



Air Pollution Control Board

San Diego County Air Pollution Control District

GOVERNING BODY

GREG COX
First District

DIANNE JACOB
Second District

DAVE ROBERTS
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

AGENDA ITEM

DATE: April 27, 2016

XX

TO: Air Pollution Control Board

SUBJECT: ADOPTION OF PROPOSED AMENDMENTS TO NEW SOURCE REVIEW RULES 20.1, 20.2, 20.3, 20.4, AND 20.6 (DISTRICTS: ALL)

Overview

This is a request for the Air Pollution Control Board to adopt proposed amendments to New Source Review Rules 20.1, 20.2, 20.3, 20.4, and 20.6 to improve consistency with current federal and state requirements. These rules require a proposed new or modified stationary source that emits air pollutants, such as a manufacturing facility or power plant, to obtain a pre-construction permit and undertake other actions to ensure the protection of air quality and public health. The proposed rule amendments improve clarity and address changes in federal and state requirements since the rules were last amended. These changes include revised methodologies for quantifying proposed emission increases and emission reductions. The most significant changes will apply to only a few facilities that are very large emission sources, and then only if they were to propose large emission increases.

The proposed rule amendments were developed in collaboration with the U.S. Environmental Protection Agency (EPA) and the California Air Resources Board (CARB), with input from local facilities and the public. If adopted, the proposed amended rules will be submitted to the EPA through CARB for approval as part of the San Diego County portion of the State Implementation Plan for attaining and maintaining air quality standards. Rule approval at the federal and state levels will provide additional assurance that permits issued by the Air Pollution Control District (District) to new or modified sources are in compliance with federal and state requirements.

Recommendation(s)

AIR POLLUTION CONTROL OFFICER

1. Find that the adoption of proposed amended Rules 20.1, 20.2, 20.3, 20.4, and 20.6 is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, where the regulatory process involves procedures for protection of the environment, and pursuant to Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SUBJECT: ADOPTION OF PROPOSED AMENDMENTS TO NEW SOURCE REVIEW RULES 20.1, 20.2, 20.3, 20.4, AND 20.6 (DISTRICTS: ALL)

2. Adopt the Resolution entitled RESOLUTION ADOPTING AMENDED RULE 20.1 - NEW SOURCE REVIEW-GENERAL PROVISIONS; RULE 20.2 - NEW SOURCE REVIEW-NON-MAJOR STATIONARY SOURCES; RULE 20.3 - NEW SOURCE REVIEW-MAJOR STATIONARY SOURCES AND PREVENTION OF SIGNIFICANT DETERIORATION (PSD) STATIONARY SOURCES; RULE 20.4 - NEW SOURCE REVIEW-PORTABLE EMISSION UNITS; AND RULE 20.6 - STANDARDS FOR PERMIT TO OPERATE AIR QUALITY ANALYSIS, OF REGULATION II OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.

Fiscal Impact

There is no fiscal impact associated with these recommendations. No change in net General Fund cost and no additional staff years are required.

Business Impact Statement

The proposed amended rules will replace outdated rules and help ensure that air quality permits issued to local businesses comply with current state and federal requirements. Accordingly, today's actions will provide businesses with increased confidence and regulatory certainty.

District staff conducted substantial outreach to potentially affected businesses and industrial groups during rule development and made substantial efforts to minimize the potential impacts on facilities while incorporating the elements necessary for protecting air quality and public health and receiving rule approval by the EPA and CARB. If the rules are adopted by the Board and subsequently approved by the EPA, staff will issue an advisory notice to further inform potentially affected sources.

Advisory Board Statement

At its meeting on October 14, 2015, with a quorum present, the Air Pollution Control District Advisory Committee voted unanimously in support of the staff's recommendations.

Background

The District was required by federal and state laws to adopt New Source Review rules requiring a proposed new or modified facility in the San Diego region to obtain a pre-construction permit and undertake other actions. The purpose is to protect air quality and public health, even as new industrial facilities are built and existing facilities expand. Specific requirements include the installation of modern air pollution control equipment (known as "Best Available Control Technology" or, for larger sources, "Lowest Achievable Emission Rate" technology). Additionally, for emission increases above specified levels, an Air Quality Impact Analysis must be performed, and offsetting (mitigating) emission reductions and a public notice and comment period are required.

