

Chapter 1 - General

100 PURPOSE, SCOPE, AND CONSTRUCTION

- 100.1 The purpose of ~~this subtitle~~ the air quality regulations is to prevent or minimize emissions, ~~as defined in this chapter,~~ into the atmosphere and thereby protect and enhance the quality of the District's air resources so as to ~~promote~~ protect the public health and welfare, promote ~~and~~ the productive capacity of the people of the District of Columbia, ~~;~~ to foster their comfort and convenience; ~~to increase the enjoyment of all of the attractions of the Nation's Capital;~~ and protect and restore ~~to enhance~~ the natural environment of the District of Columbia.
- 100.2 The air quality regulations ~~This subtitle~~ shall apply to all operations in the District, ~~as authorized by the District of Columbia Air Pollution Control Act of 1984 (D.C. Law 5-165), as amended, as well as including~~ Federal operations to the full extent permitted by the Clean Air Act (42 U.S.C. 7401 et seq. USC §§ 7401 et seq.), as amended, and regulations promulgated thereunder.
- 100.3 All regulations and parts of regulations in effect in the District ~~which that~~ are inconsistent with the provisions of ~~this subtitle~~ the air quality regulations are superseded with respect to matters covered by ~~this subtitle~~ the air quality regulations, unless specifically stated otherwise.
- 100.4 The English system of measurement shall be the official system of measurement under ~~this subtitle~~ under the air quality regulations, unless specified otherwise.
- 100.5 Reference in ~~this subtitle~~ the air quality regulations to a specific introductory section or ~~subdivision~~ subsection of the section, (such as §204 or §204.1(a)) is intended to include a reference to all subdivisions of the specific section or ~~subdivision~~ subsection (such as §§ 204.1, 204.2. 204.1(a), 204.1(a)(1)).
- 100.6 If any provision of the air quality regulations or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the air quality regulations shall not be affected.

101 INSPECTION CONFIDENTIALITY OF REPORTS

- 101.1 ~~The Mayor is authorized to make inspections of premises and records of operation as may be necessary for the enforcement of this subtitle, either with the consent of the owner or operator of the source or in execution of an administrative warrant issued or approved by the Superior Court of the District of Columbia pursuant to §11 941, D.C. Code. 102 ORDERS FOR COMPLIANCE~~ Any records, reports, information, or particulars thereof, other than emissions data, that relates to production, sales figures, or processes of any owner or operator, shall not be disclosed publicly upon a showing satisfactory to the Department that to publicly

disclose will result in a significant and adverse effect upon the competitive position of the owner or operator, as provided in section 204 of the D.C. Freedom of Information Act (D.C. Official Code § 2-534) and Section 114 of the Clean Air Act (42 USC § 7414) except as may be necessary to protect the public health, safety, or well-being, following an opportunity for a hearing pursuant to § 107 of this title.

101.2 Subsection 101.1 of this title shall not be construed to prevent the use of the records, reports, or information by the Department in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere; provided, that the analyses or summaries do not reveal any information otherwise confidential under the provisions of this section.

101.3 Subsection 101.1 of this title shall not be construed to prevent such record, report, or information from being disclosed to other officers, employees, or authorized representatives of the District of Columbia or the United States concerned with carrying out this Act or the Clean Air Act, or when relevant in any proceeding under this Act or the Clean Air Act.

102 ORDERS FOR COMPLIANCE CONTROL DEVICES OR PRACTICES

102.1 ~~Whenever the Mayor has reason to believe that a violation of this subtitle has occurred, he or she shall cause written notice to be served upon the alleged violator.~~ The devices or practices provided for the control of air pollutants discharged from stationary sources, or for otherwise complying with the air quality laws and regulations, shall remain operative or effective whenever the stationary source being controlled is operative or capable of producing emissions, except as otherwise provided in this section, and shall not be removed prior to the owner or operator requesting, and receiving, either written approval from the Department or an amendment to the source's operating permit issued pursuant to Chapter 2 of this title, as provided in §§ 102.4 and 102.6 of this title.

102.2 ~~The notice shall include the following:~~ Whenever it is necessary to shut down air pollution control equipment due to malfunction or for periodic maintenance, the owner or operator of the equipment shall report the planned shutdown to the Department within one (1) business day of a shutdown due to malfunction, or at least forty-eight (48) hours prior to a shutdown for maintenance.

~~(a) — The provision of the law, regulation or rule alleged to be violated;~~

~~(b) — The facts alleged to constitute a violation; and~~

~~(c) — An order that necessary corrective action be taken within a reasonable time.~~

102.3 ~~Nothing in this section shall be construed to prevent the Mayor from initiating appropriate action for the recovery of a penalty pursuant to §105 or from seeking enforcement of this subtitle by injunctive relief or other appropriate remedy. The notice required by § 102.2 of this title shall include, but is not limited to, the following:~~

- (a) Identification of the specific facility whose pollution control equipment is to be taken out of service, as well as its location and permit number;
- (b) The expected length of time that the air pollution control equipment will be out of service;
- (c) The nature and quantity of emissions of air pollutants likely to occur during the shutdown period;
- (d) Measures that will be taken to minimize the length of the shutdown period; and
- (e) The reasons that it would be impossible or impractical to shut down the source operation during the maintenance or repair period.

102.4 The Department may, by written notice to the owner or operator, permit the continued operation of the source for the time period proposed, or for the lesser time as the Department finds reasonable, provided that:

- (a) The owner or operator of the equipment provides the notice required in §§ 102.2 and 102.3 of this title;
- (b) The Department determines that measures have been taken to minimize the length of the shutdown period;
- (c) The Department determines that it would be impossible or impractical to shut down the source operation during the maintenance or repair period; and
- (d) The Department determines that operation of the source will not result in the violation of any federally enforceable emissions limitation or requirement.

102.5 If the Department does not permit continued operation of the source pursuant to § 102.4 of this title, it may order the owner or operator to discontinue operation of the stationary source until the maintenance is completed, or the malfunctioning equipment is repaired.

