

41.0 REGULATION FOR THE REVIEW OF NEW SOURCES

41.1 General

This regulation applies to any new or modified stationary source that has the potential to emit greater than twenty-five tons per year of any pollutant for which a National Ambient Air Quality Standard has been promulgated which has not commenced construction or modifications prior to June 1, 1975. A source which is modified but does not increase the amount of pollutants shall not be subject to this regulation. This regulation also applies to any new or modified stationary source that has actual lead emissions greater than five tons per year.

41.2 Limitation Conditions on Construction or Modification

No owner or operator shall commence construction or modification of a source subject to this regulation unless the Director determines that, on the basis of information submitted pursuant to Section 41.3 of this regulation:

- A. The effect on air quality concentrations of the new source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments given in Table V. In no case shall a new or modified source be allowed to add an increment which would result in violation of a National Ambient Air Quality Standard.

TABLE V

ALLOWABLE POLLUTANT INCREASES OVER 1974 BASELINE

AIR QUALITY CONCENTRATIONS

POLLUTANT	INCREMENT
PARTICULATE MATTER:	
Annual geometric mean	19 ug/m ³
24-hour maximum	37 ug/m ³
SULFUR DIOXIDE:	
Annual arithmetic mean	20 ug/m ³
24-hour maximum	91 ug/m ³
3-hour maximum	512 ug/m ³

- B. The new or modified source will meet an emission limit, to be specified by the Director as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology. If the Director determines that the imposition of an emission standard is infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology.

41.3 Pre-Construction Requirements

In making the determinations required by Section 41.2 of this regulation, the department shall, as a minimum, require the owner or operator of the source subject to this regulation to submit: site information, plans, descriptions, specifications, and drawings showing the design of the sources; information necessary to determine the impact the construction or modification will have on air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the department, the owner or operator of the source shall also provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the department) since the effective date of this regulation, if such information is not available from other local sources.

41.4 Application for Construction Permit

- A. Within twenty days after receipt of an application to construct, or any addition to such application, the department shall advise the owner or operator of any deficiency in the information submitted in support of the application.
- B. Within thirty days after receipt of a complete application, the Director shall:
 - 1. Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.
 - 2. Make available in the department offices a copy of all materials submitted by the owner or operator, a copy of the Director's preliminary determination, and a copy or summary of other materials, if any, considered by the Director in making his preliminary determination.
 - 3. Notify the public by prominent advertisement in the newspaper of general circulation in the county of the opportunity for written public comment on the information submitted by the owner or operator and the Director's preliminary determination on the approvability of the source.
- C. A copy of the notice required pursuant to this paragraph shall be sent to the applicant and to officials and agencies having an interest in the location of such a new source.
- D. Public comments submitted in writing within thirty days after the date such information is made available shall be considered by the Director in making his final decision on the application. No later than ten days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Director shall consider the applicants' response in making his final decision. All comments shall be made available for public inspection in the department offices.
- E. The Director shall take final action on an application within thirty days after the close of the public comment period. The Director shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for inspection in the department offices.

F. The Director may extend each of the time periods specified in this paragraph as agreed to by the applicant and the Director.

41.5 Construction or Modification Invalidation

Approval to construct or modify shall become invalid if construction or expansion is not commenced within twelve months after receipt of such approval or if construction is discontinued for a period of twelve months or more. The Director may extend such time period upon a satisfactory showing that an extension is justified.

41.6 Disclaimer

Approval by the department to construct or modify shall not relieve any owner or operator of the responsibility to comply with all other applicable local, State, and Federal regulations.

THIS IS THE FEDERALLY APPROVED REGULATION AS OF AUGUST 3, 1989

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