

BUTTE COUNTY
AIR QUALITY MANAGEMENT DISTRICT
HEARING BOARD
STAFF REPORT

Stipulated Order of Abatement #19-01

Hearing Date:

January 29, 2019 at 11:00 a.m.

Butte County Association of Governments Board Room,
326 Huss Drive, Suite 100, Chico, CA

BACKGROUND

On November 8, 2018 and following days, an uncontrolled wildfire ravaged the Town of Paradise and surrounding areas. The Butte County Air Quality Management District (District) has identified permitted sources within the fire area that were impacted by the fire. Some facilities were destroyed, completely consumed by the fire. Other facilities were partially damaged, lost power or supporting structures, and are not currently operable. Other facilities have staff evacuated or displaced, lack power or other services and remain closed. The District recognizes that the Respondent(s) may have potentially lost Records or lack access to Records due to damage caused by the Camp Fire of November 2018. Due to circumstances beyond the Respondent's control, the APCO is requesting a Stipulated Order of Abatement be issued, pursuant to California Health and Safety Code (HSC) Section (§) 42451(b), to allow impacted sources to comply with the applicable regulations if they follow the conditions of the order.

The Petitioner, the Air Pollution Control Officer (APCO) of the District, requires any Permit Holder possessing an Authority to Construct, Permit to Operate, or, upon request, Certificate of Registration to submit Production Data or other Records specified in the permit or registration by January 31st of each calendar year. If records are delinquent, the Permit Holder will be in violation of permit conditions per District Rule 700 and may be subject to a financial penalty and/or default of their permit or certificate as required in District Rule 514.

The District is still unsure of the number of sources impacted or the extent of impact. Although persons are allowed to return to the area, power and other services are still being restored. The clean up of ash and debris will be ongoing.

The Petitioner is proposing this course of action to allow those that have experienced this tragic event a formal way to gain time to assess their businesses, records availability, and needs for permitting. The District is very thorough in collecting throughput and facility information records and an active enforcement process for obtaining those records. This proposed path will relieve impacted sources from the deadlines of permits and rules without requiring each source to petition the Hearing Board for a variance. Although the Stipulated Order of Abatement is more often used in a situation where all the required findings for a variance cannot be made, similar orders have been issued in other air districts to allow affected parties a path to comply with specific rules or requirements.

FINDINGS OF FACTS

Pursuant to California HSC § 42451(b), the Hearing Board may issue an order for abatement pursuant to the stipulation of the Air Pollution Control Officer and the person or persons accused of constructing or operating any article, machine, equipment, or other contrivance without a permit required by this part, or of violating § 41700 or 41701, or any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air, upon the terms and conditions set forth in the stipulation, without making the finding required under subdivision (a). The hearing board shall, however, include a written explanation of its action in the order for abatement. This is a Stipulated Order of Abatement to require Respondent(s) to comply with the District's annual record submittal requirements as per Permit to Operate Recordkeeping and Submittal Conditions and District Rules 400, 430, 434, 440, 441, 514 and 700 either as required by permit conditions or by alternative conditions approved by the Hearing Board.

The proposed order would require each Respondent to have been impacted by the Camp Fire and provides sufficient evidence to the APCO to be subject to the conditions of the order.

The uncontrolled wildfire impacted businesses and operations subject to Butte County Air Quality Management District Rules and Regulations and required emergency evacuation for life and safety. The impacts by the wildfire included temporary closures, damage to or destruction of permitted equipment and support buildings or structures, loss of power, telephone, internet and other communication and utility services, and loss of access to the equipment and buildings.

The following alternative compliance conditions are recommended for the Stipulated Order of Abatement:

1. The Stipulated Order of Abatement shall extend reporting date required in a Permit to Operate, Registration, or District rule or regulation until June 30, 2019, provided the Respondent notify the District in writing of the need to delay reporting by March 1, 2019.
2. This Stipulated Order of Abatement shall relieve any Respondent of a Permit to Operate, Certificate of Registration, or District rule or regulation requirement to maintain records of operation, throughputs, or other parameters for any period of time for records prior to 2019 provided the Respondent certify in writing to the District that such records were destroyed or not recoverable by June 30, 2019.
3. This Stipulated Order of Abatement shall not relieve Respondents that are able to operate their facilities from any Permit to Operate or Certificate of Registration conditions or District Rules and Regulations requirements if operation is resumed. Other relief may be sought under the applicable sections of District Rules and Regulations (i.e. source specific variance petition) or applicable law.

Staff contact for this Stipulated Order of Abatement petition is David Lusk.

W. James Wagoner,
Air Pollution Control Officer

By: _____



Date: _____

1/11/19

Attachments: Petition #19-01

Template for Permit to Operate Recordkeeping and Submittal Conditions
Health and Safety Code §42451(b)

District Rules:

Rule 400—Permit Requirements

Rule 430—State New Source Review

Rule 434—Emissions Statements

Rule 440—Portable Equipment Registration

Rule 441—Registration Requirements for Stationary Compression Ignition (CI)
Engines Used in Agricultural Operations

Rule 514—Delinquent Records Fees

Rule 700—Violations of Orders, Rules or Regulations