



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

Compliance Advisory

Effective November 5, 2018
Solid Waste Disposal Sites

This Compliance Advisory is provided to inform you about activities of the Air District which may affect your organization's operation. It will assist you in your efforts to achieve and maintain compliance with applicable air pollution rules and regulations.

ATTENTION: SOLID WASTE DISPOSAL SITES

**SUBJECT: LIMITED EXEMPTIONS PURSUANT TO REGULATION 8, RULE 34,
SECTION 113 - INSPECTION AND MAINTENANCE**

NOTE: This advisory supersedes all prior advisories regarding Section 113.

The purpose of this advisory is to restate and confirm past statements made by the Air District regarding the scope of the limited exemptions for inspection and maintenance provided in Air District Regulation 8, Rule 34, Section 113. The goal of this advisory is to ensure that landfill operators understand the Air District's intent going forward as the Air District enforces the proper use of this exemption.

Regulation 8, Rule 34, Section 113 provides an exemption from rule requirements for continuous operation of gas collection and abatement systems for "inspection and maintenance." Facilities subject to Regulation 8, Rule 34 may use this exemption for up to 240 hours per year provided no individual shutdown exceeds five consecutive days. Landfill operators in the Bay Area have at times asserted that the Section 113 exemption is available for shutdowns that result from power outages. A September 30, 2009 Compliance Advisory from the Air District refutes this assertion and states that for "unplanned electrical interruptions caused by a third party, a facility may request breakdown relief," if the criteria of Air District Regulation 1 pertaining to breakdown requests are met. On March 5, 2013, the Air District issued an advisory clarifying the availability of the Section 113 exemption in situations where a shutdown is effected to allow for inspection and maintenance in response to performance monitoring or parametric indicators. The 2013 Advisory did not address or modify statements in the 2009 Advisory regarding shutdowns that result from power outages.

"Inspection" and "maintenance" in Section 113 are to be interpreted according to their common meanings. "Inspection" is commonly defined as the act of looking at something closely. "Maintenance" is commonly defined as the process of keeping something in good condition by regularly checking and repairing it when necessary. That these terms are conjoined in the phrase "inspection and maintenance" in Section 113 underscores the intent to exempt only activities that are preventative in nature. The common meaning of "inspection and maintenance" does not include actions taken in response to unplanned events. As stated in previous advisories, the intent of the Section 113 exemption is to incentivize monitoring and advanced planning to help avoid emissions that result from unplanned shutdowns.

The Air District has recently become aware that, notwithstanding these prior Compliance Advisories and the plain meaning of "inspection and maintenance," landfill operators have continued to categorize shutdowns due to unplanned power outages as "inspection and

maintenance” rather than report these as non-compliance events. The Air District’s review of operating logs reveals this practice to have been widespread amongst landfills.

Instances in which landfill operators have recorded unplanned power outages as “inspection and maintenance” events exempt pursuant to Section 113 are violations of Regulation 8, Rule 34. However, for the purpose of achieving an effective allocation of the Air District’s enforcement resources, the Air District will not issue Notices of Violation for such instances of non-compliance that pre-date this Compliance Advisory. Going forward, unplanned power outages that are not reported as non-compliance, but rather are claimed as exempt under Section 113, will be the subject of a Notice of Violation and subsequent enforcement.

The following reiterates previous guidance regarding events that **qualify** for the Section 113 exemption:

The intent of the Section 113 exemption is to encourage careful monitoring and advanced planning that prevents unexpected shutdown of air pollution control equipment (i.e., flares or engines) that are otherwise required to be operated continuously.

- “Inspection” means proactive inspection activities, including those that require shutdown of air pollution control equipment **prior to any non-compliance**, and can include inspections conducted in response to performance monitoring or parametric indicators of the system or components (for example, temperature or flow indicators) where such monitoring or indicators are predictive of a pending equipment failure and shutdown.
- “Maintenance” means repair of equipment **prior to any non-compliance**, or the augmentation or replacement of control equipment pursuant to an Air District Authority to Construct.

An operator claiming the Regulation 8, Rule 34, Section 113 exemption for inspection and maintenance due to anticipated non-compliance (as opposed to inspection and maintenance) has the burden of demonstrating that the facility was in compliance prior to the shutdown and that a likelihood of non-compliance was indicated by monitoring or parametric data. In this circumstance the operator should carefully document the data predictive of non-compliance consistent with Regulation 8, Rule 34, Section 501. A shutdown that is not deliberately undertaken for the purpose of inspection and maintenance is not exempt under Regulation 8, Rule 34, Section 113. A shutdown due to an unplanned electrical interruption is not exempt under Regulation 8, Rule 34, Section 113.

Operators that experience an unplanned power outage have the option of requesting breakdown relief pursuant to Air District Regulation 1, Section 112. The power infrastructure of a landfill constitutes “operating equipment” within the meaning of Regulation 1, Section 112. This is the case even for equipment that is offsite and operated by a public utility. Pursuant to Regulation 1, Section 113, the Air District may grant breakdown relief (i.e., may choose not to pursue enforcement action) if either: a) corrective actions have been taken and emissions are in compliance, or b) malfunctioning equipment has been shutdown before the earlier of the next production run or within 24 hours. It should be noted that Regulation 1, Section 113 is more descriptive of a manufacturing process than of a landfill where no “production runs” occur and where the shutdown of “operating equipment” will generally lead to surface emissions. The Air District nevertheless takes the position that Regulation 1, Section 113 is an appropriate guide to the exercise of enforcement discretion at landfills. Specifically, where the failure of landfill

operating equipment, including power infrastructure, is remedied within 24 hours and meets the other criteria of Regulation 1 breakdown provisions, enforcement discretion may be appropriate.

The Air District's exercise of enforcement discretion takes into account whether an incident that is the subject of a request for breakdown relief is re-occurring. Re-occurring power outages at a landfill may indicate a general unreliability that should be remedied to avoid excess emissions. A landfill operator requesting breakdown relief for a re-occurring power outage has the burden of showing that the most recent outage is due to a different cause or, if it is a re-occurring cause, that the adequate measures are being taken to avoid further re-occurrences.

For questions about this advisory, please contact Deepti Jain, Air Quality Specialist, at djain@baaqmd.gov or (415) 749-5097.

For a copy of the above-listed rule, see <http://www.baaqmd.gov/~media/dotgov/files/rules/reg-8-rule-34-solid-waste-disposal-sites/documents/rg0834.pdf>



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