

Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Philip H. Mendelson
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: June 22, 2012

SUBJECT: Fiscal Impact Statement – “New Source Review Approval Resolution of 2012”

REFERENCE: Draft Approval Resolution and Regulations Shared with the Office of Revenue Analysis on May 30, 2012

Conclusion

Funds are sufficient in the FY 2013 through FY 2016 budget and financial plan to implement the resolution and corresponding regulations.

Background

The New Source Review (NSR) program is a permit program created to help achieve and maintain compliance with the National Ambient Air Quality Standards (NAAQS) set by the U. S. Environmental Protection Agency (EPA). The EPA has set NAAQS for six “criteria” pollutants: ozone, particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and lead. The EPA has designated the District as being in “nonattainment” of the NAAQS for ozone and particulate matter, since for certain pollutants NAAQS would impose more stringent emission standards than what the District abides to. The District Department of the Environment (DDOE) issues permits for the construction, modification, and operation of emissions sources.

The resolution requests the Council of the District of Columbia to approve regulations necessary to comply with the Clean Air Act.¹ Overall, the regulations tighten the District’s NSR program to reflect recent amendments² to the Federal NSR program.³ A few specific substantial changes to current regulations are important to review:

¹ Enacted August 7, 1997 (Public Law 95-95; 2 U.S.C. § 7401 *et seq.*).

² Federal Register Volume 72, Number 113, Page 32526 (June 13, 2007).

³ 40 CFR Parts 51 and 52.

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FIS: Draft "New Source Review Approval Resolution of 2012," shared with the Office of Revenue Analysis on May 30, 2012.

First, the regulations create a new Plantwide Applicability Limit (PAL) permit for major stationary emissions sources. The PAL allows an applicant to avoid NSR applicability so long as the applicant's modified source-wide emissions remain under the PAL level.

The regulations also establish a minor new source review program for new sources or modifications of existing sources. Installations or modifications of air pollution control devices could trigger this review if the impact of the device causes increased emissions at a related source. The minor new source review is applicable if emissions are increased by more than 5 tons per year of any listed pollutants⁴ and the increase does not require a NSR review or PAL permit.

Next, the regulations establish a source category permit. This permit allows DDOE to create one permit for a group of similar emissions sources. This is commonly referred to as a general permit in other jurisdictions.

Additionally, the regulations extend the validity of a construction or operating permit related to an emissions source from 3 years to 5 years.

Finally, there are two important components of the regulations, which reflect more stringent requirements than imposed by the Federal regulations:

1. In determining NSR applicability, the District uses an actual to potential test to evaluate the magnitude of emissions increases from the installations or modifications of sources. The Federal regulations use an actual to projected actual test in evaluating NSR applicability.
2. The regulations require the NSR and PAL permit programs to use the 24 month period immediately preceding a request for a new permit to set baseline emissions. If another 24 month period is more representative of the source's operations, the District allows a 5 year look-back, as long as all pollutants are reviewed over the same 24 month period. The Federal regulations allow sources to set an emissions baseline as any 24 month period within the last 10 years and allow applicants to select different 24 month periods for each pollutant.

Financial Plan Impact

Funds are sufficient in the FY 2013 through FY 2016 budget and financial plan to implement the resolution and corresponding regulations. These changes bring the District's NSR program into alignment with the Federal NSR program, while making some components more stringent. The various regulatory changes will have positive and negative impacts on DDOE's budget and staff resources, but any additional needs can be absorbed within the Department's existing resources.

⁴ The pollutants include volatile organic compounds, nitrogen oxides, sulfur dioxide, particulate matter less than 10 microns in aerodynamic diameter, particulate matter less than 2.5 microns in aerodynamic diameter, and an aggregate of any hazardous air pollutants listed in § 112(b) of the Clean Air Act.