Rule 430 State New Source Review (SNSR)

(Adopted January 4, 1972, July 26, 1979; Recodified August 6, 1985; Amended January 12, 1993; Recodified August 22, 2002; Amended September 28, 2006, Amended May 26, 2011; Amended December 8, 2011)

RULE 430 CONTENTS

1 PURPOSE

2 APPLICABILITY

3 EFFECTIVE DATE

4 DEFINITIONS

5 REQUIREMENTS

6 EMISSION AND OFFSET CALCULATIONS

7 AIR QUALITY IMPACT ANALYSIS

8 ADMINISTRATIVE REQUIREMENTS

9 POWER PLANTS

RULE 430

1 PURPOSE

1.1 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), offsets, and 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, and complies with all other applicable Butte County Air Quality Management District (DISTRICT) Rules and Regulations.

1.2 This Rule regulates all non-attainment pollutants for both major and minor sources and all other attainment or unclassifiable pollutants for State purposes. New major sources and major modifications at major sources are also subject to Rule 432-*Federal New Source Review* of these Rules and Regulations.

1.3 This Rule shall provide for no net increase in emissions, pursuant to Section 40918 of the California Health & Safety Code (HSC), 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.

2 APPLICABILITY

2.1 This Rule shall apply to all new and modified stationary sources which are subject to DISTRICT Rule 400-*Permit Requirements* and, after construction, emit or may emit any affected pollutants.

2.2 The provisions of Sections 5.1 and 5.2 of this Rule are not applicable to portable, temporary or replacement emissions units, unless the units are major sources or, if operating at a major source, are major modifications.

3 EFFECTIVE DATE: This Rule shall become effective May 26, 2011.

4 DEFINITIONS: Unless otherwise defined below, the terms used in this Rule are the same as defined in Rule 101-*Definitions* of these Rules and Regulations:

4.1 Actual Emissions: The actual rate of emissions measured or estimated which most accurately represent the emissions from an emissions unit.

4.2 Actual Emissions Reduction (AER): A reduction in actual emissions from an emissions unit. Actual emissions reductions shall be real, enforceable, quantifiable, surplus, and permanent.

4.3 Affected Pollutant: An air pollutant for which an ambient air quality

standard has been established by the United States Environmental Protection Agency (EPA) or California Air Resources Board (CARB), the precursors to such, and each pollutant included in Section 5.1 of this Rule.

4.4 Ambient Air Quality Standards: Health and welfare-based standards set by CARB and/or EPA for outdoor air which identify the maximum acceptable average concentrations of air pollutants during a specific period of time. There are both 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. For the purposes of applicability of this Rule to the DISTRICT's Air Quality Attainment Plan, all references to ambient air quality standards shall be interpreted as State Ambient Air Quality Standards.

4.5 Baseline Actual Emissions (Historic Actual Emissions): Actual emissions of an existing emissions unit averaged over the two (2) year period immediately preceding the date of application, unless:

4.5.1 The last two (2) years are unrepresentative of normal operations as determined by the APCO, then two (2) consecutive years of the last five (5) years, which are representative of normal operations as determined by the APCO, may be used; or

4.5.2 An emissions unit has been in operation for less than two (2) years, a shorter averaging period of at least one (1) year may be used, providing it represents the full operational history of the emissions unit; or

4.5.3 An emissions unit has been in operation for less than one (1) year, the baseline shall equal zero (0); or,

4.5.4 The 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 requirements.

4.6 Baseline Emissions (Historic Emissions): The potential to emit of an existing emissions unit. For a new emissions unit, the baseline emissions are equal to zero.

4.7 Best Available Control Measures (BACM): Most effective measures for controlling small or dispersed particulates and other emissions from sources such as roadway dust, soot and ash from woodstoves and open burning of brush, timber, grasslands, or trash.

4.8 Best Available Control Technology (BACT): For an emissions unit, the most stringent emissions limitation or control technique of the following:

4.8.1 Achieved in practice for such class and category of source; or

4.8.2 Contained in any SIP approved by the EPA for such class and

category of source. A specific limitation or control technique shall not apply if the owner of the proposed emission unit demonstrates to the satisfaction of the APCO that such a limitation or control is not presently achievable; or

4.8.3 Contained in an applicable New Source Performance Standard (NSPS); or

4.8.4 Any other emission control device or technique, alternative basic equipment, different fuel or process, determined to be technologically feasible and cost-effective by the APCO for such a class or category of sources for a specific source.

