

2/21/72

ARTICLE 2. APPLICATION FOR BUILDING PERMIT

Sec. 10 CONSTRUCTION PERMIT REQUIRED. Before any building permit may be issued by the County or City for any building other than residential, which involves emissions into the air, approval by the Air Pollution Control District must be first obtained. No construction or use of any building, article, machine, equipment, etc., which may cause emission of air contaminant shall take place without approval of the Air Pollution Control District.

~~Sec. 11 REGISTRATION REQUIRED. Registration of all existing equipment, contrivances, or places of business that have burning or send emissions into the atmosphere is required by July 31, 1971. Registration shall be made on forms provided by APCD.~~

Sec. 12 EXEMPTIONS FROM PERMIT AND REGISTRATION. An authorization to construct, permit to operate, or registration, shall not be required for:

- (a) Vehicles as defined by the Vehicle Code of the State of Calif., but not including any article, machine, equipment or other contrivance mounted on such vehicle that would otherwise require a permit under the provisions of these Rules and Regulations.
- (b) Vehicles used to transport passengers or freight.
- (c) Equipment utilized exclusively in connection with any structure, which structure is designed for and used exclusively as a dwelling for not more than four (4) families.
- (d) The following equipment:
 - (1) Comfort air conditioning or comfort ventilating systems which are not designed to remove air contaminants generated by or released from specific units or equipment.
 - (2) Refrigeration units except those used as, or in conjunction with, air pollution control equipment.
 - (3) Piston type internal combustion engines.
 - (4) Water cooling towers and water cooling ponds not used for evaporative cooling of process water or not used for evaporative cooling of water from barometric jets or from barometric condensers.
 - (5) Equipment used exclusively for steam cleaning.
 - (6) Presses used exclusively for extruding metals, minerals, plastics or wood.
 - (7) Residential incinerators when used for burning of paper or leaves.

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- (e) Space heaters.
- (f) Equipment for food preparation.
- (g) Steam heated by natural gas or LPG or both
- (h) Self propelled mobile construction equipment other than pavement burners.

~~Sec. 15 STANDARDS FOR GRANTING APPLICATIONS FOR BUILDING PERMITS.~~

- ~~(a) The Air Pollution Control Officer shall deny authorization to construct, or permit to operate or permit to sell or rent, except as provided in Section 16, if the applicant does not show that every article, machine, equipment or other contrivance, the use of which may cause the issuance of air contaminants, or the use of which may eliminate or reduce or control the issuance of air contaminants, is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of Sections 24242 or 24243, Health and Safety Code, or of these Rules and Regulations.~~
- ~~(b) Before authorization to construct or a permit to operate is granted, the Air Pollution Control Officer may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the article, machine, equipment or other contrivance described in the authorization to construct or permit to operate. In the event of such a requirement, the Air Pollution Control Officer shall notify the applicant in writing of the required size number and location of sampling holes; the size and location of the sampling platform; the access to the sampling platform; and the utilities for operating the sampling and testing equipment. The platform and access shall be constructed in accordance with the General Industry Safety Orders of the State of California.~~
- ~~(c) In acting upon a Permit to Operate, if the Air Pollution Control Officer finds that the article, machine, equipment or other contrivance has been constructed not in accordance with the Authorization to Construct, he shall deny the Permit to Operate. The Air Pollution Control Officer shall not accept any further application for Permit to Operate the article, machine, equipment or other contrivance so constructed until he finds that the article, machine, equipment or other contrivance has been reconstructed in accordance with the Authorization to Construct.~~

Sec. 16 CONDITIONAL APPROVAL.

- ~~(a) The Air Pollution Control Officer may issue an authorization to construct or a permit to operate, subject to conditions which will bring the operation of any article, machine, equipment or other~~

