

RULE 1410. PERMITS REQUIRED

(Adopted 1/18/94; Revised 3/7/95)
(Revised 5/23/01; Effective 12/31/01)

(a) **APPLICATION SHIELD**

Any source that submits a timely and complete application for permit issuance or renewal under this regulation shall not be in violation of the requirement to have a permit to operate under this rule until the Air Pollution Control Officer takes final permit action on the permit application or the permit expires. If a timely and complete application is submitted and the Air Pollution Control Officer does not issue a permit renewal prior to the expiration of the term of the existing permit, then the permit shall not expire and the terms and conditions of the permit, including any permit shield, shall remain in effect until the permit renewal is issued or denied. These protections shall cease to apply if, subsequent to the permit application being determined to be complete or being deemed complete, the applicant fails to submit by the deadline specified in writing by the Air Pollution Control Officer, pursuant to Rule 1414 (h), any additional information identified as being needed to process the application.

(b) **PERMIT TO OPERATE**

Except as provided in Section (a) above and Subsection (b)(2) below, no source subject to this regulation may operate after the time that it is required to submit a timely and complete application for a permit to operate unless the source is operating in compliance with permit(s) issued pursuant to this regulation.

(1) **Multiple Emission Unit Permits to Operate and Multiple Permits to Operate.** Nothing in these Rules and Regulations shall prohibit the Air Pollution Control Officer from issuing more than one permit to operate to a stationary source or from grouping more than one emission unit under a single permit to operate, which will supersede any permits to operate previously issued to the affected emission units, provided the Air Pollution Control Officer determines that:

- (i) Such units or groupings of units comply with the applicable requirements of these Rules and Regulations,
- (ii) The units or grouping of units included under a single permit to operate are adequately and clearly described,
- (iii) The applicability of particular conditions within such a permit to operate to one or more units is clearly specified, for all alternative operating scenarios applicable to the source,
- (iv) All conditions of such a permit to operate are reasonably enforceable, and
- (v) All emission units, excluding insignificant units, are covered by a permit to operate or a timely application for a permit to operate.

The Air Pollution Control Officer shall group units into a single permit to operate if such a grouping is proposed by the applicant for a permit to operate, unless the Air Pollution Control Officer determines that such grouping will violate the conditions set forth above, or will not facilitate operational flexibility at the source, or will result in violation of any applicable requirement of these Rules and Regulations.

(2) **Temporary Authorizations, Duration.** The Air Pollution Control Officer may grant a temporary authorization to operate any new or modified emission unit for which a complete application for a Title V permit to operate must be submitted within 12 months after operation has been commenced pursuant to Rule 1414(c) provided all of the following have been met:

(i) Construction or modification has been completed in accordance with an Authority to Construct issued pursuant to Rule 10.

(ii) Construction or operation of the new or modified unit is not prohibited by any existing permit issued pursuant to this regulation.

(iii) The Air Pollution Control Officer finds that operation of the new or modified emission unit is expected to comply with all applicable requirements of these Rules and Regulations and all terms and conditions of the Authority to Construct.

A temporary authorization may be issued if the operator of a source subject to this regulation submits or proposes to submit a complete application for a permit to operate that includes permit terms and conditions and if the operator demonstrates to the satisfaction of the Air Pollution Control Officer that the proposed new terms and conditions create a need for research and development, or additional testing or evaluation, before the proposed terms and conditions can be approved. A temporary authorization may also be issued to a source that is subject to this regulation to allow development, advancement and field testing of technology to meet pending and anticipated regulations or best available control technology (BACT) standards.

An application for a permit to operate shall not be found to be incomplete solely because research and development, testing or evaluation is determined to be necessary before a permit can be issued, and any source whose application for a permit to operate is otherwise timely and complete shall have the benefit of the application shield set forth in Section (a) of this rule. If the Air Pollution Control Officer determines that additional information is needed to take final permit action on an application that was determined or deemed to be complete, the Air Pollution Control Officer may request such information and require the applicant to furnish the information within a reasonable time. The ability of a source to operate under an application shield shall cease to be in effect if the source fails to provide the required information within the specified time.

Issuance of a temporary authorization shall not relieve the owner or operator of a source from the obligation to file a timely and complete application for a permit to operate or a permit revision, nor from the obligation to comply with all federally enforceable requirements.

A temporary authorization issued pursuant to this regulation shall expire on the date that a timely and complete application for a permit to operate or modification is due.

