

CHAPTER II -- DEFINITIONS USED IN REGULATION 5

Rule 5-200 - Definitions

The definitions in this section apply throughout Regulation 5 and are derived from related provisions of the U.S. EPA's Title V regulations in Part 70 of the Code of Federal Regulations, "State Operating Permit Programs." The terms defined in this section are italicized throughout Regulation 5.

(a1) Acid Rain Unit

An "acid rain unit" is any fossil-fuel-fired combustion device that is an affected unit under 40 CFR Part 72.6 and therefore subject to the requirements of Title IV (Acid Deposition Control) of the Clean Air Act.

[Reference: 40 CFR 70.2]

(a2) Administrative Permit Amendment

An "administrative permit amendment" is an amendment to a permit to operate that:

- (1) Corrects a typographical error;
- (2) Identifies a minor administrative change at the stationary source; for example, a change in the name, address, or phone number of any person identified in the permit;
- (3) Requires more frequent monitoring or reporting by a responsible official of the stationary source; or
- (4) Transfers ownership or operational control of a stationary source, provided that, prior to the transfer, the Air Pollution Control Officer receives a written agreement which specifies a date for the transfer of permit responsibility, coverage, and liability from the current to the prospective permittee.

[Reference: 40 CFR 70.7(d)]

(a3) Affected State

An "affected state" is any state that is contiguous with the District and whose air quality may be affected by a permit action, or is within 50 miles of the source for which a permit action is being proposed.

[Reference: 40 CFR 70.2]

(a4) Air Pollution Control Officer (APCO)

"Air Pollution Control Officer" refers to the Air Pollution Control Officer of the Mendocino County Air Quality Management District, appointed pursuant to Health and Safety Code, Section 40750.

(a5) Applicable Federal Requirement

An "applicable federal requirement" is any requirement that is enforceable by the U.S. EPA and citizens pursuant to Section 304 of the Clean Air Act and is set forth in, or authorized by, the Clean Air Act or a U.S. EPA regulation. An "applicable federal requirement" includes any requirement of a regulation in effect at permit issuance and any requirement of a regulation that becomes effective during the term of the permit. Applicable federal requirements include:

- (1)** Title I requirements of the Clean Air Act, including:
 - (A)** New Source Review requirements in the State Implementation Plan approved by the U.S. EPA and the terms and conditions of the preconstruction permit issued pursuant to an approved New Source Review rule;
 - (B)** Prevention of Significant Deterioration (PSD) requirements and the terms and conditions of the PSD permit (40 CFR Part 52);
 - (C)** New Source Performance Standards (40 CFR Part 60);
 - (D)** National Ambient Air Quality Standards, increments, and visibility requirements as they apply to portable sources required to obtain a permit pursuant to Section 504(e) of the Clean Air Act;
 - (E)** National Emissions Standards for Hazardous Air Pollutants (40 CFR Part 61);
 - (F)** Maximum Achievable Control Technology or Generally Available Control Technology Standards (40 CFR Part 63);
 - (G)** Risk Management Plans, preparation and registration requirements (Section 112(r) of the Clean Air Act);
 - (H)** Solid Waste Incineration requirements (Sections 111 or 129 of the Clean Air Act);
 - (I)** Consumer and Commercial Product requirements (Section 183 of the Clean Air Act);
 - (J)** Tank Vessel requirements (Section 183 of the Clean Air Act);
 - (K)** District prohibitory rules that are approved into the state implementation plan;
 - (L)** Standards or regulations promulgated pursuant to a Federal Implementation Plan; and
 - (M)** Enhanced Monitoring and Compliance Certification requirements (Section 114(a)(3) of the Clean Air Act).

- (2) Title III, Section 328 (Outer Continental Shelf) requirements of the Clean Air Act (40 CFR Part 55);
- (3) Title IV (Acid Deposition Control) requirements of the Clean Air Act (40 CFR Parts 72, 73, 75, 76, 77, 78 and regulations implementing Sections 407 and 410 of the Clean Air Act);
- (4) Title VI (Stratospheric Ozone Protection) requirements of the Clean Air Act (40 CFR Part 82); and
- (5) Monitoring and Analysis requirements (Section 504(b) of the Clean Air Act).

