TEHAMA COUNTY AIR POLLUTION CONTROL DISTRICT

RULE 2:3A - NEW SOURCE REVIEW
(Adopted 9/10/1985; Amended 6/16/1992, 6/22/1993, 2/1/1994, 6/7/1994, 6/3/1997)

A. Purpose: The purpose of this Rule is to establish pre-construction review requirements for new and modified stationary sources of air pollution for use of Best Available Control Technology (BACT), analysis of air quality impacts, and to ensure that the operation of such sources does not interfere with the attainment or maintenance of ambient air quality standards;

1. This regulation shall provide for no net increase in emissions, pursuant to Section 40918 of the Health and Safety Code, from new or modified stationary sources which emit, or have the potential to emit, 25 tons per year or more of any non-attainment pollutant or its precursors.

B. Applicability: This Rule shall apply to new and modified stationary sources which are subject to District permit requirements, and after construction, emit or may emit any affected pollutant(s). The regulation in effect at the time any application for an Authority to Construct is deemed complete shall apply.

C. Effective Date: This Rule shall become effective upon the date of adoption. (June 16, 1992)

D. Definitions: For the purpose of this Rule, the definitions below shall apply:

1. Actual Emissions: Measured or estimated emissions which most accurately represent the emissions from an emissions unit.

2. Actual Emission Reductions: A reduction in actual emissions from an emissions unit selected for emission offsets or banking. Actual emission reductions shall be calculated pursuant to Section F. of this Rule and meet the following criteria:

a. Emission reductions shall be real, enforceable, quantifiable and permanent.

b. Emission reductions shall be in excess of any emission reduction which is:

1) required or encumbered by any laws, rules, regulations or orders; or

2) attributed to a control measure noticed for workshop, or proposed or contained in a State Implementation Plan; or

3) contained as near-term measures in the adopted District Air

Quality Plan for attaining annual reductions required for the California Clean Air Act (CCAA).

3. Actual Emission Reductions Attributed To A Proposed Control Measure: May be re-eligible as actual emission reductions in the following circumstances:

   a. For control measures identified in the District Air Quality Plan or State Implementation Plan, no rule has been adopted within two years from the scheduled adoption date, provided, however, the Air Pollution Control Officer has not extended the scheduled adoption date;

   b. For control measures not identified in the District Air Quality Plan or State Implementation Plan, no rule has been adopted within two years from the date of the latest public workshop notice.

4. Affected Pollutant: An air pollutant for which an ambient air quality standard has been established by the U.S. Environmental Protection Agency (EPA) or the California Air Resources Board (ARB), the precursors to such pollutants, and those substances regulated by the EPA or the ARB, or listed under Section E.1.

5. Ambient Air Quality Standards: Ambient air quality standards shall be interpreted to include federal and state ambient air quality standards. For purposes of applicability of this Rule to the State Implementation Plan (SIP), all references to ambient air quality standards shall be interpreted as National Ambient Air Quality Standards.

6. Best Available Control Technology (BACT): For any emissions unit the more stringent of:

   a. The most effective emission control device, emission limit, or technique which has been required or used for the type of equipment comprising such emissions unit unless the applicant demonstrates to the satisfaction of the Air Pollution Control Officer that such limitations are not achievable; or

   b. Any other emission control device or technique, alternative basic equipment, different fuel or process, determined to be technologically feasible and cost-effective by the Air Pollution Control Officer. The cost effective analysis shall be performed in accordance with the methodology and criteria specified by the Air Pollution Control Officer;

   c. 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, unless the applicant demonstrates to the satisfaction of the Air Pollution Control Officer that such limitations are not achievable.

7. Complete Application: An application that contains all information required by the District to adequately evaluate the nature and extent of potential emissions of the new or modified emissions unit proposed for use in accordance with a list of required information as adopted by the District pursuant to Article 3, Sections 65940 through 65944 of Chapter 4.5 of Division 1, Title 7 of the Government Code.

8. Contiguous Property: Two or more parcels of land with a common boundary or separated solely by a public or private roadway or other public right-of-way.

