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Board Agenda Item

TO: Air Pollution Control District Board

FROM: Dave Van Mullem, Air Pollution Control Officer

CONTACT: Michael Goldman, Engineering Manager (961-8821)

SUBJECT: Permitting Program Overview

RECOMMENDATION:

Receive report on overview of the District's permitting program.

DISCUSSION:

At the January 2013 Board meeting, your Board directed District staff to provide a brief overview of our permit program. In addition, it was requested that staff provide a more thorough discussion of the recently implemented Interim Permit Approval Process (IPAP) program.

Permit Program

The Engineering Division is comprised of 11 staff, including Engineers and Technicians. Our proposed FY 13/14 budget is approximately \$1.26 million. The District issues different types of permits that implement local, state and federal requirements. These include:

- Pre-Construction Permits
- Initial Operating Permits
- Triennial Operating Permits Reevaluations
- Agricultural Registrations
- Federal Title V Operating Permits
- Federal Prevention of Deterioration (PSD) Permits
- Federal New Source Review (nonattainment) Permits
- Emission Reduction Credits
- Transfers of Owner/Operator

To avoid confusion and regulatory burden, we meld multiple local, state and federal requirements into a single permit. This enables a more efficient process for both the applicant and the District by eliminating the need to issue multiple permits for each project.

Permit Process

The basic permit process involves two steps. First, the applicant applies for an Authority to Construct (ATC) permit. This application is then subject to a 30 day completeness review where staff identify whether the application has sufficient information for processing. Once deemed complete, the District has 180 days to make a final decision to issue or deny the permit.¹ The above process is very similar to how the County and Cities process their applications for development plans and Conditional Use Permits. The ATC permit is valid for one year upon issuance. For larger projects, we coordinate with County/City Planning Departments to ensure the air quality aspects of the project are addressed correctly. We are typically the Responsible Agency under CEQA, but sometimes we are the Lead Agency (e.g., projects on offshore platforms or at VAFB, or projects where no further Planning Department approvals are required). In these cases we utilize our CEQA Guidelines Document and prepare the appropriate CEQA document, as applicable.

Construction begins when equipment is physically installed at the facility. After construction is completed, the company is allowed to temporarily operate the permitted equipment during what is termed a Source Compliance Demonstration Period (SCDP), which provides the permit holder time to shake down the equipment and work out any start-up operational issues. During the SCDP, the District inspects the facility to ensure that the equipment conforms to the permit's conditions as well as applicable local, state and federal rules and regulations. Depending on the type of project, the resources allocated to ensure compliance during the SCDP can range from a single inspector performing a one-hour inspection to a team of inspectors and engineers performing inspections, stack testing, data analyses and Plan/Report reviews.

Upon successfully showing that the permitted equipment complies with all applicable requirements, the company then applies for a Permit to Operate (PTO) within a timeframe stipulated in the ATC permit. This operating permit governs operation of the permitted equipment for a three year period. During this time period, District staff perform field inspections, review data submittals and observe source tests². After three years, the permit is reevaluated, revised if needed and then is re-issued for another three year period.

¹ Reference: District Rule 208 and California Government Code Section 65952.

² Source tests involve extracting emission samples from the permitted equipment for detailed analysis. Results are compared to the permitted emission levels in the ATC permit.

Regulated Facilities

The District regulates “stationary sources” of air pollution. We do not regulate motor vehicles (either on-road or off-road), marine vessels, trains, aircraft, consumer products or “indoor” air pollution. These stationary sources include a broad range of industries, processes and equipment. Examples include:

- Dry Cleaners
- Gasoline Stations
- Commercial Space Operations
- Boilers, Steam Generators, Process Heaters and Large Water Heaters
- Diesel Emergency Generators
- Onshore Oilfields and Offshore Oil Platforms
- Landfills and Wastewater Treatment Plants
- Agricultural Diesel Engines³
- Wineries

Permit Data

Some basic permitting data include:

- 1,347 regulated facilities
- 2,072 active permits
- 11,828 regulated devices
- Sectors: Oil & Gas 22%, Combustion 34%, Solvents 16%, Fuel Related 17%, Other 11%
- Process approximately 700+ permitting actions each year
- Currently have 150+ active permit applications being processed; 30 applications under the 30-day completeness review clock
- 18 Federal Operating Permits (Part 70 /Title V)⁴

In addition to processing the above permits, Engineering Staff have other responsibilities. These include: Air Toxics program, Public Records Act requests, providing technical review of the more complex compliance related tasks (Source Testing, Continuous Emissions Monitoring Systems, project-specific Plan/Report reviews, review of Part 70 Semi-Annual Reports), and support for other District departments, Santa Barbara County/Cities, CAPCOA, ARB and EPA.

