

RULE 901 Discussion - UPDATE  
April 9, 2013

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.

Update

Prior to the last Air Advisory Council (AAC) meeting on March 1, 2013, members were provided recent permits and associated evaluation forms, odor management plans (OMP) and a draft procedure to aid in the discussion of Rule 901 and how it is being utilized in the permit review process. Information related to the procedures that field staff uses in the evaluation of a Rule 901 complaint was also provided.

There was considerable discussion at the meeting regarding the purpose of Rule 901, the role of 901(b) in permitting, and the concerns of the AAC members. The Air Quality Division (AQD) agreed to provide information on the number of complaints related to Rule 901, the types of nuisances, and the number of Rule 901 violation notices sent.

After review of the use of Rule 901 and extensive discussion of the issues raised by the ORR and AAC, the AQD is proposing to issue a new Policy and Procedure to provide direction on the use of Rule 901(b) in the air permitting process and to provide guidance on Nuisance Management Plans on the AQD website. Details of this proposal are found in the Recommendation Section.

Background

Rule 901 is not a permit rule; it is a rule that applies to all sources regardless of whether or not a Permit to Install (PTI) is required. This rule is most often used to address a nuisance situation that is affecting the public. The AQD has a responsibility to the public to address their concerns, and Rule 901 is one of the tools available to resolve the situation.

However, it is also the responsibility of the AQD to *prevent* nuisance situations from occurring when possible. One mechanism that can be used to prevent a nuisance problem from occurring is through a permit. During a permit review, preventative measures for minimizing a source's impact on the surrounding community can be identified and established as permit conditions. Most often these measures are work practices or operational standards such as using different materials and/or keeping covers closed on tanks. Control devices are another example of a nuisance prevention method. Control devices can be as simple as the use of dry filters in a paint spray booth to prevent fallout or as sophisticated as the use of loadout control for an asphalt plant, a flare for a gas well, or a thermal oxidizer in a coating operation. Such operational or performance management type practices reduce nuisance potential and aid in maintaining a positive relationship with neighbors. Local citizens will have a level of confidence that the source is doing what it can to prevent problems from occurring, increasing the likelihood that they will work cooperatively with the AQD and the source to address any concerns in the future.

It should be recognized that AQD staff have extensive experience and knowledge of source types and/or process equipment that have a high potential to generate a nuisance situation. This experience assists all parties involved—the source, AQD, and local citizens—in addressing potential issue(s) before they become a problem. It is much more difficult to address a problem after it has occurred. The measures that could have been used to prevent the problem from occurring prior to operation can be more costly to implement once the process is established, both in terms of time and resources.

As mentioned in previous updates, AQD permit staff reviewed all of the permit special conditions and templates to note where Rule 901 is listed as an applicable requirement. Steps have been taken to draw attention to these potential underlying applicable requirement (UAR) citations to ensure that Rule 901 is being used as a UAR appropriately. Ongoing discussions remind permit staff of the appropriate use of the rule during a permit review. The technical support documents contained in the permit file will identify the review that was done for Rule 901 purposes and the special conditions within the permit for which the primary purpose is the prevention of nuisance situations.

### Rule 901

The following information related to nuisance complaints received by the AQD since October 1, 2007:  
Complaints

- 6814 nuisance (Rule 901) complaints received<sup>1</sup>
- 60% were related to registered facilities (sources with SRNs); 40% to unregistered facilities

Rule 901 Violation Notices

- 220 Violation Notices (VNs) were issued for the 6814 Rule 901 complaints
- 80% were sent to registered facilities; 20% to unregistered facilities
- 71 VNs were sent to Title V sources; 106 VNs to minor or opt-out sources
- 53 VNs were sent to 8 Title V sources. These 8 sources are 2% of Michigan's Title V sources.

Violation Notices

- Overall, 2116 VNs have been sent by the AQD for violations of state and/or federal law.
- Rule 901 VNs are 10% of the total VNs sent.

