State of California

AIR RESOURCES BOARD

Resolution 77-53

December 20, 1977

WHEREAS, the federal Clean Air Act (§ 110) and the Environmental Protection Agency regulations adopted pursuant thereto (40 CFR 51.12(b)) require that State Implementation Plans contain rules and regulations which prohibit the construction of a new emission source, or a modification to an existing source, where the new or modified source will interfere with or prevent the attainment or maintenance of a national air quality standard;

WHEREAS, Health and Safety Code §§ 40001 and 41507 require districts to adopt as part of the State Implementation Plan required by Section 110 of the Clean Air Act, rules and regulations necessary to achieve and maintain federal ambient air quality standards and authorize the Board to order revision of district rules and regulations where necessary to that end;

WHEREAS, Health and Safety Code § 42301 requires that district permit systems prohibit the issuance of a permit for the construction, alteration, use or operation of any stationary source where such source will prevent or interfere with the attainment or maintenance of any applicable air quality standard;

WHEREAS, the Board is empowered by Health and Safety Code §§ 41500, 41502, and 41504 to review the rules and regulations of a district to determine whether they make reasonable provision to achieve and maintain state air quality standards and, after a public hearing, to establish rules and regulations for a district which so provide if the district has not established such rules and regulations;

WHEREAS, the Board is required by Assembly Concurrent Resolution 19, adopted August 1977, to review the new source review regulations of California air pollution control districts and to propose amendments to improve the consistency and effectiveness of such rules throughout the state;

WHEREAS, the Board is requested by Senate Concurrent Resolution 17, adopted September 1977, to review California's State Implementation Plan and consider revising such plan to permit community-wide trade-offs in the preconstruction review of new or modified stationary sources;

WHEREAS, the Board finds that the Bay Area Air Pollution Control District has not adopted new source review rules or regulations which adequately require the denial of a permit for the construction, alteration, or operation of emission sources which will prevent or interfere with the attainment or maintenance of the state ambient air quality standards;

WHEREAS, the Board finds that without new source review rules substantially equivalent to those proposed for adoption by the staff, the rules and regulations of the Bay Area Air Pollution Control District do not make reasonable provision to achieve and maintain state and national ambient air quality standards;

WHEREAS, the Board finds that the Bay Area Air Pollution Control District has failed to adopt new source review rules which meet the aforesaid federal requirements for State Implementation Plans;

WHEREAS, the Board finds that the Bay Area Air Pollution Control District has failed to adopt rules consistent with other new source review rules throughout the state so as to achieve a substantial degree of uniformity; and

WHEREAS, the Board has conducted a public hearing and given notice thereof in accordance with all requirements of federal and state law;

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby amends the rules and regulations of the Bay Area Air Pollution Control District by adopting and amending Sections 1304, 1306, 1306.1, 1306.2, 1306.3, 1307, 1308, 1309, 1310, 1311, 1311.1, 1311.2, of Regulation 2, Division 13, as indicated on Attachment I hereto.

BE IT FURTHER RESOLVED, that the aforesaid sections as amended shall become effective immediately.

BE IT FURTHER RESOLVED, that the aforesaid sections as amended shall apply to any subject application for a permit filed with the District, but not finally ruled upon, prior to the aforesaid effective date.

BE IT FURTHER RESOLVED, that the staff of the Board, together with the staff of the District, monitor the implementation of these new source review rules and report to the Board the effects on air quality, employment and business in the District by January 1979.

BE IT FURTHER RESOLVED, that the aforesaid sections as amended may not be amended except by the Board, or by the District provided that the Executive Officer finds that any amendment thereto made by the District does not impair the overall effectiveness or flexibility of these sections.

