

**(a) Emission Analysis**

In reviewing an Authority to Construct for any new or modified stationary source subject to the requirements of Chapter II, the Air Pollution Control Officer shall require the applicant to submit information sufficient to describe the nature and amounts of emissions; the location, design, construction, and operation of the source; and to submit any additional information requested by the Air Pollution Control Officer to make any preliminary determinations as required by Rule 1-200(c) and the approval determinations required by the provisions of Rule 1-230.

For the purposes of emission considerations:

- (1) Emissions from a proposed new or modified stationary source shall be based on the source's potential to emit. (Ref. 40 CFR 52.21(b)(4)).
- (2) Emissions from a proposed modified stationary source shall be based upon the cumulative net emission increase as defined in Rule 1-130(n1), and considering any limitations enforceable in Authority to Construct or a Permit to Operate, excluding any emission reductions required to comply with federal, state, or district laws, rules, or regulations, (Ref. 40 CFR 52.21(b)(2) & (3) as incorporated into Rule 1-130).
- (3) Actual emissions from an existing stationary or previously permitted source shall be based on the actual rate of air contaminant emissions during the two-year period of operation prior to the date of application. A different averaging period may be used if the applicant demonstrates to the satisfaction of the Air Pollution Control Officer that it would be more representative of normal source operation, (Ref. 40 CFR 52.21(b)(3) & (21) as incorporated into Rule 1-130).

[Amended 9/20/16]

**(b) New Source Review Procedure**

In reviewing an Authority to Construct for any new or modified stationary source which is subject to Rules 1-490 or 1-492; or for any new or modified stationary source which the Air Pollution Control Officer estimates will result in a net emissions increase of any pollutant which exceeds the significant emission rates as specified in Rule 1-130(s2), the APCO shall:

- (1) Determine best available control technology (BACT) for each air contaminant for each increase of a pollutant which exceeds the significant emission rates specified in Rule 1-130(s2) and so inform the applicant. (Ref. 40 CFR 52.21(b)(12)).
- (2) Analyze the effect of the new or modified stationary source on air quality for each increase of a pollutant that exceeds the significant emission rates specified in Rule 1-130(s2). (Ref. 40 CFR 52.21(m)).
- (3) Determine that the degree of emission limitation required for control of any air pollutant is not affected in any manner by;

- (A) So much of the stack height of any source as exceeds good engineering practice, or
  - (B) Any other dispersion technique.
- (4) Prepare or cause to be prepared an air quality analysis that includes all of the following:
- (A) Continuous air monitoring, consistent with 40 CFR 52.21(m), that establishes ambient conditions for each pollutant that would have the potential to emit a significant amount, as specified in Regulation 1, Rule 1-130(s2);
  - (B) Assessment of the effect of increased emissions of air contaminants on the PSD increments;
  - (C) The expected net increase above baseline concentrations;
  - (D) The expected impacts on air quality related values in any Class I area, for any proposed new major stationary source or major modification as defined in Rule 1-130, including any associated vessel emissions; and
  - (E) The impairment to visibility, soils and vegetation (except vegetation having no commercial or recreational value), and the impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification. The APCO may accept an analysis conducted pursuant to Regulation 1, Rule 1-210 if it adequately addresses these impairments and impacts.
  - (F) A dispersion analysis used to determine the location and estimated value of the highest concentration of each pollutant that has the potential to emit in a significant amount as specified in Regulation 1, Rule 130(s2) that includes a dispersion model based on the applicable models, valid meteorological information, bases and other requirements specified in the "Guideline on Air Quality Models," which is Appendix W of 40 CFR Part 51.
- (5) Publish a notice by prominent advertisement in at least one newspaper of general circulation in the District stating where the public may inspect the information required by this Rule. The notice shall include the preliminary determination; present the expected additional and cumulative increment consumption; provide opportunity for a public hearing; and allow 30 days beginning on the date of publication, for the public to submit written comments on the proposed Authority to Construct.
- (6) Make available for public inspection at the District office, the information submitted by the applicant, the analysis of the effect of the source on air quality, and the preliminary decision to grant or deny the Authority to Construct.

