Regulation I
Rule 110 – New Source Review (NSR) And Prevention of Significant Deterioration (PSD)

The content of this Rule was first adopted as part of Regulation I in 1982.
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TABLE OF CONTENTS

RULE 110
NEW SOURCE REVIEW (NSR) AND
PREVENTION OF SIGNIFICANT DETERIORATION

A. PURPOSE:

1. The purpose of this Rule is to establish pre-construction review requirements for new and modified stationary sources of air pollution and to provide mechanisms, including emission offsets, by which authorities to construct for such sources may be granted without interfering with the attainment or maintenance of ambient air quality standards.

2. This Rule shall provide for no net increase in emissions, pursuant to Section 40918 of the H&SC, 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. [*Note: This subsection will not be included in the Federal SIP submittal of this rule.]*

B. APPLICABILITY:

1. This Rule shall apply to all new stationary sources and emission units and all modifications to existing stationary sources and emissions units that, after construction, emit or may emit any affected pollutant within the District.

a. The Regulations in effect at the time any application for an Authority to Construct for a new or modified source is deemed complete shall apply to that source except when a new federal requirement not yet incorporated into this Rule applies to the new or modified source. In such a case, the new federal rules shall apply to the source.

2. Any facility or source subject to this rule which has ceased operation for two or more continuous years, excluding minimal maintenance activities, shall be presumed to have been permanently shutdown.

a. Any permanently shutdown facility or source which then seeks reactivation is subject to re-evaluation under the requirements of Rule 110, NSR and PSD, including the requirement for BACT, offsets and modeling, as applicable.

b. The presumption a facility is permanently shutdown is refutable, and the burden of disproving the presumption rests with the permittee. In rebutting this presumption, the APCO shall take into consideration the totality of the circumstances including but not limited to: intent of the owner or operator, age of the facility, likelihood of reactivated operations may cause or contribute to a public nuisance, conflicting statements of intent by the owner and operator, frequency of equipment and facility upsets and equipment breakdowns, and ongoing maintenance.

c. Every facility and source subject to the provisions of this Rule which has not operated for five (5) or more continuous years shall be considered permanently shutdown for the purposes of this Rule.

C. EFFECTIVE DATE: This Rule shall become effective December 9, 2010

D. DEFINITIONS: The following definitions apply for all terms used in this Rule. If a term is not defined below, then the definitions provided in Rule 502 Application & Permit Requirements , Rule 101 Definitions, and Rule 106 Emission Reduction Credits, shall apply in that hierarchical order:

1. **Actual Emissions** means emissions (air pollutants) which have been released into the atmosphere from a source or emissions unit. The amount or quantity of emissions shall be determined based upon source test data, actual fuel consumption or process data, or monitoring data. If source test or monitoring data is not available, other appropriate, APCO-approved, emission factors may be used. Fugitive emissions associated with the emissions unit shall be included in the actual emissions of the emissions unit.

2. **Allowable Emissions:** The emissions rate of a stationary source or an emissions unit calculated using the maximum rated capacity of the source (unless the source is subject to a federally enforceable or practically and legally enforceable limit, which restricts the operating rate, hours of operation, or both) and the most stringent of the following:
   a. Any applicable standards set forth in the District Rules and Regulations (Rules) and 40 CFR Part 60, 61, or 63;
   b. Any applicable emission limitation in the State Implementation Plan (SIP), including those with a future compliance date; or
   c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

3. **Affected Pollutant** means an air pollutant for which an ambient air quality standard has been established by the United States Environmental Protection Agency (EPA) or the California Air Resources Board (CARB), the precursors to such pollutants, and those substances regulated by EPA or CARB, or listed under Section 5.1 of this Rule.

4. **Ambient Air Quality Standards** means those ambient air quality standards which 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. 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.

5. **Best Available Control Technology (BACT)** means 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 APCO 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 APCO. The cost-effective analysis shall be performed in accordance with the methodology and criteria specified by the APCO.

   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.

6. **Complete Application** means 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.

7. **Contiguous Property** means 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.

