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RULE 1302

New Source Review Procedures

(A) Applicability

- (1) This rule shall apply to all new or Modified Facilities

(B) Applications

- (1) Any application for an ATC or modification to a PTO, submitted pursuant to the procedures of District Regulation II, shall be analyzed to determine if such application is complete. An application shall be deemed complete when it contains the following, as applicable:
 - (a) General Application Requirements
 - (i) Enough information regarding the location, design, Construction, and operation of the new or modified Facility or Emission Unit(s) to allow all the applicable analysis and calculations required under this Regulation to be made, including but not limited to: identification of all new or modified Emission Unit(s); the amount of potential emissions from such new or modified Emission Unit(s); information sufficient to determine all rules, regulations or other requirements applicable to such Emission Unit(s); a determination of whether stack height exceeds Good Engineering Practice; and any necessary air quality modeling consistent with the most recent USEPA guidance, including but not limited to, the requirements contained in 40 CFR 51 Appendix W, modeling protocols and the results of such modeling.
 - (ii) A Comprehensive Emission Inventory. If a Facility has a current approved Comprehensive Emission Inventory on file with the District such Facility may, upon written request and approval of the APCO, update the Comprehensive Emission Inventory to reflect the addition, deletion or modification of all Emission Unit(s) affected by the application.
 - (iii) Rule 1700 applicability analysis sufficient to determine whether the Facility or Modification, is or is not, a Major PSD Facility or a Major PSD Modification as defined in Rule 1700(B), using the applicability procedures adopted by reference in Rule 1700.
 - (iv) A Rule 1314 applicability analysis sufficient to determine whether the Facility or Modification is, or is not, a Federal Major Stationary Source or a Federal Major Modification as defined in Rule 1314(C)(5), using the calculation procedures in Rule 1314(E).

- (v) A Rule 1303 applicability analysis sufficient to determine whether the provisions of Rule 1303 apply to the proposed new or Modified Facility.
 - (vi) Any other information specifically requested by the District.
- (b) Application Requirements for Facilities Requiring Offsets
- (i) For all new and modified Facilities requiring Offsets pursuant to Rule 1303(B) or Rule 1314(D)(1)(b):
 - a. An alternative siting analysis including an analysis of alternative sites, sizes and production processes pursuant to 42 U.S.C. §7503(a)(5) (Federal Clean Air Act §173(a)(5)). Such analysis shall be functionally equivalent to that required pursuant to Division 13 of the California Public Resources Code (commencing with §21000.)
 - b. A statewide compliance certification stating that all Facilities which are under the control of the same person (or persons under common control) in the State of California are in compliance with all applicable Emission Limitations and standards under the Federal Clean Air Act and the applicable implementation plan for the air district in which the other Facilities are located.
- (c) Mandatory Federal Class I Area Visibility Protection Application Requirements
- (i) An application for a new or Modified Major Facility or a Facility with a Federal Major Modification which may have an impact upon visibility in any Mandatory Federal Class I Area, shall include in its application an analysis of any anticipated impacts on visibility within that Mandatory Federal Class I Area. Such analysis shall include, but is not limited to, an analysis of the factors found in 40 CFR 51.307(a).
- (d) Prevention of Significant Deterioration (PSD) Application Requirements
- (i) For a Facility which is a Major PSD Facility or Major PSD Modification as defined in Rule 1700(B):
 - a. A modeling protocol consistent with the most recent USEPA guidance including but not limited to the requirements contained in 40 CFR 51 Appendix W, as approved by the APCO. Such a protocol shall also be submitted to USEPA and, if applicable, the Federal Land Manager(s) of any potentially impacted area; and
 - b. A control technology review pursuant to 40 CFR 52.21(j); and
 - c. A source impact analysis, including but not limited to analysis pursuant to 40 CFR 52.21(k) and a per-application analysis pursuant to 40 CFR 52.21(m)(1); and

