

RULE 220. FEDERAL PREVENTION OF SIGNIFICANT DETERIORATION

(Adopted 3/23/11)

A. 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processing requirements and procedures are those contained in District Rules 202 through 214 unless otherwise superseded by federal regulation.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.

B. 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 (hereinafter, 40 CFR) Part 52.21 as incorporated into this rule.

C. Incorporation by Reference

Except as provided below, the provisions of Title 40 of the Code of Federal Regulations (CFR) Part 52.21, in effect August 2, 2010 are incorporated herein by reference and made part of the Rules and Regulations of the San Luis Obispo Air Pollution Control District.

1. The following subsections of 40 CFR Part 52.21 are excluded: (a)(1), (b)(55-58), (f), (g), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z) and (cc).
2. The following definitions found in 40 CFR Part 52.21(b) are revised as follows:
 - a. The definition of "potential to emit" contained in 40 CFR, Part 52.21(b)(4), is revised so that the phrase "is federally enforceable" shall read "is federally enforceable or enforceable as a practical matter."
 - b. The definition of "allowable emissions" contained in 40 CFR, Part 52.21(b)(16), is revised so that:
 - 1) the phrase "unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both" shall read, "unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both."

- 2) paragraph (iii) shall read as follows: “The emissions rate specified as an enforceable permit condition, including those with a future compliance date.”
3. The following terms found in 40 CFR Part 52.21(b) are revised as follows:
 - a. The term “administrator” means:
 - 1) “federal administrator” in 40 C.F.R. 52.21(b)(17), (b)(37)(i), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (l)(2) and (p)(2); and
 - 2) “APCO or Control Officer” elsewhere, as defined in Rule 105, Definitions.
 - b. The phrase “paragraph (q) of this section” in 40 CFR 52.21(p)(1) and (p)(7) shall read as follows: the public notice and comment provisions of Rule 220, Section E below.

D. Requirements:

1. An owner or operator must obtain a prevention of significant deterioration (PSD) permit pursuant to this Rule before beginning actual construction of a new major stationary source, a major modification, or a PAL major modification, as defined in 40 CFR 52.21(b).
2. Notwithstanding the provisions of any other District Rule or Regulation, the APCO/Control Officer shall require compliance with this rule prior to issuing a federal Prevention of Significant Deterioration permit as required by Clean Air Act (CAA) Section 165.
3. The applicant shall pay the applicable fees specified in District Rule 301 Fees and Rule 302, Schedule of Fees.

E. Public Participation:

1. Prior to issuing a federal PSD permit pursuant to this rule and after receipt of a complete application, the APCO/Control Officer shall:
 - a. Make a preliminary determination whether construction should be approved with conditions or disapproved.
 - b. Make available in at least one location in San Luis Obispo County 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.

- c. Notify the public, by advertisement in a newspaper of general circulation in San Luis Obispo 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.
- d. 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.
- e. 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/Control Officer's judgment such a hearing is warranted.
- f. Consider all written comments that were submitted within 30 days after the notice of public comment is 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.
- g. Make a final determination whether construction should be approved with conditions or disapproved.
- h. 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.