4.8.5 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 APCO that such limitations are not achievable.

4.9 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 submitted in the manner and form prescribed by the APCO.

4.10 Control Efficiency: The percentage by which a control device or technique reduces emissions from an emissions unit.

4.11 Contiguous Property: Two (2) or more parcels of land with a common boundary or separated solely by a public or private roadway or other public right-of-way.

4.12 Cost-Effective: A cost per pound of emission reduction on a pollutant and emissions unit basis which is deemed to be acceptable and feasible based on methodology and criteria specified by the APCO.

4.13 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:

4.13.1 Contained in the latest Authority to Construct and contained in or enforceable by the latest Permit to Operate for the emissions unit; and

4.13.2 Enforceable on a daily basis; and,

4.13.3 Established pursuant to permitting action occurring after January 12, 1993 and used in the calculation of the net emissions change.

4.14 Emission Reduction Credits (ERCs): Reductions of actual emissions from an emission unit that have been calculated and certified in accordance with an approved DISTRICT Rule or an upwind district's approved rule and

banked or transferred in accordance with the requirements of Rule 431-*Emission Reduction Credits and Banking* of these Rules and Regulations.

4.15 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 emission of any affected pollutant directly or as fugitive emissions.

4.16 Enforceable: Verifiable and legally binding.

4.17 Fluorides: Elemental fluorine and all fluoride compounds.

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

4.19 Identical Emissions Unit: A replacement emissions unit which is the same as the original unit in all respects except for serial number.

4.20 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.

4.21 Interpollutant Offset: A precursor pollutant provided to offset a non-attainment pollutant.

4.22 Lowest Achievable Emission Rate (LAER): The same as BACT as defined in this Rule.

4.23 Major Modification: A modification to a major stationary source which results in a significant net emissions increase of the pollutant for which the source is classified as a major stationary source. Significant increases shall be determined as follows:

4.23.1 Carbon monoxide: 100 tons per year (tpy);
4.23.2 Nitrogen oxides: 40 tpy;
4.23.3 Sulfur dioxide: 40 tpy;
4.23.4 Ozone: 40 tpy of VOCs or 40 tpy of nitrogen oxides;
4.23.5 PM10: 15 tpy
4.23.6 PM2.5: 10 tpy of direct PM2.5 emissions or 40 tpy of sulfur dioxide emissions or 40 tpy of nitrogen oxide emissions
4.23.7 Lead: 0.6 tpy
4.23.8 A significant increase at a Class 1 area.

4.24 Major Source: A stationary source which emits or has the potential to emit 100 tpy or more of an affected pollutant, including nitrogen oxides, volatile organic compounds, PM10, or PM2.5 or causes a significant increase at a

Class 1 area. In addition, any physical change, which would constitute a major stationary source by itself, occurring at a stationary source not otherwise qualifying as a major stationary source, makes the source a major stationary source. Emissions associated with emissions units that are exempt from permit requirements under Rule 401-*Permit Exemptions* of these Rules and Regulations shall not be included in determining if a source is a major source unless the unit emits greater than two (2) pounds per day of any pollutant. The fugitive emissions associated with an emissions unit or a stationary source shall not be included in determining whether the source is a major stationary source unless the source is a category source or sources included in 40 Code of Federal Regulations (CFR) 51.165.

4.25 **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 reconstructed stationary source shall be treated as a new stationary source and not as a modification. A modification also occurs when there is an increase of emissions from an emissions unit which is not subject to a daily emissions limitation. The following shall not be considered a modification:

4.25.1 Routine maintenance or repair.

4.25.2 A change in ownership.

4.26 **Net Air Quality Benefit:** A net improvement in air quality resulting from actual emissions reductions impacting the same general area affected by the new or modified source.

4.27 **Non-attainment Pollutant:** Any pollutant, as well as any precursors of such pollutant, which has been designated non-attainment by EPA in the Federal Register or which has been designated non-attainment by CARB pursuant to HSC Section 39607.

4.28 **Offset:** An emission reduction that compensates for an increase in a non-attainment pollutant from a new or modified stationary source subject to the requirements of Section 5.2 of this Rule.

4.29 **Permanent:** Actual emission reductions that continue or endure for the duration of any project utilizing the resulting ERCs as offsets.

