

(Adopted December 1, 1978)(Amended March 10, 1995)(Amended December 10, 1999)
(Amended September 3, 2004)(Amended [Date of Rule Adoption])

**PROPOSED AMENDED RULE 1121. ~~CONTROL OF NITROGEN OXIDES-~~
REDUCTION OF NO_x EMISSIONS FROM
**RESIDENTIAL TYPE, NATURAL GAS-
FIRED WATER HEATERS****

[RULE INDEX TO BE ADDED AFTER RULE ADOPTION]

(a) Purpose

The purpose of this rule is to reduce Oxides of Nitrogen (NO_x) emissions from NO_x-emitting Water Heaters as defined in this rule.

(~~a~~b) Applicability

~~This~~The provisions of this rule ~~applies~~are applicable to manufacturers, distributors, retailers, Resellers, and ~~installers~~Installers of natural gas-fired ~~NO_x-emitting water heaters~~Water Heaters, with ~~heat input a~~Rated Heat Input Capacity ~~rates~~ less than 75,000 British thermal units (Btu) per hour.

(~~b~~c) Definitions

~~For the purpose of this rule:~~

(1) ~~BTU means British thermal unit or units.~~

(2) ~~DIRECT VENT WATER HEATER means a water heater with air intake and exhaust ducts that use a gravity system to collect air from outside a building for combustion and exhaust combustion byproducts to the outside of a building.~~

(1) Consumer Price Index (CPI) means the consumer price index for California as reported by the Department of Industrial Relations based on:

(A) Urban population coverage (CPI-U);

(B) California Area Coverage;

(C) Series Title “All Items”;

(D) Index Base Period “1982-1984=100”; and

(E) Reference Period “Annual Average” for All Urban Consumers.

(2) EXISTING BUILDING means a building that is not a New Building as defined in this rule.

(3) HEAT INPUT means ~~the heat of combustion released by fuels burned in a unit based on the higher heating value of fuel.~~the chemical heat released due to assumed complete combustion of fuel to a Water Heater, using the higher heating value of

- the fuel. This does not include the ~~enthalpy~~ sensible heat of incoming combustion air.
- (4) HEAT OUTPUT means ~~the product H_e , as defined in Section 9.3 of the Protocol,~~ the enthalpy of the working fluid output of the Water Heater.
- (5) INDEPENDENT TESTING LABORATORY means a testing laboratory that meets the requirements of ~~District~~ the South Coast AQMD Rule 304 – Equipment, Materials, and Ambient Air Analyses, ~~subdivision (k)~~ and is approved by the ~~District~~ South Coast AQMD to conduct certification testing under the Protocol.
- ~~(6) — MITIGATION FEE is an emission reduction option, in which monies collected by the District from water heater manufacturers are placed in a restricted fund and are used to fund stationary and mobile source emission reduction programs targeted at equivalent NOx emission reductions as to those that would have otherwise occurred and have been approved by the District’s Governing Board.~~
- (6) INFORMATIVE MATERIALS means consumer brochure and technical specification sheet for the Water Heater and manufacturer’s website that promotes, discusses, or lists the Water Heater.
- (7) INSTALL means the action of an Installer to place a Water Heater in a position ready for use.
- (8) INSTALLER means a person who Installs a Water Heater -and is required to obtain a license issued by the Department of Consumer Affairs Contractors State License Board for a classification related to buildings and appliances.
- (9) Master-Metered Mobile Home Park means a Mobile Home park that takes electricity through a master meter and then distributes it to park residents through the Mobile Home park’s system.
- ~~(810)~~ MOBILE HOME means a structure, transportable in one or more sections, that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.
- ~~(711)~~ MOBILE HOME WATER HEATER means a Water Heater ~~closed-vessel~~ manufactured exclusively for ~~mobile home~~ Mobile Home use ~~in which water is heated by combustion of gaseous fuel and is withdrawn for use external to the vessel at pressures not exceeding 160 psig, including the apparatus by which heat is generated and all controls and devices necessary to prevent water temperatures from exceeding 210°F (99°C).~~
- (12) NEW BUILDING means a building that is newly constructed-, or a building with a major alteration which changes the occupancy classification of a building, which means a change in the formal designation of the primary purpose of the building

pursuant to 2022 Title 24 California Building Code Part 2 Chapter 3 for occupancy classification and use, or any subsequent version of the Building Code. For Mobile Homes, the newly constructed building includes installation of the Mobile Home onto the property of residence.