Streamlining Measures

Over the past decade our permitting staff has been downsized, while at the same time our workload has increased due to new state and federal mandates. In order to meet this increased workload, we have implemented a number of streamlining measures.

³ The District regulates agricultural diesel engines rated at 50 brake-horsepower or greater per the requirements of the State’s Airborne Toxic Control Measure for Stationary Compression Ignition Engines (H&SC §93115).

⁴ The Federal Operating permit program is delegated from the USEPA to our agency. It applies to “major” sources of air pollution (100 tons per year of criteria pollutants or 100,000 tons per year of greenhouse gases). Part 70 permits are more detailed, include mandatory public noticing and are legally-enforceable documents designed to improve compliance by clarifying what facilities (sources) must do to control air pollution.

These include:

- Automation of permits through the development of database applications. Simpler permit types are mostly automated (gas stations, dry cleaners, boilers, generators) and “generic” permit database systems exist for the remaining.
- Standardized permit language, conditions and calculations.
- Created extensive online webpage resources for applicant “self-help”.
- Implementation of IPAP, the Interim Permit Approval Process program.

IPAP Program

In the past few years our metrics for issuing pre-construction permits has seen an increase in the amount of time to issue final ATC permits. These timelines have changed due to increased workload and limited resources. Complicating matters was that we had no defined system for prioritizing the assignments. This resulted in a hap-hazard timeline for permits getting issued. In addition, companies would constantly call our staff inquiring about their permit status, thus interrupting their workflow and creating further delays.

To ameliorate the situation, we developed a database driven prioritization system for all permit applications that essentially uses a first-come first-serve model. This new system restored fairness and predictability to the process. Further, it provided us a tool to help ensure we met our recurring program metric of issuing all pre-construction permits within 180 days of application completeness. It soon became clear that the average permit issuance timelines took 4 to 6 months. Many companies pointed out that “easy” permits, such as replacing a tank, should not take so long.

So in response, we developed a pilot project (the IPAP program) to see if we can allow certain projects to commence construction before receiving an ATC permit. The IPAP program involves an enforceable agreement between the applicant and the District that bridges the gap between application completeness and ATC permit issuance. It is, in essence, a temporary ATC permit.

Specific criteria for being considered for the program include:

- ✓ The permit application must be deemed complete.
- ✓ The project does not require lead agency approval from another agency or, if it does require approval, that approval has been obtained.
- ✓ If the District is the lead agency for the project, the project must be exempt under our CEQA Guidelines document.
- ✓ The permit application clearly defines the project description, emissions and equipment being proposed.

- ✓ The project does not require BACT⁵, AQIA⁶, a refined health risk assessment, public notice (e.g., schools) and does not require a special case-by-case analysis due to unusual circumstances. The BACT exception may be waived in certain cases where the District has determined that the application clearly meets BACT requirements.
- ✓ If the source already is subject to offsets, the proper amounts of ERCs⁷ have been verified as surrendered under the completeness review process (unless public noticing is required).
- ✓ The proposed project is typical of other projects previously permitted by the District and does not present unique permitting challenges.
- ✓ The District determines that the project does not have a high potential for generating nuisance complaints from the public.
- ✓ The source agrees to the terms and conditions of the IPAP program by signing the IPAP Program Agreement.

The IPAP program has been in place for 13 months and the results have been very positive. Companies are now able to make changes to their facilities faster and in a more predictable manner. The program does not directly save the District time as we still need to issue the ATC permit. However, it has saved us time indirectly as staff are not being interrupted as much by applicants. Not all projects qualify for the program and we have denied a number of requests. We have processed 64 IPAP requests to date. Further, of those 64 approvals, none of the subsequent ATC permits were denied.