4.30 **PM10:** Particulate matter with aerodynamic diameter less than or equal to a nominal 10 microns.

4.31 **PM2.5:** Particulate matter with an aerodynamic diameter less than or equal to 2.5 microns.

4.32 PM2.5 Nonattainment Area: The portion of Butte County which lies west of the line described as follows: (Mount Diablo Base and Meridian) Beginning at the intersection of the Butte-Yuba county line and the township line common to T18N R6E and T19N R6E, west to the township line common to T18N R6E and T19N R6E, then north along the range line common to R5E and R6E, then west along the township line common to T21N and T20N, then north along the range line common to R4E and R5E, then west along the township line common to T24N and T23N to the Butte-Tehama County boundary.

4.33 Potential to Emit: The maximum capacity of an emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the 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 emissions is incorporated into the applicable permit as a practically enforceable permit condition. The potential to emit shall include emissions emitted directly or as fugitives.

4.34 Precursor: 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**
Volatile organic compounds	Photochemical oxidants (ozone) The organic fraction of PM10

PRECURSOR	**SECONDARY AIR**
Nitrogen oxides	Nitrogen dioxide The nitrate fraction of PM10 and PM2.5 Photochemical oxidants (ozone)
Sulfur oxides	Sulfur dioxide Sulfates The sulfate fraction of PM10 and PM2.5

4.35 Project: All emissions units associated with the scope of an application submitted in accordance with Rule 400-*Permit Requirements* for a new or modified stationary source including any emissions units indirectly affected.

4.36 Proposed Emissions: The Potential to Emit for a new or post-modified emissions unit.

4.37 Quantifiable: Ability to estimate emission reductions in terms of their amount and characteristics in a manner that is reliable and can be replicated.

4.38 Real: Actually occurring, implemented, and not artificially devised**.**

4.39 Reasonably Available Control Technology (RACT): The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

4.40 Reconstructed Source: Any source undergoing physical modification where the fixed capital cost of the new components exceeds 50% 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.

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

4.42 Replacement Unit: A routine replacement of all or part of an emissions unit authorized with a valid Permit to Operate with an identical emissions unit provided:

4.42.1 The resulting Potential to Emit is less than or equal to the Baseline Emissions from the original equipment; and

4.42.2 There is no increase in capacity or production rate; and

4.42.3 The replacement unit performs the same function; and

4.42.4 The replacement unit is not a reconstructed source.

4.43 Significant Increase at a Class 1 Area: Any emissions rate or any net emissions increase associated with a major stationary source which would construct within ten (10) kilometers of a Class I area and have an impact on such area equal to or greater than one (1) microgram per cubic meter (24-hour average).

4.44 Stationary Source (Facility): Any building, structure, or emissions unit which emits or may emit any affected pollutant directly or as a fugitive emission, including all pollutant-emitting activities which are:

4.44.1 Located on one or more contiguous or adjacent properties, and which may be separated by a public right-of-way; and,

4.44.2 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.

4.45 Surplus: The amount of emission reductions that are, at the time of generation of an ERC, not otherwise required by federal, State, or local law, not required by any legal settlement or consent decree, and not relied upon to meet any requirement related to the California SIP. However, emission reductions required by a State statute that provides that the subject emission reductions shall be considered surplus may be considered surplus for purposes of this Rule if those reductions meet all other applicable requirements.

4.45.1 Examples of federal, State, and local laws, and of SIP-related requirements, include, but are not limited to, the following:

4.45.1.1 The federally-approved California SIP;

4.45.1.2 Other adopted state air quality laws and regulations not in the SIP, including but not limited to, any requirement, regulation, or measure that: (1) the DISTRICT or the State has included on a legally-required and publicly-available list of measures that are scheduled for adoption by the DISTRICT or the State in the future; or (2) is the subject of a public notice distributed by the DISTRICT or the State regarding an intent to adopt such revision;

4.45.1.3 Any other source or source-category specific regulatory or permitting requirement, including, but not limited to, RACT, NSPS, National Emission Standards for Hazardous Air Pollutants (NESHAPs), BACM, BACT, and LAER; and

4.45.1.4 Any regulation or supporting documentation that is required by the federal Clean Air Act but is not contained or referenced in 40 CFR Part 52, including but not limited to: assumptions used in attainment and maintenance demonstrations (including Reasonable Further Progress demonstrations and milestone demonstrations), including any proposed control measure identified as potentially contributing to an enforceable near-term emissions reduction commitment; assumptions used in conformity demonstrations; and assumptions used in emissions inventories.

