

# SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT

## **RULE 202 -- NEW SOURCE REVIEW**

*(Adopted 9-20-76) (Amended 6-19-79, 7-26-79, 4-19-83, 11-20-84, 2-26-91, 4-4-96, 1-24-02)*

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- 101 **PURPOSE:** The purpose of this rule is to provide for the review of new and modified stationary air pollution sources and to provide mechanisms, including emission offsets, by which authorities to construct such sources may be granted without interfering with the attainment or maintenance of ambient air quality standards.

A facility in possession of a valid Title V Operating Permit issued pursuant to Rule 207, TITLE V - FEDERAL OPERATING PERMIT PROGRAM, seeking a permit for a new emissions unit or a modified emissions unit which qualifies as a significant Title V modification, may choose to have their permit reviewed through an Enhanced New Source Review process, thereby meeting all the procedural requirements specified in Sections 401 through 408 of Rule 207, TITLE V - FEDERAL OPERATING PERMIT PROGRAM and the compliance requirements in Section 305 of Rule 207, TITLE V - FEDERAL OPERATING PERMIT PROGRAM. The Title V Operating Permit would then be amended administratively to reflect this permitting action.

- 102 **APPLICABILITY:** This rule shall apply to all new stationary sources and emissions units and all modifications to existing stationary sources and emissions units which are subject to Rule 201, GENERAL PERMIT REQUIREMENTS, except as provided in Section 220, and which, after construction or modification, emit or may emit any affected pollutants. This rule shall not apply to prescribed burning of forest, agriculture or range land, road construction or any other non-stationary source common to timber harvesting or agricultural practices. This Section 102 shall not be used to exempt any stationary source or modification, which would be subject to review under US Environmental Protection Agency regulations, from permit requirements.

The Enhanced New Source Review process applies only to facilities in possession of a valid Title V Operating Permit issued pursuant to Rule 207, TITLE V - FEDERAL OPERATING PERMIT PROGRAM, which are installing a new emissions unit or performing a significant Title V modification as defined in Section 233 of Rule 207, TITLE V - FEDERAL OPERATING PERMIT PROGRAM, and which have specifically requested in writing, in the permit application package, to have the application reviewed pursuant to the Enhanced New Source Review process.

- 103 **SEVERABILITY:** If a court of competent jurisdiction issues an order that any provision of this rule is invalid, it is the intent of the Board of Directors of the District that other provisions of this rule remain in full force and affect to the extent allowed by law.

- 110 **EXEMPTION: EMERGENCY EQUIPMENT:** The Air Pollution Control Officer shall exempt an emissions unit from the requirements of Sections 302 and 303, if it would provide emergency electrical power, emergency water pumping for flood control or fire fighting, emergency potable water pumping, or emergency sewage pumping provided the following requirements are met.

110.1 Operation for maintenance purposes shall be limited to 100 hours per year, and such maintenance shall be scheduled in cooperation with the District so as to limit air quality impact, and

110.2 Operation of the equipment shall be limited to a total of 200 hours per year, and

110.3 Operation of the equipment shall not be for supplying power to a serving utility for distribution on the grid, and

110.4 Operation for other than maintenance purposes shall be limited to actual interruptions of electrical power by the serving utility, emergency water pumping for flood control or fire fighting, emergency potable water pumping, or emergency sewage pumping, or

110.5 Operation for other than maintenance purposes shall be limited to maintaining the safety and preserving the integrity of nuclear power generating systems.

- 111 **EXEMPTION: TEMPORARY SOURCE:** The Air Pollution Control Officer shall exempt an emissions unit from the requirements of Sections 302 and 303, if it is a temporary source and is not a major stationary source or major modification or is not located at a major stationary source.

- 112 **EXEMPTION: NOTIFICATION REQUIREMENTS:** Except for applications reviewed under the Enhanced New Source Review process pursuant to Section 404, the requirements of Sections 405, 406, 407, and 409.2 relating to notification, publication, and public inspection of Preliminary Decisions; and notification, publication, and public inspection of Final Action shall not apply if the application is for any new or modified emissions unit where the combined potential to emit from all new or modified emissions units at the stationary source, which are covered by the application for such Authority to Construct(s), would have an increase in potential to emit as defined in Section 419 of less than:
- | Pollutant                  | Pounds per quarter |
|----------------------------|--------------------|
| Reactive organic compounds | 7,500              |
| Nitrogen oxides            | 7,500              |
| Sulfur oxides              | 13,650             |
| PM10                       | 7,500              |
| Carbon monoxide            | 49,500             |
- 113 **EXEMPTION: REPLACEMENT EQUIPMENT:** The requirements of Sections 302 and 303 shall not apply to replacement equipment.
- 114 **EXEMPTION: RULE COMPLIANCE:** The requirements of Sections 302 and 303 shall not apply to modifications necessary to comply with standards contained in Regulation 4, PROHIBITIONS, or in the State Implementation Plan. Where more than one compliance option is allowed, then this exemption only applies to the emissions resulting from the least emissive option. The incremental emissions difference between the least emissive option and the selected option must comply with Sections 302 and 303. This exemption shall not apply to modifications in production rate, hours of operation, or other changes or additions to existing equipment not necessary for compliance with standards contained in District Regulation 4, PROHIBITIONS, or in the State Implementation Plan. This exemption also does not apply if the modifications for compliance with standards contained in Regulation 4, PROHIBITIONS, or the State Implementation Plan are significant modifications under the United States Environmental Protection Agency regulations promulgated pursuant to Title I of the Federal Clean Air Act, including 40 CFR Parts 51 and 52.
- 200 **DEFINITIONS:** Unless otherwise defined below, the terms in this rule are defined in Rule 201, GENERAL PERMIT REQUIREMENTS, Rule 204, EMISSION REDUCTION CREDITS, and Rule 207, TITLE V - FEDERAL OPERATING PERMIT PROGRAM.
- 201 **ACTUAL EMISSIONS:** Measured or estimated emissions which most accurately represent the emissions from an emissions unit.
- 202 **ACTUAL EMISSIONS REDUCTIONS:** Reductions of historic actual emissions from an emissions unit selected for on-site or off-site emissions offsets. Historic actual emission reductions shall be calculated, adjusted and certified pursuant to Rule 204, EMISSION REDUCTION CREDITS.
- 203 **ACTUAL INTERRUPTIONS OF ELECTRICAL POWER:** When electrical service is interrupted by an unforeseeable event.
- 204 **AFFECTED POLLUTANTS:** Reactive organic compounds (ROC), nitrogen oxides (NOx), sulfur oxides (SOx), PM10, carbon monoxide (CO), lead, and municipal waste organics, municipal waste metals, and municipal waste acid gases, as defined in 40 CFR Part 60 Subpart Ea.
- 205 **AMBIENT AIR QUALITY STANDARDS:** State and federal ambient air quality standards. For the purpose of submittal to the US Environmental Protection Agency for inclusion in the California State Implementation Plan all references in this rule to Ambient Air Quality Standards shall be interpreted as National Ambient Air Quality Standards.

