

RULE 202 - NEW SOURCE REVIEW

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100 **GENERAL**

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

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

102 **APPLICABILITY:** This rule shall apply to all new stationary sources and emissions units and all modifications to existing stationary sources and emissions units which are subject to Rule 201, GENERAL PERMIT REQUIREMENTS, except that emissions units exempted by Rule 201 must be included in the potential to emit of the stationary source unless the emissions unit emits less than 2 pounds per day of each pollutant. This rule shall not apply to prescribed burning of forest, or range land, road construction or any other non-stationary source common to timber harvesting. This Section 102 shall not be used to exempt any stationary source or modification, which would be subject to review under U.S. Environmental Protection Agency regulations, from permit requirements.

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

If any source or modification becomes a major stationary source or major modification as defined in Sections 227 and 228 solely by virtue of a relaxation in any federally enforceable limitation which was established after August 7, 1980, on a capacity of the source or modification to emit a federal nonattainment pollutant or its precursor such as a restriction on hours of operation, then the requirements of this rule shall apply to such a source or modification as though construction had not yet commenced on the source or modification.

Note: All sources subject to this rule are also subject to Rule 217, PUBLIC NOTICE REQUIREMENTS FOR PERMITS. In addition, major sources are also subject to Rule 214, FEDERAL NEW SOURCE REVIEW.

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

110 **EXEMPTION: EMERGENCY EQUIPMENT:** The Air Pollution Control Officer shall exempt an emissions unit from the requirements of Sections 302 and 303, unless installation of such equipment would result in a major modification or be a major stationary source, in and of itself; and if it would provide emergency electrical power, emergency water pumping for flood control or fire fighting, emergency potable water pumping, or emergency sewage pumping provided the following requirements are met.

- 110.1 Operation for maintenance purposes shall not exceed 100 hours per year, and such maintenance shall be scheduled in cooperation with the District so as to limit air quality impact, and
- 110.2 Operation of the equipment shall not exceed a total of 200 hours per year, including maintenance operation, and
- 110.3 Operation of the equipment shall not be for supplying power to a serving utility for distribution on the grid, and
- 110.4 Operation for other than maintenance purposes shall be limited to actual interruptions of electrical power by the serving utility, emergency water pumping for flood control or fire fighting, emergency potable water pumping, or emergency sewage pumping, or
- 110.5 Operation for other than maintenance purposes shall be limited to maintaining the safety and preserving the integrity of nuclear power generating systems.

111 **EXEMPTION: TEMPORARY SOURCE:** The Air Pollution Control Officer shall exempt an emissions unit from the requirements of Sections 302 and 303, if it is

- 111.1 A temporary source; and
- 111.2 Is not a major stationary source or major modification or is not located at a major stationary source; and
- 111.3 The emission increase for the project calculated pursuant to Section 411.2 does not exceed the following levels:

| <u>Pollutant</u> | lb/day |
|----------------------------|--------|
| Volatile organic compounds | 150 |
| Nitrogen oxides | 150 |
| Sulfur oxides | 150 |
| PM10 | 80 |
| Carbon monoxide | 550 |

112 **EXEMPTION: NON-MAJOR AGRICULTURAL STATIONARY SOURCE AND NON-MAJOR MODIFICATIONS:** An agricultural stationary source that is not a major stationary source or is not making a major modification is exempt from the requirements of this rule.

113 **EXEMPTION: REPLACEMENT EQUIPMENT:** The requirements of Sections 302 and 303 shall not apply to replacement equipment where

- 113.1 The replacement unit(s) is an identical emissions unit(s); or
- 113.2 The replacement unit(s) is not a major source or major modification and serves the identical function as the unit(s) being replaced where the maximum rating and the potential to emit any pollutant will not be greater from the new or modified emission unit(s) than the replaced units, and the emission increase calculated pursuant to Section 411.1 does not exceed the following levels:

| <u>Pollutant</u> | lb/day |
|----------------------------|--------|
| Volatile organic compounds | 136 |
| Nitrogen oxides | 136 |
| Sulfur oxides | 150 |
| PM10 | 80 |
| CO | 550 |

This exemption does not apply to the replacing of air pollution control equipment pursuant to Section 229.3e.

114 **EXEMPTION: RULE COMPLIANCE:** The requirements of Sections 302 and 303 shall not apply to modifications necessary to comply with standards contained in Regulation 4, PROHIBITIONS, or in the State Implementation Plan. Where more than one compliance option is allowed, this exemption only applies to the emissions resulting from the least emissive option. The incremental emissions difference between the least emissive option and the selected option must comply with Sections 302 and 303. This exemption shall

not apply to modifications in production rate, hours of operation, or other changes or additions to existing equipment not necessary for compliance with standards contained in District Regulation 4, PROHIBITIONS, or in the State Implementation Plan. This exemption also does not apply if the modifications for compliance with standards contained in Regulation 4, PROHIBITIONS, or the State Implementation Plan are major modifications under the United States Environmental Protection Agency regulations promulgated pursuant to Title I of the Federal Clean Air Act, including 40 CFR Part 51.

- 115 **EXEMPTION: ALTERNATIVE SITING:** If the permit applicant demonstrates that a proposed modification to an existing stationary source would not constitute a Federal Major Modification, the application for Authority to Construct such modification shall not be subject to Section 401, Alternative Siting.
- 116 **RESERVED**
- 117 **EXEMPTION: VISIBILITY ANALYSIS:** The requirements of Sections 309 and 413 shall not apply to any non-major stationary source or non-major modification.
- 200 **DEFINITIONS:** Unless otherwise defined below, the terms in this rule are defined in Rule 101, GENERAL PROVISIONS AND DEFINITIONS, Rule 201, GENERAL PERMIT REQUIREMENTS, Rule 204, EMISSION REDUCTION CREDITS, and Rule 207, TITLE V - FEDERAL OPERATING PERMIT PROGRAM.
- 201 **ACTUAL EMISSIONS:** Measured or estimated emissions which most accurately represent the emissions from an emissions unit.
- 202 **ACTUAL INTERRUPTIONS OF ELECTRICAL POWER:** When electrical service is interrupted by an unforeseeable event.
- 203 **AMBIENT AIR QUALITY STANDARDS:** State and national ambient air quality standards established pursuant to 42 U.S.C Section 7409 of the Federal Clean Air Act or California Health and Safety Code Section 39606.
- 204 **BEGIN ACTUAL CONSTRUCTION:** Initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework and construction of permanent storage structures. With respect to a change in method of operation that does not involve a physical change, this term refers to those on-site activities other than preparatory activities which mark the start of the change in the method of operation.
- 205 **BEST AVAILABLE CONTROL TECHNOLOGY (BACT):**
- 205.1 For any emissions unit the most stringent of:
- a. The most effective emission control device, emission limit, or technique, singly or in combination, which has been required or used for the type of equipment comprising such an emissions unit unless the applicant demonstrates to the satisfaction of the Air Pollution Control Officer that such limitations required on other sources have not been demonstrated to be achievable in practice.
 - b. Any alternative basic equipment, fuel, process, emission control device or technique, singly or in combination, determined to be technologically feasible and cost-effective by the Air Pollution Control Officer.

