

RULE 1305. PART 70 OPERATING PERMITS - ENFORCEMENT (Adopted 11/09/1993)

A. Applicability

The provisions of this Rule shall apply to all Part 70 operating permits granted pursuant to Regulation XIII.

B. Exemptions

Exemptions do not apply to enforcement of Part 70 operating permits. Rule 1301 Section B describes sources which are exempt from the requirement to obtain Part 70 operating permits.

C. Definitions

For the purposes of this Rule, the definitions of Rule 1301 Section C shall apply.

D. Authority

The District has the authority pursuant to this Rule and H&SC Sections 41508, 41513 and 42400 - 42402 to address violations of Regulation XIII by Part 70 sources as follows:

1. To restrain or enjoin immediately and effectively any person by order or by suit in court from engaging in any activity in violation of a permit that is presenting an imminent and substantial endangerment to the public health or welfare, or the environment;
2. To seek injunctive relief in court to enjoin any violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit;
3. To assess or sue to recover in court civil penalties and to seek criminal remedies, including fines, according to the following:
 - a. Civil penalties shall be recoverable for the violation of any applicable requirement; any permit condition; any fee of filing requirement; any duty to allow or carry out inspection, entry or monitoring activities or, any regulation or orders issued by the permitting authority. These penalties shall be recoverable in an amount of not less than \$10,000 per day per violation. Mental state shall not be included as an element of proof for civil violations.
 - b. Criminal fines shall be recoverable against any person who knowingly violates any applicable requirement; any permit condition; or any fee or filing requirement. These fines shall be recoverable in an amount of not less than \$10,000 per day per violation.
 - c. Criminal fines shall be recoverable against any person who knowingly makes any false material statement, representation or certification in any form, in any notice or report required by a permit, or who knowingly renders inaccurate any required monitoring device or method. These fines shall be recoverable in an amount of not less than \$10,000 per day per violation.

E. Burden of Proof

The burden of proof and degree of knowledge or intent required for establishing violations under Section D.3 of this Rule shall be no greater than the burden of proof or degree of knowledge or intent required under the CAA.

F. Appropriateness of Penalties and Fines

A civil penalty or criminal fine assessed, sought, or agreed upon by the District under Section D.3 of this Rule shall be appropriate to the violation.

G. Variances

1. The Control Officer may issue a Part 70 permit to operate if the owner or operator of the Part 70 source presents a variance, or an abatement order that has the effect of a variance, exempting the owner or operator from California H&S Code Section 41701 or other sections, any rule or regulation of the District, or any permit condition imposed pursuant to this section. In either case, the requirements for the issuance of a Part 70 permit shall be otherwise satisfied. The terms and conditions of any variance or abatement order shall be incorporated into the permit as a compliance schedule, to the extent required by Part 70 rules. Such variance or abatement order must also be granted in accordance with the provisions of District Regulation V.
2. Part 70 sources shall not be granted a variance or an abatement order which has the effect of a variance, from the requirement for a permit to operate.

H. Compliance Schedule

All Part 70 sources subject to this rule, except the outer continental shelf (OCS) sources, shall comply with this rule on the date they become subject to the operating permit program as approved by the USEPA for the District. All OCS sources shall comply with this rule either on the USEPA's approval date of this rule or on the date USEPA delegates the OCS program to the District, whichever is later. Specific dates for compliance are provided in relevant sections of this rule.

I. Effective Date of Rule

The requirements of this rule shall become effective on the date of approval by USEPA.