(3) **Availability and Effects of Appeals.** An owner or operator may appeal any permit action proposed by the Air Pollution Control Officer in response to an application for a permit to operate or modification. Appeals shall be made to the Hearing Board in accordance with Rule 1425, before the proposed permit action is noticed for public review and comment or before it is forwarded to the federal EPA and affected states for consideration. A proposed permit to operate shall not be noticed for public review or forwarded to the federal EPA and affected states for review while any permit action or proposed permit action is being appealed before the Hearing Board. No final permit to operate shall be issued during this period or during the time for public review and comment and the federal EPA review set forth in Rule 1415. An appeal to the Hearing Board shall be resolved in a timely manner and in no case shall an appeal delay final permit action on a permit beyond 45 days from receipt of a request for an administrative permit amendment, 60 days for a minor permit modification, or 18 months for a significant permit modification, initial permit, permit reopening or permit renewal.

In the case of an appeal of any permit action for equipment proposed to be installed in conjunction with existing equipment operating under a permit to operate to comply with new requirements of District Rules and Regulations or other applicable law, District enforcement of the new requirements shall be deferred until the appeal is resolved. This paragraph applies only to any permit action taken before the effective date of the new requirements.

In the case of an appeal of any permit terms and conditions proposed to be deleted from or added to permits to operate, such permit actions and District enforcement thereof shall be deferred until the appeal is resolved.

(c) POSTING OF PERMIT TO OPERATE

A person who has been granted a valid permit to operate shall firmly affix such permit, a true copy of such permit, or other approved identification bearing the permit number upon the emission unit in such a manner as to be clearly visible and accessible. In the event that the emission unit is so constructed or operated that the permit to operate cannot be so placed, the permit shall be mounted so as to be clearly visible in an accessible place within 25 feet of the emission unit, or maintained readily available at all times on the operating premises.

(d) **ALTERATION OF PERMIT**

A person shall not willfully deface, alter, forge, counterfeit or falsify any permit issued under these Rules and Regulations.

(e) **RESERVED**

(f) **EXISTING REQUIREMENTS**

The terms and conditions of permits to operate shall be maintained in the permit, except as provided in Rule 1420(b).

(g) **CONTROL EQUIPMENT**

Nothing in this rule shall be construed to authorize the Air Pollution Control Officer to require the use of machinery, devices or equipment of a particular type or design, if the required emission standard may be met by machinery, device, equipment, product or process changes otherwise available unless a regulation promulgated by the federal EPA and required to be enforced through this regulation specifies the use of specific machinery, device, equipment, product or process change.

(h) **RENEWAL OF PERMITS TO OPERATE** (Rev. 5/23/01:Eff.12/31/01)

A permit to operate issued under this regulation shall have a life of five years from the date of issuance. Permits to operate shall be renewed upon approval of the Air Pollution Control Officer in accordance with the procedures in this rule every five years on a staggered schedule to be determined by the Air Pollution Control Officer.

In addition to this five-year renewal the permit to operate will be subject to annual review in accordance with Rule 10(h) of these Rules and Regulations.

An application for renewal of a permit to operate issued must be submitted at least 12 months, but not more than 18 months, prior to permit expiration, on forms prescribed by the Air Pollution Control Officer. The application and any necessary certification of compliance must be submitted by a responsible official of the source.

Permits to operate may be renewed only upon:

(1) Submission of a complete application for permit, including required statements and certifications, as set forth in Rule 1414.

(2) Payment of appropriate renewal fees as prescribed in Rule 40.

(3) Annual submittal of a supplemental statement certified by a responsible official setting out the status of the source with respect to past and current compliance with substantive requirements of the existing permit to operate, as evidenced by monitoring or

other compliance reports (including progress reports if any are required under an applicable schedule of compliance).

(4) Determination by the Air Pollution Control Officer that the source can be operated in compliance with the terms and conditions of the proposed renewed permit to operate, taking into account any compliance schedule that will be a part of that permit.

(5) Completion of a 30-day public comment period and a 45-day review period for affected states and the federal EPA.

(6) There being no objection to the renewal of the permit from the Administrator of the federal EPA. If the Administrator objects within the 45-day period, a permit shall not be renewed until the Administrator has withdrawn the objection.

(i) **ADMINISTRATIVE PERMIT AMENDMENTS** (Rev. 5/23/01;Eff.12/31/01)

Administrative permit amendments are changes that can be made to a permit which has been granted pursuant to this regulation as follows:

(1) Address changes that do not result in physical relocation of equipment.