- d. Information required pursuant to 40 CFR 52.21(n) if not provided elsewhere in the application; and
 - e. An additional impact analysis including but not limited to analysis of direct and indirect impacts of the proposed emissions increase on soils, vegetation and visibility, pursuant to 40 CFR 52.21(o); and
 - f. An analysis of anticipated impacts on a Federal Class I Area if the Facility is located within 63 miles (100 kilometers) of such area pursuant to 40 CFR 52.21(p); and
- (e) Nonattainment NSR Major Source Application Requirements
- (i) For a Facility which is a new Federal Major Stationary Source or Federal Major Modification, as defined in Rule 1314(C):
 - a. All emission calculations used to determine Rule 1314 applicability.
 - b. The calculations, pursuant to Rule 1314 (E)(2)(b), used to determine the quantity of Offsets required for the new source or modification.
 - c. Identification of existing Emission Reduction Credits or identification of internal emission reductions, including related emission calculations and proposed permit Modifications required to ensure emission reductions meet the Offset integrity criteria of being Real, Surplus, Quantifiable, Permanent and Federally Enforceable.
- (f) Determination of Application Completeness
- (i) The APCO shall determine whether the application is complete not later than 30 calendar days after receipt of the application, or after such longer time as both the applicant and the APCO may agree in writing.
- (g) Trade Secret Information
- (i) The confidentiality of trade secrets contained in an application shall be considered in accordance with Government Code §6254.7 and 18 U.S.C. §1905.
 - (ii) Any information claimed by an applicant to be trade secret or otherwise confidential shall be clearly marked as such.
- (2) Notifications Regarding Applications
- (a) After the determination of completeness has been made, the APCO shall transmit a written determination of completeness or incompleteness immediately to the applicant at the address indicated on the application.

- (i) If the application is determined to be incomplete, the determination shall specify which parts of the application are incomplete and how they can be made complete.
 - a. Upon receipt by the APCO of information required to render an application complete or upon resubmittal of the entire application, a new 30-day period in which the APCO must determine completeness shall begin.
 - (ii) When an application subject to the provisions of District Rule 1700 is determined to be complete the APCO shall transmit a copy of the written completeness determination to USEPA and, upon request, provide USEPA with a copy of the application.
 - (iii) If the application contains an analysis of anticipated visibility impacts on a Mandatory Federal Class I Area, the APCO shall, within 30 calendar days after receipt of the application, notify USEPA and the Federal Land Manager of the affected Mandatory Federal Class I Area.
 - a. The APCO shall include in this notification a copy of the application and the analysis of the anticipated impacts on the affected Mandatory Federal Class I Area.
- (b) When the application has been determined to be complete the APCO shall then commence the analysis process detailed in section (C) below.
- (c) In the alternative, the APCO may complete the issuance of the ATC(s) within the 30 calendar days after receipt of the application so long as all the applicable analysis required pursuant to (C) below has been performed and the provisions of (C)(7)(e) below applies.
- (3) Effect of Complete Application
- (a) After an application is determined to be complete, the APCO shall not subsequently request of an applicant any new or additional information which was not required pursuant to (B)(1) above or by a determination of incompleteness pursuant to (B)(2)(a) above.
 - (b) Notwithstanding the above, the APCO may, during the processing of the application, require an applicant to clarify, amplify, correct or otherwise supplement the information required at the time the complete application was received.
 - (c) A request by the APCO for clarification pursuant to (B)(3)(b) above does not waive, extend, or delay the time limits in this rule for final action on the completed application, except as the applicant and the APCO may both agree in writing.
- (4) Fees

- (a) The APCO shall not perform any analysis as set forth in (C) below unless all applicable fees, including but not limited to the Project Evaluation Fee for Complex Sources as set forth in Rule 301, have been paid.

