AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO

WORKSHOP REPORT

AMENDMENTS TO REGULATION XIV - TITLE V OPERATING PERMITS AND REVISION TO THE TITLE V PERMIT PROGRAM

A notice for a workshop for proposed amendments to Regulation XIV and revisions to the Title V Permit Program was mailed to affected industry in San Diego County. Notices were also mailed to the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB), and other interested parties. The workshop was held on March 22, 2001. Oral and written comments were received during and after the workshop. The comments and District responses are as follows:

1. WORKSHOP COMMENT

The District has not yet issued all the Title V permits for the initial group of affected facilities. What has been the holdup in permit issuance?

DISTRICT RESPONSE

The delays resulted from lengthy negotiations with EPA to provide more specific guidance on permit issuance and permit content. Issues unique to California and San Diego, such as variances, periodic monitoring, and outdated New Source Review rules in the State Implementation Plan, needed to be resolved for all facilities in the program prior to proposing individual permits for public and EPA review and final permit issuance. These negotiations created further delays as staff assigned to Title V had to take on other assignments that developed.

2. WORKSHOP COMMENT

When does the five-year term of the permit begin? When does the renewal process begin? Will application forms be distributed to permit holders?

DISTRICT RESPONSE

Each Title V permit has a five-year term listed on the cover page of the permit. The five years typically will start on the date of permit issuance. Permit renewal applications must be submitted between 12 and 18 months before the Title V permit expiration date. Necessary permit renewal application forms will be made available.

3. WORKSHOP COMMENT

What are significant changes in monitoring terms and conditions?

DISTRICT RESPONSE

EPA has indicated that less frequent monitoring and changes to the type of monitoring are examples of significant changes in monitoring terms and conditions.

4. WORKSHOP COMMENT

Is the disaggregation of the military bases into functional groups for purposes of New Source Review and the Title V Permit Program affected by the proposed amendments?

DISTRICT RESPONSE

No. EPA agreed to the functional groupings for military bases and the changes to Regulation XIV and the Title V Permit Program do not affect the handling of functional groupings.

5. WORKSHOP COMMENT

Is it possible to apply for a synthetic minor source permit for the Metropolitan Bio-solids Center? Facility emissions do not exceed the major source thresholds and there is no separate EPA source requirement.

DISTRICT RESPONSE

Yes. If actual emissions are less than the major source thresholds, the facility could choose to limit its potential to emit through a synthetic minor source permit in lieu of obtaining a Title V permit.

6. WORKSHOP COMMENT

What's the purpose of including Class I and Class II ozone depleting compounds in the definition of "air contaminant"? Does a facility need to inventory the emissions of these compounds under Title V?

DISTRICT RESPONSE

Ozone depleting compounds are regulated air pollutants in the Title V Permit Program and a major source of these compounds would require a Title V permit. The Title V Permit Program does not require an inventory for these compounds. A facility that is a major source of these compounds would only need to acknowledge that status on the summary Title V permit application form.

7. WORKSHOP COMMENT

The District should clarify what portions of Rules 20.1 through 20.4 are in the State Implementation Plan (SIP).

DISTRICT RESPONSE

The District maintains a record of those rules, or portions thereof, which have been approved into the SIP. That information is available through the District's Rule Development Section. Current Rules 20.1 through 20.4 have not yet been approved by EPA into the SIP. Generally, the District requested that only those portions of the rules applicable to major sources and to determining the air quality impacts (relative to the NAAQS) of minor sources be approved into the SIP. That request is still under negotiation with EPA.

8. WORKSHOP COMMENT

What is the responsibility of the Title V facility for contractor portable equipment?

DISTRICT RESPONSE

If the portable equipment is on site on a temporary basis, generally less than 12 months, and is not a major source of emissions, the equipment does not have to be included on the permit provided the associated operation is not ongoing at the facility. For an on-going activity, even though done over the term of the Title V permit by several different contractors, the Title V permit must contain the applicable requirements for the equipment. The Title V facility is responsible for the activities of portable equipment on site and for violations of any applicable requirements. Emissions of such equipment must be included in the determination of Title V applicability.

9. WORKSHOP COMMENT

The District should consider adding a process that would allow EPA and the District to resolve disagreements over EPA objections prior to permit issuance.

DISTRICT RESPONSE

EPA's Title V regulation, 40 CFR Part 70, provides no additional resolution mechanism or process other than what Regulation XIV provides for in the case of an EPA objection. However, until there is resolution of an objection, EPA does not recognize any Title V permit issued and the facility remains protected by the application shield in Regulation XIV.

10. WORKSHOP COMMENT

Some of the prohibitory rules contain an exemption for application of a small quantity of non-complying coatings. Is there a similar provision in the list of insignificant activities?

DISTRICT RESPONSE

No. The purpose of the insignificant activities list is to identify activities which are negligible sources of emission, are not subject to source-specific applicable requirements and are thus

subject to less burdensome permitting requirements. The insignificant activities list closely corresponds to permit exemptions in District Rule 11. The exemptions from specific prohibitory rule requirements described in this comment continue to apply under the Title V permits.