- 205.2 In making a BACT determination for each regulated air pollutant the Air Pollution Control Officer may consider the overall effect of the determination on other regulated air pollutants. In some cases the lowest emission rates may be required for one or more regulated air pollutants at the cost of not achieving the lowest emission rate for other pollutants. The Air Pollution Control Officer shall discuss these considerations in the Preliminary Decision prepared pursuant to Section 405.
- 205.3 Under no circumstances shall BACT be determined to be less stringent than the emission control required by any applicable provision of District, state or federal laws or regulations, or contained in the implementation plan of any State for such class or category of stationary source unless the applicant demonstrates to the satisfaction of the Air Pollution Control Officer that such limitations are not achievable.
- 206 **CARGO CARRIERS:** Cargo carriers are trains dedicated to a specific source.
- 207 **CEQA:** The California Environmental Quality Act, Public Resources Code, Section 21000, et seq.
- 208 **CLASS I AREA:** Any area listed as Class I in 40 CFR Part 81 Subpart D, including Section 81.405, or an area otherwise specified as Class I in the legislation that creates a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore.
- 209 **COMMENCING OPERATION:** Emissions unit becomes operational and begins to emit a regulated air pollutant.
- 210 **CONSTRUCTION COMMENCES:** A person has all necessary preconstruction approvals or permits and either has:
- 210.1 Begun, or caused to begin, a continuous program of actual on-site construction of the stationary source, to be completed within a reasonable time; or
- 210.2 Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
- 211 **CONTIGUOUS PROPERTY:** Two or more parcels of land with a common boundary or separated solely by a public roadway or other public right-of-way.
- 212 **COST-EFFECTIVE:** A cost per unit of emissions reduction which is lower than or equivalent to the maximum unit costs, for the regulated air pollutant or source category, of the same emission reduction through the use of Best Available Control Technology, calculated in current year dollars, in accordance with methodology and criteria specified in the BACT Policy developed by the District. Cost effectiveness consideration shall not apply to stationary sources that are a major stationary source or major modification.
- 213 **CREDITABLE INCREASES AND DECREASES:**
- 213.1 An increase or decrease in actual emissions is creditable only if:
- a. It occurs between:
1. the date five years before construction commences on the project and
2. the date the project commences operation; and
- b. The Air Pollution Control Officer has not relied on it in issuing a permit which permit is in effect when the increase in actual emissions from the particular change occurs.
- 213.2 An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

- 213.3 A decrease in actual emissions is creditable only to the extent that:
- The old level of actual emission or the old level of allowable emissions whichever is lower, exceeds the new level of actual emissions;
 - It is enforceable as a practical matter, and federally enforceable for all major stationary sources, at and after the time that actual construction on the particular change begins; and
 - The Air Pollution Control Officer has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR part 51 subpart I or the State has not relied on it in demonstrating attainment or reasonable further progress;
 - It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
- 213.4 An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- 214 **EMISSION INCREASE:** An increase calculated pursuant to Section 411.
- 215 **EMISSION OFFSET:** An emission reduction credit that compensates for an emission increase of a regulated air pollutant from a new or modified source subject to the requirements of Sections 302 and 303.
- 216 **EMISSIONS LIMITATION:** One or more permit conditions specific to an emissions unit which restricts its maximum emissions, at or below the emissions associated with the maximum design capacity and,
- 216.1 Contained in and enforceable by the latest Authority to Construct and Permit to Operate for the emissions unit, and
- 216.2 Enforceable pursuant to Section 408, and
- 216.3 Enforceable on a daily, quarterly, and where applicable, annual basis.
- 217 **EMISSIONS UNIT:** An identifiable operation or piece of process equipment such as an article, machine, or other contrivance which controls, emits, may emit, or results in the emissions of any regulated air pollutant or hazardous air pollutant (HAP), directly or as fugitive emissions. Emissions unit shall not include the open burning of agricultural biomass.
- 218 **EXISTING EMISSIONS UNIT:** Any emissions unit that is not a new emissions unit.
- 219 **FEDERAL LAND MANAGER:** The Secretary of the Department with authority over the specified federal lands.
- 220 **FEDERAL MAJOR MODIFICATION:** Exclusively for the purpose of Section 115, a Major Modification as defined in 40 CFR Section 51.165(a)(1)(v) (July 1, 2010 edition).
- 220.1 All terms used in the definition of Major Modification shall be as defined in 40 CFR 51.165(a)(1)(v), except that:
- the term "reviewing authority" as used in that Section shall mean the Sacramento Metropolitan Air Quality Management District;
 - the term "major stationary source" as used in that Section means a Major Stationary Source as defined in Section 228; and
 - the term "significant" as used in that Section means a rate of emissions that would equal or exceed the rates specified in Section 227.

- 221 **FEDERALLY ENFORCEABLE:** All limitations and conditions which are enforceable by EPA, including:
- 221.1 Requirements developed pursuant to 40 CFR Parts 60 (NSPS), 61 (NESHAP), 63 (NESHAP), 70 (State Operating Permit Programs), and 72 (Permits Regulation, Acid Rain);
 - 221.2 Requirements contained in the State Implementation Plan (SIP), that are applicable to the District; and
 - 221.3 District permit requirements established pursuant to the District's new source review rules in the SIP.
- 222 **FUGITIVE EMISSIONS:** Those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.
- 223 **HAZARDOUS AIR POLLUTANT (HAP):** Any air pollutant listed pursuant to Section 112(b) (42 U.S.C Section 7412(b) of the Federal Clean Air Act).
- 224 **HISTORIC ACTUAL EMISSIONS:**
- 224.1 **Existing emissions units:** Historic actual emissions for the existing emissions unit averaged over the two year period immediately preceding the date of application for an Authority to Construct.
 - a. If the last two years are unrepresentative of normal source operations as determined by the Air Pollution Control Officer, then any two consecutive years of the last five years that represent normal source operation may be used.
 - b. The daily Historic Actual Emissions for each calendar quarter equals the actual emissions for the calendar quarter divided by the total number of actual operating days. If there are no records for actual operating days, then use the number of permitted operating days or calendar days, whichever is less.
 - c. If, at any time during the two year period, actual emissions exceeded allowed or permitted emission levels, then actual emissions shall be reduced to reflect the levels that would have occurred if the unit were in compliance with all applicable limitations and rules.
 - d. If less than one year has passed since the date of commencing operation under an issued Permit to Operate or an Authority to Construct then the historic actual emissions, for the purpose of this rule, shall be the potential to emit.
 - e. If one year or more but less than two years have passed since the date of issuance of the Permit to Operate or an Authority to Construct then the historic actual emissions shall be the actual emissions over the one year period immediately preceding the date of application.
 - 224.2 **New emissions unit:** Zero.
- 225 **HISTORIC POTENTIAL EMISSIONS:** The historic potential emissions shall be:
- 225.1 **New Emissions Unit:** Zero.
 - 225.2 **Emissions units not part of a major modification as defined in Section 227:**
 - a. **When determining BACT applicability, existing emissions units that had enforceable daily emissions limits on the Authority to Construct or Permit to Operate prior to modification:** The potential to emit of the emissions unit prior to modification as represented by the enforceable daily limiting condition on the permit.
 - b. **When determining quarterly offsets trigger and quantity of offsets required existing emissions units that had enforceable quarterly emissions limits on the Authority to Construct or Permit to Operate prior to modification:** The potential to emit of the emissions unit prior to modification as represented by the enforceable quarterly limiting condition on the permit.

