

310 CMR 7.00: AIR POLLUTION CONTROL

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APPENDIX C: OPERATING PERMIT AND COMPLIANCE PROGRAM

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(15) General Operating Permits.

- (a) The Department may, after notice and opportunity for public comment provided at 310 CMR 7.00: *Appendix C*(6), issue a general operating permit applicable to numerous similar operations or facilities. Each general operating permit shall specify criteria by which facilities may qualify for the general operating permits. General operating permits shall contain as applicable, the requirements of 310 CMR 7.00: *Appendix C*(3)(g).
- (b) Facilities subject to the requirements of 310 CMR 7.00: *Appendix C*(2) (Applicability) may seek a general operating permit previously issued by the Department, where appropriate, by applying to the Department under the requirements of 310 CMR 7.00: *Appendix C*(5). An application shield shall apply (310 CMR 7.00: *Appendix C*(11)).
- (c) Affected units subject to the acid rain requirements of 42 U.S.C. 7401, Title IV are not eligible for general operating permits unless otherwise provided for under regulations promulgated by EPA under 42 U.S.C. 7401, Title IV.
- (d) The approval of a facility's request for authorization to operate under a general operating permit shall not be a final permit action for the purpose of judicial review.
- (e) Any permittee in possession of a general operating permit who proposes a modification to the equipment or control device which deviates from any term or condition of the general operating permit, shall apply for an individual operating permit consistent with the rules and procedures under 310 CMR 7.00: *Appendix C*.
- (f) Notwithstanding the shield provisions of 310 CMR 7.00: *Appendix C*(12) the owner or operator of the facility shall be subject to enforcement action for operation without an operating permit if the facility is later determined not to qualify for the conditions and terms of the general permit.
- (g) If a facility can no longer be covered under the general permit terms and conditions, the owner or operator of said facility must apply for an individual operating permit.

~~(16) Emergency Conditions.~~

- ~~(a) The owner or operator of a facility subject to 310 CMR 7.00: *Appendix C* shall be shielded from enforcement action brought for non-compliance with technology-based emission limits specified in the operating permit as a result of an emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of 310 CMR 7.00: *Appendix C*(16) are met. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:~~
- ~~1. An emergency occurred and that the cause(s) of the emergency can be identified;~~
 - ~~2. The facility was at the time being properly operated;~~
 - ~~3. During the period of the emergency all reasonable steps were taken as expeditiously as possible to minimize levels of emissions that exceeded the emission standards, or other requirements in the operating permit; and~~

~~4. Notice of the emergency was submitted to the Department within two business days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of 310 CMR 7.00: *Appendix C*(10). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.~~

~~(b) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.~~

~~(c) This provision is in addition to any emergency or upset provision contained in any applicable requirement.~~