- 206 **BEST AVAILABLE CONTROL TECHNOLOGY (BACT):**
- 206.1 For any emissions unit the most stringent of:
- a. The most effective emission control device, emission limit, or technique, singly or in combination, which has been required or used for the type of equipment comprising such an emissions unit unless the applicant demonstrates to the satisfaction of the Air Pollution Control Officer that such limitations required on other sources have not been demonstrated to be achievable in practice.
  - b. Any alternative basic equipment, fuel, process, emission control device or technique, singly or in combination, determined to be technologically feasible and cost-effective by the Air Pollution Control Officer.
- 206.2 In making a BACT determination for each affected pollutant the Air Pollution Control Officer may consider the overall effect of the determination on other affected pollutants. In some cases the lowest emission rates may be required for one or more affected pollutants at the cost of not achieving the lowest emission rate for other pollutants. The Air Pollution Control Officer shall discuss these considerations in the Preliminary Decision prepared pursuant to Section 405.
- 206.3 Under no circumstances shall BACT be determined to be less stringent than the emission control required by any applicable provision of District, state or federal laws or regulations, or contained in the implementation plan of any State for such class or category of stationary source unless the applicant demonstrates to the satisfaction of the Air Pollution Control Officer that such limitations are not achievable.
- 207 **CARGO CARRIERS:** Cargo carriers are trains dedicated to a specific source.
- 208 **CEQA:** The California Environmental Quality Act, Public Resources Code, Section 21000, et seq.
- 209 **CONTIGUOUS PROPERTY:** Two or more parcels of land with a common boundary or separated solely by a public roadway or other public right-of-way.
- 210 **COST-EFFECTIVE:** A cost per unit of emissions reduction which is lower than or equivalent to the maximum unit costs, for the affected pollutant or source category, of the same emission reduction through the use of Best Available Control Technology, calculated in current year dollars, in accordance with methodology and criteria specified in the BACT Cost-Effectiveness Guidelines developed by the District.
- 211 **CREDITABLE INCREASES AND DECREASES:**
- 211.1 An increase or decrease in actual emissions is creditable only if:
- a. It occurs within a reasonable period to be specified by the reviewing authority; and
  - b. The Air Pollution Control Officer has not relied on it in issuing a permit which permit is in effect when the increase in actual emissions from the particular change occurs.
- 211.2 An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- 211.3 A decrease in actual emissions is creditable only to the extent that:
- a. The old level of actual emission or the old level of allowable emissions whichever is lower, exceeds the new level of actual emissions;
  - b. It is federally enforceable at and after the time that actual construction on the particular change begins; and
  - c. The Air Pollution Control Officer has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR part 51 subpart I or the State has not relied on it in demonstrating attainment or reasonable further progress;
  - d. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

- 211.4 An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- 212 **CUMULATIVE EMISSION INCREASE:** An increase calculated pursuant to Section 414 or 415.
- 213 **EMISSION OFFSET:** An emission reduction credit that compensates for an emission increase of an affected pollutant from a new or modified source subject to the requirements of Sections 302 and 303.
- 214 **EMISSIONS LIMITATION:** One or more permit conditions specific to an emissions unit which restricts its maximum emissions, at or below the emissions associated with the maximum design capacity. An emissions limitation shall be:
- 214.1 Contained in or enforceable by the latest Authority to Construct and Permit to Operate for the emissions unit, and
- 214.2 Enforceable pursuant to Section 410, and
- 214.3 Enforceable on a quarterly basis, and
- 214.4 No less stringent than the applicable emission standards given in 40 CFR Part 60, Standards of Performance for New Stationary Sources, and 40 CFR Part 61 and 63, National Emission Standards for Hazardous Air Pollutants.
- 215 **EMISSIONS UNIT:** An identifiable operation or piece of process equipment such as an article, machine, or other contrivance which controls, emits, may emit, or results in the emissions of any affected pollutant or hazardous air pollutant (HAP), directly or as fugitive emissions. Emissions unit shall not include the open burning of agricultural biomass.
- 216 **FUGITIVE EMISSIONS:** Those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.
- 217 **HAZARDOUS AIR POLLUTANT (HAP):** Any air pollutant listed pursuant to Section 112(b) (42 U.S.C Section 7412(b) of the Federal Clean Air Act).
- 218 **HISTORIC ACTUAL EMISSIONS:** Actual emissions for the existing emissions unit averaged over the two year period immediately preceding the date of application for an Authority to Construct. If the last two years are unrepresentative of normal source operations as determined by the Air Pollution Control Officer, then any two consecutive years of the last five years that represent normal source operation may be used. If, at any time during the two year period, actual emissions exceeded allowed or permitted emission levels, then actual emissions shall be reduced to reflect emission levels that would have occurred if the unit were in compliance with all applicable limitations and rules. If less than one year has passed since the date of commencing operation under an issued Permit to Operate or an Authority to Construct then the historic actual emissions, for the purpose of this rule, shall be the potential to emit. If one year or more but less than two years have passed since the date of issuance of the Permit to Operate or an Authority to Construct then the historic actual emissions shall be the actual emissions over the one year period immediately preceding the date of application. All calculations will be based on a quarterly basis.
- 219 **HISTORIC POTENTIAL EMISSIONS:** The historic potential emissions shall be:
- 219.1 **Non-Major Modifications:** Except as provided in Section 219.4, the potential to emit of the emissions unit prior to modification.
- 219.2 **Major Modifications:** The historic actual emissions divided by 0.8, but no more than the potential to emit. If emission offsets were provided from a previous permitting action to fully offset (including offset ratios) the potential to emit of the emission's unit, then the historic potential emissions will be based on the potential to emit of the emissions unit prior to modification.
- 219.3 **New Emissions Unit:** Zero.

