

BUTTE COUNTY AIR QUALITY MANAGEMENT DISTRICT

**RULE 1105 - REQUEST FOR DESIGNATED NON-MAJOR SOURCE STATUS**

*(Adopted February 15, 1996; Recodified August 22, 2002)*

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**RULE 1105**

**1 GENERAL**

**1.1 Purpose**

- 1.1.1 This Rule authorizes the owner or operator of specified stationary source that would otherwise be a major source to request and accept federally-enforceable emissions limits sufficient to allow the source

to be considered a "designated non-major source."

**1.1.2** A designated non-major source is not subject to Rule 1101 of these Rules and Regulations, "Title V - Federal Operating Permits", unless it is subject to that Rule for any reason other than being a major source. A designated non-major source is subject to all applicable federal requirements for non-major stationary sources and to all federally-enforceable conditions and requirements pursuant to this Rule.

**1.1.3** Notwithstanding any provision of this Rule, application of this Rule to any source shall not be construed in part or in whole as exempting the source from full compliance with all other State, federal, and Butte County Air Quality Management District (DISTRICT) Rules and Regulations.

## **1.2 Applicability**

**1.2.1 General Applicability:** This Rule applies to any major source for which the owner or operator requests, and would be able to comply with, federally-enforceable conditions that qualify the source to be a designated non-major source, as defined herein.

**1.2.2 Exclusion:** This Rule shall not apply to any source subject to Rule 1101 for any reason other than being a major source.

**2 DEFINITIONS:** All terms shall retain the definitions provided under Rule 1101, unless otherwise defined herein.

**2.1 Major Source:** A "major source" is a stationary source which has the potential to emit a regulated air pollutant or a hazardous air pollutant (HAP) in quantities equal to or exceeding the lesser of any of the following thresholds:

**2.1.1** 100 tons per year (tpy) of any regulated air pollutant;

**2.1.2** 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 ten tpy for an area classified as extreme;

**2.1.3** 70 tpy of PM<sub>10</sub> (particulate matter of ten microns or less) for a federal PM<sub>10</sub> non-attainment area classified as serious;

**2.1.4** 10 tpy of one HAP or 25 tpy of two or more HAPs; or,

**2.1.5** Any lesser quantity threshold promulgated by the United States Environmental Protection Agency (EPA). [Reference: 40 Code of Federal Regulations (CFR) Part 70.2 Major Source]

**2.2 Modification:** For the purposes of this Rule, a modification is any physical or operational change at a source or facility which necessitates a revision of any federally-enforceable condition, established pursuant to this Rule or by any other mechanism, that enables a source to be a designated non-major source.

- 2.3 Operating Scenario:** An operating scenario is any mode of operation to be permitted, including: normal operation, start-up, shutdown, and reasonably foreseeable changes in process, feed, or product.
- 2.4 Owner or Operator:** For the purposes of this Rule, an owner or operator is any person who owns, operates, controls, or supervises a stationary source.
- 2.5 Designated Non-Major Source:** A designated non-major source is a stationary source which, pursuant to this Rule or another mechanism, is subject to federally-enforceable conditions that limit its potential to emit to below major source thresholds.
- 3 REQUEST FOR DESIGNATED NON-MAJOR SOURCE STATUS:** A request for designated non-major source status shall not relieve a source of the responsibility to comply with the application requirements of Rule 1101 of these Rules and Regulations within the specified timeframes. A major source subject to this Rule may request designated non-major source status in accordance with the following:
- 3.1 Content of Request:** A request for designation as a designated non-major source shall include:
- 3.1.1** The identification and description of all existing emission units at the source;
  - 3.1.2** The calculation of each emission unit's maximum annual emissions of regulated air pollutants for all operating scenarios to be permitted, including any existing federally-enforceable limits established by a mechanism other than this Rule. The calculated emissions for each emissions unit shall include the following fugitive emissions:
    - 3.1.2.1** Hazardous air pollutant fugitive emissions for all sources; and,
    - 3.1.2.2** Other regulated air pollutant fugitive emissions for sources specified in 40 CFR Part 70.2 Major Sources (2).
  - 3.1.3** Proposed federally-enforceable conditions which:
    - 3.1.3.1** Limit source-wide emissions to below major source thresholds; and,
    - 3.1.3.2** Are permanent, quantifiable, and otherwise enforceable as a practical matter.
  - 3.1.4** Proposed federally-enforceable conditions to impose monitoring, recordkeeping, and reporting requirements sufficient to determine compliance;
  - 3.1.5** Any additional information requested by the Air Pollution Control Officer (APCO); and,
  - 3.1.6** Certification by a "responsible official", as defined in Rule 1101 of these Rules and Regulations, that the contents of the request are true, accurate, and complete.

