

## REGULATION VI – NEW SOURCE SITING

### **Rule 6.1 Construction Permit Standards for Criteria Pollutants**

#### **A. General**

1. The Control Officer shall deny a permit to construct for any new stationary source or modification or any portion thereof, unless the applicant certifies that all other stationary sources in the state which are owned or operated by the applicant are in compliance or are on approved schedule for compliance, with all applicable emission limitations and standards under the Clean Air Act (42 USC 7401 et.seq.) and all applicable emission limitations and standards which are part of the State Implementation Plan approved by the Environmental Protection Agency.
2. The Control Officer shall deny a permit to construct for a new stationary source or modification with a net increase in emissions as specified in Section B.1. unless all district regulations contained in the State Implementation Plan approved by the Environmental Protection Agency are being carried out in accordance with that plan.

#### **B. Applicability and Exemptions**

1. Sections B., C., D., E., F., G., H., and I. shall apply to new stationary sources and modifications which result in either:
  - a. A net increase in emissions of 250 or more pounds during any day of any pollutant for which there is a national ambient air quality standard (excluding carbon monoxide), or any precursor of such a pollutant; or
  - b. A net increase in emissions of 2500 or more pounds of carbon monoxide during any day.
2. New sources and modifications shall be exempt from the requirement for offsets (Section E.), although BACT is still required providing the source:
  - a. 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.
  - b. Is exclusively a modification to convert from use of a gaseous fuel to a liquid fuel because of a demonstrable shortage of gaseous fuels, provided the applicant establishes to the satisfaction of the Control Officer that he/she has made his/her best efforts to obtain sufficient emissions offsets pursuant to Section E. of this rule, that such efforts had been unsuccessful as of the date the application was filed, and the applicant agrees to continue to seek the necessary emissions offsets until construction on the new stationary source or modification begins. This exemption shall only apply if, at the time the permit to operate was issued for the gas burning equipment, such equipment could have burned the liquid fuel without additional controls and been in compliance with all applicable district regulations.
  - c. Is portable sandblasting equipment used on a temporary basis within the district.
  - d. Is a cogeneration project, a project using refuse derived or biomass-derived fuels for energy generation, or a resource recovery project using municipal wastes, provided the applicant established by modeling that the new source or modification will not cause a

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violation or exacerbate an existing violation of any national ambient air quality standard at the point of maximum ground level impact, allowing for the subtraction of any natural background levels of particulate matter (non respirable size).

### C. Calculation of Emissions

1. In determining the emissions from a proposed new or modified stationary source estimates shall be based on maximum design capacity, permit limitations on the operation of the new source or modification, or source test data from identical equipment or estimates based upon a combination of these methods.
2. In determining emissions from an existing stationary source emissions shall be based on specific limiting permit conditions or source test data based upon normal operating conditions or a combination of these methods.
3. The net increase in emissions from new stationary sources and modifications which are not seasonal sources shall be determined using yearly emissions profiles. Yearly emissions profiles for an existing or proposed stationary source or modification shall be constructed by plotting the daily emissions from such source. A separate profile shall be constructed for each pollutant emitted.
4. The net increase in emissions from new stationary sources and modifications which are seasonal sources shall be determined using yearly and quarterly emissions profiles. A separate profile shall be constructed for each pollutant emitted.
5. When computing the net increase in emissions for modifications, the Control Officer shall take into account the cumulative net emissions changes (increases and reductions) which are represented by permits to construct associated with the existing stationary source and issued pursuant to this rule, excluding any emissions reductions required to comply with federal, state, or district laws, rules or regulations.

### D. Best Available Control Technology (BACT)

New stationary sources and modifications excluding cargo carriers, shall be constructed using best available control technology.

### E. Mitigation (Offsets)

For new stationary sources and modifications mitigation shall be required for net emissions increases (i.e. increases after the application of best available control technology):