- 102.6 The Department may, by written notice to the owner or operator, allow the removal of a control device or practice pursuant to § 102.1 provided that:
- (a) The owner or operator submits a written request for removal of the control device or practice at least ninety (90) days prior to the proposed date of removal;
 - (b) The Department determines that it would be impossible or highly impractical to maintain the control device or practice;
 - (c) The Department determines that operation of the stationary source without the control device or practice will not result in the violation of any federally enforceable emissions limitation or regulatory requirement; and
 - (d) If the control device or practice is required by a permit issued pursuant to Chapters 2 or 3 of the air quality regulations, the owner or operator shall submit an application for an amendment to the permit at the same time or prior to the written request specified under paragraph (a) and may proceed with the requested change as follows:
 - (1) The owner or operator may cease operating a control device or performing a control practice upon receipt of written approval pursuant to this subsection; and
 - (2) The owner or operator may only remove a control device upon receipt of a permit amendment authorizing operation of the stationary source without the control device.
- 102.7 Any article, machine, equipment, device, or other contrivance that conceals an emission from any source shall not be installed or used.

VARIANCES

- 103.1 Each person required to perform an act by the air quality regulations may be excused by the Department from the performance of the act, either in whole or in part, upon a finding by the Department that the full performance of the act would result in exceptional or undue hardship by reason of excessive structural or mechanical difficulty, or the impracticability of bringing the activity into full compliance with the requirements of the air quality regulations.
- 103.2 A variance may be granted only to the extent that it is necessary to ameliorate an exceptional or undue hardship, and only when compensating factors are present that give adequate protection to the public health or welfare and assure that the intent and purpose of the air quality regulations are not impaired.

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- 103.3 No variance may be granted to excuse performance required by any federally enforceable emissions limitation or requirement.
- 103.4 A person requesting a variance shall submit a written request for the variance, together with the supporting data and analyses that may be required by the Department.
- 103.5 The request for a variance shall be filed with the Department and shall include the following:
- (a) The requirement(s) of the air quality regulations from which the person seeks the variance;
 - (b) A description of the exceptional or undue hardship that would result from compliance with the requirement; and
 - (c) A description of the act that the person wishes to perform in lieu of the regulatory requirement.
- 103.6 Except as explicitly provided in the air quality regulations, a variance is granted for the operation of diesel locomotives on common carrier railroads in the District in accordance with the Clean Air Act.
- 103.7 A variance may be granted for experimental and research activities; provided, that the requirements of §§ 103.1 through 103.5 are otherwise met.
- 103.8 All requests for variances shall be published in the *District of Columbia Register*, at least thirty (30) days before the Department rules on the request, in accordance with the following requirements:
- (a) The published notice shall briefly set forth the information contained in the applicant's written request; and
 - (b) Any person may submit comments on the request within thirty (30) days of the published notice.
- 103.9 An applicant must submit the fee specified in § 211 of this title, sufficient to cover the reasonable costs of reviewing and acting upon the application and the reasonable costs of implementing and enforcing the terms and conditions of the variance approval.
- 103.10 The Department shall maintain a written record of all variances granted and denied. The record shall include all bases for the grant or denial, and shall be available for public inspection.

103.11 Each variance may be granted for up to five (5) years, but not to exceed the time necessary to avoid the undue hardship, and may be renewed in accordance with the following:

- (a) A renewal may be granted only if the Department finds that the intent and purpose of the air quality regulations are not impaired;
- (b) A renewal may be granted only upon application, which shall be made at least ninety (90) days prior to the expiration of the variance; and
- (c) All of the requirements of this section shall apply in cases of renewal.

103.12 Nothing in this section shall be construed to permit any operation in violation of the air quality regulations during the pendency of a request for a variance.

103.13 Nothing in this section, and no variance or renewal granted pursuant to this section, shall be construed to prevent or limit the application of the emergency provisions and procedures of § 401 of this title to any person or his or her property.

104 HEARINGS ENTRY AND INSPECTION

104.1 ~~Any person aggrieved by any adverse action of the Mayor taken pursuant to this subtitle, may have review of the action by the Mayor in accordance with the District of Columbia Administrative Procedure Act, except as otherwise provided in this subtitle. In administration of the hearing the Mayor may summon persons, and require that papers and materials be delivered under subpoena as set forth in §1-237, D.C. Code.~~ Upon the presentation of appropriate credentials to the owner, agent in charge, or tenant, the Department shall have the right, subject to § 104.3 of this section, to enter a premise or inspect an activity reasonably believed to be subject to the air quality regulations to determine compliance with the requirements of the air quality regulations. The right of entry shall be for the following purposes:

- (a) Inspection, including the right to inspect and copy records related to compliance with the air quality regulations;
- (b) Observation;
- (c) Measurement;
- (d) Sampling;
- (e) Testing; and
- (f) Evidence collection.

- 104.2 ~~A request for a hearing to review an adverse act proposed by the Mayor shall be made in writing within fifteen (15) days following notification to the aggrieved person of the contemplated action and of the person's right to a hearing with respect to the action. The Department may:~~
- ~~(a) Investigate and take testimony under oath regarding any report of noncompliance with a federal or District law or regulation applicable to air pollution control; and~~
 - ~~(b) In addition to the requirements of Chapter 5 of Title 20 DCMR, require a person or entity subject to the air quality regulations, or who the Department reasonably believes may have information necessary to carry out the purposes of the air quality regulations, on a one-time, periodic, or continuous basis to:~~
 - ~~(1) Establish, maintain, and submit records and reports;~~
 - ~~(2) Install, use, and maintain monitoring equipment, and use audit procedures or methods;~~
 - ~~(3) Take samples in accordance with such procedures or methods, at such locations, at such intervals, during such periods, and in such manner as the Department shall prescribe;~~
 - ~~(4) Keep records on control equipment parameters, production variables, or other indirect data as appropriate;~~
 - ~~(5) Submit compliance certifications; and~~
 - ~~(6) Provide other information as the Department may require.~~
- 104.3 ~~The Mayor may take the action contemplated in the notice without a hearing if the aggrieved person fails to timely request a hearing, or the party fails to appear at a scheduled hearing for which no continuance has been or is granted. If the Department is denied access to enter or inspect the premises in accordance with this section, the Department may apply to the Superior Court of the District of Columbia or the Office of Administrative Hearings pursuant to § 12(b)(12) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.09(b)(12)) for a search warrant.~~
- 104.4 ~~The Mayor may promulgate detailed rules for the conduct of hearings under this subtitle. These rules shall be consistent with the District of Columbia Administrative Procedure Act.~~