9. Control Efficiency: The estimated control efficiency of the proposed air pollution control technology which will be incorporated, by means of an enforceable permit condition(s), in the Authority to Construct and Permit to Operate. Emission reductions attributed to lowering throughput rates or operating hours shall not be considered in determining control efficiency;

10. Cost-Effective: A cost per pound of emission reduction which is deemed to be acceptable and feasible, on a pollutant and emissions unit basis, by the Air Pollution Control Officer.

11. Daily Emissions Limitation: One or a combination of permit conditions specific to an emissions unit which restricts its maximum daily emissions in pounds per day, at or below the emissions associated with the maximum design capacity. A daily emissions limitation must be:

    a. Contained in the latest Authority to Construct and contained in or enforceable by the latest Permit to Operate for the emission unit; and

    b. Enforceable on a daily basis; and

    c. Established pursuant to a permitting action occurring after June 16, 1992 and used in the calculation of the net emissions change.

12. Emissions Unit: An identifiable operation or piece of process equipment such as an article, machine, or other contrivance which emits, may emit, or results in the emissions of any affected pollutant directly or as fugitive emissions.

13. Fluorides: Elemental fluorine and all fluoride compounds.

14. Fugitive Emissions: Those emissions which could not reasonably pass through a stack, chimney, vent or other functional equivalent opening.

15. Historic Actual Emissions: Actual emissions averaged over the two year period immediately preceding the date of application. If the last two years are unrepresentative of normal operations as determined by the Air Pollution Control

Officer, then two consecutive years of the last five years may be used. Where an emissions unit has been in operation for less than two years, a shorter averaging period of at least one year may be used providing it represents the full operational history of the emissions unit. If at any time during the specified period, actual emissions exceeded allowed emission levels, then actual emissions shall be reduced to reflect emission levels that would have occurred if in compliance with all applicable limitations and rules. For open biomass burning the emissions baseline years will be a five year period (1988 through 1992) and emissions shall be calculated as directed under Section L. of the Emission Reduction Credit and Banking Rule.

16. Historic Potential Emissions: The potential to emit of an existing emissions unit prior to modification. For a new emissions unit, historic emissions are equal to zero;

17. Impact Analysis: An air quality modeling analysis used to estimate the maximum ground level concentration of any pollutant subject to this Rule. Maximum ground level concentration added to background levels shall be compared to ambient air quality standards.

18. Modification: Any physical change or operational change to an existing emissions unit, including changing hours of operation or production rate, which would necessitate a change in permit conditions. A modification to a stationary source shall include any modification of its permitted emissions units or addition of any new emissions units. A modification also occurs when there is an increase in emissions from an emissions unit caused by a modification of the stationary source and the emissions unit is not subject to a daily emissions limitation. A reconstructed stationary source shall be treated as a new stationary source and not as a modification.

    The following shall not be considered a modification:

    a. Routine maintenance or repair.

    b. A change in ownership.

    c. Replacement of an existing emissions unit, part of an emissions unit, or emissions control device with an identical (the same in all respects except for the serial number) piece of equipment resulting in emissions less than or equal to those from the original equipment or device and not requiring a change in permit conditions.

19. Net Air Quality Benefit: A net improvement in air quality resulting from actual emission reduction impacting the same general area affected by the new or modified source.

20. Non-attainment Pollutant: Any pollutant as well as any precursors of such pollutant, which has been designated non-attainment by the EPA in the Federal Register, or which has been designated non-attainment by the ARB pursuant to Section 39607 of the California Health and Safety Code (H&S Code).

21. PM_{10}: Particulate matter with 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).

22. Potential to Emit: The maximum daily capacity of an emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the daily capacity of the unit to emit a pollutant, including pollution control equipment and restrictions in hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on daily emissions is incorporated into the applicable permit as an enforceable permit condition.

23. Precursor: Precursor means a directly emitted pollutant that, when released to the atmosphere, forms, or contributes to the formation of a secondary pollutant for which an ambient air quality standard has been adopted. The following precursor relationships shall be used:

PRECURSOR	SECONDARY AIR
Reactive organic compounds	a. Photochemical oxidants (Ozone) b. The organic fraction of PM_{10}
Nitrogen Oxides	a. Nitrogen dioxide b. The nitrate fraction of PM_{10} c. Photochemical oxidants (Ozone)
Sulfur Oxides	a. Sulfur dioxide b. Sulfates c. The sulfate fraction of PM_{10}

24. Proposed Emissions: The potential to emit for a new or post-modification emissions unit.

25. Reactive Organic Compound (ROC or ROG): Any compound containing carbon, except methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, and halogenated hydrocarbons.