11. WORKSHOP COMMENT

Are Title V permits issued prior to the December 1, 2001, date for final Title V Program Approval considered draft?

DISTRICT RESPONSE

No. Title V permits issued under the interim approval are final permits and are not considered draft. EPA's interim approval included the authority for the District to issue final Title V permits.

12. ARB COMMENT

Rule 1401(c)(20) "Definition of Federally-mandated NSR" limits federally-enforceable new source review (NSR) requirements to those triggered by major source emission thresholds specified under federal law. EPA may object to this provision because the Agency believes that non-major source, as well as major source, NSR requirements are federally-enforceable.

DISTRICT RESPONSE

The District has discussed this issue with EPA and included all required elements of federal new source review in the definition to address EPA's concern. (See also the response to comment No. 26.)

13. ARB COMMENT

Rule 1410(h)(7) and (i)(8) "Inactive Status" provisions specify that the Title V administrative amendment procedure be used if a facility wants to temporarily stop the operation of certain equipment/process lines. However, administrative permit amendments do not provide an opportunity for public review and comment and the U.S. EPA is likely to find the administrative amendment procedure inadequate for a change in operating status. Title V procedures which require public review and comment and which U.S. EPA is likely to consider appropriate for establishing "alternative operating scenarios" are: initial permit issuance, permit renewal, and significant permit modifications.

DISTRICT RESPONSE

The District is proposing to remove the inactive status permit provisions from Rule 1410(h)(7) and (i)(8).

14. ARB COMMENT

The U.S. EPA generally requires permitting authorities to identify and justify activities or units that are designated as emitting "insignificant" amounts of air pollutants. The U.S. EPA is likely to reject several of the insignificant units listed in Appendix A unless the District provides justification or adds production, size, or emission level limits.

DISTRICT RESPONSE

The District agrees and has added production, size, or emission limit levels where necessary to the insignificant activities listed in Appendix A. These levels are being discussed with EPA and will be resolved before amending Regulation XIV.

15. ARB COMMENT

Section (d)(11) of Appendix A contains the following language which has been inadvertently carried over from the District's permit exemption rule: "… or which are exempt from a requirement for a permit to operate pursuant to this rule." We recommend that the District delete this language since the District's Title V rule does not contain an exemption for ovens and no such exemption is allowed by the Federal 40 CFR Part 70 Title V regulation.

DISTRICT RESPONSE

The District agrees and has removed the referenced section.

16. EPA COMMENT

EPA is very concerned that the language (in the District's Title V Permit Program) could be interpreted to not require agricultural sources to consider fugitive emissions of hazardous air pollutants for major source applicability determinations. San Diego must require consideration of fugitive emissions for purposes of determining whether a source is major under Section 112 of the Clean Air Act. Criteria pollutant fugitive emissions, however, can be excluded. See March 8, 1994, Memorandum entitled, "Consideration of Fugitive Emissions in Major Source Determinations," from Lydia Wegman, EPA's Office of Air Quality Planning and Standards to EPA Regional Air Divisions Directors.

Therefore, the District could either delete the following language:

~~Typically, agricultural production sources generate fugitive emissions which are excluded from determining Title V permit applicability. However, any agricultural production source that is a major source of stack emissions is subject to title V permits under EPA requirements.~~

Alternatively, the District could include the language but narrow the scope to only allow fugitive criteria pollutant emissions to be excluded from title V applicability determinations.

DISTRICT RESPONSE

The District agrees and has deleted the language from the Title V Permit Program.

17. EPA COMMENT

The District has added language in the first paragraph of Rule 1410(h)(7) to allow the switch from active to inactive to be treated as an administrative amendment. This language should be struck as further discussed below. Also, when a source returns to "active" status NSR may be triggered. The District must include a provision in the second paragraph that would require sources to evaluate whether NSR was triggered by reactivation. We understand that the proposed language could be interpreted to require NSR in the "reflect new applicable requirements" phrase but we believe it should be explicit.

DISTRICT RESPONSE

The District is proposing to remove the inactive status permit provisions from Rule 1410(h)(7) and (i)(8).

18. EPA COMMENT

The proposed changes to the list of insignificant activities do not correct the deficiency cited in our final interim approval rulemaking. For example, the revisions did not remove, or place a size limit on, the refrigeration unit described as insignificant at revised Appendix A, (p)(18). In our final rulemaking, we had cited this as an example of the type of equipment that either should be removed from the list or limited to a charge rate of 50 pounds or less of a Class I or II ozone-depleting compound so that the refrigeration units are not subject to a unit-specific applicable requirement. Such units are subject to applicable requirements and cannot be considered insignificant.

DISTRICT RESPONSE

The District agrees and has added production, size or emission limit levels where necessary to the insignificant activities listed in Appendix A. These changes will be discussed and resolved with EPA before amendment of Regulation XIV.