~~104.5 Nothing in this section shall be construed to prevent the Mayor from initiating appropriate action for the recovery of a penalty pursuant to §105 or from seeking enforcement by injunctive relief or other appropriate remedy during the pendency of a review proceeding.~~

105 PENALTY — PENALTIES, COST RECOVERY, AND INJUNCTIVE RELIEF

~~105.1 Each person who fails to comply with any of the provisions of this subtitle, or who refuses, interferes with, or prevents any inspection authorized by this subtitle, or who keeps false records or makes false reports or certificates required under this subtitle, shall be punished by a fine not to exceed five thousand dollars (\$5,000) or imprisonment not to exceed ninety (90) days, or both. In the event of any violation of, or failure to comply with, the air quality laws or regulations, every day of the violation or failure shall constitute a separate offense, and the penalties described in this section shall be applicable to each separate offense.~~

~~105.2 For each violation of, or failure to comply with, this subtitle, each and every day of the violation, or failure, shall constitute a separate offense and the penalties described shall be applicable to each separate offense. A person who violates the air quality laws or regulations is civilly liable and shall be subject to fines not more than thirty-seven thousand five hundred dollars (\$37,500) per violation per day.~~

~~105.3 Each person, other than a District employee, who shall furnish material and substantial evidence leading to the payment of a fine or the forfeiture of collateral imposed under this subtitle shall be paid subject to appropriation one half (1/2) of each fine or forfeiture unless the Mayor or a court of competent jurisdiction shall otherwise direct. This section shall not be construed as to create any right to the proceeds of any fine or forfeiture. A person who knowingly or willfully violates the air quality laws or regulations is guilty of a criminal misdemeanor and, upon conviction, shall be subject to a fine not to exceed twenty-five thousand dollars (\$25,000), imprisonment not to exceed one (1) year, or both.~~

~~105.4 No person shall receive more than one thousand dollars(\$1,000) total in any given twelve (12) months under §105.3. A person who knowingly makes a false statement in an application, record, report, plan, or other document submitted or maintained under this act shall be guilty of a misdemeanor and subject to a fine not to exceed ten thousand dollars (\$10,000), imprisonment not to exceed six (6) months, or both.~~

~~105.5 In the alternative to civil fines, the Department may impose an administrative fine, penalty, or cost pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985, as amended~~

(D.C. Law 6-42; D.C. Official Code §§ 2-1801 *et seq.*) and its implementing regulations.

105.6 In addition to or in lieu of the civil, criminal, and administrative penalties in this section, the Attorney General for the District of Columbia may commence appropriate civil action in the Superior Court of the District of Columbia or any other court of competent jurisdiction for damages, cost recovery, and injunctive or other appropriate relief to enforce compliance with the air quality laws and regulations.

106 CONFIDENTIALITY OF REPORTS ENFORCEMENT

106.1 ~~Information, other than emission data, which relates to production, sales figures, or processes of any owner or operator, shall not be disclosed publicly upon a finding by the Mayor that to publicly disclose will result in a significant and adverse effect upon the competitive position of the owner or operator; except in or following public hearing, or except as may be necessary to protect the public health, safety or well-being. The Department may enforce a violation of the air quality laws or regulations by issuing one or more of the following:~~

- (a) Administrative order, notice of violation, or cease and desist order;
- (b) Notice of infraction;
- (c) Civil or criminal judicial enforcement action;
- (d) Notice of modification, suspension, revocation, or denial of a permit in accordance with 20 DCMR §§ 202 and 303; or
- (e) Any other order or compliance document necessary to protect human health or the environment, or to implement or enforce the air quality laws and regulations.

106.2 ~~Subsection 106.1 shall not be construed to prevent the use of the records or information by the Mayor in compiling or publishing analyses, or summaries relating to the general condition of the outdoor atmosphere; Provided, that the analyses or summaries do not reveal any information otherwise confidential under the provisions of this section. Each notice shall identify the violation and, if applicable:~~

- (a) In the case of a notice of infraction, include an assessment of a fine for each violation being cited; and
- (b) In the case of a notice of infraction or notice of permit modification, suspension, revocation, or denial, state the procedure for requesting a hearing to appeal the notice.

106.3 If the Department determines that a hazardous condition exists that may endanger the public health or safety of the citizens or environment within the District of Columbia due to noncompliance with federal or District air quality laws or regulations, the Department may issue a cease and desist order, which requires a violator to cease operations and implement corrective actions immediately to contain the hazardous condition. The order shall:

- (a) Describe the nature of the violation;
- (b) Take effect at the time and on the date signed;
- (c) Identify the corrective actions to be taken or actions that must be immediately suspended; and
- (d) State the procedure for requesting a hearing to appeal the order.

106.4 If the Department determines that there has been a violation of federal or District air quality laws or regulations, the Department may issue an administrative order, which requires a violator to take action to come into compliance. The order shall:

- (a) Describe the nature of the violation;
- (b) Take effect at the time and on the date signed;
- (c) Identify the corrective actions to be taken or actions that must be immediately suspended; and
- (d) State the procedure for requesting a hearing to appeal the order.

