

PROCEDURES TO CLOSE UNRESOLVED PERMITS

NON-TITLE V AIR QUALITY PERMIT UNIT

September 9, 1999

During the past four years, we have experienced several cases where we were unable to issue permits for a long period of time. A few of these permits were over 3 years old. Most of these permits involved scheduling a public hearing and often were controversial in nature. Almost all of these sources are still operated under the old, valid, installation/operating permits. The sources typically have neither incentive nor interest to move forward to settle the unresolved issues. The lengthy delay of each of these permits has incurred costly man hours, time and resources, not to mention lost revenue.

Causes of the delays can be summarized as follows:

1. Inadequate technical information.
2. Lack of cooperation from the sources.
3. The source already has a permit as renewed each year from the old installation/operating permit.
4. Controversial issues such as protests from the community nearby the source.
5. Sources insist on certain permit conditions.
6. Different interpretation of Rules and/or Federal requirements.
7. Lack of enforcement from the Department.
8. Legal issues (such as whether the Department has legal authority to impose HAP emission limitations).

In order to bring these sources to fully comply with the current air quality unitary permit program, and most importantly, move forward to free up the manpower to deal with the ever increasing work load of the new permit applications, we recommend the following procedures. These procedures will guide our staff engineers to resolve any issues between the source and the Department, and if not, how to conclude the permitting process and bring it to an end.

Case involved uncooperative permit applicant:

Mostly Small (Table B) Sources

1. Request additional information in writing (see attachment 1). Use only certified mail with return receipt requested
2. Document all phone calls and log conversation/discussion with the source (see attachment 3).
3. Notify the applicant our intention to return/cancel the permit (see attachment 2).
4. Meanwhile, refer the applicant to SBEAP for assistance (see attachment 2).
5. Prepare to return/cancel the permit application if the source fails to respond within the deadline (see attachments 3 and 4).

6. Present the above return/cancellation letter and supporting documents to Division Manager for signatures.

Case Involved Controversial Issues: **Mostly Large (Table A) Sources**

ACTIONS DURING PERMIT REVIEW

A. Rule Interpretation

Occasionally, there are a few permit applicants who have a different interpretation or point of view regarding our rules. If this is the case, the following are the steps and procedures to follow in order to conclude our permit writings.

1. If we already have a written policy (such as Technical Guidance, Air Toxic Policy, BACT Guidelines, or Soil Remediation Guidelines, etc.) in addressing that specific issue(s), simply prepare permit conditions in accordance with the established policy.
2. If there is no written policy to address that particular issue, bring the issue to the Rule Clarification Committee for resolution, or
3. Seek the interpretation or ruling from the Division Manager and/or the Control Officer.
4. If a controversial federal requirement (such as NSPS, NESHAP, or MACT etc.) is involved in preparing permit conditions, contact EPA Region 9 for a ruling and interpretation. Handle all communication as much as possible in writing, or, at a minimum, document all conversations that have taken place.

B. Legal Issues

If the Permittee/applicant brings a lawyer to challenge the legality of how we apply or interpret our rules, work with the appropriate supervisor/Division Manager and consult with the county attorney. The resulting legal opinion will be our basis in preparing the permit condition(s).

C. Technical Issues

We have experienced many cases that involved technical issues. Typical issues are emission calculations, control device efficiency, computer modeling, etc.

Once the discrepancy occurs between the applicant's calculation and our calculation, or technical evaluation, we should first present our basis of calculation to the applicant. Examples of sources

of established basis are AP-42, AP-40, EPA manuals, prior emission tests data, etc. If not available, use calculation methods in the technical journals, published papers, or any academic sources. The last resort will be our best estimate with technical judgment. As long as there is a basis that we believe we can defend, let us use it and present it to the permit applicant to see whether the applicant can counter with better ways to generate more accurate figures.

D. Final Proposal to the Permittee/Applicant:

Once all the measures were taken to resolve the above issues, The Department policy is to take the proposed permit to public notice and after the 30-day public comment period prepare an invoice to reflect the actual cost of processing/reviewing that permit application.

The permittee/applicant will then either accept our proposed permit by paying the bill or bring their concern to the hearing board. In accordance with Rule 200, Section 309.3, “...*Orders issued or permit conditions imposed to this rule shall be appealable to the hearing board in the same manner as that prescribed for orders of abatement in ARS Section 49-489 and ARS Section 49-490 and for permit conditions in ARS Section 49-482.*”....

In our Rule 400, Section 404, “...*the applicant ...who filed a comment on the permit, permit revision...may petition the hearing board, in writing, for a public hearing, which shall be held within 30 days after receipt of the petition...*”



ENVIRONMENTAL SERVICES DEPARTMENT
AIR QUALITY DIVISION
1001 North Central Ave., Suite 200
Phoenix, Arizona 85004-1942
(602) 506-6010, 6094
(602) 506-6179, 6985 (FAX)

VIA FAX AND CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED

September 9, 1999

Name
Company Name
Number and street
City, state zip

RE: Air Quality Permit Application (Log Number 99-xxxx)

Dear _____:

This letter is a follow-up to the verbal request of _____ for additional information. We have not received the additional information that you are required to provide. As of today, your application is still incomplete.

