

State of California

AIR RESOURCES BOARD

Resolution 76-39

October 8, 1976

WHEREAS, the federal Clean Air Act (§ 110) and Environmental Protection Agency regulations adopted pursuant thereto (40 CFR 51.12(b)) require that State Implementation Plans contain rules and regulations which prohibit the construction of a new emission source, or a modification to an existing source, where the same will interfere with or prevent the attainment or maintenance of a national air quality standard;

WHEREAS, Health and Safety Code §§ 40001 and 41507 require districts to adopt, as part of the State Implementation Plan required by § 110 of the Clean Air Act, rules and regulations which endeavor to achieve and maintain the national standards, and authorize the Board to order revision of district rules and regulations where necessary to that end;

WHEREAS, Health and Safety Code § 42301 requires that district permit systems prohibit the issuance of a permit for the construction, alteration, use or operation of any emission source where the same will prevent or interfere with the attainment or maintenance of any applicable air quality standard;

WHEREAS, the Board is empowered by Health and Safety Code §§ 41500, 41502 and 41504 to review the rules and regulations of a district to determine whether they make reasonable provision to achieve and maintain state air quality standards and, after a public hearing, establish rules and regulations for a district which so provide if the district has not established such rules and regulations;

WHEREAS, the Board adopted on October 28, 1975 suggested new source review rules which meet the aforesaid state and federal mandates, and by letter dated November 26, 1975, requested the Southern California Air Pollution Control District to adopt the suggested new source review rules or equivalent rules;

WHEREAS, the Board finds that the Southern California Air Pollution Control District has not adopted new source review rules or regulations which adequately require the denial of a permit for the construction, alteration, use or operation of emission sources which will prevent or interfere with the attainment or maintenance of the state ambient air quality standards;

WHEREAS, the Board finds that without new source review rules substantially equivalent to those proposed for adoption by the staff of the Board, the rules and regulations of the Southern California Air Pollution Control District do not make reasonable provision to achieve and maintain the state ambient air quality standards;

WHEREAS, the Board finds that the Southern California Air Pollution Control District has failed to adopt new source review rules which meet the aforesaid federal requirements for State Implementation Plans; and

WHEREAS, the Board had conducted a public hearing and given notice thereof in accordance with all requirements of federal and state law;

NOW, THEREFORE, BE IT RESOLVED, that the Board amends the rules and regulations of the Southern California Air Pollution Control District by adopting therein Rules 213, 213.1 and 213.2, as amended;

BE IT FURTHER RESOLVED, that the aforesaid Rules 213, 213.1 and 213.2 as amended shall become effective immediately; and

BE IT FURTHER RESOLVED, that the aforesaid Rules 213, 213.1 and 213.2 as amended shall apply to any subject application for a permit filed with the District, but not finally ruled upon, prior to the aforesaid effective date.

BE IT FURTHER RESOLVED, that the staff of the Board, together with the staff of the District, monitor the implementation of said Rules, and report to the Board the effects on air quality, employment and business in the District by November 1, 1977.

BE IT FURTHER RESOLVED, that Rules 213, 213.1 and 213.2 as amended may not be amended except by the Board, or by the District provided that the Executive Officer finds that any amendment thereto made by the District does not impair the effectiveness or stringency of these rules.

SOUTHERN CALIFORNIA AIR POLLUTION CONTROL DISTRICT

NEW SOURCE REVIEW RULES

RULE 213. Standards for Permits to Construct: Air Quality Impact

(a) General:

The Air Pollution Control Officer shall deny a permit to construct for any unit or units of a stationary source that fail to meet the applicable requirements of subsection (b) or (c) of this Rule.

(b) Best Available Control Technology:

1. New Stationary Sources:

The Air Pollution Control Officer shall deny a permit to construct for any unit or units constituting a new stationary source if such source will emit more than 15 pounds per hour or 150 pounds per day of nitrogen oxides, organic gases, or any contaminant for which there is a state or national ambient air quality standard (except carbon monoxide, for which the limits are 150 pounds per hour and 1500 pounds per day) unless the applicant shows that the new source is constructed using best available control technology.

