

RULE 1421. PERMIT CONDITIONS

(Adopted 1/18/94; Revised 3/7/95)
(Rev. 8/13/03; Eff. 2/27/04)

(a) CONDITIONS AND COMPLIANCE SCHEDULES AUTHORIZED

(Rev. 8/13/03; Eff. 2/27/04)

A permit to operate shall include any conditions that are necessary to ensure compliance with these Rules and Regulations and applicable state and federal laws and regulations. Subject to the limitations set forth in Rule 1420(b), new conditions may be imposed when a permit to operate is issued.

Any conditions or increments of progress, including those associated with any compliance schedule that is made a part of a permit to operate, shall be in writing, shall become part of the permit to operate, and shall be complied with at all times. The permit shall require progress reports describing the status of compliance with increments of progress prescribed in the compliance schedule to be submitted not less frequently than semi-annually.

Commencing or continuing operation under a permit to operate shall be deemed acceptance of all the conditions specified in the permit. This does not limit the right of the applicant to seek judicial review or seek federal EPA review of a permit term or condition.

(b) PERMIT CONTENT (Rev. 8/13/03; Eff. 2/27/04)

(1) Each permit shall include the following elements:

(i) Conditions that establish emission limitations and standards for all applicable requirements and will assure compliance with all applicable requirements through compliance certification, testing, monitoring, reporting and recordkeeping.

(ii) The term of the permit.

(iii) Conditions establishing applicable emissions monitoring and emissions testing or continuous monitoring requirements and related recordkeeping and reporting requirements. Where an applicable requirement does not require periodic testing or monitoring, conditions establishing periodic monitoring sufficient to yield reliable data from the relevant time period and to ensure compliance with the applicable requirement.

Conditions requiring that all applicable records and support information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all monitoring reports required by the permit be maintained for a period of at least five years. All records of required monitoring must include:

- (A) the date, the location as defined in the permit, and the time of sampling or measurement;
- (B) the date(s) analyses were performed;
- (C) the company or entity that performed the analyses;
- (D) the analytical techniques or methods used;
- (E) the results of such analyses; and
- (F) the operating conditions as existing at the time of sampling and measurement.

(iv) Conditions requiring that the permittee submit to the District, at least once every six months, reports summarizing the results of all required monitoring. Such reports shall be certified by a responsible official and shall identify any deviations from federally enforceable permit conditions.

(v) Conditions requiring prompt reporting to the District of any deviations from federally-enforceable permit conditions. Such report must include the probable cause of such deviations and any corrective actions or preventive measures taken.

(vi) If applicable a federally enforceable permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the federal Clean Air Act or rules promulgated under Title IV.

(vii) A severability clause to ensure the continued validity of the various federally enforceable permit requirements in the event of a challenge to any portions of the permit.

(viii) A statement that the source must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the federal Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(ix) A statement that the need for a source to halt or reduce activity in order to maintain compliance shall not be a defense in an enforcement action.

(x) A statement that the permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the source for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(xi) A statement that the permit does not convey any property rights of any sort, or any exclusive privilege.

(xii) A statement that the source shall furnish to the District, within a reasonable time:

(A) any information required to determine whether cause exists for modifying, revoking, reissuing, or terminating the permit;

(B) any information required to determine compliance with the permit conditions; or

(C) copies of any records required to be maintained pursuant to permit conditions.

(xiii) A condition requiring the source pay fees due to the District consistent with all applicable fee schedules.

(xiv) Applicable conditions for all reasonably anticipated operating scenarios identified by the source in its permit application. The source shall also record the operating change in a log, noting the scenario under which the source is operated. Such conditions shall meet all applicable requirements.

(xv) Terms and conditions, if requested by the source for emissions trading within the source and approved by the Air Pollution Control Officer, to the extent that the permit provides for trading. Such terms and conditions:

(A) shall include standard permit and compliance requirements consistent with this section;

(B) may extend the permit shield to all terms and conditions that allow emissions trading; and

(C) shall meet all applicable requirements of this regulation.

(xvi) For any condition based on applicable requirements, references that specify the origin and authority for each condition, and identify any difference in form as compared to such applicable requirement.

(2) Each permit shall include the following compliance requirements:

(i) A statement that representatives of the District shall be allowed access to the source and all required records pursuant to State Health and Safety Code Section 41510.

(ii) A schedule of compliance if the source is not in compliance with any applicable requirement. In addition, a condition that requires submittal of a progress report not less frequently than every six months. Such progress reports shall contain the following:

(A) dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(iii) A requirement that the source submit a compliance certification consistent with Rule 1414 (f)(3)(ix) and also containing:

(A) the frequency of submittals of compliance certifications;

(B) a requirement for the compliance certification to include the following:

(1) the identification of each term or condition of the permit that is the basis of the certification;

(2) the compliance status;

(3) whether compliance was continuous or intermittent;

(4) the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with this section; and

(5) such other facts as the permitting authority may require to determine the compliance status of the source.

(C) a requirement that all compliance certifications be submitted to the federal EPA as well as the District.

(D) Such additional requirements as may be specified pursuant to Sections 114 (a)(3) and 504 (b) of the federal Clean Air Act.

(iv) A requirement that any document required by permit shall contain a certification by a responsible official of the source stating that, based on information and belief formed after reasonable inquiry, the document is true, accurate, and complete.

(3) The Air Pollution Control Officer shall specifically designate as being federally enforceable under the federal Clean Air Act any terms and conditions of the permit that are required under the federal Clean Air Act or applicable requirement. All terms and conditions of the permit specifically designated as federally enforceable shall be enforceable by EPA and the public (through judicial review or petitions to the Administrator) under the federal Clean Air Act.

(c) STATE AND LOCAL ENFORCEMENT

Any person who fails to comply with any condition imposed shall be liable to penalty pursuant to Division 26, Part 4, Chapter 4, Article 3, of the State of California Health and Safety Code.

(d) FEDERAL ENFORCEABILITY

Any permit conditions imposed pursuant to this rule and identified by the Air Pollution Control Officer as federally enforceable shall be enforceable by the federal EPA and any of its authorized employees or agents, and by citizens to the extent provided in the federal Clean Air Act. (As with any permit condition, these permit conditions are also enforceable by state and local authorities.) Forbearance from enforcement of such provisions by the Air Pollution Control Officer shall not limit the enforcement authority of the federal EPA, or citizens.

The Air Pollution Control Officer may designate as federally enforceable only those permit conditions that identify, describe, or define applicable requirements that are federally enforceable by operation of law or that the applicant requests be made federally enforceable in order to create a voluntary emissions cap. Except as provided herein, the Air Pollution Control Officer may not use the process to attach federal enforcement authority to permit conditions that would not otherwise have been federally enforceable.

A requirement that is federally enforceable by operation of law apart from the permit process will continue to be federally enforceable despite the failure of the Air Pollution Control Officer to designate the requirement as federally enforceable.

The Air Pollution Control Officer shall act promptly to reopen a permit if the Air Pollution Control Officer determines that the permit does not designate any permit term, condition, or applicable requirement as federally enforceable that was federally enforceable prior to the granting of the permit or which became federally enforceable after the granting of the permit. In the latter case, the permit shall not be reopened if the remaining life of the permit is less than three years.

Where a permit condition is designated as federally enforceable, any enforcement undertaken by the federal EPA or a citizen shall have full force of any and all legal recourse and penalties the federal EPA or a court of law are empowered to impose pursuant to authority granted in the federal Clean Air Act and the Code of Federal Regulations.