219.4 **Emission Unit without Enforceable Limiting Conditions:** The historic actual emissions divided by 0.8, but no more than the potential to emit.

220 **MAJOR STATIONARY SOURCE:** A stationary source is a major source for the affected pollutant if it emits or has the potential to emit an affected pollutant in quantities equal to or exceeding any of the following thresholds:

220.1 25 tons per year of reactive organic compounds;

220.2 25 tons per year of nitrogen oxides;

220.3 100 tons per year of sulfur oxides;

220.4 100 tons per year of PM<sub>10</sub>; or

220.5 100 tons per year of carbon monoxide.

Emissions associated with emissions units exempt from permit requirements pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS, except for emissions units exempted pursuant to Rule 201, Sections 111 and 113, shall be included in the potential to emit of the stationary source unless the emissions unit emits less than 2 pounds per day of each pollutant. Fugitive emissions associated with the emissions unit or stationary source shall not be included in the potential to emit of the emissions unit or stationary source for the purpose of determining whether the source is major unless the source belongs to one of the categories of stationary sources included in Rule 207, TITLE V - FEDERAL OPERATING PERMIT PROGRAM, Section 219.3.

221 **MAJOR MODIFICATION:** A Modification as defined in Section 222 to a major stationary source which results in an increase in the potential to emit equal to or exceeding any of the following thresholds when aggregated with all other creditable increases and decreases in emissions from the source over the period of five consecutive years before the application for modification, and including the calendar year of the most recent application:

221.1 25 tons of reactive organic compounds;

221.2 25 tons of nitrogen oxides;

221.3 40 tons of sulfur oxides;

221.4 15 tons of PM<sub>10</sub>; or

221.5 100 tons of carbon monoxide.

222 **MODIFICATION:** Any physical change, change in method of operation, or addition, which:

222.1 For an emissions unit would necessitate a change in an emissions limiting permit condition or result in proposed emissions being higher than the historic potential emissions.

222.2 For a stationary source:

a. is a modification of its emissions unit, or

b. addition of any new emissions unit.

222.3 Unless previously limited by a permit condition, the following shall not be considered a modification for the purpose of this rule:

a. An increase in the production rate if such increase does not exceed the operating design capacity or the actual demonstrated capacity of the facility as approved by the Air Pollution Control Officer.

b. An increase in the hours of operation.

c. A change in ownership.

d. Routine maintenance and repair.

e. A reconstructed stationary source or emissions unit, which shall be treated as a new stationary source or emissions unit, not as a modification.

f. The addition of a continuous emission monitoring system.

g. The replacement of air pollution control equipment with new control equipment if the actual emissions of the new equipment are less than or equal to those from the original piece of equipment and the replacement is not a significant modification under the United States Environmental Protection Agency regulations promulgated pursuant to Title I of the Federal Clean Air Act, including 40 CFR Parts 51 and 52.

223 **NONATTAINMENT POLLUTANT:** Any pollutant and any precursors of such pollutants which

have been designated "nonattainment" for the District by the US Environmental Protection Agency in the Federal Register, or which have been designated nonattainment for the District by the California Air Resources Board pursuant to Section 39607 of the Health and Safety Code.

- 224 **PEAKING POWER PLANT:** A fossil-fueled combustion turbine power generation unit or other power generation unit with an actual annual capacity factor of 25% or less, which is used during peak electricity demand periods, and may operate for short periods, with frequent start-ups and shutdowns. Emergency equipment that is operated in compliance with the requirements of Section 110 is not considered a peaking power plant.
- 225 **PM10:** Particulate matter with an aerodynamic diameter smaller than or equal to a nominal 10 microns as measured by an applicable reference test method or methods found in Article 2, Subchapter 6, Title 17, California Code of Regulations (commencing with Section 94100).
- 226 **PORTABLE EQUIPMENT:** Equipment which is periodically relocated and is not operated more than a total of 180 days at any one stationary source in the District within a continuous 12 month period.
- 227 **POTENTIAL TO EMIT:** The maximum physical and operational design capacity to emit a pollutant. Limitations on the physical or operational design capacity, including emissions control devices and limitations on hours of operation, may be considered only if such limitations are incorporated into the applicable Authority to Construct and Permit to Operate. The potential to emit shall include both directly emitted and fugitive emissions.
- 228 **PRECURSOR:** A pollutant that, when emitted into the atmosphere, may undergo either a chemical or physical change which then produces another pollutant for which an ambient air quality standard has been adopted, or whose presence in the atmosphere will contribute to the violation of one or more ambient air quality standards. The following precursor-secondary air contaminant relationships shall be used for the purposes of this rule:

<u>Precursor</u>	<u>Secondary Air Contaminant</u>
Reactive Organic Compound -----	a. Photochemical oxidants (Ozone) b. Organic fraction of PM10 -----
Nitrogen Oxides  -----	a. Nitrogen dioxide b. Nitrate fraction of PM10 c. Photochemical oxidants (Ozone) -----
Sulfur Oxides  -----	a. Sulfur dioxide b. Sulfates c. The sulfate fraction of PM10 -----

- 229 **PRIORITY RESERVE BANK:** A depository for preserving emission reduction credits pursuant to Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK for use as an emission offset in accordance with Sections 302, 303, 417 and 418.
- 230 **PROPOSED EMISSIONS:** Emissions based on the potential to emit for the new or modified emissions unit.
- 231 **PROPOSED EMISSION INCREASE:** An increase calculated pursuant to Section 416.
- 232 **QUARTER/QUARTERLY:** Calendar quarters beginning January 1, April 1, July 1, and October 1.