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10/15/79

Rule 404. Upset Conditions, Breakdown or Scheduled Maintenance

- A. Definition. For the purpose of this Rule, a breakdown condition means an unforeseeable failure or malfunction of (1) any air pollution control equipment or related operating equipment which causes a violation of any emission limitation or restriction prescribed by these Rules and Regulations, or by state law, or (2) any in-stack continuous monitoring equipment, where such failure or malfunction:
1. Is not the result of neglect or disregard of any air pollution control law or rule or regulation;
 2. Is not intentional or the result of negligence;
 3. Is not the result of improper maintenance;
 4. Does not constitute a nuisance;
 5. Is not a recurrent breakdown of the same equipment.
- B. Breakdown Procedure
1. The owner or operator shall notify the Air Pollution Control Officer of any occurrence which constitutes a breakdown condition; such notification shall identify the time, specific location, equipment involved, and (to the extent known) the cause(s) of the occurrence, and shall be given as soon as reasonably possible, but no later than two (2) hours after its detection during normal APCD hours.
 2. The Air Pollution Control Officer shall establish written procedures and guidelines, including appropriate forms for logging of initial reports, investigation, and enforcement followup, to ensure that all reported breakdown occurrences are handled uniformly to final disposition.
 3. Upon receipt of notification pursuant to subparagraph B.1. the Air Pollution Control Officer shall promptly investigate and determine whether the occurrence constitutes a breakdown condition. If the Air Pollution Control Officer determines that the occurrence does not constitute a breakdown condition, the Air Pollution Control Officer may take appropriate enforcement action, including, but not limited to seeking fines, an abatement order, or an injunction against further operation.
- C. Disposition of Short-Term Breakdown Conditions
1. An occurrence which constitutes a breakdown condition, and which persists longer than 48 hours, except for continuous monitoring equipment for which the period shall be 96 hours, shall constitute a violation of any

- C. 1. applicable emission limitation or restriction prescribed by these Rules and Regulations; however, the Air Pollution Control Officer may elect to take no enforcement action if the owner demonstrates to his satisfaction that a breakdown condition exists and the following requirements are met:
- a. The owner or operator submits the notification required by subparagraph B.1.; and
 - b. The owner or operator immediately undertakes appropriate corrective measures and comes into compliance, or elects to shut down for corrective measures within 48 hours, except for continuous monitoring equipment for which the period shall be 96 hours. If the owner or operator elects to shut down rather than come into immediate compliance, (s)he must nonetheless take whatever steps are possible to minimize the impact of the breakdown within the 48 hour period; and
 - c. The breakdown does not interfere with the attainment and maintenance of any national ambient air quality standard.
2. An occurrence which constitutes a breakdown condition shall not persist longer than 48 hours, except for continuous monitoring equipment for which the period shall be 96 hours, unless the owner or operator has obtained an emergency variance.

~~D. Emergency Variance Procedures~~

- ~~1. If the breakdown condition will require more than 48 hours to correct, except for continuous monitoring equipment for which the period shall be 96 hours, the owner or operator may, in lieu of shutdown, request the Air Pollution Control Officer to commence the emergency variance procedure set forth in subparagraph D.2. below.~~
- ~~2. Upon receipt of a request for an emergency variance, the Air Pollution Control Officer shall contact the chairperson of the Hearing Board, or their designated member of the Hearing Board, who shall conduct deliberations for consideration of the request. The Air Pollution Control Officer shall inform the owner or operator of the course of such deliberation. During consideration of the emergency variance, the Air Pollution Control Officer shall recommend whether any emergency variance should be granted, and the owner or operator of the source shall be entitled to present relevant information or data applicable to the breakdown. The burden shall be on the owner or operator to establish that a breakdown condition exists. Thereafter, the chairperson or other designated member(s) may, without notice or hearing, grant or deny an emergency variance. The chairperson or other designated member(s) shall, within five working days, issue a written decision with appropriate findings.~~

- ~~D. 3. No emergency variance shall be granted unless the chairperson or other designated member(s) determines that:~~
- ~~a. The occurrence constitutes a breakdown condition; and~~
 - ~~b. Continued operation is not likely to create a nuisance, an immediate threat or hazard to public health or safety; and~~
 - ~~c. The requirement for a variance set forth in Health and Safety Code Sections 42352 and 42353 have been met; and~~
 - ~~d. The continued operation in a breakdown condition will not interfere with the attainment of maintenance of the national ambient air quality standards.~~
- ~~4. At any time after an emergency variance has been granted, the Air Pollution Control Officer may request that the chairperson or designated member(s) reconsider and revoke, modify or further condition the variance if the Air Pollution Control Officer has good cause to believe that:~~
- ~~a. Continued operation is likely to create a nuisance, an immediate threat or hazard to public health or safety; or~~
 - ~~b. The owner or operator is not complying with all applicable conditions of the variance; or~~
 - ~~c. A breakdown condition no longer exists; or~~
 - ~~d. Final compliance is not being accomplished as expeditiously as practicable.~~
- ~~The procedures set forth in subparagraph D.3. shall govern any further proceedings conducted under this subparagraph.~~
- ~~5. An emergency variance shall remain in effect only for as long as necessary to repair or remedy the breakdown condition, but in no event after a regularly noticed hearing to consider an interim or 90 day variance has been held, or fifteen (15) days from the date of the subject occurrence, whichever is sooner.~~