- ~~(813)~~ NO_x EMISSIONS means the sum of nitric oxide and nitrogen dioxide ~~in the flue gas, collectively emitted; calculated and~~ expressed as nitrogen dioxide.
- (14) PARTS PER MILLION BY VOLUME (ppmv) means, for the purpose of this rule, Parts Per Million by Volume of a pollutant at a three percent oxygen correction on a dry basis at Standard Conditions.
- ~~(9) — POWER VENT WATER HEATER~~ means ~~a water heater with a blower installed to assist in the expulsion of exhaust gases.~~
- ~~(10) — POWER DIRECT VENT WATER HEATER~~ means ~~a water heater with an air intake duct outside of a building with a blower installed to assist in the expulsion of exhaust gases.~~
- ~~(115)~~ PROTOCOL means the most recent version of the South Coast Air Quality Management District AQMD Protocol to ensure standardization of compliance certification test procedures, titled: Nitrogen Oxides Emissions Compliance Testing for Natural Gas-Fired Water Heaters and Small Boilers, January 1998.
- ~~(1216)~~ RATED HEAT INPUT CAPACITY means ~~the heat input capacity specified on the nameplate of the combustion unit. If the combustion unit has been altered or modified such that its maximum heat input is different from the heat input capacity specified on the nameplate, the new maximum heat input shall be considered as the rated heat input capacity.~~ the gross Heat Input of the combustion device, as supported by required documentation.
- ~~(1317)~~ RECREATIONAL VEHICLE means ~~either a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy, as defined pursuant to Section 18010 of the California Health and Safety Code.~~ any vehicle used for recreational purposes designed to include a Water Heater and licensed to be driven or moved on the highways of California.
- (18) RESELLER means anyone who sells Water Heater(s) either retail, wholesale, or on an individual basis.
- (19) RESPONSIBLE OFFICIAL means:
- (A) For a corporation: a president or vice-president of the corporation in charge of a principal business function or a duly authorized person who performs similar policy-making functions for the corporation; or

(B) For a partnership or sole proprietorship: general partner or proprietor, respectively.

(20) STANDARD CONDITIONS are as defined by Rule 102 – Definition of Terms.

~~(1421) WATER HEATER means a closed vessel other than a mobile home water heater in which water is heated by ~~combustion of~~ combusting natural gas, which emits NO_x, and is withdrawn for use external to the vessel ~~at pressures not exceeding 160 psig~~, including the apparatus by which heat is generated and all controls and devices necessary to prevent water temperatures from exceeding 210°F ~~(99°C)~~.~~

(22) ZERO-NO_x EMISSION UNITS means an appliance that provides water heating with heating capacity equivalent to, or sized to replace, Water Heaters subjected to this rule and emits no more than zero nanograms of NO_x per joule of Heat Output (ng/J).

(ed) Requirements

~~(1) — Until July 1, 2002, no person shall manufacture for sale, distribute, sell, offer for sale, or install within the South Coast Air Quality Management District any gas-fired water heaters unless the water heater is certified pursuant to subdivision (d) to a NO_x emission level of less than or equal to:~~

~~(A) — 40 nanograms of NO_x (calculated as NO₂) per joule of heat output (93 lb per billion Btu of heat output); or~~

~~(B) — 55 ppmv at 3% O₂, dry (71 lb per billion Btu of heat input).~~

~~(2) — On or after July 1, 2002, no person shall manufacture for sale, distribute, sell, offer for sale, or install within the South Coast Air Quality Management District any gas-fired water heaters unless the water heater is certified pursuant to subdivision (d) to a NO_x emission level of less than or equal to:~~

~~(A) — 20 nanograms of NO_x (calculated as NO₂) per joule of heat output (46.5 lb per billion Btu of heat output); or~~

