

RULE 801. NEW SOURCE REVIEW – DEFINITIONS AND GENERAL REQUIREMENTS
(Adopted 4/17/1997, revised 8/25/2016)

A. Applicability

This rule and this Regulation shall apply to any applicant for a new or modified stationary source which emits or may emit any affected pollutant.

B. Exemptions

None

C. Definitions

See Rule 102, Definitions, for definitions not limited to this regulation. For the purposes of Regulation VIII, the following definitions shall apply:

“Enforceable” means the emission reductions are capable of being legally and practically enforced by the District, including through either the SIP or inclusion of conditions on an Authority to Construct, Permit to Operate, Determination of Issuance, or Emission Reduction Credit certificate, or a legally binding written contract executed with the District.

“Federal Land Manager” means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

“Net Air Quality Benefit” means a net improvement in air quality resulting from actual emission reductions impacting the same general area affected by the new or modified source and which will be consistent with reasonable further progress.

“Permanent” means reductions that will endure and are otherwise creditable for the entire term of the proposed use of the emission reduction credit. Permanence is generally assured by requiring federally enforceable changes in federally enforceable permits, regulations in the applicable State Implementation Plan, or some other federally enforceable instrument.

“Project” means any article, machine, equipment or contrivance belonging to the same emission unit at a stationary source and applied for in one or more applications for an Authority to Construct permit. Project shall not include any article, machine, equipment or contrivance described in any application for an Authority to Construct permit submitted more than 12 months after issuance of the Permit to Operate. Notwithstanding the above, Project shall include any application to increase permitted emissions due primarily to an increase in throughput or usage not associated with any new or modified article, machine, equipment or contrivance, regardless of the time between permit applications.

“Quantifiable” means emission reductions (and increases) for which both the amount and the character can be determined. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process or production inputs, modeling, or other reasonable measurement practices. The quantification methods "shall be credible, workable, and replicable." "Replicable" refers to "methods which are sufficiently unambiguous such that the same or equivalent results would be obtained by the application of the method by difference users." The same method for calculating emissions should be used to measure the emissions both before and after the changes in emission levels, both at the generator and at the user of the Emission Reduction Credits. Quantification must be based on the actual emissions from the source prior to the reduction.

“Real” means an emission reduction where actual air emissions are reduced and not artificially devised.

“Surplus” means emission reductions not required by current regulations in the State Implementation Plan, not already relied upon for State Implementation Plan planning purposes; and not used by the source to meet any other regulatory requirement, including, at the Emission Reduction Credits time of use, Reasonable Available Control Technology, Best Available Retrofit Control Technology, Reasonable Further Progress or milestones therefor, or demonstration of attainment.

D. Requirements – General

1. Regulations in Force Govern

The granting or denial of an Authority to Construct shall be governed by the requirements of this regulation in force on the date the application is deemed complete. In addition, the Air Pollution Control Officer shall deny any Authority to Construct for any new stationary source or modification, or any portion thereof, unless:

- a. The new source or modification, or applicable portion thereof, complies with the provisions of this rule and all other applicable District rules and regulations; and
- b. The applicant for the proposed new or modified source has demonstrated that all major stationary sources owned or operated by such person, or by any entity controlling, controlled by, or under common control with such person, in California and all stationary sources in the air basin which are subject to emission limitations are in compliance, or on a 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. Denial, Failure to Meet Standards

The Control Officer shall deny any Authority to Construct or Permit to Operate if the Control Officer finds that the subject of the application would not comply with the standards set forth in this Regulation.

3. Certification Statement

Any application for an Authority to Construct any new stationary source or modification, or portion thereof, shall certify, at the time of application, that all major stationary sources in the State and all stationary sources in the air basin which are owned or operated by the applicant, or by an entity controlling, controlled by, or under common control with 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. The Control Officer may request any necessary information from the applicant to make this determination.

4. State Ambient Air Quality Standards

All references in this Regulation to national ambient air quality standards shall be interpreted to include State ambient air quality standards. While State standards are to be considered in the application evaluation mentioned, they are not meant to be part of the State Implementation Plan.

E. Requirements – Conditions of Granting Permits

1. The Control Officer shall deny an Authority to Construct or Permit to Operate unless the applicant demonstrates that the source will be operated consistent with the application, the supplements and clarifications provided by the applicant, and the engineering evaluation used in making the analysis for compliance with the Rules and Regulations.
2. The Control Officer shall not issue a Permit to Operate unless it is determined that:
 - a. The new or modified stationary source will operate without emitting pollutants in violation of any applicable state, federal or local emission limitations or these Rules and Regulations; and
 - b. The emissions of any pollutants from the new or modified stationary source are less than or equal to the emissions contained in the application, the supplements and clarifications provided by the applicant, and the engineering evaluation used by the Control Officer in granting an Authority to Construct; and
 - c. The offsets required as a condition of the Authority to Construct will commence at the time or prior to initial operations of the new source or modification, and that the offsets will be maintained throughout the operation of the new or modified source. 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
 - d. All conditions specified in the Authority to Construct have been or will be complied with by any dates specified.

F. Requirements – Compliance with All Regulatory Requirements

Issuance of any Authority to Construct or Permit to Operate under this regulation does not relieve the applicant from complying with any applicable local, state or federal regulation.