2. Modifications to Existing Stationary Sources:

The Air Pollution Control Officer shall deny a permit to construct for any modification of any existing stationary source if such source after modification will emit more than 15 pounds per hour or more than 150 pounds per day of nitrogen oxides,

organic gases, or any air contaminant for which there is a state or national ambient air quality standard (except carbon monoxide, for which the limits are 150 pounds per hour and 1500 pounds per day), unless the applicant demonstrates that the modification of the existing stationary source will be constructed using best available control technology, and:

- A. That the modification would not result in a net increase in emissions of any pollutant affected by this Rule; or
- B. That best available control technology is being, or is to be, applied to all existing units of the stationary source; or
- C. That emissions from all of the existing units of the stationary source are controlled by use of technology that is at least as effective as that generally in use on similar stationary sources, and that the cost of installing best available control technology on existing units is economically prohibitive and substantially exceeds the cost per unit mass of controlling emissions of each pollutant through all other control measures; or
- D. That the stationary source is a small business, as defined in subsection (1) of Section 1896 of Title 2 of the California Administrative Code; that emissions from all existing units of the stationary source are controlled through application of the best technology that is economically

organic gases, or any air contaminant for which there is a state or national ambient air quality standard (except carbon monoxide, for which the limits are 150 pounds per hour and 1500 pounds per day), unless the applicant demonstrates that the modification of the existing stationary source will be constructed using best available control technology, and:

- A. That the modification would not result in a net increase in emissions of any pollutant affected by this Rule; or
- B. That best available control technology is being, or is to be, applied to all existing units of the stationary source; or
- C. That emissions from all of the existing units of the stationary source are controlled by use of technology that is at least as effective as that generally in use on similar stationary sources, and that the cost of installing best available control technology on existing units is economically prohibitive and substantially exceeds the cost per unit mass of controlling emissions of each pollutant through all other control measures; or
- D. That the stationary source is a small business, as defined in subsection (1) of Section 1896 of Title 2 of the California Administrative Code; that emissions from all existing units of the stationary source are controlled through application of the best technology that is economically

reasonable to apply to that stationary source; and that the cost of employing best available control technology is economically prohibitive.

(c) Air Quality Impact Analysis:

1. New Stationary Sources:

The Air Pollution Control Officer shall deny a permit to construct for any unit or units constituting a new stationary source if such source will emit more than 25 pounds per hour or 250 pounds per day of nitrogen oxides, organic gases, or any air contaminant for which there is a state or national ambient air quality standard (except carbon monoxide, for which the limits are 250 pounds per hour and 2500 pounds per day), or which is a precursor of any such air contaminant, unless he determines that the emissions from the new source will not cause a violation of, or will not interfere with the attainment or maintenance of, the state or national ambient air quality standard for that same contaminant (or, in the case of a precursor, for the contaminant to which the precursor contributes).

2. Modifications to Existing Stationary Sources:

The Air Pollution Control Officer shall deny a permit to construct for any modification of any existing stationary source if the modification will result in a net increase in emissions from the existing source of more than 25 pounds per hour or 250 pounds per day of nitrogen oxides, organic gases, or any air contaminant for which there is a state or national ambient air quality standard (except carbon monoxide, for which the limits are 250 pounds per hour and 2500 pounds per day), or which is a precursor of any such air contaminant, unless he

determines that the emissions from the modified source will not cause a violation of, or will not interfere with the attainment or maintenance of, the state or national ambient air quality standard for that same contaminant, (or in the case of a precursor, for that contaminant to which the precursor contributes).

(d) Determination of Emission Increases:

In determining under subsection (b) 2. A. and subsection (c) 2. whether there has been a net increase in emissions and, if so, the amount of any such increase, the Air Pollution Control Officer shall consider all increases and decreases of emissions caused by modifications to that stationary source pursuant to permits to construct issued during the preceding five years, or since the adoption of this Rule, whichever period is shorter. Emission reductions required to comply with federal, state, or district laws, emission limitations, or rules or regulations shall not be considered to be decreases in emissions for the purposes of this subsection.

