

**REGULATION IV
AUTHORITY TO CONSTRUCT REGULATIONS**

Rule 423 **Power Plants**

This Rule 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 (AFC) has been accepted by the California Energy Commission. The Air Pollution Control Officer, pursuant to Section 25538 of the Public Resources Code, may apply for reimbursement of all costs, including lost fees, incurred in order to comply with the provisions of this Section.

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

1. A preliminary specific definition of best available control technology and where applicable, lowest achievable emission rate for the proposed facility;
2. A preliminary discussion of whether there is a substantial likelihood that the requirement of these 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 these 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.

B. Upon receipt of an Application for Certification (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 does not meet the requirements of Rule 403, the Air Pollution Control Officer shall, within 20 calendar days of receipt of the AFC, so inform the Energy Commission, and the AFC shall be considered incomplete and returned to the applicant for resubmittal.

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- C. 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 this Regulation.
- D. 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.
- E. 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 this Regulation and all other applicable District Rules; and
 2. In the event of compliance, what permit conditions will be required including the specific emission control requirements and a description of required emission offset measures.
- F. The preliminary written decision made under Section E. above shall be treated as a preliminary decision under Rule 424.A., and shall be finalized by the Air Pollution Control Officer only after being subject to the notice and comment requirements of Rule 424. The Air Pollution Control Officer shall not issue a Determination of Compliance unless all requirements of this Regulation are met.
- G. Within 240 days of the filing date of the complete 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 Energy Commission approves the AFC, and the Energy Commission certificate includes all conditions of the Determination of Compliance.