- 233 **REACTIVE ORGANIC COMPOUND:** For the purposes of this rule, reactive organic compound has the same meaning as “volatile organic compound” in Rule 101, GENERAL PROVISIONS AND DEFINITIONS.
- 234 **RECONSTRUCTED SOURCE:** Any stationary source or emissions unit undergoing physical modification where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new stationary source or emissions unit. Fixed capital cost means that capital needed to provide and install all the depreciable components: this includes the cost of parts and labor. A reconstructed source shall be treated as a new stationary source or emissions unit.
- 235 **REPLACEMENT EQUIPMENT:** The replacement or modification of emission unit(s) at a non-major stationary source or non-major modifications where the replacement unit(s) serves the identical function as the unit(s) being replaced, and the maximum rating and the potential to emit any pollutant will not be greater from the new or modified emissions unit(s) than the replaced unit(s).
- 236 **SACRAMENTO FEDERAL NON-ATTAINMENT AREA FOR OZONE:** The area defined in 40 CFR Section 81.305 for the Sacramento Metropolitan area.
- 237 **STATIONARY SOURCE:** Any building, structure, facility, or emissions unit which emits or may emit any affected pollutant directly or as a fugitive emission.
- 237.1 Building, structure, facility, or emissions unit includes all pollutant emitting activities which:
- a. belong to the same industrial grouping, and
  - b. are located on one property or on two or more contiguous properties, and
  - c. are under the same or common ownership, operation, or control or which are owned or operated by entities which are under common control.
- 237.2 Pollutant emitting activities shall be considered as part of the same industrial grouping if:
- a. they belong to the same two-digit standard industrial classification code, or
  - b. they are part of a common production process. (Common production process includes industrial processes, manufacturing processes and any connected processes involving a common material.)
- 237.3 The emissions within District boundaries of cargo carriers associated with the stationary source shall be considered emissions from the stationary source to the extent that emission reductions from cargo carriers are proposed as emission offsets.
- 238 **TEMPORARY SOURCE:** Emission sources such as pilot plants and portable facilities that will be terminated or located outside the District after less than a cumulative total of 90 days of operation in any continuous 12 months.

300 **STANDARDS**

- 301 **BEST AVAILABLE CONTROL TECHNOLOGY:** An applicant shall apply Best Available Control Technology to a new emissions unit or modification of an existing emissions unit, except cargo carriers, for each emissions change of an affected pollutant, if the change would result in an increase in quarterly emissions according to procedures specified in Section 413, and if the daily potential to emit of the new or modified emissions unit meets or exceeds the levels specified in Section 301.1. Notwithstanding the preceding sentence, if the modification is a major modification, then the applicant shall apply Best Available Control Technology for each pollutant that triggers major modification requirements.

301.1	Pollutant	lb/day
	Reactive organic compounds	10
	Nitrogen oxides	10
	Sulfur oxides	10
	PM10	10
	Carbon monoxide	550
	Lead	3.3

302 **EMISSION OFFSET REQUIREMENTS, GENERAL:**

- 302.1 Except as provided in Sections 302.3, an applicant shall provide emission offsets for the affected pollutant for new and modified stationary sources where the cumulative emission increase calculated pursuant to Section 414 or 415 meets or exceeds the following levels:
- |    |                            |             |
|----|----------------------------|-------------|
| a. | Pollutant                  | lbs/quarter |
|    | Reactive organic compounds | 7,500       |
|    | Nitrogen oxides            | 7,500       |
|    | Sulfur oxides              | 13,650      |
|    | PM10                       | 7,500       |
|    | Carbon monoxide            | 49,500      |
- 302.2 Emission offsets shall be obtained pursuant to Rule 204, EMISSION REDUCTION CREDITS, Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK, or Rule 206, MOBILE AND TRANSPORTATION SOURCE EMISSION REDUCTION CREDITS,
- 302.3 In addition to 302.1, an applicant for a peaking power plant shall provide emission offsets for the affected pollutant for new and modified stationary sources where the proposed emission increase calculated pursuant to Section 416 exceeds the following levels:
- |    |                            |        |
|----|----------------------------|--------|
| a. | Pollutant                  | lb/day |
|    | Reactive organic compounds | 150    |
|    | Nitrogen oxides            | 150    |
|    | Sulfur oxides              | 150    |
|    | PM10                       | 80     |
|    | Carbon monoxide            | 550    |
- 302.4 Except as provided in Section 302.4(a), sufficient emission offsets shall be provided from the same calendar quarter as the proposed emissions to offset the net emissions increase of reactive organic compounds and nitrogen oxides (except as provided in Section 302.8) calculated according to procedures specified in Section 417.
- a. Emission credits for reactive organic compounds and nitrogen oxides during the quarters starting April 1 and July 1 may be used to offset emission increases during any quarter except as provided below.
1. Emission credits from the quarter starting April 1 that will be used in the quarter starting July 1 shall not exceed more than 20% of a project's reactive organic compound or nitrogen oxides offset needs, as applicable, in the quarter beginning July 1.
  2. Emission credits from the quarter starting July 1 that will be used in the quarter starting April 1 shall not exceed more than 20% of a project's reactive organic compound or nitrogen oxides needs, as applicable, in the quarter beginning April 1.
- b. Emission credits for reactive organic compounds and nitrogen oxides during quarters starting January 1 and October 1 may be used to offset emission increases during either quarter starting January 1 and October 1.
- 302.5 Except as provided in Section 302.5 (a), sufficient emission offsets shall be provided from the same calendar quarter as the proposed emissions to offset the net emissions increase of sulfur oxides, PM10 and carbon monoxide (except as provided in Section 302.7 or 302.8) calculated according to procedures specified in Section 418.
- a. Emission credits for carbon monoxide, PM10, and sulfur oxides during the quarters starting January 1 and October 1 may be used during any quarter except as provided below.

1. Emission credits from the quarter starting January 1 that will be used in the quarter starting October 1 shall not exceed more than 20% of a project's carbon monoxide, PM10, and sulfur oxides offset needs, as applicable, in the quarter beginning January 1.
  2. Emission credits from the quarter starting October 1 that will be used in the quarter starting January 1 shall not exceed more than 20% of a project's carbon monoxide, PM10, and sulfur oxides offset needs, as applicable, in the quarter beginning October 1.
- b. Emission credits for carbon monoxide, PM10, and sulfur oxides during quarters starting April 1 and June 1 may be used to offset emission increases during either quarter starting April 1 and June 1.
- 302.6 If an application for an Authority to Construct is received for an emissions unit that has obtained emission reduction credits from a shutdown under Rule 204, EMISSION REDUCTION CREDITS, then sufficient emission offsets shall be provided consistent with Section 302.1. If the emissions unit does not trigger emission offsets in accordance with this section then the applicant shall provide sufficient emission offsets to offset the lesser of the amount of the emission reduction obtained pursuant to Rule 204, EMISSION REDUCTION CREDITS or the proposed emissions from the emissions unit.
- 302.7 Emission offsets for increases in carbon monoxide shall not be required if the applicant, using an air quality modeling analysis prepared pursuant to Section 403, demonstrates to the satisfaction of the Air Pollution Control Officer that the increase in ambient concentration does not exceed 500 micrograms per cubic meter, 8 hour average, at and beyond the property line of the stationary source.
- 302.8 Except for portable equipment located at a major stationary source or that is a major stationary source by itself, portable equipment shall be offset at the initially permitted location only. In the event such portable equipment is shutdown, emission reduction credits shall be granted based on the initially permitted location.