26. Reconstructed Source: Any source 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. Fixed capital cost means that capital needed to provide all the depreciable components.

27. Reduced Sulfur Compounds: The sulfur compounds hydrogen sulfide, carbon disulfide, and carbonyl sulfide.

28. Seasonal Source: Any source with more than 75 percent of its annual emissions within a consecutive 120 day period.

29. Shutdown: The permanent cessation of emissions from an emitting unit or the surrender of that unit's operating permit whichever occurs first. If the Air Pollution Control Officer (APCO) determines that the unit has been removed or fallen into an inoperable and unmaintained condition, the APCO may notify the owner of the District's intent to cancel the permit. If the owner does not respond within sixty (60) days, the APCO may cancel the permit and deem the source shutdown as of the date of last emissions.

30. Stationary Source (Facility): Any building, structure, or emissions unit which emits or may emit any affected pollutant directly or as a fugitive emission. "Emissions Unit" includes any operation, article, machine, equipment or other contrivance which emits or may emit any affected pollutant. "Building or structure" includes all pollutant emitting activities including emissions units which:

    a. Are located on one or more contiguous or adjacent properties, and which may be separated by a public right of way; and

    b. Are under the same or common ownership, operation, or control, or which are owned or operated by entities which are under common control and belong to the same industrial grouping either by virtue of falling within the same two-digit Standard Industrial Classification (SIC) Code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material.

31. Total Reduced Sulfur Compounds: The sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide and dimethyl disulfide.

32. Volatile Organic Compound (VOC's): Refer to District Rule 1:2.

E. Requirements: Any emissions unit subject to this Rule shall be subject to the following requirements:

1. Best Available Control Technology (BACT): An applicant shall apply BACT to any new emissions unit or modification of an existing emissions unit which results in an emission increase and the potential to emit for the emission unit equals or exceeds the following amounts:

Pollutant	Pounds/Day
Reactive organic compounds	25.0
Nitrogen oxides	25.0
Sulfur oxides	80.0
Particulate matter (PM_{10})	80.0
Carbon monoxide	500.0
Lead	3.2
Asbestos	0.03
Beryllium	0.002
Mercury	0.5
Vinyl chloride	5.0
Fluorides	15.0
Sulfuric acid mist	35.0
Hydrogen sulfide	50.0
Total reduced sulfur compounds	50.0
Reduced sulfur compounds	50.0

2. Offset Requirements, General: Emission reductions shall be required from existing emission sources, sufficient to offset calendar quarter emission increases of non-attainment pollutants or their precursors associated with a new or modified stationary source and shall be determined as follows:

   a. Offsets shall not be required for increases of carbon monoxide if the applicant demonstrates to the satisfaction of the APCO through an impact analysis, that the ambient air quality standards are not violated in the area to be effected, and such emissions will not cause or contribute to a violation of ambient air quality standards.

   b. Offsets shall be required for a new stationary source with a potential to emit, calculated pursuant to Section F., of non-attainment pollutants or their precursors equal to or exceeding 25 tons per year.

   c. The amount of offsets required shall be at least equal to that portion of the potential to emit which exceeds 25 tons per year.

   d. Offsets shall be required for a modified stationary source under the following conditions:

      1) An existing stationary source which has a potential to emit less than 25 tons per year as of June 16, 1992, of non-attainment pollutants or their precursors shall offset that portion of the stationary source's potential to emit which, after modification of the stationary source, exceeds 25 tons per year from new or modified emissions units. A stationary source's potential to emit shall be calculated pursuant to Section F. After the potential to emit for a stationary source has exceeded these levels, and the applicant has provided actual emissions reductions to offset

emission increases in excess of these levels, all future increases from new or modified emissions units shall be offset;

2) An existing source which has a potential to emit, calculated pursuant to Section F., non-attainment pollutants or their precursors equal to or exceeding 25 tons per year as of June 16, 1992, shall offset any increases in potential to emit resulting from the permitting of a new or modified emissions unit.

