

## FEATHER RIVER AIR QUALITY MANAGEMENT DISTRICT

### **RULE 10.1 - NEW SOURCE REVIEW**

#### **A. PURPOSE**

*(Adopted 2/8/93; Amended 4/11/94)*

***The purpose of this Rule is:***

A.1 To establish preconstruction review requirements including offsets, Best Available Control Technology and analysis of air quality impacts for new and modified stationary sources and to insure that the operation of such sources does not interfere with the attainment or maintenance of ambient air quality standards.

A.2 To provide for no net increase in emissions pursuant to Section 40918 and 40919 of the California Health and Safety Code (H & S Code).

#### **B. APPLICABILITY**

*(Adopted 2/8/93)*

This Rule shall apply to all new and modified stationary sources which are subject to District permit requirements and which, after construction, emit or may emit any affected pollutants. The Regulations in effect at the time any application for an Authority to Construct is deemed complete shall apply in all cases.

#### **C. EFFECTIVE DATE**

*(Adopted 2/8/93)*

This Rule shall become effective upon the date of adoption.

#### **D. DEFINITIONS**

*(Adopted 2/9/93; Amended 9/13/93; Amended 4/11/94)*

***For the purpose of this Rule, the definitions below shall apply:***

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

**D.2 Actual Emission Reductions:** A reduction in actual emissions from an emissions unit selected for emission offsets or banking.

- a. Actual emission reductions shall be calculated pursuant to Section F. of this Rule and shall be real, surplus, enforceable, quantifiable and permanent.
- b. Emission reductions attributed to a proposed control measure may become eligible as actual emission reductions in the following circumstances:
  1. Control measures which are identified in the District air quality plan or state implementation plan where no rule has been adopted within two years from the scheduled adoption date.
  2. Control measures not identified in the District air quality plan or state implementation plan where no rule has been adopted within two years from the date of the latest public workshop notice.

**D.3 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 of this Rule.

**D.4 Ambient Air Quality Standards:** Ambient air quality standards shall be interpreted to include state and federal ambient air quality standards. For the 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.

**D.5 Best Available Control Technology (BACT):** For any emissions unit, the more stringent of:

- a. The most effective emission control device, emission limit, or technology which has been required or used for the type of equipment comprising such emissions unit unless the applicant demonstrates to the satisfaction of the District that such limitations are not achievable; or
- b. Any other emission control device or technique, alternative basic equipment or different fuel or process, determined by the District to be technologically feasible and cost-effective and which provides an equivalent level of control.

Under no circumstances shall Best Available Control Technology 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.

**D.6 Complete Application:** An application that contains all information required by the District to adequately evaluate the nature and extent of potential emissions from a proposed new or modified facility, emissions unit or for an emission reduction credit. Completeness shall be evaluated on the basis of a list of required information as approved by the District pursuant to Article 3, Sections 65940 through 65944 of Chapter 4.5 of Division 1 of Title 7 of the Government Code.

**D.7 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.

**D.8 Control Efficiency:** The estimated control efficiency of the proposed air pollution control technology which will be incorporated, by means of enforceable permit conditions, 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. The requirements for an Authority to Construct and Permit to Operate are defined in Regulation IV.

**D.9 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 District.

**D.10 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 covering the emission unit; and
- b. Enforceable on a daily basis; and
- c. Established pursuant to a permitting action occurring after February 8, 1993 and used in the calculation of the potential to emit for the stationary source.

D.11 **Day:** A calendar day unless otherwise indicated.

D.12 **Emission Reduction Credits (ERCs):** Reductions of actual emissions certified in accordance with the requirements of this rule and the District's Banking Rules. Reductions will be specified by pollutant, by location, and in units of pounds per calendar quarter.

D.13 **Emissions Unit:** An identifiable operation or process, or control 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. Emissions unit shall not include open burning of agricultural biomass.

D.14 **Fluorides:** Elemental fluorine and all fluoride compounds.