- c. **When determining daily offsets trigger at Peaking Power Plants, or for when determining the daily limit specified in Section 303.2, existing emissions units that had enforceable daily emissions limits on the Authority to Construct or Permit to Operate prior to modification:** The potential to emit of the emissions unit prior to modification as represented by the enforceable daily limiting conditions on the permit.
- 225.3 **All other Emission Units:**
- a. The historic potential emissions equal to the enforceable potential to emit limit contained in the most recent Authority to Construct or Permit to Operate, if any of the following criteria are met:
 - i. Actual emissions are at least 80% of the potential to emit limit, or
 - ii. The emissions unit was fully offset for any emission increase. If the emissions increase from the project, including the emissions unit being evaluated, will result in a major source in and of itself, as defined in Section 228, or a major modification, as defined in Section 227, then the offset of the nonattainment pollutant for the emissions unit must have occurred during the 5 year period prior to the date that the application is deemed complete, then this provision is not applicable; or
 - b. The historic actual emissions as defined in Section 224.1.
- 226 **IDENTICAL EMISSIONS UNIT:** A replacement emissions unit which is the same as the original unit in all respects except for serial number.
- 227 **MAJOR MODIFICATION:** Any physical change, change in method of operation (including change in fuel), or addition, to a stationary source classified as a major source for:
- 227.1 VOC or NOx emissions, which result in an emission increase for the project as determined by Section 411.5, which when aggregated with all other creditable increases and decreases in emissions from the source is equal to or exceeding any of the following thresholds:
 - a. 25 tons per year of volatile organic compounds; or
 - b. 25 tons per year of nitrogen oxides.
 - 227.2 PM10 or a PM10 precursor emissions, which result in an emission increase for the project as determined by Section 411.5, which when aggregated with all other creditable increases and decreases in emissions from the source is equal to or exceeding any of the following thresholds:
 - a. 40 tons per year of volatile organic compounds;
 - b. 40 tons per year of nitrogen oxides;
 - c. 40 tons per year of sulfur oxides; or
 - d. 15 tons per year of PM10.
 - 227.3 PM2.5 or a PM2.5 precursor emissions, which result in an emission increase in the potential to emit for the project as determined by Section 411.5, which when aggregated with all other creditable increases and decreases in emissions from the source is equal to or exceeding any of the following thresholds:
 - a. 10 tons per year of direct PM2.5;
 - b. 40 tons per year of nitrogen oxides;
 - c. 40 tons per year of sulfur dioxide;
 - d. 40 tons per year of volatile organic compounds if volatile organic compounds is determined to be a necessary part of the PM2.5 control strategy in the attainment demonstration and is approved by EPA in the State Implementation Plan; or
 - e. The significance level established in the attainment demonstration, if ammonia is determined to be a necessary part of the PM2.5 control strategy in the attainment demonstration and is approved by EPA in the State Implementation Plan.

- 227.4 Carbon monoxide emissions, which result in an emission increase for the project as determined by Section 411.5, which when aggregated with all other creditable increases and decreases in emissions from the source is equal to or exceeding the following threshold:
- a. 100 tons per year of carbon monoxide.
- 227.5 Lead emissions, which result in an emission increase for the project as determined by Section 411.5, which when aggregated with all other creditable increases and decreases in emissions from the source is equal to or exceeding the following threshold:
- a. 0.6 tons per year of lead.
- 227.6 Unless previously limited by a permit condition, the following shall not be considered a major modification for the purpose of this rule:
- a. A change in ownership.
 - b. Routine maintenance and repair.
 - c. A reconstructed stationary source or emissions unit, which shall be treated as a new stationary source or emissions unit, not as a major modification.
 - d. The addition of a continuous emission monitoring system.
 - e. Replacing of air pollution control equipment with new control equipment if the emissions of the new equipment are less than or equal to those from the original piece of equipment as determined by Section 411.2 and the replacement is not otherwise a major modification as defined in this rule.

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

- 228.1 25 tons per year of volatile organic compounds;
- 228.2 25 tons per year of nitrogen oxides;
- 228.3 100 tons per year of PM10; or 100 tons per year of sulfur oxides as a PM10 precursor;
- 228.4 100 tons per year of directly emitted PM2.5, or 100 tons per year of nitrogen oxides or sulfur oxides as PM2.5 precursors;
- 228.5 100 tons per year of carbon monoxide; or
- 228.6 100 tons per year of volatile organic compounds or ammonia as a PM2.5 precursor, if volatile organic compounds or ammonia is determined to be a necessary part of the PM2.5 control strategy in the attainment demonstration and is approved by EPA into the State Implementation Plan,

Emissions associated with emissions units exempt from permit requirements pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS, shall be included in the potential to emit of the stationary source unless the emissions unit emits less than 2 pounds per day of each pollutant. Notwithstanding the previous sentence, emissions units exempted by Rule 201, Sections 111 and 113 shall not be included in the potential to emit calculations. Fugitive emissions associated with the emissions unit or stationary source shall not be included in the potential to emit of the emissions unit or stationary source for the purpose of determining whether the source is major unless the source belongs to one of the following categories of stationary sources:

1. Coal cleaning plants (with thermal dryers);
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric, sulfuric, or nitric acid plant;

10. Petroleum refineries;
 11. Lime plants;
 12. Phosphate rock processing plants;
 13. Coke oven batteries;
 14. Sulfur recovery plants;
 15. Carbon black plants (furnace process);
 16. Primary lead smelters;
 17. Fuel conversion plants;
 18. Sintering plants;
 19. Secondary metal production plants;
 20. Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
 21. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 23. Taconite ore processing plants;
 24. Glass fiber processing plants;
 25. Charcoal production plants;
 26. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 27. All other stationary source categories regulated by a standard promulgated under Section 111 or 112 (42 U.S.C. Section 7411 of 7412) of the Federal Clean Air Act, but only with respect to those air pollutants that have been regulated for that category.
- 229 **MODIFICATION:** Any physical change, change in method of operation (including change in fuel), or addition, which:
- 229.1 For an emissions unit would necessitate a change in a permit condition or result in the potential to emit being higher than the historic potential emissions as defined in Section 225.
 - 229.2 For a stationary source:
 - a. is a modification of any emissions unit, or
 - b. addition of any new emissions unit.
 - 229.3 Unless previously limited by a permit condition, the following shall not be considered a modification for the purpose of this rule:
 - a. A change in ownership.
 - b. Routine maintenance and repair.
 - c. A reconstructed stationary source or emissions unit, which shall be treated as a new stationary source or emissions unit, not as a modification.
 - d. The addition of a continuous emission monitoring system.
 - e. Replacing of air pollution control equipment with new control equipment if the emissions of the new equipment are less than or equal to those from the original piece of equipment as determined by Section 411.2 and the replacement is not a major modification as defined in this rule.
- 230 **NECESSARY PRECONSTRUCTION APPROVALS OR PERMITS:** Approvals or permits required to comply with all those federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.
- 231 **NEW EMISSIONS UNIT:** An emissions unit which has not commenced operation.