WHEREAS, the Board finds that the Bay Area Air Pollution Control District has not adopted new source review rules or regulations which adequately require the denial of a permit for the construction, alteration, or operation of emission sources which will prevent or interfere with the attainment or maintenance of the state ambient air quality standards;

WHEREAS, the Board finds that without new source review rules substantially equivalent to those proposed for adoption by the staff, the rules and regulations of the Bay Area Air Pollution Control District do not make reasonable provision to achieve and maintain state and national ambient air quality standards;

WHEREAS, the Board finds that the Bay Area Air Pollution Control District has failed to adopt new source review rules which meet the aforesaid federal requirements for State Implementation Plans;

WHEREAS, the Board finds that the Bay Area Air Pollution Control District has failed to adopt rules consistent with other new source review rules throughout the state so as to achieve a substantial degree of uniformity; and

WHEREAS, the Board has conducted a public hearing and given notice thereof in accordance with all requirements of federal and state law;

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby amends the rules and regulations of the Bay Area Air Pollution Control District by adopting and amending Sections 1304, 1306, 1306.1, 1306.2, 1306.3, 1307, 1308, 1309, 1310, 1311, 1311.1, 1311.2, of Regulation 2, Division 13, as indicated on Attachment I hereto.

BE IT FURTHER RESOLVED, that the aforesaid sections as amended shall become effective immediately.

BE IT FURTHER RESOLVED, that the aforesaid sections as amended shall apply to any subject application for a permit filed with the District, but not finally ruled upon, prior to the aforesaid effective date.

BE IT FURTHER RESOLVED, that the staff of the Board, together with the staff of the District, monitor the implementation of these new source review rules and report to the Board the effects on air quality, employment and business in the District by January 1979.

BE IT FURTHER RESOLVED, that the aforesaid sections as amended may not be amended except by the Board, or by the District provided that the Executive Officer finds that any amendment thereto made by the District does not impair the overall effectiveness or flexibility of these sections.

Bay Area Air Pollution Control District

New Source Review Rules

Section 1304.	Applications
Section 1306.	Action on Applications
Section 1306.2.	Appeals from the Denial of Applications
Section 1306.3.	Appeals from the Approved, Conditional Approval or Denial of Source Subject to Sections 1308, 1309, or 1310
Section 1307.	Denial -- Failure to Meet Emission Regulations
Section 1307.1	Denial -- Failure to meet State Implementation Plan and District Regulations
Section 1308.	Standards for Authorities to Construct: Best Available Control Technology
Section 1309.	Standards for Authorities to Construct: Air Quality Impact Analysis
Section 1310.	Standards for Authority to Operate
Section 1311.	Definition for Sections 1308, 1309, and 1310
Section 1311.1.	Additional Applicant Requirements
Section 1311.2.	Severability

Adopted December 20, 1977 by the Air Resources Board to be effective immediately and to apply to any subject application filed with the District, but not finally acted upon prior to December 20, 1977.

§ 1304 Applications. Every application for an authority to construct, erect, alter or replace, or an authority to operate, shall be submitted to the APCO on a form specified and contain all the information required by him. When deemed appropriate by the Air Pollution Control Officer, he shall consult with appropriate local and regional agencies to check the accuracy and adequacy of the application, and of other information submitted with or concerning the application, and to determine whether the application conforms with adopted plans and with local permit requirements.

§ 1306 Action on Applications. The APCO shall act as soon as possible but not later than 60 days from the receipt of a completed application, unless extended by written consent of the applicant, for an authority to construct, erect, alter or replace or authority to operate, and shall notify the applicant in writing of his approval, conditional approval, or denial. This provision shall not apply to applications for sources subject to Sections 1308 or 1309 or 1310 of this Regulation.

§ 1306.2 Appeals from the Denial of Applications. An applicant for a permit dissatisfied with the decision of the APCO may appeal to the Hearing Board for an order modifying or reversing the decision of the APCO by filing an appeal in writing within 10 days of notification of the decision of the APCO. This provision shall not apply to Sections 1308, 1309, or 1310 of this Regulation.