8. **Cost-Effective** means a cost per pound of emission reduction which is deemed to be acceptable and feasible, on a pollutant and emissions unit basis, by the APCO.

9. **Daily Emissions Limitation** means 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 emissions unit; and
   b. Enforceable on a daily basis; and,
   c. Established pursuant to permitting action occurring after January 12, 1993 and used in the calculation of the net emissions change.

10. **Emissions Unit** means 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.

11. **Fluorides** means elemental fluorine and all fluoride compounds.

12. **Fugitive Emissions** means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

13. **Functionally Equivalent Emission Unit:** An emission unit that serves the identical function as the unit being replaced. The maximum rating and the potential to emit any pollutant shall not be greater from the functionally equivalent emission unit than the replaced unit. The emission increase from any such replacement shall not result in a major modification.

14. **Halogenated Hydrocarbons** means one or more of the following substances:
   a. 1, 1, 1-trichloroethane,
   b. methylene chloride
   c. 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)
   d. 2-chloro-1,1,1,2-tetrafluroethane (HCFC-124)
   e. trichlorofluoromethane (CFC-11)
   f. dichlorodifluoromethane (CFC-12)
   g. 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113)
   h. 1-chloro-1,1-difluoro-2,2-difluoroethane (CFC-114)
   i. chloropentafluoroethane (CFC-115)
   j. pentafluoroethane (HFC-125)
   k. 1,1,2,2-tetrafluoroethane (HFC-134)
   l. 1,1,2,2-tetrafluoroethane (HFC-134a)
   m. 1,1-dichloro-1-fluoroethane (HCFC-141b)
   n. 1-chloro-1,1-difluoroethane (HFC-142b)
   o. 1,1,1-trifluoroethane (HFC-143a)
   p. chlorodifluoromethane (HCFC-22)
   q. trifluoroethane (HFC-23)

r. 1,1-difluoroethane (HFC-152a)
s. The following four classes of perfluorocarbon compounds:
   i. Cyclic, branched, or linear, completely fluorinated alkanes.
   ii. Cyclic, branched, or linear, completely fluorinated ethers, with no saturations.
   iii. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.
   iv. sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
   v. 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.

15. Impact Analysis means an air quality modeling analysis used to estimate the maximum ground level concentration from the project for any pollutant subject to this Rule. Maximum ground level concentration added to background levels shall be compared to ambient air quality standards.

16. Lowest Achievable Emission Reduction (LAER) means, for any source, the more stringent rate of emissions based on the following:
   a. The most stringent emission limitation which is contained in the implementation plan of any state for such class of category of stationary source, unless the owner or operator of the proposed major stationary source demonstrates that such limitations are not achievable; or
   b. The most stringent emission limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a major modification, means the LAER for the new or modified emissions units within the stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

   For purposes of this definition only, the term "any state" means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

17. Modification means 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:
   a. Routine maintenance or repair.
   b. A change in ownership.

18. Net Air Quality Benefit means a net improvement in air quality resulting from actual emissions reductions impacting the same general area affected by the new or modified source.

19. Non-attainment Pollutant means any pollutant, as well as any precursors of such pollutant, which has been designated non-attainment by EPA as codified in 40 CFR 81.305, or which has been designated non-attainment by CARB pursuant to H&SC Section 39607.

20. **NSR Regulated Pollutant** means a pollutant for which a National Ambient Air Quality Standard has been established by the EPA, and the precursors to such pollutants, including but not limited to, reactive organic compounds (ROC), nitrogen oxides (NOx), sulfur oxides (Sox), PM10, PM2.5, carbon monoxide (CO), and lead.

21. **PM_{10}** means particulate matter with aerodynamic diameter smaller than or equal to a nominal 10 microns.

22. **$PM_{2.5}$** means particulate matter with aerodynamic diameter smaller than or equal to a nominal 2.5 microns.

23. **Potential to Emit** means the maximum daily and/or annual capacity of an emission 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 federally enforceable or a practically and legally enforceable permit condition. Fugitive emissions associated with the emissions unit or stationary source shall be included in the potential to emit of the emissions unit or stationary source.