~~(B) — 30 ppmv at 3% O₂, dry (35 lb per billion Btu of heat input); or~~

~~(C) — the emission limit specified in subparagraph (c)(1)(A) or (c)(1)(B) provided the manufacturer of the water heater meets the requirements of subdivision (e).~~

~~(3) — On or after January 1, 2006, for water heaters less than or equal to 50 gallon capacity, excluding direct-vent, power-vent and power direct-vent water heaters; on or after January 1, 2007 for water heaters greater than 50 gallon capacity, excluding direct-vent, power-vent and power direct-vent water heaters; and on and after January 1, 2008 for all direct-vent, power-vent, and power direct-vent water~~

~~heaters; no person shall manufacture for sale, distribute, sell, offer for sale, or install within the South Coast Air Quality Management District any gas-fired water heaters unless the water heater is certified pursuant to subdivision (d) to a NO_x emission level of less than or equal to:~~

~~(A) — 10 nanograms of NO_x (calculated as NO₂) per joule of heat output (23 lb per billion Btu of heat output); or~~

~~(B) — 15 ppmv at 3% O₂, dry (17.5 lb per billion Btu of heat input).~~

~~(4) — On and after January 1, 2000, no person shall manufacture for sale, distribute, sell, offer for sale, or install within the South Coast Air Quality Management District any gas-fired mobile home water heaters unless the water heater is certified pursuant to subdivision (d) to a NO_x emission level of less than or equal to:~~

~~(A) — 40 nanograms of NO_x (calculated as NO₂) per joule of heat output (93 lb per billion Btu of heat output); or~~

~~(B) — 55 ppmv at 3% O₂, dry (71 lb per billion Btu of heat input).~~

~~(5) — The manufacturer of any water heater manufactured for sale in the district shall clearly display on the shipping carton and the name plate of the water heater:~~

~~(A) — the model number;~~

~~(B) — the date of manufacture; and~~

~~(C) — the certification status.~~

~~(6) — Notwithstanding the requirements in paragraph (c)(3), until July 1, 2006, any person may distribute, sell, offer for sale, or install any gas-fired water heaters less than or equal to 50 gallon capacity that are manufactured prior to January 1, 2006 and in compliance with paragraph (e)(2).~~

~~(7) — Notwithstanding the requirements in paragraph (c)(3), until July 1, 2007, any person may distribute, sell, offer for sale, or install gas-fired water heaters greater than 50 gallon capacity that are manufactured prior to January 1, 2007 and in compliance with paragraphs (e)(2).~~

~~(8) — Notwithstanding the requirements in paragraph (c)(3), until July 1, 2008, any person may distribute, sell, offer for sale, or install gas-fired direct-vent, power-vent, or power direct-vent water heaters that are manufactured prior to January 1, 2008 and in compliance with paragraphs (e)(2).~~

(1) A person shall not manufacture, supply, sell, resell, offer for sale, import, or Install, for use in the South Coast AQMD, any of the Water Heaters listed in Table 1, unless the Water Heater is certified pursuant to subdivision (e) and does not exceed the applicable Table 1 NO_x limit, expressed by nanograms of NO_x per joule of Heat Output (ng/J) or ppmv.

Table 1 – NOx Emission Limits

<u>Equipment</u>	<u>NOx Emission Limits</u>	
	<u>ng/J</u>	<u>ppmv</u>
<u>Water Heater</u> ¹	<u>10</u>	<u>15</u>
<u>Mobile Home Water Heater</u>	<u>40</u>	<u>55</u>

¹ Excluding Mobile Home Water Heater

- (2) On and after the applicable Table 2 compliance dates, a person shall only manufacture, supply, sell, resell, offer for sale, import, or Install, for use in the South Coast AQMD, a Zero-NOx Emission Unit, that emits zero ng/J of NOx, in place of a Water Heater according to the Table 2 compliance schedule, unless the Water Heater is included in the Zero-NOx Emission Manufacturer Alternative Compliance Option pursuant to paragraph (f)(1) as indicated in the Informative Materials for the Water Heater pursuant to subparagraph (g)(1)(B). The applicable Table 2 compliance dates for New Building types shall be determined based on the construction or alteration completion date.

