

**RULE 809. FEDERAL MINOR SOURCE NEW SOURCE REVIEW**  
(Adopted 8/25/2016)

**A. Applicability**

This rule applies to any new or modified stationary source that emits an air pollutant (or its precursors) subject to any national ambient air quality standard, and the source is not a new major stationary source or a major modified stationary source.

**B. Exemptions**

Equipment that qualifies as exempt under Rule 202, Exemptions to Rule 201, is exempt from this rule.

**C. Definitions**

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

**“National Ambient Air Quality Standard”** means any federal ambient air quality standard promulgated by the Environmental Protection Agency.

**“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.

**D. Requirements – Authority to Construct and Permit to Operate**

Any person building, erecting, altering, replacing, or using any article, machine, equipment or other contrivance, the use of which may cause the issuance of any air pollutant (or its precursors) subject to any national ambient air quality standard or the use of which may eliminate or reduce or control the issuance of such pollutant (or its precursors), shall first obtain an Authority to Construct for such construction and a Permit to Operate for the subsequent operation from the Control Officer. An Authority to Construct issued to a source shall remain in effect until the Permit to Operate for the project for which the application was filed is granted or denied or the application expires. Interim operations may be allowed under the provisions of the Authority to Construct permit.

**E. Requirements – Air Quality Impact Analysis**

**1. Thresholds**

The applicant for any new or modified stationary source with a potential to emit of any air pollutant (or its precursors) which is equal to or greater than any threshold shown in Table 1 shall submit an Air Quality Impact Analysis (AQIA) with their application. The Air Quality Impact Analysis shall be conducted pursuant to Subsection E.2 and must 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 national ambient air quality standard or prevent reasonable progress towards the expeditious attainment or maintenance of any national ambient air quality standard. 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 national ambient air

quality standard. This paragraph shall not require an Air Quality Impact Analysis for the assessment of the effects of ozone precursor emissions on ozone.

**Table 1 – Air Quality Impact Analysis Thresholds**

Pollutant	Pounds/day
Nitrogen Oxides (as Nitrogen Dioxide)	120
Sulfur Oxides (as Sulfur Dioxide)	120
PM <sub>10</sub>	80
PM <sub>2.5</sub>	55
Carbon Monoxide	500
Lead	3.28

2. Air Quality Models

All air quality models shall be consistent with the requirements provided in the most recent "Guideline on Air Quality Models" prepared by the Environmental Protection Agency (Appendix W to 40 CFR Part 51) unless the Control Officer finds that such a model is inappropriate for use. After making such finding, the Control Officer may designate an alternate model only after allowing for public comment and only with concurrence of the California Air Resources Board and the Environmental Protection Agency.

3. Requirements – Effective Stack Height

For the purposes of determining effective stack height, the influence of a nearby structure is limited to five times its height or width, whichever is less, downwind. In meeting the requirements of this rule pertaining to compliance with applicable ambient air quality standards or increments, the degree of emission limitation required shall not be affected by:

- a. So much of the stack height of any source as exceeds good engineering practice, or
- b. Any other dispersion technique.

**F. Requirements – Standards for Granting Applications**

- 1. No Authority to Construct or Permit to Operate shall be issued for any project subject to this rule unless the Control Officer has made a determination that the project will comply with all applicable State Implementation Plan (SIP) requirements.
- 2. No Authority to Construct or Permit to Operate shall be issued for any project subject to this rule unless the Control Officer has made a determination that the new or modified stationary source will not interfere with the District's ability (or any neighboring district's or state's ability) to attain or maintain all national ambient air quality standards.
- 3. Before an Authority to Construct or a Permit to Operate is granted, the Control Officer may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air pollutants discharged into the atmosphere from the article, machine, equipment or other contrivance described in the Authority to Construct or Permit to Operate. The platform and access for sampling shall be constructed in accordance with the General Industry Safety Orders of the State of California.
- 4. The Control Officer may issue an Authority to Construct or Permit to Operate to any new or modified stationary source for which a permit is required, subject to specified written conditions. Such conditions are for the purpose of ensuring that construction and operation of the source complies with all applicable local, state, and federal air quality laws, rules, and regulations.

Commencing construction or operation under such an Authority to Construct or Permit to Operate shall be deemed acceptance of all the specified conditions. Failure to comply with any condition specified pursuant to the provisions of this rule shall be a violation of this rule.

5. The Control Officer may issue a new Permit to Operate with revised conditions upon receipt of an application which modifies the project in such a manner to ensure that the source can operate in compliance with all applicable local, state, and federal air quality laws, rules and regulations.
6. No Authority to Construct or Permit to Operate shall be issued for any project subject to this rule unless the Control Officer has complied with the Public Notice Requirements specified in Section G of this rule.

#### **G. Requirements – Analysis and Public Notice**

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 Table 1.

1. 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.
2. 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.
3. Notify the applicant, Environmental Protection Agency, 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 Environmental Protection Agency and the Air Resources Board shall be provided an analysis support package for the determination.
4. Consider all comments submitted. If within the 30-day notice period the Control Officer receives a written request from the Environmental Protection Agency or the Air Resources Board to defer his or her decision pending the requesting 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.
5. The public notice will include notification of the opportunity for a public hearing. A public hearing may be called if sufficient interest is generated 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, Environmental Protection Agency, Air Resources Board, adjoining air pollution control districts, and any person who provided comments or 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.

#### **H. Denial of Permit**

The Control Officer shall notify the applicant in writing if the Authority to Construct or Permit to Operate is denied. This notification shall include the reasons why the application was denied.

**I. Requirements – Records**

All owners or operators subject to this rule shall maintain records that are required by the District to verify compliance. The required records shall be specified in the Authority to Construct and Permit to Operate. Such records shall be retained for a period of 3 years from the date of entry.

**J. Requirements – Compliance with All Regulatory Requirements**

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

If an existing previously permitted stationary source will become a major stationary source solely due to a relaxation of a permit limitation on the capacity of the stationary source to emit an air contaminant, such as a limit on emissions, hours of operation, process rates or fuel use, the stationary source shall be considered a new major stationary source and the requirements of Rule 810, Federal Prevention of Significant Deterioration (PSD), shall apply as if construction of the stationary source had not yet commenced.

**K. Expiration of Authority to Construct**

If unused, an Authority to Construct shall automatically expire one year from the date of issuance.