of the application.

(2) The actual emission reductions shall be calculated as the difference between the baseline emissions and the projected emissions.

(3) Where possible, the applicant shall use the same method of emissions quantification to calculate both the baseline emissions and projected emissions.

(4) Where differing methods of emissions quantification are used by the applicant to calculate the baseline emissions and projected emissions, the applicant shall demonstrate to the satisfaction of the Air Pollution Control Officer that the use of the same method is not possible, and that the differing methods used for calculating actual emission reductions are accurate and appropriate and not inconsistent with any applicable federal, state, and District laws, regulations, or policies.

(2) MERC APPLICATION PROCEDURES

(i) Any person proposing to create actual emission reductions and requesting the issuance, amendment, transfer, or use of a MERC pursuant to this rule shall submit to the District the following:

(A) an application, on forms supplied by the District, specifying the manner in which actual emission reductions are to be achieved, amended, transferred, or used; and

(B) the appropriate fee using the labor rates specified in Rule 40 of these Rules and Regulations. The fee shall be treated as a Time and Materials application fee pursuant to Rule 40(a), with references adjusted to an application for banking of mobile source emission reduction credits, except no indirect cost multipliers shall apply.

(ii) A separate application shall be filed for the actual emission reductions for each MERC Program, amendment, transfer, or use.

(iii) One application may be submitted for reductions of one or more affected pollutants, provided the reductions of multiple pollutants occur from a single MERC Program.

(iv) The application shall demonstrate to the satisfaction of the Air Pollution Control Officer that the emission reductions proposed are actual emission reductions.

(v) Applicants may claim confidentiality of information contained in the application as provided by Rule 176.

(3) FILING SCHEDULE

Only those mobile source emission reductions generated following submittal of an application to the District pursuant to Subsection (c)(2) shall be considered for the issuance of a MERC certificate. However the Air Pollution Control Board may determine that emission reductions generated prior to submittal of an application may be claimed as emission reduction credits to be placed in the District Community Bank pursuant to Rule 26.4, to provide emission reduction offsets pursuant to Rules 20.1 through 20.10.

(4) ISSUANCE OR AMENDMENT OF MERC CERTIFICATE

(i) If an applicant for MERC or an amendment to a MERC certificate demonstrates to the satisfaction of the Air Pollution Control Officer that the emission reductions meet all applicable criteria set forth in this rule, the Air Pollution Control Officer shall issue a MERC certificate to the person holding title to the vehicle for which MERC is requested, except as provided for in Subsection (c)(4)(iii). The MERC certificate shall contain, as a minimum, all of the following:

- (A) name of the person to whom the MERC is issued;
- (B) MERC certificate identification number;
- (C) date of issuance;
- (D) pollutant or pollutants reduced;
- (E) quantity of the actual emission reduction (in pounds per year);
- (F) time period for which the MERC is valid;
- (G) any conditions necessary to ensure compliance with the provisions of these rules and regulations and applicable federal and state laws and regulations; and
- (H) a statement regarding the potential invalidation of the MERC certificate if it is determined by the Air Pollution Control Officer that the conditions are not being complied with or the MERC was fraudulently acquired, and absolving the District from any liability from any transaction involving the MERC certificate.

(ii) A MERC certificate may include a condition requiring the payment of a fee, annual or otherwise, if the Air Pollution Control Officer determines such fee necessary to recover District costs for monitoring, enforcing, or otherwise ensuring the continued validity of the MERC. The fee shall be determined using the labor rates specified in Rule 40 of these Rules and Regulations. If the Air Pollution Control Officer determines that the activities of the certificate holder are causing District costs to exceed the fee, the Air Pollution Control Officer shall require additional fees be paid within 60 days of written notice that such fee is due. Failure to pay any fee or additional fee shall be grounds for MERC invalidation.

(iii) The Air Pollution Control Officer may issue a MERC certificate to an applicant who does not hold title to the vehicle for which a MERC is requested only if such applicant provides to the Air Pollution Control Officer written proof of the title holder's transfer of interest in the MERC to the applicant.

(iv) If the Air Pollution Control Officer determines that the emission reductions do not meet all applicable criteria set forth in this rule, the request for MERC shall be denied by written notice to the applicant in accordance with the process set forth in Rule 22.

(5) TRANSFER OF MERC OR VEHICLES FOR WHICH MERC IS GRANTED

(i) MERC's may be transferred in whole or in part by any means of written conveyance permitted by state law provided the MERC's, under new ownership, meet all applicable criteria set forth in this rule. A copy of the written conveyance describing the transaction must be filed with the District and must contain all of the following:

(A) identification of the transferor(s) and transferee(s);

(B) agreement of transferor(s) and transferee(s) to comply with all applicable conditions of the MERC certificate and all applicable requirements of this rule;

(C) agreement of transferor(s) and transferee(s) to comply with all auditing and recordkeeping requirements established pursuant to Section (d);

(D) the quantity of MERC's transferred;

(E) the cost, in dollars per ton, of MERC's transferred; and

(F) signatures of the transferor(s) and transferee(s).

