

6/30/72

**Rule 5** Validity. If any regulation, rule, subdivision, sentence, clause or phrase of these Rules and Regulations if for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of these Rules and Regulations. The Air Pollution Control Board hereby declares that it would have adopted these Rules and Regulations and every regulation, rule, subdivision, sentence, clause, and phrase thereof irrespective of the fact that any one or more regulations, rules, subdivisions, sentences, clauses, or phrases be declared unconstitutional or invalid

~~**Rule 6** Effective Date. These Rules and Regulations shall take effect on October 19, 1971.~~

**PART II PROHIBITIONS**

**Rule 7** District-Wide Coverage. Prohibitions, as set forth in this Article, shall apply in all portions of the Sierra County Air Pollution Control District unless otherwise stated.

**Rule 8** Ringelmann Chart. A person shall not discharge into the atmosphere from any single source of emission whatsoever any air contaminants for a period or periods aggregating more than three (3) minutes in any one (1) hour which is

- A. As dark or darker in shade as that designated as No. 2 on the Ringelmann chart as published by the United States Bureau of Mines (except in named Areas which limit is Ringelmann No. 1), or
- B. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in Subsection (A) of this Section.

**Rule 9** Nuisance. A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons, or to the public, or which endanger the comfort, repose, health or safety of any such persons, or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.

Note: Pursuant to Section 24241 of Chapter 2, Division 20 of the State Health and Safety Code, Rules 8 and 9 are effective as of March 3, 1970.

**Rule 10** Particulate Matter. Except as otherwise provided in Rules 11 and 12, a person shall not discharge into the atmosphere, from any source, particulate matter in excess of 0.3 grain per cubic foot of gas at standard conditions.

**Rule 11** Specific Contaminants. A person shall not discharge into the atmosphere from any single source of emission whatsoever any one or more of the following contaminants, in any state or combination thereof, exceeding in concentration at the point of discharge:

- A. Sulphur Compounds calculated as sulphur dioxide (SO<sub>2</sub>)

6/30/77

Rule 17 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, or other contrivance, which may cause emission of air contaminant shall take place without approval of the Air Pollution Control District.

~~Rule 18 Permit to Operate. Before any article, machine, equipment or other contrivance described in Rule 17 may be operated or used, a permit shall be obtained from the Air Pollution Control District Office, the Standards and Conditions under which the said article, equipment or other contrivance shall operate.~~

Rule 19 Registration Required. Registration and/or a permit to operate all existing equipment, contrivances, or places of business that burn or send emissions into the atmosphere is required by \_\_\_\_\_. Registration shall be made on forms provided by APCD.

Rule 20 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 California, 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.

6/30/77

~~Rule 17 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, or other contrivance, which may cause emission of air contaminant shall take place without approval of the Air Pollution Control District.~~

Rule 18 Permit to Operate. Before any article, machine, equipment or other contrivance described in Rule 17 may be operated or used, a permit shall be obtained from the Air Pollution Control District Office, the Standards and Conditions under which the said article, equipment or other contrivance shall operate.

~~Rule 19 Registration Required. Registration and/or a permit to operate all existing equipment, contrivances, or places of business that burn or send emissions into the atmosphere is required by \_\_\_\_\_. Registration shall be made on forms provided by APCD.~~

Rule 20 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 California, 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.

E. Space heaters

F. Equipment for food preparation.

G. Steam heated by natural gas or LPG or both.

H. Mobile construction equipment other than pavement burners.

I. Agricultural implements used under Rule 2(b).

J. Self propelled mobile construction equipment other than pavement burners.

Rule 21 Standards for Granting Applications and Permits.

- A. The Air Pollution Control District shall deny authorization to construct, or permit to operate or permit to sell or rent, except as provided in Rule 21, 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 District 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 District 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

6/30/72

- ~~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.~~

E. Space heaters

F. Equipment for food preparation.

G. Steam heated by natural gas or LPG or both.

H. Mobile construction equipment other than pavement burners.

I. Agricultural implements used under Rule 2(b).

J. Self propelled mobile construction equipment other than pavement burners.

Rule 21 Standards for Granting Applications and Permits.