(C) Analysis

(1) Determination of Rule 1314 Applicability and Requirements

- (a) The APCO shall commence a New Source Review Document (NSR Document) to record the application analysis.
- (b) The APCO shall review the Rule 1314 applicability analysis submitted pursuant to (B)(1)(a)(iv) above to determine if the proposed new or Modified Facility is, or is not, a Federal Major Stationary Source or a Federal Major Modification, as defined in Rule 1314(C)
- (c) If the APCO determines that the proposed new or Modified Facility is not a Federal Major Stationary Source or a Federal Major Modification, the APCO shall continue the analysis at (C)(2) below.
- (d) If the APCO determines that the proposed new or Modified Facility is a new Federal Major Stationary Source or a Federal Major Modification, then the APCO shall:
 - (i) Evaluate compliance with all Rule 1314(D) requirements; and
 - (ii) Develop and include conditions to implement BACT on any proposed ATC or PTO required for each new or Modified Emission Unit(s) subject to the provisions of Rule 1314(D)(1)(a); and
 - (iii) Calculate the amount of Offsets required on a pollutant-by-pollutant basis pursuant to the provisions of Rule 1314(E)(2); and
 - (iv) Notify the applicant in writing of the specific amount of Offsets required. The applicant shall comply with the provisions of (C)(3) below; and
 - (v) Develop and include conditions on any proposed ATC or PTO to ensure compliance with the requirements of Rule 1314 for all new or Modified Emission Unit(s) at the Facility; and
 - (vi) Continue the analysis at (C)(4) below.

(2) Determination of Rule 1303 Applicability and Requirements

- (a) The APCO shall commence or add to the NSR Document to record the application analysis.

- (b) The APCO shall review the Rule 1303 applicability analysis submitted pursuant to (B)(1)(a)(v) above, pursuant to the provisions of Rule 1304(B), to determine if the proposed new or Modified Facility is subject to the Rule 1303 BACT or Offset requirements.
- (c) If none of the provisions of Rule 1303 apply to the new or Modified Facility, then the APCO shall continue the analysis at (C)(4) below.
- (d) If Rule 1303(A) is the only provision applicable to the new or Modified Facility then the APCO shall:
 - (i) Develop and include conditions in any proposed ATC or PTO to implement BACT on all new or Modified Emission Unit(s) at the Facility; and
 - (ii) Continue the analysis at (C)(4) below.
- (e) If Rule 1303(A) and (B) apply to the new or Modified Facility then the APCO shall:
 - (i) Commence a Facility engineering analysis; and
 - (ii) Develop and include conditions to implement BACT on any proposed ATC or PTO required for each new or Modified Emission Unit(s) subject to the provisions of Rule 1303(A); and
 - (iii) Calculate the amount of Offsets required on a pollutant-by-pollutant basis pursuant to the applicable provisions of Rule 1305(B). All Offsets shall meet the requirements of Rule 1305(C).
 - (iv) Notify the applicant in writing of the specific amount of Offsets required. The applicant shall comply with the provisions of (C)(3) below.
 - (v) Develop and include conditions on any proposed ATC or PTO to implement the requirements of Rule 1303 and all other applicable requirements of the District's rules and regulations for all new or Modified Emission Unit(s) at the Facility.
 - (vi) Continue the analysis at (C)(4) below.

(3) Offset Requirements

- (a) Upon receipt of the notification, the applicant shall provide to the APCO a proposed Offset package which contains evidence of a sufficient quantity of Offsets eligible for use pursuant to the provisions of Rule 1305 or Rule 1314, as applicable.
- (b) The APCO shall analyze the proposed Offset package to determine if an Adjustment in the value of such Offsets is required and apply the applicable Offset ratio (if any) pursuant to the provisions of Rule 1305 or Rule 1314, as applicable.
 - (i) For Rule 1305 compliance,