- (7) On the date of publication forward copies of the notice required in paragraph (5) to the U. S. Environmental Protection Agency, the California Air Resources Board, all Air Pollution Control District's and Air Quality Management District's in the air basin, or adjoining the District in other air basins, and any federal land managers of a Class I area which may experience a significant air quality impact or is within 100 kilometers.
- (8) In the event of an air quality controversy, hold a public hearing on the project and consider all public comments submitted prior to the granting or denial of the Authority to Construct. Notice of the public hearing shall be published in at least one newspaper of general circulation in the District at least 30 days prior to the public hearing.
- (9) Transmit copies of the application and notice of each action affecting the application to EPA and the federal land managers of any affected Class I areas and allow the managers of the affected Class I areas to provide a demonstration of adverse impacts.
- (10) All comments and the final determination on the application shall be available for public inspection.
- (11) Within 30 days of the issuance of an Authority to Construct the Air Pollution Control Officer shall publish a notice in the local newspaper with the highest circulation in the area.

[Amended 9/20/16]

[Amended [4/7/20](#)]

#### **(c) Power Plant Review Procedures**

This section shall apply to all power plants proposed to be constructed in the District and for which a Notice of Intention (NOI) or Application for Certification (AFC) has been accepted by the California Energy Commission (CEC). The Air Pollution Control Officer, pursuant to Section 25538 of the Public Resources Code, may apply for reimbursement of all costs, which may include lost fees, incurred in order to comply with the provisions of this section.

- (1) Within fourteen days of receipt of an NOI, the Air Pollution Control Officer shall notify the ARB and the CEC of the District's intent to participate in the NOI proceeding. If the District chooses to participate in the NOI proceeding, the Air Pollution Control Officer shall prepare and submit a report to the ARB and the CEC prior to the conclusion of the non-adjudicatory hearings specified in Section 25509.5 of the Public Resources Code. That report shall include, at a minimum:
  - (A) a preliminary determination of the need for and a specific definition of best available control technology (BACT) for the proposed facility;
  - (B) a preliminary discussion of whether there is substantial likelihood that the requirements of Rule 1-230(a) and all other District regulations can be satisfied by the proposed facility;
  - (C) a preliminary list of conditions which the proposed facility must meet in order to comply with Rule 1-230(a) or any other applicable District regulation.

The preliminary determinations contained in the report shall be specific as possible within the constraints of the information contained in the NOI.

- (2) Upon receipt of an Application for Certification (AFC) for a power plant, the Air Pollution Control Officer shall conduct a Determination of Compliance review in accordance with the procedures of Rule 1-220. If the information contained in the AFC does not meet the requirements of Rule 1-200(b), the Air Pollution Control Officer shall, within 20 calendar days of receipt of the AFC, so inform the CEC, and the AFC shall be considered incomplete and returned to the applicant for re-submittal.
- 3) The Air Pollution Control Officer shall consider the AFC to be equivalent to an application for an Authority to Construct during the Determination of Compliance review.
- (4) The Air Pollution Control Officer may request from the applicant any information necessary for the completion of the Determination of Compliance review. If the Air Pollution Control Officer is unable to obtain the information, he may petition the presiding Commissioner of the CEC for an order directing the applicant to supply such information.
- (5) Within 180 days of accepting an AFC as complete, the Air Pollution Control Officer shall make a preliminary decision on:
  - (A) Whether the proposed power plant meets the requirements of Rule 1-230(a) and all other applicable district regulations; and
  - (B) in the event of compliance, what permit conditions will be required including specific BACT requirements and a description of required mitigation measures; and
  - (C) complete the new source review requirements of Rule 1-230.
- (6) Within 240 days of the filing date, the Air Pollution Control Officer shall submit to the CEC a Determination of Compliance, or if such a determination cannot be issued, shall so inform the CEC as to the reason for noncompliance.
- (7) Any applicant receiving a certificate from the CEC pursuant to this section and in compliance with all conditions of the certificate shall be issued a Permit to Operate by the Air Pollution Control Officer.