### Recommendation

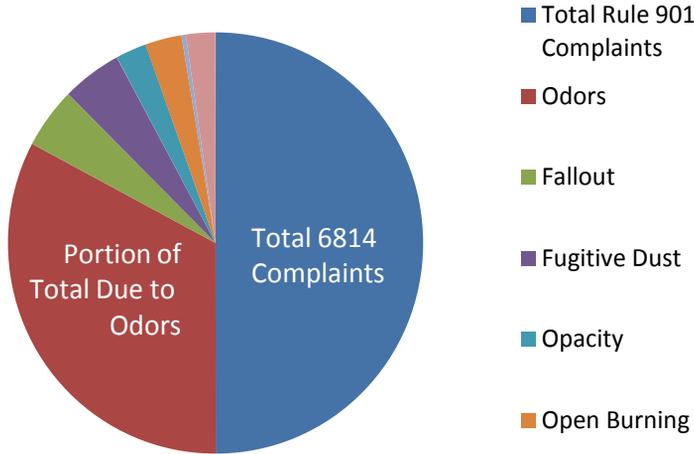
The AQD will take the following steps:

- Issue a new Policy and Procedure to provide direction to everyone on the use of Rule 901(b) in the air permitting process. The procedure will specify:
  - Rule 901 will not be listed as a UAR for a permit condition unless the primary purpose for that condition is nuisance prevention.
  - The Department's written documentation associated with a PTI review will identify the measures used to mitigate potential nuisances whenever Rule 901 was not identified as a UAR for a PTI condition.
  - The permit conditions addressing nuisance will reflect operational or performance management type practices and shall not specify emission limitations. Examples include frequency of watering unpaved roadways, installation of load-out control, the use of covers on tanks, or prohibiting the use of a material.
  - The term Nuisance Management Plan shall replace Odor Management or Fugitive Dust Plans
- Post example Nuisance Management Plans and a generic template Nuisance Management Plan on the AQD website.

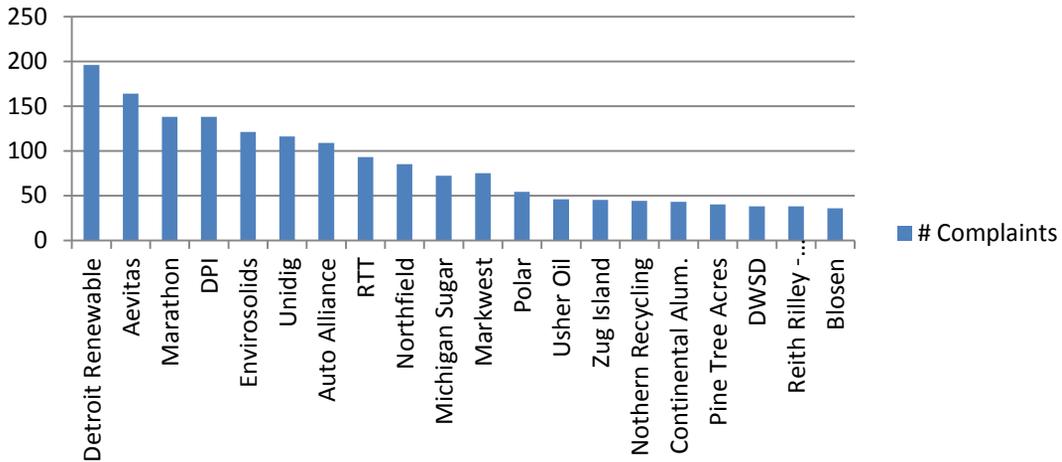
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<sup>1</sup> The 6814 complaints do not include any complaints related to asbestos or dry cleaning operations.

# Breakdown of 6814 Complaints From FY08 to Present



## Sources of Odor Complaints FY08 to Present



## Sources of Fallout Complaints FY08 to Present