- a. If the Offset package includes Mobile, Area, or Indirect Source ERCs pursuant to Rule 1305(C)(3) or proposes the use of interpollutant Offsets pursuant to Rule 1305(C)(6), the APCO shall notify USEPA by sending a copy of the application, the proposed Offset package and all relevant information thereto.
- b. The APCO shall disallow the use of any Offsets which were created by the Shutdown, Modification or limitation of existing Emission Unit(s) when:
 - i. Such Offsets are not in compliance with the applicable provisions of Rule 1309 or 40 CFR 51.165(a)(3)(ii)(C); or
 - ii. USEPA has disapproved the applicable implementation plan for the District, or USEPA has made a finding of a failure to submit for the District of all or a portion of an applicable implementation plan.
- (ii) After determining that the proposed Offset package meets all applicable requirements and that a sufficient quantity of Offsets have been provided, and after any permit modifications required pursuant to Rule 1309 or 1314 have been made, the APCO shall approve the use of the Offsets. The APCO's approval shall be subject to review and comment by CARB and USEPA pursuant to (D)(2) below.
- (iii) The Offsets must be identified and Federally Enforceable prior to ATC or PTO issuance.
- (iv) The Offsets must be surrendered before the new or Modified Facility Begins Actual Construction.
- (v) The emission reductions relied upon as Offsets must be in effect before the new or Modified Facility commences operation.
- (c) After the determination of the amount of pollutant specific Offsets required and the Offset package has been approved, the APCO shall continue the analysis at (C)(4) below.

(4) Stack Height Analysis

- (a) If the application contains a determination showing that the stack height exceeds Good Engineering Practice the APCO shall:
 - (i) Provide that the degree of Emission Limitation required of the new or Modified Facility or Emission Unit(s) is not affected by the stack height that exceeds Good Engineering Practice or by any other Dispersion Technique; and
 - (ii) Notify the public of the availability of the demonstration study and provide opportunity for a public hearing pursuant to the provisions of (C)(7)(b) below, before an ATC is issued; and
 - (iii) Ensure any field study or fluid model used to demonstrate Good Engineering Practice stack height and any determination

concerning Excessive Concentration is approved by the EPA and the APCO prior to any emission limit being established.

- (b) The provisions of this subsection do not restrict, in any manner, the actual stack height of any Facility.
 - (c) The APCO shall continue the analysis at (C)(5) below.
- (5) Determination of Requirements for Toxic Air Contaminants
- (a) The APCO shall also determine if any of the provisions of Rule 1401 apply to the new or Modified Facility.
 - (b) If any of the provisions of Rule 1401 apply to the new or Modified Facility the APCO shall:
 - (i) Require the Facility to comply with the applicable provisions of Rule 1401; and
 - (ii) Add any conditions to the applicable permits required to implement any provisions of Rule 1401.
 - (c) After determining which, if any, Rule 1401 requirements apply, and any necessary actions taken, the APCO shall continue the analysis at (C)(6) below.
 - (d) This subsection is not submitted to USEPA and is not intended to be included as part of the California State Implementation Plan (SIP).
- (6) Determination of Rule 1700 Requirements
- (a) The APCO shall commence or add to the PSD Document to record the application analysis.
 - (b) If the APCO determines that the proposed new or Modified Facility is a Major PSD Facility or a Major PSD Modification, then the APCO shall:
 - (i) Perform the analysis required pursuant to the provisions of Rule 1700(D)(2); and
 - (ii) Add necessary conditions pursuant to Regulation XIII; and
 - (iii) Continue the analysis at (C)(7) below.
 - (c) If none of the provisions of Rule 1700 apply, the APCO shall continue the analysis at (C)(7) below.
- (7) Determination of Notice Requirements
- (a) The APCO shall determine the type of notice required for the proposed new or Modified Facility.