107 CONTROL DEVICES OR PRACTICES APPEALS

107.1 ~~The devices or practices provided for the control of air pollutants discharged from stationary sources, or otherwise complying with law, shall remain operative or effective, and shall not be removed. Any person adversely affected by an action of the Department taken or proposed to be taken pursuant to the Act or air quality regulations may request a hearing within fifteen (15) calendar days of service, or twenty (20) calendar days if service is made by United States mail. If specific instructions are not on the notice or order, the person shall file a written request for a hearing, including the grounds for the objection, in accordance with the Office of Administrative Hearings: Rules of Practice and Procedure in Chapter 28 of Title 1 DCMR.~~

107.2 ~~Whenever it is necessary to shutdown air pollution control equipment for periodic maintenance, the owner or operator of the equipment shall report the planned shutdown to the Mayor at least forty eight (48) hours prior to the shutdown. The prior notice shall include, but is not limited to, the following: An appeal request~~

does not stay the effective date of an administrative order or cease and desist order issued pursuant to § 106 of this title. If a hearing is not requested within the fifteen (15) day time period, or twenty (20) calendar days if service is made by United States mail, the order becomes final and remains in effect until the Department determines that the corrective actions have alleviated the violations and the dangerous conditions, if applicable.

- (a) ~~Identification of the specific facility to be taken out of service as well, as its location and permit number;~~
- (b) ~~The expected length of time that the air pollution control equipment will be out of service;~~
- (c) ~~The nature and quantity of emissions of air pollutants likely to occur during the shutdown period;~~

107.3 ~~The Mayor shall by notice to the owner or operator permit the continued operation of the stationary source for the time period proposed, or for the lesser time as the Mayor finds reasonable, or the Mayor may order the owner or operator to discontinue operation of the stationary source until the maintenance is completed, or the malfunctioning equipment is repaired. The Department may take any adverse action proposed or contemplated without a hearing if the aggrieved person fails to timely request a hearing, or the party fails to appear at a scheduled hearing for which no continuance has been granted.~~

107.4 ~~Any article, machine, equipment, device, or other contrivance which conceals an emission from any source shall not be installed or used.~~

Chapter 2 - General

200 GENERAL PERMIT REQUIREMENTS

- 200.1 A permit from the Department shall be obtained before any person shall cause, suffer, or allow the construction of a new stationary source, or the modification of an existing stationary source, or the installation or modification of any air pollution control device on a stationary source.
- 200.2 An operating permit shall be obtained from the Department before any person shall cause, suffer, or allow the operation of the following:
- (a) Any major stationary source, for which a construction or modification permit is required under § 200.1; or
 - (b) Any source for which a construction or modification permit is required under § 200.1, and which construction or modification permit was subject to conditions which affect, or would affect, the operation of the source.
- 200.3 The Department may allow the temporary operation of a source for a period no longer than one (1) month, in accordance with the requirements of this chapter, which ~~This period~~ may be extended month to month, to enable the initial evaluation of the operation of a source or device granted a permit under § 200.1, or to enable the continued operation of a source for which an application for an operating permit under § 200.2 has been filed, but due to delays attributable to the Department the permit has not been issued. ~~Any temporary operation of a source shall be in accordance with the requirements of this chapter.~~
- 200.4 Construction and operating permits, shall be valid for the period specified in the permit, but not to exceed five (5) years.
- 200.5 Each ~~owner or operator of~~ person owning or operating a stationary source or device for which a permit is required shall timely file with the Department the appropriate application, including applications for renewal of any construction or operating permit; if construction activities or operations are to continue beyond the expiration date of an existing permit.
- 200.6 ~~The Department may, after its review, review by EPA and affected states (as defined in 20 DCMR § 399), and after notice and opportunity for public comment and hearing as required by § 210, establish a source category permit covering a group of similar sources or emission units according to (a) through (h) of this subsection.~~ The Department may establish a condition in a permit issued pursuant to this chapter that limits, in a manner that is enforceable as a practical matter, emissions from a source so as to avoid applicability of the permitting

requirements of § 300.1. Such a limit must not be designated as enforceable only by the District.

- ~~(a) — Any source category permit shall comply with all requirements applicable to the source pursuant to the air quality regulations this title;~~
- ~~(b) — During establishment of any source category permit, the Department shall establish criteria by which sources may qualify for the source category permit;~~
- ~~(c) — The Department shall maintain records of the public comments and issues raised during the public participation process;~~
- ~~(d) — A source category permit does not substitute for a permit required under chapter 3 of this title;~~
- ~~(e) — A response to each source category permit application may not be provided, rather the source category permit may specify a reasonable period of time after which an application is deemed approved and the applicant may construct and operate under the source category permit;~~
- ~~(f) — The applicant for a source category permit may be issued an individual permit or letter or other document indicating that the application has been approved or denied;~~
- ~~(g) — If the Department provides an individual response, as provided in paragraph (f), the permittee shall retain the response and make it available on request to authorized officials of the Department; and~~
- ~~(h) — Any established source category permit is subject to the expiration and renewal conditions found in § 200.4 and 200.5 and may be revised by following the same process as is used for original establishment of the permit.~~

200.7

~~Applications for permits shall be filed with the Department on the form or forms that the Department shall prescribe and shall be accompanied by the data, information, and analyses necessary or desirable to enable the Department to determine whether the requested permit should be issued or denied. The Department may establish a condition in a permit issued pursuant to this chapter that limits, in a manner that is enforceable as a practical matter, emissions from a~~

source so as to avoid applicability of a District or federal air quality regulation, other than the requirements of § 300.1, except when prohibited by another District or federal regulation. Such a limit must not be designated as enforceable only by the District.

200.8

The Department may require, at any time, the submission of the data, information, and analyses that the Department may deem necessary or desirable, to allow the Department to determine whether a requested permit should be issued or denied, or an outstanding permit should be modified or revoked. The Department may establish a source category permit covering a group of similar sources or emission units according to (a) through (i) of this subsection:

- (a) Any source category permit shall comply with all requirements applicable to the source pursuant to the air quality regulations of this title;
- (b) During establishment of any source category permit, the Department shall establish criteria by which sources may qualify for the source category permit;
- (c) The Department shall maintain records of the public comments and issues raised during the public participation process;
- (d) A source category permit shall not be a substitute for a permit required under Chapter 3 of this title;
- (e) A response to each source category permit application may not be provided, rather the source category permit may specify a reasonable period of time after which an application is deemed approved and the applicant may construct and operate under the source category permit;
- (f) The applicant for a source category permit may be issued an individual permit, letter, or other document indicating that the application has been approved or denied;
- (g) If the Department provides an individual response, as provided in paragraph (f), the permittee shall retain the response and make it available on request to authorized officials of the Department;
- (h) Any established source category permit is subject to the expiration and renewal conditions found in § 200.4 and § 200.5 and may be revised by following the same process as is used for original establishment of the permit; and
- (i) The draft source category permit shall be subject to the public notice and comment requirements of § 210, however individual applications for the permit are not subject to public notice and comment.

