

Regulation I

Rule 103 – Actions on Applications, Required Testing and Environmental Assessment

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RULE 103
ACTION ON APPLICATIONS, REQUIRED TESTING
AND ENVIRONMENTAL ASSESSMENTS

- A. ACCESS TO SOURCE TESTING LOCATIONS:** Before an Authority to Construct or Permit to Operate is granted, the APCO 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 or air contaminants discharged into the atmosphere from the article, machine, equipment or other contrivance described in the Authority to Construct or Permit to Operate. In the event of such a requirement, the APCO shall notify the applicant in writing of the required size, number, and location of sampling holes; the size and location of the sampling platform; the access to the sampling platform, and the utilities for operating the sampling and testing equipment. The platform and access shall be constructed in accordance with the General Industry Safety Orders of the State of California.
- B. AUTHORITY TO CONSTRUCT PERMIT DENIAL(S):** In acting upon an Authority to Construct Permit application, if the APCO determines that the application does not demonstrate the article, machine, equipment or other contrivance cannot be constructed so as to comply with these Rules and Regulations, State and Federal laws, the APCO shall deny the request for an Authority to Construct Permit in writing and shall specify the basis for the denial. The applicant may withdraw an Authority to Construct Permit application at any time, provided however, no refund of fees paid to the date of the withdrawal shall be allowed.
- C. PERMIT TO OPERATE DENIAL(S):** In acting upon a Permit to Operate application, if the APCO determines that the article, machine, equipment or other contrivance either cannot or has not been constructed in accordance with the Authority to Construct Permit, the APCO shall deny the Permit to Operate. The APCO shall not accept any further application for a permit to operate the article, machine, equipment or other contrivance so constructed until the APCO determines that the article, machine, equipment or other contrivance has been reconstructed in accordance with the Authority to Construct, or is satisfied that the device can be operated in accordance with District Rules.
- D. APPLICANT'S RESPONSIBILITY:** The fact that an Authority to Construct Permit or a Permit to Operate for an article, machine, equipment or other contrivance described therein shall have been issued by the APCO, shall not be construed as an implied or actual endorsement of such article, machine, or other contrivance, nor shall it be deemed or construed to be a warranty, guarantee or representation on the part of the APCO or the District that emission standards may not be exceeded by such article, machine, equipment or other contrivance. In every instance, the person, firm or corporation to whom such authorization or permit is issued shall be, and remain, responsible under these Regulations for each and every instance wherein emission standards are exceeded by the article, machine, equipment or other contrivance described in the permit, and the fact of issuance or authorization shall not be a defense to, or mitigation of, any charge of violation.

- E. CONDITIONAL APPROVAL:** The APCO may issue an Authority to Construct Permit or a Permit to Operate subject to conditions which will bring the operation of any article, machine, equipment, or other contrivance within the permit standards of these Rules and Regulations, in which case the conditions shall be specified in writing. Commencing work under such an Authority to Construct, or operation under such a Permit to Operate, shall be deemed acceptance of all the conditions so specified. The APCO shall issue an Authority to Construct or a Permit to Operate with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment or other contrivance can operate within the permit standards under the revised conditions.
- F. REQUIRED INFORMATION:** Before acting on an application for an Authority to Construct Permit or Permit to Operate, the APCO may require the applicant to furnish information or further plans or specifications. In accordance with H&SC 42303, the APCO may, at any time, require from any source which, in the opinion of the APCO, has the potential to emit any air contaminants, such information, analysis, plans or specifications which will disclose the nature, extent, quality or degree of air contaminants which are or may be discharged into the atmosphere.
- G. PRELIMINARY DETERMINATIONS:** In acting upon an application for an Authority to Construct Permit, the Control Officer shall make the following determinations:
1. Whether the project application is ministerial, categorically exempt, or subject to an environmental evaluation in accordance with the requirements of the California Environmental Quality Act of 1970;
 2. Whether the project application is subject to the New Source Review (NSR) Procedures;
 3. Whether the project is subject to the New Power Plant Preview (NPPP) Procedures;
 4. Whether the project application is subject to the requirements of Federal New Source Performance Standards (NSPS)
 5. Whether the project application is subject to National Emission Standards for Hazardous Air Pollutants (NESHAPS); and
 6. Whether the project is classified as a major stationary source or major modification under the provisions of the Code of Federal Regulations 52.21 and subject to all applicable Prevention of Significant Deterioration (PSD) Review Requirements.
- H. ACTION ON APPLICATIONS:** Unless the APCO has notified the applicant of a Authority to Construct Permit or Permit to Operate in writing that such application is under further consideration or that additional information is necessary to determine the application is complete, the APCO shall either grant or deny the application for permit within thirty (30) days after applicant furnishes further information, plans, and specifications requested by the APCO. Within thirty (30) days after the first day on which the application is denied, the applicant may appeal pursuant to the procedures set forth in Section I below of this Rule.