303 **LOCATION OF EMISSION OFFSETS AND EMISSION OFFSET RATIOS:**

- 303.1 An applicant shall provide emission offsets for emissions from a proposed stationary source subject to the requirements of Section 302 according to the following ratios except as provided in 303.1b and 303.1c:
- a. Emission Offset Ratio:
    1. For use by new major stationary sources or major modifications at an existing major stationary source

<b>Major Stationary Sources/Major Modifications</b>		
<b>Location of Emission Offset</b>	<b>Emission Offset Ratio</b>	
	<b>Reactive organic compounds or Nitrogen oxides</b>	<b>Sulfur oxides, PM10 or Carbon Monoxide</b>
Same Source	1.3 to 1.0	1.0 to 1.0
Within 15-mile radius and within Sacramento Valley Air Basin	1.3 to 1.0	1.2 to 1.0
Greater than 15-mile but within 50-mile radius and within Sacramento Valley Air Basin	1.5 to 1.0	1.5 to 1.0
More than 50-mile radius and within Sacramento Valley Air Basin	>1.5 to 1.0 (*) (*) based on case by case determination	>1.5 to 1.0 (*) (*) based on case by case determination

2. For use by non-major stationary sources or non-major modifications

<b>Non-major Stationary Sources/Non-major Modifications</b>		
<b>Location of Emission Offset</b>	<b>Emission Offset Ratio</b>	
	<b>Reactive organic compounds or Nitrogen oxides</b>	<b>Sulfur oxides, PM10 or Carbon Monoxide</b>
Same Source	1.0 to 1.0	1.0 to 1.0
Within 15-mile radius and within Sacramento Valley Air Basin	1.2 to 1.0	1.2 to 1.0
Greater than 15-mile but within 50-mile radius and within Sacramento Valley Air Basin	1.5 to 1.0	1.5 to 1.0
More than 50-mile radius and within Sacramento Valley Air Basin	>1.5 to 1.0 (*) (*) based on case by case determination	>1.5 to 1.0 (*) (*) based on case by case determination

- b. Applicants providing emission offsets obtained pursuant to Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK shall provide emission offsets for all pollutants at all distances pursuant to the following:

<b>Community Bank/Priority Reserve Bank</b>	
<b>Source Type/Pollutant</b>	<b>Emission offset ratio</b>
For use by non-major stationary sources or non-major modifications for all pollutants	1.0 to 1.0
For use by major stationary sources or major modifications for reactive organic compounds or nitrogen oxides	1.3 to 1.0
For use by major stationary sources or major modifications for sulfur oxides, PM10 or carbon monoxide	1.2 to 1.0

- c. Applicants providing emission offsets obtained pursuant to Rule 206, MOBILE AND TRANSPORTATION SOURCE EMISSION REDUCTION CREDITS shall provide emission offsets for all pollutants at all distances pursuant to the following:

<b>Mobile Source Credits</b>	
<b>Source Type/Pollutant</b>	<b>Emission offset ratio</b>
For use by non-major stationary sources or non-major modifications for all pollutants	1.0 to 1.0
For use by major stationary sources or major modifications for reactive organic compounds or nitrogen oxides	1.3 to 1.0
For use by major stationary sources or major modifications for sulfur oxides, PM10 or carbon monoxide	1.2 to 1.0

- 303.2 Emission offsets which are required pursuant to Sections 302 and 303 and obtained pursuant to permitting actions in a district other than that in which the proposed source is located may be used only if the Air Pollution Control Officer has reviewed the permit conditions issued by the other district in which the proposed emission offsets are obtained and made a determination that the impact of using such emission offsets meets the requirements of District Rules and Regulations and Health and Safety Code Section 40709.6. An offset ratio not less than the levels specified in 303.1 shall be applied as necessary to discount the offsets and mitigate the associated impact.
- 303.3 For major stationary sources or major modifications, emission offsets for reactive organic compounds and nitrogen oxides must be obtained from within the Sacramento Federal Non-attainment Area for ozone.
- 304 **INTERPOLLUTANT EMISSION OFFSETS:** Interpollutant emission offsets are discouraged and may only be allowed between precursor contaminants. The Air Pollution Control Officer may approve interpollutant emission offsets for precursor pollutants on a case by case basis, provided that the applicant demonstrates through the use of an air quality model that the emission increases from the new or modified source will not cause or contribute to a violation of an ambient air quality standard. In such cases, the Air Pollution Control Officer shall impose, based on an air quality analysis, emission offset ratios in addition to the requirements of Section 303. Interpollutant emission offsets between PM10 and PM10 precursors may be allowed. PM10 emissions shall not be allowed to offset nitrogen oxides or reactive organic compound emissions in ozone nonattainment areas, nor be allowed to offset sulfur oxide emissions in sulfate nonattainment areas. In no case shall the compounds excluded from the definition of Reactive Organic Compounds be used as offsets for Reactive Organic Compounds. Interpollutant emission offsets used at a major stationary source must receive written approval by the US Environmental Protection Agency.
- 305 **AMBIENT AIR QUALITY STANDARDS:** In no case shall emissions from a new or modified stationary source, prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard. The Air Pollution Control Officer may require the use of an air quality model to estimate the effects of a new or modified stationary source. In making this determination the Air Pollution Control Officer shall take into account the mitigation of emissions through emission offsets obtained pursuant to this rule.
- 306 **DENIAL, FAILURE TO MEET STANDARDS:** The Air Pollution Control Officer shall deny any Authority to Construct or Permit to Operate if the Air Pollution Control Officer finds that the subject of the application would not comply with the standards set forth in District, state, or federal rules, regulations or statutes.
- 307 **DENIAL, FAILURE TO MEET CEQA:** The Air Pollution Control Officer shall deny an Authority to Construct or Permit to Operate if the Air Pollution Control Officer finds that the project which is the subject of the application would not comply with CEQA.
- 400 **ADMINISTRATIVE REQUIREMENTS:** The following administrative requirements in Sections 401-419 shall apply to any activities regulated by this rule, except for the review of power plants over 50 megawatts. Power plants over 50 megawatts shall be subject to the review requirements of Section 420.
- 401 **ALTERNATIVE SITING:** For new major sources or major modifications for which an analysis of alternative sites, sizes, and production processes is required under Section 173 of the Clean Air Act, the Air Pollution Control Officer shall require the applicant to prepare an alternative siting analysis that is functionally equivalent to the requirements of Division 13 of the Public Resources Code (California Environmental Quality Act-CEQA). An authority to construct shall not be issued unless the Air Pollution Control Officer has concluded, based on the information contained in the alternative siting analysis, that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