- 200.9 ~~Applications for construction and operating permits may incorporate by reference data, information, and analyses otherwise available or provided to the Department, provided that the reference is clear and specific. Applications for permits shall be filed with the Department on the form or forms that the Department shall prescribe and shall be accompanied by the data, information, and analyses necessary or desirable to enable the Department to determine whether the requested permit should be issued or denied.~~
- 200.10 ~~Each permit application shall be accompanied by a fee to be determined by the Department. The Department may require, at any time, the submission of data, information, and analyses that the Department deems necessary or desirable, to allow the Department to determine whether a requested permit should be issued or denied, or an outstanding permit should be modified or revoked.~~
- 200.11 ~~An application for a permit shall be signed in the following manner: Applications for construction and operating permits may incorporate by reference data, information, and analyses otherwise available or provided to the Department, provided that the reference is clear and specific.~~
- (a) ~~If the applicant is a partnership, a general partner shall sign the application;~~
- (b) ~~If the applicant is a corporation, association, or cooperative, an officer shall sign the application;~~
- (c) ~~If the applicant is a sole proprietorship, the proprietor shall sign the application; and~~
- (d) ~~If the applicant is a government or governmental agency, department, or board, a senior executive of that government, agency, department, or board who has authority to sign shall sign the application.~~
- 200.12 ~~No permit shall be required for any fuel burning equipment which has a capacity of five million British thermal units (5,000,000 Btus) or less per hour of heat input and which uses for fuel only gaseous fuels or distillate oils. This section shall not apply to sources subject to § 204. Each permit application shall be accompanied by a fee established by the Department in Section 211, which shall be sufficient to cover the reasonable costs of reviewing and acting upon the permit application and implementing and enforcing the terms and conditions of the permit.~~
- 200.13 ~~The Department shall establish a schedule of fees for construction and operating permits. These fees shall be sufficient to cover the reasonable costs of reviewing and acting upon the application and the reasonable costs of implementing and enforcing the terms and conditions of the permit. An application for a permit shall be signed in the following manner:~~

- (a) If the applicant is a partnership, a general partner shall sign the application;
- (b) If the applicant is a corporation, association, or cooperative, an officer shall sign the application;
- (c) If the applicant is a sole proprietorship, the proprietor shall sign the application; and
- (d) If the applicant is a government or governmental agency, department, or board, a senior executive of that government agency, department, or board who has authority to sign shall sign the application.

200.14 No permit shall be required for any fuel burning equipment which has a capacity of five million British thermal units (5,000,000 Btu) or less per hour of heat input and which uses for fuel only gaseous fuels or distillate oils. This section shall not apply to sources subject to § 204.

200.15 A person shall comply with the conditions of any permit issued pursuant to this chapter.

* * *

202 MODIFICATION, REVOCATION AND TERMINATION OF PERMITS AMENDMENT, SUSPENSION, REVOCATION, AND DENIAL OF PERMITS

202.1 ~~The terms and conditions of each permit shall be subject to amendment, revision, or modification, and a permit may be suspended or revoked by reason of amendments to this subtitle, or by requirements and orders issued by the Mayor. After providing notice and opportunity for appeal pursuant to § 107 of the air quality regulations, the Department may amend, suspend, revoke, or deny the issuance or renewal of a permit issued pursuant to this chapter.~~

202.2 ~~Any permit may be revoked, suspended, or modified, in whole or in part, for any false statement in the application; any false statement of fact required under this subtitle; or because of any condition revealed by the application, any statement of fact, or any report, record or inspection, or other means which would do the following: The Department may take action pursuant to § 202.1 of the air quality regulations if action is warranted by amendments to the District or federal air quality laws and regulations or if the applicant or permit holder:~~

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- (a) ~~Warrant the Mayor to refuse to grant a permit on an original application;~~ or Has violated or failed to comply with any of the terms and conditions of the permit, District or federal air quality laws and regulations, or an Order of the Department;
- (b) ~~Qualify as a violation of or failure to observe any of the terms and conditions of the permit, or of this subtitle, or order of the Mayor.~~ Has made a false statement or misrepresentation material to the issuance, modification, or renewal of a permit;
- (c) Has submitted a false or fraudulent record, invoice, or report; or
- (d) Has had a permit denied, revoked, or suspended in the District or by another state or jurisdiction.

202.3 Except in cases of willfulness or cases in which the public health or welfare requires otherwise, no permit shall be ~~modified~~ amended, suspended, or revoked unless, prior to the institution of proceedings, facts or conduct ~~which~~ that may warrant action ~~shall~~ have been called to the attention of the permittee in writing, and the permittee shall ~~have~~ has been given an opportunity to demonstrate or achieve compliance with all lawful requirements.

202.4 The ~~Mayor~~ Department may terminate or amend a permit upon the written request of the permittee.

202.5 Except as provided in § 302.2, a permit to construct or modify a source shall be valid only if used within one (1) year from the date of issuance.