§ 1306.3 Appeals from the Approval, Conditional Approval or Denial of a Source Subject to Sections 1308, 1309, or 1310. An applicant for a permit, for a source subject to Sections 1308, 1309, 1310, or any person dissatisfied with the decision of the APCO thereon, may appeal to the Hearing Board for an order modifying or reversing the decision of the APCO. An appeal pursuant to this section must be filed in writing with the Hearing Board within 10 days of the date of publication of notice of the decision of the APCO and shall contain a summary of the issues to be raised. The Hearing Board shall consider the appeal pursuant to its rules at a public hearing within 30 days of such filing.

§ 1307 Denial -- Failure to Meet Emission Regulations. The Air Pollution Control Officer shall deny an authority to construct, erect, alter or replace, if the stationary source, facility, building, article, machine, equipment or other contrivance, the use of which may cause the emission of air contaminants, or the use of which may eliminate, reduce or control the emission of air contaminants, when operated, will not comply with the emission regulations of the District.

§ 1307.1 Denial -- Failure to meet State Implementation Plan and District Regulations. The Air Pollution Control Officer shall deny an authority to construct, erect, alter or replace a stationary source, facility, building, article, machine equipment or other contrivance, unless the applicant demonstrates that all facilities in the Air Basin which are owned or operated by the applicant are in compliance with all applicable district rules, regulations and orders, and all applicable requirements of the State Implementation Plan approved or promulgated by the federal Environmental Protection Agency under Section 110 of the Clean Air Act, including approved compliance schedules or enforcement orders issued under Section 113 of the Clean Air Act.

§ 1308 Standards for Authorities to Construct: Best Available Control Technology

(a) New Stationary Sources:

The Air Pollution Control Officer shall deny an authority to construct for any unit or units constituting a new stationary source if such source will emit more than 15 pounds per hour or 150 pounds per day of nitrogen oxides, organic gases, or any contaminant for which there is a state or national ambient air quality standard (except carbon monoxide, for which the limits are 150 pounds per hour and 1500 pounds per day) unless the applicant shows that the new source is constructed using best available control technology.

(b) Modifications to Existing Stationary Sources:

The Air Pollution Control Officer shall deny an authority to construct for any modification of any existing stationary source if such source after modification will emit more than 15 pounds per hour or more than 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, for which the limits are 150 pounds per hour and 1500 pounds per day), unless the applicant demonstrates that the modification of the existing stationary source will be constructed using best available control technology, and;

§ 1307.1 Denial -- Failure to meet State Implementation Plan and District Regulations. The Air Pollution Control Officer shall deny an authority to construct, erect, alter or replace a stationary source, facility, building, article, machine equipment or other contrivance, unless the applicant demonstrates that all facilities in the Air Basin which are owned or operated by the applicant are in compliance with all applicable district rules, regulations and orders, and all applicable requirements of the State Implementation Plan approved or promulgated by the federal Environmental Protection Agency under Section 110 of the Clean Air Act, including approved compliance schedules or enforcement orders issued under Section 113 of the Clean Air Act.

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(b) Modifications to Existing Stationary Sources:

The Air Pollution Control Officer shall deny an authority to construct for any modification of any existing stationary source if such source after modification will emit more than 15 pounds per hour or more than 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, for which the limits are 150 pounds per hour and 1500 pounds per day), unless the applicant demonstrates that the modification of the existing stationary source will be constructed using best available control technology, and;

1. That the modification would not result in a net increase in emissions of any pollutant affected by this subsection; or

2. That best available control technology is being, or is to be, applied to all existing units of the stationary source; or

3. That emissions from all of the existing units of the stationary source are controlled by use of technology that is at least as effective as that generally in use on similar stationary sources, and that the cost of installing best available control technology on existing units is economically prohibitive and substantially exceeds the cost per unit mass of controlling emissions of each pollutant through all other control measures; or

4. That the stationary source is a small business, as defined in subsection (1) of Section 1896 of Title 2 of the California Administrative Code; that emissions from all existing units of the stationary source are controlled through application of the best technology that is economically reasonable to apply to that stationary source; and that the cost of employing best available control technology is economically prohibitive.