- 232 **NONATTAINMENT POLLUTANT:** Any pollutant and any precursors of such pollutants which have been designated "nonattainment" for the District by the U.S. Environmental Protection Agency as codified in 40 CFR 81.305, or which have been designated nonattainment for the District by the California Air Resources Board pursuant to Section 39608 of the Health and Safety Code.
- 233 **PEAKING POWER PLANT:** A fossil-fueled combustion turbine power generation unit or other power generation unit with an actual annual capacity factor of 25% or less, which is used during peak electricity demand periods, and may operate for short periods, with frequent start-ups and shutdowns. Emergency equipment that is operated in compliance with the requirements of Section 110 is not considered a peaking power plant.
- 234 **PLANTWIDE APPLICABILITY LIMIT (PAL):** Exclusively for the purpose of Section 115, an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is federally enforceable and established source-wide in accordance with 40 CFR Sections 51.165(f)(1) through (f)(15).
- 234.1 All terms used in 40 CFR 51.165(f) shall be as defined in 40 CFR 51.165(f)(2), or if not defined in 40 CFR 51.165(a)(1) as each subsection exists on July 1, 2010, except that:
- a. the term "reviewing authority" as used in those Sections shall mean the Sacramento Metropolitan Air Quality Management District.
- 235 **PM10:** Particulate matter with an aerodynamic diameter smaller than or equal to a nominal 10 microns as measured by an applicable reference test method or methods found in Article 2, Subchapter 8, Title 17, California Code of Regulations (commencing with Section 94100). Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included.
- 236 **PM2.5:** Particulate matter with an aerodynamic diameter smaller than or equal to a nominal 2.5 microns as measured by an applicable reference test method or methods found in Article 2, Subchapter 8, Title 17, California Code of Regulations (commencing with Section 94100). Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included.
- 237 **PORTABLE EQUIPMENT:** Equipment which is periodically relocated and is not operated more than a total of 180 days at any one stationary source in the District within a continuous 12 month period.
- 238 **POTENTIAL TO EMIT:** The maximum physical and operational design capacity to emit a pollutant. Limitations on the physical or operational design capacity, including emissions control devices and limitations on hours of operation, may be considered only if such limitations are incorporated into the applicable Authority to Construct and Permit to Operate as a permit condition and are enforceable as a practical matter and, for all major stationary sources, federally enforceable. The potential to emit shall include both directly emitted and fugitive emissions.
- 239 **PRECURSOR:** A pollutant that, when emitted into the atmosphere, may undergo either a chemical or physical change which then produces another pollutant for which an ambient air quality standard has been adopted, or whose presence in the atmosphere will contribute to the violation of one or more ambient air quality standards. The following precursor-secondary air contaminant relationships shall be used for the purposes of this rule:

Precursor
Volatile Organic
Compound

Secondary Air Contaminant

- a. Photochemical oxidants (Ozone)
- b. Organic fraction of PM10
- c. Organic fraction of PM2.5, if volatile organic compounds is determined to be a necessary part of the PM2.5 control strategy in the attainment demonstration approved by EPA in the State Implementation Plan

Nitrogen Oxides

- a. Nitrogen dioxide
- b. Nitrate fraction of PM10
- c. Photochemical oxidants (Ozone)
- d. Nitrate fraction of PM2.5

Sulfur Oxides

- a. Sulfur dioxide
- b. Sulfates
- c. Sulfate fraction of PM10
- d. Sulfate fraction of PM2.5

Ammonia

- a. Nitrate fraction of PM2.5, if ammonia is determined to be a necessary part of the PM2.5 control strategy in the attainment demonstration approved by EPA in the State Implementation Plan.
-

- 240 **PRIORITY RESERVE BANK:** A depository for preserving emission reduction credits pursuant to Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK for use as an emission offset in accordance with Sections 302, 303, and 411.
- 241 **PROJECT:** A project includes all of the emissions units associated with the scope of the preconstruction application for a new or modified stationary source and any emissions units indirectly affected.
- 242 **PROPOSED EMISSIONS:** Emissions based on the potential to emit for the emissions unit.
- 243 **QUARTER/QUARTERLY:** Calendar quarters beginning January 1, April 1, July 1, and October 1.
- 244 **RECONSTRUCTED SOURCE:** Any stationary source or emissions unit undergoing physical modification where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new stationary source or emissions unit. Fixed capital cost means that capital needed to provide and install all the depreciable components: this includes the cost of parts and labor. A reconstructed source shall be treated as a new stationary source or emissions unit.
- 245 **REGULATED AIR POLLUTANT:** Any air pollutant for which there is a national or state ambient air quality standard, or a precursor to such air pollutant.
- 246 **SACRAMENTO FEDERAL NONATTAINMENT AREA FOR OZONE:** The area defined in 40 CFR Section 81.305.
- 247 **SACRAMENTO FEDERAL NONATTAINMENT AREA FOR PM10:** The area defined in 40 CFR Section 81.305.
- 248 **SACRAMENTO FEDERAL NONATTAINMENT AREA FOR PM2.5:** The area defined in

40 CFR Section 81.305.

- 249 **STATIONARY SOURCE:** Any building, structure, facility, or emissions unit which emits or may emit any regulated air pollutant directly or as a fugitive emission.
- 249.1 Building, structure, facility, or emissions unit includes all pollutant emitting activities which:
- belong to the same industrial grouping, and
 - are located on one property or on two or more contiguous properties, and
 - are under the same or common ownership, operation, or control or which are owned or operated by entities which are under common control.
- 249.2 Pollutant emitting activities shall be considered as part of the same industrial grouping if:
- they belong to the same two-digit standard industrial classification code, or
 - they are part of a common production process. (Common production process includes industrial processes, manufacturing processes and any connected processes involving a common material.)
- 249.3 The emissions within District boundaries of cargo carriers associated with the stationary source shall be considered emissions from the stationary source to the extent that emission reductions from cargo carriers are proposed as emission offsets.
- 250 **TEMPORARY SOURCE:** Emission sources such as pilot plants and portable facilities that will be terminated or located outside the District after less than a cumulative total of 90 days of operation in any continuous 12 months.