202.6 A permit to construct or modify a source shall be valid only if used within one (1) year from the date of issuance in one (1) of the following ways:

- (a) The permittee has begun, or caused to begin, a continuous program of physical on-site construction of a source to be completed within a reasonable time; or
- (b) The permittee has entered into binding agreements or contractual obligations that cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

202.7 An action to amend, suspend, revoke, or deny the issuance or renewal of a permit under this section shall be in writing and shall include the following:

- (a) The name and address of the applicant, or holder of, the permit;

- (b) A statement of the proposed action and the proposed effective date and duration of a proposed suspension or denial of a permit;
- (c) A statement of the reasons for the proposed action;
- (d) A statement of when reapplication, if applicable, is acceptable;
- (e) The procedure for requesting an appeal of the Department’s proposed action before it becomes final; and
- (f) Any additional information that the Department deems necessary or appropriate to support the proposed action.

202.8 If the applicant or holder of permit requests an appeal pursuant to this section, a written response to the Department’s legal and factual basis for the proposed action is required, including any explanations, comments, and arguments relevant to the proposed action.

* * *

205 NEW SOURCE PERFORMANCE STANDARDS

205.1 A person shall not construct, modify, or operate or cause to be constructed, modified, or operated a New Source Performance Standard (NSPS) source which results or will result in violations of the provisions of 40 CFR Part 60, as in effect on September 30, 1997, with the terms used and defined in those provisions. The requirements of 40 C.F.R. part 60, subpart A, as in effect on July 29, 2021, together with the terms used and defined, are hereby adopted by reference for the purpose of implementing the New Source Performance Standards (NSPS) for source categories pursuant to the requirements of Section 111(b) of the Clean Air Act, 42 U.S.C. § 7411(b), except as indicated in § 205.3.

205.2 The following provisions of 40 CFR Part 60, as in effect on July 29, 2021, with the terms used and defined in those provisions, are hereby adopted by reference, except as indicated in § 205.3:

<u>Standards of Performance</u>	<u>40 CFR Part 60 Subpart</u>
<u>Steel Plants: Electric Arc Furnaces (EAFs) and Argon-Oxygen Decarburization Vessels (AOD)</u>	<u>Subpart AA – Aaa</u>
<u>Residential Wood Heaters</u>	<u>Subpart AAA</u>
<u>Kraft Pulp Mills</u>	<u>Subpart BB – Bba</u>
<u>Rubber Tire Manufacturing</u>	<u>Subpart BBB</u>
<u>Glass Manufacturing Plants</u>	<u>Subpart CC</u>
<u>Electric Utility Steam Generating Units (Boilers)</u>	<u>Subpart Da</u>

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<u>Industrial/Commercial/Institutional Steam Generating Units (Boilers)</u>	<u>Subpart Db – Dc</u>
<u>Grain Elevators</u>	<u>Subpart DD</u>
<u>Polymers Manufacturing Industry</u>	<u>Subpart DDD</u>
<u>Metal Furniture Surface Coating</u>	<u>Subpart EE</u>
<u>Portland Cement Manufacturing</u>	<u>Subpart F</u>
<u>Flexible Vinyl and Urethane Coating and Printing</u>	<u>Subpart FFF</u>
<u>Nitric Acid Plants</u>	<u>Subpart G – Ga</u>
<u>Stationary Gas Turbines</u>	<u>Subpart GG</u>
<u>Petroleum Refineries Equipment Leaks</u>	<u>Subpart GGG - GGGa</u>
<u>Sulfuric Acid Plants</u>	<u>Subpart H</u>
<u>Lime Manufacturing</u>	<u>Subpart HH</u>
<u>Synthetic Fiber Production</u>	<u>Subpart HHH</u>
<u>Hot Mix Asphalt Facilities</u>	<u>Subpart I</u>
<u>SOCMI Air Oxidation Unit Processes (PDF)</u>	<u>Subpart III</u>
<u>Stationary Compression Ignition Internal Combustion Engines</u>	<u>Subpart IIII</u>
<u>Petroleum Refineries</u>	<u>Subpart J – Ja</u>
<u>Petroleum Dry Cleaners</u>	<u>Subpart JJJ</u>
<u>Stationary Spark Ignition Internal Combustion Engines</u>	<u>Subpart JJJJ</u>
<u>Volatile Organic Liquid Storage Vessels Including Petroleum Storage Vessels -1973-1978 (PDF)</u>	<u>Subpart K</u>
<u>Volatile Organic Liquid Storage Vessels Including Petroleum Storage Vessels - 1978-1984 (PDF)</u>	<u>Subpart Ka</u>
<u>Volatile Organic Liquid Storage Vessels Including Petroleum Storage Vessels</u>	<u>Subpart Kb</u>
<u>Lead Acid Battery Manufacturing</u>	<u>Subpart KK</u>
<u>Onshore Natural Gas Plants - VOC Equipment Leaks</u>	<u>Subpart KKK</u>
<u>Stationary Combustion Turbines</u>	<u>Subpart KKKK</u>
<u>Secondary Lead Smelters</u>	<u>Subpart L</u>
<u>Metallic Mineral Processing Plants</u>	<u>Subpart LL</u>
<u>Onshore Natural Gas Plants - SO₂ Emissions</u>	<u>Subpart LLL</u>
<u>Secondary Brass and Bronze Production Plants</u>	<u>Subpart M</u>
<u>Auto and Light Duty Truck Surface Coating</u>	<u>Subpart MM</u>
<u>Basic Oxygen Process Furnace (BOPF) Primary Emissions</u>	<u>Subpart N</u>
<u>Basic Oxygen Process Furnace (BOPF) Steelmaking Facilities Secondary Emissions</u>	<u>Subpart Na</u>
<u>Phosphate Rock Plants</u>	<u>Subpart NN</u>
<u>SOCMI Distillation (PDF)</u>	<u>Subpart NNN</u>