(e) Consideration of Future Emission Reductions:

In making the analysis required in subsection (h) 2., the Air Pollution Control Officer shall take into consideration the air quality impact of any reduction in the emissions of the same air contaminant which results from the elimination or modification of other existing stationary sources under the same ownership and operating within the same air basin. If reductions are to be based on planned elimination or modification of any stationary sources, the Air Pollution Control Officer shall condition the permit to

determines that the emissions from the modified source will not cause a violation of, or will not interfere with the attainment or maintenance of, the state or national ambient air quality standard for that same contaminant, (or in the case of a precursor, for that contaminant to which the precursor contributes).

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In determining under subsection (b) 2. A. and subsection (c) 2. whether there has been a net increase in emissions and, if so, the amount of any such increase, the Air Pollution Control Officer shall consider all increases and decreases of emissions caused by modifications to that stationary source pursuant to permits to construct issued during the preceding five years, or since the adoption of this Rule, whichever period is shorter. Emission reductions required to comply with federal, state, or district laws, emission limitations, or rules or regulations shall not be considered to be decreases in emissions for the purposes of this subsection.

(e) Consideration of Future Emission Reductions:

In making the analysis required in subsection (h) 2., the Air Pollution Control Officer shall take into consideration the air quality impact of any reduction in the emissions of the same air contaminant which results from the elimination or modification of other existing stationary sources under the same ownership and operating within the same air basin. If reductions are to be based on planned elimination or modification of any stationary sources, the Air Pollution Control Officer shall condition the permit to

operate to require such elimination or modification within not more than 90 days after the start-up of the new or modified source.

Emission reductions required to comply with federal, state, or district laws, emission limitations, or rules or regulations shall not be considered to be decreases in emissions for the purposes of this subsection.

(f) Exemptions:

1. The Air Pollution Control Officer shall exempt from the provisions of subsection (c) of this Rule, any new stationary source or modification of any existing stationary source which:
 - A. Will be in whole or in part a replacement for an existing stationary source at the same location if the resulting emissions of any air contaminant will not be increased. The Air Pollution Control Officer may allow a maximum of 90 days as a start-up period for simultaneous operation of the existing stationary source or replaced portions thereof, and the new stationary source or replacement; or
 - B. Will cause demonstrable air quality benefits within the air basin, provided however, that the written concurrence of the California Air Resources Board and United States Environmental Protection Agency shall be obtained prior to the granting of an exemption hereunder; or

- C. Will be used exclusively for providing essential public services such as schools, hospitals, or police and fire fighting facilities, but specifically excluding sources of electrical power generation other than for emergency standby use at essential public service facilities; or
- D. Is exclusively a modification to convert from use of gaseous fuels to fuel oil because of demonstrable shortages of gaseous fuels, provided that all units constituting the modification will utilize best available control technology. Modifications for the purpose of this paragraph shall include the addition or modification of facilities for storing, transferring and/or transporting such fuel oil at the stationary sources. A condition shall be placed on the operating permit requiring conversion to gaseous or other equivalent low polluting fuels when they are, or become, available; or
- E. Is air pollution control equipment which, when in operation, will reduce emissions from an existing source; or
- F. Is portable sandblasting equipment used on a temporary basis within the air basin.

- C. Will be used exclusively for providing essential public services such as schools, hospitals, or police and fire fighting facilities, but specifically excluding sources of electrical power generation other than for emergency standby use at essential public service facilities; or
- D. Is exclusively a modification to convert from use of gaseous fuels to fuel oil because of demonstrable shortages of gaseous fuels, provided that all units constituting the modification will utilize best available control technology. Modifications for the purpose of this paragraph shall include the addition or modification of facilities for storing, transferring and/or transporting such fuel oil at the stationary sources. A condition shall be placed on the operating permit requiring conversion to gaseous or other equivalent low polluting fuels when they are, or become, available; or
- E. Is air pollution control equipment which, when in operation, will reduce emissions from an existing source; or
- F. Is portable sandblasting equipment used on a temporary basis within the air basin.