300 STANDARDS

- 301 **BEST AVAILABLE CONTROL TECHNOLOGY:** An applicant shall apply Best Available Control Technology to a new emissions unit or modification of an existing emissions unit, except cargo carriers, for each emissions change of a regulated air pollutant, if the change would result in an emission increase calculated pursuant to Section 411.1 of more than the levels specified in Section 301.1. Notwithstanding the preceding sentence, if the modification is a major modification, then the applicant shall apply Best Available Control Technology for each regulated pollutant that triggers major modification requirements.

| | | |
|-------|----------------------------|--------|
| 301.1 | <u>Pollutant</u> | lb/day |
| | Volatile organic compounds | 0 |
| | Nitrogen oxides | 0 |
| | Sulfur oxides | 0 |
| | PM10 | 0 |
| | PM2.5 | 0 |
| | Carbon monoxide | 550 |
| | Lead | 3.3 |

- 302 **EMISSION OFFSET REQUIREMENTS, GENERAL:**
- 302.1 Except as provided in Sections 302.7 and 302.8, an applicant shall provide emission offsets for a regulated air pollutant where the potential to emit of that pollutant calculated pursuant to Section 411.3, meets or exceeds the following levels:
- | | |
|----------------------------|--------------------|
| <u>Pollutant</u> | |
| Volatile organic compounds | 5,000 lbs/quarter |
| Nitrogen oxides | 5,000 lbs/quarter |
| Sulfur oxides | 13,650 lbs/quarter |
| PM10 | 7,300 lbs/quarter |
| PM2.5 | 15 tons/year |
| Carbon monoxide | 49,500 lbs/quarter |

If Ammonia is determined to be a necessary part of the PM_{2.5} control strategy in the attainment demonstration approved by EPA in the State Implementation Plan:

Ammonia 100 ton/year

302.2 For a peaking power plant, if the emissions increase calculated pursuant to Section 411.3 is below the levels in Section 302.1, an applicant shall provide emission offsets for the regulated air pollutant where the daily emission increase calculated pursuant to Section 411.3 exceeds the following levels:

| a. <u>Pollutant</u> | lb/day |
|----------------------------|--------|
| Volatile organic compounds | 150 |
| Nitrogen oxides | 150 |
| Sulfur oxides | 150 |
| PM ₁₀ | 80 |
| Carbon monoxide | 550 |

302.3 Except for PM_{2.5} or as provided in Section 302.3a, b, c, or d; sufficient emission offsets shall be provided from the same calendar quarter as the proposed emissions. The quantity of offsets required shall be determined using the calculation procedures specified in Section 411.4.

a. Emission credits for volatile organic compounds and nitrogen oxides during the quarters starting April 1 and July 1 may be used to offset emission increases during any quarter except as provided below.

1. Emission credits from the quarter starting April 1 that will be used in the quarter starting July 1 shall not exceed more than 20% of a project's volatile organic compound or nitrogen oxides offset needs, as applicable, in the quarter beginning July 1.

2. Emission credits from the quarter starting July 1 that will be used in the quarter starting April 1 shall not exceed more than 20% of a project's volatile organic compound or nitrogen oxides needs, as applicable, in the quarter beginning April 1.

b. Emission credits for volatile organic compounds and nitrogen oxides during quarters starting January 1 and October 1 may be used to offset emission increases during either quarter starting January 1 and October 1.

c. Emission credits for carbon monoxide, PM₁₀, and sulfur oxides during the quarters starting January 1 and October 1 may be used during any quarter except as provided below.

1. Emission credits from the quarter starting January 1 that will be used in the quarter starting October 1 shall not exceed more than 20% of a project's carbon monoxide, PM₁₀, and sulfur oxides offset needs, as applicable, in the quarter beginning October 1.

2. Emission credits from the quarter starting October 1 that will be used in the quarter starting January 1 shall not exceed more than 20% of a project's carbon monoxide, PM₁₀, and sulfur oxides offset needs, as applicable, in the quarter beginning January 1.

d. Emission credits for carbon monoxide, PM₁₀, and sulfur oxides during quarters starting April 1 and June 1 may be used to offset emission increases during either quarter starting April 1 and June 1.

302.4 Emission offsets shall be obtained pursuant to Rule 204, EMISSION REDUCTION CREDITS, Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK, or Rule 206, MOBILE AND TRANSPORTATION SOURCE EMISSION REDUCTION CREDITS, or pursuant to an adopted emission reduction credit rule in another air district that meets the requirements of Section 302.6.

- 302.5 If an application for an Authority to Construct is received for an emissions unit that had previously obtained emission reduction credits for the shutdown of that emissions unit under Rule 204, EMISSION REDUCTION CREDITS, then sufficient emission offsets shall be provided consistent with Section 302. If the emissions unit does not trigger emission offsets in accordance with this section then the applicant shall provide sufficient emission offsets to offset the lesser of the amount of the emission reduction obtained pursuant to Rule 204, EMISSION REDUCTION CREDITS or the potential to emit from the emissions unit.
- 302.6 Emission offsets which are required and obtained pursuant to permitting and/or banking actions in a district other than that in which the proposed source is located may be used only if the Air Pollution Control Officer has reviewed the permit conditions and/or banking action issued by the other district in which the proposed emission offsets are obtained and made a determination that the impact of using such emission offsets meets the requirements of District Rules and Regulations, Health and Safety Code Section 40709.6, state, and federal requirements. An offset ratio not less than the levels specified in Section 303 shall be applied as necessary to discount the offsets and mitigate the associated impact.
- 302.7 Emission offsets for increases in carbon monoxide shall not be required if the applicant, using an air quality modeling analysis prepared pursuant to Section 403, demonstrates to the satisfaction of the Air Pollution Control Officer that the increase in ambient concentration does not exceed 500 micrograms per cubic meter, 8 hour average, at and beyond the property line of the stationary source.
- 302.8 Except for portable equipment located at a major stationary source or that is a major stationary source by itself, portable equipment shall be offset at the initially permitted location only. In the event such portable equipment is shutdown, emission reduction credits shall be granted based on the initially permitted location.
- 302.9 For major stationary sources or major modifications, emission offsets for volatile organic compounds and nitrogen oxides must be obtained from within the Sacramento Federal Nonattainment Area for ozone.
- 302.10 For major stationary sources or major modifications that exceed the levels in Section 227.3, emissions offsets for PM_{2.5} and PM_{2.5} precursors must be obtained within the Sacramento Federal Nonattainment Area for PM_{2.5} and emission offsets for PM₁₀ must be obtained within Sacramento County as long as Sacramento County is a federal PM₁₀ nonattainment area.
- 303 **EMISSION OFFSET RATIOS:** The applicable offset ratio for use in Section 411.4 shall be determined based on the location of the new or modified stationary source required to provide offsets and the distance to the location of the emission offsets, as indicated in the following tables.
- 303.1 Except as provided in Section 303.2, an applicant shall provide emission offsets for emissions from a new or modified stationary source using the following ratios:

| Location of Emission Offset | Emission Offset Ratio | | | |
|---|---|---|--------------------------------|-----------------------|
| | Volatile organic compounds or Nitrogen oxides | PM2.5 or ammonia if determined to be PM2.5 precursor by Section 239 | Other Nonattainment pollutants | Attainment pollutants |
| Same Source | 1.3 to 1.0 if used at a new major stationary source or major modification at a major source OR 1.0 to 1.0 if used at a non-major stationary source or non-major modifications at a major source | 1.0 to 1.0 | 1.0 to 1.0 | 1.0 to 1.0 |
| Within 15-mile radius and within Sacramento Valley Air Basin | 1.3 to 1.0 if used at a new major stationary source or major modification at a major source OR 1.2 to 1.0 if used at a non-major stationary source or non-major modifications at a major source OR 1.0 to 1.0 if used at a non-major stationary source with an emission increase calculated pursuant to Section 411.3 of the following levels: ≥5000 lb/qtr and <7500 lb/qtr | 1.2 to 1.0 | 1.2 to 1.0 | 1.1 to 1.0 |
| Greater than 15-mile but within 50-mile radius and within Sacramento Valley Air Basin | 2.0 to 1.0 | 2.0 to 1.0 | 2.0 to 1.0 | 1.2 to 1.0 |
| More than 50-mile radius and within Sacramento Valley Air Basin | >2.0 to 1.0 (*) | >2.0 to 1.0 (*) | >2.0 to 1.0 (*) | >1.2 to 1.0 (*) |
| (*) based on case by case determination | | | | |