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<u>Sewage Treatment Plant Incineration</u>	<u>Subpart O</u>
<u>Nonmetallic Mineral Processing Plants</u>	<u>Subpart OOO</u>
<u>Oil and Gas Production, Transmission, and Distribution</u>	<u>Subpart OOOO</u>
<u>Primary Copper Smelting</u>	<u>Subpart P</u>
<u>Ammonium Sulfate Manufacturing</u>	<u>Subpart PP</u>
<u>Wool Fiberglass Insulation Manufacturing</u>	<u>Subpart PPP</u>
<u>Primary Zinc Smelters</u>	<u>Subpart Q</u>
<u>Graphic Arts Industry - Publication Rotogravure Printing</u>	<u>Subpart QQ</u>
<u>Petroleum Refineries - Wastewater Systems</u>	<u>Subpart QQQ</u>
<u>Primary Lead Smelting</u>	<u>Subpart R</u>
<u>Pressure Sensitive Tape and Label Surface Coating</u>	<u>Subpart RR</u>
<u>SOCMI Reactor Processes (PDF)</u>	<u>Subpart RRR</u>
<u>Primary Aluminum Production</u>	<u>Subpart S</u>
<u>Large Appliance Surface Coating</u>	<u>Subpart SS</u>
<u>Magnetic Tape Manufacturing</u>	<u>Subpart SSS</u>
<u>Phosphate Fertilizers: Wet-Process Phosphoric Acid Plants</u>	<u>Subpart T</u>
<u>Metal Coil Surface Coating</u>	<u>Subpart TT</u>
<u>Plastic Parts for Business Machines (surface coating)</u>	<u>Subpart TTT</u>
<u>Standards for GHG Emissions from New, Modified and Reconstructed Electric Utility Generating Units</u>	<u>Subpart TTTT</u>
<u>Phosphate Fertilizers: Superphosphoric Acid Plants</u>	<u>Subpart U</u>
<u>Asphalt Processing and Asphalt Roofing Manufacture</u>	<u>Subpart UU</u>
<u>Calciners and Dryers in Mineral Industries</u>	<u>Subpart UUU</u>
<u>Phosphate Fertilizers: Diammonium Phosphate Plants</u>	<u>Subpart V</u>
<u>SOCMI Equipment Leaks (PDF)</u>	<u>Subpart VV-VVa</u>
<u>Polymeric Coating of Substrates</u>	<u>Subpart VVV</u>
<u>Phosphate Fertilizers: Triple Superphosphate Plants</u>	<u>Subpart W</u>
<u>Beverage Can Surface Coating</u>	<u>Subpart WW</u>
<u>Municipal Solid Waste Landfills</u>	<u>Subpart WWW</u>
<u>Phosphate Fertilizers: Granular Triple Superphosphate Storage Facilities</u>	<u>Subpart X</u>
<u>Bulk Gasoline Terminals</u>	<u>Subpart XX</u>
<u>Coal Preparation and Processing Plants</u>	<u>Subpart Y</u>
<u>Ferroalloy Production Facilities</u>	<u>Subpart Z</u>

205.3 The following exemptions to the language in 40 C.F.R. part 60 are hereby made:

(a) The word “Administrator” as used in the adopted portions of 40 C.F.R. part 60 shall be taken to mean “Director of the Department of Energy and Environment” except in the following sections, where “Administrator” shall have the meaning specified in 40 C.F.R. § 60.2:

- (1) 40 C.F.R. § 60.8(b);
- (2) 40 C.F.R. § 60.11(b);
- (3) 40 C.F.R. § 60.11(e);
- (4) 40 C.F.R. § 60.13(a);
- (5) 40 C.F.R. § 60.13(d)(2);
- (6) 40 C.F.R. § 60.13(g); and
- (7) 40 C.F.R. § 60.13(i);

(b) The following sections from 40 C.F.R. part 60 are not adopted:

- (1) 40 C.F.R. § 60.1(d);
- (2) 40 C.F.R. § 60.4(b);
- (3) 40 C.F.R. § 60.9;
- (4) That part of 40 C.F.R. § 60.4211(f)(3) that reads: “Except as provided in paragraph (f)(3)(i) of this section, the 50 hours per calendar year for non-emergency situations cannot be used for peak shaving or non-emergency demand response, or to generate income for a facility to an electric grid or otherwise supply power as part of a financial arrangement with another entity.”;
- (5) 40 C.F.R. § 60.4211(f)(3)(i);
- (6) That part of 40 C.F.R. § 60.4243(d)(3) that reads: “Except as provided in paragraph (d)(3)(i) of this section, the 50 hours per year for non-emergency situations cannot be used for peak shaving or non-emergency demand response, or to generate income for a facility to an electric grid or otherwise supply power as part of a financial arrangement with another entity.”; and
- (7) 40 C.F.R. § 60.4243(d)(3)(i).

205.4 A person shall not construct, modify, or operate or cause to be constructed, modified, or operated a New Source Performance Standard (NSPS) source which results or will result in a violation of this section.

205.5 Each individual violation of a requirement of the provisions of 40 C.F.R. part 60 that are adopted by this section shall constitute a separate offense for each day of the violation for the purposes of applying the penalty provisions in 20 DCMR § 105.

* * *

210 NOTICE AND COMMENT PRIOR TO PERMIT ISSUANCE

210.1 Before issuing a permit under this chapter, the Department shall prepare a draft permit and provide adequate notice to ensure that the affected community and the general public have reasonable access to the application and draft permit information.

210.2 With the exception of any information that the Department deems is confidential, the Department shall make available for public inspection:

- (a) The application for a permit and any additional information that the Department requests;
- (b) The Department's analysis of the application, including, where required or deemed appropriate, an ambient air quality analysis, a regulatory review, and a control technology review; and
- (c) The draft permit or justification for denial.

210.3 The Department shall publish a notice regarding the draft permit or denial in the *D.C. Register* and shall make the information in § 210.2 available for public inspection at the Department's office. ~~In addition, the Department shall use at least one (1) of the following procedures to ensure appropriate means of notification:~~ and by one or more of the methods described in § 210.4.