24. **Precursor** means a pollutant that, when emitted into the atmosphere, may undergo either a chemical or physical change which then produces another pollutant for which an ambient air quality standard has been adopted. The following precursor-secondary air contaminant relationships shall be used for the purposes of this rule:

Precursor	Secondary Air Contaminant
Reactive Organic Compound	Photochemical oxidants (Ozone) Organic fraction of PM10
Nitrogen Oxides	Nitrogen dioxide Nitrate fraction of PM10 Nitrate fraction of PM2.5 Photochemical oxidants (Ozone)
Sulfur Oxides	Sulfur dioxide Sulfates Sulfate fraction of PM10 Sulfate fraction of PM2.5

25. **Quarterly:** Calendar quarters beginning January 1, April 1, July 1, and October 1.

26. **Reactive Organic Compound or Reactive Organic Gas (ROC or ROG)** means any compound meeting the definition of VOC as listed in 40 CFR 51.100(s).

27. **Reconstructed Source** means 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.

28. **Reduced Sulfur Compounds** means the sulfur compounds hydrogen sulfide, carbon disulfide, and carbonyl sulfide.

29. **Replacement Emission Unit**: An emissions unit for which both the criteria listed below are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced unless:
    a. The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit; or the emissions unit is an identical emission unit or a functionally equivalent emission unit; or the replacement does not alter the basic design parameters of the process unit; and
    b. The replaced emissions unit is permanently removed from the stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

30. **Stationary Source (Facility)** means 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** means the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.

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, if the change would result in an increase in the potential to emit from the new unit or modification of existing equipment. BACT shall be applied to each new unit or modification only for the pollutant(s) emitted in excess of the threshold(s) listed in Table 1.0 Significance Thresholds below. [*Note: This subsection will not be included in the Federal SIP submittal of this rule.]*

Table 1.0 Significance Thresholds

Pollutant	Significance Thresholds	
	Daily (pounds per day)	Annual (tons per year)
Carbon monoxide	500.0	100
Fluorides	15.0	3.0
Hydrogen sulfide	50.0	10.0
Lead	3.2	0.6
Nitrogen oxides	50.0	40.0
Particulate matter (PM10)	80.0	15.0
Particulate matter (PM2.5)	50.0	10.0

Reactive organic compounds	50.0	40.0
Reduced sulfur compounds	50.0	10.0
Sulfur oxides	80.0	40.0
Sulfuric acid mist	35.0	7.0
Total reduced sulfur compounds	50.0	10.0

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 be required for a new stationary source with a potential to emit, calculated pursuant to Section (F)(5) of this Rule, non-attainment pollutants or their precursors equal to or exceeding 25 tons per year. The amount of offsets required shall be at least equal to that portion of the potential to emit which exceeds 25 tons per year.
   b. Offsets shall be required for a modified stationary source under the following conditions:
      i. An existing stationary source which has a potential to emit less than 25 tons per year as of January 12, 1993, 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)(5) of this Rule. 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
      ii. An existing stationary source which has a potential to emit, calculated pursuant to Section (F)(5) of this Rule, of non-attainment pollutants or their precursors equal to or exceeding 25 tons per year as of January 12, 1993, shall offset any increases in potential to emit resulting from the permitting of a new or modified emissions unit.
   c. Offset requirements for increases in carbon monoxide: 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 National Ambient Air Quality Standards.

3. **Location of Offsets and Offset Ratios**
   a. Offset ratios and the corresponding distances from the proposed stationary source shall be:
      i. on-site, at a ratio of 1:1;
      ii. within 20 miles, at a ratio of 1.2:1;
      iii. from 20 miles to 50 miles, at a ratio of 1.5:1;
      iv. over 50 miles, at a ratio of 2:1.
      Use of offsite offsets must result in a net air quality benefit, as determined by the APCO.

   b. Offsets which are obtained from a source located in another District may be used only if the provisions of H&SC 40709.6 are met, EPA approval is obtained 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. The project must also obtain EPA approval for the use of inter-pollutant offsets.