(ii) If the Air Pollution Control Officer determines that all provisions of Subsection (c)(5)(i) are complied with, the Air Pollution Control Officer shall issue a new MERC certificate in the name of the new owner(s) for the quantity of MERC being transferred. If fewer than all of a MERC's actual emission reductions are transferred, a new MERC certificate shall also be issued to the original owner(s) for the remaining actual emission reduction credits.

(iii) If ownership of a motor vehicle for which a MERC was previously granted is transferred, a copy of the written conveyance describing the transaction must be filed with the District. Any MERC associated with the vehicle shall remain valid upon transference of vehicle ownership if the transferor(s) and transferee(s) agree in writing to comply with all applicable conditions of the MERC certificate, all auditing and recordkeeping requirements established pursuant to Section (d), and all other applicable requirements of this rule. A copy of such agreement shall be filed with the District at the time a copy of the conveyance is filed.

(6) MERC REGISTRY

(i) Each outstanding MERC shall be listed in the MERC Registry.

(ii) The MERC Registry shall be maintained by the District which shall record, as a minimum:

(A) MERC certificate identification number;

(B) date of issuance;

(C) name and address of the registered owner(s);

- (D) type of pollutant(s) reduced;
- (E) quantity of pollutant(s) reduced;
- (F) source of the emissions reduction(s);
- (G) MERC expiration date;
- (H) conditions established for MERC issuance; and
- (I) status of the MERC (e.g., being used, held, transferred, or sold).

(d) AUDITING AND RECORDKEEPING

(1) Any owner, user, transferor, or transferee of a MERC or a vehicle for which a MERC has been granted, or any creator of a MERC, shall compile and retain for three (3) years beyond the credit life all records reasonably necessary to verify compliance with its respective requirements of this rule. Records may be maintained in an electronic format if compatible with existing District computer equipment, as determined by the Air Pollution Control Officer.

(2) Access to all applicable records shall be provided to the District upon request.

(3) Any owner, user, transferor, or transferee of a MERC or a vehicle for which a MERC has been granted, or any creator of a MERC, is subject to random audits by the District to verify compliance with this rule.

(4) The District shall, upon request, have access to the premises of any owner, user, transferor, or transferee of a MERC or a vehicle for which a MERC has been granted, or any creator of a MERC, for purposes of conducting an audit to verify compliance with this rule.

(5) Audits may include inspections, review of records, testing, or any other action to verify compliance with this rule.

(e) USES OF MERC

The MERC's calculated and issued pursuant to Rule 27 may be used for the same purposes, throughout their applicable credit life, as stationary source emission reduction credits calculated and issued pursuant to Rules 26.0 through 26.10. Except as provided for in Subsection (c)(1)(i)(H) of this rule, an annual amount of MERC generated cannot be saved for use in a subsequent year, nor can a sum of MERC's generated for more than one-year of the credit life be used in a single year.

(f) INVALIDATION

Noncompliance by an owner, user, transferor, or transferee of a MERC or a vehicle for which a MERC has been granted, or by a creator of a MERC, with any applicable provision of this rule, including any applicable condition of any MERC certificate, shall be grounds for the Air Pollution Control Officer to invalidate any MERC associated with the noncompliance by written notice to the owner of the MERC. Such invalidation may be appealed to the Hearing Board in the same manner as an appeal of suspension of a permit.

2. Proposed amendments to Rule 21 are to read as follows:

RULE 21 PERMIT CONDITIONS

The Air Pollution Control Officer may issue an Authority to Construct, Permit to Operate, Certificate of Emission Reduction Credit, Certificate of Mobile Source Emission Reduction Credit, or a Permit to Rent subject to temporary or permanent conditions which will ensure compliance with the provisions of these Rules and Regulations and applicable State laws and regulations. Such conditions shall be in writing, shall become part of the Authority to Construct, Permit to Operate, Certificate of Emission Reduction Credit, Certificate of Mobile Source Emission Reduction Credit, or Permit to Rent and shall be complied with at all times. Commencing work under such an Authority to Construct or commencing operation under such a Permit to Operate or renting under such a Permit to Rent shall be deemed acceptance of all the conditions specified. The Air Pollution Control Officer shall issue an Authority to Construct or Permit to Operate or Permit to Rent with revised conditions upon receipt of a new application, if the applicant demonstrates that an article, machine, equipment or other contrivance can operate in compliance with the provisions of these rules and regulations and applicable State laws and regulations under the revised conditions. Where the proposed revision of Permit to Operate or Permit to Rent conditions is for an article, machine, equipment or other contrivance for which an Authority to Construct was issued after March 27, 1974, and where the proposed revision of Permit to Operate or Permit to Rent conditions, including proposed revision of conditions relating to the method of operations, will result in increased emissions, the Air Pollution Control Officer shall evaluate the proposed revision in accordance with the provisions of Rule 20.1(b) and shall determine compliance with Rules 20.1, 20.2, 20.3, 20.4 and 20.7 as if an application for an Authority to Construct had been received containing the proposed revised conditions. In said situations, the Permit to Operate or Permit to Rent with revised conditions shall not be granted in cases where such an Authority to Construct would not have been granted in accordance with said Rules 20.1, 20.2, 20.3, 20.4 and 20.7. The Air Pollution Control Officer may revise a Certificate of Emission Reduction Credit or Certificate of Mobile Source Emission Reduction Credit upon receipt of a new application from the certificate owner that demonstrates the emission reductions under the revised conditions will remain real, permanent, and enforceable within provisions of these rules and regulations and applicable State and Federal laws and regulations. (Any person who fails to comply with any condition imposed shall be liable to penalty pursuant to Division 26, Part 4, Chapter 4, Article 3, of the State of California Health and Safety Code). This rule does not authorize the Air Pollution Control Officer to change conditions to a Permit to Operate, a Certificate of Emission Reduction Credit, Certificate of Mobile Source Emission Reduction Credit, or a Permit to Rent in effect without prior notice to the permittee.

