

Rule 400 Permit Requirements

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Rule 400

- 1 **PURPOSE:** The purpose of this Rule is to require any person constructing, altering, or operating a source that emits or may emit air contaminants to obtain an Authority to Construct or Permit to Operate from the Air Pollution Control Officer (APCO) and to provide an orderly procedure for application, review, and authorization of new sources and of the modification and operation of existing sources of air pollution. Stationary sources that are subject to Rule 1101-*Title V-Federal Operating Permits* of these Rules and Regulations shall also comply with the procedures specified in this Rule.
- 2 **EXEMPTIONS:** An Authority to Construct, Permit to Operate, or other written authority shall not be required for emissions units listed in Rule 401-*Exemptions* of these Rules and Regulations, provided the required records, documentation, and other stipulations of Rule 401 are met.
- 3 **DEFINITIONS:** Unless otherwise defined below, the terms used in this Rule are the same as defined in Rule 101-*Definitions* of these Rules and Regulations:
 - 3.1 **Administrative Permit Amendment:** An amendment to an application, Authority to Construct permit, or Permit to Operate which:
 - 3.1.1 Corrects a typographical error; or
 - 3.1.2 Identifies a minor administrative change at the stationary source; for example, a change in the name, address, or phone number of any person identified in the permit.
 - 3.2 **Air Pollution Control Officer (APCO):** The Air Pollution Control Officer of the Butte County Air Quality Management District (DISTRICT) or his or her designated representative.
 - 3.3 **Ambient Air Quality Standards (AAQS):** All references to ambient air quality standards shall be interpreted to include both national and State ambient air quality standards. For the purpose of submittal to the U.S. Environmental Protection Agency (EPA) for inclusion in the California State Implementation Plan, all references in this Rule to ambient air quality standards shall be interpreted as National Ambient Air Quality Standards.
 - 3.4 **Annual Permit Renewal Date:** The day and month that a Permit to Operate is set to expire unless renewed, and that same day and month of each succeeding year.
 - 3.5 **Applicable Requirements:** Air quality requirements with which a facility must comply which includes, but is not limited to, the DISTRICT's Rules and Regulations, any terms and conditions of an Authority to Construct permit or Permit to Operate, codes of California regulations and statutory law, the Federal Clean Air Act as amended in 1990 and implementing regulations,

other provisions of the United States Code (U.S.C.), and the Code of Federal Regulations (CFR).

- 3.6 Authority To Construct (ATC):** A pre-construction permit which authorizes construction, installation, replacement or other modification to an emissions unit and conforms to the requirements of Rule 430-*State New Source Review* or Rule 432-*Federal New Source Review* of these Rules and Regulations, as applicable.
- 3.7 Commence:** As applied to construction, means that the owner or operator has met all applicable requirements and has:
- 3.7.1** Begun, or caused to begin, a continuous program of on-site construction of the source, to be completed in a reasonable time; or
- 3.7.2** Entered into binding agreements or contractual obligations to undertake a program of actual on-site construction of the source to be completed within a reasonable time, which cannot be canceled or modified without substantial loss to the owner or operator.
- 3.8 Emissions Unit:** An identifiable operation, process, or piece of process equipment such as an article, machine, or other contrivance which controls, emits, may emit, or results in the emissions of any air pollutant directly or as fugitive emissions.
- 3.9 Initial Start-up:** The first time a source, emissions unit, control device, or other instrumentation or activity authorized by permit becomes operational.
- 3.10 Permit to Operate (PTO):** A permit issued by the APCO that authorizes the operation of a newly constructed or existing emissions unit which may contain conditions of operation to ensure the operation of the emissions unit complies with all applicable requirements.
- 3.11 Responsible Official:** An individual with the authority to certify that a source complies with all applicable requirements, including the conditions of permits issued to sources in accordance with Regulation IV-PERMITS of these Rules and Regulations; one of the following:
- 3.11.1** For a corporation, either a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
- 3.11.1.1** The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million; or

commences operation, the Authority to Construct may remain in effect as a Temporary Permit to Operate until a Permit to Operate for the equipment is granted or denied or the application is canceled but not for a period to exceed twelve (12) months.

