

Rule 1107 Prevention of Significant Deterioration (PSD) Permits
(Adopted June 28, 2012)

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Rule 1107

- 1 PURPOSE:** The federal Prevention of Significant Deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas classified as attainment or in areas that are unclassifiable for any criteria air pollutant. The application, processing requirements and procedures are those contained in Butte County Air Quality Management District (DISTRICT) Rule 400-*Permit Requirements* and Rule 432-*Federal New Source Review* unless otherwise superseded by federal regulation. The intent of this Rule is to incorporate the federal PSD rule requirements into the DISTRICT's Rules and Regulations by incorporating the federal requirements by reference.
- 2 APPLICABILITY:** The provisions of this Rule shall apply to any source and the owner or operator of any source subject to any requirement under Title 40 of the Code of Federal Regulations (CFR) Part 52.21 as incorporated into this Rule.
- 3 INCORPORATION BY REFERENCE:** Except as provided below, the provisions of 40 CFR Part 52.21, in effect on June 28, 2012, are incorporated herein by reference and made part of the Rules and Regulations of the DISTRICT.
 - 3.1** The following subsections of 40 CFR Part 52.21 are excluded: (a)(1), (b)(55-58), (f), (g), (i)(1)(i-v) and (ix-x), (i)(6-8), (k)(2), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z) and (cc).
 - 3.2** Unless otherwise defined below, the terms used in this Rule are defined in 40 CFR Part 52.21(b):
 - 3.2.1 Administrator:** The term "administrator" means:
 - 3.2.1.1 Federal Administrator,** in 40 CFR 52.21(b)(17), (b)(37)(i), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (l)(2) and (p)(2); and,
 - 3.2.1.2 Air Pollution Control Officer (APCO),** elsewhere, as defined in Rule 100-*Definitions*.
 - 3.3** "paragraph (q) of this section" in 40 CFR 52.21 (l)(2) and (p)(1) shall read as follows: "the public notice and comment provisions of DISTRICT Rule 1107, Section 5".
 - 3.4** "to the Federal land manager and the Federal official" in 40 CFR 52.21(p)(1) shall read as follows: "to the U. S. Environmental Protection Agency (EPA) Region 9, the Federal land manager and the Federal official".
 - 3.5** "shall also notify all affected Federal land managers within 30 days of receipt of any advance notification of any such permit application" in 40 CFR 52.21(p)(1) shall read as follows: "shall also notify EPA Region 9 and

all affected Federal land managers within 30 days of receipt of any advance notification of any such permit application”.

4 REQUIREMENTS:

- 4.1** An owner or operator must obtain a PSD permit pursuant to this Rule before beginning actual construction of a new major stationary source, a major modification, or a plantwide applicability limit (PAL) major modification, as defined in 40 CFR 52.21(b).
- 4.2** Notwithstanding the provisions of any other DISTRICT Rule or Regulation, the APCO shall require compliance with this Rule prior to issuing a federal PSD permit as required by Clean Air Act (CAA) Section 165.
- 4.3** The applicant shall pay the applicable fees specified in DISTRICT Rule 515-*Prevention of Significant Deterioration (PSD) Fees*.
- 4.4** The APCO shall determine whether the application is complete not later than 30 days after receipt of the application or after such longer time as both the applicant and the APCO have agreed in writing. If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information required. Upon receipt of any re-submittal of the application, a new 30-day period to determine completeness shall begin. The APCO may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.
- 4.5** Upon request from the Federal Administrator, the APCO shall transmit to the Federal Administrator a copy of each permit application relating to a major stationary source or major modification and provide notice to the Administrator of every action related to the consideration of such permit. Such notification is required for sources impacting Class I areas.
- 4.6** The APCO shall make a final determination within one (1) year of receipt of a complete application.
- 4.7** Greenhouse gas emissions shall not be subject to the requirements of subsections (k) or (m) of 40 CFR Part 52.21 in effect on June 28, 2012.
- 4.8** Except as specified in Section 4.8.1 below, the PSD requirements of this Rule shall be incorporated into and made enforceable through Authority to Construct permits and Permits to Operate according to the permitting requirements of Rule 400-*Permit Requirements* of the DISTRICT's Rules and Regulations.

4.8.1 For power plants which will be licensed by the California Energy Commission, the PSD requirements of this Rule shall be incorporated into and made enforceable through Determinations of Compliance and Permits to Operate according to the requirements of Rule 432-*Federal New Source Review*, and the permitting requirements of Rule 400-*Permit Requirements* of the DISTRICT's Rules and Regulations.

5 PUBLIC PARTICIPATION: Prior to issuing a federal PSD permit pursuant to this Rule and after receipt of a complete application, the APCO shall:

- 5.1** Make a preliminary determination whether construction should be approved with conditions or disapproved.
- 5.2** Make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, a copy of the proposed permit and a copy or summary of other materials, if any, considered in making the preliminary determination.
- 5.3** Notify the public, by advertisement in a newspaper of general circulation in Butte County, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for written public comment.
- 5.4** Send a copy of the notice of public comment to the applicant, EPA Region 9, any persons requesting such notice and any other interested parties such as: any other State or local air pollution control agencies, the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency, and any State, Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification.
- 5.5** Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the APCO's judgment such a hearing is warranted.
- 5.6** Consider all written comments that were submitted within 30 days after the notice of public comment was published and all comments received at any public hearing(s) in making a final decision on the approvability of the application and make all comments available for public inspection in the same locations where the DISTRICT made available preconstruction information relating to the proposed source or modification.

- 5.7** Make a final determination whether construction should be approved with conditions or disapproved.

- 5.8** Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the DISTRICT made available preconstruction information and public comments relating to the source.