

RULE 60. CIRCUMVENTION (Effective 1/1/69: Revised 11/8/76; 5/17/94)

(a) No person shall build, erect, install or use any article, machine, equipment, contrivance, or process, the use of which either conceals or dilutes an emission which would otherwise constitute a violation of Division 26, Part 4, Chapter 3, of the Health and Safety Code of the State of California or of these Rules and Regulations. Such concealment includes, but is not limited to, the piecemeal carrying out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size, or the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere. This rule shall not apply to cases in which the only violation involved is of Section 41700 of the Health and Safety Code of the State of California, or of Rule 51 of these Rules and Regulations. (Rev. Effective 11/8/76)

(b) Circumvention of New Source Review (NSR) by Ownership Arrangements
(Rev. Effective 5/17/94)

For purposes of New Source Review Rules 20.1, 20.2, 20.3, and 20.4 emission units that are not under common ownership or entitlement to use, but which are located or proposed to be located on the same or contiguous property, may be aggregated by the District and designated as a single stationary source, if treatment of such emission units as separate stationary source(s) would prevent application of any requirements of Rules 20.1, 20.2, 20.3, or 20.4 to either stationary source or stationary sources, provided such emission units are substantially related to each other upon a determination by the Air Pollution Control Officer that one or more of the indicators of a potential intent to circumvent the requirements of Rules 20.1, 20.2, 20.3 or 20.4 described in Subsections (b)(1) through (b)(7) of this rule exists.

For purposes of this rule, emission units are substantially related if the operation of an emission unit is typically dependent upon another emission unit (or vice versa), or the output of an emission unit will typically or frequently be used as the input to another emission unit (or vice versa).

For purposes of this rule, a potential intent to circumvent the requirements of Rule 20.1, 20.2, 20.3 or 20.4 exists if any one of the following circumstances exists:

(1) A transfer of ownership of an emission unit substantially related to another emission unit, both of which units were previously under common ownership, occurred within the one year period prior to the submission of an application for Authority to Construct or Permit to Operate for any of the following:

(i) To modify either of the emission units previously under common ownership; or

(ii) To add a new emission unit which will be substantially related to either of the emission units previously under common ownership; or

(iii) To modify an emission unit which is substantially related to either of the emission units previously under common ownership; or

(iv) To relocate an emission unit to the stationary source where either of the emission units previously under common ownership is located, if the relocated emission unit will be substantially related to either of the emission units previously under common ownership; or

(2) Arrangements for lease or other payments, or prices for transfers of materials, between the owner or operator of an emission unit and the owner or operator of a substantially related emission unit do not reasonably reflect fair market values; or

(3) The owner or operator of an emission unit will receive payments from the owner or operator of a substantially related emission unit, which payments are related to the operation or product of the emission unit; or

(4) The owner or operator of an emission unit will make payments to the owner or operator of a substantially related emission unit, which payments are related to the operation or product of the substantially related emission unit; or

(5) The owner or operator of an emission unit will share revenues or profits with the owner or operator of a substantially related emission unit, which revenues or profits are related to the operations or product of the emission unit; or

(6) An emission unit functions substantially as a replacement for a similar emission unit or units that were part of a single stationary source on the same or contiguous property; or

(7) An emission unit has been, is being or is likely to be used at different times by the owner or operator of the emission unit and the owner or operator of any other emission unit on the same or contiguous property.

Any two emission units that may be aggregated with a third emission unit under the conditions set out above may be aggregated with each other.

The District may require applicants and other holders of Permits to Operate who may be affected by this rule to provide such documentation or other information as the District deems necessary to effectively apply this rule. The District may add conditions to an Authority to Construct and Permit to Operate to ensure that none of the circumstances set forth above related to the potential intent to circumvent the requirements of Rules 20.1, 20.2, 20.3 or 20.4 will exist in the future.