(2) Correction of typographical errors and updates to information such as phone numbers.

(3) Incorporation of Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permits issued through an Authority to Construct pursuant to federal EPA approved new source review and prevention of significant deterioration rules, provided that such Authority to Construct has been issued in accordance with the provisions of Section (q) of this rule.

(4) Any emission unit that is the subject of a permit to operate and which is transferred from one person to another shall not be operated until application is made to the Air Pollution Control Officer for a revised permit and such permit is issued unless a temporary authorization pursuant to Rule 1410(b)(2) has been issued to the new owner or operator. Such revisions shall be administrative permit amendments. The revision shall specify a date for the transfer of permit responsibility, coverage and liability between the prior and the new permittee. If such transfer is accompanied by modification of the emission unit, which modification is not exempt under this regulation, an application for permit modification shall be required.

Any permit or written authorization issued hereunder shall not be transferable, by operation of law or otherwise, from one piece of equipment to another.

(5) A change to require more frequent monitoring or reporting by the permittee.

(6) Revisions to conditions identified as District-only enforceable requirements.

Administrative permit amendments will be recorded by the Air Pollution Control Officer upon request from the applicant for such amendment, are not subject to any notice requirements of this regulation unless otherwise specified in this Section, and may be implemented by the applicant upon filing of the application with the Air Pollution Control Officer. The Air Pollution Control Officer shall provide the federal EPA with a copy of each approved revised permit.

Administrative permit amendments shall be reflected in the next application to renew the affected permit to operate.

(j) MINOR PERMIT MODIFICATIONS

The owner or operator of any emission unit that is the subject of a permit to operate may make changes in the operation and physical characteristics of the subject equipment if the changes qualify as a minor permit modification, and the following requirements are met:

(1) Minor permit modifications that do not also require new source review under these Rules and Regulations are subject to the following procedural requirements:

(i) The application may be approved with or without public notification, as requested by the applicant. Minor permit modifications shall not be eligible for the permit shield provided by Rule 1410(p). However, any permit shield specified in permit terms or conditions that are not affected by an application for minor permit modification shall remain intact.

(ii) An application for a minor permit modification shall include all information consistent with Rule 1414(f) for each emission unit being modified and for each emission unit affected by the modification. The application shall also include:

(A) a description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) the source's suggested draft permit;

(C) certification by a responsible official of the source stating that, based on information and belief formed after reasonable inquiry, the proposed modification meets the criteria for use of minor permit modification and that the statements and information contained in the application in support of this determination are true, accurate, and complete, and a request that such procedure be used; and

(D) completed forms for the District to use to notify the federal EPA and affected States.

(iii) The applicant may make the change as soon as a complete application is filed. If the source makes a change prior to a permit action, and until the District takes final permit action on the change, the source must comply with both the applicable requirements governing the change and the terms and conditions proposed by the source. During this time period the source need not comply with existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions the source seeks to modify may be enforced against it.

(iv) The Air Pollution Control Officer must notify affected states and the federal EPA within five days of receipt of a complete application.

(v) The preliminary decision by the Air Pollution Control Officer to approve a minor permit modification shall be subject to a 45-day period for comments or objection by the federal EPA.

(vi) The Air Pollution Control Officer must act on an application within 90 days of receipt, or within 15 days of the expiration of the federal EPA's 45-day review period, whichever is later. An application for a minor modification shall remain pending until action is taken on the application, or the application is canceled or withdrawn.

(2) A change that would otherwise be processed as a minor permit modification under this section but which has been approved in an Authority to Construct in accordance with the procedures prescribed in Section (q) of this rule, may be processed as an administrative permit amendment.

(3) If a source implements a minor permit modification without waiting for final approval, and the permit modification is disapproved, the source shall be subject to enforcement action for operating outside the terms and conditions of its permits to operate while the proposed permit modification was under review.

(4) Nothing in this Section (j) shall provide immunity from enforcement of any applicable requirement (whether the requirement arises under an applicable permit, these Rules and Regulations, or state or federal law), for operations that are not the subject of an application for a minor permit modification, or if the application for a minor permit modification is denied.

(k) SIGNIFICANT PERMIT MODIFICATION

(1) **Procedures for Significant Permit Modifications.** A modification that would be a significant permit modification under this regulation that is also subject to new source review shall first be processed under the new source review rules. This process shall include an opportunity for public review and comment, and notice and review by the federal EPA and affected states, whether or not such procedures would otherwise be required under the new source review rules. Permit terms and conditions that otherwise would be significant permit modifications but have been approved through the enhanced

procedures for Authorities to Construct specified in Section (q) of this rule shall be incorporated into the permit to operate as administrative permit amendments.