Table 2 – Zero-NOx Emission Limit Compliance Schedule

<u>Equipment Category</u>	<u>Building Type</u>	<u>Compliance Date</u>
<u>Water Heater</u> ¹	<u>New</u>	<u>January 1, 2027</u>
	<u>Existing</u>	<u>January 1, 2029</u>
<u>Mobile Home Water Heater</u>	<u>New</u>	<u>January 1, 2027</u>

¹ Excluding Mobile Home Water Heater

~~(d)~~ Certification

- (1) The manufacturer shall obtain confirmation that each model of ~~water heater~~ Water Heater complies with the applicable requirements of ~~subdivision (e) paragraph (d)(1)~~ from an ~~independent testing laboratory~~ Independent Testing Laboratory prior to applying for certification for a Water Heater. This confirmation shall be based upon emission tests conducted pursuant to the Protocol of a randomly selected unit of each model ~~and the Protocol shall be adhered to during the confirmation testing of all water heaters subject to this rule.~~
- (2) When applying for certification of ~~water heaters~~ Water Heaters, the manufacturer shall submit to the Executive Officer the following:

- (A) A statement that the model is in compliance with ~~subdivision (e) paragraph (d)(1).~~ The statement shall be signed and dated by with the manufacturer ~~identified and dated, and shall~~ attesting to the accuracy of all statements;
 - (B) General Information, including:
 - (i) Name and address of manufacturer;
 - (ii) Brand name, trade name; and
 - (iii) Model number, as it appears on the ~~water heater~~ Water Heater rating plate;
 - (C) A description of each model being certified; and
 - (D) A source test report verifying compliance with ~~subdivision (e) paragraph (d)(1)~~ for each model to be certified. ~~The source test report shall be,~~ prepared by the confirming ~~independent testing laboratory~~ Independent Testing Laboratory and ~~shall contain~~ ing all of the elements identified in ~~Section 10 of the Protocol~~ for each unit tested. ~~The source test shall have been conducted no more than ninety days prior to the date of submittal to the Executive Officer.~~
- (3) When applying for certification of ~~water heaters~~ Water Heaters, the manufacturer shall submit the items identified in paragraph ~~(d)(2)(e)(2)~~ no more than ~~ninety~~ 180 days after the date of the source test identified in subparagraph ~~(d)(2)(D)(e)(2)(D).~~
- ~~(4) — When applying for certification of water heaters for compliance with the emission limit specified in paragraph (e)(2) or (e)(3), the manufacturer shall submit the information identified in paragraph (d)(2) at least 90 days prior to the effective compliance date specified in either paragraph (e)(2) or (e)(3), respectively.~~
- ~~(5) — The Executive Officer shall certify a water heater model which complies with the provisions of subdivision (e) and of paragraphs (d)(1), (d)(2), and (d)(3).~~
- ~~(6) — Certification status shall be valid for three years from the date of approval by the Executive Officer. After the third year, recertification shall be required according to the requirements of paragraphs (d)(1) and (d)(2).~~

(f) Alternative Compliance Options

(1) Zero-Emission Manufacturer (ZEM) Alternative Compliance Option

Any manufacturer of Water Heaters, other than Mobile Home Water Heaters, subject to this rule may elect to comply with the ZEM alternative compliance option in lieu of complying with paragraph (d)(2) provided:

- (A) The manufacturer submits an alternative compliance plan, no later than November 1, 2026, or no later than 60 days prior to any sales to the South

Coast AMMD for a new manufacturer who does not have any sales into or within the South Coast AQMD as of October 31, 2026, that includes:

- (i) A letter with the name of the manufacturer requesting the ZEM alternative compliance option signed by a Responsible Official;
- (ii) A complete South Coast AQMD Form 400A with company name, indicating the application is for a compliance plan (section 7 of form), indicating the request is for the “Rule 1121 ZEM alternative compliance option” (section 9 of form), and signature of the Responsible Official; and
- (iii) Payment for the alternative compliance plan filing fee pursuant to Rule 306– Plan Fees;