IT IS FURTHER RESOLVED AND ORDERED that the subject addition of Rule 27 and amendment of Rule 21, of Regulation II, shall take effect upon adoption.

PASSED AND ADOPTED by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this 29th day of November, 1994 by the following votes:

AYES: Jacob, Williams, MacDonald
NOES: None
ABSENT: Bilbray, Slater

STATE OF CALIFORNIA) ^{ss}
County of San Diego)

I hereby certify that the foregoing is a full, true, and correct copy of the Original Resolution which is now on file in my office.



THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

By *L. Monteleone*
Lorena Monteleone, Deputy

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY *L. Dutton*
DEPUTY

**AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO**

**PROPOSED RULE 27 - MOBILE SOURCE EMISSION REDUCTION CREDITS
& RELATED PROPOSED AMENDMENTS TO RULE 21**

WORKSHOP REPORT

The San Diego County Air Pollution Control District (District) conducted a public workshop on September 28, 1994, to receive public comment regarding proposed Rule 27 - Mobile Source Emission Reduction Credits (MERC's) and related amendments to Rule 21 - Permit Conditions. Rule 27 would establish procedures for generating, banking, and trading MERC's resulting from voluntary actions which create real, surplus, enforceable, and quantifiable emission reductions (actual emission reductions).

Approximately 200 notices were mailed to interested parties and organizations which may be affected by the proposed rule. Approximately 50 people attended the workshop. The District also received written comments, including comments from the California Air Resources Board (ARB) and the Industrial Environmental Association of San Diego County (IEA).

Public comments are addressed herein. Comments by EPA, ARB, and IEA are addressed separately. Other public comments are grouped by subject. Where indicated, draft Rule 27 has been revised to reflect ARB, IEA, and public input.

ENVIRONMENTAL PROTECTION AGENCY (EPA) COMMENTS

EPA submitted no comments on proposed Rule 27. To our knowledge, EPA has not commented, to date, on any area's draft MERC rule.

CALIFORNIA AIR RESOURCES BOARD (ARB) COMMENTS

1. COMMENT

ARB recommends that Subsection (c)(1)(ii)(F)(2) adhere to the Guidelines for the Generation and Use of Mobile Source Emission Reduction Credits (ARB guidelines) by substituting the following language: "The actual emission reductions for each bus purchased shall be calculated using the equation in Subsection (c)(1)(ii)(D)(1). Individual bus credits projected to be generated from low-emission buses purchased in the year 2003 and later are discounted by 50 percent before being included in the cumulative or lifetime average credit calculations."

DISTRICT RESPONSE

Subsection (c)(1)(ii)(F)(2) has been revised consistent with ARB's comment.

2. COMMENT

ARB recommends that Subsection (c)(1)(iii)(B) clarify that the program operator must also ensure that the vehicle manufacturer does not bank the emission credits associated with each zero-emission vehicle (ZEV) for future use or sell the credits to another vehicle manufacturer.

DISTRICT RESPONSE

Subsection (c)(1)(ii)(F)(2) has been revised consistent with ARB's comment.

3. COMMENT

Subsection (c)(1)(vi)(A) includes provisions for generating MERC's through mobile source emission reduction programs not otherwise provided in the rule or in ARB guidelines. ARB recommends that any program for which guidance has not been issued be carefully evaluated to ensure that MERC's that might be generated meet all of the necessary criteria regarding "real" and "surplus." Many proposed programs that appear to be valid programs on the surface would not generate MERC's as might be expected. A program that is developed and is not described by the ARB guidelines should follow the philosophy espoused in the guidelines.

DISTRICT RESPONSE

The District agrees. Accordingly, proposed Rule 27 allows credit only for mobile source emission reduction programs generating actual (real, surplus, enforceable, and quantifiable) emission reductions, subject to District approval and ARB concurrence [Subsection (c)(1)(vi)(A)].

4. COMMENT

ARB is concerned that Subsection (c)(3) would allow mobile source emission reduction actions which were not carried out with the intent of creating credits to retroactively apply for emission reduction credits. For example, low-emission transit buses operating in the District for several years could apply for emission reduction credits after the adoption of the rule. ARB recommends that the District either delete this provision allowing retroactive granting of credit, or only allow mobile source emission reduction credit programs to apply for credit if the emission reduction activity was identified by the District as a credit generating program before the reductions occurred.