A person shall not make a modification to a source requiring a significant permit modification unless such modification is authorized by the Air Pollution Control Officer and such modification is made a part of the permit to operate or a temporary authorization has been issued pursuant to Rule 1410(b)(2).

Any significant permit modification that is not subject to enhanced procedures for Authorities to Construct shall be subject to all provisions of this regulation for initial permit to operate, including provisions for application, completion of form used by the Air Pollution Control Officer to notify the federal EPA and affected states, public notice and comment, review by affected states, and review by the federal EPA, as prescribed for initial permit issuance and five-year permit renewal.

Applications for significant permit modifications shall remain pending until approved, canceled, or denied.

(2) **Action on Significant Permit Modifications.** The Air Pollution Control Officer shall make every effort to act on a complete application for a significant modification within 12 months of receipt but in no case shall final permit action be taken more than 18 months from the date a complete application is received or an application is deemed complete.

(3) **Change of Location.** Any person who possesses a permit to operate any emission unit at a source that is subject to this regulation and desires to change the location of such emission unit shall first apply to the Air Pollution Control Officer for a significant modification to the permit to operate pursuant to this section. The provisions of this paragraph shall not apply to any change of location for any portable emission unit provided such change will not violate a term or condition of the permit or cause or exacerbate violation of any national ambient air quality standard, air quality increment, or visibility requirement and the owner or operator has notified the Air Pollution Control Officer at least 10 days in advance of each change in location. Any change of location of a non-portable emission unit within a contiguous parcel of land in the possession of, or owned by, or recorded as the property of, the same person shall not be considered a change of location.

(1) **OPERATIONAL FLEXIBILITY: SECTION 502(b)(10) CHANGES**

The owner or operator of any emission unit that has a permit to operate may make changes in the operation and physical characteristics of the subject equipment, without seeking or receiving approval for a modification, provided such operational or physical changes:

(1) Are not "modifications" under any provision of Title I of the federal Clean Air Act, and

- (2) Do not cause a violation of any applicable requirements, and
- (3) Do not contravene federally enforceable requirements that are monitoring, recordkeeping, reporting, or compliance certification requirements, including requirements related to test methods, and
- (4) Do not result in exceedance of emissions allowed under the permit, whether expressed therein as a rate of emissions or in terms of total emissions, or implied by a specific permit term that has the effect of limiting emissions from one or more emission units at the source.

For each such change, notification shall be provided to the Air Pollution Control Officer at least 45 days prior to implementation of such operational or physical changes. This notice shall be in writing and must include a brief description of the change, the date on which the change will occur, any change in emissions, and a listing of any permit term or condition affected. The notice shall be attached to copies of affected permits to operate maintained by the source.

A source may make a change within 45 days after notice to the Air Pollution Control Officer provided such change meets the requirements of this section. If the Air Pollution Control Officer subsequently determines that the change does not qualify as a Section 502 (b)(10) change, enforcement action may be taken against the source for making the change without prior approval. If the operator requests an affirmative determination by the Air Pollution Control Officer that the proposed change qualifies as a Section 502(b)(10) change, and agrees not to implement that change until a determination is made, the Air Pollution Control Officer shall make a determination and notify the operator within 60 days of receipt of notice of the proposed change.

The permit shield if any provided pursuant to Section (p) of this rule, shall not be applicable to changes made pursuant to this Section (l).

The Air Pollution Control Officer may determine that a planned or implemented Section 502(b)(10) change does not meet the requirements of this section at any time. Any such determination must be in writing setting out the specific reason or reasons that the change does not qualify as a Section 502(b)(10) change. Any determination by the Air Pollution Control Officer that a proposed change is not a Section 502(b)(10) change may be appealed to the Hearing Board. If notice of an adverse determination is received by the operator from the Air Pollution Control Officer before the 45-day notice period has expired, the operator may not implement the proposed change, unless an appeal is taken to the Hearing Board and resolved in favor of the operator. If notice is received by the operator after the 45-day period for notice has expired and after the change has been implemented, and if the operator appeals the Air Pollution Control Officer's determination to the Hearing Board within 30 days of notice by the Air Pollution Control Officer, the change may remain in place until the matter is decided upon by the Hearing Board. In no case shall an appeal to the Hearing Board or decision by the Hearing Board affect or abridge the authority of EPA to object to a change or to determine that a change does not qualify as a Section 502 (b)(10) change.

