

(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, SMALL~~ 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 natural gas-fired 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 ~~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) COMPLIANCE PORTAL means the dedicated webpage on the South Coast AQMD website for submitting reports, notifications, or any documents to comply with South Coast AQMD rule(s).

(2) EXISTING BUILDING means a building that is not a New Building as defined in this rule. Existing Building includes any structures on the property including, but not limited to, sheds, detached garages, pools, and spas.

(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) HIGH-ALTITUDE means an elevation at or above 4,200 feet above sea level.
- ~~(56)~~ 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.~~
- (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.
- ~~(89)~~ MOBILE HOME means a structure, transportable in one or more sections, and 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.
- ~~(710)~~ 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).~~
- (11) 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. New Building is comprised of any structure(s) on the property including, but not limited to sheds, detached garages, pools, and spas.
- ~~(812)~~ NOx EMISSIONS means the sum of nitric oxide and nitrogen dioxide ~~in the flue gas, emitted, calculated, and collectively~~ expressed as nitrogen dioxide.

- (13) 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.~~
- ~~(11)~~ 14) 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.
- ~~(12)~~ 15) 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.
- ~~(13)~~ 16) 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.
- (17) RENTAL COMPANY means a person or entity that provides Water Heaters for installation via a rental agreement.
- (18) RESELLER means anyone who sells Water Heater(s) either retail, wholesale, or on an individual basis.
- (19) STANDARD CONDITIONS are as defined by Rule 102 – Definition of Terms.
- ~~(14)~~ 20) WATER HEATER means a closed vessel other than a mobile home water heater in which water is heated by combustion of gaseous fuel and is withdrawn for use that is fired with, or designed to be fired with, natural gas 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).

(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) Prior to the applicable Table 2 compliance date, no person shall manufacture, supply, sell, resell, offer for sale, import, or Install, for use in the South Coast AQMD, any Water Heater unless the Water Heater is certified pursuant to subdivision (e) and does not exceed the Table 1 NO_x limit, expressed by nanograms of NO_x per joule of Heat Output (ng/J) or ppmv.

Table 1 – NO_x Emission Limits

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

* Excluding Mobile Home Water Heater

- (2) On and after the applicable Table 2 compliance dates, no person shall manufacture, supply, sell, resell, offer for sale, import, or Install a Water Heater for use in the South Coast AQMD that exceeds the Table 2 NO_x emission limits. The applicable Table 2 compliance dates for New Building types shall be determined based on the construction or alteration completion date.

Table 2 – Zero-Emission Limits and Compliance Schedule

<u>Equipment Category</u>	<u>NOx limit (ng/J)</u>	<u>Building Type</u>	<u>Compliance Date</u>
<u>Water Heater*</u>	<u>0.0</u>	<u>New</u>	<u>January 1, 2026</u>
	<u>0.0</u>	<u>Existing</u>	<u>January 1, 2027</u>
<u>Mobile Home Water Heater</u>	<u>0.0</u>	<u>New</u>	<u>January 1, 2026</u>
	<u>0.0</u>	<u>Existing</u>	<u>January 1, 2030</u>

* Excluding Mobile Home Water Heater

(~~d~~e) 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)~~ Independent Testing Laboratory prior to applying for certification for a natural gas-fired 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 the manufacturer ~~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~~ containing 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) Alternative Compliance Option for Emergency Replacements

If an Existing Building requires a short-term replacement due to sudden Water Heater failure after the applicable Table 2 compliance date and an electrical upgrade is required to increase the power supply capacity to operate in compliance with Table 2 emission limits, a Rental Company may offer a Water Heater that complies with paragraph (d)(1) for rent for up to six months prior to complying with paragraph (d)(2).

(2) Alternative Compliance Option for Construction

A Rental Company may offer a Water Heater for rent for up to 24 months prior to installing a water heater that complies with paragraph (d)(2), provided:

(A) The Water Heater is installed in an Existing Building that requires any construction listed below to comply with paragraph (d)(2):

- (i) Expanding the space designed to house the water heater that complies with paragraph (d)(2) or associated equipment;
- (ii) Relocating the Water Heater that complies with paragraph (d)(2) or associated equipment; or
- (iii) Performing a utility upgrade; and

(B) The Water Heater complies with paragraph (d)(1).

(3) Alternative Compliance Option for Multifamily Properties

An owner of a property with ten or more housing units may elect to own one Water Heater per ten housing units and install for up to 24 months prior to installing a Water Heater that complies with paragraph (d)(2) for a housing unit, provided:

- (A) The Water Heater was manufactured prior to the applicable Table 2 compliance date and complies with paragraph (d)(1); and
- (B) The Water Heater is installed in an Existing Building that requires any construction listed below to comply with paragraph (d)(2):
 - (i) Expanding the space designed to house the Water Heater that complies with paragraph (d)(2) or associated equipment;
 - (ii) Relocating the water heater that complies with paragraph (d)(2) or associated equipment; or
 - (iii) Performing a utility upgrade.