**3.2 Timely Request:** The owner or operator of a major source who chooses to request designated non-major source status shall make such a request within the following timeframes:

**3.2.1** For any major source that is operating or is scheduled to commence operating on or before June 2, 1995, the owner or operator shall request designated non-major source status no later than 60 days before an application is required under Rule 1101 of these Rules and Regulations;

**3.2.2** For any major source that commences operating after June 2, 1995, the owner or operator shall request designated non-major source status no later than 60 days before an application is required under Rule 1101; or,

**3.2.3** For any major source that is operating in compliance with a permit pursuant to Rule 1101, the owner or operator may request designated non-major source status at any time, but shall submit such request no later than eight months prior to permit renewal.

**3.3 Designated Non-Major Source Modification Requirements:** The following requirements apply to any modification of a designated non-major source :

**3.3.1** For a modification which would not increase the designated non-major source's potential to emit to equal or exceed any major source's threshold, the source shall comply with the requirements of Rule 430 of these Rules and Regulations, "New Source Review."

**3.3.2** For a modification which would increase the designated non-major source's potential to emit to equal or exceed any major source threshold or would affect a monitoring, recordkeeping, or reporting requirement pursuant to Section 4.2 of this Rule, the owner or operator shall comply with the applicable requirements of Rule 430, and shall:

**3.3.2.1** Submit a revised request for designated non-major source status in accordance with Section 4.2 of this Rule no later than 180 days prior to the intended modification; or

**3.3.2.2** Submit an application in accordance with the requirements of Rule 1101 no later than 180 days prior to the intended modification.

**4 DISTRICT PROCEDURES AND FEDERALLY-ENFORCEABLE CONDITIONS:** The DISTRICT shall take the following actions on requests for designated non-major source status:

**4.1 Completeness Determination:** The APCO shall determine whether the application is complete not later than thirty (30) days after receipt of the application, or after such longer time mutually agreeable to the applicant and the APCO. If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision and of the required

additional information. Upon receipt of any re-submittal of the application, a new thirty (30)-day period to determine the completeness shall begin. Completeness or re-submittal of an application shall be evaluated on the basis of the information requirements set forth in DISTRICT Regulations as they exist on the date on which the application or re-submitted application was received. Upon determination that the application is complete, the APCO shall notify the applicant in writing. The APCO may, during the processing of the application, request an applicant to clarify, amplify, correct, or otherwise supplement the information submitted in the application.

Upon request by the APCO, the owner or operator shall provide additional information whether or not the request for designated non-major source status has been deemed complete.