[Reference: 40 CFR 70.2]

(c1) California Air Resources Board (ARB)

"California Air Resources Board" refers to the Air Resources Board of the State of California, created by Health and Safety Code Division 26, Part 2.

(c2) Clean Air Act (Clean Air Act)

"Clean Air Act" refers to the federal Clean Air Act as amended in 1990 (42 U.S.C. Section 7401 et seq.).

(c3) Code of Federal Regulations (CFR)

"Code of Federal Regulations" refers to the United States Code of Federal Regulations.

(c4) Commence Operation

"Commence operation" means to begin operation (q.v.) of an emissions unit, including any start-up or shakedown period authorized by a temporary permit to operate issued pursuant to Health and Safety Code, Section 42301.1.

(d1) Direct Emissions

"Direct emissions" are emissions that may reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(d2) District

"District" refers to the Mendocino County Air Quality Management District.

(e1) Effective Date of Regulation 5

The "effective date of Regulation 5" is the date the U.S. EPA promulgates interim, partial, or final approval of the rule in the Federal Register.

[Reference: 40 CFR 70.4(g)]

(e2) Emergency

An "emergency" is any situation arising from a sudden and reasonably unforeseeable event beyond the control of a permittee (e.g., an act of God) which causes the exceedance of a technology-based emission limitation under a permit and requires immediate corrective action to restore compliance. An "emergency" does not include noncompliance as a result of improperly designed or installed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

[Reference: 40 CFR 70.6(g)(1)]

(e3) Emissions Unit

An "emissions unit" is any identifiable article, machine, contrivance, or operation that emits, may emit, or results in the emissions of, any regulated air pollutant or hazardous air pollutant.

[Reference: 40 CFR 70.2]

(f1) Federally-Enforceable Condition

A "federally-enforceable condition" is any condition set forth in the permit to operate which addresses an applicable federal requirement or a voluntary emissions cap.

(f2) Fugitive Emissions

"Fugitive emissions" are emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

[Reference: 40 CFR 70.2]

(h1) Hazardous Air Pollutant (HAP)

A "hazardous air pollutant" is any air pollutant listed pursuant to Section 112(b) of the Clean Air Act.

(h2) Health and Safety Code (H&SC)

"Health and Safety Code" refers to the California Health and Safety Code.

(i1) Initial Permit

An "initial permit" is the first operating permit for which a source submits an application that addresses the requirements of the federal operating permits program as implemented by Regulation 5.

(i2) Insignificant Activity

For the purpose of identifying "insignificant activities" in permit applications under Regulation 5 an insignificant activity will be any activity, or combination of similar activities, that generates less than 5 tons per year of carbon monoxide, or less than 2 tons per year of any other criteria pollutant (VOC, PM, NO_x, SO_x, O₃, Pb). Further, an insignificant activity must generate less than 1000 pounds per year of a compound listed under the Federal Clean Air Act Amendment for 1990 Section 112(b)(1) as amended, or less than the daily outputs listed in Regulation 1, Rule 130 (s2), whichever is smaller.

[Amended: November 14, 2000]

(m1) Major Source

A "major source" is a stationary source that has the potential to emit a regulated air pollutant or a hazardous air pollutant in quantities equal to or exceeding the lesser of any of the following thresholds:

- (1) 100 tons per year (tpy) of any regulated air pollutant;
- (2) 50 tpy of volatile organic compounds or oxides of nitrogen for a federal non-attainment area classified as serious, 25 tpy for an area classified as severe, or, 10 tpy for an area classified as extreme;
- (3) 70 tpy of PM10 (particulate matter of 10 microns or less) for a federal PM10 non-attainment area classified as serious;
- (4) 10 tpy of one hazardous air pollutant or 25 tpy of two or more hazardous air pollutants; or
- (5) Any lesser quantity threshold promulgated by the U.S. EPA.

[Reference: 40 CFR 70.2]

(m2) Minor Permit Modification

A "minor permit modification" is any modification to a federally enforceable condition on a permit to operate which is not a significant permit modification, and is not an administrative permit amendment.

