

Imperial County Air Pollution Control District Enforcement Review

Overview

In May 2018, during discussion on 2018 Annual PM2.5 State Implementation Plan (SIP) submitted by the Imperial County Air Pollution Control District (District), the California Air Resources Board (CARB) requested that CARB staff review the District's enforcement program to look for ways that it might be improved. The goal of the review being to ensure that emission sources within the District demonstrate complete compliance with all air pollution control related requirements.

The District enforcement program has a strong foundation. The District's four compliance inspectors inspect nearly all of the 800 District issued permits at least annually. Facilities with federal "Title V" permits and which qualify as synthetic minor facilities are inspected twice each year. District staff respond to all complaints within 24 hours of submittal. District staff issue notices of violation (NOV) and notices to comply (NTC) whenever a violation of a permit, regulation, or statute is identified. District inspectors attend and observe all source tests conducted at permitted facilities. These actions help ensure that permitted businesses comply with the permits to operate. From 2016 – 2018, District staff issued 611 NOVs and NTCs, which resulted in over \$320,000 in penalties collected.

All permits are reviewed annually during the annual inspection conducted by Enforcement/Compliance. If necessary, the permits are forwarded to Permitting for an update of permit conditions. Also, the permit conditions are reviewed when an application is submitted for an amendment or modification to the facility. In addition, the District is required to update the permit conditions for all facilities affected by a new or amended rule.

Evaluation

CARB staff reviewed District enforcement and permitting policies, observed the inspection of and reviewed the permits for 22 facilities that covered a wide range of facility types, including geothermal, agriculture, asphalt and aggregate, gasoline distribution and dispensing, food processing, and coatings. The District issued five NOVs and four NTCs as a result of the inspections of these facilities.

Based on these results, and working together, CARB and District staff identified ways to further strengthen the District's enforcement program. This document lays out these programmatic enhancements and how they will be achieved.

Permits

A permit is both a compliance assistance tool for the regulated entities and an enforcement tool for inspectors to easily verify compliance. District and CARB staff

agree that some permits could be updated to better serve both of these objectives by focusing on the consistency of the following four elements in the permit reviews:

1. Clear and Descriptive Language: Permit conditions should be written in clear, unambiguous language to ensure that the permittee understands the requirements and therefore can be held accountable for noncompliance in an efficient and effective manner.
2. Operational Parameters: Permit conditions should include measurable operating parameters to provide reasonable assurance of compliance with emission and process limits during periods when real-time monitoring is not practical or possible.
3. Referencing External Certifications and Protocols: Permit conditions should specifically include references to external documents used to verify compliance, including appropriate version numbers. An example of such an external document would be a source test method that a facility is to use to measure emissions.
4. Self-inspections, Maintenance, and Recordkeeping: Permit conditions should establish periodic self-inspection and maintenance requirements, to ensure that facility operations are maintaining compliance. Permit will include recordkeeping requirements necessary to demonstrate compliance with the periodic self-inspection and maintenance requirements.

To achieve these goals, District and CARB staff will take the following actions:

- District staff will review the permits for the 22 facilities and update as needed by the end of the calendar year 2021 or at their next amendment, whichever comes first.
- District staff will update permits at facilities with federal "Title V" operating permits at their next reissuance.
- District staff will review the permits within or near AB 617 communities by the end of calendar year 2022.
- Air District staff will work with CARB staff during the permit updates to ensure the consistency of the four elements listed above.
- CARB staff will provide training to District staff on writing effective permits by end of March 2021.
- District staff will develop a timeline by September 2021 to update all other permits.

Policies

Policies provide transparency in District operations for both regulated entities and the public, and help assure consistency in the application of district programs. San Joaquin Valley Air Pollution Control District¹, Bay Area Air Quality Management

¹ San Joaquin Valley Air Pollution Control District Compliance and Permitting Policies are at: https://www.valleyair.org/busind/policies_idx.htm

District², and San Diego Air Pollution Control District³ are examples of districts that publish policies online.

District and CARB staff will work together to update the policies listed below.

1. Permitting Activities: Policies for project review and permit issuance ensure that permits issued by District staff effectively implement underlying requirements and include sufficient detail to ensure compliance. For example, such policies include procedures through which District staff will revoke permits for equipment that is no longer allowed to operate, such as “Tier 0” and “Tier 1” engines. Taking this approach institutionalizes the types of changes to permits described in the Permitting section of this white paper.
2. Compliance Assurance Activities: Policies for compliance assurance specify the District’s expectations for the frequency of inspections, and the comprehensiveness of inspections including when, how, and how often facility inspections are conducted. Such policies also specify how the District would document compliance with source testing, recordkeeping, and reporting requirements. Compliance assurance policies ensure regulated sources are treated fairly and consistently. Similarly, publishing policies helps the public understand how the District implements its enforcement program and builds trust with the community.
3. Complaint Investigations: Policies for complaint investigation help create consistency amongst District staff and their response to public complaints. The public will also be better informed of how a complaint is processed from the time of submittal to the conclusion of the investigation. For example, such policies explain how District staff would investigate complaints related to open burning, nuisance odors, and fugitive dust.
4. Documenting and Resolving Violations: Policies for enforcement actions establish protocols and procedures so that regulated entities are treated fairly and consistently. Such policies allow regulated entities to be aware of how to achieve compliance and bring closure to non-compliant situations. Policies on documenting and resolving violations promote consistency and clarity in enforcement.

To achieve these goals, District and CARB staff will take the following actions:

- District staff will update their policies pertaining to permitting and compliance assurance activities by June 2021.
- District staff will update their policies pertaining to complaint investigations and document and resolving violations by December 2021.

² Bay Area Air Quality Management District complaint guidelines are available at: https://www.baaqmd.gov/~media/Files/Compliance%20and%20Enforcement/Policies%20and%20Procedures/final_complaint_guidelines.ashx

³ San Diego publishes compliance policies at: https://www.sdapcd.org/content/sdc/apcd/en/compliance-programs/Forms_and_Notifications.html

- CARB staff will work with District staff on the development and modification of the policies identified above.

Next Steps

District and CARB staff will make a presentation to hear comments from businesses and community members on the plan laid out in this paper to enhance the District's programs during October's 2020 AB 617 meeting.

District staff will present new and modified policies during AB 617 meetings to hear comments from businesses and community members.

District staff will post all District policies on the District website by December 2021 and will post new and modified policies within two weeks of creation or modification.

District staff will semi-annual reports to their webpage that list key information and statistics pertaining to their permitting and enforcement activities, including progress on the commitments contained in this white paper.