2. The Air Pollution Control Officer may exempt from the provisions of subsection (c) of this Rule, any new stationary source, or modification of an existing stationary source, which has been determined to be:

- A. A new stationary source or modification of an existing stationary source utilizing unique and innovative control technology which will result in a significantly lower emission rate from the stationary source than would have occurred with the use of previously known best available control technology, and which will likely serve as a model for technology, to be applied to similar stationary sources within the State. In order for a stationary source to be exempted under this paragraph, the applicant must obtain the written concurrence of the California Air Resources Board and the United States Environmental Protection Agency with the Air Pollution Control Officer's determination; or
- B. A new stationary source or modification of an existing stationary source that represents a significant advance in the development of a technology that appears to offer extraordinary environmental or public health benefits or other benefits of overriding importance to the public health or welfare. In order for a stationary source to be exempted under this paragraph, the applicant must obtain the written concurrence of the California Air Resources Board and the United States Environmental Protection Agency with the Air Pollution Control Officer's determination.

(g) Notice Requirements for Proposed Exemptions:

Before granting an exemption under subsection (f) 1. B., (f) 2. A or (f) 2. B. of this Rule, the Air Pollution Control Officer shall publish a notice by prominent advertisement in at least one newspaper of general circulation in the District and shall notify in writing of his intention: the applicant, the United States Environmental Protection Agency, the California Air Resources Board and adjoining air pollution control districts. Calculations and technical data used by the Air Pollution Control Officer as the bases for granting exemptions pursuant to subsection (f) 1. B, (f) 2. A. or (f) 2. B. shall be made available to the California Air Resources Board and United States Environmental Protection Agency. Before granting an exemption under subsection (f) 1. B., (f) 2. A. or (f) 2. B. of this Rule, the Air Pollution Control Officer shall consider any comments received within 30 days after the date of publication or date of notification of the above agencies, whichever occurs later, and shall have obtained the concurrence of the California Air Resources Board and the United States Environmental Protection Agency.

In addition, the Air Pollution Control Officer shall notify in writing the United States Environmental Protection Agency and the California Air Resources Board of the granting of an exemption under subsection (f) 1. A., (f) 1. C. or (f) 1. D.

(g) Notice Requirements for Proposed Exemptions:

Before granting an exemption under subsection (f) 1. B., (f) 2. A or (f) 2. B. of this Rule, the Air Pollution Control Officer shall publish a notice by prominent advertisement in at least one newspaper of general circulation in the District and shall notify in writing of his intention: the applicant, the United States Environmental Protection Agency, the California Air Resources Board and adjoining air pollution control districts. Calculations and technical data used by the Air Pollution Control Officer as the bases for granting exemptions pursuant to subsection (f) 1. B, (f) 2. A. or (f) 2. B. shall be made available to the California Air Resources Board and United States Environmental Protection Agency. Before granting an exemption under subsection (f) 1. B., (f) 2. A. or (f) 2. B. of this Rule, the Air Pollution Control Officer shall consider any comments received within 30 days after the date of publication or date of notification of the above agencies, whichever occurs later, and shall have obtained the concurrence of the California Air Resources Board and the United States Environmental Protection Agency.

In addition, the Air Pollution Control Officer shall notify in writing the United States Environmental Protection Agency and the California Air Resources Board of the granting of an exemption under subsection (f) 1. A., (f) 1. C. or (f) 1. D.

(h) Procedures for Evaluation of Applications for Permits to Construct:

Before granting a permit to construct for any unit of a new stationary source or modification subject to the requirements of subsection (c) of this Rule, the Air Pollution Control Officer shall:

1. Require the applicant to submit information sufficient to describe the nature and amounts of emissions, location, design, construction, and operation of the source, and to submit any additional information required by the Air Pollution Control Officer to make the analysis required by this Rule.
2. Analyze the effect of the operation of the new or modified stationary source on air quality in the vicinity of the new source or modified stationary source, within the air basin and within adjoining air basins. Such analysis shall consider the air contaminant emissions and air quality in the vicinity of the new source or modified source, within the air basin and within adjoining air basins at the time the new source or modification is proposed to commence normal operation. Such analysis shall be based on the application of existing state and local rules and regulations.
3. Upon completion of the evaluation, but before granting a permit to construct:
 - A. Publish a notice by prominent advertisement in at least one newspaper of general circulation in the District, stating the preliminary decision to grant the permit to construct and where the public may inspect the information required by this subsection. A copy of the notice shall also be

sent to the applicant, the United States Environmental Protection Agency, the California Air Resources Board and adjoining air pollution control districts. The notice shall provide a period of 30 days, beginning on the date of publication, or on the date of notification of that above agencies, whichever occurs later, for the public to submit comments on the application.