DISTRICT RESPONSE

The District agrees and has revised the rule [Subsection (c)(3)] so that only those mobile source emission reductions generated following submittal of an application to the District may be considered for the issuance of a MERC certificate.

INDUSTRIAL ENVIRONMENTAL ASSOCIATION (IEA) COMMENTS

5. COMMENT

There is duplication between the stationary source banking rules (Rules 20.1, 20.2, 20.3, and 26) and the mobile source banking rule (proposed Rule 27). IEA is concerned that the District may disallow the use of a MERC that meets the criteria established in Rule 27 because it was not banked under Rule 26.

DISTRICT RESPONSE

The draft rule has been revised to indicate that the MERC's calculated and issued pursuant to Rule 27 may be used throughout their applicable credit life for the same purposes as stationary source emission reduction credits calculated and issued pursuant to Rule 26. Consequently, although MERC's typically have a shorter life than stationary source credits, once registered with the District a MERC would otherwise be indistinguishable from a stationary source credit.

However, it is appropriate to maintain provisions for creating MERC's in a separate rule rather than through a single rule for three reasons:

- Unique Characteristics. Stationary sources are fixed, and subject to District permitting authority, while mobile sources are not. This creates unique characteristics that integrate poorly and are best addressed through separate rules.
- Clarity – Potential operators of mobile source credit programs not ordinarily exposed to stationary source credit procedures, such as transit operators, vehicle fleet operators, and automobile dismantlers, will more easily understand the mobile source emission credit requirements when maintained in a separate rule.
- Accelerated Review – Maintaining mobile source emission credit provisions in a separate rule will allow accelerated state and federal review.

6. COMMENT

To avoid creating a separate and unequal class of emission reduction credits, IEA recommends the following:

- Include an introductory phrase under Rule 27(b) which reads "Unless as otherwise specified, the definitions contained in Rules 20.1 and 26 shall apply to this rule";
- Include a provision in the MERC rule that explicitly states that MERC's recognized under Rule 27 can be used to satisfy NSR requirements under Rules 20.1-20.3;
- Carefully review the need for the following definitions which appear to duplicate or overlap with those found in other District rules: Actual Emission Reductions, Baseline Emissions, Enforceable, Mobile Source Control Measure and MERC Program, MERC Registry, Permanent Emission Reduction, Quantifiable Emission Reductions, Real, Surplus Emission Reductions, and Volatile Organic Compound; and

- Retain these definitions in Rule 27 only if the language in Rule 27 (a) represents an improvement over language found elsewhere in District Rules; or (b) is necessary to deal with the differences inherent in banking MERC's.

DISTRICT RESPONSE

Please refer to Response to Comment 5.

7. COMMENT

The rule limits the pollutants to which each MERC program applies, for example, credits from the accelerated vehicle retirement program are limited to VOC, NOx, and CO. We understand that the District has limited the types of reductions available to those that ARB believes can be created through mobile source applications. Nonetheless, there may be vendors that have already or may be in the process of developing emission reduction measures that could generate emission reduction types that are not specifically recognized by ARB. Depriving MERC applicants of the ability to bank emission types that are otherwise demonstrable on the basis of such an arbitrary criteria does not seem to make sense. IEA recommends that the language be re-written to allow the granting of all types of MERC's that are judged by the District to meet the requirements of the rule.

DISTRICT RESPONSE

The pollutants for which mobile source credits may be granted under proposed Rule 27 are consistent with the pollutants for which ARB is currently confident the reductions would be real and permanent. Given ARB's sole authority and mandate to set emission standards for motor vehicles offered for sale in California, the District must defer to the ARB's expertise in mobile sources.

8. COMMENT

The vehicle eligibility requirements under the accelerated vehicle retirement program should be modified to allow the inclusion of vehicles that are not registered in the County but are driven within the County.

DISTRICT RESPONSE

The suggested revision cannot be made as vehicles not registered with the California Department of Motor Vehicles (DMV) at a San Diego County address are more apt to leave the County prior to expiration of the vehicle life than those registered in San Diego. Any credit granted under these conditions would not be surplus, and inconsistent with federal and state law.

9. COMMENT

The accelerated vehicle retirement program puts applicants in the untenable position of verifying that the automobile dismantler "...has been granted all necessary Federal, State, and local permits for the handling or disposal of hazardous materials associated with permanently dismantling motor vehicles," which they may not be qualified to do. This language should be deleted and the District consider maintaining a list of approved scrappers and make it the scrapper's burden to ensure that hazardous materials are properly managed.

DISTRICT RESPONSE

The draft rule has been revised relieving the MERC applicant of this responsibility. Instead, any vehicle dismantler participating in an accelerated vehicle retirement program must provide a written statement to the MERC applicant certifying it is DMV-licensed as a vehicle dismantler and identifying its DMV license number and expiration date. Any vehicle dismantler or scrapper participating in the program must also provide a written statement to the applicant certifying compliance with: local water conservation regulations; state, county, and city energy and hazardous materials response regulations; and local water agency soil, surface, and ground water contamination regulations associated with permanently dismantling and/or scrapping motor vehicles.