§ 1309 Standards for Authorities to Construct: Air Quality Impact Analysis

(a) New Stationary Sources:

The Air Pollution Control Officer shall deny an authority to construct for any unit or units constituting a new stationary source if such source will emit more than 25 pounds per hour or 250 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, for which the limits are 250 pounds per hour and 2500 pounds per day), or which is a precursor of any such air contaminant, unless the Air Pollution Control Officer determines that the emissions from the new source will not cause a violation of, or will not interfere with the attainment or maintenance of, the state or national ambient air quality standard for the same contaminant, (or in the case of a precursor, for that contaminant to which the precursor contributes).

(b) Modifications to Existing Stationary Sources:

The Air Pollution Control Officer shall deny an authority to construct for any modification of any existing stationary source if the modification will result in a net increase in emissions from the existing source of more than 25 pounds per hour or 250 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, for which the limits are 250 pounds per hour and 2500 pounds per day), or which is a precursor of any such air contaminant, unless the Air Pollution Control Officer determines that the emissions from the modified source will not cause a violation of, or will not interfere with the attainment or maintenance of, the state or national ambient air quality standard for that same contaminant, (or in the case of a precursor, for that contaminant to which the precursor contributes).

(c) Determination of Emission Increases:

In determining under Section 1308(b)1 and Section 1309(b) whether there has been a net increase in emissions and, if so, the amount of any such increase, the Air Pollution Control Officer shall consider all increases and decreases of emissions caused by modifications to that stationary source pursuant to authorities to construct issued during the preceding five years, or since the adoption of this Section, whichever period is shorter. Emission reductions required to comply with federal, state, or district laws, emission limitations, or rules or regulations shall not be considered to be decreases in emissions for the purpose of this subsection.

(d) Consideration of Future Emission Reductions: Trade-offs

In making the analysis required in subsection (g)2., the Air Pollution Control Officer shall take into consideration the air quality impact of any trade-off resulting from reductions in the emissions of the same air contaminant which are due to the elimination or modification of other existing stationary sources under the same ownership and operating within the same Air Basin. If reductions are to be based on planned elimination or modification of any such stationary sources, the Air Pollution Control Officer shall condition the permit to operate to require

(b) Modifications to Existing Stationary Sources:

The Air Pollution Control Officer shall deny an authority to construct for any modification of any existing stationary source if the modification will result in a net increase in emissions from the existing source of more than 25 pounds per hour or 250 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, for which the limits are 250 pounds per hour and 2500 pounds per day), or which is a precursor of any such air contaminant, unless the Air Pollution Control Officer determines that the emissions from the modified source will not cause a violation of, or will not interfere with the attainment or maintenance of, the state or national ambient air quality standard for that same contaminant, (or in the case of a precursor, for that contaminant to which the precursor contributes).

(c) Determination of Emission Increases:

In determining under Section 1308(b)1 and Section 1309(b) whether there has been a net increase in emissions and, if so, the amount of any such increase, the Air Pollution Control Officer shall consider all increases and decreases of emissions caused by modifications to that stationary source pursuant to authorities to construct issued during the preceding five years, or since the adoption of this Section, whichever period is shorter. Emission reductions required to comply with federal, state, or district laws, emission limitations, or rules or regulations shall not be considered to be decreases in emissions for the purpose of this subsection.

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In making the analysis required in subsection (g)2., the Air Pollution Control Officer shall take into consideration the air quality impact of any trade-off resulting from reductions in the emissions of the same air contaminant which are due to the elimination or modification of other existing stationary sources under the same ownership and operating within the same Air Basin. If reductions are to be based on planned elimination or modification of any such stationary sources, the Air Pollution Control Officer shall condition the permit to operate to require

such elimination or modification within not more that 90 days after the start-up of the new or modified source. Emission reductions required to comply with federal, state, or district laws, emission limitations, or rules or regulations shall not be considered to be decreases in emissions for the purposes of this subsection.

