

RULE 20.5. POWER PLANTS (Effective 7/5/79)

(a) This rule shall apply to all new power plants, and modifications to existing power plants for which a Notice of Intention (NOI) or Application for Certification (AFC) has been accepted by the California Energy Commission. The Air Pollution Control Officer, pursuant to Section 25538 of the Public Resources Code, shall apply for reimbursement of all costs, including lost fees, incurred in order to comply with the provisions of this rule. The provisions of all other applicable air pollution rules and regulations shall apply to power plants subject to this rule.

(b) Within fourteen (14) days of receipt of an NOI, by the District, the Air Pollution Control Officer shall notify the State Air Resources Board and the Commission of the District's intent to participate in the NOI proceeding. If the District chooses to participate in the NOI proceeding, the Air Pollution Control Officer shall prepare and submit a report to the State Air Resources Board and the Commission prior to the conclusion of the nonadjudicatory hearings specified in Section 25509.5 of the Public Resource Code. That report shall include, at a minimum:

- (1) a preliminary specific definition of lowest achievable emission rate (LAER) for the proposed facility;
- (2) a preliminary discussion of whether there is substantial likelihood that the requirements of District Rules 20.1, 20.3, 20.4, 20.6 and all other applicable air pollution rules and regulations can be satisfied by the proposed facility;
- (3) a preliminary list of conditions which the proposed facility must meet in order to comply with District Rules and Regulations.

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

(c) Upon receipt of AFC 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 an Authority to Construct had been received for the power plant. If the information contained in the AFC is inadequate to conduct said review, the Air Pollution Control Officer 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 resubmittal.

(d) The Air Pollution Control Officer 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 these rules and regulations which apply to applications for an Authority to Construct.

(e) 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 for an order directing the applicant to supply such information.

(f) Within 180 days of accepting an AFC as complete, the Air Pollution Control Officer shall make a preliminary decision on:

(1) whether the proposed power plant meets the requirements of all applicable District regulations; and

(2) in the event of compliance, what permit conditions will be required including the specific LAER requirements and a description of required mitigation measures.

(g) The preliminary written decision made under paragraph (f) shall be treated as a preliminary decision pursuant to Rule 20.3, and shall be finalized by the Air Pollution Control Officer only after being subject to the public notice and comment requirements of Rule 20.3. The Air Pollution Control Officer shall not issue a Determination of Compliance unless all requirements of applicable air pollution rules and regulations are met.

(h) Within 240 days of the filing of the AFC, the Air Pollution Control Officer shall issue and submit to the Commission a Determination of Compliance or, if such a determination cannot be issued, shall so inform the Commission. 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 as proposed by the Air Pollution Control Officer.

(i) Any applicant receiving a certificate from the Commission pursuant to this rule and in compliance with all conditions of the certificate and the Determination of Compliance shall be issued a Permit to Operate by the Air Pollution Control Officer.