Per Maricopa County Air Pollution Regulations, Rule 200, Section 308, Rule 220, Sections 301, and 302, the following information is required in order to complete the application review process:

List

Please submit the above information to the Maricopa County Environmental Services Department at the above address by _____. If we do not receive a written response on or before this deadline, we may begin the process to return/cancel your above-referenced permit application. If you have any questions, please contact me at _____.

Sincerely,

Air Quality Engineer

ATTACHMENT 1



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VIA FAX AND CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED

September 9, 1999

NAME
NUMBER & STREET
CITY, STATE AND ZIP

RE: Air Quality Permit Application # _____

Dear _____

It has been brought to our attention that your air quality permit application is incomplete. You have been notified previously of specific items that are required and necessary before we can continue our review of your application.

Recognizing the fact that some businesses may not have adequate resources to respond with the required technical information and the required responsibilities and obligations under Maricopa County Air Pollution Control Regulations, we propose the following:

You may contact the Maricopa County Small Business Environmental Assistance Program (SBEAP). The SBEAP serves as a liaison between the County's Environmental Services Department and small businesses. They can assist you to complete your air quality permit application. Please be advised if you do not contact the SBEAP for free assistance or respond directly in writing to this Department within 14 days of receipt of this letter, we will deem your application as incomplete and proceed to return/cancel your permit application. For further information, please contact the SBEAP at 506-5150, or the undersigned at 506-6736.

Please be advised that installation or operation of equipment and processes subject to air quality regulations without a valid permit will result in an enforcement action by this Department. Additionally, once your permit application has been deemed incomplete and returned, the permit process must begin again with the filing of a new application plus any applicable filing fee.

Harry H. Chiu, P.E.
Manager, Air Quality Non-Title V Engineering Unit

cc: Steven E. Peplau, Division Manager
Richard Polito, SBEAP Manager
Robert Evans, Air Enforcement Section Manager
File

Attachment 2



ENVIRONMENTAL SERVICES DEPARTMENT

AIR QUALITY DIVISION

1001 North Central Ave., Suite 200
Phoenix, Arizona 85004-1942
(602) 506-6010, 6094
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**MARICOPA COUNTY
REQUEST FOR RETURN/CANCELLATION OF A PERMIT APPLICATION**

NAME OF FACILITY: _____

PERMIT LOG NUMBER _____ APPLICATION RECEIVED DATE _____

LOCATION _____

ACTION TAKEN & RESULTS:

RESULTS:

Verbal request (date): _____

Formal information request letters sent (date):

SBEAP letter sent (date): _____

SBEAP recommendation made to return/cancel _____

REQUESTED BY _____ Date _____

APPROVED

DATE

SIGNATURE

YES NO _____

AIR QUALITY ENGINEER

YES NO _____

UNIT MANAGER

YES NO _____

DIVISION MANAGER

COPY AIR QUALITY ENFORCEMENT MANAGER



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AIR QUALITY DIVISION
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Phoenix, Arizona 85004-1942
(602) 506-6010, 6094
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VIA FAX AND CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED
NOTICE OF RETURN/CANCELLATION OF A PERMIT APPLICATION

Company Name
Number, street, Suite
City, State, zip code

RE: Air Quality Permit Application, Log Number _____.

Dear _____:

We have reviewed your referenced air quality permit application along with accompanying documents. As indicated in our letters dated _____ and _____, your application does not contain sufficient technical information to enable us to make the determination to assure compliance with the Maricopa County Air Pollution Control (MCAPC) Rules and Regulations. MCAPC Regulations, Rule 200, Section 308 requires such detailed information. We notified you that the application was not complete and instructed you on specific items to make it complete. As of this date we have not received the required information from you, and the application is still incomplete.

Therefore, pursuant to Rule 200, Section 401 of the MCAPC Regulations, and Section 49-481, Arizona Revised Statutes, you are hereby notified that your referenced permit application has been deemed incomplete and can not be processed. You may appeal this permit application cancellation within thirty (30) days by following the procedures outlined in Rule 400, Section 404 of the MCAPC Regulations, and Section 49-482, of the Arizona Revised Statutes. In lieu of this appeal procedure, you may submit a new application with the associated filing fee. In this new application, please include all the required additional technical information which was requested in writing for the previously canceled permit application, log number _____.

Please be advised that the installation and/or operation of an air pollution source without the required valid permit is a violation of A.R.S. Section 49-480 and Rule 200 of the Maricopa County Air Pollution Control Regulations. Failure to obtain the required permits may result in criminal or civil penalties or other legal remedies.

Dated this _____ day of _____, 19__.

Steven E. Peplau, Manager, Air Quality Division
Maricopa County Environmental Services Department

cc: Mike Sparkes, RS, Manager, Business Services Division
Robert Evans, Air Enforcement Section Manager
File