A. The Air Pollution Control District shall deny authorization to construct, or permit to operate or permit to sell or rent, except as provided in Rule 21, 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 District 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 District 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 and the results of any analysis must be signed by an engineer registered in the State of California.

- C. In acting upon a Permit to Operate, if the Air Pollution Control District finds that the article, machine, equipment or other contrivance has been constructed not in accordance with the Authorization to Construct, they shall deny the Permit to Operate. The Air Pollution Control District shall not accept any further application for Permit to Operate the article, machine, equipment or other contrivance so constructed until they find that the article, machine, equipment or other contrivance has been reconstructed in accordance with the Authorization to Construct.

Rule 22 Conditional Approval.

- A. The Air Pollution Control District 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 contrivance within the standards of Rule 21, in which case the conditions shall be specified in writing. Commencing work under such an authorization to construct, or operate, under such a permit to operate, shall be deemed acceptance of all the conditions so specified. The Air Pollution Control District shall issue an authorization to construct or a permit to operate with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment or other contrivance can operate within the standards of Rule 21 under the revised conditions.
- B. The Air Pollution Control District may issue a permit to sell or rent, subject to conditions which will bring the operation of any article, machine, equipment or other contrivance within the standards of Rule 21, in which case the conditions shall be specified in writing. Selling or renting under such a permit to sell or rent shall be deemed acceptance of all the conditions so specified. The Air Pollution Control District shall issue a permit to sell or rent with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment or other contrivance can operate within the standards of Rule 21 under the revised conditions.

6/30/72

~~and access shall be constructed in accordance with the General Industry Safety Orders of the State of California and the results of any analysis must be signed by an engineer registered in the State of California.~~

- ~~C. In acting upon a Permit to Operate, if the Air Pollution Control District finds that the article, machine, equipment or other contrivance has been constructed not in accordance with the Authorization to Construct, they shall deny the Permit to Operate. The Air Pollution Control District shall not accept any further application for Permit to Operate the article, machine, equipment or other contrivance so constructed until they find that the article, machine, equipment or other contrivance has been reconstructed in accordance with the Authorization to Construct.~~

Rule 22 Conditional Approval.

- A. The Air Pollution Control District 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 contrivance within the standards of Rule 21, in which case the conditions shall be specified in writing. Commencing work under such an authorization to construct, or operate, under such a permit to operate, shall be deemed acceptance of all the conditions so specified. The Air Pollution Control District shall issue an authorization to construct or a permit to operate with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment or other contrivance can operate within the standards of Rule 21 under the revised conditions.
- B. The Air Pollution Control District may issue a permit to sell or rent, subject to conditions which will bring the operation of any article, machine, equipment or other contrivance within the standards of Rule 21, in which case the conditions shall be specified in writing. Selling or renting under such a permit to sell or rent shall be deemed acceptance of all the conditions so specified. The Air Pollution Control District shall issue a permit to sell or rent with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment or other contrivance can operate within the standards of Rule 21 under the revised conditions.

6/30/72

Rule 23 Denial of Applications. In the event of denial of authorization to construct, permit to operate, or permit to sell or rent, the Air Pollution Control District shall notify the applicant in writing of the reasons therefor. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the persons served. The Air Pollution Control District shall not accept a further application unless the applicant has complied with the objections specified by the Air Pollution Control District as reasons for denial of the authorization to construct, the permit to operate or the permit to sell or rent.

~~Rule 24 Further Information. Before acting on an application for authorization to construct, or permit to operate, or permit to sell or rent, the Air Pollution District Officer may require the applicant to furnish further information or further plans or specifications.~~

~~Rule 25 Applications Deemed Denied. The applicant may, at his option, deem the authorization to construct, permit to operate, or permit to sell or rent approved if the Air Pollution Control District fails to act on the application within thirty (30) days after filing, or within thirty (30) days after applicant furnished the further information, plans and specifications requested by the Air Pollution Control District, whichever is later.~~

~~Rule 26 Appeals. Within ten (10) days after notice by the Air Pollution Control District of denial or conditional approval of an authorization to construct, permit to operate, or permit to sell or rent, the applicant may petition the Hearing Board, in writing, for a public hearing. The Hearing Board, after notice and a public hearing held within thirty (30) days after filing the petition, may sustain or reverse the action of the Air Pollution Control Officer; such order may be made subject to specified conditions.~~