(g) Labeling, Recordkeeping, and Reporting

(1) New and Existing Building Labeling Requirements

Pursuant to the labeling schedule in Table 3, any Water Heater that is supplied or offered for sale for use in the South Coast AQMD prior to the applicable Table 2 compliance dates that complies with the emission limits specified in paragraph (d)(1), but not the Table 2 emission limits, shall prominently display:

- (A) The statement “If Installed in South Coast AQMD: 1) After January 1, 2026, shall not be sold for installation in new buildings 2) After January 1, 2027, only for installation in mobile homes; and 3) After January 1, 2030, not compliant for use and installation in South Coast AQMD.”;
- (B) A manufacturer may use alternative language in lieu of subparagraph (g)(1)(A) provided the alternative language is:
 - (i) Similar to the language in subparagraph (g)(1)(A);
 - (ii) Submitted to the Executive Officer at least six months prior to the applicable start date in Table 3; and
 - (iii) Approved by the Executive Officer prior to the applicable start date in Table 3; and
- (C) The manufacturer shall use the language in subparagraph (g)(1)(A) if the alternative language is not approved.

Table 3 – Labeling Schedule

<u>Equipment</u>	<u>Labeling Requirement</u>	
	<u>Start Date</u>	<u>End Date</u>
<u>Water Heater*</u>	<u>January 1, 2026</u>	<u>January 1, 2027</u>
<u>Mobile Home Water Heater</u>	<u>January 1, 2026</u>	<u>January 1, 2030</u>

* Excluding Mobile Home Water Heater

(2) Labeling Requirements for Rental Units

The manufacturer of a Water Heater supplied or offered for rent for use within the South Coast AQMD in accordance with an alternative compliance option in subdivision (f) shall prominently display the statement “If Installed or used in South Coast AQMD: This unit is for rent only.”

(3) Recordkeeping for Rental Companies

The Rental Company offering rental units pursuant to paragraphs (f)(1) and (f)(2) shall:

- (A) Register all Water Heater(s) offered for rent through the Compliance Portal no later than 72 hours after receiving the Water Heater(s); and
- (B) Record the rental date and return date of each Water Heater, maintain those records for five years, and make those records available to the Executive Officer upon request.

(4) Recordkeeping for Owners of Multifamily Properties

An owner of a property that elects to purchase Water Heaters pursuant to paragraph (f)(3) shall:

- (A) Register the Water Heater(s) through the Compliance Portal no later than 72 hours after receiving the Water Heater(s); and
- (B) Record the date of installation and date of removal each time a Water Heater is used, maintain records for five years, and make those records available to the Executive Officer upon request.

(5) Labeling and Recordkeeping for High-Altitude Water Heaters

If the manufacturer, distributor, Reseller, or Installer of any Water Heater elects to comply with the exemptions in paragraph (h)(4):

- (A) The manufacturer, distributor, Reseller, or Installer shall record and maintain for up to five years, the following information and make it available to the Executive Officer upon request:
 - (i) Model number and serial number of the Water Heater;

- (ii) Manufacturers shall record the date and number of Water Heaters sold to a distributor, the distributor's name and full contract information (address and phone number);
- (iii) Distributors and Resellers shall record the date and number of Water Heater sold to an installer, the installer's name and full contact information (address and phone number); and
- (iv) Installers shall record the installation date and address of each Water Heater installation; and
- (B) The manufacturer of any Water Heater shall prominently display on the shipping carton or name plate of the Water Heater the statement "This water heater must be installed only as a replacement at or above 4,200 feet above sea level in the South Coast AQMD. Installation of this water heater for new construction or at a lower elevation will be a violation of South Coast AQMD Rule 1121."
- (6) 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.
- (7) Annual Reporting Requirement

Effective on and after the Table 2 compliance dates for Existing Buildings, manufacturers of natural gas-fired Water Heaters, distributed or sold for use into or within South Coast AQMD, shall submit a report by March 1st of the following calendar year and every 12 calendar months thereafter to the Executive Officer. The report shall include:

 - (A) Name of the product manufacturer;
 - (B) List of product model(s);
 - (C) The applicable equipment category in Table 2;
 - (D) The provision of this rule that each model complies; and
 - (E) Number of units and Rated Heat Input Capacity of each model that was sold for use in the South Coast AQMD.

~~(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 (c)(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 (c)(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 NOx multiplied by the amount of NOx emission reductions needed as specified in Equation 1;

Equation 1:

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

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 (c).~~

~~(g)~~ (gh) Exemptions

~~(1) The provisions of this rule shall not apply to:~~ (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 for installation or use in master-metered Mobile Home parks, which are Mobile Home parks that take electricity through a master meter and then distribute it to park residents through their own system;~~

~~(B) Water Heaters that will be installed or used in New Buildings with building permits issued prior to [Date of Adoption] by the appropriate enforcement agency; and~~

~~(C) Water Heaters sold to a Rental Company that will offer Water Heaters for rent pursuant to paragraphs (f)(1) and (f)(2).~~

~~(4) Water Heaters for installation or use in Existing Buildings at High-Altitude are exempt from paragraph (d)(2) until January 1, 2030, if the recordkeeping and labeling requirements in (g)(5) are met.~~

~~(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 manufactures 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.~~