- 4.2 Permit To Operate:** Any person operating an emissions unit subject to this Rule shall first obtain a permit from the APCO.
- 4.3 Required Information:** The APCO may require from an applicant or permit holder of any permit provided for in these Rules and Regulations any information, analyses, plans, or specifications which will disclose the nature, extent, quality, or degree of air contaminants which are or may be discharged by the source for which the permit was issued or applied. The APCO may require that such disclosures be certified by a professional engineer registered in the State of California. A responsible official representing the owner or operator shall certify the truth, accuracy and completeness of disclosures. Studies necessary to provide such information shall be at the expense of the owner or operator of the source for which a permit was issued or applied.
- 4.4 Standards For Granting Applications**
- 4.4.1** The APCO shall not grant an Authority to Construct or Permit to Operate unless the APCO determines the source or emissions unit will comply with all applicable requirements and will not interfere with maintenance or attainment of an AAQS.
- 4.4.2** The regulations in effect at the time any application for an Authority to Construct for a new or modified source or emissions unit is deemed complete shall apply to that source, except when a new federal requirement not yet incorporated in this Rule applies to the new or modified source.
- 4.4.3** No Permit to Operate shall be granted, either by the APCO or the DISTRICT Hearing Board, for any source or emissions unit which has been constructed or installed without authorization as required by Section 4.1 of this Rule, until:
- 4.4.3.1** The information is submitted that enables the APCO to determine the source or emissions unit is in compliance with all applicable requirements and that it will not interfere with maintenance or attainment of an AAQS; and
- 4.4.3.2** Such emission unit is altered, if necessary, and made to conform to or comply with all applicable requirements.
- 4.4.4** When determining whether or not to issue a Permit to Operate, if the APCO finds that the emission unit has not been constructed in accordance with the Authority to Construct, the APCO shall deny the Permit to Operate.
- 4.4.5** The APCO shall require enforceable emissions limitations as permit conditions in any Authority to Construct and Permit to Operate to

assure the permanence of surplus actual emissions reductions applied for use as onsite internal reductions or emission reduction credits.

4.4.6 Issuance of an Authority to Construct shall not relieve any owner or operator of the responsibility to comply fully with all applicable requirements.

4.4.7 The APCO shall determine whether an applicant for an Authority to Construct or modification to a potential source of air contaminants, located within 1,000 feet from the outer boundary of a school, has complied with the applicable requirements of California Health and Safety Code (HSC) Section 42301.6 including preparation and distribution of a public notice, prior to approving an application for an Authority to Construct. (Remove for SIP submittal)

4.4.8 The APCO may impose terms and conditions as necessary in any Authority to Construct or Permit to Operate to assure compliance with applicable requirements.

4.5 Public Notice and Publication Actions: For the sources applying for a permit that have a potential to emit over 25 tons per year for any AAQS pollutant (except Carbon Monoxide PTE shall be 50 TPY), the APCO shall:

4.5.1 Publish within ten (10) calendar days following a preliminary decision to issue an Authority to Construct for an emissions unit in at least one (1) newspaper of general circulation in the District, a notice stating the preliminary decision of the APCO noting how pertinent information may be obtained, how to request a hearing on the proposed item, and inviting written public comment for at least a thirty (30)-day period following the date of publication.

4.5.2 No later than the date of publication, transmit the preliminary decision, the application analysis, and copies of the notice submitted for publication to the applicant.

4.5.3 No later than the date of publication, transmit the preliminary decision and copies of the permit application, analysis, and the notice submitted for publication to the California Air Resources Board (CARB) and EPA.

4.5.4 No later than the date of publication, make available for public inspection the applicable information submitted in the application, the proposed permit, the application analysis, and copies of the notice submitted for publication.

4.6 Permit Renewal

4.6.1 The APCO shall review the conditions of every Permit to Operate prior to its expiration to ensure compliance and enforceability of all applicable requirements. The APCO shall revise the conditions to include requirements which were in effect at the time the permit was issued or modified, or which have subsequently been adopted and made retroactively applicable to an existing emission unit, or any

new applicable requirements, if these permit conditions are necessary to assure compliance with all applicable requirements.