6/30/72

~~Rule 23 Denial of Applications. In the event of denial of authorization to construct, permit to operate, or permit to sell or rent, the Air Pollution Control District shall notify the applicant in writing of the reasons therefor. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the persons served. The Air Pollution Control District shall not accept a further application unless the applicant has complied with the objections specified by the Air Pollution Control District as reasons for denial of the authorization to construct, the permit to operate or the permit to sell or rent.~~

Rule 24 Further Information. Before acting on an application for authorization to construct, or permit to operate, or permit to sell or rent, the Air Pollution District Officer may require the applicant to furnish further information or further plans or specifications.

~~Rule 25 Applications Deemed Denied. The applicant may, at his option, deem the authorization to construct, permit to operate, or permit to sell or rent approved if the Air Pollution Control District fails to act on the application within thirty (30) days after filing, or within thirty (30) days after applicant furnished the further information, plans and specifications requested by the Air Pollution Control District, whichever is later.~~

Rule 26 Appeals. Within ten (10) days after notice by the Air Pollution Control District of denial or conditional approval of an authorization to construct, permit to operate, or permit to sell or rent, the applicant may petition the Hearing Board, in writing, for a public hearing. The Hearing Board, after notice and a public hearing held within thirty (30) days after filing the petition, may sustain or reverse the action of the Air Pollution Control Officer; such order may be made subject to specified conditions.

6/30/72

~~Rule 23 Denial of Applications. In the event of denial of authorization to construct, permit to operate, or permit to sell or rent, the Air Pollution Control District shall notify the applicant in writing of the reasons therefor. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the persons served. The Air Pollution Control District shall not accept a further application unless the applicant has complied with the objections specified by the Air Pollution Control District as reasons for denial of the authorization to construct, the permit to operate or the permit to sell or rent.~~

~~Rule 24 Further Information. Before acting on an application for authorization to construct, or permit to operate, or permit to sell or rent, the Air Pollution District Officer may require the applicant to furnish further information or further plans or specifications.~~

Rule 25 Applications Deemed Denied. The applicant may, at his option, deem the authorization to construct, permit to operate, or permit to sell or rent approved if the Air Pollution Control District fails to act on the application within thirty (30) days after filing, or within thirty (30) days after applicant furnished the further information, plans and specifications requested by the Air Pollution Control District, whichever is later.

~~Rule 26 Appeals. Within ten (10) days after notice by the Air Pollution Control District of denial or conditional approval of an authorization to construct, permit to operate, or permit to sell or rent, the applicant may petition the Hearing Board, in writing, for a public hearing. The Hearing Board, after notice and a public hearing held within thirty (30) days after filing the petition, may sustain or reverse the action of the Air Pollution Control Officer; such order may be made subject to specified conditions.~~

6/6/77

REGULATION

IV

PERMIT SYSTEMS CONDITIONS

All permits issued pursuant to these Rules and Regulations are subject to the following rules:

~~RULE 401 Responsibility.~~

~~The fact that an authorization to construct or modify, or a permit to operate an article, machine, equipment or other contrivance described therein shall have been issued by the Air Pollution Control Officer shall not be an endorsement of such article, machine, or other contrivance; neither shall it be deemed or construed to be a warranty, guarantee or representation on the part of the Air Pollution Control Officer that emission standards would not be exceeded by such article, machine, equipment or other contrivance. In every instance the person, firm or corporation to whom such authorization or permit is issued shall be and remain responsible under these regulations for each and every instance wherein emission standards are exceeded by the article, machine, equipment or other contrivance described in the permit, and the fact of issuance or authorization shall not be a defense to or mitigation of any charge of violation.~~

RULE 402 Authority to Inspect.

- A. For the purpose of enforcing or administering any State or local law, order, regulation or rule relating to air pollution, the Air Pollution Control Officer and his duly authorized agents shall have the right of entry to any premises on which an air pollution emission source is located for the purpose of inspecting such source, including securing samples of emissions therefrom, or any records required to be maintained therewith by the District.
- B. The Air Pollution Control Officer or his duly authorized agent shall have the right to inspect sampling and monitoring apparatus as he deems necessary.
- C. The Air Pollution Control Officer may issue identification cards, with the photograph of holder and signature of the Air Pollution Control Officer, to such employees of the District who need such credentials for entry.