5. **Ambient Air Quality Standards:** In no case shall the emissions from the new or modified stationary source cause or worsen 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 District 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 a proposed new or modified source shall certify to the APCO that all sources having a potential to emit in excess of 100 tons per year that are owned or operated by such person (or by an entity controlling, controlled by, or under common control) in California are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards.

F. CALCULATIONS:

1. **Purpose:** The following calculations procedures shall be used to determine:
   a. the emissions change for all new or modified emissions units; and
   b. actual emissions reductions for all shutdowns and modified emissions units; and
   c. the cumulative emissions increase from all new and modified emissions units for a stationary source.

2. **Definitions:** The following terms are used in the calculations procedure and are defined as follows:
   a. **Control Efficiency** means 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.
   b. **Historic Actual Emissions** means actual emissions averaged over the two (2) year period immediately preceding the date of application. If 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 may be used. Where 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. 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.
   c. **Historic Emissions** means the potential to emit of an existing emissions unit prior to modification. For a new emissions unit, historic emissions are equal to zero.
   d. **Proposed Emissions** means the potential to emit for a new or post-modification emissions unit.

3. **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)(4) of this Rule.

b. If an increase is calculated for a pollutant, follow the procedures in Sections (E)(2) of this Rule to determine the amount of offsets required.
c. If a decrease is calculated for a pollutant, follow the procedures in Section (F)(4)(b)of this Rule to determine if emission reduction credits (ERC's) are generated.

If no emissions change is calculated for a pollutant, no further calculations are required.

4. Calculating Emissions Changes

a. Emissions Increase
   i. New or Modified Emissions Unit: The emissions change for a new or modified emissions unit shall be calculated by subtracting historic emissions from proposed emissions:
b. Emissions change = Proposed emissions minus Historic Emissions
c. Actual Emissions Reductions (AER)
   i. Shutdown of an Emissions Unit: AER = Historic actual emissions
   ii. Modification consisting solely of application of control equipment or implementation of more efficient process: AER = Historic actual emissions multiplied by Control efficiency
   iii. Other Modifications: AER = Historic actual emissions minus Proposed emissions

G. 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:

1. Air quality models shall be consistent with the requirements specified in 40 CFR Part 51, Appendix W ("Guideline 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 written concurrence of CARB and EPA. All modeling costs associated with the site of a new or modified emissions unit shall be borne by the applicant. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment.

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 thirty (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 thirty (30)-day period to determine the completeness shall begin. Completeness or re-submittal of an application shall be evaluated on the basis of the information requirements set forth in District Regulations as they exist on the date on which the application or re-submitted 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. Reserved.

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

4. **Publication and Public Comment:**
   a. **Applicability:** This Section shall only apply to an emissions unit when:
      i. BACT is required to be applied to a new unit or a modification to an existing unit in accordance with Section (E)(1) of this Rule; or
      ii. A stationary source has requested to assume a federally enforceable emissions limit such that the increase in the potential to emit from a new emissions unit or modification to an emissions unit is artificially constrained.
   b. **Written Notice:** Within ten (10) calendar days following a preliminary decision on the Authority to Construct, the APCO shall publish in at least one (1) 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 thirty (30)-day period following the date of publication. Copies of such notice shall be sent to CARB and EPA.
   c. **Public Inspections:** The APCO shall make available at the District offices the information submitted by the applicant and the APCO's analysis no later than the time that the notice of preliminary decision is published. All such information shall also be transmitted, no later than the date of publication, to CARB and EPA. 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.

5. **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 District, State, or federal rules or regulations.

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 notification of the final action to the applicant, CARB, and EPA, and shall make the notification and all supporting documents available for public inspection at the District offices for all Authorities to Construct issued for emissions units subject to the requirements of Section (E)(1) of this Rule.

7. **Requirements for Permits 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 emissions 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, 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. When the source of offsets is not subject to a permit, a written contract shall be required 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.

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 emission 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, cannot permit the source of 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. [*Note: This subsection will not be included in the Federal SIP submittal of this rule.]*

8. Issuance of Permits 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 one hundred and eighty (180) days as a start-up period for simultaneous operations of the existing stationary source and the new source or replacement.