If an applicant proposes to obtain trade-offs pursuant to this subsection, the applicant must demonstrate that there will be a net decrease in the emissions of all air contaminants emitted by the new or modified stationary source and that there will be no net air quality deterioration within the Air Basin or within adjoining air basins.

(e) Exemptions:

1. The Air Pollution Control Officer shall exempt from subsections (a) and (b) of this Section any new stationary source or modification of any existing stationary source which:

   A. Will be in whole or in part a replacement for an existing stationary source on the same property if the resulting emissions of any air contaminant will not be increased. The Air Pollution Control Officer may allow a maximum of 90 days as a start-up period for simultaneous operation of the existing stationary source or replaced portions thereof, and the new stationary source or replacement; or

   B. Will cause demonstrable air quality benefits within the Air Basin, provided however, that the written concurrence of the California Air Resources Board and United States Environmental Protection Agency shall be obtained prior to the granting of an exemption hereunder. In order to show that a proposed new stationary source or modification to an existing stationary source will cause demonstrable air quality benefits within the Air Basin, an applicant must provide emission reductions or trade-offs at existing sources; or

C. Will be used exclusively for providing essential public services such as schools hospitals, or police and fire fighting facilities, but specifically excluding sources of electrical power generation other than for emergency standby use at essential public service facilities; or

D. Is exclusively a modification to convert from use of gaseous fuels to fuel oil because of demonstrable shortage of gaseous fuels, provided: (i) that all units constituting the modification will utilize best available control technology and provided that use of fuel oil would have been permitted under district regulations at the time of construction of the equipment using gaseous fuels without the source having been required at that time to install control equipment in addition to that which it would have to install in order to be able to be exempt hereunder and (ii) the applicant demonstrates that it made its best efforts to obtain sufficient emission trade-offs under this rule, that such efforts were unsuccessful, and that it will continue to seek the necessary emission trade-offs and apply them when they become available. Modifications for the purpose of this subparagraph shall include the addition or modification of facilties for storing, transferring and/or transporting such fuel oil at the stationary source. A condition shall be placed on the operating permit requiring conversion to gaseous or other equivalent low polluting fuels when they are, or become available; or

E. Is air pollution control equipment which, when in operation, will reduce emissions from an existing source; or

F. Is portable sandblasting equipment used on a temporary basis within the Air Basin.

C. Will be used exclusively for providing essential public services such as schools hospitals, or police and fire fighting facilities, but specifically excluding sources of electrical power generation other than for emergency standby use at essential public service facilities; or

D. Is exclusively a modification to convert from use of gaseous fuels to fuel oil because of demonstrable shortage of gaseous fuels, provided: (i) that all units constituting the modification will utilize best available control technology and provided that use of fuel oil would have been permitted under district regulations at the time of construction of the equipment using gaseous fuels without the source having been required at that time to install control equipment in addition to that which it would have to install in order to be able to be exempt hereunder and (ii) the applicant demonstrates that it made its best efforts to obtain sufficient emission trade-offs under this rule, that such efforts were unsuccessful, and that it will continue to seek the necessary emission trade-offs and apply them when they become available. Modifications for the purpose of this subparagraph shall include the addition or modification of facilties for storing, transferring and/or transporting such fuel oil at the stationary source. A condition shall be placed on the operating permit requiring conversion to gaseous or other equivalent low polluting fuels when they are, or become available; or

E. Is air pollution control equipment which, when in operation, will reduce emissions from an existing source; or

F. Is portable sandblasting equipment used on a temporary basis within the Air Basin.

2. The Air Pollution Control Officer may exempt from subsections (a) and (b) of this Section, any new stationary source, or modification of an existing stationary source, which has been determined to be:

   A. A new stationary source or modification of an existing stationary source utilizing unique and innovative control technology which will result in a significantly lower emission rate from the stationary source than would have occurred with the use of previously known best available control technology, and which will likely serve as a model for technology to be applied to similar stationary sources within the State. In order for a stationary source to be exempted under this subparagraph, the applicant must obtain the written concurrence of the California Air Resources Board and the United States Environmental Protection Agency with the Air Pollution Control Officer's determination; or

   B. A new stationary source or modification of an existing stationary source that represents a significant advance in the development of a technology that appears to offer extraordinary environmental or public health benefits or other benefits of overriding importance to the public health or welfare. In order for a stationary source to be exempted under this subparagraph, the applicant must obtain the written concurrence of the California Air Resources Board and the United States Environmental Protection Agency with the Air Pollution Control Officer's determination.

(f) Notice Requirements for Proposed Exemptions:

Before granting an exemption under subsection (e) 1. B., (e) 2. A., or (e) 2. B. of this Section, the Air Pollution Control Officer shall publish a notice by prominent advertisement in at least one newspaper of general circulation in the District and shall notify in writing of his intention: The applicant, the United States Environmental Protection Agency, the California Air Resources Board, and adjoining air pollution control districts. Calculations and technical data used by the Air Pollution Control Officer as the basis for granting exemptions pursuant

to subsection (e) 1. B., (e) 2. A., or (e) 2. B. shall be made available to the California Air Resources Board and the United States Environmental Protection Agency. Before granting an exemption under subsection (e) 1. B., (e) 2.A. or (e) 2. B. of this Section, the Air Pollution Control Officer shall consider any comments received within 30 days after the date of publication or date of notification of the above agencies, whichever occurs later, and shall have obtained the concurrence of the California Air Resources Board and the United States Environmental Protection Agency.

In addition, the Air Pollution Control Officer shall notify in writing the United States Environmental Protection Agency and the California Air Resources Board within 15 days of the granting of an exemption under subsection (e) 1. A., (e) 1. C., or (e) 1. D.

(g) Procedure for Evaluation of Applications for Authorities to Construct:

Before granting an authority to construct for any unit of a new stationary source or modification subject to the requirements of subsections (a) and (b) of this Section, the Air Pollution Control Officer shall:

1. 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 required by this Section.

2. Analyze the effect of the operation of the new or modified stationary source on air quality in the vicinity of the new source or modified stationary source, within the Air Basin and within adjoining air basins. Such analysis shall consider the air contaminant emissions and air quality in the vicinity of the new source or modified source, within the Air Basin and within adjoining air basins at the time the new source or modification is proposed to commence normal operation. Such analysis shall be based on the application of existing federal, state, and local rules and regulations.

to subsection (e) 1. B., (e) 2. A., or (e) 2. B. shall be made available to the California Air Resources Board and the United States Environmental Protection Agency. Before granting an exemption under subsection (e) 1. B., (e) 2.A. or (e) 2. B. of this Section, the Air Pollution Control Officer shall consider any comments received within 30 days after the date of publication or date of notification of the above agencies, whichever occurs later, and shall have obtained the concurrence of the California Air Resources Board and the United States Environmental Protection Agency.

In addition, the Air Pollution Control Officer shall notify in writing the United States Environmental Protection Agency and the California Air Resources Board within 15 days of the granting of an exemption under subsection (e) 1. A., (e) 1. C., or (e) 1. D.

(g) Procedure for Evaluation of Applications for Authorities to Construct:

Before granting an authority to construct for any unit of a new stationary source or modification subject to the requirements of subsections (a) and (b) of this Section, the Air Pollution Control Officer shall:

1. 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 required by this Section.

2. Analyze the effect of the operation of the new or modified stationary source on air quality in the vicinity of the new source or modified stationary source, within the Air Basin and within adjoining air basins. Such analysis shall consider the air contaminant emissions and air quality in the vicinity of the new source or modified source, within the Air Basin and within adjoining air basins at the time the new source or modification is proposed to commence normal operation. Such analysis shall be based on the application of existing federal, state, and local rules and regulations.