- 402 **COMPLETE APPLICATION:** The Air Pollution Control Officer shall determine whether the application is complete not later than 30 days after receipt of the application, or after such longer time as both the applicant and the Air Pollution Control Officer have agreed in writing. If the Air Pollution Control Officer determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information required. Upon receipt of any re-submittal of the application, a new 30-day period to determine completeness shall begin. Completeness of an application or re-submitted application shall be evaluated on the basis of the information requirements set forth in the District's List and Criteria (adopted pursuant to Article 3, 65940 through 65944 of Chapter 4.5 of Division I of Title 7 of the California Government Code) as it exists on the date on which the application or re-submitted application was received, and on payment of the appropriate fee pursuant to Rule 301 - PERMIT FEES, STATIONARY SOURCES. The Air Pollution Control Officer may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.
- 403 **AIR QUALITY MODELS:** All air quality models used for the purposes of this rule shall be consistent with the requirements provided in the most recent edition of US Environmental Protection Agency "Guidelines on Air Quality Models, OAQPS 1.2-080" unless the Air Pollution Control Officer finds that such model is inappropriate for use. After making such finding the Air Pollution Control Officer may designate an alternate model only after allowing for public comment, and only with concurrence of the US Environmental Protection Agency. Credit shall not be given for stacks higher than that dictated by good engineering practice. All modeling costs associated with the siting of a stationary source shall be borne by the applicant.
- 404 **ENHANCED NEW SOURCE REVIEW:** Applications for which the applicant has requested review pursuant to this Section and Section 101 shall be reviewed in accordance with the procedural requirements specified in Sections 401 through 408 of District Rule 207, TITLE V FEDERAL OPERATING PERMIT PROGRAM, and Sections 70.6(a) through 70.6(g), 70.7(a), and 70.7(b), Part 70, Title 40, Code of Federal Regulations (40 CFR).
- 405 **PRELIMINARY DECISION:** Following acceptance of an application as complete, the Air Pollution Control Officer shall perform the evaluations required to determine compliance with all applicable District, state and federal rules, regulations, or statutes and shall make a preliminary written decision as to whether an Authority to Construct should be approved, conditionally approved, or denied. The decision shall be supported by a succinct written analysis.
- 405.1 Except as provided in Section 112, the Air Pollution Control Officer shall transmit to the California Air Resources Board and the US Environmental Protection Agency its preliminary written decision and analysis for sources subject to Sections 301 or 302, upon issuance of the preliminary decision for a 30-day period.
- 406 **PUBLICATION AND PUBLIC COMMENT:** Except as provided in Section 112, within ten calendar days following a preliminary decision pursuant to Section 300, Standards, of this rule, the Air Pollution Control Officer shall publish in at least one newspaper of general circulation in the District a notice stating the preliminary decision of the Air Pollution Control Officer, noting how pertinent information can be obtained, and inviting written public comment for a 30-day period following the date of publication. The notice shall include the time and place of any hearing that may be held, including a statement of procedure to request a hearing (unless a hearing has already been scheduled). The Air Pollution Control Officer shall give notice of any public hearing at least 30 days in advance of the hearing.
- 407 **PUBLIC INSPECTION:** Except as provided in Section 112, the Air Pollution Control Officer shall make available for public inspection at the District's office the information submitted by the applicant and the Air Pollution Control Officer's analysis no later than the date the notice of the preliminary decision is published, pursuant to Section 406. All such information shall be transmitted no later than the date of publication to the California Air Resources Board and the US Environmental Protection Agency regional office, and to any party which requests such information. Information submitted which contains trade secrets shall be handled in accordance

with Section 6254.7 of the California Government Code and relevant sections of the California Administrative Code.

408 **SUBMITTAL OF BACT DETERMINATION:** The Air Pollution Control Officer shall submit to the California Air Resources Board all new BACT determinations made by the District. A new BACT determination is any BACT determination made by the District for the first time for a given type of emission unit. All such determinations shall be submitted to the California Air Resources Board by no later than 30 days after issuance of the final Authority to Construct containing the new BACT determination.

409 **AUTHORITY TO CONSTRUCT, FINAL ACTION:**

409.1 a. Except as provided in Sections 409.1b and 409.1c, the Air Pollution Control Officer shall take final action on the application, after considering all written comments, no later than 180 days after acceptance of an application as complete.

b. The Air Pollution Control Officer shall not take final action for any project for which an Environmental Impact Report (EIR) or a Negative Declaration is being prepared until a final EIR for that project has been certified or a Negative Declaration for that project has been approved, and the Air Pollution Control Officer has considered the information in that final EIR or Negative Declaration. The Air Pollution Control Officer shall take final action on the application within whichever of the following periods of time is longer:

1. Within 180 days after the certification of the final EIR or approval of the Negative Declaration, or
2. Within 180 days of the date on which the application was determined complete by the Air Pollution Control Officer.

c. The Air Pollution Control Officer shall take final action on applications reviewed pursuant to the Enhanced New Source Review Process no later than 18 months after acceptance of an application as complete.

409.2 Except as provided in Section 112, the Air Pollution Control Officer shall provide written notice of the final action to the applicant, the US Environmental Protection Agency, and the California Air Resources Board, and shall publish such notice in a newspaper of general circulation and shall make the notice and all supporting documents available for public inspection at the District's office.

410 **REQUIREMENTS, AUTHORITY TO CONSTRUCT AND PERMIT TO OPERATE:**

410.1 General Conditions: As a condition for the issuance of a Permit to Operate, the Air Pollution Control Officer shall require that the emissions unit and stationary source, and any emissions units which provide emission offsets, be operated in the manner stated in making the analysis required to determine compliance with this rule, and as conditioned in the Authority to Construct.