- B. Make available for public inspection at the Air Pollution Control District office, except as otherwise limited by law: the information submitted by the applicant, the Air Pollution Control Officer's analysis of the effect of the source on air quality, and the preliminary decision to grant the permit to construct. Such information shall also be forwarded to the California Air Resources Board for review.
- C. Consider all comments submitted. If within the 30-day notice period the Air Pollution Control Officer receives a written request from either the United States Environmental Protection Agency or California Air Resources Board to defer the Air Pollution Control Officer's decision pending the requesting agency's review of the application, the Air Pollution Control Officer shall honor such request for a period of 60 days from the date of such request.

sent to the applicant, the United States Environmental Protection Agency, the California Air Resources Board and adjoining air pollution control districts. The notice shall provide a period of 30 days, beginning on the date of publication, or on the date of notification of that above agencies, whichever occurs later, for the public to submit comments on the application.

- B. Make available for public inspection at the Air Pollution Control District office, except as otherwise limited by law: the information submitted by the applicant, the Air Pollution Control Officer's analysis of the effect of the source on air quality, and the preliminary decision to grant the permit to construct. Such Information shall also be forwarded to the California Air Resources Board for review.
- C. Consider all comments submitted. If within the 30-day notice period the Air Pollution Control Officer receives a written request from either the United States Environmental Protection Agency or California Air Resources Board to defer the Air Pollution Control Officer's decision pending the requesting agency's review of the application, the Air Pollution Control Officer shall honor such request for a period of 60 days from the date of such request.

(i) Additional Applicant Requirements:

Receipt of a permit to construct shall not relieve the stationary source owner or operator of the responsibility to comply with other applicable portions of the District's Rules and Regulations.

(j) Severability:

If any portion of this Rule shall be found to be unenforceable, such finding shall have no effect on the enforceability of the remaining portions of the Rule, which shall continue to be in full force and effect.

RULE 213.1. Standards for Permits to Operate: Air Quality Impact

(a) Requirement for Permit to Construct as Condition for Permit to Operate:

The Air Pollution Control Officer shall deny a permit to operate for any stationary source subject to the requirements of Rule 213 unless the applicant has obtained a permit to construct.

(b) Air Quality Impact Analysis for Sources Emitting Larger Quantities of Air Contaminants Than Assumed in the Analysis Performed Pursuant to Rule 213:

The Air Pollution Control Officer shall not grant a permit to operate to any stationary source that he determines emits quantities of air contaminants larger than were assumed in the analysis performed for the permit to construct for the source, unless the Air Pollution Control Officer performs the air quality impact analysis required by Rule 213 and determines that the actual emissions from the source will not cause a violation of, or will not interfere with the attainment or maintenance of, any state or national ambient air quality standard.

(c) Permit Conditions:

The Air Pollution Control Officer shall condition the issuance of a permit to operate, on such terms as are deemed necessary to ensure that the stationary source will be operated in the manner assumed in making the analysis required by Rule 213 or subsection (b)

RULE 213.1. Standards for Permits to Operate: Air Quality Impact

(a) Requirement for Permit to Construct as Condition for Permit to Operate:

The Air Pollution Control Officer shall deny a permit to operate for any stationary source subject to the requirements of Rule 213 unless the applicant has obtained a permit to construct.

(b) Air Quality Impact Analysis for Sources Emitting Larger Quantities of Air Contaminants Than Assumed in the Analysis Performed Pursuant to Rule 213:

The Air Pollution Control Officer shall not grant a permit to operate to any stationary source that he determines emits quantities of air contaminants larger than were assumed in the analysis performed for the permit to construct for the source, unless the Air Pollution Control Officer performs the air quality impact analysis required by Rule 213 and determines that the actual emissions from the source will not cause a violation of, or will not interfere with the attainment or maintenance of, any state or national ambient air quality standard.