REGULATION  
V  
PERMIT TO OPERATE REGULATIONS

~~Rule 501 Permit Required. Before any source may be operated, a Permit to Operate shall be obtained from the Air Pollution Control Officer. No Permit to Operate shall be granted either by the Air Pollution Control Officer or the Hearing Board for any source constructed or modified without authorization as required in Regulation IV until the information required is provided to the Air Pollution Control Officer and such source is altered, if necessary, and made to conform to the standards set forth in Regulation IV and elsewhere in these Rules and Regulations.~~

Rule 502 Exemptions to Rule 501. The Air Pollution Control Officer may exempt from the requirements of Rule 501 any item of equipment specified in Rule 402, Exemptions to Rule 401.

~~Rule 503 Applications. Every application for a Permit to Operate shall be filed in the manner and form prescribed by the Air Pollution Control Officer, and shall give all the information necessary to enable the Air Pollution Control Officer to make the determination on the approvability of the application.~~

Rule 504 Action on Applications. The Air Pollution Control Officer shall act within 180 days after the filing date on a Permit to Operate application and shall notify the applicant in writing of his approval, conditional approval or denial.

Rule 505 Conditional Approval. The Air Pollution Control Officer may issue a Permit to Operate subject to conditions which will insure the compliance of any equipment within the standards of these Rules and Regulations, in which case the conditions shall be specified in writing. Commencing work under an Authority to Construct, or operation under a Permit to Operate, shall be deemed acceptance of all the conditions so specified.

Rule 506 Denial of Application. In the event of denial of a Permit to Operate, The Air Pollution Control Officer shall notify the applicant in writing of the reasons therefore. Service of this notification may be made in person or be mail, and such service may be proved by a written acknowledgement of the persons served or affidavit of the person making the service. The Air Pollution Control Officer shall not accept a further application unless the application has complied with the objections specified by the Air Pollution Control Officer as his reasons for denial of the Permit to Operate.

Rule 507 Responsibility. The fact that a Permit to Operate for an article, machine, equipment, or other contrivance described therein shall have been issued by the Air Pollution Control Officer shall not be an endorsement of such article, machine, equipment, or other contrivance; neither shall it be deemed or construed to be a warranty, guarantee or representation on the part of the Air Pollution Control Officer that emission standards would not be exceeded by such article, machine, equipment, or other contrivance.

6/22/81

~~B. If air contaminants from two or more source operations are combined emissions cannot be separated according to the requirements of Section A above, the Rules and Regulations shall be applied to combined emissions as if it originated in a single source operation subject to the most stringent limitations and requirements placed by the Rules and Regulations on any of the source operations whose air contaminants are so combined.~~

RULE 512 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 of 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 Section 41700 of the Health and Safety Code, or of Rule 205 of these Rules and Regulations.

RULE 513 Source Recordkeeping. The owner or operator of any stationary source shall, upon notification from the Air Pollution Control Officer, maintains records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Air Pollution Control Officer to determine whether such source is in compliance with applicable emission limitations or other control measures. The Air Pollution Control Officer may require that such records be certified by a professional engineer registered in the State of California. Such studies shall be made at the expense of the person causing the emissions.

The information recorded shall be summarized and reported to the Air Pollution Control Officer, on forms or formats as required by the Air Pollution Control Officer, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1 - June 30 and July 1 - December 31, or other periods as may be specified by the Air Pollution Control Officer.

Information reported by the owner or operator and copies of the summarizing reports submitted to the Air Pollution Control Officer shall be retained by the owner or operator for two years after the date on which the pertinent report is submitted.

RULE 514 Public Records and Trade Secrets.

- A. All information, analysis, plans, or specification that disclose, the nature, extent, quantity, or degree of air contaminants or other pollution which will be produced by any source which the District requires any applicant to provide before such applicant builds, alters, replaces, operates, sells, rents, or uses such source, are public records.
- B. All air quality or other pollution monitoring data, including data compiled from stationary, sources, are public records.