4.6.2 The APCO may establish an annual permit renewal date for all Permits to Operate held by a stationary source. At the request of the source, the APCO may revise the annual permit renewal dates for a stationary source with more than one (1) Permit to Operate to make the permits renewable on the same date. Thereafter, all Permits to Operate at the stationary source shall be renewable that same day and month of each succeeding year, subject to any other applicable requirements regarding validity, voiding or revocation of permits.

4.6.3 Every Permit to Operate shall be renewed annually on the permit's annual permit renewal date unless action to suspend, cancel, or revoke the permit has been initiated in accordance with Sections 5.5, 5.6, or 5.7 of this Rule and has resulted in a final determination to suspend or revoke the permit by the APCO or the Hearing Board and all appeals have been exhausted or the time for appeals has expired.

4.7 Permit Conveyance

4.7.1 Transfer of Ownership: An Authority to Construct or Permit to Operate shall only be transferable from one person to another by submittal of an application for authorization in accordance with Section 5.1 of this Rule.

4.7.2 Change of Location: An Authority to Construct or Permit to Operate shall not be transferable from one location to another. This action constitutes a new source or emissions unit which is subject to the requirements of Section 4.4 of this Rule.

4.8 Provisions for Sampling and Testing Facilities: The APCO may require a person operating or using any article, machine, equipment or other contrivance, the use of which may cause the issuance of air contaminants or the use of which may eliminate, reduce or control the issuance of air contaminants to provide and maintain such facilities as are necessary for sampling and testing. In the event of such requirements, the Air Pollution Control Officer shall notify the person in writing of the required size, number and location of sampling ports; the size and location of sampling platform; the access to the sampling platform; and the utilities for operating the sampling and testing equipment. The platform and access shall be constructed in accordance with the General Industry Safety Orders of the State of California.

4.9 Source Performance Testing: The owner or operator of a source shall conduct performance test(s) as required by the conditions of the Authority to Construct or Permit to Operate in accordance with the test methods and operating conditions specified by the ATC/PTO and/or as approved by the APCO to determine compliance with applicable emission limitations or to

confirm emission reductions claimed.

- 4.9.1** The performance test(s) shall occur within sixty (60) days after achieving the maximum production rate or the maximum rate of emissions to which the source is limited by enforceable conditions, but not later than one hundred eighty (180) days after initial startup of such source.
- 4.9.2** A performance test protocol shall be submitted to the APCO for review and written approval at least thirty (30) days prior to the scheduled test date.
- 4.9.3** The owner or operator of a source shall provide the APCO with ten (10) days prior notice of the performance test date, time and location to afford the APCO the opportunity to have an observer present.
- 4.9.4** The owner or operator shall furnish the APCO a written report of the performance test(s) results within sixty (60) days of completion of such tests unless an extension is requested in writing and granted by the APCO.
- 4.9.5** The performance test(s) shall be at the expense of the owner or operator.
- 4.9.6** Testing shall be conducted with the source(s) of emissions operating at or near maximum capacity or other rate conforming to the maximum rate of emissions to which the source(s) is limited by enforceable condition(s).
- 4.9.7** The source testing shall follow the applicable methods as specified in Section 6.1 of this Rule.
- 4.9.8** The APCO may monitor such tests and may also conduct performance tests and charge fees to perform such activities in accordance with Rule 502-*Source Testing Fees* of these Rules and Regulations.
- 4.9.9** The APCO may waive the requirement for performance tests if the owner or operator of a source has demonstrated by other means to the APCO's satisfaction that the source is being operated in compliance with all applicable requirements.
- 4.9.10** Any changes to or deviations from the requirements in Section 4.9 must first be approved in writing by the APCO.

