RULE 901 Update

Rule Requirements and History

Rule 336.1901 (Rule 901), commonly known as the 'Nuisance Rule', does not allow a person to cause or permit an air contaminant which is injurious to human health or safety, and does not cause unreasonable interference with the comfortable enjoyment of life and property. The rule became effective in January 1980 and was amended in March 2002. This rule is cited as an underlying applicable requirement (UAR) in permit conditions as it is deemed necessary by the permit engineer and district staff during the review of a Permit to Install (PTI) application.

ORR Recommendation A-11

With stakeholder involvement, rulemaking should be undertaken to clarify how R336.1901 is to be used in the Permit to Install process. R336.1901 should be limited to responding to and resolving *known* odor issues and other nuisances. As part of this review, all templates and standard language will be reviewed to assure the appropriate use of R336.1901.

Analysis

During the review of a PTI application, all applicable requirements for the emission unit(s)/source are considered. It is then determined what special conditions, if any, should be included in a permit as a result of that review. In order to ensure consistency amongst staff when developing a permit, standard permit condition language was developed and templates were written for the source categories most commonly reviewed in the section.

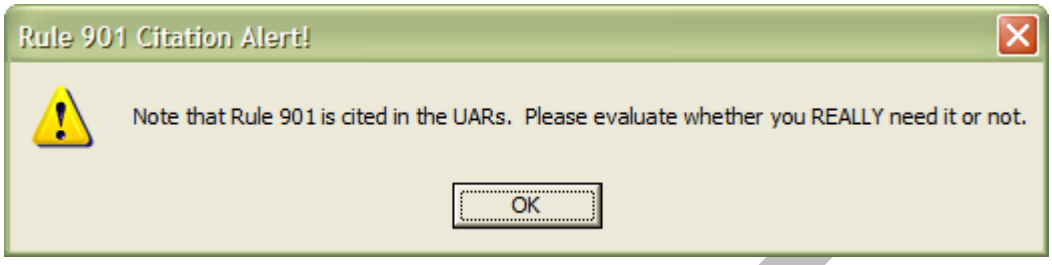
For each special condition developed, all potential underlying applicable requirements were included with the intent being that the permit engineer would review this list and determine which were appropriate to include for the situation, the emission unit(s), and/or the source under review and remove those that were unnecessary. The reason for citing all potential UARs in each special condition was so that unintentional omissions of applicable requirements were not made. Additionally, it was never intended that each UAR cited would remain. Instead, the intent was that AQD staff (both permit engineer and district inspector) would evaluate the listing and identify, and keep, those that apply to the review at hand.

A review of each PTI template and special condition has been conducted to identify where R336.1901 has been cited as a potential underlying applicable requirement. For the permit templates, each instance that Rule 901 is identified as a possible underlying applicable requirement, the font has been changed to red text to alert staff of its inclusion in the list of potential applicable requirements. This small step will help to draw staff's attention to the Rule 901citation and determine if it is appropriate to remain. If it is, the red text must be changed to black text. If it is not to be included, the text is simply deleted. However, some type of action is necessary by the permit engineer either way.

A second alert was added to draw staff's attention to the inclusion of Rule 901 being listed as a potential UAR for a permit condition. If an engineer imports conditions into a permit shell through a computer program known as 'Permit Writer' (a database of all standardized permit

DRAFT

conditions), and the condition includes Rule 901 as a potential UAR, an alert box will pop up on the computer screen with the following statement:



This alert box requires action on the part of the permit engineer and will serve as a reminder that consideration should be given as to whether Rule 901 is an appropriate applicable requirement in that instance.

Rule 901 is cited as an underlying applicable requirement when a known odor problem exists either at the facility, or due to the process that is being permitted. There are many source types with known odor issues which may be able to be mitigated through operating parameters and/or equipment design. These considerations are made during the permit review.

Additionally, fugitive emissions are generally considered nuisance issues, and potentially odorous, issues as well. These emissions are evaluated as part of a permit review and can potentially be mitigated through operational parameters, following a prescribed fugitive dust plan, and/or a combination of both.

<u>Recommendation</u>

AQD permit staff have evaluated all potential instances of where Rule 901 may be cited as an underlying applicable requirement in a Permit to Install and have taken measures to ensure that staff are citing Rule 901 appropriately during a permit application review. Therefore, no further action is needed.

Prepared by: Cindy Smith

December 12, 2012

DRAFT