10. COMMENT

Under the accelerated vehicle retirement program, the rule appears to provide potentially contradictory guidance as to the selling of cars or parts and the granting of MERC's. It states that "reusable components" can be sold without jeopardizing the MERC's. It also states that a vehicle may be sold to antique dealers or collectors provided no MERC's are claimed for that vehicle. This sets up several troublesome situations. MERC applicants will have an unreasonable burden to determine the legitimacy of claims made by those who represent themselves as spare parts interests that may, in fact, be antique car interests. MERC applicants will be required to make their own judgments as to the prudence of selling parts to entities that engage in both salvaging of parts and the restoration of antique cars. Unscrupulous MERC applicants could frustrate the intent of the rule and avoid the cost associated with destroying the cars by selling them to interests that falsely assert that they are not antique or collector car interests. Finally, MERC applicants could remove certain reusable components and sell the balance (e.g., a car missing door) to the same parties (i.e., those that represent themselves as spare parts interests that are, in fact, interested in antique and collector cars). IEA recommends that the District include more carefully crafted language that will eliminate this potential conflict. Specifically, the District should state in Rule 27 that the MERC applicant is under no obligation to verify that an entity that represents itself as a scrapper is a scrapper, and not a collector car dealer posing as a scrapper.

DISTRICT RESPONSE

The suggested revisions are not necessary. Existing provisions: 1) ensure that the non-collector car will never be driven again, 2) provide car collectors with reasonable access to parts prior to vehicle destruction, minimizing impacts on parts availability for collector cars, and 3) provide car collectors an opportunity to voluntarily buy back a collector vehicle previously designated for scrapping, completely removing it from the scrapping program and providing no associated emission reduction credit. To whom a vehicle is sold when removed from a scrapping program is not the concern, but that the applicant not claim credit for a vehicle which was not scrapped.

11. COMMENT

The District should consider the Bay Area's recently adopted accelerated vehicle retirement rule which provides that MERC's created by scrapping vehicles have a three-year life but can be used during the five-year period following the creation of the credit.

DISTRICT RESPONSE

The District agrees. Accordingly, proposed Rule 27 incorporates the Bay Area Air Quality Management District's vehicle buyback program provisions in which the resulting credits have a three-year lifetime, but may be used over a five-year period. Credits may not be used at a rate faster than the emission reductions are generated. For example, the calculated credit for a typical scrapped vehicle might be 300 pounds of ROG/NOx. Previously, the MERC's would have been distributed evenly over the three-year period, i.e., 100 pounds per year. The revision prohibits the use of the MERC's of more than 100 pounds before the end of the first year or more than 200 pounds before the end of the second year, but would permit the use of 60 pounds per year for five years. This could make the credits generated from accelerated vehicle retirement more useful for medium-term needs.

ARB has indicated it will allow the proposed useful credit life extension for the accelerated vehicle retirement program. However, ARB would not accept similar revisions to the useful credit life of other MERC programs, as ARB is not currently confident that any such revisions would maintain the validity of the emission reduction credit.

12. COMMENT

The rule allows for the granting of extended life MERC's for the purchase of a number of low-emission urban buses, in lieu of standard diesel urban buses, at periodic intervals over an extended period. IEA suggests the rule include similar language that allows for the granting of extended life MERC's for those entities engaged in accelerated vehicle retirement or retrofitting passenger cars, light-duty trucks, and medium-duty vehicle MERC programs.

DISTRICT RESPONSE

The extended life MERC plan provisions are consistent with ARB guidelines. ARB has indicated, and the District concurs, that this is the only MERC program in which it is currently confident that extended life credits issued would be real because a public transit agency is more likely than other entities to continue in existence through the extended time period needed to implement a proposed extended life MERC plan.

13. COMMENT

Each low-emission urban bus for which a MERC is requested should be surplus to the low-emission bus provisions of the Transit Improvements and Expansion measure of the RAQS *in effect at the time of application.*

DISTRICT RESPONSE

The suggested revision is not necessary as the "surplus" definition of Subsection (b)(27) adequately addresses this issue.

14. COMMENT

Subsection (c)(1)(ii)(C) should be modified to explicitly state that the default lifetime of MERC's created via the use of new low-emission urban buses to be 12 years [consistent with Subsection (c)(1)(ii)(D)(5)] and to allow the MERC to continue so long as it meets all the criteria (e.g., real, quantifiable, surplus, and permanent). The rule should allow for the use of the MERC at anytime during its life.

DISTRICT RESPONSE

The suggested revision is not necessary, as the rule already provides an "...urban bus lifetime mileage [of] 500,000 miles over a 12-year urban bus lifetime..." and "...an alternative urban bus lifetime or lifetime mileage may be used by the Air Pollution Control Officer or requested by the applicant if substantial evidence demonstrates an alternative is more appropriate..." [Subsection (c)(1)(ii)(D)(5)].