**4.2 Federally-enforceable Conditions:** Federally-enforceable conditions enabling a source to become a designated non-major source shall be identified as federally-enforceable and included in the source's Permit to Operate issued by the DISTRICT pursuant to Rule 400 of these Rules and Regulations, Permit to Operate, and Sections 4.3 through 4.5 of this Rule, and shall be:

**4.2.1** Permanent, quantifiable, and practically enforceable permit conditions, including any operational limitations or conditions, which limit the source's potential to emit to below major source thresholds;

**4.2.2** Monitoring, recordkeeping, and reporting conditions sufficient to determine ongoing compliance with the emissions limits set forth pursuant to Section 4.2.1 of this above; and,

**4.2.3** Subject to public notice and EPA review pursuant to Sections 4.4 and 4.5 of this Rule.

**4.3** Permits that do not conform to the requirements of this Section, any other requirements of this Rule, or any underlying federal regulations which set forth criteria for federal-enforceability may be deemed not federally-enforceable by EPA.

**4.4 Public Notification and Review:** After a request for designated non-major source status is determined to be complete, the APCO shall:

**4.4.1** Publish a notice of the request in one or more major newspapers in the area where the source is located;

**4.4.2** In the public notice:

**4.4.2.1** State that conditions identified as federally enforceable in the source's permit will establish a voluntary emissions limit in accordance with this Rule; and,

**4.4.2.2** Describe how the public may obtain copies of the proposed permit including the federally-enforceable conditions addressing the emissions limit(s).

**4.4.3** Provide 30 days for public review of the proposed permit prior to

final permit action.

- 4.5 EPA Review:** After a request for designated non-major source status is determined to be complete, the APCO shall:
- 4.5.1** Provide EPA with copies of the proposed permit including the conditions which:
    - 4.5.1.1** Are identified as federally-enforceable; and,
    - 4.5.1.2** Limit emissions to below major source thresholds.
  - 4.5.2** Provide 30 days for EPA review of the proposed permit prior to final permit action.
  - 4.5.3** Provide EPA with copies of the final permit.
- 4.6 Final Action:** Until the DISTRICT takes final action to issue the Permit to Operate pursuant to this Section, a source requesting designated non-major source status shall not be relieved of the responsibility to comply with the application or other requirements of Rule 1101 of these Rules and Regulations within the specified timeframes.

Upon fulfilling the requirements of Sections 4.1 through 4.4 of this Rule, the APCO shall consider any written comments received during public and EPA review and take final action on the Permit to Operate of a source requesting designated non-major source status within 90 days of deeming such request complete or within three years of the effective date of Rule 1101, whichever is later.

The DISTRICT shall maintain a public record of all pertinent documents regarding a request for designated non-major source status, including: the request, proposed permit, all written comments and responses, and the final permit.

- 4.7 Renewal of Designated Non-Major Source Status:** Renewal of designated non-major source status shall be made in accordance with Rule 400 of these Rules and Regulations. In addition, at permit renewal, any revision of conditions identified as federally-enforceable shall be subject to Sections 3.1 and 4.1 through 4.5 of this Rule.

## 5 COMPLIANCE

- 5.1 Exceedances:** The owner or operator of a designated non-major source which exceeds the conditions identified as federally-enforceable and established pursuant to Section 4.2.1 of this Rule shall report such exceedances to the APCO in accordance with Rule 266 of these Rules and Regulations.
- 5.2 Non-Complying Designated Non-Major Source:** The owner or operator of a designated non-major source that is not in compliance with any condition

identified as federally-enforceable or with any requirement set forth in this Rule, or that files false information with the DISTRICT to obtain designated non-major source designation, is in violation of the federal Clean Air Act and DISTRICT Rules and Regulations. A non-complying designated non-major source may be subject to any one or combination of the following actions: enforcement action, permit termination, permit revocation and reissuance, and permit renewal denial.

- 6 FEES:** Each applicant for a new or modified designated non-major source permit issued pursuant to this Rule shall pay an evaluation and processing fee equivalent to the hourly fee rate for time expenditure specified in Rule 501 of these Rules and Regulations for Authority to Construct Fees. Each applicant shall also be subject to the Basin Control Council Surcharge specified in Rule 510 of these Rules and Regulations for each permit issued pursuant to this Rule. All fees collected shall not be returnable and shall be deposited in the Treasury of the Butte County Air Quality Management District.