3. Location of Offsets and Offset Ratios:

a. Offset ratios and the corresponding distances from the proposed stationary source shall be:

1) on-site, at a ratio of 1:1;
2) within 20 miles, at a ratio of 1.2:1;
3) 20 miles to 50 miles, at a ratio of 1.5:1;
4) over 50 miles, at a ratio of 2:1.

b. Use of offsets must result in a net air quality benefit, as determined by the APCO.

c. Offsets which are obtained from a source located in another district may be used only if the provisions of Health and Safety Code Section 40709.6 are met and the involved districts enter into an agreement formalized by a memorandum of understanding.

4. Inter-pollutant Offsets: The APCO may approve Inter-pollutant offsets on a case-by-case basis, provided that the applicant demonstrates to the satisfaction of the APCO, through the use of an impact analysis, that the emission increases from the new or modified source will result in a net air quality benefit and will not cause or contribute to a violation of any air quality standard. In such cases, the APCO may, based upon an air quality analysis, impose offset ratios greater than the requirements of this Rule. Inter-pollutant trades between PM_{10} and PM_{10} precursors may be allowed. PM_{10} emissions reductions shall not be allowed to offset NO_x or reactive organic compound (ROC) emissions increases in ozone non-attainment areas, nor be allowed to offset sulfur oxide emissions in sulfate non-attainment areas. In no case shall halogenated hydrocarbons be used as offsets for reactive organic compounds.

5. Ambient Air Quality Standards: In no case shall the emissions from the new or modified stationary source cause or make worse the violation of an ambient air quality standard. An impact analysis may be used to estimate the effects of a new or modified source. In making this determination, the APCO shall take into account the mitigation of emissions through offsets obtained pursuant to this Rule.

6. Denial, Failure to Meet Standards: The APCO shall deny any Authority to Construct or Permit to Operate if the APCO finds that the subject of the application would not comply with the standards set forth in this Rule.

7. Compliance By Other Owned, Operated Or Controlled Sources: The owner or operator of the proposed new or modified source shall certify to the APCO that all major stationary sources owned or operated by such person (or by any entity controlling or controlled by, or under common control with such person) in California are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Clean Air Act.

8. PM_{10} Emission Recalculation: The PM_{10} emissions from an existing stationary source shall be recalculated from the total suspended particulate (TSP) emissions increases and decreases which have occurred since August 20, 1983, using applicable PM_{10} emission factors. When applicable PM_{10} emission factors do not exist, assume 50 percent of TSP is PM_{10}.

    a. If the applicant has provided full offsets for TSP emissions occurring since August 20, 1983 but before March 10, 1992, those

    b. TSP emissions need not be recalculated as PM_{10}. However, any subsequent increases in PM_{10} emissions shall be subject to the offset requirements of this rule.

F. Calculations: This Section shall be used to determine the emissions change for all new or modified emissions units, the actual emission reductions for all shutdowns and modified emissions units and the cumulative emissions increase from all new and modified emissions units for a stationary source.

1. Procedure: The calculation procedure shall be performed separately for each pollutant and each emissions unit. Emission increases and decreases shall be calculated separately for each calendar quarter pursuant to the following procedure:

    a. Calculate the emissions change for each new or modified emissions unit and for each pollutant using Section F.2.

        1) If an increase is calculated for a pollutant, follow the requirements in:

            a) Section E.1. to determine if BACT is required.

            b) Sections E.2. and F.3. to determine the amount of offsets required.

        2) If a decrease is calculated for a pollutant, go to Section F.2.b. to determine if Emission Reduction Credits (ERC's) are generated.

3) For no change in emissions, no further calculations are required.

2. Calculating Emissions Changes:

a. Emissions Increase

1) New or Modified Emissions Unit: The emissions change for a new or modified emissions unit shall be calculated by subtracting historic potential emissions from proposed emissions.

Emissions change = (proposed emissions) - (historic potential emissions)

b. Actual Emissions Reductions (AER):

1) Shutdown of an emissions unit

AER = Historic actual emissions

2) Modification consisting solely of application of control equipment or implementation of more efficient process

AER =(Historic actual emissions) x (control efficiency).