15. COMMENT

In addition to the five specified MERC programs, draft Rule 27 includes provisions for any other program which generates actual mobile source emission reductions. The District indicated in its workshop notice that it seeks comments regarding inclusion of these provisions, as ARB recommended deleting this section because their guidance does not address any program other than the five identified. IEA strongly supports the inclusion of this option and believes its inclusion will encourage air quality entrepreneurs to "push the envelope" of innovative pollution control.

DISTRICT RESPONSE

The District has retained the provisions.

16. COMMENT

The rule requires applicants to define the manner in which the MERC will be transferred and used. Because MERC creators may not know this information, they may be unable to provide it to the District. IEA recommends that this information only be provided if it is known to the applicant.

DISTRICT RESPONSE

The suggested revision is not necessary. The draft rule requires an applicant specify the manner in which actual emission reductions are to be "...achieved, amended, transferred, or used" [emphasis added][Subsection (c)(2)(i)(A)], whichever is applicable. An application indicating credits will be banked for unspecified future use is acceptable.

17. COMMENT

The draft rule requires that the MERC application be submitted no later than 180 days after the emission reduction occurs but does not define how the "date of occurrence" is to be established. The rule should be modified to explicitly state that the MERC shall occur when emission are actually reduced.

DISTRICT RESPONSE

In accordance with ARB's request, the 180-day time limit has been deleted and replaced with a provision allowing credit only for reductions generated following submittal of an application. Please refer to Response to Comment 4.

18. COMMENT

The rule requires that certain information be reported to the District when MERC's are transferred. IEA believes that the District only needs information necessary to effect the transfer and comply with other requirements of the California Health and Safety Code [e.g., Section 40709.5(e)]. However, IEA believes that the business and financial elements of a transaction that are not required to be reported are private matters between the two parties.

To this end, the rule should be modified to eliminate the need to file the transfer agreement and only require information about the identities of the MERC buyer and seller and the price of the transaction. Further, the rule should specify that the District will, if requested by the parties to the transaction, exclude the identity of any party involved in the transaction in any reports of information made available to the public, including those that are made pursuant to Section 40709.5(e) of the Health and Safety Code, which only requires the District to provide "annual publication of the costs, in dollars per ton, of emission offsets purchased for new or modified emission sources, *excluding information on the identity of any party involved in the offset transactions*" [emphasis added].

DISTRICT RESPONSE

The District is unable to make the suggested revision. The Health and Safety Code Section 40711 requires the District to maintain a registry of all interests in banked emission reductions, and requires the registry to be open for public inspection. Therefore, the transfer of any MERC, including the cancellation of an original MERC certificate and the issuance of a new certificate to a new owner, must be a part of the public record. However, as required by Health and Safety Code Section 40709.5(e), the District will not reveal the parties involved in a transfer when revealing the cost of a transfer.

19. COMMENT

MERC's should be maintained in the same registry as ERC's.

DISTRICT RESPONSE

MERC's will be maintained in the same registry as ERC's, except that the MERC information will be provided in a new, separate section of the registry. Hence, any copy of the registry provided by the District will include information on both the stationary and mobile source credits.

20. COMMENT

MERC users, along with creators, are required to "...compile and retain for a period of three (3) years beyond the credit life all records reasonably necessary to verify compliance with the rule." However, MERC users may not be in a position to maintain such records, especially if they did not

create the MERC's. This requirement should not apply to MERC users that did not also create the MERC's.

DISTRICT RESPONSE

Subsection (d) has been revised in response to the comment to read as follows: "Any person creating, owning, using, or transferring a MERC pursuant to this rule shall compile and retain for three (3) years beyond the credit life all records reasonably necessary to verify compliance with its respective requirements of this rule..." [emphasis added].

21. COMMENT

Extending the recordkeeping requirements beyond the life of the MERC is unreasonably burdensome and will result in the maintenance of records that have questionable value to the District. The burden to maintain such records should expire with the MERC's.

DISTRICT RESPONSE

The suggested revision is not made, as the requirement to maintain records for three years beyond credit life is consistent with Section 338(k) of the California Code of Civil Procedures, which establishes a 3-year statute of limitations for acts under the District's jurisdiction.

22. COMMENT

The rule should be amended to require MERC creators provide the District with immediate access to the records but not require that *copies* be supplied to the District (unless, of course, such records are required for other purposes). Further, the language should be modified to allow the provision of records in an electronic format (e.g., floppy disk, modem, etc.).

DISTRICT RESPONSE

The District agrees and has revised the auditing and recordkeeping requirements to read as follows: "Any person creating, owning, using, or transferring a MERC pursuant to this rule shall compile and retain for three (3) years beyond the credit life all records reasonably necessary to verify compliance with its respective requirements of this rule. Records may be maintained in an electronic format if compatible with existing District computer equipment, as determined by the Air Pollution Control Officer." [Subsection (d)(1)]. "Access to all applicable records shall be provided to the District upon request." [Subsection (d)(2)].