4.10 AIR QUALITY IMPACT ANALYSIS: For the purpose of performing an impact analysis, the following shall apply:

- 4.10.1** Air quality models shall be consistent with the requirements specified in 40 CFR Part 51, Appendix W ("Guidelines on Air Quality Models"), unless the APCO finds that such model is inappropriate for use. After making such a finding, the APCO may designate an alternative model only after allowing for public comment and only with the concurrence of CARB and EPA;
- 4.10.2** All modeling costs associated with the site of a new or modified emissions unit shall be borne by the applicant;

- 4.10.3** In performing an air quality impact analysis, if the proposed stack height is higher than is dictated by good engineering practices, as defined in 40 CFR 100(ii), then the actual height used for the purposes of modeling shall be calculated in accordance with good engineering practices.
- 4.10.4** Maximum ground level concentration added to background levels shall be compared to ambient air quality standards.
- 4.11 Indemnification:** Each applicant for, and recipient of, an Authority to Construct Permit or Permit to Operate agrees to indemnify, defend and hold the DISTRICT (including its Board Members, officers, directors, managers, employees and agents) harmless and free and clear from and against any liability, debt, obligation, claim, judgment, action, cause of action or cost or expense, of any amount or nature whatsoever incurred by or imposed upon the DISTRICT arising out of, as a result of, related to or in any way in connected with the denial, issuance, modification or renewal of a permit, including a permit by the Hearing Board. Such costs or expenses shall include, but not be limited to, reasonable attorney's fees, expert witness fees and all other litigation expenses. (Remove for SIP submittal)

5 ADMINISTRATIVE REQUIREMENTS

- 5.1 Applications:** An application for an Authority to Construct, Permit to Operate, change of ownership, permit amendment or modification, permit reopening, revision, or exemption that requires a determination by the APCO, shall be filed in the manner and form prescribed by the APCO and shall give all the information necessary to enable the APCO to make the determinations required by Section 4 of this Rule.
- 5.1.1** A responsible official representing the owner or operator shall certify the truth, accuracy and completeness of application forms.
- 5.1.2** When the information submitted with the application is insufficient for the APCO to make the required determinations, the APCO shall request in writing to a responsible official to supplement any application with additional information within the time frame specified by the APCO.
- 5.1.3** A responsible official shall promptly provide additional information in writing to the APCO upon discovery of submittal of any inaccurate information as part of the application or supplement or of any additional relevant facts previously omitted which are needed for accurate analysis of the application.
- 5.1.4** Intentional or negligent submittal of inaccurate information shall be reason for denial of an application.
- 5.1.5** An application submitted in accordance with this Section shall be accompanied by payment of the application filing fee specified in Regulation V-FEES of these Rules and Regulations.
- 5.1.6** A responsible official may request an administrative permit

amendment in writing. The APCO shall take final action no later than sixty (60) days after receiving the written request for an administrative permit amendment, and take the following actions:

- 5.1.6.1** After verifying the permit revision is an administrative permit amendment, the APCO may revise the permit without providing notice to the public or any affected state.
- 5.1.6.2** The APCO shall provide a copy of the revised permit to the responsible official,
- 5.1.6.3** While the APCO need not make a completeness determination, the APCO shall notify the responsible official if the APCO determines that the permit cannot be revised as an administrative permit amendment.
- 5.1.6.4** No additional fees shall be assessed for an administrative permit amendment.

5.2 Action On Applications

- 5.2.1 Complete Application:** The APCO shall determine whether the application is complete not later than thirty (30) days after receipt of the application, or after such longer time mutually agreeable to the applicant and the APCO, and notify the applicant in writing.
- 5.2.2 Preliminary Decision:** Following acceptance of an application as complete, the APCO shall perform the evaluations required to determine compliance with this Rule (including all other applicable requirements) and make a preliminary written decision as to whether an Authority to Construct should be approved, conditionally approved, or disapproved. The decision shall be supported by a written analysis.
- 5.2.3 Denial Of Application**
 - 5.2.3.1** An Authority to Construct or Permit to Operate application may be denied by the APCO:
 - 5.2.3.1.1** At the request of the applicant; or
 - 5.2.3.1.2** If additional information requested in accordance with Section 5.1.2 of this Rule has not been submitted within one hundred eighty (180) days of the request.
 - 5.2.3.1.3** If applicable permit fees of Rule 500-*Permit Fees* of these Rules and Regulations are not paid when due, the application may be denied and the APCO may take action on any issued Authority to Construct or Permit to Operate pursuant to the requirements of Section 5.7 of this Rule.
 - 5.2.3.2** In the event of a denial of an Authority to Construct or

Permit to Operate, the APCO shall notify the applicant in writing of the reasons. Service of this notification may be made in person or by certified mail. If delivered in person, such service may be proved by the written acknowledgment of the person(s) served or affidavit of the person making the service. The APCO shall not accept a further application unless the applicant has complied with the objections specified by the APCO as his or her reasons for denial of the Authority to Construct or the Permit to Operate.