(B) The manufacturer sells, or enables distributors, retailers, Resellers, or Installers to sell, Zero-NOx Emission Units into or within the South Coast AQMD;

- (i) At a percentage greater than or equal to the Zero-NOx Emission Unit sales target specified in Table 3 and pays the mitigation fee in subparagraph (f)(1)(F); or
- (ii) At a percentage less than the Zero-NOx Emission Unit sales target specified in Table 3 and pays the mitigation fee in paragraph (f)(2)(A);

(C) Zero-NOx Emission Unit sales percentage is calculated by Equation 1. For determining the number of Zero-NOx Emission Units sold in a calendar year into or within the South Coast AQMD, portable zero-NOx emission water heating appliances shall not be counted as a Zero-NOx Emission Unit;

$$\text{Zero-NOx Emission Unit Sales Percentatge} = \frac{(Z)}{(Z + N)} \times 100$$

(Eq. 1)

Where:

Z = Number of Zero-NOx Emission Units sold in a compliance year

N= Number of Water Heaters sold in a compliance year

(D) Water Heater sales percentage is calculated by Equation 2;

Water Heater Sales Percentatge

$$= 100 - \text{Zero-NOx Emission Unit Sales Percentage}$$

(Eq. 2)

(E) The Water Heaters sold under this alternative compliance option are certified to emit 10 ng/J (or 15 ppmv) or less of NOx;

(F) The manufacturer pays the following mitigation fee for each Water Heater sold within the Water Heater sales target for the applicable calendar year in Table 3:

(i) \$50 for the calendar year 2027;

(ii) \$50 adjusted by CPI annual percent increase for each subsequent calendar year after 2027; and

(iii) If the CPI annual percent increase for a calendar year is greater than three percent, a three percent increase will apply to that year in lieu of the CPI annual percent increase;

(G) The manufacturer submits a report and mitigation fee payment pursuant to paragraph (g)(2) no later than 90 days after the end of each calendar year utilizing this alternative compliance option; and

(H) The manufacturer complies with the Informative Material requirements pursuant to paragraph (g)(1).

Table 3 – ZEM Alternative Compliance Option Targets

<u>Compliance phase</u>	<u>Phase 1</u>	<u>Phase 2</u>	<u>Phase 3</u>	<u>Phase 4</u>
<u>Calendar Years</u>	<u>2027 - 2028</u>	<u>2029 - 2032</u>	<u>2033-2035</u>	<u>2036 and after</u>
<u>Zero-NOx Emission Unit Sales Target</u>	<u>30 percent</u>	<u>50 percent</u>	<u>75 percent</u>	<u>90 percent</u>
<u>Water Heater Sales Target</u>	<u>70 percent</u>	<u>50 percent</u>	<u>25 percent</u>	<u>10 percent</u>

(2) ZEM Alternative Compliance Option Sales Target Deviation

Any manufacturer of Water Heaters subject to this rule that elects to comply with the ZEM Alternative Compliance Option pursuant to paragraph (f)(1) that deviates from the applicable Sales Target in Table 3 shall:

- (A) If the annual Water Heaters sales percentage is greater than the applicable calendar year Water Heater sales target specified in Table 3, pay the following mitigation fee for each Water Heater sold above the sales target:
 - (i) \$250 for the calendar year 2027;
 - (ii) \$250 adjusted by CPI annual percent increase for each subsequent calendar year after 2027; and
 - (iii) If the CPI annual percent increase for a calendar year is greater than three percent, a three percent increase will apply to that year in lieu of the CPI annual percent increase; and;
- (B) If the annual Zero-NOx Emission Units sales percentage is greater than the applicable calendar year Zero-NOx Emission Unit sales target specified in Table 3, apply a discount to their annual mitigation fee required pursuant to subparagraph (f)(1)(F) according to Equation 3:

$$\text{Discounted Mitigation Fee} = F - F \times \frac{(P - T)}{(100 - T)}$$

(Eq. 3)

Where:

F = Annual Mitigation Fee pursuant to subparagraph (f)(1)(F)

P = Reported Percent Zero-NOx Emission Units

T = Zero-NOx Emission Unit Sales Target.