- (b) **NSR/PSD Notice:** If the new or Modified Facility is subject to any of the following, then the APCO shall implement the applicable provisions of section (D) below prior to the issuance of the ATC(s) or modification of the PTO(s).
- (i) The provisions of Rule 1303(B); or
 - (ii) The provisions of (C)(4) above regarding stack height greater than Good Engineering Practice; or
 - (iii) The provisions of Rule 1700; or
 - (iv) The provisions of Rule 1314(D)(1)(b), or
 - (v) The provisions of Regulation XXX and the action involves the issuance, renewal or Significant Modification of the Federal Operating Permit.
- (c) **Toxic NSR Notice:** If any proposed new or modified Emission Unit(s) at the new or modified Facility requires public notification pursuant to the provisions of Rule 1401(E)(3)(e)(iii) or (F)(2)(b) then the APCO shall:
- (i) Provide the notice specified by the applicable provision(s) of Rule 1401 in addition to any other required notice; or
 - (ii) Provide notice pursuant to the provisions of (D)(3)(a) below ensuring that such notice contains any additional information required pursuant to the applicable provision(s) of Rule 1401.
 - (iii) This subsection is not submitted to USEPA and is not intended to be included as part of the California State Implementation Plan (SIP).
- (d) **Minor NSR Notice:** If the new or Modified Facility is not subject to any of the provisions listed in (C)(7)(b) or (c) above, but is subject to any of the following, then the APCO shall commence the issuance of the ATC(s) or modification of the PTO(s) pursuant to the provisions of Regulation II and provide notice pursuant to the provisions of (D)(3)(a)(ii) below:
- (i) The emissions change for any Regulated Air Pollutant as calculated under Rule 1304(B)(3) is greater than any of the following:
 - (a.) 20 tpy or more of VOC, 20 tpy or more of NO_x, 12 tpy or more of PM₁₀, or 80% of the Offset Threshold Amounts for any other Nonattainment Air Pollutant as set forth in Rule 1303(B); or
 - (b.) 8 tpy or more of any Hazardous Air Pollutant or 20 tpy of any combination of Hazardous Air Pollutants or 80% of a lesser quantity of a Hazardous Air Pollutant as the USEPA may establish by rule; or
 - (c.) The Federal Significance Level for a Regulated Air Pollutant as defined in 40 CFR 52.21(b)(23).
- (e) **Permit Issuance Notice:** If the new or modified Facility is not subject to any of the provisions listed in (C)(7)(b), (c) or (d) above, then the APCO

shall commence with the issuance of the ATC(s) or modification of the PTO(s) pursuant to the provisions of District Regulation II and (D)(3)(a)(iii) below.

(D) Permit Issuance Procedure

(1) Preliminary Decision

- (a) After all required analyses have been completed, the APCO shall issue a preliminary decision as to whether the proposed ATC(s) should be approved, conditionally approved, or disapproved and whether ATC(s) should be issued to the new or Modified Facility.
- (b) The preliminary decision shall include:
 - (i) A succinct written analysis of the proposed approval, conditional approval or disapproval; and
 - (ii) If approved or conditionally approved, proposed permit conditions for the ATC(s) or modified PTO(s) and the reasons for imposing such permit conditions; and
 - (iii) A draft Permit.
- (c) The preliminary decision and draft NSR Document may also be combined with the draft PSD Document, if applicable, and any document(s) produced pursuant to District Regulation XXX. In such case, the preliminary decision, and draft Documents shall conform to the applicable provisions of Regulation XXX, 40 CFR 70.6(a)-(g), and 70.7(a)-(b), and will serve as the draft Statement of Legal and Factual Basis and draft Federal Operating Permit.

(2) CARB, USEPA, Federal Land Manager, and Affected State Review

- (a) If notice is required pursuant to any provision of (C)(7)(b-d) above, the APCO shall, concurrently with the publication required pursuant to (D)(3) below, send a copy of the preliminary decision, the draft permit, and any underlying analysis to CARB, USEPA and any Affected State.
- (b) CARB, USEPA and any Affected State shall have 30 days from the date of publication of the notice pursuant to (D)(3) below to submit comments and recommendations regarding the preliminary decision.
 - (i) If the permitting action involves the issuance, renewal, Minor Modification or Significant Modification of the Federal Operating Permit and that action is being performed concurrently with the actions pursuant to this Regulation, then CARB, USEPA, and any Affected State shall have 45 days from the date of publication of the notice to submit comments.