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1. Of each pollutant for which a national ambient air quality standard was exceeded three discontinuous times (for annual standards, one time) within the district within the three years immediately preceding the date when the application for the permit to construct was filed and for all precursors of such pollutants provided, however, that mitigation of net emission increases of sulfur oxides, total suspended particulates or carbon monoxide shall not be required if the applicant demonstrates through modeling that emissions from the new source or modification will not cause a new violation of any national ambient air quality standard for such pollutants, or make any existing violation of any such standard worse, at the point of maximum ground level impact.
2. Net emissions increases subject to this section shall be mitigated (offset) by reduced emissions from existing stationary or non-stationary sources. Emissions reductions shall be sufficient to offset any net emissions increase and shall take effect at the times, or before initial operation, of the new source, or within 90 days after initial operation of a modification and shall continue as long as the new or modified source is operating.
3. Emissions offset profiles may be used to determine whether proposed offsets mitigate the net emissions increases from proposed new sources or modifications. For all offset sources, a yearly emissions offset profile shall be constructed in a manner similar to that used to construct the yearly emissions profile for the proposed new or modified source. A separate profile shall be constructed for each pollutant emitted. Seasonal offsets shall not be used to mitigate the emissions from non-seasonal sources.
4. A ratio of emissions offsets to emissions from the new source or modification (offset ratio) of 1.2:1 shall be required for emissions offsets located within a 15 mile radius of the proposed new source or modification and based upon emissions profiles.
5. For proposed emission offsets in which the offset ratio is from 1:1 to 1.2:1 the applicant shall conduct modeling to verify a net air quality benefit in the area affected by emissions from the new source or modification.
6. If an applicant certifies that the proposed new source or modification is a replacement for the applicant's pre existing source which was shut down or curtailed after February 16, 1979, emissions reductions associated with such shutdown or curtailment may be used as offsets for the proposed source, subject to the offset provision of this section.
7. Emissions reductions resulting from measures required by adopted federal, state, or district laws, rules or regulations shall not be allowed as emissions offsets unless a complete application incorporating such offsets was filed with the district prior to the date of adoption of the laws, rules or regulations.

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8. The Control Officer may allow emissions reductions which exceed those required by this rule for a new source or modification to be banked for use in the future by the applicant. Such reductions shall be used only to offset emissions increases from proposed new sources or modifications owned or operated by the applicant within 15 miles of the site where the reductions occurred.
9. Emissions reductions of one precursor (or primary pollutant) may be used to offset emission increases of another precursor of the same pollutant. The ratio of emission reductions for interpollutant offsets shall be determined by the Control Officer based on existing air quality data and subject to approval of the Air Resources Board.

### F. Permit Condition Requirements

The Control Officer shall place written conditions on the permits of the new stationary source or modification and the sources(s) used to provide offsets to ensure that all sources are operated in the manner assumed in making the analysis required to determine compliance with this rule. The permit shall include an emission limitation which corresponds with the application of BACT. In no event shall the emission rate reflected by the control technique or limitation exceed the amount allowable under applicable new source performance standards. If offsets are obtained from a source for which there is no permit to operate, a written contract shall be required between the applicant and the owner or operator of such source which contract, by its terms, shall be enforceable by the Control Officer.

### G. Analysis, Notice, and Reporting

Following acceptance of an application as complete, the Control Officer shall:

1. Perform the evaluations required to determine compliance with this rule and make a preliminary written decision as to whether a permit to construct should be approved, conditionally approved, or disapproved. The decision shall be supported by a succinct written analysis.
2. Within 10 calendar days following such decision, publish a notice by prominent advertisement in at least one newspaper of general circulation in the district stating the preliminary decision of the Control Officer and where the public may inspect the required information. The notice shall provide 30 days from the date of publication for the public to submit written comments on the preliminary decision.
3. At the time notice of the preliminary decision is published, make available for public inspection at the District Office the information submitted by the applicant, the Control Officer's supporting analysis for the preliminary decision, and the preliminary decision to grant or deny the permit to construct, including any proposed permit conditions, and the reasons there for.
4. No later than the date of publication of the notice, forward the analysis, the preliminary decision, and copies of the notice to the Air Resources Board and Regional Office of the Environmental Protection Agency.

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5. Consider all written comments submitted during the 30 day public comment period.
6. Provide written notice of the final action to the applicant, the Environmental Protection Agency, and the Air Resources Board once final action is taken within the time limits prescribed by Rule 2.4(C); and publish such notice in a newspaper of general circulation; and make the notice and all supporting documents available for public inspection at the District Office.

### H. Power Plants

All power plants proposed to be constructed in the district and for which a Notice of Intention (NOI) or Application for Certification (AFC) has been accepted by the California Energy Commission shall be evaluated in accordance with the ARB/CEC agreement adopted on January 23, 1979. The Control Officer, pursuant to Section 25538 of the Public Resources Code, may apply for reimbursement of all costs, including lost fees, incurred in order to comply with the provisions of this section.

### I. Severability

If any portion of this rule is found to be unenforceable, such finding shall have no effect on the enforceability of the remaining portions of the rule, which shall continue to be in full force and effect.

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