Nothing in this section shall prohibit an operator from applying for a revision to a permit or the Air Pollution Control Officer from revising a permit to reflect the change made. Any such permit application shall be processed pursuant to the applicable permit processing provisions of this regulation. If the permit is revised pursuant to the provisions of this regulation for a significant permit modification, reopening of the permit to operate, or renewal of the permit to operate, the permit shield, if any provided to a source pursuant to Section (p) of this rule, may thereafter apply to the revised permit.

(m) OPERATIONAL FLEXIBILITY: TRADING UNDER AN EMISSIONS CAP

An applicant that has sought and received permit terms and conditions to allow internal trading of emissions solely for the purpose of complying with a federally enforceable emissions cap established independent of otherwise applicable requirements, may make any trade that is consistent with those permit terms and conditions upon seven days notice to the Air Pollution Control Officer.

This notice shall be in writing and must include a brief description of the trade, the date or dates on which the trade will occur, and information on any change in emissions.

The Air Pollution Control Officer may determine that a planned trade is not within the scope of the applicable permit at any time. Any such determination must be in writing setting out the specific reason or reasons that the proposed trade is not within the scope of the permit. Upon such a determination, the trade shall not proceed.

(n) OPERATIONAL FLEXIBILITY: ALTERNATIVE OPERATING SCENARIOS

Any applicant that identifies alternative operating scenarios in an application for permit pursuant to this regulation may exercise such alternative operating scenarios without prior notice to the Air Pollution Control Officer provided:

- (1) The Air Pollution Control Officer determines during issuance of the permit to operate that such alternative operating scenarios do not violate any provisions or standards of these Rules and Regulation or of state, or federal law.
- (2) Each alternative operating scenario is identified in all affected permits to operate.
- (3) The applicant maintains current operating logs, in the manner and form prescribed by the Air Pollution Control Officer, identifying which alternative operating scenario the operation is under, and all information necessary to determine compliance as specified in the permit to operate.

(o) REOPENING OF A PERMIT TO OPERATE

Any permit to operate issued pursuant to this regulation shall be reopened prior to expiration following written notice of intent by the Air Pollution Control Officer to the permit holder at least 30 days prior to reopening, if any of the following occur:

(1) Additional requirements promulgated under the federal Clean Air Act become applicable for a major stationary source with at least three years remaining on the permit term. Such reopening shall be completed within 18 months after promulgation of the applicable requirement.

(2) Additional requirements (including excess emissions requirements) become applicable under the federal Clean Air Act Acid Rain Program.

(3) The Air Pollution Control Officer or the Administrator of the federal EPA determines that the permit must be revised or revoked:

(i) to correct a material mistake, or because inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or

(ii) to assure compliance with all applicable requirements.

The procedures for reopening and revising or reissuing a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists.

Reopenings by the Administrator of the federal EPA shall be performed in accordance with Section 70.7 (g) of 40 CFR Part 70.

Any source whose permit is partially reopened may request that the entire permit be reopened and reissued for a new five-year term.

In-scope permit actions, Section 502(b)(10) changes, trades under an emissions cap, administrative permit amendments, and minor permit modifications shall not require the use of permit reopening procedures.

(p) **PERMIT SHIELD**

Any source seeking a permit pursuant to this regulation may request that a permit shield be provided, to preclude enforcement of specific enumerated requirements where the Air Pollution Control Officer has determined in writing that such requirements are not applicable to the source and summarized the determination in the permit, or to limit enforcement to permit conditions for specified applicable requirements where the Air Pollution Control Officer has determined that compliance with such conditions may be deemed compliance with the underlying specified applicable requirements and the requirements are specifically identified as such in the permit.

No shield may apply to requirements promulgated after the permit to operate is issued nor to permit modifications or Section 502(b)(10) changes implemented without public notice and comment and an opportunity for review by the federal EPA and affected states.

A permit shield shall exist only as stated in the permit to operate. A permit shield shall not be in effect if the source is not in compliance with the terms and conditions of the permit that provide the permit shield.

The Air Pollution Control Officer may grant or deny permit shields, or limit the scope of such shields. District determinations may be based on the applicant's circumstances, the level of effort that would be required to identify or verify all requirements applicable to a source, the state of the law in the area where the shield is proposed, and other relevant considerations.