(c) Permit Conditions:

The Air Pollution Control Officer shall condition the issuance of a permit to operate, on such terms as are deemed necessary to ensure that the stationary source will be operated in the manner assumed in making the analysis required by Rule 213 or subsection (b)

of this Rule, whichever is applicable. Where appropriate, such conditions shall prohibit a new stationary source which is a replacement for an existing stationary source from operating, unless the operation of the existing source is terminated. The Air Pollution Control Officer may allow a maximum of 90 days as a start-up period for simultaneous operation of the existing stationary source or replaced portion thereof, and the new stationary source or replacement portions thereof.

(d) Exemptions:

The Air Pollution Control Officer shall exempt from the provisions of this Rule, any stationary source which:

1. Has received a permit to construct prior to the adoption of Rule 213.
2. Is a continuing operation, without modification, of a stationary source that was previously exempt from the permit provisions of these Rules and Regulations and a permit to operate is required solely because of a change in permit exemptions stated in Rule 219.

(e) Severability:

If any portion of this Rule shall be found to be unenforceable, such finding shall have no effect on the enforceability of the remaining portions of the Rule, which shall continue to be in full force and effect.

RULE 213.2. Definitions for Rules 213 and 213.1

(a) STATIONARY SOURCE means a unit or an aggregation of units of non-vehicular air-contaminant-emitting equipment which is located on one property or on contiguous properties; which is under the same ownership or entitlement to use and operate; and, in the case of an aggregation of units, those units which are related to one another. Units shall be deemed related to one another if the operation of one is dependent upon, or affects the operation of, the other; if their operation involves a common or similar raw material, product, or function; or if they have the same first three digits in their standard industrial classification codes as determined from the Standard Industrial Classification Manual published in 1972 by the Executive Office of the President, Office of Management and Budget.

In addition, in cases where all or part of a stationary source is a facility used to load cargo onto or unload cargo from cargo carriers, other than motor vehicles, the Air Pollution Control Officer shall consider such carriers to be parts of the stationary source. Accordingly, all emissions from such carriers (excluding motor vehicles) which will result in an adverse impact on air quality in the State of California shall be considered as emissions from such stationary source. Emissions from such carriers shall include those that result from the operation of the carriers' engines; the purging or other method of venting of vapors; and from the loading, unloading, storage, processing, and transfer of cargo.

RULE 213.2. Definitions for Rules 213 and 213.1

- (a) STATIONARY SOURCE means a unit or an aggregation of units of non-vehicular air-contaminant-emitting equipment which is located on one property or on contiguous properties; which is under the same ownership or entitlement to use and operate; and, in the case of an aggregation of units, those units which are related to one another. Units shall be deemed related to one another if the operation of one is dependent upon, or affects the operation of, the other; if their operation involves a common or similar raw material, product, or function; or if they have the same first three digits in their standard industrial classification codes as determined from the Standard Industrial Classification Manual published in 1972 by the Executive Office of the President, Office of Management and Budget.

In addition, in cases where all or part of a stationary source is a facility used to load cargo onto or unload cargo from cargo carriers, other than motor vehicles, the Air Pollution Control Officer shall consider such carriers to be parts of the stationary source. Accordingly, all emissions from such carriers (excluding motor vehicles) which will result in an adverse impact on air quality in the State of California shall be considered as emissions from such stationary source. Emissions from such carriers shall include those that result from the operation of the carriers' engines; the purging or other method of venting of vapors; and from the loading, unloading, storage, processing, and transfer of cargo.

(b) MODIFICATION means any physical change in, or any change in the method of operation of, a stationary source.

For the purposes of this definition:

1. Routine maintenance or repair shall not be considered to be physical changes, and
2. An increase in production rate or operating hours shall not be considered to be a change in the method of operation, provided that these increases are not contrary to any existing permit to operate conditions.

(c) BEST AVAILABLE CONTROL TECHNOLOGY means the maximum degree of emission control for any air contaminant emitting equipment, taking into account technology which is known but not necessarily in use, provided that the Air Pollution Control Officer shall not interpret best available control technology to include a requirement which will result in the closing and elimination of or inability to construct a lawful business which could be operated with the application of the best control technology currently in use.

(d) Severability:

If any portion of this Rule shall be found to be unenforceable, such finding shall have no effect on the enforceability of the remaining portions of the Rule, which shall continue to be in full force and effect.