Examples of projects approved under the IPAP program include:

- Installation of an oil storage tank at an oilfield
- Replacing a small boiler at a hospital
- Installation of a rocket fuel storage tank at a commercial space facility
- Installation of a new baghouse (dust control) at a cement batch plant

IPAP approval is good for up to 180 days, unless extended by the APCO. The template used for the IPAP Agreement is attached.

⁵ BACT: Best Available Control Technology. This is the more current emissions control technology.

⁶ AQIA: Air Quality Impact Analysis. This analysis involved computer modeling to determine if the project will exceed or exacerbate State or Federal Ambient Air Quality Standards.

⁷ ERCs: Emission Reduction Credits. ERCs are the “mitigation” used when a project requires offsets under our pre-construction permit process. ERCs are created by reducing emissions from a facility that are not otherwise required by any application local, State or Federal requirement.

Permitting Challenges

The permit program faces two main challenges.

- (1) Permits Issuance Timelines. One is to find additional ways to increase our efficiency and productivity in an effort to reduce the time to issue pre-construction permits. Currently, once a permit application is deemed complete it can take 4 to 6 months to issue the final ATC permit. Our goal is to reduce that time to 3 months. Our primary effort during FY 13/14 will be to revamp our oil and gas permit process by updating our application forms, further standardizing our permit language and emission calculations and introducing a higher level of database automation processes for generating and storing the many types of oil and gas permits we issue.
- (2) Offsets Program. The second major challenge is in addressing the lack of available ERCs that are used as mitigation for our New Source Review offsets program. This is an ongoing issue that the District is addressing.

ATTACHMENT – IPAP Agreement Template

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ATC Enter Number
FID Enter Number
Facility Enter Name

IPAP PROGRAM AGREEMENT

This Agreement is made this ____ day of _____, 2013, by and between the Santa Barbara County Air Pollution Control District Control Officer (“Control Officer”) and Company Name (“Applicant”) in order to allow the Applicant to participate in the District’s Interim Permit Approval Process (“IPAP”). The IPAP allows applicants to install and temporarily operate equipment prior to obtaining a final Authority to Construct (ATC) permit. By signing this Agreement you agree to the terms and conditions of the Program as outlined below. Upon District concurrence, your application will be subject to a two-step ATC permit approval. Step 1 is an Interim Permit Approval Letter from the District that allows for installation and temporary operation of the equipment. Step 2 is the issuance of a final ATC permit. Once the final ATC permit is issued or denied, the Interim Permit Approval under Step 1 becomes null and void.

IPAP PROGRAM TERMS and CONDITIONS

1. The project does not require lead agency approval from any other agency or, if it does, that approval has been obtained. Documentation of lead agency approval shall be provided to the District.
2. The project shall only include those equipment items, procedures and uses applied for in the ATC permit application that was deemed complete. That project description is hereby incorporated herein by this reference and is an enforceable part of this Agreement. No modifications to the project, including de minimis changes, may take place. Any modifications which are not part of the ATC permit application shall be a violation of District Rule 201.
3. The project may operate up to 180 days from the date of issuance of the Interim Permit Approval Letter. The Control Officer may in writing extend this period. The District reserves the right to deny any extension where the Applicant is or regularly has been behind in payment of any fees or associated penalties, is not current on any cost reimbursable account or is in violation of any District Rule or Regulation or Division 26 of the Health and Safety Code.
4. The Interim Permit Approval shall become null and void once the final ATC is issued or denied. If the final ATC is denied, any continued operations of the equipment after the date of denial shall be a violation of Rule 201. The applicant shall not have any vested right to operate or maintain the project after the final ATC is denied. Unless otherwise approved by the Control Officer, the applicant shall remove the equipment from the stationary source within 30 days of denial of the ATC application.
5. Within 14 days of initial operations, the applicant shall notify the District of (a) the date of initial construction and (b) the date of initial operations.
6. The applicant shall comply with all applicable local, state and federal air quality rules and regulations.

By signing below, I agree to the Terms and Conditions noted above.

Company Name
Company Name (Print)

ATC Enter Number
ATC Application Number

Number
Name of Authorized Company Representative (Print)

Enter Name / Enter
Facility / FID

Signature of Authorized Company Representative

Date

SANTA BARBARA COUNTY AIR POLLUTION CONTROL OFFICER
Dave Van Mullem

By:

Date

Version 1.4 / November 28, 2012