19. EPA COMMENT

Subsection (n) of Appendix A would allow identical replacement that meet(s) certain requirements to qualify as an insignificant source. This is not approvable because federal law does not consider "identical replacements" to necessarily be exempt from federal NSR requirements. The District must remove this section from the list of insignificant activities list because new source review (and other requirements) may be required for identical replacement.

DISTRICT RESPONSE

This matter is being further discussed with EPA. The District may be willing to remove this provision but is concerned with how these inconsequential permit changes will be handled under the Title V permit process. The District has requested EPA to allow these changes to be treated as administrative amendments or possibly "off-permit changes" to minimize any administrative burdens that might result from the need to periodically make permit changes associated with identical replacements.

20. EPA COMMENT

EPA is concerned that the equipment used for the recycling and/or recovering CFC or alternative fluorocarbons listed in Subsection (p)(34) of Appendix A may also be required to meet unit-specific applicable requirements under CAA Title VI, and therefore, would not qualify as insignificant. Either delete this or establish a limit on the size of the equipment.

DISTRICT RESPONSE

The District agrees and has added a 50-pound maximum charge rate for Class I and II ozone depleting compounds.

21. EPA COMMENT

Provide a justification as to why no unit-specific requirements apply to any of the equipment under (p)(35), (p)(36) and (p)(37) or why these units are truly insignificant. We do not believe that these units should be considered insignificant and therefore should be removed from the list.

DISTRICT RESPONSE

The District believes the registered equipment of these subsections have relatively low potentials to emit or that the referenced rules contain emission limits. Most registered units are portable engines or emergency standby generators that are already considered insignificant or exempt by EPA. This matter is being further discussed with EPA and will be resolved before Regulation XIV is amended.

22. EPA COMMENT

There is concern over a possible misinterpretation from the language in the first paragraph of Appendix A that introduces the list of insignificant activities:

"This listing is of equipment determined to be exempt from permit requirements under this regulation due to the relatively low potential to emit."

EPA therefore recommends that San Diego revise the first sentence of the paragraph above to state:

"The District has determined, based on the relatively low potential to emit, that the following equipment are insignificant activities under this regulation."

DISTRICT RESPONSE

The District will revise the introductory phrase as follows:

"This listing is of equipment determined to be exempt from ~~permit~~ specified requirements under this regulation due to the relatively low potential to emit."

23. EPA COMMENT

The District has amended subsection (4) to allow transfer of ownership to qualify as an administrative permit amendment,

"provided the emission unit is not modified except in a manner exempt under this regulation and the emission unit is..."

EPA requires that you strike the phrase ~~except in a manner exempt under this regulation~~ from your proposed language.

DISTRICT RESPONSE

The District has restored the original language of Rule1410(i)(4) for change of ownership. EPA has agreed that this will address this comment.

24. EPA COMMENT

Strike the entire subsection (6) of Rule 1410(i). 40 CFR Part 70 does not define the term "identical replacement" and the regulation does not allow identical replacements to qualify as administrative permit amendments at 40 CFR 70.7(d).

DISTRICT RESPONSE

This matter is being further discussed with EPA. The District may be willing to remove this provision but is concerned with how these inconsequential permit changes will be handled under the Title V permit process. The District has requested EPA to allow these changes to be treated as administrative amendments or possibly "off-permit changes" to minimize any administrative burdens that might result from the need to periodically make permit changes associated with identical replacements.

25. EPA COMMENT

Similar to our comment on subsection (6), above, 40 CFR Part 70 does not contemplate as administrative permit amendments, sources switching emission units from an "active" status to "inactive" status. We, therefore, request that you delete it.

DISTRICT RESPONSE

The District has removed the proposed new inactive status permit provisions from this section and section (h) of Rule 1410.

26. EPA COMMENT

To avoid confusion and to sufficiently correct this deficiency revise the definition of Federally Mandated New Source Review (NSR) in rule 1401(c) as follows:

(20)**"Federally Mandated New Source Review (NSR)"** means new source review ~~that would be~~ required ~~using emission thresholds specified in federal law or in~~ by the approved State Implementation Plan (SIP) ~~or any requirements in Rules 20.1 through 20.4 that are in the SIP and apply to the source~~, including federal minor NSR, but not including ~~and does not include~~ new source review that is required solely as a result of state law. ~~or these Rules and Regulations.~~

DISTRICT RESPONSE

The District disagrees with two aspects of the suggested revision to the definition "federally mandated new source review." For one, EPA's suggested language strikes the reference to the requirements of Rules 20.1 through 20.4 and introduces the term "federal minor NSR" which has no definition and would be subject to interpretation. Also, the District believes that some elements of new source review are contained solely in the District's Rules and Regulations and therefore the reference must be retained. The proposed definition has been revised as follows:

"Federally Mandated New Source Review (NSR)" means new source review specified in federal law or that would be required by the approved State Implementation Plan (SIP) or any requirements in Rules 20.1 through 20.4 that are in the SIP and apply to the source, and does not include new source review that is required solely as a result of state law or those portions of these Rules and Regulations which have not been approved or submitted to be approved into the SIP.