9. Reserved.

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 PLANT PROCEDURES: A power plant shall be defined as a stationary source that produces electricity. 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 (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:
a. A preliminary specific definition of BACT for the proposed facility; and
b. 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
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.

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 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 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 Constuct.

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 of 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 (H)(3) of this Rule shall be treated as a preliminary decision under Section (H)(5) 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) of this Rule. 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 inform the CEC. A Determination of Compliance shall confer the same rights and privileges as an Authority 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.

J. EXCLUSIONS:

1. New Source Review Procedures in accordance with Rule 110 shall not be required for temporary stationary sources which will be in operation for less than 90 days duration provided BACT is applied in accordance with Section 5.1 and such operations will not interfere with the control strategy of the SIP.

2. **Reserved.**

K. PREVENTION OF SIGNIFICANT DETERIORATION (PSD): The provisions of this section shall only apply to new or modified sources which have the potential to emit greater than the applicable annual significance threshold of the NSR Regulated Pollutant(s) listed in Table 1.0 Significance Thresholds of Section (E)(1).

1. Pursuant to the CAA in addition to any other requirements imposed in these Rules and Regulations, and not withstanding any other permit requirements, no sources subject to these Rules and Regulations shall be permitted to release emissions into the atmosphere which cause or create an exceedance of the maximum allowable prevention of significant deterioration (PSD) increments for Class I, Class II, or Class III areas as defined in Regulation I, Rule 101**.**

2. An air quality analysis of the ambient impacts associated with the construction and operation of the proposed new source or modification shall be prepared to determine if the new emission emitted from the proposed major source or, modification, in conjunction with other applicable emissions from existing sources (including secondary emission from growth associated with the new project), will not cause or contribute to a violation of any PSD increment.

3. A separate air quality analysis must be submitted for each regulated pollutant if the applicant proposes to emit a pollutant in a significant amount from a new major stationary source, or proposes to cause a significant net emission increase from a major modification.

4. Generally, the air quality analysis shall involve; (1) an assessment of existing air quality, which may include ambient air monitoring date and air quality dispersion modeling result, and (2) predictions, using dispersion modeling, of ambient concentrations that will result from the applications proposed project and future growth associated with the project.

5. All increment consumptions shall be determined using a baseline emission date established as a reference point for determining air quality deterioration in an area. The baseline concentration is pollutant specific and is essentially the air quality level existing at the time of the first complete PSD permit application submittal in the District. On or before the first PSD application, emissions are considered to be part of the baseline concentration, and emissions changes after that date affect the amount available PSD increments.

6. The amount of PSD increment that has been consumed in a PSD area is determined from the emissions increases and decreases which have occurred from sources since the applicable baseline date. In order to determine the amount of PSD increment consumed (or the amount of available increment), no determination of the baseline concentration needs to be made. Instead, increment consumption calculations must reflect only the ambient pollutant concentration change attributable to increment-affecting emissions. Emissions increases that consume a portion of the applicable increment are, in general, all those not accounted for in the baseline concentration and specifically include actual emissions increased occurring after the major source baseline date, which are associated with physical changes or changes in the method of operation (i.e., construction) at a major stationary source. The amount of available increment may be added to, or "expanded".

7. From the reduction of actual emissions after the major source baseline date, if the reduction results from a physical change or change in the method of operation (i.e., construction) at a major stationary source. The reduction will add to the available increment only if the reduction is included in the federally enforceable permit or SIP provision.

8. The credible increase of an existing stack height or the application of any other credible dispersion technique may affect increment consumption or expansion in the same manner as an actual emissions increase or decrease. (The effects that a change in the effective stack height would have on ground level pollutant concentrations generally should be factored into increment analysis.) Any increase in a stack eight, in order to be creditable, must be consistent with the EPA's stack height regulations; credit cannot be given for that portion of the new height which exceeds the height demonstrated to be the good engineering practice (GEP) stack height.

9. Increment consumption (and expansion) will generally be based on changes in actual emissions reflected by the normal source operation for a period of 2 years. However, if the little or no operating data are available, as in the case of permitted emission units not yet in operation at the time of the increment analysis, the potential to emit must be used instead.

10. Reserved.