3) Other modifications

AER =(Historic actual emissions) - (proposed emissions)

3. Determining Potential to Emit for a Stationary Source: The potential to emit for a stationary source shall be equal to the sum of potentials to emit for Permits to Operate (or Authority to Construct for emissions units for which a Permit to Operate has not been issued), issued prior to June 16, 1992, for each emissions unit within a stationary source. In addition, emissions increases from new or modified emissions units occurring on or after June 16, 1992, shall be added to the sum of potentials to emit for existing emissions units. In no case shall the potential to emit for a stationary source be adjusted for actual emissions reductions which occur after June 16, 1992.

G. Air Quality Impact Analysis: In no case shall emissions from a new or modified emissions unit, cause or make worse the violation of an ambient air quality standard. The Air Pollution Control Officer may require an applicant to use an air quality model to estimate the effects of a new or modified emissions unit. For the purpose of performing an impact analysis the following shall apply:

1. Air quality models shall be consistent with the requirements contained in the most recent edition of EPA's "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 a finding the Air Pollution Control Officer may designate an alternate model only after allowing for public comment and only with the concurrence of the Air Resources Board and the Environmental Protection Agency. All modeling costs associated with the siting of a new or modified emissions unit shall be borne by the applicant;

2. In performing an impact analysis, if the proposed stack height is higher than is dictated by good engineering practices, the actual height used for the purposes of modeling shall be calculated in accordance with good engineering practices.

H. Administrative Requirements: The following administrative requirements shall apply to this Rule:

1. Complete Application: The APCO shall determine whether the application is complete not later than 30 days after receipt of the application, or after such longer time mutually agreeable to the applicant and the APCO. If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision and of the required additional information. 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-submittal application shall be evaluated on the basis of the information requirements set forth in District Regulations (adopted pursuant to Article 3, Section 65940 through 65944 of Chapter 4.5 of Division 1 of Title 7 of the Government Code) as they exist on the date on which the application or re-submittal application was received. Upon determination that the application is complete, the APCO shall notify the applicant in writing. The APCO may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.

2. Air Quality Models: Only those models approved by the APCO may be used in the impact analysis.

3. Preliminary Decision: Following acceptance of an application as complete, the APCO shall perform the evaluations required to determine compliance with this Rule and make a preliminary written decision as to whether a permit to construct should be approved, conditionally approved, or disapproved. The decision shall be supported by a written analysis.

4. Publication and Public Comment: Within ten (10) calendar days following a preliminary decision on the Authority to Construct for an emissions unit or facility with a potential to emit exceeding 25 tons per year, the APCO shall publish in at least one newspaper general circulation in the District a notice stating the preliminary decision of the APCO noting how pertinent information can be obtained, and inviting written public comment for a 30 day period following the date of publication. Copies of such notice shall be sent to the ARB and the EPA.

5. Public Inspections: The APCO shall make available for public inspection at the

District's office the information submitted by the applicant and the APCO's analysis no later than the time that notice of the preliminary decision is published. All such information shall also be transmitted, no later than the date of publication, to the ARB and the EPA regional office. Information submitted which contains trade secrets shall be handled in accordance with Section 6254.7 of the Government Code and relevant sections of the Administrative Code of the State of California. Further, all such information shall be transmitted, no later than the date of publication, to the ARB and the EPA regional office.

6. Authority to Construct, Final Action: Within 180 days after acceptance of an application as complete, the APCO shall take final action on the application after considering all written comments. The APCO shall provide written notice of the final action to the applicant, the EPA, and the ARB, and shall make the notice and all supporting documents available for public inspection at the District's office for all Authorities to Construct issued for emissions units subject to the requirements of Section E. of this Rule.

7. Requirements, Permit to Operate: As a condition for the issuance of a Permit to Operate, the APCO shall require that the new source or modification, and any sources which provide offsets will be operated in the manner assumed in making the analysis to determine compliance with this Rule. The Permit to Operate shall include daily emission limitations which reflect applicable emissions limitations, including BACT. As a condition for the issuance of a Permit to Operate, any stationary source which provides emission offsets shall be subject to enforceable permit conditions, containing specific emissions limitations which ensure that the emission reductions will be provided in accordance with the provisions of this Rule and shall continue for the reasonably expected life of the proposed source.

   a. Where the source of offsets is a non-permitted source, the District shall require the non-permitted source to obtain an enforceable permit, complete with operational and emissions limitations. If the source of offsets is a permit exempt piece of equipment, that particular source must relinquish its exempt status.

   b. If the District pursuant to state laws or district regulations can not permit the source of the offsets, the source creating the offsets shall execute a legally binding contract between the applicant and the owner or operator of such offset source, which contract, by its terms, shall be enforceable by the APCO. A violation of the emission limitation provisions of any such contract shall be chargeable to the applicant.