Nothing in this section shall alter or affect the following:

- (1) The provisions of Section 303 of the federal Clean Air Act including the authority of the Administrator under that section,
- (2) The liability of a source for any violation of applicable requirements prior to or at the time of permit issuance,
- (3) The applicable requirements of the acid rain program consistent with Section 408 (a) of the federal Clean Air Act, and
- (4) The ability of EPA to obtain information from a source pursuant to Section 114 of the federal Clean Air Act.

(q) **ENHANCED PROCEDURES FOR AUTHORITIES TO CONSTRUCT**

At the request of an applicant, the Air Pollution Control Officer shall process applications for permit modifications that would otherwise be considered minor permit modifications or significant permit modifications to a permit to operate, issued pursuant to this regulation, using the Administrative Permit Amendment procedures prescribed in Rule 1410(i) provided that the change for which the permit modification is sought has been previously approved by the Air Pollution Control Officer by issuance of an Authority to Construct as required by Rule 10 and provided that:

- (1) The application for Authority to Construct includes:
 - (i) A compliance plan containing the elements specified in Rule 1414(f)(3)(viii) for any new or modified emission units.
 - (ii) A description of the methods the applicant proposes to use to determine compliance of the new or modified units with any applicable requirements, including descriptions of monitoring, recordkeeping and reporting requirements and test methods. Such compliance determination methods shall not be less stringent than the minimum standards contained in any applicable requirements.
 - (iii) A schedule for submission of initial compliance certifications for each new or modified unit. Such compliance certifications shall be submitted not later

than one-year after construction or modification of a unit is completed or sooner if specified by an applicable requirement or by the Air Pollution Control Officer.

(iv) Any other information deemed necessary by the Air Pollution Control Officer to determine compliance with all applicable requirements.

(2) The Authority to Construct includes:

(i) For each new or modified unit not in compliance with an applicable requirement or for which an applicable requirement becomes effective before issuance of a modified permit, a compliance schedule specifying the increments of progress under which the new or modified units will be brought into compliance and containing the elements specified in Rule 1421(b)(2)(ii). The compliance schedule shall also require periodic compliance progress reports to the Air Pollution Control Officer, to be submitted not less frequently than semi-annually.

(ii) A requirement for submission of initial compliance certifications for each new or modified unit consistent with the elements specified in Rule 1421 (b)(2)(iii). Such compliance certifications shall be submitted not later than one year after construction or modification of a unit is completed or sooner if specified by an applicable requirement or by the Air Pollution Control Officer. Each compliance certification shall contain a description of the monitoring methods, data, records, reports and test methods used to determine compliance.

(iii) A requirement that the new or modified unit not be operated until a modified permit is granted unless such operation can be allowed under the provisions of Sections (b), (i) or (j) of this rule.

(iv) A requirement 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.

(v) Requirements for monitoring, recordkeeping, testing and reporting as specified by applicable requirements or by these Rules and Regulations, or as determined necessary by the Air Pollution Control Officer to ensure compliance with all applicable requirements, and consistent with the elements specified in Rule 1421(b)(1)(iii).

(3) Prior to issuance of the Authority to Construct, the Air Pollution Control Officer has done all of the following:

(i) Publicly noticed the proposed issuance of an Authority to Construct and made available a draft of the proposed Authority to Construct for public review and comment for 45 days, following the procedures specified in Sections (a), (d), (e), (j) and (k) of Rule 1415 as if the Authority to Construct were a permit to operate.

(ii) Conducted a public hearing when, as a result of a petition from the public, the Air Pollution Control Officer has determined that there is reasonable cause to hold such a hearing. All public hearings shall be publicly noticed at least thirty days prior to the hearing. The public notice shall contain all of the information specified in Rule 1415(d) as if the Authority to Construct were a permit to operate.

(iii) Submitted a draft of the proposed Authority to Construct to any affected states and to the federal EPA Region IX, for a period of 45 days for review and comment. In the event the proposed Authority to Construct is substantively changed after submittal to EPA, such changes shall be resubmitted to EPA for a new 45-day review and comment period.

(4) All comments received from the public, affected states and federal EPA notification procedures described above have been considered and responded to by the Air Pollution Control Officer.

(5) The Administrator of the federal EPA has not objected to the issuance of the proposed Authority to Construct within the review periods prescribed in Subsection (3)(iii) above.

(6) The provisions of Rule 1425 with regard to appeals to the Hearing Board, petitions to the Administrator of the federal EPA and judicial review shall also apply to the granting of such Authority to Construct.