D.15 **Fugitive Emissions:** Those emissions which can not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

D.16 **Halogenated Hydrocarbons:**

*methylene chloride (dichloromethane);  
1,1,1-trichloroethane (methyl chloroform);  
1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113);  
trichlorofluoromethane (CFC-11);  
dichlorodifluoromethane (CFC-12);  
chlorodifluoromethane (CFC-22);  
trifluoromethane (FC-23);  
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);  
chloropentafluoroethane (CFC-115);  
1,1,1-trifluoro-2,2-dichloroethane (HCFC-123);  
1,1,1,2-tetrafluoroethane (HFC-134a);  
1,1-dichloro-1-fluoroethane (HCFC-142b);  
2-chloro-1,1,1,2-tetrafluoro-ethane (HCFC-124);  
pentafluoroethane (HFC-125);  
1,1,2,2-tetrafluoroethane (HFC-134);  
1,1,1-trifluoroethane (HFC-143a);  
1,1-difluoroethane (HFC-152a);  
and perfluorocarbon compounds which fall into these classes:*

- a. *cyclic, branched, or linear, completely fluorinated alkanes,*
- b. *cyclic, branched, or linear, completely fluorinated ethers with no unsaturations,*
- c. *cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations,*  
*and*

- d. *saturated perfluorocarbons containing sulfur with sulfur bonds only to carbon and fluorine.*

Perfluorocarbon compounds will be assumed to be absent from a product or process unless a manufacturer or facility operator identifies the specific individual compounds (from the broad classes of perfluorocarbon compounds) and the amounts present in the product or process and provides a validated test method which can be used to quantify the specific compounds.

**D.17 Historic Actual Emissions:** Actual emissions from an existing emissions unit 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. 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. Where an emissions unit has been in operation for less than two years, or if a seasonal source, a shorter averaging period of at least one year may be used, providing it represents the full operational history of the emissions unit. If less than one year has passed since the date of issuance of the permit to operate, then historic actual emissions shall be zero. For open biomass burning the emissions baseline years will be a five year period (1988 through 1992) and emissions shall be calculated under Section K of Rule 10.2.

**D.18 Historic Potential Emissions:** The potential to emit of an existing emissions unit prior to modification. For a new emissions unit, historic potential emissions are equal to zero.

**D.19 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.

**D.20 Major Stationary Source:** A stationary source whose potential to emit exceeds:

- a. For South FRAQMD - 50 tons per year of nitrogen oxides, 50 tons per year of reactive organic compounds, 100 tons per year of carbon monoxide, 100 tons per year of PM10, or levels specified in the federal Clean Air Act of 1990, Section 112(a)(1);
- b. For North FRAQMD - 100 tons per year of nitrogen oxides, 100 tons per year of reactive organic compounds, 100 tons per year of carbon monoxide, 100 tons per year of PM10, or levels specified in the federal Clean Air Act of 1990, Section 112(a)(1).

**D.21 Major Modification:** Modification to a major stationary source which results in an increase in the potential to emit greater than the following amounts:

- a. For South FRAQMD, 25 tons/year of nitrogen oxides or reactive organic compounds aggregated with all other increases in potential to emit over the period of five consecutive years before the application for modification, including the calendar year of the most recent application.
- b. For North FRAQMD, 40 tons/year of nitrogen oxides or reactive organic gases.

**D.22 Modification:** Any physical change or operational change to an existing emissions unit, including a change in 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 unit. A modification also occurs when there is an increase of emissions from an emissions unit which 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:

1. Routine maintenance or repair.
2. A change in ownership.
3. 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.

**D.23 Net Air Quality Benefit:** A net improvement in air quality resulting from actual emission reductions impacting the same general area affected by the new or modified source.

**D.24 Nonattainment Pollutant:** Any pollutant, as well as any precursors of such pollutant, which has been designated nonattainment by the EPA in the Federal Register, or which has been designated nonattainment by the ARB pursuant to Section 39607, H & S Code.

**D.25 Non-permitted Emissions:** Those emissions of an air pollutant into open air from non-permitted emission sources that are not required to have air pollution permits. Non-permitted emissions may include emissions from agricultural burning, mobile sources, exempt emission units and sources that were never required to be permitted under the District's New Source Review Rule.

**D.26 North FRAQMD:** That area of the Feather River Air Quality Management District which is north of a line connecting the northern border of Yolo County to the Southwestern tip of Yuba County, and continuing along the Southern Yuba County border to Placer County (see figure 1).

**D.27 Offset:** The use of an emission decrease to compensate for an emission increase of an affected pollutant from a new or modified source subject to the requirements of the District's New Source Review Rule. Reductions in emissions

from rice straw burning qualify for offsets pursuant to Section 41865 of the H & S Code.

