

RULE 901 Discussion—UPDATE
July 2, 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 (PTI) 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

At the Air Advisory Council (AAC) meeting on May 16, 2013, there was a discussion regarding the purpose of Rule 901, the role of 901(b) in permitting, and the concerns of the AAC members. During this meeting, there was an agreement that the draft policy and procedure would be revised to reflect some of the recommendations of the AAC members. A review of their recommendations was completed, and the policy and procedure draft document was updated accordingly.

Background

Rule 901 is not a permit rule; it is a rule that applies to all sources regardless of whether or not a 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 Air Quality Division (AQD) to *prevent* nuisance situations from occurring when possible. One mechanism that can be used to prevent a potential nuisance problem 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 has 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 appropriately. Ongoing discussions with staff remind them 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 (if any) within the permit for which the primary purpose is the prevention of nuisance situations.

Recommendation

The AQD will take the following steps:

- Issue a 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 DEQ's written documentation associated with a PTI review will identify the measures used to mitigate potential nuisances in all cases of a Rule 901 evaluation.
 - 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 Minimization Plan shall replace Odor Management or Fugitive Dust Plans
- Post example Nuisance Minimization Plans on the AQD website.