1. **Public Notice:** In acting upon any application for an Authority to Construct Permit involving indirect sources, or new or modified stationary sources of air contaminants subject to the requirements of Rule 110 (New Source Review and Prevention of Significant Deterioration), the APCO shall provide for public notice in accordance with the provisions of Rule 110.
 2. **Administrative Requirements:** The APCO shall grant an Authority to Construct Permit only after the APCO has determined that the new or modified stationary source of air contaminants:
 - a. Will cause the article, machine, equipment or other contrivance, so constructed or modified, to operate within all applicable District Rules and Regulations, and State and Federal laws pertaining to the emission of air contaminants; and
 - b. Will not prevent the attainment, interfere with the maintenance, or cause a violation, of any State or National Ambient Air Quality Standard and will not interfere with the control strategy contained in the State of California Air Quality Implementation Plan (SIP); and
 - c. Has complied with all applicable requirements of 40 CFR 52.21 and will not cause deterioration of existing air quality in excess of the maximum allowable PSD increments; and
 - d. Will not result in air contaminant emissions in the excess of the allowable standards established by the Environmental Protection Agency for new stationary sources subject to National Emission Standards for Hazardous Air Pollutants, and employs Best Available Control Technology, (BACT), for each air contaminant for which the significance level is exceeded and which is the more restrictive conditioner; and provides adequate facilities for sampling, emissions monitoring, and reporting procedures as specified by the APCO; and
 - e. Provides adequate facilities for sampling, emission monitoring, and reporting procedures as specified by the APCO.
 3. **Denial of Application:** The APCO shall deny an application for an Authority to Construct for any new or modified stationary source of air contaminants which does not meet the requirements specified in these Rules and Regulations. In the event of such denial the APCO shall notify the applicant in writing of the reasons thereof. Service of this notification may be made in person or by mail, addressed to the applicant on the addressee set forth on the application, and such service may be proved by the written acknowledgment of the person(s) served or affidavit of the person(s) making the service. The APCO shall not accept a further application unless the applicant has satisfied the requirements which were the basis for denial of Authority to Construct.
 4. **Temporary Permit to Operate:** Upon completion of construction or modification of and before operating or using of any new or modified stationary source of air contaminants for which an Authority to Construct Permit has been issued pursuant to the provisions of this Chapter, the Authority to Construct or modify shall serve as a Temporary Permit for Operation of the equipment until the Permit to Operate is granted or denied, or a period not to exceed thirty (30) days provided, however the APCO may extend the temporary operating period for good cause shown for an additional thirty (30) days.
- I. **STATE IMPLEMENTATION PLAN:** The APCO may issue an Authority to Construct for a new stationary source or modification which is subject to Rule 110 of this Regulation only if all North Coast Unified Air Quality Management District Rules and Regulations contained in the State Implementation Plan approved by the United States Environmental Protection Agency, are being carried out in accordance with that plan.