**D.28 PM<sub>10</sub>:** 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).

**D.29 Potential to Emit:** The maximum daily capacity of an emission 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.

**D.30 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:

<b>PRECURSOR</b>	<b>SECONDARY AIR POLLUTANT</b>
Reactive Organic Compounds	a. Photochemical oxidants (Ozone) b. The organic fraction of PM <sub>10</sub>
Nitrogen Oxides	a. Nitrogen dioxide b. The nitrate fraction of PM <sub>10</sub> . c. Photochemical oxidants (Ozone)
Sulfur Oxides	a. Sulfur dioxide b. Sulfates c. The sulfate fraction of PM <sub>10</sub>

**D.31 Proposed Emissions:** The potential to emit for a new or post-modification emissions unit.

**D.32 Reactive Organic Compound (ROC, ROG, or VOC):** Any compound containing carbon except: ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, and halogenated

hydrocarbons.

**D.33 Real, Surplus, Permanent, Quantifiable, and Enforceable:**

- a. A real emission reduction means that actual air emissions are reduced.
- b. Surplus emission reductions are in excess of any emission reduction which is required or encumbered by any laws rules, regulations, or orders; or attributed to a control measure noticed for workshop, or proposed or contained in the state implementation plan; or contained as near-term measures in the adopted District Air Quality Plan for attaining annual reductions required for the California Clean Air Act (CCAA).
- c. Permanent emission reductions will occur for the life of the project. To be permanent, emission reductions must continue while the ERCs are banked. Except for open burning biomass ERCs, when ERCs are used as offsets, emission reductions must last the life of the new or modified source emission increases for which they are used. ERCs may be leased or temporarily transferred as offsets subject to other requirements of Rule 10.2.
- d. Quantifiable refers to emission reductions that are calculated and characterized for future use. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process or production inputs, modeling, or other reasonable and measurable practices.
- e. Enforceable emission reductions are assured by verifiable and legally binding conditions on a Permit to Operate that limits emission rates over testable time averaging periods or a legally binding written contract may be executed with the District. For open biomass burning ERCs, the no burn list or other means may also be utilized to meet requirements of enforceability.

**D.34 Reconstructed Source:** Any stationary source undergoing physical modification where the fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost of a comparable entirely new stationary source. Fixed capital cost means the capital needed to provide all the depreciable components.

**D.35 Reduced Sulfur Compounds:** The sulfur compounds hydrogen sulfide, carbon disulfide, and carbonyl sulfide.

**D.36 Seasonal Source:** Any source with more than seventy-five percent (75%) of its annual emissions within a consecutive 120 day period.

**D.37 Shutdown:** Either the earlier of the permanent cessation of emissions from an emitting unit or the surrender of that unit's operating permit. If the APCO determines that the unit has been removed or fallen into an inoperable and unmaintained condition, the APCO may notify the owner of 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.

**D.38 Stationary Source:** Any building, structure, or facility which emits or may emit any affected pollutant directly or as a fugitive emission.

Building, structure, or facility means all pollutant emitting activities, including emissions units which:

- a. 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; and
- b. Are located on one or more contiguous or adjacent properties which may be separated by a public right of way. For purposes of Rule 10.2 open biomass burning will be considered a source and such activity requires an annual burning permit.

**D.39 South FRAQMD:** That area of the Feather River Air Quality Management District which is south of a line connecting the northern border of Yolo County to the southwestern tip of Yuba County, and continuing along the southern Yuba County border to Placer County (see figure 1).

**D.40 Total Reduced Sulfur Compounds:** The sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide and dimethyl disulfide.