5.2.4 Conditional Approval

5.2.4.1 The APCO shall issue an Authority to Construct or a Permit to Operate with conditions which will ensure compliance with all applicable requirements. The conditions shall be specified in writing.

5.2.4.2 The APCO shall consider all written comments received in response to public notice for an application prior to issuing an Authority to Construct or Permit to Operate.

5.2.4.3 Commencing work under an Authority to Construct or operation under a Permit to Operate shall be deemed acceptance of all the conditions of the authorization or permit.

5.2.4.4 The APCO shall issue an Authority to Construct or a Permit to Operate with revised conditions upon receipt of a new application, if the applicant effectively demonstrates that the emissions unit can operate under the revised conditions within the standards of Section 4.4 of this Rule.

5.2.4.5 The APCO shall require the applicant, as a condition of the Authority to Construct, to comply with the requirements of HSC Part 6, (Section 44300 et seq.), Air Toxics "Hot Spots" Information and Assessment Act. (Remove for SIP submittal)

5.2.4.6 The Authority to Construct or Permit to Operate becomes valid upon payment of all fees assessed at permit issuance in accordance with Rule 500-*Permit Fees*.

5.2.5 Temporary Permit: The APCO may issue a temporary Permit to Operate. The temporary Permit to Operate shall specify a reasonable period of time during which the emissions unit may be operated in order for the DISTRICT to determine whether it will operate in accordance with the conditions specified in the permit.

5.3 Altering Of Permit: A person shall not willfully deface, alter, forge, counterfeit, or falsify an Authority to Construct or Permit to Operate issued

by the APCO for any emissions unit(s). (Remove for SIP submittal)

- 5.4 Posting:** A person who has been granted an Authority to Construct or Permit to Operate shall maintain a copy of the permit at the site in close proximity to the subject emissions unit(s) and make the permit available upon request of the APCO or APCO's representative. (Remove for SIP submittal)
- 5.5 Suspension:** The APCO may suspend a permit if a holder of such permit willfully fails and refuses to furnish information, analyses, plans, and specifications, within a reasonable time, as requested by the APCO in accordance with applicable requirements. The APCO shall serve written notice of such suspension and the reasons for suspension. Service of said notification may be made in person or by certified mail. If delivered in person, such service may be proved by the written acknowledgment of the person(s) served or affidavit of the person making the service. The permit shall be reinstated when the APCO is furnished with all requested information, analyses, plans, and specifications, and the APCO determines the source is operating in compliance with all applicable requirements.
- 5.6 Cancellation Of Permit To Operate:** If the APCO determines the owner or operator of an emissions unit has abandoned their legal interest in a Permit to Operate or that the source or the emissions unit has been removed or fallen into an inoperable or un-maintained condition, the APCO may take action to cancel the Permit to Operate and shall notify the owner of the intent to cancel the permit at the last known address of the permit holder and provide the owner or operator with thirty (30) days to respond.
- 5.6.1** The APCO may cancel the permit and deem the source or emissions unit shutdown as of the last known date the source or emissions unit discharged emissions, if:
- 5.6.1.1** The permit holder cannot demonstrate to the satisfaction of the APCO that the permit holder intended to operate again; or,
- 5.6.1.2** The permit holder does not respond within thirty (30) days from the date a second noticing of the DISTRICT's intent to cancel the permit.
- 5.6.2** The permit holder may request in writing from the APCO an extension of time prior to the end of the sixty (60) day period following the initial notice.
- 5.6.3** The APCO may grant an extension of time not to exceed ninety (90) days.
- 5.6.4** The permit holder may claim emissions reductions resulting from the shutdown in accordance with the provisions of Rule 431-*Emission Reduction Credits*.
- 5.6.5** The APCO shall provide written notice of the cancellation decision to the permit holder of the stationary source or emissions unit.
- 5.6.6** The owner or operator may appeal the decision to cancel the permit

pursuant to Section 5.8 of this Rule. (Remove for SIP submittal)