- 303.2 Applicants providing emission offsets obtained pursuant to Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK and applicants providing emission offsets obtained pursuant to Rule 206, Mobile and Transportation Source Emission Reduction Credits, shall provide emission offsets for all pollutants at all distances pursuant to the following:

| Emission offsets obtained from Rule 205, COMMUNITY BANK AND PRIORITY RESERVE BANK, or Rule 206, MOBILE AND TRANSPORTATION SOURCE EMISSION REDUCTION CREDITS | |
|---|------------------------------|
| Source Type/Pollutant | Emission offset ratio |
| For use by non-major stationary sources or non-major modifications for all pollutants if the non-major modifications has an increase in emissions calculated pursuant to Section 411.3 of 250 lbs/day or less of VOC, NOx, and SOx, and 80 lbs/day or less of PM10. | 1.0 to 1.0 |
| If the non-major modification has an increase in emissions calculated pursuant to Section 411.3 that is greater than 250 lbs/day of VOC, NOx, and SOx, or greater than 80 lbs/day of PM10. | 1.2 to 1.0 |
| For use by a new major stationary source or major modification for volatile organic compounds or nitrogen oxides | 1.3 to 1.0 |
| For use by a new major stationary source or major modification for other nonattainment pollutants, except for VOC, or NOx, or PM2.5, and all attainment pollutants | 1.2 to 1.0 |
| For use by new major stationary source or major modification for PM2.5 or ammonia if determined to be PM2.5 precursor by Section 239 | 1.0 to 1.0 |

- 304 **INTERPOLLUTANT EMISSION OFFSETS EXCEPT FOR PM2.5:** Interpollutant emission offsets are discouraged and may only be allowed between precursor contaminants. The Air Pollution Control Officer may approve interpollutant emission offsets for precursor pollutants on a case by case basis, except for PM2.5 which is subject to Section 305, provided that the applicant demonstrates through the use of an air quality model that the emission increases from the new or modified source will not cause or contribute to a violation of an ambient air quality standard. In such cases, the Air Pollution Control Officer shall impose, based on an air quality analysis, emission offset ratios in addition to the requirements of Section 303. Interpollutant emission offsets between PM10 and PM10 precursors may be allowed. PM10 emissions shall not be allowed to offset nitrogen oxides or volatile organic compound emissions in ozone nonattainment areas, nor be allowed to offset sulfur oxide emissions in sulfate nonattainment areas. In no case shall the compounds excluded from the definition of Volatile Organic Compounds be used as offsets for Volatile Organic Compounds. Interpollutant emission offsets used at a major stationary source must receive written approval by the U.S. Environmental Protection Agency.
- 305 **PM2.5 INTERPOLLUTANT EMISSION OFFSETS:** Interpollutant emission offsets between PM2.5 and PM2.5 precursors are not allowed unless modeling demonstrates that PM2.5 interpollutant offset ratios are appropriate in an approved PM2.5 attainment plan.

- 306 **AMBIENT AIR QUALITY STANDARDS:** In no case shall emissions from a new or modified stationary source, prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard. The Air Pollution Control Officer may require the use of an air quality model to estimate the effects of a new or modified stationary source. In making this determination the Air Pollution Control Officer shall take into account the mitigation of emissions through emission offsets obtained pursuant to this rule.
- 307 **DENIAL, FAILURE TO MEET STANDARDS:** The Air Pollution Control Officer shall deny any Authority to Construct or Permit to Operate if the Air Pollution Control Officer finds that the subject of the application would not comply with the standards set forth in District, state, or federal rules, regulations or statutes.
- 308 **DENIAL, FAILURE TO MEET CEQA:** The Air Pollution Control Officer shall deny an Authority to Construct or Permit to Operate if the Air Pollution Control Officer finds that the project which is the subject of the application would not comply with CEQA.
- 309 **DENIAL, ADVERSE IMPACT TO VISIBILITY OF A CLASS I AREA:** The Air Pollution Control Officer shall deny any Authority to Construct or Permit to Operate for a new major stationary source or major modification if the Air Pollution Control Officer finds, after consideration of comments and an analysis from the Federal Land Manager, that the emissions from a proposed facility or modification would have an adverse impact on visibility, as defined in 40 CFR Section 52.21(b)(29), of a Class I area pursuant to 40 CFR Section 51.307(b).
- 400 **ADMINISTRATIVE REQUIREMENTS:** The following administrative requirements in Sections 401-413 shall apply to any activities regulated by this rule, except for the review of power plants over 50 megawatts. Power plants over 50 megawatts shall be subject to the review requirements of Section 414.
- 401 **ALTERNATIVE SITING:** Except as provided in Section 115, for major sources or major modifications for which an analysis of alternative sites, sizes, and production processes is required under Section 173(a)(5) of the Clean Air Act, the Air Pollution Control Officer shall require the applicant to prepare an alternative siting analysis that is functionally equivalent to the requirements of Division 13 of the Public Resources Code (California Environmental Quality Act-CEQA). An Authority to Construct shall not be issued unless the Air Pollution Control Officer has concluded, based on the information contained in the alternative siting analysis, that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.
- 402 **COMPLETE APPLICATION:** The Air Pollution Control Officer shall determine whether the application is complete not later than 30 days after receipt of the application, or after such longer time as both the applicant and the Air Pollution Control Officer have agreed in writing. If the Air Pollution Control Officer determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information required. Upon receipt of any re-submittal of the application, a new 30-day period to determine completeness shall begin. The Air Pollution Control Officer may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application. Completeness of an application or re-submitted application shall be evaluated on the following:
- 402.1 Information requirements set forth in the District's List and Criteria (adopted pursuant to Article 3, 65940 through 65944 of Chapter 4.5 of Division I of Title 7 of the California Government Code) as it exists on the date on which the application or re-submitted application was received;
- 402.2 Payment of the appropriate fee pursuant to Rule 301 - PERMIT FEES, STATIONARY SOURCES; and

402.3. For major sources that may affect visibility of a Class I area pursuant to Section 413, the application shall not be deemed complete without a visibility analysis for any Class I areas the source may affect.