3. Upon completion of the evaluation, but before granting an authority to construct:

   A. Publish a notice by prominent advertisement in at least one newspaper of general circulation in the District, indicating the preliminary decision to grant the authority to contruct and stating where the public may inspect the information required by this subsection. A copy of the notice shall also be sent to the applicant, the United States Environmental Protection Agency, the California Air Resources Board and adjoining air pollution control districts. The notice shall provide a period of 30 days, beginning on the date of publication, or on the date of notification of the above agencies, whichever occurs later, for the public to submit comments on the application.

   B. Make available for public inspection at the Air Pollution Control District office, except as otherwise limited by law: the information submitted by the applicant, the Air Pollutant Control Officer's analysis of the effect of the source on air quality, and the preliminary decision to grant the authority to construct. Such information shall also be forwarded to the California Air Resources Board for review.

   C. Consider all comments submitted. If within the 30-day notice period the Air Pollution Control Officer receives a written request from either the United State Environmental Protection Agency or California Air Resources Board to defer the Air Pollution Control Officer's decision pending the requesting agency's review of the application, the Air Pollution Control Officer shall honor such request for a period of 60 days from the date of such request.

§ 1310 Standards for Authority to Operate:

(a) Requirement for Authority to Construct as Condition for Authority to Operate:

The Air Pollution Control Officer shall deny an authority to operate for any stationary source subject to the requirements of Sections 1308 and 1309 unless the applicant has obtained an authority to construct.

In addition the Air Pollution Control Officer shall deny an authority to operate any stationary source, facility or building, article, machine, equipment or other contrivance for which an authority to construct or operate is required, if it is not constructed substantially in conformance with the authority to construct, or if the use or operation according to design standard does not comply with the regulations of the Board.

(b) Air Quality Impact Analysis for Sources Emitting Larger Quantities of Air Contaminants Than Assumed in the Analysis Performed Pursuant to Section 1309:

The Air Pollution Control Officer shall not grant an authority to operate to any stationary source the APCO determines emits quantities of air contaminants larger than were assumed in the analysis performed for the authority to construct for the source, unless the Air Pollution Control Officer performs the air quality impact analysis required by Section 1309 and determines that the actual emissions from the source will not cause a violation of, or will not interfere with the attainment or maintenance of, any state or national ambient air quality standard.

(c) Conditions on Authorities to Operate or Authorities to Construct:

The Air Pollution Control Officer shall condition the issuance of an authority to operate, and an authority to construct on such terms as are deemed necessary to ensure that the stationary source will be constructed and operated in the manner assumed in making the analysis required by Section 1309 or subsection (b) of this Section whichever is applicable. Where appropriate, such conditions shall 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. The Air Pollution Control Officer may allow a maximum of 90 days as a start-up period for simultaneous operation of the existing stationary source or replaced portion thereof, and the new stationary source or replacement portions thereof.

(d) Exemptions:

The Air Pollution Control Officer shall exempt from the provisions of this Section any stationary source which:

In addition the Air Pollution Control Officer shall deny an authority to operate any stationary source, facility or building, article, machine, equipment or other contrivance for which an authority to construct or operate is required, if it is not constructed substantially in conformance with the authority to construct, or if the use or operation according to design standard does not comply with the regulations of the Board.

(b) Air Quality Impact Analysis for Sources Emitting Larger Quantities of Air Contaminants Than Assumed in the Analysis Performed Pursuant to Section 1309:

The Air Pollution Control Officer shall not grant an authority to operate to any stationary source the APCO determines emits quantities of air contaminants larger than were assumed in the analysis performed for the authority to construct for the source, unless the Air Pollution Control Officer performs the air quality impact analysis required by Section 1309 and determines that the actual emissions from the source will not cause a violation of, or will not interfere with the attainment or maintenance of, any state or national ambient air quality standard.