**D.41 Volatile Organic Compound(VOC):** shall have the same meaning as reactive organic compound.

## **E. REQUIREMENTS**

*(Adopted 2/8/93; Amended 9/13/93; Amended 3/22/99)*

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

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



<u>Pollutant</u>	<u>Pounds/Day</u>
For all areas of the District:	
Reactive organic compounds	25
Nitrogen oxides	25
Particulate matter (PM <sub>10</sub> )	80
Sulfur oxides	80
Carbon monoxide	500
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

**E.2 Offsets:** Emission reductions shall be sufficient to offset calendar quarter emission increases of nonattainment pollutants or their precursors associated with a new or modified stationary source and shall be determined as follows:

- a. Offsets shall be required for a new stationary source with potential to emit, calculated pursuant to Section F.3, nonattainment pollutants or their precursors equal to or exceeding 25 tons per year. The amount of offsets required shall be at least equal to or exceeding 25 tons per year.
- b. Offsets shall be required for a modified stationary source under the following conditions:
  1. An existing stationary source which has a potential to emit, as of February 8, 1993, less than 25 tons per year of nonattainment pollutants or their precursors, shall offset that portion of the stationary source's potential to emit which exceeds 25 tons per year for new or modified emissions units. A stationary source's potential to emit shall be calculated pursuant to Section F.3. 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; and
  2. An existing stationary source which has a potential to emit, calculated pursuant to Section F.3, nonattainment pollutants or their precursors equal to or exceeding 25 tons per year as of February 8, 1993, shall offset any increases in potential to emit resulting from the permitting of a new or modified emissions unit.
- c. Location of Offsets and Offset Ratios:

1. The offset ratio and corresponding distance from the new or modified stationary source which is required to obtain offsets shall be:
  - *on-site, a ratio of 1:1*
  - *within 20 miles, a ratio of 1.2:1*
  - *20 miles to 50 miles, a ratio of 1.5:1*
  - *over 50 miles, a ratio of 2:1*Offsets which are not on-site must result in a net air quality benefit, as determined by the APCO.
2. Offsets which are obtained from a source located, in another Air District may be used only if the provisions of H & S Code Section 40709.6 are met and the involved Air Districts enter into an agreement formalized by a memorandum of understanding.
- d. Interpollutant Offsets: The APCO may approve the substitution of one air contaminant for another air contaminant to meet the requirement for offsetting an emission increase 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.
  1. In such cases, the APCO may, based on an air quality analysis, impose offset ratios greater than the requirements of Section E.2(c.) of this Rule.
  2. Interpollutant offsets between PM10 and PM10 precursors shall be allowed. PM10 emissions shall not be allowed to offset nitrogen oxide or reactive organic compound emissions.
- e. Emissions of reactive organic compounds during the quarters starting April 1 and July 1 may be used to offset positive emission changes of reactive organic compounds during the quarters starting October 1 and January 1.
- f. Emissions of nitrogen oxides during the quarters starting April 1 and July 1 may be used to offset positive emission changes of nitrogen oxides during the quarters starting October 1 and January 1.
- g. 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. The APCO may require an impact analysis 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.
- h. 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.
- i. Compliance by Other Owned, Operated, or Controlled Sources: The owner or operator of a proposed new or modified source shall certify to the APCO that all major stationary sources, which are owned or operated by such person (or by any entity controlling, controlled by, or under common control with such a person) in California which are subject to emission limitations are in compliance, or on a schedule for compliance, or on a schedule for compliance, with all applicable emission limitations and standards.
- j. The PM10 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 PM10 emission factors. When applicable PM10 emission factors do not exist, assume 50 percent of TSP is PM10.

If the applicant has provided full offsets for TSP emissions occurring since August 20, 1983 but before February 8, 1993, those TSP emissions need not be recalculated as PM10. However, any subsequent emissions increase in PM10 emissions shall be subject to the offset requirements of this rule.

## **F. CALCULATIONS**

*(Adopted 2/8/93)*

***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.***

**F.1 Procedure:** This 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 as follows:

- a. The emissions change for each new or modified emissions unit and for each pollutant shall be calculated using Section F.2.
- b. If an increase is calculated for a pollutant:
  1. Section E.1 shall be used to determine if BACT is required.
  2. Sections E.2 and F.3 shall be used to determine the amount of offsets required.
- c. If a decrease is calculated for a pollutant, Section F.2(b) shall be used to determine if emission reduction credits are generated.
- d. For no change in emissions, no further calculations are required.

### **F.2 Calculating Emissions Changes:**

#### **a. Emissions Increase:**

The emissions change for a new or modified emissions unit shall be calculated by subtracting historic potential emissions from proposed emissions.

