

**RULE 802. NEW SOURCE REVIEW**  
(Adopted 4/17/1997, revised 8/25/2016)

**A. Applicability**

The purpose of New Source Review is to provide for the review of new and modified stationary sources of air pollution and provide mechanisms by which Authorities to Construct for such sources may be granted without interfering with the attainment or maintenance of any ambient air quality standard, preventing reasonable further progress towards the attainment or maintenance of any ambient air quality standard and without interfering with the protection of areas designated attainment or unclassifiable. This rule shall apply to any applicant for a new or modified stationary source which emits or may emit any affected pollutant.

**B. Exemptions**

1. The provisions of this rule shall not apply to any existing stationary source which was previously exempt from the permit provision of these Rules and Regulations and a Permit to Operate is required solely because of a change in permit exemptions.
2. The Control Officer may exempt any equipment replacement from the offset requirements of Section E of this rule if:
  - a. The replacement is functionally equivalent,
  - b. There is no increase in the potential to emit of any air contaminant,
  - c. The applicant applies Best Available Control Technology, and
  - d. The replacement does not bottleneck the process (e.g., increase the system's production rate).
3. Projects that meet the requirements of Health and Safety Code sections 42301.2 or 42301.13 are exempt from the offset requirements of Section E of this rule. If such emission increases are later reduced or eliminated, the emission reduction shall not be considered surplus for the purpose of emission reduction credits.
4. Emergency standby generator, flood control, and firewater pump piston-type internal combustion engines are exempt from the offset requirements of Section E of this rule.

**C. Definitions**

See Rule 102, Definitions, and Rule 801, New Source Review – Definitions and General Requirements, for definitions.

**D. Requirements – Best Available Control Technology**

1. An applicant shall apply Best Available Control Technology to a new or modified stationary source which has a potential to emit any nonattainment pollutant or its precursors which meets or exceeds any threshold specified in Table 1 or has a potential to emit any attainment pollutant or its precursors which meets or exceeds any threshold specified in Table 2. For the purposes of this section, "potential to emit" for modified stationary sources means the potential to emit from the project.

**Table 1: Nonattainment Pollutant  
Best Available Control Technology Thresholds**

Pollutant	Pounds/day
Any nonattainment pollutant or its precursors (except carbon monoxide)	25
Carbon Monoxide – if designated nonattainment	150

**Table 2: Attainment Pollutant  
Best Available Control Technology Thresholds**

Pollutant	Pounds/day	Tons/year
Particulate Matter	120	--
PM <sub>10</sub>	80	--
PM <sub>2.5</sub>	55	--
Carbon Monoxide	500	--
Nitrogen Oxides (as Nitrogen Dioxide)	120	--
Sulfur Oxides (as Sulfur Dioxide)	120	--
Reactive Organic Compounds (ROCs)	120	--
Lead	3.28	--
Asbestos	0.04	--
Beryllium	0.0022	--
Mercury	0.55	--
Vinyl Chloride	5.48	--
Fluorides	16.4	--
Sulfuric Acid Mist	38.4	--
Total Reduced Sulfur (including H <sub>2</sub> S)	54.8	--
Reduced sulfur compounds	54.8	--
Municipal waste combustor organics	--	0.0000035
Municipal waste combustor metals	--	15
Municipal waste combustor acid gases	--	40
All other attainment pollutants or precursors	120	--

2. For any stationary source subject to a nonattainment pollutant Best Available Control Technology requirement, Best Available Control Technology shall be the more stringent of:
  - a. The most effective emission control device, emission limit, or technique which has been achieved in practice for the type of equipment comprising such stationary source; or
  - b. The most stringent limitation contained in any State Implementation Plan; or
  - c. Any other emission control device or technique determined after public hearing to be technologically feasible and cost-effective by the Control Officer.
  
3. For any stationary source subject to an attainment pollutant Best Available Control Technology requirement, Best Available Control Technology shall be an emission limitation based on the maximum degree of reduction achievable for each pollutant. Best Available Control Technology shall be determined on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs. Best Available Control Technology may consist of any of the following: application of alternative production processes, fuel cleaning or treatment, innovative fuel combustion techniques, or any other technique for control of each pollutant. In no event shall application of Best Available Control Technology result in emissions which would exceed the emissions allowed under the applicable New Source Performance Standards.

4. An applicant shall apply attainment pollutant Best Available Control Technology to a new source or modification of an existing major stationary source, for any emissions increase which would construct within 10 kilometers of a Class I area and which would have an impact on such area equal to or greater than 1 microgram per cubic meter (24-hour average).