- (c) Upon receipt of any comments and/or recommendations from CARB, USEPA and/or any Affected State, the APCO shall either:
 - (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; or
 - (ii) Reject such comments and/or recommendations, notify CARB, USEPA, and/or the Affected State of the rejection and the reasons for such rejection.
 - (d) For applications containing an analysis of anticipated visibility impacts on a Federal Class I Area pursuant to (B)(1)(c) or (B)(1)(d)(i)(e.-f.) above, the APCO, upon receipt of any comments from USEPA or the Federal Land Manager of the affected Federal Class I Area, shall:
 - (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; or
 - (ii) Reject such comments and/or recommendations, notify CARB, USEPA, and/or the Federal Land Manager of the affected Federal Class I Area of the rejection and the reasons for such rejection.
 - (e) For applications containing an Offset package submitted pursuant to (C)(3) above, where the Offset package includes Mobile, Area, or Indirect source ERCs pursuant to Rule 1305(C)(3) or proposes the use of interpollutant Offsets pursuant to Rule 1305(C)(6), the APCO, upon receipt of comments from USEPA, shall:
 - (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; and
 - (ii) Require changes to the Offset package by the applicant if such are necessary.
- (3) Public Review and Comment
- (a) Public Notice.
 - (i) **NSR/PSD Notice and Toxic NSR Notice:** If notice is required pursuant to the provisions of (C)(7)(b) and/or (C)(7)(c) above, or (D)(4)(d) below then, within 10 days of the issuance of the preliminary determination, the APCO shall:
 - a. Produce a notice containing all the information set forth in (D)(3)(b)(i) below; and
 - b. Publish a notice by posting the notice and draft permit on the District's website for, at a minimum, the duration of the public comment period; and
 - c. Send a copy of the notice containing the information set forth in (D)(3)(b)(i) below to the applicant; CARB; USEPA; Affected State(s); the City and County where the proposed Facility or Modification is located; any State or Federal Land Manager or Indian governing body who's

lands might be affected by emissions from the proposed Facility or Modification; and to all persons who have requested such notice and/or are on a list of persons requesting notice of actions pursuant to this regulation generally on file with the District; and

- d. Provide notice by other reasonable means, if such notice is necessary to assure fair and adequate notice to the public.
- (ii) **Minor NSR Notice:** If notice of permit issuance is required pursuant to the provisions of (C)(7)(d) above then, within 10 days of the issuance of the Facility engineering analysis the APCO shall:
- a. Produce a notice containing the information set forth in (D)(3)(b)(ii) below; and
 - b. Publish the notice and the draft permit by posting on the District's website for, at a minimum, the duration of the comment period; and
 - c. Send a copy of the notice to the applicant; CARB; USEPA; Affected State(s); and all persons who have requested such notice and/or are on a list of persons requesting notice of actions pursuant to this regulation generally on file with the District.
- (iii) **Permit Issuance Notice:** If the provisions of (C)(7)(e) above apply then the APCO shall issue the permit pursuant to the provisions of Regulation II

(b) Notice Content Requirements

- (i) **NSR/PSD Notice Contents:** The notice required pursuant to (D)(3)(a)(i) above shall include:
- a. The Facility number, name and address of the Facility, including the name and address of the applicant if different; and
 - b. A statement indicating the availability, conclusions of the preliminary decision and a location where the public may obtain or inspect the preliminary decision and supporting documentation; and
 - c. A statement providing at least 30 days from the date of publication of the notice for the public to submit written comments on the preliminary decision; and
 - d. A brief description of the specific comment procedures and deadlines; and
 - e. Information regarding obtaining review of the permit issuance decision by the District Hearing Board pursuant to the provisions of California Health & Safety Code §42302.1.
 - f. If the APCO has determined that the Stack Height exceeds Good Engineering Practice then the notice shall also contain notice of the opportunity to request a public hearing

on the proposed demonstration produced pursuant to (C)(4)(a)(i) above.