- 5.7 Permit Revocation:** In accordance with Rule 600-*Hearing Board Rules and Procedures* of these Rules and Regulations, the APCO may petition the Hearing Board to revoke an existing Authority to Construct and/or Permit to Operate if the applicant or permit holder violates the conditions of such permit or any applicable requirement.

The APCO may grant the previously revoked permit at such time as the applicant or permit holder shows that the condition(s) or applicable requirement(s) previously violated are currently being attained or can demonstrate to the APCO that the condition(s) or applicable requirement(s) can be attained and that the violation which was the basis of the revocation will not recur. Such showing shall not bar the APCO from pursuing any legal remedy with respect to any violation which resulted from the failure to meet any permit condition as specified by the APCO. (Remove for SIP submittal)

- 5.8 Appeals:** Within thirty (30) days after written notice of cancellation, suspension, denial, revocation, or conditional approval of an Authority to Construct, Permit to Operate, or emissions reduction credit application by the APCO, the applicant or any other aggrieved person who participated in the permit issuance proceedings may file a petition with the Hearing Board for an order modifying or reversing that decision. After holding a hearing in accordance with requirements of Rule 600-*Hearing Board Rules and Procedures*, the Hearing Board may sustain or reverse the action of the APCO and issue an order which may be made subject to specified conditions. (Remove for SIP submittal)

6 MONITORING AND RECORDS

6.1 Testing Procedures

- 6.1.1 General Requirements:** Except as otherwise specified in the DISTRICT Rules and Regulations, the State Implementation Plan, and the applicable federal requirements of Rule 1101-*Title V-Federal Operating Permits*, testing methods for determining compliance with emission limits shall be:

6.1.1.1 The appropriate methods adopted by CARB and approved by EPA as equivalent test methods, or

6.1.1.2 The appropriate methods of 40 CFR Part 50, Appendix M, Recommended Test Methods for State Implementation Plans; or

6.1.1.3 Any appropriate method of 40 CFR Part 60, Appendix A, Test Methods; or

6.1.1.4 An alternative method following review and approval of that method by CARB and EPA.

- 6.1.2 Initial Boiling Point:** American Society for Testing of Materials (ASTM) D-1078-86, "Test Method for Distillation Range of Volatile Organic Liquids".
- 6.1.3 Vapor Pressure:** ASTM D-2879-86, "Vapor Pressure-Temperature Relation and Initial Decomposition Temperature of Liquids by Isoteniscope".
- 6.2 Monitoring:** As applicable, each emission source subject to continuous emission monitoring requirements shall comply with the requirements of Title 40, CFR, Part 60, Appendix B upon initial installation and Appendix F annually.
- 6.3 Recordkeeping:** The following records shall be maintained and provided to the APCO upon request:
- 6.3.1** Emissions monitoring and process data records necessary for the determination and reporting of emissions, in accordance with applicable provisions of the DISTRICT Rules and Regulations. Records shall be kept for at least five (5) years .
- 6.3.2** Other records of the nature and amounts of emissions or any other information as may be deemed necessary by the APCO to determine whether the stationary source or emissions unit is in compliance with applicable emission limitations, credited emission reductions, exemptions from rule provisions, or other requirements. The information must include emission measurements, continuous emission monitoring system performance testing measurements, performance evaluations, calibration checks and adjustments, maintenance performed on such monitoring systems, and other records and reports required by Title 40, CFR, Part 60, Appendix B and F.
- 6.3.3** Operation and maintenance plans for all add-on capture and control equipment. Such plans shall demonstrate, through the use of specific recordkeeping requirements, continuous operation of the add-on control equipment when emission producing operations occur. The plan shall also specify records to be kept to document the performance of required periodic maintenance. Records shall be consistent with compliance time frames and employ the most recent EPA recordkeeping guidance.