[Reference: 40 CFR 70.7(e)(2)]

(o1) Operation

"Operation" means any physical action resulting in a change in the location, form or physical properties of a material, or any chemical action including combustion resulting in a change in the chemical composition or the chemical or physical properties of a material, that results in or may result in the emission of a regulated air pollutant.

(p1) Permit Modification

A "permit modification" is any addition, deletion, or revision to a permit to operate condition.

[Reference: 40 CFR 70.2]

(p2) Potential to Emit

For the purposes of Regulation 5, "potential to emit" as it applies to an emissions unit and a stationary source is defined below.

(1) Emissions Unit

The "potential to emit" for an emissions unit is the maximum capacity of the unit to emit a regulated air pollutant or hazardous air pollutant considering the unit's physical and operational design. Physical and operational limitations on the emissions unit shall be treated as part of its design, if the limitations are set forth in permit conditions or in rules or regulations that are legally and practically enforceable by U.S. EPA and citizens or by the District. Physical and operational limitations include, but are not limited to the following: limits placed on emissions; and restrictions on operations such as hours of operation and type or amount of material combusted, stored, or processed;

[Amended: November 14, 2000]

(2) Stationary Source

The "potential to emit" for a stationary source is the sum of the potential to emit from all emissions units at the stationary source. If two or more hazardous air pollutants are emitted at a stationary source, the potential to emit for each of those hazardous air pollutants shall be combined to determine applicability. Fugitive emissions shall be considered in determining the potential to emit for sources as specified in 40 CFR Part 70.2 Major Source (2), and sources of hazardous air pollutant emissions. Notwithstanding the above, any hazardous air pollutant emissions from any oil or gas exploration or production well (with its associated equipment) and any pipeline compressor or pump station shall not be aggregated with emissions of similar units for the purpose of determining a major source of hazardous air pollutants, whether or not such units are located in contiguous areas or are under common control.

[Reference: 40 CFR 70.2(2)]

(p3) Pre-construction Permit

A "pre-construction permit" is a permit issued prior to construction which authorizes construction, including:

- (1)** An Authority To Construct issued pursuant to the District's program for the prevention of significant deterioration of air quality required by Section 165 of the Clean Air Act or Regulation 1, Rule 220 of the District; or
- (2)** An Authority to Construct issued pursuant to the District's new source review program required by Sections 172 and 173 of the Clean Air Act, or Regulation 1, Rule 220.

(r1) Regulated Air Pollutant

A "regulated air pollutant" is any pollutant that is emitted into or otherwise enters the ambient air, and for which the U.S. EPA has adopted an emission limit, standard, or other requirement.

Regulated air pollutants include the following:

- (1) Oxides of nitrogen and volatile organic compounds;
- (2) Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the Clean Air Act;
- (3) Any pollutant subject to a new source performance standard promulgated pursuant to Section 111 of the Clean Air Act;
- (4) Any ozone-depleting substance specified as a Class I (chlorofluorocarbons) or Class II (hydrofluorocarbons) substance pursuant to Title VI of the Clean Air Act; and
- (5) Any pollutant subject to a standard or requirement promulgated pursuant to Section 112 of the Clean Air Act, including:
 - (A) Any pollutant listed pursuant to Section 112(r) of the Clean Air Act (Prevention of Accidental Releases) shall be considered a "regulated air pollutant" upon promulgation of the list;
 - (B) Any hazardous air pollutant subject to a standard or other requirement promulgated by the U.S. EPA pursuant to Section 112(d) or adopted by the District pursuant to 112(g) and (j) of the Clean Air Act shall be considered a "regulated air pollutant" for all sources or categories of sources: 1) upon promulgation of the standard or requirement, or 2) 18 months after the standard or requirement was scheduled to be promulgated pursuant to Section 112(e)(3) of the Clean Air Act;
 - (C) Any hazardous air pollutant subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the U.S. EPA promulgation or scheduled promulgation of an emissions limitation shall be considered a "regulated air pollutant" when the determination is made pursuant to Section 112(g)(2) of the Clean Air Act. In case-by-case emissions limitation determinations, the hazardous air pollutant shall be considered a "regulated air pollutant" only for the individual source for which the emissions limitation determination was made.