*Emissions change = proposed emission less historic potential emissions*

#### **b. Actual Emission Reductions:**

##### **1. Shutdown of an emissions unit:**

*Actual emission reductions = Historic actual emissions*

##### **2. Modification consisting solely of application of control equipment or implementation of more efficient process:**

*Actual emission reductions = Historic actual emissions x control efficiency*

3. Other modifications:

*Actual emission reductions = Historic actual emissions less proposed emissions*

**F.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 each emission unit covered by permits to operate or authorities to construct, issued prior to February 8, 1993. In addition, emission increases from new or modified emissions units occurring on or after February 8, 1993 shall be added to the sum of potentials to emit for existing emissions units. The potential to emit for a stationary source shall not be adjusted for actual emissions reductions which occur after February 8, 1993.

## **G. AIR QUALITY IMPACT ANALYSIS**

*(Adopted 2/8/93)*

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 APCO may require an applicant to use an air quality model to estimate the effects of a new or modified emissions unit or facility. For the purpose of performing an impact analysis the following shall apply:

G.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 APCO finds that such model is inappropriate for use. After making such a finding the APCO may designate an alternate model, 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 or facility shall be borne by the applicant;

G.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**

*(Adopted 2/8/93)*

***The following administrative requirements shall apply to this Rule:***

**H.1 Complete Application:** The District shall determine whether an 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 District. If the District 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 resubmittal of the application, a new thirty (30) day period to determine completeness shall begin. Upon determination that the application is complete, the District shall notify the applicant in writing. The District may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.

**H.2 Preliminary Decision:** Following acceptance of an application as complete, the District 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.

**H.3 Publication and Public Comments:** Within 10 days following a preliminary decision on the Authority to Construct for an emissions unit or stationary source which triggers the offset requirements of Section E.2, the APCO shall publish in at least one newspaper of 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.

**H.4 Public Inspection:** 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 pursuant to Section H.3. The APCO's analysis 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.

**H.5 Authority to Construct, Final Actions:** 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.2 of this Rule.

**H.6 Requirements, Permits to Operate:** As a condition for the issuance of a permit to operate, the APCO shall require that any new source or modification, and any sources which provide offsets, 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 Best Available Control Technology.

- a. 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, and/or operational 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.
- b. 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 emission limitations. If the District, pursuant to state

laws or District regulations, cannot permit the emissions unit, the source creating the offsets shall execute a legally binding contract between the applicant and the owner or operator of such offset source which, by its terms, shall be enforceable by the District. A violation of the emission limitation provisions of any such permit or contract shall be chargeable to the applicant.

**H.7 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 in part, a replacement for an existing stationary source on the same property, the APCO may allow a maximum of 90 days as a start-up period for simultaneous operation of the existing stationary source and the new source or replacement.

**H.8 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.

**H.9 Permit Conditions:** The APCO shall place conditions on the Authority to Construct and/or Permit to Operate which will ensure that the construction, modification, or operation of a stationary 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**

*(Adopted 2/8/93)*

**I.1 General:** 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 District may apply to the CEC for reimbursement of all costs incurred, including lost fees, in order to comply with the provisions of this Section.

**I.2 Intent to Participate and Preliminary Report:** Within fourteen days of receipt of a NOI, the APCO shall notify the Air Resources Board and the California Energy Commission 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 Air Resources Board and the California Energy Commission 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 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; 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. The preliminary determinations contained in the report shall be as specific as possible within the constraints of the information contained in the NOI.

**I.3 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 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 resubmittal.

**I.4 Equivalency of Application:** The APCO shall consider the AFC to be equivalent to an application for Permit to Construct during the Determination of Compliance review, and shall apply all provisions of this Rule which apply to an application for a Permit to Construct.

**I.5 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 of the California Energy Commission for an order directing the applicant to supply such information.

**I.6 Preliminary Determination:** Within 180 days of accepting an AFC as complete, the APCO shall make a preliminary written 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.6 shall be treated as a preliminary decision under Section H.2 of this Rule, and shall be finalized by the APCO only after being subject to the public notice and comment requirements of Sections H.3 through H.5. The APCO shall not issue a Determination of Compliance unless all requirements of this Rule are met.

**I.7 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 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 CEC approves the AFC, and the CEC certificate includes all conditions of the Determination of Compliance.

**I.8 Permit to Operate:** Any applicant receiving a certificate from the CEC pursuant to this section and who is in compliance with all conditions of the certificate shall be issued a Permit to Operate by the APCO.

## FIGURE 1

### SUTTER-YUBA