23. COMMENT

The rule should contain language that clearly details for what purposes MERC's can be used.

DISTRICT RESPONSE

Please refer to Response to Comment 5.

24. COMMENT

The rule should be modified to protect MERC's from discounting associated with a rule that may be adopted after a MERC application is submitted.

DISTRICT RESPONSE

The suggested revision is not necessary. Once a MERC certificate has been issued by the Air Pollution Control Officer, the annual quantity of credit will remain constant throughout the applicable credit life, provided all rule provisions are complied with throughout the credit life.

OTHER COMMENTS

ACCELERATED VEHICLE RETIREMENT

25. COMMENT

The program should target gross emitters, not old cars.

DISTRICT RESPONSE

ARB testing indicates a definite relationship between vehicle age and emissions. While there are gross emitters from all model years, a relatively high percentage of older vehicles are gross emitters. Consequently, emission reductions could be achieved by removing older vehicles from the fleet. Older vehicles are not equipped with the advanced emission controls built to comply with stringent emission standards. Also, as older vehicles have had longer to fall into disrepair, a greater proportion of older cars would likely have maintenance problems causing higher emissions. Another benefit to accelerating the retirement of older vehicles is that they are generally less fuel-efficient, and fleet fuel efficiency could be improved by scrapping them.

26. COMMENT

The program should use measured emissions, not averages.

DISTRICT RESPONSE

The quantification methodology assumes that retired vehicle emissions and annual mileage accumulation correspond to an "average" vehicle of that model year, as determined by the ARB. This "averaging" approach is preferred over individual testing of scrapped vehicles for three reasons. First, there is substantial disagreement about the accuracy of the various test procedures in reflecting onroad emissions. Second, complex test procedures that more accurately reflect emissions (Federal Test Procedure) are extremely expensive and would greatly reduce the cost-effectiveness of vehicle retirement programs. Third, there is some concern that testing may provide opportunities to modify test results, since higher emissions would produce more credits. Consequently, the "average" values used in calculating the onroad motor vehicle emission inventory are used to calculate emission reductions.

27. COMMENT

Will there be an emission offset factor applied? If so, will the factor be determined based upon the intended use of the MERC or will all MERC's be discounted by the same factor?

DISTRICT RESPONSE

Discount factors are not proposed at this time.

28. COMMENT

Do you have an estimate of the District charges for reviewing and approving the issuance of MERC's generated from a program?

DISTRICT RESPONSE

The fee for any request for MERC's shall reflect the actual labor costs incurred by the District, based on the District's standard hourly rate schedule, as set forth in Rule 40. The fee would depend on several factors, including the size of the proposed MERC program, and be determined on a case-by-case basis.

29. COMMENT

Consider making the following allowances in determining that a vehicle satisfies the two-year continuous registration requirement of Subsection (c)(1)(i)(B)(1): (i) Registration as a non-operating vehicle for no more than a cumulative three months during the two years prior to submitting the vehicle for "early retirement" as long as the non-operating registration did not occur within the three month period prior to vehicle acquisition for the accelerated retirement program; and (ii) Registration delinquent for no longer than six months at anytime during the two years prior to vehicle submission, although vehicles must be currently registered at the time the vehicle is submitted.

DISTRICT RESPONSE

Subsection (c)(1)(i)(B)(1) has been revised consistent with the comment, except the maximum cumulative nonoperating registration allowance is two months.

30. COMMENT

Consider waiving smog test requirements for vehicles with a registration that expired within three months of vehicle submission.

DISTRICT RESPONSE

This revision cannot be made. An emission reduction credit granted for a vehicle not in compliance with smog check requirements would not be surplus, as it is more apt to have no remaining life than a vehicle which is in compliance. To ensure credit is granted only for vehicles with some remaining potential usage, smog checks must have been performed as required by the DMV for the vehicle to be considered registered pursuant to Rule 27.

31. COMMENT

Military personnel's personal vehicles are often registered to an address outside of San Diego County, although the vehicles are driven within the County. Could such vehicles be eligible for an accelerated vehicle retirement program?

DISTRICT RESPONSE

The suggested revision cannot be made as vehicles not registered with the California Department of Motor Vehicles (DMV) at a San Diego County address are more apt to leave the County prior to expiration of the vehicle life than those registered in San Diego. Any credit granted under these conditions would not be surplus, and inconsistent with federal and state law.

32. COMMENT

Consider allowing a person surrendering a vehicle for an accelerated vehicle retirement program to submit an Application for Duplicate Title in lieu of a Certificate of Title as required by Subsection (c)(1)(i)(B)(2). Consider a similar allowance in recordkeeping requirements of (c)(1)(i)(I)(3).

DISTRICT RESPONSE

The draft rule has been revised to incorporate the recommendations.

33. COMMENT

"Windows" can be safely removed from the list of vehicle components that must be present pursuant to Subsection (c)(1)(i)(B)(5) since a vehicle can be driven with a broken or missing side window, which is frequently the case.

DISTRICT RESPONSE

The draft rule has been revised to incorporate the recommendation.