4.46 Temporary Emissions Unit: An emissions unit which takes the place of an authorized emissions unit at a stationary source which is shut down for maintenance or repair and is located at the stationary source for not more than 180 days in any consecutive twelve (12) month period.

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

5 REQUIREMENTS: Any emissions unit subject to this Rule shall be subject to the following requirements:

5.1 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 emissions increase and the potential to emit for the emissions unit exceeds the following amounts:

Pollutant	Pounds per Day
Asbestos	0.030
Beryllium	0.002
Carbon monoxide (attainment area)	500.000
Fluorides	15.000
Hydrogen sulfide	50.000
Lead	3.200
Mercury	0.500
Nitrogen oxides	25.000
Particulate matter (PM-10)	80.000
PM2.5	80.000
Volatile organic compounds	25.000
Reduced sulfur compounds	50.000
Sulfur oxides	80.000
Sulfuric acid mist	35.000
Total reduced sulfur compounds	50.000
Vinyl chloride	5.000

5.2 Offset Requirements

5.2.1 Emission reductions shall be required from emission sources to offset calendar quarter increases in the potential to emit of non-attainment pollutants or their precursors associated with a new or modified stationary source as specified in Section 5.2.4 of this Rule.

5.2.2 Offsets shall be real, permanent, enforceable, surplus, and quantifiable.

5.2.3 A stationary source's potential to emit shall be calculated pursuant to Sections 6.2 and 6.5 of this Rule.

5.2.4 Offsets shall be required under the following conditions:

5.2.4.1 A new stationary source with a potential to emit of non-attainment pollutants or their precursors equal to or exceeding 25 tons per year shall provide offsets equal to or greater than that portion of the potential to emit which exceeds 25 tons per year.

5.2.4.2 An existing stationary source which has a potential to

emit less than 25 tons per year of non-attainment pollutants or their precursors shall offset that portion of the stationary source's potential to emit which after modification exceeds 25 tons per year from any new or modified emissions units; and

5.2.4.3 An existing stationary source which has a potential to emit of non-attainment pollutants or their precursors equal to or exceeding 25 tons per year shall offset any increases in potential to emit resulting from the permitting of a new or modified emissions unit.

5.2.5 Offsets shall not be required for increases in 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 areas to be affected, and such emissions will not cause or contribute to a violation of ambient air quality standards.

5.2.6 A source subject to the offset requirements shall be subject to the Public Notice and Publication Actions of Rule 400-*Permit Requirements*.

5.3 Location of Offsets and Offset Ratios:

5.3.1 Offsets can only be obtained from air basins with the same or more stringent air quality nonattainment designations than that of the stationary source.

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

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

5.3.3.1 On-site, at a ratio of 1:1;

5.3.3.2 Within 20 miles, at a ratio of 1.2:1;

5.3.3.3 From 20 miles to 50 miles, at a ratio of 1.5:1;

5.3.3.4 Over 50 miles, at a ratio of 2:1.

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

5.4 Interpollutant Offsets: The APCO may approve interpollutant offsets on a case-by-case basis provided that the applicant demonstrates through the use of an air quality impact analysis to the satisfaction of the APCO 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 ambient air quality standard. The APCO may impose offset ratios greater than the requirements of this Rule based upon an air quality impact analysis.

6 EMISSION AND OFFSET CALCULATIONS: The following provisions shall be used to calculate emission increases and decreases from all new and modified emissions units located at a stationary source.

6.1 BACT - Emissions Increases: The emissions increase for the purposes of determining BACT applicability shall be calculated as the daily Proposed Emissions minus the daily Baseline Emissions. The increase in emissions must be calculated as daily emissions and separately for each pollutant and each emissions unit associated with the project.

6.2 Offsets - Emissions Increase or Decrease: The emissions increase or decrease for each emissions unit related to the project for the purposes of determining Offset applicability shall be calculated as the Proposed Emissions minus the Baseline Emissions. Emission increases or decreases shall be calculated for each pollutant, each emission unit, and the project as a whole.

6.3 Project Emissions: If a project consists of more than one emissions unit, the total emissions from all emissions units shall be summed for each pollutant to determine the emissions increase for the project.