- ~~(a) Mail or e-mail a copy of the notice to persons on a mailing list that the Department develops consisting of those persons who have requested to be placed on such a mailing list;~~
- ~~(b) Post the notice on the Department's website;~~

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- ~~(c) — Publish the notice in a newspaper of general circulation in the area affected by the source;~~
- ~~(d) — Provide copies of the notice for posting at one (1) or more locations in the area affected by the source, such as post offices, libraries, community centers, or other gathering places in the community; or~~
- ~~(e) — Employ other means of notification as appropriate.~~

210.4 ~~The notice shall include the following information at a minimum: Department shall use at least one (1) of the following procedures to ensure appropriate means of notification:~~

- ~~(a) Identifying information of the source, including the name and address of the facility, and the name and telephone number of the facility manager or other contact person; Mail or e-mail a copy of the notice to persons on a mailing list that the Department develops consisting of those persons who have requested to be placed on such a mailing list;~~
- ~~(b) For preconstruction permits (including source category permits), the regulated NSR pollutants to be emitted, the affected emissions units, and the emission limitations for each affected emissions unit; Post the notice on the Department's website;~~
- ~~(c) For preconstruction permits, the emissions change involved in the permit action; Publish the notice in a newspaper of general circulation in the area affected by the source;~~
- ~~(d) The name, address, and telephone number of a contact person in the Department from whom additional information may be obtained; Provide copies of the notice for posting at one (1) or more locations in the area affected by the source, such as post offices, libraries, community centers, or other gathering places in the community; or~~
- ~~(e) Locations and times of availability of the information in § 210.2; and Employ other means of notification as appropriate.~~
- ~~(f) A statement that any person may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days from the date of the public notice.~~

210.5 ~~By mail or e-mail, a copy of the notice shall be sent to the applicant, the EPA, through Region III, and to all Affected States (as defined in 20 DCMR § 399) for~~

~~the following permits:~~ The notice shall include the following information at a minimum:

- (a) All NSR permits issued pursuant to § 204; and Identifying information of the source, including the name and address of the facility, and the name and telephone number of the facility manager or other contact person;
- (b) All source category permits, when initially issued. For preconstruction permits (including source category permits), the regulated New Source Review (NSR) pollutants to be emitted, the affected emissions units, and the emission limitations for each affected emissions unit;
- (c) For preconstruction permits, the emissions change involved in the permit action;
- (d) For permits to be issued with conditions pursuant to § 200.6 or § 200.7, a description of the proposed limitation and the resulting potential to emit of the source;
- (e) The name, address, and telephone number of a contact person in the Department from whom additional information may be obtained;
- (f) Locations and times of availability of the information specified in § 210.2; and
- (g) A statement that any person may submit written comments, a written request for a public hearing, or both, on the draft permit action within thirty (30) days from the date of the public notice.

210.6 By mail or e-mail, a copy of the notice shall be sent to the applicant, the U.S. Environmental Protection Agency Region III, and to all Affected States (as defined in § 399) for the following permits:

- (a) All NSR permits issued pursuant to § 204; and
- (b) All source category permits, when initially issued.

211 FEES

211.1 Except as noted under § 211.4, owners or operators of sources required to obtain or renew a permit under this chapter for the construction, modification, or operation of a stationary source, or the installation, modification or operation of any air pollution control device on a stationary source, shall pay all fees applicable according to the following table:

<u>Combustion Equipment</u>	
<u>\$500</u>	<u>Cogeneration Unit, less than 1 Megawatt</u>
<u>\$2,000</u>	<u>Cogeneration Unit, equal to or larger than 1 Megawatt</u>
<u>\$500</u>	<u>Emergency Engines (Less than 1,340 hp)</u>
<u>\$1,000</u>	<u>Emergency Engines (Equal to or greater than 1,340 hp)</u>
<u>\$300</u>	<u>Fuel Burning Equipment – Small (Heat input less than 10 million Btu per hour)</u>
<u>\$500</u>	<u>Fuel Burning Equipment – Medium (Heat input equal to or greater than 10 million Btu per hour, but less than 40 million Btu per hour)</u>
<u>\$1,000</u>	<u>Fuel Burning Equipment – Large (Heat input equal to or greater than 40 million Btu per hour)</u>
<u>\$1,000</u>	<u>Non-Emergency Engines (Less than 1,340 hp)</u>
<u>\$2,000</u>	<u>Non-Emergency Engines (Equal to or greater than 1,340 hp)</u>
<u>Other Equipment or Activities</u>	
<u>\$1,000</u>	<u>Asphalt Plant</u>
<u>\$500</u>	<u>Concrete Plant - Portable</u>
<u>\$500</u>	<u>Crushers and Screens</u>
<u>\$250</u>	<u>Degreaser – Cold Solvent Tank</u>
<u>\$500</u>	<u>Dry Cleaning Facility (using perchlorethylene, petroleum solvents, or n-propyl bromide)</u>
<u>\$1,000</u>	<u>Gasoline Dispensing Station</u>
<u>\$500</u>	<u>Intaglio, Flexographic, and Rotogravure Printing</u>
<u>\$500</u>	<u>Lithograph or Letterpress Printing Operation</u>
<u>\$500</u>	<u>Miscellaneous Parts Paint Spray Booth</u>
<u>\$500</u>	<u>Mobile Equipment Refinishing</u>
<u>\$5,000</u>	<u>New Source Review (NSR) Permit (applicable to initial construction permits only)</u>
<u>Facility Wide Permit</u>	
<u>\$5,000</u>	<u>Plantwide Applicability Limit (PAL) Permit</u>

- 211.2 If the stationary source or air pollution control device on a stationary source is not covered under § 211.1, the permit fee shall be one thousand dollars (\$1,000).
- 211.3 The fee for a variance shall be one thousand five hundred dollars (\$1,500).
- 211.4 Owners or operators who obtain a permit with a condition under § 200.6 shall pay permit fees pursuant to § 305.5.
- 211.5 Fees for permits issued pursuant to § 200.8 shall be prorated based on the number of years, or parts of years, that the permit is valid (rounded up to the next one-year increment).

211.6 Sources may apply for a permit with an effective period less than the default permit term, and pay a prorated fee (rounded up to the next one-year increment).

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 205, 32 DCR 565, 598 (February 1, 1985); as amended by Final Rulemaking published at 45 DCR 7039 (October 2, 1998); as amended by Final Rulemaking published at 69 DCR 014482 (November 25, 2022).