- J. APPEALS:** Within ten (10) days after serviced of notice by the APCO of denial or conditional approval of an Authority to Construct Permit or a Permit to Operate, the applicant may petition the District Hearing Board, in writing, pursuant to the provisions of Regulation VI of these Rules and Regulations, for a Public Hearing. The District Hearing Board, after notice and a public hearing held within thirty (30) days after filing of the petition, may order the action of the APCO sustained or reversed. Such order may be made subject to specified conditions as the Hearing Board so determines is necessary or appropriate. Any such order by the Hearing Board shall include the basis for the Hearing Board's action. Any applicant filing an appeal pursuant to this Rule shall pay the filing fee specified for petitions submitted before the Hearing Board.
- K. ENVIRONMENTAL ASSESSMENT:** if the APCO determines that a permit application is for a project or a portion of a project for which another public agency has already acted as the lead in compliance with the California Environmental Quality Act of 1970 (CEQA) and CEQA compliance has not yet been completed, no further processing of environmental documents shall be required by the APCO. The APCO shall then follow the procedure set forth in Appendix A to these Rules and Regulations.

If the APCO determines that the permit application is for a project which does not fall within the above paragraph, and the APCO determines that the project is ministerial, categorically exempt or will have no significant effect on the environment, the project shall be exempt from the requirements of CEQA. If the APCO determines that such project is not ministerial, is not categorically exempt but that it may have a significant effect on the environment, the Procedures for the Environmental Impact Review as found in Appendix A to this Regulation, shall be followed. Other project reviews performed by the APCO may proceed concurrently with a detailed environmental assessment, but no Authority to Construct permit may be issued by the APCO until completion and filing of the Notice of Determination.

- L. CONTINUOUS RECORDING INSTRUMENTS:** As a condition of an Authority to Construct Permit and/or a Permit to Operate, the APCO may require that the owner or operator of the permitted equipment provide, install, collaborate, maintain, and operate continuous recording instrument(s) to measure emission rates to the atmosphere and/or to measure air contaminant concentrations at specific emission points or at locations adjacent to the plant property line. The APCO shall forego the requirements of this subsection if the application demonstrates to the satisfaction of the APCO that there is no reasonable achievable technology available to accomplish the monitoring requirements.
- 1. Permit Conditions:** The permit conditions may, in addition, require:
 - a.** That the measuring instruments meet minimum standards of measurement accuracy, calibration procedure and calibration frequency.
 - b.** That the recording section of such measuring instruments shall be installed in a location subject to frequent operator surveillance or be equipped with suitable alarm devices.
 - 2.** The information recorded shall be summarized and reported to the APCO in the manner and form as approved by the APCO.
 - 3.** Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures and will be available to the public during normal business hours at the District Office, or submitted to the EPA or CARB, upon request.

4. Monitoring records shall be retained by the owner for a period of not less than two years.
5. District personnel may inspect and confirm calibration of measuring instruments, as necessary.
6. Any violation of an emission standard, Ambient Air Quality Standard, or breakdown of emission measuring instruments, is to be reported to the APCO in accordance with the provisions of Rule 105(D), Equipment Breakdown.

M. MANDATORY MONITORING REQUIREMENTS: Notwithstanding other monitoring requirements set out by the APCO, monitoring instruments shall be provided, installed, calibrated, maintained and continuously operated by the owner and operators of the following stationary source categories to measure air containment emissions or opacity from sources for which there is an applicable federal, state, or District emission standard.

1. Fossil-fuel fired steam generators with a heat input of 250 million British Thermal Units (63 million kilogram calories) or more per hour with a use factor of at least 30% per year for:
 - a. Oxides of nitrogen,
 - b. Carbon dioxide or oxygen,
 - c. Opacity, except where gaseous fuel is the only fuel burned, or where oil or a mixture of gas and oil is the only fuel, and
 - d. Sulfur Dioxide, if control equipment is used.
2. All sulfur recovery plants and sulfuric acid plants for sulfur dioxide.
3. Nitric Acid Plants:
 - a. For oxides of nitrogen emissions.
4. CO boilers of regenerators of fluid catalytic cracking units, and CO boilers of fluid cookers if the feed rate is greater than 10,000 barrels (1,500,000 liters) per day for:
 - a. Sulfur dioxide, and
 - b. Opacity.
5. Kraft Pulp Mills for Total Reduced Sulfur (TRS) from Kraft recovery furnaces and lime kilns.
6. All monitoring calibrations, reporting requirements and specifications shall be in accordance with the requirements of Appendix B of the Regulation.