410.2 Emissions Limitations: The following emissions limitations shall be included on the Authority to Construct and Permit to Operate, if applicable.

a. Emission limitations which reflect Best Available Control Technology. Such condition shall be expressed in a manner consistent with testing procedures, such as ppmv NO<sub>x</sub>, g/liter VOC, or lbs/hr.

b. An emissions limitation for each affected pollutant.

c. If the Air Pollution Control Officer determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of a numerical emission standard infeasible, the Air Pollution Control Officer may instead prescribe a design, operational, or equipment standard. In such cases, the Air Pollution Control Officer shall make a best estimate as to the emission rate that will be achieved. Any permits issued without an enforceable numerical emission standard must contain enforceable conditions that assure that the design characteristics or equipment will be properly maintained, or that the operational conditions will be properly performed, so as to continuously achieve the assumed degree of control. The Air Pollution Control Officer shall discuss the determination in the Preliminary Decision prepared pursuant to Section 405.

- 410.3 Emission offsets:
- a. Before the Air Pollution Control Officer shall approve or conditionally approve an application for an Authority to Construct, the applicant shall supply evidence of a sufficient number of emission reduction credits to meet any offset obligation in accordance with this rule.
  - b. Except as provided in Section 410.3c, the operation of any emissions unit which provides emission offsets shall be subject to enforceable permit conditions, containing specific emissions and operational limitations, to ensure that the emission reductions are provided in accordance with the provisions of this rule.
  - c. For new major stationary sources and major modifications, all emission reductions claimed as offset credit shall be federally enforceable.
  - d. A violation of the emission limitation provisions of any contract pursuant to Rule 204, EMISSION REDUCTION CREDITS, Section 303.2 shall be a violation of this rule by the permit applicant.
  - e. The operation of any emissions unit which uses emission offsets provided by another emissions unit shall be subject to enforceable permit conditions, containing specific emissions and operational limits, to ensure that the emission reductions are used in accordance with the provisions of District rules and shall continue for the reasonably expected life of the proposed emissions unit.

- 411 **ISSUANCE, PERMIT TO OPERATE:** In addition to the requirements of Rule 207, TITLE V FEDERAL OPERATING PERMIT PROGRAM if applicable, the Air Pollution Control Officer shall issue a Permit to Operate an emissions unit, pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS, subject to the requirements of this rule if it is determined that any offsets required as a condition of an Authority to Construct or amendment to a Permit to Operate will commence not later than the initial operation of the new or modified source, and that the emission offsets shall be maintained throughout the operation of the new or modified source which is the beneficiary of the emission offsets. Further, the Air Pollution Control Officer shall determine that all conditions specified in the Authority to Construct have been complied with or will be complied with by the dates specified on the Authority to Construct. Such applicable conditions shall be contained in the Permit to Operate. Where a new or modified stationary source is, in whole or in part, a replacement for an existing stationary source on the same property, the Air Pollution Control Officer may allow a maximum of 90 days as a startup period for simultaneous operation of the existing stationary source and the new source or replacement.
- 412 **REGULATIONS IN FORCE GOVERN:** An Authority to Construct shall be granted or denied based on Best Available Control Technology and emission offset requirements of Sections 301 and 302 in force on the date the application is deemed complete as defined in Section 402. In addition, the Air Pollution Control Officer shall deny an Authority to Construct for any new stationary source or modification, or any portion thereof, unless:
- 412.1 The new source or modification, or applicable portion thereof, complies with the provisions of this rule and all other applicable district rules and regulations; and
  - 412.2 The owner or operator of the proposed new or modified source has demonstrated that all major stationary sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in California which are subject to emission limitations are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards in the Federal Act.
- 413 **CALCULATION OF EMISSIONS FOR BACT TRIGGER LEVELS:** The emissions change for a new or modified emissions unit shall be calculated by subtracting the potential to emit of the emissions unit prior to modification from proposed emissions. Calculations shall be performed separately for each emissions unit for each calendar quarter.



- 414 **CALCULATION OF EMISSION OFFSET TRIGGERS FOR ROC AND NO<sub>x</sub>:** Except as provided in Sections 414.1, the cumulative emission increase for each calendar quarter for a stationary source shall be the sum of emissions from Sections 414.2 and 414.3 for each calendar quarter, expressed in terms of pounds per quarter.
- 414.1 Any potential to emit represented by an Authority to Construct or Permit to Operate which has been canceled or has expired and emission reduction credits have not been applied for pursuant to Rule 204, EMISSION REDUCTION CREDITS shall not be included in the cumulative emissions increase calculation.
  - 414.2 The potential to emit for all emissions units based on current Permits to Operate or Authorities to Construct where Permits to Operate have not been issued, including the current application(s) being reviewed.
  - 414.3 Emission reduction credits obtained pursuant to Rule 204, EMISSION REDUCTION CREDITS, from emissions units installed after January 1, 1977.
- 415 **CALCULATION OF EMISSION OFFSET TRIGGERS FOR SO<sub>x</sub>, PM<sub>10</sub> AND CO:** Except as provided in Sections 415.1, the cumulative emission increase for each calendar quarter for a stationary source shall be the sum of emissions from Sections 415.2, 415.3, and 415.4 for each calendar quarter, expressed in terms of pounds per quarter.
- 415.1 Any potential to emit represented by an Authority to Construct or Permit to Operate which has been canceled or has expired and emission reduction credits have not been applied for pursuant to Rule 204, EMISSION REDUCTION CREDITS shall not be included in the cumulative emissions increase calculation.
  - 415.2 The potential to emit for all emissions units installed after January 1, 1977 based on current Permits to Operate or Authorities to Construct where Permits to Operate have not been issued, including the current application(s) being reviewed.
  - 415.3 All emission increases from the modification to emissions units installed prior to January 1, 1977 and modified after January 1, 1977 as determined by Section 417 of this rule or procedures specified in this rule at the time of modification.
  - 415.4 Emission reduction credits obtained pursuant to Rule 204, EMISSION REDUCTION CREDITS, from emissions units installed after January 1, 1977.
- 416 **CALCULATION OF POUNDS PER DAY EMISSION OFFSET TRIGGERS FOR PEAKING POWER PLANTS:** The proposed emissions are the maximum proposed emissions for any day for all these units at the stationary source.
- 417 **CALCULATION OF EMISSION OFFSETS REQUIRED FOR ROC AND NO<sub>x</sub>:** Calculations shall be performed separately for each pollutant and each emissions unit for each calendar quarter expressed in pounds per quarter. The net emission increase shall be:
- 417.1 For new non-major sources and non-major modifications, the lesser of the following.
    - a. The potential to emit for all emissions units at the stationary source based on current Permits to Operate and Authorities to Construct including the current application subtracting the levels in Section 302.1; or
    - b. For new emissions units, the proposed emissions for the current application; or
    - c. For modifications to existing emissions units, the proposed emissions subtracting the historic potential emissions from the current application.
  - 417.2 For new major stationary sources, the proposed emissions for the current application.
  - 417.3 For major modifications:
    - a. For modifications of emissions units which had their potential to emit fully offset (including offset ratios) from a previous permitting action, the proposed emissions subtracting the potential to emit prior to modification from the current application for modification; or
    - b. For modifications of emissions units which have not had their potential to emit fully offset from a previous permitting action, the proposed emissions from the current application subtracting the lesser of the historic actual emissions or the adjusted historic potential emissions and subtracting any adjusted offsets that were previously provided. The net emission increase shall be calculated as follows:

$$\text{offsets} = \text{PE} - (\text{lesser of HAE or AHPE}) - \text{AO}$$

Where, offsets =	offsets required prior to offset ratio required pursuant to Section 303, if calculation is negative then no offsets are required
PE =	proposed emissions
HAE =	historic actual emissions
AHPE =	potential to emit of the emission unit prior to modification minus AO
AO =	actual offsets, which are the offsets previously provided divided by the offset ratio that was applied during that permitting action.

Any emissions increase represented by an Authority to Construct or Permit to Operate which has been cancelled or has expired shall not be included in the net emissions increase calculation.

418 **CALCULATION OF EMISSION OFFSETS REQUIRED FOR SOX, PM10 AND CO:** Calculations shall be performed separately for each pollutant and each emissions unit for each calendar quarter expressed in pounds per quarter. The net emissions increase shall be:

418.1 For new non-major sources and non-major modifications:

- a. For new emission units, the proposed emissions for the current application; or
- b. For modifications to existing emissions units, the proposed emissions subtracting the historic potential emissions from the current application.

418.2 For new major stationary sources, the proposed emissions for the current application.

418.3 For major modifications:

- a. For modifications of emissions units which had their potential to emit fully offset from a previous permitting action, the proposed emissions subtracting the potential to emit prior to modification from the current application for modification; or
- b. For modifications of emissions units which have not had their potential to emit fully offset from a previous permitting action, the proposed emissions from the current application subtracting the historic potential emissions and any offsets that were previously provided.

$$\text{Offsets} = \text{PE} - (\text{lesser of HAE or AHPE}) - \text{AO}$$

Where, offsets =	offsets required prior to offset ratio required pursuant to Section 303 if calculation is negative then no offsets are required
PE =	proposed emissions
HAE =	historic actual emissions
AHPE =	potential to emit of the emission unit prior to modification minus AO
AO =	actual offsets, which are the offsets previously provided divided by the offset ratio that was applied during that permitting action.

419 **CALCULATION OF EMISSIONS FOR NOTIFICATION TRIGGERS:** The increase in potential to emit shall be calculated by subtracting the potential to emit prior to modification from the proposed emissions.

420 **POWER PLANTS:** This section shall apply to all power plants proposed to be constructed in the District and for which a Notice of Intention (NOI) or Application for Certification (AFC) has been accepted by the California Energy Commission.

420.1 Within 14 days of receipt of a Notice of Intention, the Air Pollution Control Officer shall notify the Air Resources Board and the California Energy Commission of the District's

intent to participate in the Notice of Intention proceeding. If the District chooses to participate in the Notice of Intention proceeding, the Air Pollution Control Officer shall prepare and submit a report to the California Air Resources Board and the California Energy Commission prior to the conclusion of the non-adjudicatory hearing specified in Section 25509.5 of the California Public Resources Code. That report shall include, at a minimum:

- a. a preliminary specific definition of Best Available Control Technology for the proposed facility;
- b. a preliminary discussion of whether there is substantial likelihood that the requirements of this rule and all other District regulations can be satisfied by the proposed facility;
- c. a preliminary list of conditions which the proposed facility must meet in order to comply with this rule or any other applicable district regulation.

The preliminary determinations contained in the report shall be as specific as possible within the constraints of the information contained in the Notice of Intention.

420.2 Upon receipt of an Application for Certification for a power plant, the Air Pollution Control Officer shall conduct a determination of compliance review. This determination shall consist of a review identical to that which would be performed if an application for a permit to construct had been received for the power plant. If the information contained in the Application for Certification does not meet the requirements of this rule, the Air Pollution Control Officer shall, within 20 calendar days of receipt of the Application for Certification, so inform the California Energy Commission, and the Application for Certification shall be considered incomplete and returned to the applicant for resubmittal.

420.3 The Air Pollution Control Officer shall consider the Application for Certification to be equivalent to an application for a permit to construct during the determination of compliance review, and shall apply all provisions of this rule which apply to applications for a permit to construct.

420.4 The Air Pollution Control Officer may request from the applicant any information necessary for the completion of the determination of compliance review. If the Air Pollution Control Officer is unable to obtain the information, the Air Pollution Control Officer may petition the presiding Commissioner of the California Energy Commission for an order directing the applicant to supply such information.

420.5 Within 180 days of accepting an Application for Certification as complete, the Air Pollution Control Officer shall make a preliminary decision on:

- a. whether the proposed power plant meets the requirements of this rule and all other applicable district regulations; and
- b. in the event of compliance, what permit conditions will be required including the specific Best Available Control Technology requirements and a description of required mitigation measures.

The preliminary written decision under Section 420.5 shall be treated as a preliminary decision under Section 405 of this rule, and shall be finalized by the Air Pollution Control Officer only after being subject to the public notice and comment requirements of Sections 405 and 406. The Air Pollution Control Officer shall not issue a determination of compliance unless all requirements of this rule are met.

420.6 Within 240 days of the filing date, the Air Pollution Control Officer shall issue and submit to the California Energy Commission a determination of compliance or, if such a determination cannot be issued, shall so inform the California Energy Commission. A determination of compliance shall confer the same rights and privileges as an Authority to Construct only when and if the California Energy Commission approves the Application for Certification, and the California Energy Commission certificate includes all conditions of the determination of compliance.

420.7 Any applicant receiving a certificate from the California Energy Commission pursuant to this section and in compliance with all conditions of the certificate shall be issued a Permit to Operate by the Air Pollution Control Officer.

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