

Within 30 days of receipt of an application for an Authority to Construct, Modify, Replace, Operate or Use, the Air Pollution Control Officer shall notify the applicant in writing by mail or in person, of the action taken on that application. Such action shall include a determination of completeness or incompleteness. A determination of incompleteness shall include a request for more information necessary to issue a determination of completeness. Notice of action taken on an application shall be deemed to have been given when the written notification has been deposited in the mail, postpaid, addressed to the address shown on the application, or when personally delivered to the applicant or his representative. (Ref. HS&C, Section 42301.3(d)(1))

[Amended 5/6/03, Amended 9/20/16]

In acting upon any application for an Authority to Construct involving indirect sources or new or modified stationary sources of air contaminants subject to the requirements of Rule 1-220(b), the Air Pollution Control Officer shall provide for public notice in accordance with the provisions of said rule.

**(a) General Approval**

The Air Pollution Control Officer shall grant an Authority to Construct only after determining that the new or modified stationary source of air contaminants:

- (1) will cause the article, machine, equipment or other contrivance, so constructed or modified, to operate within all applicable rules and regulations pertaining to the emission of air contaminants;
- (2) will not prevent the attainment, interfere with the maintenance, or cause a violation, of any state or national ambient air quality standard nor interfere with the control strategy contained in the State of California Air Quality Implementation Plan;
- (3) has complied with all applicable requirements, including the requirements provided in Rule 1-220 and will not cause cumulative deterioration of existing air quality in excess of 50% of remaining available PSD increments as defined in Rule 1-130(p7);
- (4) will not result in air contaminant emissions in excess of the allowable standards established by the U.S. Environmental Protection Agency for new stationary sources of the category types listed in Rule 1-490 and 1-492 of the District, or employs best available control technology, BACT, for each air contaminant for which the significance level is exceeded; whichever is the more restrictive condition; and
- (5) provides adequate facilities for sampling, emission monitoring, and reporting procedures as specified by the Air Pollution Control Officer.

**NOTE:** The variance provisions of the California Health and Safety Code do not apply to sources or emissions subject to the requirements of Rules 1-490 & 1-492.

[Amended 9/20/16]

**(b) New Source Approval**

- (1) Immediately upon filing the public notice for a new or modified stationary source subject to the provisions of Rule 1-220, the Air Pollution Control Officer shall forward to the California Air Resources Board and the U.S. Environmental Protection Agency an analysis of the effect of the source on air quality and the preliminary decision to grant or deny the Authority to Construct.
- (2) An Authority to Construct for any stationary source subject to the provisions of Rule 1-220, may not be granted or denied by the Air Pollution Control Officer until at least 30 days after the date of public notice.

**(c) Denial of Application**

The Air Pollution Control Officer shall deny an Authority to Construct for any new or modified stationary source of air contaminants that does not meet the requirements specified in Rule 1-230. In the event of such denial, the Air Pollution Control Officer shall notify the applicant in writing of the reasons therefore. Service of this notification may be made in person or by mail, addressed to the applicant at the address set forth on the application, and such service may be proved by the written acknowledgement of the persons served or affidavit of the person making the service. The Air Pollution Control Officer shall not accept a further application unless the applicant has satisfied the requirements that were the basis for denial of the Authority to Construct.

**(d) Conditional Approval**

The Air Pollution Control Officer may issue an Authority to Construct, subject to conditions which will assure the operation of any equipment or stationary source within the applicable standards set forth in these regulations, in which case, the conditions shall be specified in writing. Commencing work under such an Authority to Construct shall be deemed acceptance of all conditions so specified. No conditional approval may be granted for any proposed stationary source that would violate the general approval requirements of Rule 1-230(a)(2) with respect to a federal, state, or local ambient air quality standard unless all the following conditions are met for the applicable (violating) pollutant:

- (1) The new source is required to employ "Best Available Control Technology".
- (2) Emission reductions from existing sources in the area of the proposed new source are required such that the total actual emissions from the combined existing and proposed sources will be less than the total actual emissions from the existing sources prior to the date of application for the Authority to Construct. Any emission reductions of this type must be enforceable by revised permit conditions.
- (3) The emission reductions stated above will provide a positive net air quality benefit in the affected area.
- (4) The applicant certified that all existing sources owned or controlled by the owner or operator of the proposed source in the State are in compliance with all applicable rules, regulations or approved compliance schedules.

The Air Pollution Control Officer may issue an Authority to Construct with revised conditions upon receipt of a new application, if the applicant demonstrates that the equipment or stationary source can operate within the standards of these regulations under the revised conditions.

**(e) Performance Standards in Effect**

- (1) The issuance of an Authority to Construct does not relieve the permit holder of the requirement to comply with all applicable rules and regulations, including emission limitations and other performance standards, whether or not such limitations and standards are explicitly stated or referenced in the permit.
- (2) If a modification to a stationary source results in the source becoming a major stationary source or is a major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, the requirements of 40CFR 51.166 paragraphs (j) through (s) shall apply as though construction had not yet commenced on the source or modification.

[Amended 4/7/20]