E. Reporting Requirements

Within one week after a breakdown occurrence has been corrected, the owner or operator shall submit a written report to the Air Pollution Control Officer which includes:

1. A statement that the occurrence has been corrected together with the date of correction and proof of compliance; and
2. A specific statement of the reason(s) or cause(s) for the occurrence sufficient to enable the Air Pollution Control Officer to determine whether the occurrence was a breakdown condition; and

- E. 3. A description of the corrective measures undertaken and/or to be undertaken to avoid such an occurrence in the future. The Air Pollution Control Officer may, at the request of the owner or operator, for good cause, extend up to 30 days the deadline for submitting the description required by this subparagraph; and
4. An estimate of the quantity of or detailed description of emissions caused by the occurrence; and
5. Pictures of the equipment or control which failed, if available.

F. Burden of Proof

The burden shall be on the owner or operator of the source to provide sufficient information to demonstrate that a breakdown did occur. If the owner or operator fails to provide sufficient information, the Air Pollution Control Officer shall undertake appropriate enforcement action.

G. Failure to Comply with Reporting Requirements

Any failure to comply, or comply in a timely manner, with the reporting requirement established in subparagraph B.1. and E.1. through E.5. of this Rule shall constitute a separate violation of this rule.

H. False Claiming of Breakdown Occurrence

It shall constitute a separate violation of this rule for any person to file with the Air Pollution Control Officer a report which falsely, or without probable cause, claims that an occurrence is a breakdown occurrence.

I. Hearing Board Standards and Guidelines

The Hearing Board shall adopt standards and guidelines consistent with this rule to assist the chairperson or other designated member(s) of the Hearing Board in determining whether to grant or deny an emergency variance, and to assist the Air Pollution Control Officer in the enforcement of this rule.

6/6/77

~~Amend Rule 407 to read:~~

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~~Circumvention. A person shall not build, erect, install, or use any article, machine, equipment or other contrivance, the use of which, without resulting in an actual reduction in the total release of air contaminants to the atmosphere, superficially reduces or conceals an emission which would otherwise constitute a violation of Division 26 or the Health and Safety Code of the State of California or of these Rules and Regulations. This Rule shall not apply to cases in which the only violations involved are of Section 41700, or of Rule 205 of these Rules and Regulations.~~

Amend Rule 409 to read:

409 Public Records

- A. All information, analysis, plans or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce which the District requires any applicant to provide before such applicant builds, erects, alters, replaces, operates, sells, rents, or uses such article, machine, equipment, or other contrivance, are public records.
- B. All air or other pollution monitoring data, including data compiled from stationare sources, are public records.
- C. Except as otherwise provided in (D), trade secrets are not public records under the Regulation. Trade secrets, as used in this regulation may include, but are not limited to any formula, plan, pattern, process, tool, mechanism, compounds, procedure, production rate, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it. The owner or operator shall state in writing his justification for claiming material as Trade Secrets and such justification shall be public record. The Air Pollution Control Officer shall rule on the validity of trade secret claims. Requests from the public for records shall be specific and in sufficient detail to enable the District to readily identify the information requested.
- D. Notwithstanding any other provisions of the law, all air pollution emission data, including these emission data which constitute trade secrets as defined in (C), are public records. Production data used to calculate emission data are not emission data for purposes of this subdivision and data which constitute trade secrets and which are used to calculate emission data are not public records.

~~Amend Rule 507 C to read:~~

- C. 1. ~~Provide and maintain sampling and monitoring apparatus to measure emissions of air contaminants when the Air Pollution Control Officer has determined that such apparatus is available and should be installed.~~
- 2. ~~A person installing, operating or using any of the following equipment shall provide, properly install, maintain in good working order, and in operation, continuous stack monitoring systems as described below.~~
 - a. ~~Oxides of nitrogen (NO_x) and carbon dioxide (CO₂) or oxygen (O₂) from steam generators with a heat input of 63 million kilogram calories (250 million British Thermal Units) or more per hour and with a use factor of at least 30 percent.~~