**E. Requirements – Offsets Thresholds**

The applicant for a new or modified stationary source with a potential to emit of any affected pollutant or its precursors which is equal to or greater than any threshold shown in Table 3 shall mitigate the project’s potential to emit by providing Emission Reduction Credits as qualified under Rule 806, Emission Reduction Credits. The applicant subject to offsets shall comply with the requirements in Rule 804, Offsets.

**Table 3: Offset Thresholds**

Pollutant	Pounds/day	Tons/year
Carbon Monoxide – if designated nonattainment	150	25
Nonattainment pollutants and precursors (except carbon monoxide and PM <sub>2.5</sub> )	--	25
Attainment pollutants and precursors (except carbon monoxide and PM <sub>2.5</sub> )	240	--

**F. Requirements – Air Quality Impact Analysis Thresholds**

1. The applicant for any new or modified stationary source with a potential to emit of any pollutant or its precursors which is equal to or greater than any threshold shown in Table 4 shall submit an Air Quality Impact Analysis with their application. The Air Quality Impact Analysis shall be conducted pursuant to Rule 805, Air Quality Impact Analysis, Modeling, Monitoring, and Air Quality Increment Consumption, and shall demonstrate to the satisfaction of the Control Officer that the emissions will not cause a violation or interfere with the expeditious attainment or maintenance of any ambient air quality standard or prevent reasonable progress towards the expeditious attainment or maintenance of any ambient air quality standard or cause any ambient air quality increment to be exceeded. For the purposes of this section, "potential to emit" for modified stationary sources means the potential to emit from the project. In addition, the Control Officer may require an Air Quality Impact Analysis for any new or modified stationary source that the Control Officer has determined has the potential to cause or contribute to a violation of any ambient air quality standard or increment. This paragraph shall not require an Air Quality Impact Analysis for the assessment of the effects of ozone precursor emissions on ozone.

**Table 4: Air Quality Impact Analysis Thresholds**

Pollutant	Pounds/day	Tons/year
Particulate Matter	120	--
PM <sub>10</sub>	80	--
PM <sub>2.5</sub>	55	--
Carbon Monoxide	500	--
Nitrogen Oxides (as Nitrogen Dioxide)	120	--
Sulfur Oxides (as Sulfur Dioxide)	120	--
Reactive Organic Compounds (ROCs)	120	--
Lead	3.28	--
Asbestos	0.04	--
Beryllium	0.0022	--
Mercury	0.55	--
Vinyl Chloride	5.48	--
Fluorides	16.4	--
Sulfuric Acid Mist	38.4	--
Total Reduced Sulfur (including H <sub>2</sub> S)	54.8	--
Reduced sulfur compounds	54.8	--
Municipal waste combustor organics	--	0.0000035
Municipal waste combustor metals	--	15
Municipal waste combustor acid gases	--	40
All other attainment or nonattainment pollutants or precursors	120	--

- The applicant for a new or modified stationary source which has the potential to emit more than 20 pounds per hour of any attainment pollutant or total suspended particulates shall demonstrate to the satisfaction of the Control Officer through use of air quality models meeting the requirements of Rule 805, Section D.1 (Air Quality Models) and Rule 805, Section F (Requirements – Ambient Air Quality Standards and Air Quality Increments), that their emissions will not cause an ambient air quality standard or increment to be exceeded.

**G. Requirements – Air Quality Impact Analysis: Pre and Post-Construction Monitoring**

- The applicant for a new or modified stationary source which will have a potential to emit any attainment pollutant greater than a threshold shown in Table 5 shall conduct ambient air quality monitoring for at least one year before commencing construction.

The Control Officer may exempt new non-major stationary sources or modifications from this requirement if there is sufficient data to determine the effects that the emissions from the stationary source or modification may have on air quality in the area.

**Table 5: Attainment Pollutant Monitoring Thresholds**

Pollutant	Pounds/day
Particulate Matter	120
PM <sub>10</sub>	80
PM <sub>2.5</sub>	55
All other attainment pollutants	240

- The applicant shall conduct post-construction monitoring until the Control Officer determines the effects of emissions from the stationary source or modification.

3. All monitoring shall comply with Environmental Protection Agency guidelines (see 40 CFR 58) and other instructions of the Control Officer.