- g. If the provisions of Rule 1700(C) apply, then the notice shall also contain the degree of increment, consumption, and notice of the opportunity to request a public hearing regarding the air quality impact, control technology or other appropriate considerations of the preliminary determination for the Major PSD Facility or Major PSD Modification.
- h. If the provisions of Regulation XXX apply, and the action involves the issuance, renewal or Significant Modification of the Federal Operating Permit, and the Federal Operating Permit is being issued concurrently, then the notice shall also contain notice of the opportunity to request a public hearing on the proposed Federal Operating Permit pursuant to District Rule 3007(A)(1)(d).
- i. If the APCO has rejected comments regarding anticipated visibility impacts on a Federal Class I Area, the notice shall also contain a notation of the availability of the reasons for such rejection.

(ii) **Minor NSR Notice Contents:** The notification required pursuant to (D)(3)(a)(ii) above shall include:

- a. The Facility number, name and address of the Facility, including the name and address of the applicant if different; and
- b. Identification of the permit(s) involved including permit number, and a brief description of the action taken; and
- c. Where a copy of the application and preliminary decision may be obtained; and
- d. Provide at least 30 days from the date of publication of the notice for the public to submit written comments on the preliminary decision; and
- e. A brief description of the specific comment procedures and deadlines; and
- f. Information regarding obtaining review of the permit issuance decision by the District Hearing Board pursuant to the provisions of California Health & Safety Code §42302.1.

(c) Availability of Documents

- (i) At the time of publication of any notice required, the APCO shall make available for public inspection at the District office or in another prominent place:
 - a. The application and any other information submitted by the applicant
 - b. The NSR and/or PSD Document
 - c. The preliminary decision to grant or deny the ATC, including any proposed permit conditions and

- d. The reasons therefore and the supporting analysis for the preliminary decision.
 - (ii) Notwithstanding the above, the APCO is not required to release confidential information. Information shall be considered confidential when:
 - a. The information is a trade secret or otherwise confidential pursuant to California Government Code 6254.7(d), or
 - b. The information is entitled to confidentiality pursuant to 18 U.S.C. §1905; and
 - c. Such information is clearly marked or otherwise identified by the applicant as confidential.
 - (d) The APCO shall accept and consider all relevant comment(s) submitted to the District in writing during the 30 day public comment period provided pursuant to (D)(3)(b)(i) or (ii) above.
 - (e) The APCO shall, if requested pursuant to the provisions provided for in the published notice, hold a public hearing regarding the proposed preliminary determination as provided pursuant to subsection (D)(3)(b)(i)(f.-h.) above.
 - (i) Such hearing shall be scheduled no less than 30 days after the publication of a notice of public hearing is published pursuant to the provisions set forth in (D)(3)(a) above.
 - (f) The APCO shall keep a record of any oral and written comments received during the public comment period or at any public hearing and shall retain copies of such comments and the District's written responses to such comments in the District files for the particular Facility.
 - (g) If any substantive changes are made to the preliminary decision as a result of comments received from the public, CARB, USEPA or any Affected State(s), the APCO shall send a copy of the proposed changes to CARB and USEPA for review.
 - (h) Nothing in this subsection shall be interpreted to limit the availability of documents pursuant to the California Public Records Act (California Government Code §§6250 et seq.) as effective upon the date of the request for such documents.
- (4) Final Action
 - (a) After the conclusion of the comment period and consideration of the comments, the APCO shall produce a final NSR and/or PSD Document, based on the draft Document.