- C. Except as otherwise provided in Section D below, trade secrets are not public records under this Rule. Trade secrets, as used in this Rule, may include, but are not limited to, any formula, plan, pattern, process, tool mechanism, compound, 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 Air Pollution Control Officer to readily identify the information requested.
- D. Notwithstanding any other provisions of the law, all air pollution emission data, including those emission data which constitute trade secrets as defined in Section C above, 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.

RULE 515

~~Provision of Sampling and Testing Facilities. The Air Pollution Control Officer may, upon reasonable written notice, require the owner or operator of any source, the use of which may cause the issuance of air contaminants or the use of which may eliminate, reduce, or control the issuance of air contaminants, to:~~

- ~~A. Provide to the Air Pollution Control Officer data on process and production rate, and techniques, flow diagrams, descriptions of basic equipment and control equipment, rates of emissions and other information which the Air Pollution Control Officer may require.~~
- ~~B. 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 equipment in question. 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. All utilities shall be constructed in accordance with the general industry safety orders of the State of California.~~
- ~~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.~~

6/22/81

A. 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 not later than two (2) hours after its detection during normal District business 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 subsection A.1. above, 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.

B. 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 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 subsection A.1. above; 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, 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.

~~C. 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 subsection 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(s) 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 source 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 (5) working days, issue a written order confirming the decision, with appropriate findings.~~
- ~~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 requirements 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 or 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 subsection C.2. above shall govern any proceedings conducted under this subsection.~~

~~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.~~

D. 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 breakdown condition; and

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 subsection; 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.
- E. 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.
- F. Failure to Comply with Reporting Requirements. Any failure to comply, or comply in a timely manner, with the reporting requirement established in subsection B.1. and E. 1. through E.5. of this Rule shall constitute a separate violation of this Rule.
- G. 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.
- H. 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.

Permit Fees

A. Filing Fee. Every applicant for an Authority to Construct or a Permit to Operate any article, machine, equipment or other contrivance, for which an Authority to Construct or Permit to Operate is required by federal or state law or the Rules and Regulations of the Air Pollution Control District, shall pay a filing fee of \$20.00. Where an application is filed for a Permit to Operate any article, machine, equipment or other contrivance by reason of transfer from one person to another, and where a Permit to Operate had previously been granted and no alteration, addition or transfer of location without permit has been made, the applicant shall pay only a \$10.00 filing fee. If an application for an Authority to Construct or a Permit to Operate is cancelled, or is denied and such denial becomes final, the filing fee required herein shall not be refunded nor applied to any subsequent application.

B. Permit Fee. Every applicant for a Permit to Operate who files application with the Air Pollution Control Officer shall, in addition to the filing fee prescribed herein, pay the annual fee for the issuance of a Permit to Operate in the amount determined by the annual emissions of the source. Each ton of emission for any of the following air contaminants shall be assessed a fee as set forth in the following schedule:

<u>Air Contaminant</u>	<u>Dollars Per Ton</u>
Total organic gases, except those compounds containing sulfur	\$1.00
Gaseous sulfur compounds (expressed as sulfur dioxide)	1.00
Particulate Matter	1.00
Oxides of nitrogen (expressed as nitrogen dioxide)	0.50
Carbon Monoxide	0.25

C. Permit Fee Penalty. When the Permit to Operate is issued, it shall be accompanied by a statement of the fee to be paid. If the fee is not paid within 60 days after the permit is issued, the fee shall be increased by one-half the amount thereof and the Air Pollution Control Officer shall thereupon promptly notify the applicant of the increased fee by mail. If the increased fee is not paid within 60 days after the permit is issued, the application shall be deemed withdrawn and cancelled. The Air Pollution Control Officer shall so notify the applicant by mail, and the permit shall be void.

D. Permit Granted by Hearing Board. In the event that a Permit to Operate is granted by the Hearing Board after denial by the Air Pollution Control Officer, the provision of Section B. above shall apply.

E. Revising Permit Conditions. Where an application is filed for a Permit to Operate exclusively involving revisions to the conditions of an existing Permit to Operate, the applicant shall pay only the amount of the filing fee required herein. The annual renewal fee will be due and payable on the anniversary date of the original permit.

---