4. Protection of Class I Areas

The applicant for any new or modified stationary source shall conduct post-construction monitoring if all the following conditions are met:

- a. The source will be within a Class I or Class I impact area,
- b. The source will increase ambient pollutant concentration within the Class I area by one microgram per cubic meter (24 hour average), and
- c. The source has the potential to emit over 100 tons per year of any attainment pollutant.

#### **H. Requirements – Visibility, Soils, and Vegetation Analysis**

For a new or modified stationary source with a potential to emit any attainment pollutant over any threshold shown in Table 5, the applicant shall provide the Control Officer with an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and of general commercial, industrial, and other growth associated with the source or modification.

#### **I. Requirements – Administration**

1. Analysis, Notice and Reporting

The Control Officer shall comply with the following requirements for any new or modified stationary source with an emission increase of any air pollutant (or its precursors) which is equal to or greater than any threshold shown in Tables 3 and 4 of this rule.

- a. Make available for public inspection at the District's office the analysis of the effect of the source on air quality and the preliminary decision to grant or deny the Authority to Construct.
- b. Publish a notice once by advertisement in at least one newspaper of general circulation in the District, stating where the public may inspect the information on the preliminary decision to grant an Authority to Construct. The notice shall provide 30 days for the public to submit comments on the application, beginning on the date of publication.
- c. Notify the applicant, Air Resources Board, and adjoining air pollution control districts of the District's preliminary decision to grant the Authority to Construct. The notice will be provided in writing at the time of public notice. The Air Resources Board shall be provided an analysis support package for the determination.
- d. Consider all comments submitted. If within the 30-day notice period the Control Officer receives a written request from the Air Resources Board to defer his or her decision pending that agency's review of the application, the Control Officer shall defer any decision for a period of 30 days from the date of such request. The Control Officer shall take final action on the application after considering all written comments.
- e. The public notice will include notification of the opportunity for a public hearing and will indicate the anticipated degree of increment consumption. A public hearing may be called if sufficient interest is generated or if any aggrieved party so requests in writing within the 30-day comment period. All public hearings shall have a public notice issued at least 30 days prior to the hearing. After considering all comments, including those presented at any hearings held, the Control Officer will reach a decision and notify the applicant, Air

Resources Board, adjoining air pollution control districts, and any person who has made a written request to be notified of the final decision. The Control Officer's notification of the final decision may be made electronically.

2. Conditional Requirements for Authority to Construct

The Control Officer shall, as a condition for the issuance of an Authority to Construct for a new stationary source or modification and with the prior written consent of the applicant for any source which provides offsets:

- a. Require that the new source or modification and any sources which provide offsets be operated in the manner assumed in making the analysis. The permit shall, if applicable, include an emissions limitation which corresponds with the application of Best Available Control Technology or innovative control technology.
- b. Modify, or require modification of, the Authority to Construct and Permit to Operate for any source used to provide offsets to ensure that emission reductions at that source which provide offsets will be enforceable and maintained throughout the operation of the new or modified source which is the beneficiary of the offsets.
- c. Permit any enforceable methods, other than those described in sub-section b), which will assure that all required offsets are achieved and meet the requirements of Rule 804, Offsets.

3. Issuance of Permit to Operate

- a. The Control Officer shall issue a Permit to Operate if it is determined that:
  - 1) The new or modified stationary source will operate without emitting pollutants in violation of any applicable state, federal or local emission limitation or these Rules and Regulations; and
  - 2) The emissions of any pollutants from the new or modified stationary source are less than or equal to the emissions used by the Control Officer in granting an Authority to Construct; and
  - 3) The offsets required as a condition of the Authority to Construct will commence at the time of or prior to initial operations of the new source or modification, will be maintained throughout the operation of the new or modified source, and are enforceable. In the case of a new or modified source which will be, in whole or in part, a replacement for an existing source on the same property, the Control Officer may allow a maximum of ninety (90) days as a start-up period for simultaneous operation of the existing source and the new source or replacement; and
  - 4) All conditions specified in the Authority to Construct have been or will be complied with by any dates specified.

4. Denial of Authority to Construct

The Control Officer shall deny an Authority to Construct for any new stationary source or modification, or any portion thereof unless the new source or modification, or applicable portion thereof, complies with the provisions of this rule and all other applicable District Rules and Regulations.

5. Offset Exemption Tracking

The Control Officer shall prepare an annual report that lists all equipment units that have been exempted from offset requirements under the equipment replacement provisions in Section B.2. The report shall include a comparison of the emissions of the new equipment and the emissions of the replaced equipment. This report shall be made available to the public and the Air Resources Board.