34. COMMENT

Consider combining (c)(1)(i)(I)(6) [Vehicle mileage at time of destruction] and (7) [Date of destruction] to refer to the date of vehicle is acquired for the accelerated vehicle retirement program, since this is the date that is tracked for all DMV paperwork.

DISTRICT RESPONSE

The draft rule has been revised to incorporate the recommendation. However, the requirement to document the date of vehicle destruction has been kept so that compliance with the 90-day vehicle destruction deadline can be monitored.

35. COMMENT

"Operable vehicle" needs to be defined.

DISTRICT RESPONSE

The term "operable vehicle" has been deleted from the draft rule. Subsection (c)(1)(i)(B)(1) has been revised consistent with California Vehicle Code registration requirements, to read as follows: "The vehicle was registered for highway use with the California Department of Motor Vehicles (DMV) at a San Diego County address for a period of at least two consecutive years..."

36. COMMENT

Does there need to be a verification of ownership and proper identification?

DISTRICT RESPONSE

Yes. Subsection (c)(1)(i)(B)(2) has been revised to require the operator of an accelerated vehicle retirement program to verify the person surrendering the vehicle has legal authority to transfer vehicle ownership.

37. COMMENT

Subsection (c)(1)(i)(E) allows the removal of reusable components "exclusive of cylinder-block." Revise this provision consistent with Subsection (c)(1)(i)(C)(1) which provides an option to salvage cylinder blocks of collector cars. Also, the description of reusable components should include interior and exterior body parts.

DISTRICT RESPONSE

The draft rule has been revised to incorporate the recommendations.

38. COMMENT

The term "automobile dismantler" needs to be further defined.

DISTRICT RESPONSE

The Vehicle Code defines "automobile dismantler" and requires any such person to be registered with the Department of Motor Vehicles. The draft rule has been revised to require a vehicle dismantler participating in an accelerated vehicle retirement program be licensed with the Department of Motor Vehicles.

39. COMMENT

Should the concept of selling of cars with restorative potential to collector car interests be expanded?

DISTRICT RESPONSE

Revising the rule to expand this concept is not necessary. Proposed Rule 27 provides collector car interests full opportunity to buy back, prior to dismantling, any vehicle having value for automobile restorative purposes, provided no emission credits are granted for the vehicle. Also, removing

reusable automotive components (exclusive of the engine block and pre-1982 catalytic converters) from any vehicle acquired by the program operator is allowed prior to vehicle destruction. These provisions provide reasonable access to spare parts and should minimize the impact on parts availability for collector cars.

40. COMMENT

Why not crush the whole vehicle?

DISTRICT RESPONSE

Except the cylinder blocks of engines that have value for collector purposes, the draft rule requires complete destruction of the vehicle within 90 days from its receipt. The 90-day window was established to provide collector car interests and auto enthusiasts reasonable access to these vehicles to salvage spare parts.

NEW LOW-EMISSION URBAN BUSES

41. COMMENT

Would the District consider granting credits for the purchase of low-emission school buses and military buses in lieu of standard diesel buses?

DISTRICT RESPONSE

Yes. Any mobile source emission reduction program which creates real, surplus, enforceable, and quantifiable emission reductions is eligible to receive MERC pursuant to Rule 27, subject to the approval of the Air Pollution Control Officer and concurrence from ARB.

LOW-EMISSION RETROFITS FOR CARS, LIGHT-DUTY TRUCKS, AND MEDIUM-DUTY VEHICLES

42. COMMENT

There should be some reference to the document or process that characterizes a retrofitted vehicle.

DISTRICT RESPONSE

Only retrofitted vehicles certified by ARB to low-emission standards may receive MERC's. ARB has established low-emission retrofit certification and compliance test procedures. Each vehicle must also be tested by the Bureau of Automotive Repair after the retrofit has been installed.

GENERAL COMMENTS

43. COMMENT

Any rule or program that is adopted must consider where the emission credits will be used, so that serious air toxic problems in portions of the county are not exacerbated. Otherwise, dispersed pollutants coming from mobile sources purchased or retrofitted under the program could be traded for an increase in a localized source of pollutants in areas already significantly impacted by air toxic emissions.

DISTRICT RESPONSE

State legislation enacted in 1993 (SB 1731) requires that any facility emitting air toxics in amounts that present a significant risk to the public must reduce that risk below the significant risk level within five years. An airborne toxic risk reduction plan submitted by the facility must be updated periodically to indicate all emission changes and the affect these changes have on risk. These facilities must have a net decrease in risk regardless of their use of emission credits. In addition, New Source Review rules address requirements for stationary source emission increases and require mitigation of the impact of new air emissions through emission offsets, control technology, and air quality impact assessments.

44. COMMENT

What happens to a MERC if the vehicle generating the credit is destroyed in an accident?

DISTRICT RESPONSE

If any vehicle for which a MERC has been granted is rendered permanently disabled prior to the credit expiration date, the District may invalidate any MERC previously granted for presumed vehicle operation following the date of disablement, as the associated emission reductions would no longer be real and permanent.