(g) Informative Materials, Labeling, Recordkeeping, and Reporting

(1) Informative Materials for Water Heaters

- (A) Effective [90 days after Date of Rule Adoption], for any Mobile Home Water Heater certified to meet the applicable Table 1 NOx emission limit that is for distribution or sale inside of the South Coast AQMD, a manufacturer shall distribute or publish Informative Materials that clearly display the following language: “If installed in South Coast AQMD only: This water heater is only allowed to be installed and used for mobile homes; and is only allowed to be installed and used for existing mobile homes or any mobile homes in a Master-Metered Mobile Home Park on and after January 1, 2027.” :
- (B) For any Water Heater sold under the ZEM Alternative Compliance Option pursuant to paragraph (f)(1) in lieu of complying with paragraph (d)(2), a manufacturer shall distribute or publish Informative Materials that clearly

display the following language: “If installed in South Coast AQMD only: This water heater is sold under an alternative compliance option and manufacturer is subject to compliance goal and associated mitigation fee.”; and

(C) A manufacturer may request the use of alternative language in lieu of subparagraph (g)(1)(A) or (g)(1)(B), provided:

(i) The alternative language is similar to the language in subparagraph (g)(1)(A) or (g)(1)(B); and

(ii) If the alternative language is not approved, the manufacturer shall use the language in subparagraph (g)(1)(A) or (g)(1)(B).

(2) Reporting and Recordkeeping Requirements for ZEM Alternative Compliance Option

The manufacturer of a Water Heater supplied or offered for use within the South Coast AQMD in accordance with the ZEM alternative compliance option in paragraph (f)(1) shall:

(A) Submit a report to the Executive Officer-, signed by the Responsible Official for the manufacturer pursuant to the schedule in paragraph (f)(1)(G), that includes:

(i) For Zero-NOx Emission Units:

(A) Model numbers;

(B) Zero-NOx Emission Unit description; and

(C) Quantity of Zero-NOx Emission Units distributed or sold into or within the South Coast AQMD for the applicable calendar year; and

(ii) For Water Heaters:

(A) Model numbers;

(B) Water Heater description; and

(C) Quantity of Water Heaters distributed or sold into or within South Coast AQMD for the applicable calendar year that are subject to the ZEM alternative compliance option; and

(B) Maintain records for at least five years, including the following information and any other information for compliance demonstration, and make them available to the Executive Officer upon request:

(i) All information specified by subparagraph (g)(2)(A);

(ii) Serial number of each Furnace and Zero-NOx Emission Units sold;

(iii) Date and number of Water Heaters and Zero-NOx-Emission Units sold to a distributor; and

(iv) Each distributor's name, address, and phone number.

(3) New and Existing Building Labeling Requirements

For any Water Heater, except Mobile Home Water Heater, that is supplied or offered for sale for use in the South Coast AQMD and that is not electing to comply by paragraph (f)(1) for ZEM alternative compliance option during the period of January 1, 2027 to January 1, 2029, the manufacturer of the Water Heater shall prominently display on the shipping container, or the name plate of the Water Heater, the following:

(A) The statement: "If Installed in South Coast AQMD: 1) After January 1, 2027, shall not be sold for installation in new buildings; and 2) After January 1, 2029, not compliant for use and installation in South Coast AQMD."

(B) A manufacturer may use alternative language in lieu of subparagraph (g)(3)(A) provided:

(i) The alternative language is similar to the language in subparagraph (g)(3)(A); and

(ii) If the alternative language is not approved, the manufacturer shall use the language in subparagraph (g)(3)(A).

(4) The manufacturer of any Water Heater manufactured for sale in the South Coast AQMD shall clearly display on the shipping carton and the name plate of the water heater:

(A) Model number;

(B) Date of manufacture; and

(C) Certification status.

