

**REGULATION IV
AUTHORITY TO CONSTRUCT REGULATIONS**

Rule 424 **Authority to Construct Decision**

- A. The Air Pollution Control Officer shall issue a preliminary decision on whether the Authority to Construct should be approved, approved with conditions, or disapproved no later than one year after an application has been deemed complete by the Air Pollution Control Officer. The preliminary decision, together with a copy of all materials the applicant submitted and a copy or summary of all other materials, if any, considered in making the preliminary decision, shall be made available in at least one location in the District for public inspection. The Air Pollution Control Officer may exempt from the provisions of this Section any source with the potential to emit less than 100 tons per year of each criteria pollutant or precursor.

- B. Within ten (10) calendar days following the preliminary decision in the case of an Authority to Construct for a facility or modification with the potential to emit 100 tons per year or more of any criteria pollutant or precursor, the Air Pollution Control Officer shall publish a notice in at least one newspaper of general circulation in the District stating the preliminary decision and where the public may inspect the information required to be available in Section A. above. The notice shall provide 30 days from the date of publication for the public to submit written comments on the preliminary decision. For a major facility or major modification of attainment pollutants or precursors, the notice shall include (1) the degree of increment consumption that is expected from the facility or modification, and (2) the date and place of a public hearing to accept public comment on the preliminary decision.

- C. The Air Pollution Control Officer shall send copies of any notice of preliminary decision to the applicant, the Air Resources Board, the Environmental Protection Agency, and to any appropriate Federal Land Manager and Air Pollution Control District affected by emissions from the proposed source or modification.

- D. The Air Pollution Control Officer shall consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approvability of the application. Such comments shall be made available for public inspection in the same location as available application information relating to the proposed facility or modification are located.

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- E. The Air Pollution Control Officer shall make a final decision as to whether an Authority to Construct should be approved, approved with conditions or disapproved. Such decision shall be transmitted to the applicant and made available for public inspection. If the application is denied, the Air Pollution Control Officer shall not accept a further application unless the application has complied with the objections or deficiencies specified by the Air Pollution Control Officer as reasons for denial of the Authority to Construct.

- F. Within ten (10) days after notice by the Air Pollution Control Officer of a denial or conditional approval of an Authority to Construct, the applicant may petition the Hearing Board, in writing, for public hearing. The Hearing Board, after notice and public hearing held within 30 days after filing the petition, may sustain or reverse the action of the Air Pollution Control Officer, provided that in reversing an action the Hearing Board shall make the finding that the action of the Air Pollution Control Officer was not proper. Such orders of the Hearing Board may be made subject to specified conditions.

- G. For major sources subject to Title V of the Clean Air Act of 1990, Part 5.0 of Rule 522 Title V - Federal Operating Permits applies to Authority to Construct decisions.