

RULE 216. NEW SOURCE REVIEW REQUIREMENTS FOR DETERMINING IMPACT ON AIR QUALITY

Adopted: 03/10/76

A. AUTHORITY TO CONSTRUCT

1. The Air Pollution Control Officer shall deny an Authority to Construct for any new stationary source or modification of an existing stationary source specified in paragraph (2) of this rule unless he determines that the emissions from the new source or modification may not be expected to result in the violation or a contribution to the continued violation of any state or national ambient air quality standard.
2. The Air Pollution Control Officer shall apply the provisions of this rule to:
 - a. Any proposed new stationary source which he estimates will emit:
 - i. More than either fifteen (15) pounds per hour or 150 pounds per day of nitrogen oxides, organic gases or any air contaminant for which there is a state or national ambient air quality standard, except carbon monoxide, or,
 - ii. More than either 150 pounds per hour or 1500 pounds per day of carbon monoxide, or
 - b. Any proposed modification of an existing stationary source that he estimates will emit after modification:
 - i. More than either fifteen (15) pounds per day of nitrogen oxides, organic gases or any air contaminant for which there is a state or national ambient air quality standard except carbon monoxide, or,
 - ii. More than either 150 pounds per hour or 1500 pounds per day of carbon monoxide.
3. The Air Pollution Control Officer may exempt from the provisions of this rule any new stationary source or modification which he determines:
 - a. Is a modification which eliminates, reduces or controls air contaminant emissions from an existing stationary source, provided that the emissions of any contaminant(s) from the modified source will not be greater than such emissions were from the existing source.
 - b. Will be a replacement for an existing stationary source and will not result in emissions of any air contaminant greater than those from the existing source.

- c. Will have demonstrable basin-wide air quality benefits, provided however, that the California Air Resources Board U.S. Environmental Protection Agency, after making a technical analysis, concur with the Air Pollution Control Officer's conclusion that such benefits will be derived. Calculations and technical data used by the Air Pollution Control Officer as the basis for granting the exemption shall be made available to the Air Resources Board and Environmental Protection Agency, or
 - d. Will be used exclusively for providing essential public services, including but not limited to hospitals, police, and fire fighting facilities, and will employ the best practicable emission control methods and equipment.
- 4. When the Air Pollution Control Officer intends to grant an exemption under paragraph (3) he shall publicize a notice by prominent advertisement in at least one newspaper of general circulation in the District and shall notify in writing the U.S. Environmental Protection Agency, and the California Air Resources Board and all counties in the Air Basin of his intention. No exemption shall be granted until at least 30 days after the date of publication and notification to the above agencies. In making his decision the Air Pollution Control Officer shall consider any comments received, and, in the case of exemptions proposed under subparagraph (3-c), a condition of a decision to grant an exemption shall be the concurrence of the California Air Resources Board and the U.S. Environmental Protection Agency, as provided for in said subparagraph (c).
- 5. Notwithstanding the criteria specified in paragraph (2) the Air Pollution Control Officer may apply the provisions of this rule to any new or modified stationary source if, in his opinion, the emissions from the source might result in a violation or a contribution to the continued violation of any state or national ambient air quality standard.
- 6. Before granting or denying an Authority to Construct for any new stationary source or modification subject to the requirements of this rule, the Air Pollution Control Officer shall:
 - a. Require the applicant to submit information sufficient to describe the nature and amounts of emissions, location, design, construction, and operation of the source; and to submit any additional information required by the Air Pollution Control Officer to make the analysis of this rule.
 - b. Require the applicant to submit the projected expansion plans for the stationary source for the ten-year period subsequent to the date of application for Authority to Construct.
 - c. Analyze the effect of the new stationary source or modification on air quality. Such analyses shall consider expected air contaminant emissions and air quality in the vicinity of the new source or modification, within the Air Basin, and within adjoining Air Basins at the time the source or modification is proposed to commence operation. Such analyses shall be based on application of existing state and local control strategies.

- d. Make available for public inspection at the Air Pollution Control District office, the information submitted by the applicant, the Air Pollution Control Officer's analysis of the effect of the source on air quality, and the preliminary decision to grant or deny the Authority to Construct.
 - e. 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 in subparagraph (d) of this paragraph. The notice shall provide 30 days, beginning on the date of publication, for the public to submit comments on the application.
 - f. Forward copies of the notice required in subparagraph (e) of this paragraph to the U.S. Environmental Protection Agency, the California Air Resources Board, all Counties in the Air Basin, and all adjoining Air Pollution Control Districts in other Air Basins.
 - g. Consider the public comments submitted.
7. Receipt of an Authority to Construct shall not relieve the owner or operator of responsibility to comply with the applicable portions of the control strategy.
 8. Within 30 days after the granting of an Authority to Construct to a source subject to this Rule, the Air Pollution Control Officer shall forward to the California Air Resources Board a copy of the Authority to Construct, including conditions imposed upon the source and calculations and support data used in determining that the Authority to Construct should be granted.

B. PERMITS TO OPERATE

1. The Air Pollution Control Officer shall deny a Permit to Operate to any stationary source subject to the requirements of Section A except as provided in paragraph (2) of this rule.
2. The Air Pollution Control Officer shall not grant a Permit to Operate to any stationary source that he determines emits quantities of air contaminants greater than those assumed in the analysis required for the Authority to Construct for the source, unless the Air Pollution Control Officer performs the air quality impact analysis required by paragraph (6) of Section A and determines that the actual emissions from the source may not be expected to result in the violation or a contribution to the continued violation of any state or national ambient air quality standard.
3. The Air Pollution Control Officer shall impose conditions on a Permit to Operate such as he deems necessary to ensure that the stationary source will be operated in the manner assumed in making the analysis required by Section A or paragraph (2) of this rule, whichever is applicable. Where appropriate, this shall include a condition to prohibit a new stationary source which is a replacement for an existing stationary source from operating, unless the operation of the existing source is terminated.

4. Sources having received an Authority to Construct prior to the adoption of Section A shall not be subject to the provisions of this rule.
 5. Within 30 days after granting of a Permit to Operate to a source subject to this rule, the Air Pollution Control Officer shall forward to the Air Resources Board a copy of the permit including conditions imposed upon the source and calculations and support data used in determining that the permit should be granted.
- C. Sources existing and in operation prior to the adoption of Regulation II are not subject to the provisions of this Regulation II. This exemption is not intended and shall not be applied to modifications of sources occurring after the adoption of this regulation. Additionally, this exemption does not exempt a source from other provisions within these rules and regulations.
- D. For the purpose of Sections A, B, and C in Rule 216, the following definitions shall be applicable:
1. "Stationary source" means a unit or an aggregation of units of air contaminant emitting articles, machines, equipment or other contrivances, all of which are located on adjoining properties having one ownership, and all of which are determined by the Air Pollution Control Officer to be related to one another through a similar product, raw material or function.
 2. "Modification" means any physical change in a stationary source, or change in the method of operation thereof.
 3. "Control Strategy" means a combination of measures designed to reduce air contaminant emissions.

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