



Proposed Amended Rule 408: Circumvention

WORKING GROUP MEETING

FEBRUARY 23, 2018

Background

- ▶ Predates SCAQMD
All four county air agencies prohibit “dilution as a solution” to air pollution
- ▶ Rule 408 - *Circumvention* adopted by SCAQMD in May 1976
- ▶ Recent enforcement issues triggered this proposed amendment
- ▶ Amendment supports current enforcement practices



Amendment Process

- ▶ Preliminary rule language released December 14, 2017
- ▶ First public consultation meeting January 11, 2018
- ▶ Stakeholders requested more time, working group meetings, and staff report
 - ▶ Working group meeting today
 - ▶ Second consultation meeting March 14th
 - ▶ Staff report and latest rule language released February 13th
 - ▶ Public Hearing scheduled for May 4th

January 11th Proposed Amendments

Distributed at the
first Public
Consultation
Meeting

(Adopted May 7, 1976)(Amended March 2, 2018)

1/11/2018

PROPOSED AMENDED RULE 408. CIRCUMVENTION

- (a) A person shall not build, erect, install, or use any equipment or technique that suppresses or conceals an emission, ~~the use of which,~~ without resulting in a reduction in the total release of air contaminants to the atmosphere if that release of air contaminants, ~~reduces or conceals an emission which would otherwise constitute~~ a violation of Chapter 3 (commencing with Section 41700) of Part 4, of Division 26 of the Health and Safety Code or of these rules any plan required by rule, order, permit, rule, regulation, or law.
- (b) A person shall not alter normal business operations or equipment to suppress or conceal emissions during monitoring or testing.
- (c) A person shall notify the SCAQMD prior to using equipment or techniques to mitigate nuisance odors in compliance with subdivisions (a) and (b) of this rule.

Comments Received

- ▶ Timeline is rushed for these “significant” changes
 - ▶ Public Hearing delayed until May 2018 to allow more stakeholder feedback
- ▶ Proposed addition of terms “law, regulation, rule, permit, order, or plan required by rule” broadens the rule’s applicability
 - ▶ Such language does not broaden the rule’s applicability. Circumvention of any law, regulation, rule, permit, order, or plan required by rule is currently a violation.
- ▶ Proposed amendment will modify current enforcement practices
 - ▶ SCAQMD enforcement practices will not change, circumvention will be assessed on a case-by-case basis

Comments Received (Cont.)

- ▶ Prior written approval or notification will cause an unnecessary delay in a source's response to odor mitigation
 - ▶ Staff removed the notification requirement
- ▶ Unclear what is meant by "plan"
 - ▶ Proposed rule language modified to include "any plan required by a rule"
- ▶ Facilities were confused by the term "dilute"
 - ▶ Staff agrees the term "dilute" could lead to confusion
 - ▶ The current proposal removes "dilute" but retains "suppress or conceal"

(Adopted May 7, 1976)~~(Amended May 4, 2018)~~

Current Proposed Amendments

- Removed odor mitigation notification requirement
- Corrected Health and Safety Code reference from original rule

PROPOSED AMENDED RULE 408. CIRCUMVENTION

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- (b) A person shall not alter normal business operations or equipment to suppress for the purpose of evading detection or conceal emissions during monitoring or testing.
- (c) This rule shall not apply to cases in which the only violation is nuisance odor under Section 41700 of the Health and Safety Code or nuisance odor under Rule 402.

Circumvention Examples

- ▶ A facility blocks the stack or vent from their emission control device to alter emission readings but claims action is to mitigate odor.
- ▶ A facility installs fans from their exhaust points to “mitigate odors.” In doing so, this also conceals air contaminants by directing the emissions away from the monitors, and not controlling or reducing emissions. If the only emission was an odor, a facility could suppress or conceal that odor.
- ▶ The District monitors air quality at or near a facility to verify a violation was corrected. The facility alters operations to decrease their normal output by outsourcing operations to avoid higher readings during monitoring.
- ▶ A facility utilizes a bypass stack to reroute flue gases away from the equipment’s emission monitoring system, flow monitoring system, and air pollution control device.

Schedule



- Stakeholder Meetings
 - Ongoing
- 2nd Public Consultation Meeting
 - March 14, 2018
- Stationary Source Committee
 - March 16, 2018
- Comments Due
 - March 23, 2018
- Set Hearing
 - April 6, 2018
- Public Hearing
 - May 4, 2018

District Staff Contact

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