~~(e) — Mitigation Fee~~

~~Any manufacturer that elects to submit a mitigation fee to the District to meet the Nox emission level established under subparagraph (e)(2)(C) shall:~~

~~(1) — submit a Mitigation Fee Plan to the Executive Officer 180 days prior to complying with the provisions of paragraph (e)(2), where the Mitigation Fee Plan includes:~~

~~(A) — the name of the manufacturer;~~

~~(B) — the compliance period that the mitigation fee covers shall not exceed a 12-month time period; and~~

- ~~(C) — the number of water heaters sold over the compliance period, which shall be based on sales records or invoices of water heaters in a similar model and size that were sold in the district over the past 12 months.~~
- ~~(2) — receive written verification from the Executive Officer that the Mitigation Fee Plan was approved prior to complying with the provisions of paragraph (e)(2);~~
- ~~(3) — on and after January 1, 2005, pay a mitigation fee at the beginning of the compliance period in the amount of \$3.00 per water heater sold as specified in subparagraph (e)(1)(C), over the time period the mitigation fee covers as specified in subparagraph (e)(1)(B); and before January 1, 2005, pay a mitigation fee in the amount of \$5,400 per ton of NO_x multiplied by the amount of NO_x emission reductions needed as specified in Equation 1;~~

Equation 1:

$$MF = \$5,400/\text{ton} \times [(t \times n \times 190\text{therms}/\text{yr} \times (93 - 46.5\text{lbs}/\text{billionBtu} - \text{output}) \times 0.76) / (2000 \times 10,000)]$$

where:

MF = Mitigation fee, Dollars

t = Time period that mitigation fee covers as specified in subparagraph (f)(1)(C)

n = Number of water heaters sold as specified in subparagraph (f)(1)(D)

- ~~(4) — label water heaters identified in the Mitigation Fee Plan;~~
 - ~~(5) — maintain records and report sales of water heaters covered by the Mitigation Fee Plan and if the number of water heaters originally estimated exceed the number of water heaters identified in subparagraph (e)(1)(C), the water heater manufacturer shall update the Mitigation Fee Plan within 60 days after the end of the compliance period. Make these records available to the Executive Officer upon request, for a period of at least three years after the end of the compliance period.~~
- (f) — Enforcement
- The Executive Officer may periodically inspect distributors, retailers, and installers of water heaters located in the District and conduct such tests as are deemed necessary to insure compliance with subdivision (e).

(gh) Exemptions

(1) The provisions of this rule shall not apply to: Water Heaters used in Recreational Vehicles.

(2) The provisions of this rule shall not apply to Water Heaters subject to Rule 1146.2 – Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers and Process Heaters.

(3) Paragraph (d)(2) shall not apply to the following Water Heaters:

(A) Mobile Home Water Heaters in compliance with paragraph (d)(1) for installation in Existing Buildings;

(B) Mobile Home Water Heaters in compliance with paragraph (d)(1) for installation or use in Master-Metered Mobile Home Parks; and

(C) Water Heaters in compliance with paragraph (d)(1) that will be installed or used in New Buildings with building permits issued prior to [Date of Adoption] by the appropriate enforcement agency.

~~(1) Water heaters with a rated heat input capacity of 75,000 Btu per hour or greater.~~

~~(2) Water heaters used in recreational vehicles.~~

~~(h) Final Progress Report~~

~~On or before April 1, 2007, any person that manufacturers direct-vent, power-vent or power direct-vent water heaters for sale within the South Coast Air Basin shall submit to the Executive Officer a final progress report that shall include:~~

~~(1) Identification of efforts that have been made to reach commercialization of direct-vent, power-vent, and power direct-vent water heaters that meet the NO_x emission level specified under paragraph (c)(3);~~

~~(2) A description of the technologies used to meet the NO_x emission level for direct-vent, power-vent, and power direct-vent water heaters specified under paragraph (c)(3); and~~

~~(3) Complete documentation for at least three laboratory test results each for direct-vent, power-vent, and power direct-vent water heaters developed to meet the NO_x emission level specified under paragraph (c)(3) that shall include the emissions-rate measured by an independent testing laboratory using the SCAQMD protocol specified under paragraph (b)(11) or other protocol approved in advance by the Executive Officer.~~

~~(i) Program Administration~~

~~On and after September 3, 2004, the Executive Officer is authorized to use up to 5% of the mitigation fee funds collected in any given year for program administration.~~