6.4 Calculation Periods: The emissions increase or decrease for a project shall be calculated on a daily, quarterly and annual basis for each pollutant.

6.5 Potential To Emit - Stationary Sources: The potential to emit of a new or modified stationary source shall be calculated for each pollutant and as:

6.5.1 The sum of the potential to emit for all emissions units based on emission limitations established by any current Permit to Operate, Authority to Construct permit, and pending applications, plus

6.5.2 The emission increases from the stationary source's emissions units existing on January 12, 1993 and modified after this date, plus

6.5.3 The emission reduction credits banked from any emissions unit installed after January 12, 1993.

6.6 Quantity of General Offsets Required: If offsets are required pursuant to Section 5.2 of this Rule, the quantity of offsets to be provided shall be determined by multiplying the amount of offsets for the project specified in Section 5.2.4 of this Rule by the appropriate offset ratio based on pollutant and location as specified in Section 5.3 of this Rule.

6.7 Emission Reduction Credits: For emission reduction banking, only actual emission reductions from the shutdown or modification of an existing stationary source shall be eligible for banking and shall be determined by:

6.7.1 For shutdown or modification: The Baseline Actual Emissions minus the Proposed Emissions. For a shutdown, the Proposed

Emissions are equal to zero; or

6.7.2 For modification solely for the addition of control technology, the change in the control efficiency multiplied by the Baseline Actual Emissions.

7 AIR QUALITY IMPACT ANALYSIS: In no case shall emissions from a new or modified emissions unit cause or worsen the violation of an ambient air quality standard. The APCO 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:

7.1 Air quality models shall be consistent with the requirements specified in 40 CFR Part 51, Appendix W ("Guidelines on Air Quality Models"), unless the APCO finds that such model is inappropriate for use. After making such a finding, the APCO may designate an alternative model only after allowing for public comment and only with the concurrence of CARB and EPA;

7.2 All modeling costs associated with the site of a new or modified emissions unit shall be borne by the applicant;

7.3 In performing an air quality impact analysis, if the proposed stack height is higher than is dictated by good engineering practices as published in the Federal Register; Volume 50, Number 130; Monday, July 18, 1985, then the actual height used for the purposes of modeling shall be calculated in accordance with good engineering practices.

8 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.

8.1 Intent to Participate and Preliminary Report: Within fourteen (14) days of receipt of an NOI, the APCO shall notify CARB 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 CARB 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 a minimum:

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

8.1.2 A preliminary discussion of whether there is a substantial likelihood that the requirements of this Rule and all other DISTRICT Regulations can be satisfied by the proposed facility; and

8.1.3 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 NOI.

8.2 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 an Authority 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 (20) calendar days of receipt of the AFC, so inform the CEC, and the AFC shall be considered incomplete and returned to the applicant for re-submittal.

8.3 Equivalency of Application: The APCO shall consider the AFC to be equivalent to an application for an Authority to Construct during the Determination of Compliance review, and shall apply all provisions of this Rule which apply to an application for an Authority to Construct.

8.4 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.

8.5 Preliminary Determination: Within one hundred and eighty (180) days of accepting an AFC as complete, the APCO shall make a preliminary written decision on:

8.5.1 Whether the proposed power plant meets the requirements of this Rule and all other applicable DISTRICT Regulations; and

8.5.2 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 8.5 of this Rule shall be treated as a preliminary decision under Section 5.4.2 of Rule 400-*Permit Requirements*, and shall be finalized by the APCO only after being subject to the public notice and comment requirements of Section 4.5 of Rule 400- *Permit Requirements*. The APCO shall not issue a Determination of Compliance unless all requirements of this Rule are met.

8.6 Determination of Compliance: Within 240 days of the filing date, the APCO shall issue and submit to the CEC a Determination of Compliance or, if such a determination cannot be issued, shall inform the CEC. A Determination of Compliance shall confer the same rights and privileges as

an Authority to Construct only when and if the CEC approves the AFC, and the CEC certificate includes all conditions of the Determination of Compliance.

8.7 Equivalency of Determination of Compliance to Authority to Construct: A Determination of Compliance shall confer the same rights and privileges as an Authority to Construct provided the CEC approves the Application for Certification and the certificate granted by the CEC includes all the conditions of the Determination of Compliance.

8.8 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.