[Reference: 40 CFR 70.2]

(r2) Responsible Official

A "responsible official" is an individual with the authority to certify that a source complies with all applicable federal requirements and federally enforceable conditions of permits issued to sources in accordance with Regulation 5. "Responsible official" means one of the following:

- (1) For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - (A) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - (B) The delegation of authority to such representative is approved in advance by the Air Pollution Control Officer.
- (2) For a partnership or sole proprietorship, a general partner or the proprietor, respectively;
- (3) For a municipality, state, federal, or other public agency, either a principal executive officer or a ranking elected official; or
- (4) For an acid rain unit subject to Title IV (Acid Deposition Control) of the Clean Air Act, the "responsible official" is the designated representative of that unit for any purposes under Title IV and Regulation 5.

[Reference: 40 CFR 70.2]

(s1) Significant Permit Modification

A "significant permit modification" is any modification to a federally enforceable condition on a permit to operate that:

- (1) Involves any modification under Section 112(g) of Title I of the Clean Air Act or under U.S. EPA regulations promulgated pursuant to Title I of the Clean Air Act, including 40 CFR Parts 51, 52, 60, 61, and 63;
- (2) Significantly changes monitoring conditions;
- (3) Provides for the relaxation of any reporting or record keeping conditions;
- (4) Involves a permit term or condition which allows a source to avoid an applicable federal requirement, including: 1) a federally-enforceable voluntary emissions cap assumed in order to avoid triggering a modification requirement of Title I of the Clean Air Act, or 2) an alternative hazardous air pollutant emission limit pursuant to Section 112(i)(5) of the Clean Air Act;
- (5) Involves a case-by-case determination of any emission standard or other requirement; or
- (6) Involves a source-specific determination for ambient impacts, visibility analysis, or increment analysis on portable sources.

[Reference: 40 CFR 70.7(e)(2) and (4)]

(s2) Solid Waste Incinerator

A "solid waste incinerator" is any incinerator which burns solid waste material from commercial, industrial, medical, general public sources (e.g., residences, hotels, or motels), or other categories of solid waste incinerators subject to a performance standard promulgated pursuant to Sections 111 or 129 of the Clean Air Act. The following incinerators are excluded from the definition of "solid waste incinerator" for the purpose of Regulation 5:

- (1) Any hazardous waste incinerator required to obtain a permit under the authority of Section 3005 of the Solid Waste Disposal Act (42 U.S.C. Section 6925);
- (2) Any materials recovery facility that primarily recovers metals;
- (3) Any qualifying small power production facility as defined in 16 U.S.C.A. Section 796(17)(C);
- (4) Any qualifying cogeneration facility that burns homogenous waste for the production of energy as defined in 16 U.S.C.A. Section 796(18)(B); or
- (5) Any air curtain incinerator that burns only wood, yard, or clean lumber waste and complies with the opacity limitations to be established by the Administrator of the U.S. EPA.

(s3) Stationary Source

For the purposes of Regulation 5, a "stationary source" is any building, structure, facility, or installation (or any such grouping) that:

- (1) Emits, may emit, or results in the emissions of any regulated air pollutant or hazardous air pollutant;
- (2) Is located on one or more contiguous or adjacent properties;
- (3) Is under the ownership, operation, or control of the same person (or persons under common control) or entity; and
- (4) Belongs to a single major industrial grouping; for example, each building, structure, facility, or installation in the grouping has the same two-digit code under the system described in the 1987 Standard Industrial Classification Manual.

[Reference: 40 CFR 70.2]

(u1) United States Environmental Protection Agency (U.S. EPA)

"United States Environmental Protection Agency" refers to the Administrator or designated representative of the United States Environmental Protection Agency.

(v1) Voluntary Emissions Cap

A "voluntary emissions cap" is an optional, federally enforceable emissions limit on one or more emissions unit(s) which a source assumes in order to avoid an applicable federal requirement. The source remains subject to all other applicable federal requirements.