8. Issuance, Permit to Operate: The APCO shall issue a Permit to Operate for any stationary source which meets the requirements of this Rule. Any offsets required as a condition of an Authority to Construct or amendment to a Permit to Operate shall commence not later than the initial operation of the new or modified source, and the offsets shall be maintained throughout the operation of the new or modified source which is the beneficiary of the offsets. Further, the APCO shall determine that all conditions specified in the Authority to Construct

have been or will be complied with by any dates specified. Where a new or modified stationary source is, in whole or part, a replacement for an existing stationary source on the same property, the APCO may allow a maximum of 90 days as a startup period for simultaneous operations of the existing stationary source and the new source or replacement.

9. Regulations in Force Govern: The granting or denial of an Authority to Construct shall be governed by the requirements of this Rule in force on the date the application is deemed complete. In addition, the APCO shall deny a Permit to Construct for any new stationary source or modification, or any portion thereof, unless the new source or modification, or applicable portion thereof, complies with the provisions of this Rule and all other applicable District Rules and Regulations.

10. Permit Conditions: The APCO shall have the authority to place conditions on the Authority to Construct and/or Permit to Operate which will ensure that the construction, modification, or operation of such source will comply with all applicable rules and regulations. Such conditions may include, but not be limited to hours of operation; processing parameters; periods of use; and emission limitations on an hourly, daily, or yearly basis.

I. 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 has been accepted by the California Energy Commission (CEC). The APCO may apply for reimbursement of all costs incurred, including lost fees, in order to comply with the provisions of this section.

1. Intent to Participate and Preliminary Report: Within fourteen days of receipt of an NOI, the APCO shall notify the ARB and the CEC of the District's intent to participate in the NOI proceeding. If the District chooses to participate in the NOI proceeding, the APCO shall prepare and submit a report to the ARB and the CEC prior to the conclusion of the non-adjudicatory hearing specified in Section 25509.5 of the Public Resources Code. That report shall include, at minimum:

a. A preliminary specific definition of BACT for the proposed facility; and

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; and

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.

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

2. Determination of Compliance Review: Upon receipt of an Application for Certification (AFC) for a power plant, the APCO 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 AFC does not meet the requirements of this Rule, the APCO shall, within twenty calendar days of receipt of the AFC, so inform the Commission, and the AFC shall be considered incomplete and returned to the applicant for re-submittal.

3. Equivalency of Application: The APCO shall consider the AFC 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 application for a Permit to Construct.

4. Need for Additional Information: The APCO may request from the applicant any information necessary for the completion of the Determination of Compliance Review. If the APCO is unable to obtain the information, the APCO may petition the presiding Commissioner for an order directing the applicant to supply such information.

5. Preliminary Determination: Within 180 days accepting an AFC as complete, the APCO 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 BACT requirements and a description of required mitigation measures.

    The preliminary written decision under Section I.5. shall be treated as a preliminary decision under Section H.3. of this Rule, and shall be finalized by the APCO only after being subject to the public notice and comment requirements of Sections H.4, ?. through H.6. The APCO shall not issue a Determination of Compliance unless all requirements of this Rule are met.

6. Determination of Compliance: Within 240 days of the filing date, the APCO shall issue and submit to the Commission a Determination of Compliance or, if such a determination cannot be issued, shall so inform the CEC. A Determination of Compliance shall confer the same rights and privileges as a Permit to Construct only when and if the Commission approves the AFC, and the Commission Certificate includes all conditions of the Determination of Compliance.

7. Permit to Operate: Any applicant receiving a certificate from the CEC pursuant to this Section and in compliance with all conditions of the certificate shall be issued a Permit to Operate by the APCO.