- 403 **AIR QUALITY MODELS:** All air quality models used for the purposes of this rule shall be consistent with the requirements provided in the most recent edition of U.S. Environmental Protection Agency "Guidelines on Air Quality Models, 40 CFR 51 Appendix W" unless the Air Pollution Control Officer finds that such model is inappropriate for use. After making such finding the Air Pollution Control Officer may designate an alternate model only after allowing for public comment, and only with concurrence of the U.S. Environmental Protection Agency. Credit shall not be given for stacks higher than that dictated by good engineering practice. All modeling costs associated with the siting of a stationary source shall be borne by the applicant.
- 404 **ENHANCED NEW SOURCE REVIEW:** Applications for which the applicant has requested review pursuant to this Section and Section 101 shall be reviewed in accordance with the procedural requirements specified in Sections 401 through 408 of District Rule 207, TITLE V FEDERAL OPERATING PERMIT PROGRAM.
- 405 **PRELIMINARY DECISION:** Following acceptance of an application as complete, the Air Pollution Control Officer shall perform the evaluations required to determine compliance with all applicable District, state and federal rules, regulations, or statutes and shall make a preliminary written decision as to whether an Authority to Construct should be approved, conditionally approved, or denied. The decision shall be supported by a succinct written analysis.
- 406 **SUBMITTAL OF BACT DETERMINATIONS:** The Air Pollution Control Officer shall submit to the California Air Resources Board all new BACT determinations made by the District. A new BACT determination is any BACT determination made by the District for the first time for a given type of emission unit. All such determinations shall be made available for public comment and submitted to the California Air Resources Board by no later than 30 days after issuance of the final Authority to Construct containing the new BACT determination.
- 407 **AUTHORITY TO CONSTRUCT, FINAL ACTION:**
- 407.1 a. Except as provided in Sections 407.1b and 407.1c, the Air Pollution Control Officer shall take final action on the application, after considering all written comments, no later than 180 days after acceptance of an application as complete.
- b. The Air Pollution Control Officer shall not take final action for any project for which an Environmental Impact Report (EIR) or a Negative Declaration is being prepared until a final EIR for that project has been certified or a Negative Declaration for that project has been approved, and the Air Pollution Control Officer has considered the information in that final EIR or Negative Declaration. The Air Pollution Control Officer shall take final action on the application within whichever of the following periods of time is longer:
1. Within 180 days after the certification of the final EIR or approval of the Negative Declaration, or
 2. Within 180 days of the date on which the application was determined complete by the Air Pollution Control Officer.
- c. The Air Pollution Control Officer shall take final action on applications reviewed pursuant to the Enhanced New Source Review Process no later than 18 months after acceptance of an application as complete.

- 408 **REQUIREMENTS, AUTHORITY TO CONSTRUCT AND PERMIT TO OPERATE:**
- 408.1 General Conditions: As a condition for the issuance of a Permit to Operate, the Air Pollution Control Officer shall require that the emissions unit and stationary source, and any emissions units which provide emission offsets, be operated in the manner stated in making the analysis required to determine compliance with this rule, and as conditioned in the Authority to Construct.
- 408.2 Emissions Limitations: The following emissions limitations shall be included on the Authority to Construct and Permit to Operate.
- a. Emission limitations which reflect Best Available Control Technology, if applicable. Such condition shall be expressed in a manner consistent with testing procedures, such as ppmv NO_x, g/liter VOC, or lbs/MMBtu.
 - b. An enforceable daily emissions limitation, for emissions units subject to Sections 111, 113.2, and 302.2, and a quarterly emissions limitation for all regulated air pollutants, and an enforceable annual emissions limitation for PM_{2.5} and for any regulated air pollutant for which the stationary source exceeds the major source or major modification thresholds listed in Section 227 or 228. Enforceable daily emission limits are also required for emissions units not required to install BACT pursuant to Section 411.1.
 - c. If the Air Pollution Control Officer determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of a numerical emission standard infeasible, the Air Pollution Control Officer may instead prescribe a design, operational, or equipment standard. In such cases, the Air Pollution Control Officer shall make a best estimate as to the emission rate that will be achieved. Any permits issued without an enforceable numerical emission standard must contain enforceable conditions that assure that the design characteristics or equipment will be properly maintained, or that the operational conditions will be properly performed, so as to continuously achieve the assumed degree of control. The Air Pollution Control Officer shall discuss the determination in the Preliminary Decision prepared pursuant to Section 405.
 - d. The emissions limitation shall be no less stringent than the applicable emission standards given in 40 CFR Part 60, Standards of Performance for New Stationary Sources, and 40 CFR Part 61 and 63, National Emission Standards for Hazardous Air Pollutants.
- 408.3 Emission offsets: The following conditions shall be included on the Authority to Construct and Permit to Operate:
- a. Before the Air Pollution Control Officer shall approve or conditionally approve an application for an Authority to Construct, the applicant shall supply evidence of a sufficient number of emission reduction credits to meet any offset obligation in accordance with this rule.
 - b. The operation of any emissions unit which provides emission offsets shall be subject to enforceable permit conditions, containing specific emissions and operational limitations, to ensure that the emission reductions are provided in accordance with the provisions of this rule.
 - c. For major stationary sources and major modifications, all emission reductions claimed as offset credit shall be enforceable as a practical matter and federally enforceable.
 - d. A violation of the emission limitation provisions of any contract pursuant to Rule 204, EMISSION REDUCTION CREDITS, shall be a violation of this rule by the owner or operator of the permitted stationary source.
 - e. The operation of any emissions unit which uses emission offsets provided by another emissions unit shall be subject to enforceable permit conditions, containing specific emissions and operational limits, to ensure that the emission reductions are used in accordance with the provisions of District rules and shall continue for the reasonably expected life of the proposed emissions unit.

- f. Any offsets required pursuant to Sections 302, 303 or any other state or federal law or regulation must be surrendered prior to commencing operation of the new or modified source, and the emission offsets shall be maintained throughout the operation of the new or modified source which is the beneficiary of the emission offsets.