(c) Conditions on Authorities to Operate or Authorities to Construct:

The Air Pollution Control Officer shall condition the issuance of an authority to operate, and an authority to construct on such terms as are deemed necessary to ensure that the stationary source will be constructed and operated in the manner assumed in making the analysis required by Section 1309 or subsection (b) of this Section whichever is applicable. Where appropriate, such conditions shall 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. The Air Pollution Control Officer may allow a maximum of 90 days as a start-up period for simultaneous operation of the existing stationary source or replaced portion thereof, and the new stationary source or replacement portions thereof.

(d) Exemptions:

The Air Pollution Control Officer shall exempt from the provisions of this Section any stationary source which:

1. Has received an authority to construct prior to this amendment of Section 1309, provided however, that any such source will be required to obtain an authority to operate in accordance with the provisions of this Division which were in effect prior to this amendment of Section 1310, and provided further that any exemption granted hereunder shall not apply to any subsequent modification of such source.

2. Is a continuing operation, without modification, of a stationary source that was previously exempt from the permit provisions of these Regulations and an authority to operate is required solely because of a change in permit exemptions stated in Section 1316.

§ 1311 Definitions for Sections 1307, 1307.1, 1308, 1309, 1310, and 1311.1

(a) STATIONARY SOURCE means a unit or an aggregation of units of nonvehicular air-contaminant-emitting equipment which is located on one property or on contiguous properties; which is under the same ownership or entitlement to use and operate; and, in the case of an aggregation of units, those units which are related to one another. Units shall be deemed related to one another if the operation of one is dependent upon, or affects the process of, the other; if their operation involves a common or similar raw material, product, or function; or if they have the same first three digits in their standard industrial classification codes as determined from the Standard Industrial Classification Manual published in 1972 by the Executive Office of the President, Office of Management and Budget.

In addition, in cases where all or part of a stationary source is a facility used to load cargo onto or unload cargo from cargo carriers, other than motor vehicles, the Air Pollution Control Officer shall consider such carriers to be parts of the stationary source. Accordingly, all emissions from such carriers (excluding motor vehicles) which will result in an adverse impact on air quality in the State of California shall be considered as emissions from such stationary source. Emissions from such carriers shall include those that result from operation of the carriers' engines; the purging or other method of venting of vapors; and from the loading, unloading, storage, processing, and transfer of cargo.

(b) MODIFICATION means any physical change in, or any change in the method of operation of, a stationary source.

For the purpose of this definition:

1. Routine maintenance or repair shall not be considered to be physical changes, and

2. An increase in production rate or operating hours shall not be considered to be a change in the method of operation, provided that these increases are not contrary to any existing authority to operate conditions.

(c) BEST AVAILABLE CONTROL TECHNOLOGY means the maximum degree of emission control for any air contaminant emitting equipment, taking into account technology which is known but not necessarily in use, provided that the Air Pollution Control Officer shall not interpret best available control technology to include a requirement which will result in the closing and elimination of or inability to construct a lawful business which could be operated with the application of the best available control technology currently in use.

§ 1311.1 Additional Applicant Requirements:

Receipt of an authority to construct or an authority to operate shall not relieve the stationary source owner or operator of the responsibility to comply with Sections 1308 or 1309 or any other applicable portions of the District's Rules and Regulations.

§ 1311.2 Severability:

If any portion of Sections 1308, 1309, 1310 or 1311 shall be found to be unenforceable, such finding shall have no effect on the enforceability of the remaining portions, which shall continue to be in full force and effect.

(b) MODIFICATION means any physical change in, or any change in the method of operation of, a stationary source.

For the purpose of this definition:

1. Routine maintenance or repair shall not be considered to be physical changes, and

2. An increase in production rate or operating hours shall not be considered to be a change in the method of operation, provided that these increases are not contrary to any existing authority to operate conditions.

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