- (b) Thereafter, the APCO shall take final action to issue, issue with conditions or decline to issue the ATCs or PTOs pursuant to (D)(6) below based on the final NSR and/or PSD Document.
 - (i) Such final action shall take place no later than 180 days after the application has been determined to be complete.
 - (ii) The APCO shall not take final action to issue the final NSR Document if either of the following occurs:
 - a. USEPA objects to such issuance in writing; or
 - b. USEPA has determined, as evidenced by a notice published in the Federal Register, that the applicable implementation plan is not being adequately implemented in the Federal Nonattainment Area in which the new or Modified Facility is located.
 - (c) The APCO shall provide written notice of the final action to the applicant, USEPA and CARB.
 - (d) If substantive changes have been made to the preliminary determination or other documents after the opening of the public comment period which require changes to the underlying requirements or which result in a less stringent BACT determination, then, the APCO shall publish a notice similar in content to the notice required by (D)(3) above and start a new 30-day public comment period.
 - (e) The final NSR Document may be combined with a final PSD Document produced pursuant to Rule 1700(D).
 - (f) The final NSR and/or PSD Document and all supporting documentation shall remain available for public inspection at the offices of the District for a minimum period of 5 years.
- (5) Issuance of ATC(s)
- (a) In conjunction with final action on the final NSR Document the APCO shall issue ATC(s) for the new or Modified Facility pursuant to the provisions of Regulation II. Such ATC(s) shall contain, at a minimum, the following conditions:
 - (i) All conditions regarding Construction, operation and other matters as set forth in the final NSR and/or PSD Document; and
 - (ii) If a new or Modified Facility is a replacement, in whole or in part, for an existing Facility or Emission Unit(s) on the same or contiguous property, a condition allowing up to 180 days for simultaneous operation of the new or Modified Facility and the existing Facility or Emission Unit(s); and
 - (iii) A condition requiring the Facility to be operated in accordance with the conditions contained in the ATC(s)

- (iv) A condition requiring that the Offsets must be in effect by the time the new or Modified Facility commences operation.
- (b) The APCO shall not issue ATC(s) to a new or Modified Facility pursuant to this regulation unless:
- (i) The new Facility or Modification to an existing Facility is constructed using BACT for each Nonattainment Air Pollutant when the provisions of Rule 1303(A) apply.
 - (ii) Any increase in emissions for each Nonattainment Air Pollutant have been properly Offset pursuant to the provisions of Rules 1305, 1309 and/or 1314.
 - a. Such Offsets shall be Real, Enforceable, Quantifiable, Surplus and Permanent; and
 - b. The permit(s) of any Facility or Emission Unit(s) which provided Offsetting emissions reductions have been properly modified and/or other actions have been performed pursuant to the provisions of Rules 1305, 1309 and 1314.
 - (iii) The new or Modified Facility complies with all applicable Federal, State, and District Rules and Regulations.
 - (iv) The new or Modified Facility will not interfere with the attainment or maintenance of any National Ambient Air Quality Standard.
- (6) Issuance of PTO(s)
- (a) After the final action on the NSR Document pursuant to this Regulation and/or the issuance of ATC(s) pursuant to the provisions of Regulation II, the APCO shall deny the subsequent issuance of PTO(s) unless the APCO determines that:
 - (i) If no ATC was issued, the owner or operator of the new or Modified Facility has complied with all applicable provisions of this Regulation including the provision for Offsets if such were required.
 - (ii) The new or Modified Facility has been Constructed and operated in a manner consistent with the conditions as set forth in the NSR Document and the ATC(s); and
 - (iii) The permit(s) of any Facility or Emission Unit(s) which provided Offsets for the new or Modified Facility has been properly modified pursuant to the provisions of Rules 1304, 1305, 1309 or 1314.
 - (vi) The Offsets, if required pursuant to Rule 1303(B) or Rule 1314, were Real, Enforceable, Quantifiable, Surplus and Permanent, prior to the commencement of Construction of the Facility.
 - (v) That all conditions contained in the ATC(s) requiring performance of particular acts or events by a date specified have occurred on or before such dates.

- (vi) If the actual emissions are greater than those calculated when the ATC was issued:
 - a. That the owner/operator has provided additional Offsets to cover the difference between the amount of Offsets originally provided and the amount of Offsets necessary calculated pursuant to Rule 1305 or Rule 1314, as applicable, based upon the actual emission change; and
 - b. That such additional Offsets were provided within ninety (90) days of the owner/operator being notified by the APCO that such additional Offsets are necessary.

[See AVAQMD SIP table at <https://avaqmd.ca.gov/rules-plans>]