- 409 **ISSUANCE, PERMIT TO OPERATE:** In addition to the requirements of Rule 207, TITLE V FEDERAL OPERATING PERMIT PROGRAM if applicable, the Air Pollution Control Officer shall issue a Permit to Operate an emissions unit, pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS, subject to the requirements of this rule if it is determined that any offsets required as a condition of an Authority to Construct or amendment to a Permit to Operate will commence not later than the initial operation of the new or modified source, and that the emission offsets shall be maintained throughout the operation of the new or modified source which is the beneficiary of the emission offsets. Further, the Air Pollution Control Officer shall determine that all conditions specified in the Authority to Construct have been complied with or will be complied with by the dates specified on the Authority to Construct. Such applicable conditions shall be contained in the Permit to Operate. Where a new or modified stationary source is, in whole or in part, a replacement for an existing stationary source on the same property, the Air Pollution Control Officer may allow a maximum of 90 days as a startup period for simultaneous operation of the existing stationary source and the new replacement source.
- 410 **REGULATIONS IN FORCE GOVERN:** An Authority to Construct shall be granted or denied based on Best Available Control Technology and emission offset requirements of Sections 301, 302, and 303 in force on the date the application is deemed complete, as defined in Section 402, except when a new federal requirement not yet incorporated into this rule applies to the new or modified source. In addition, the Air Pollution Control Officer shall deny an Authority to Construct for any new stationary source or modification, or any portion thereof, unless:
- 410.1 The new source or modification, or applicable portion thereof, complies with the provisions of this rule and all other applicable district rules and regulations; and
 - 410.2 The owner or operator of the proposed new or modified stationary source has demonstrated that all major stationary sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in California which are subject to emission limitations are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards in the Federal Act.
- 411 **EMISSION AND OFFSET CALCULATIONS:** The following provisions shall be used:
- 411.1 **BACT – Emissions Increase:** The emissions increase for the purposes of determining BACT applicability pursuant to Section 301 shall be calculated as the daily Potential to emit minus the daily Historic Potential Emissions. The increase must be calculated as daily emissions, and calculated separately for each emissions unit associated with the project.
 - 411.2 **Temporary Source and Replacing of Air Pollution Control Equipment – Emissions Increase:** The emissions increase for the purposes of determining Temporary Source applicability pursuant to Section 111 or replacing of air pollution control equipment with new control equipment pursuant to Section 229.3e shall be calculated as the sum of emissions increases from Section 411.1 for all emissions units in the project.
 - 411.3 **Offsets Trigger:** For the purposes of determining whether Offsets are required pursuant to Sections 302.1 and 302.2, emissions shall be calculated as:
 - a. For SO_x, PM₁₀, PM_{2.5}, and CO: the sum of the potential to emit for all emissions units at the stationary source installed after January 1, 1977 plus the sum of the potential to emit minus Historic Potential Emissions for all emissions units installed prior to January 1, 1977 and modified after January 1, 1977 as determined by Section 411.4 of this rule or

- procedures specified in this rule at time of modification.
The increase must be calculated using daily emissions for peaking power plants and for purposes of Section 303.2 and quarterly emissions for all other purposes for SO_x, PM₁₀, and CO. The increase must be calculated in yearly emissions for PM_{2.5}.
- b. For VOC and NO_x: the sum of the potential to emit for all emissions units at the stationary source. The increase must be calculated using daily emissions for peaking power plants and quarterly emission, for all other purposes.
 - c. For VOC and NO_x for purposes of Section 303.2: the sum of the potential to emit for all emissions units at the stationary source installed after January 1, 1977 plus the sum of the potential to emit minus Historic Potential Emissions for all emissions units installed prior to January 1, 1977 and modified after January 1, 1977.
- 411.4 Quantity of Offsets Required: If offsets are required pursuant to Section 302, the quantity of offsets to be provided shall be determined as follows:
- a. Multiply the sum of all increases of the potential to emit minus the Historic Potential Emissions for the emissions units associated with a project by the appropriate offset ratio based on pollutant and location as specified in Section 303.
 - b. The calculations shall be performed separately for each pollutant for each calendar quarter or, where the offset threshold is specified in tons/yr on an annual basis.
- 411.5 Emission Increase for Major Modification: The emissions increase from the project for purposes of Section 227 is the sum of the Potential to Emit for the project minus the Historic Actual Emissions, as defined in Section 224.1, for the project. However, the potential to emit, instead of historic actual emissions, can be used for emissions units if either of the following conditions applies:
- a. Actual emissions are at least 80% of the potential to emit limit, or
 - b. The emissions unit was fully offset for any emissions increase during the 5 year period prior to the date that the application is deemed complete.
- 412 **PLANTWIDE APPLICABILITY LIMITS:** Exclusively for the purpose of Section 115, the operator of a major stationary source may apply to the Air Pollution Control Officer pursuant to Rule 201, GENERAL PERMIT REQUIREMENTS to establish a PAL.
- 412.1 All PALs shall be established according to the provisions of 40 CFR 51.165(f); and
 - 412.2 All PALs shall comply with the requirements under 40 CFR 51.165(f) to either maintain, renew or retire the PAL.
- 413 **SOURCES IMPACTING CLASS I AREAS:** The applicant of a proposed new major source or major modification that may affect visibility of a Class I area shall provide the Air Pollution Control Officer with an analysis of impairment to visibility that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the project, as required by 40 CFR Section 51.307(b)(2) and 40 CFR Section 51.166(o).
- 414 **POWER PLANTS:** This section shall apply to all power plants over 50 megawatts proposed to be constructed in the District and for which a Notice of Intention (NOI) or Application for Certification (AFC) has been accepted by the California Energy Commission.
- 414.1 Within 14 days of receipt of a Notice of Intention, the Air Pollution Control Officer shall notify the Air Resources Board and the California Energy Commission of the District's intent to participate in the Notice of Intention proceeding. If the District chooses to participate in the Notice of Intention proceeding, the Air Pollution Control Officer shall prepare and submit a report to the California Air Resources Board and the California Energy Commission prior to the conclusion of the non-adjudicatory hearing specified in Section 25509.5 of the California

Public Resources Code. That report shall include, at a minimum:

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

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

- 414.2 Upon receipt of an Application for Certification for a power plant, the Air Pollution Control Officer shall conduct a determination of compliance review. This determination shall consist of a review identical to that which would be performed if an application for a permit to construct had been received for the power plant. If the information contained in the Application for Certification does not meet the requirements of this rule, the Air Pollution Control Officer shall, within 20 calendar days of receipt of the Application for Certification, so inform the California Energy Commission, and the Application for Certification shall be considered incomplete and returned to the applicant for resubmittal.
- 414.3 The Air Pollution Control Officer shall consider the Application for Certification to be equivalent to an application for a permit to construct during the determination of compliance review, and shall apply all provisions of all District rules and regulations which apply to applications for a permit to construct.
- 414.4 The Air Pollution Control Officer may request from the applicant any information necessary for the completion of the determination of compliance review. If the Air Pollution Control Officer is unable to obtain the information, the Air Pollution Control Officer may petition the presiding Commissioner of the California Energy Commission for an order directing the applicant to supply such information.
- 414.5 Within 180 days of accepting an Application for Certification as complete, the Air Pollution Control Officer shall make a preliminary decision on:
- a. whether the proposed power plant meets the requirements of this rule and all other applicable district regulations; and
 - b. in the event of compliance, what permit conditions will be required including the specific Best Available Control Technology requirements and a description of required mitigation measures.

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

- 414.6 Within 240 days of the filing date, the Air Pollution Control Officer shall issue and submit to the California Energy Commission a determination of compliance or, if such a determination cannot be issued, shall so inform the California Energy Commission. A determination of compliance shall confer the same rights and privileges as an Authority to Construct only when and if the California Energy Commission approves the Application for Certification, and the California Energy Commission certificate includes all conditions of the determination of compliance.
- 414.7 Any applicant receiving a certificate from the California Energy Commission pursuant to this section and in compliance with all conditions of the certificate shall be issued a Permit to Operate by the Air Pollution Control Officer.