

**AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO**

**DRAFT PROPOSED AMENDMENTS TO
RULE 24 – TEMPORARY PERMIT TO OPERATE**

WORKSHOP REPORT

A workshop notice on the draft proposed amendments to Rule 24 – Temporary Permit to Operate, was mailed to all permit and registration certificate holders in San Diego County. Notices were also mailed to all economic development corporations and chambers of commerce in San Diego County, the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB), and other interested parties.

The workshop was held on January 20, 2016, and was attended by 22 people. The Air Pollution Control District (District) received oral and written comments before, during, and after the workshop. A summary of the comments and the District's responses to these comments are as follows:

1. WORKSHOP COMMENT

Will the draft proposed rule amendments affect existing permitted backup engine generators that may be replaced, and new engines that may be installed at a future date?

DISTRICT RESPONSE

No, the draft proposed amendments to Rule 24 will not change the District's current permitting requirements or application process for replacement engines or new engines. The draft proposed amendments only affect existing equipment that was installed and operated without prior authorization from the District. The owner or operator of any existing unpermitted equipment will need to submit an application as a new emission unit and will require issuance of an Authority to Construct/Start-Up Authorization prior to the continued operation of such equipment.

2. WORKSHOP COMMENT

Is a facility required to notify the District if an engine part needs replacement?

DISTRICT RESPONSE

District Rule 11(d)(5) – Exemptions from Rule 10 Permit Requirements, specifies the conditions under which a facility may be exempt from permitting requirements for replacement of an engine or an engine component. If the replacement meets the requirements of Rule 11(d)(5), then the owner or operator shall notify the District and provide all necessary information regarding the replacement for District review.

If the replacement does not meet the requirements of Rule 11(d)(5), an owner or operator shall apply for a modification of an existing Permit to Operate prior to the installation and operation of the replacement. See the District's response to Comment No. 3 below regarding the permit application process.

3. WORKSHOP COMMENT

What is the process for applying for an Authority to Construct and Permit to Operate for a new piece of equipment?

DISTRICT RESPONSE

Permit application forms are available on the District's website. The District's general permit application form, the appropriate supplemental application form, any pertinent additional information, and application fee must be submitted to the District. Applications may be submitted via mail, fax, e-mail, or delivered to the District. Applications for coating operations and emergency engines (and, in the future, additional equipment types) may be completed and managed online, with instructions and a link available on the District's website.

When an application is received by the District, it is logged and reviewed for completeness. The District may require additional information from the applicant before the application can be deemed complete. Once the application is deemed complete by the District, the applicant is notified and a final evaluation of the application is commenced. This evaluation includes quantifying the proposed emissions and identifying applicable District rules and how the proposed operation will comply. Additionally, if applicable, the evaluation will include a determination of whether the source complies with Rule 1200, the District's toxics New Source Review rule, and a Health Risk Assessment to determine the health impact the proposed operation may have on the surrounding population.

Upon District approval, an Authority to Construct is issued to the applicant authorizing the installation of equipment. Once the equipment is installed, the applicant submits a Construction Completion Notice to the District notifying that the installation has been completed. The equipment may begin operation after the Construction Completion Notice is submitted, with the Authority to Construct serving as the temporary Permit to Operate until a Start-Up Authorization is issued. If needed, the District may perform an inspection of the equipment prior to issuing a Start-Up Authorization. The final step is the issuance by the District of the Permit to Operate.

4. WORKSHOP COMMENT

The District should add language to draft proposed Subsection (d)(5) to clarify that the 10-day response period to provide additional information to the District starts from the date the applicant receives the request. For large facilities or companies, mail can arrive within three days of being mailed by the District, but be delivered to the appropriate person after a week or more has

elapsed. This can occur especially if the correct mail zone or address is not used. Thus, the timeframe between mailing from the District to receipt by the addressee may exceed the 10-day response period allowed in Subsection (d)(5) of draft proposed amended Rule 24.

DISTRICT RESPONSE

Section (d) – Existing Emission Unit, has been deleted from draft proposed amended Rule 24 at the request of EPA. See EPA Comment No. 9 and the District's response below.

5. WORKSHOP COMMENT

Can an applicant request an extension to the 10-day period in proposed Subsection (d)(5) to submit the requested information to the District?

DISTRICT RESPONSE

See EPA Comment No. 9 and the District's response below.

6. WORKSHOP COMMENT

The District should send an e-mail to the applicant in conjunction with any hard copy mailings.

DISTRICT RESPONSE

The District uses various means to communicate with an applicant, including phone and e-mail. However, official District correspondence is sent via U.S. mail.

7. WORKSHOP COMMENT

If an application is cancelled, will the applicant receive written notification from the District?

DISTRICT RESPONSE

Yes, written notification will be sent from the District to the applicant stating that the application has been cancelled. However, before the application is cancelled, the District will contact the applicant to discuss the status of the application and confirm whether or not the applicant intends to continue with the application process.

8. WORKSHOP COMMENT

Will an existing temporary Permit to Operate for a unit be cancelled once the draft proposed amended Rule 24 is approved by the Board and goes into effect? Currently, a facility has an existing unit with an open application being evaluated by the District, and it may operate with the application serving as a temporary Permit to Operate per the requirements of existing Rule 24, Section (d). However, the unit does not meet the new definition of “existing emission unit” as defined in the draft proposed rule, and seemingly would no longer have temporary authority to operate per the draft proposed rule.

DISTRICT RESPONSE

If a permit application for an existing unit is received by the District prior to the adoption of proposed amended Rule 24, then it will be evaluated per the requirements of existing Rule 24. If a temporary Permit to Operate is then granted for that unit, it will stay in force pursuant to the provisions of existing Rule 24 under which it was granted.

9. EPA COMMENT

The provisions in draft proposed Rule 24, Section (d), are not approvable, and must be removed from Rule 24 prior to submitting the proposed amended rule to EPA for State Implementation Plan (SIP) approval. The proposed Section (d) – Existing Emission Unit, is inconsistent with the Clean Air Act (CAA), and creates confusion regarding enforcement of the requirements of District Rule 10. The proposed Section (d) allows facilities with existing emission units, constructed, erected or installed and operated in San Diego County without first obtaining an Authority to Construct or a Permit to Operate, to submit a substantially complete application, which then serves as a temporary Permit to Operate. In effect, proposed Section (d) provides a variance in the form of a temporary Permit to Operate, without any prior evaluation by the District regarding the sources’ compliance with District regulations or its impact on air quality. In addition, Section 116 of the CAA does not allow variances in federal programs, and does not recognize variances issued by the District. EPA cannot approve a rule into the SIP that would prevent enforcement of another SIP provision through a de facto variance. While EPA retains independent authority to enforce the CAA, proposed Section (d) would prevent EPA and citizen enforcement of the SIP.

DISTRICT RESPONSE

The District agrees and Section (d) – Existing Emission Unit, in draft proposed amended Rule 24 has been deleted in its entirety. Accordingly, proposed amended Rule 24 will be applicable to new, modified, and previously permitted emission units only.

Existing unpermitted equipment requiring a Permit to Operate will consequently be considered as new emission units under the proposed amended rule. In accordance with current District requirements for new equipment, facilities with existing unpermitted equipment will be required

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to apply for and obtain an Authority to Construct/Start-Up Authorization prior to operation of the equipment. The District will work closely with such facilities to complete the application process as expeditiously as possible.

10. ARB COMMENT

ARB had no official comments at this time.

RR:AMO:jlm
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