Existing New Source Review Rules 20.1 through 20.4 were adopted in 1994 and last amended in 1998. These rules were designed to satisfy federal and state requirements in effect at the time and were intended to replace outdated 1979 versions of the rules that were approved by the EPA in 1981. Although the 1994 rules and 1998 rule amendments were approved by the CARB, the

SUBJECT: ADOPTION OF PROPOSED AMENDMENTS TO NEW SOURCE REVIEW RULES 20.1, 20.2, 20.3, 20.4, AND 20.6 (DISTRICTS: ALL)

EPA did not approve them. Consequently, the outdated 1979 rules are still legally enforceable by the EPA and the public, even though they are not consistent with current federal requirements and have not been applied in the District's permit program for many years. This conflict between locally and federally enforceable air quality regulations can lead to confusion among permitted sources about which requirements are actually applicable to them.

Proposed amended New Source Review Rules 20.1, 20.2, 20.3, 20.4, and 20.6 were developed in collaboration with the EPA and CARB and reflect requirements under current federal and state laws. If adopted, the proposed amended rules will be submitted to the EPA through CARB for approval as part of the San Diego County portion of the State Implementation Plan (SIP). Replacing the outdated 1979 rules found in the SIP will eliminate the risks currently faced by locally-permitted sources because of possible EPA or citizen enforcement of outdated requirements.

The most significant proposed rule amendments pertain to new federal requirements for determining emission increases and offsetting emission reductions. Those additional requirements are mandated under federal regulations and are necessary for rule approval by the EPA. They will apply to only a few local facilities that are large emission sources, and then only if they were to propose large emission increases.

Additionally, the proposed amendments to Rule 20.6 update its references to the proposed amended Rules 20.1 through 20.4. Lastly, several additional minor amendments to the New Source Review rules are proposed to improve clarity and address implementation issues.

Federal and state laws prohibit relaxing or weakening New Source Review rules compared to the rules that were in effect on November 15, 1990 (per federal law) or on December 30, 2002 (per state law). District staff evaluated the proposed amended rules in coordination with the EPA and CARB and determined that the amendments do not result in any relaxation of the New Source Review rules in effect on those dates. Staff's evaluation pertaining to the state law (Cal. Health and Safety Code §§42500 et seq., "Senate Bill (SB) 288") is documented in Attachment B, fulfilling CARB's request to include this information in today's proceedings.

Additionally, pursuant to state law, District staff must identify all federal, state, and District requirements that apply to the same equipment or sources as do the proposed amended rules. Accordingly, a comparison to federal, state, and local requirements has been prepared (Attachment C).

District staff conducted a public workshop to discuss the proposed rule amendments with affected parties. Advance notice of the workshop was mailed to all air quality permit holders and other interested parties in the region. The workshop was attended by 36 people including representatives of businesses, government facilities and other organizations. District staff prepared responses to all comments and questions received during public review, which were provided to interested parties in a detailed workshop report (Attachment D). No further questions or comments have been raised since.

SUBJECT: ADOPTION OF PROPOSED AMENDMENTS TO NEW SOURCE REVIEW RULES 20.1, 20.2, 20.3, 20.4, AND 20.6 (DISTRICTS: ALL)

Socioeconomic Impact Assessment

State law requires the District to perform an assessment of the socioeconomic impacts when adopting, amending or repealing a rule that will significantly affect air quality or emission limitations. A review conducted by District staff found that proposed amended New Source Review Rules 20.1, 20.2, 20.3, 20.4, and 20.6 will not significantly affect air quality or emission limitations. Accordingly, a socioeconomic impact assessment is not required and has not been prepared. While a few local facilities that are large emission sources could be affected by new requirements for determining proposed emission increases and emission reduction offsets, these are federal EPA requirements that are already in effect.

Environmental Statement

The California Environmental Quality Act (CEQA) requires environmental review of certain actions. District staff conducted a review as to whether CEQA applies to the adoption of amended Rules 20.1, 20.2, 20.3, 20.4, and 20.6. The proposed amended rules will not result in greater air pollutant emissions from new and modified stationary sources in San Diego County, and will likely result in lower emissions. Additionally, the vast majority of the proposed rule amendments are required by federal law and, as such, are already applicable to the subject sources. District staff therefore determined the adoption of amended Rules 20.1, 20.2, 20.3, 20.4, and 20.6 is categorically exempt from the provisions of CEQA pursuant to California Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, where the regulatory process involves procedures for protection of the environment, and pursuant to Section 15061(b)(3) since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Pursuant to Section 15062, a Notice of Exemption will be prepared and filed upon the Board’s adoption of the proposed amended New Source Review rules.

Linkage to the County of San Diego Strategic Plan

Today’s proposed actions support the Sustainable Environments Initiative in the County of San Diego’s 2016–2021 Strategic Plan with an objective to enhance the quality of the environment by focusing on sustainability, pollution prevention and strategic planning. Proposed amended Rules 20.1, 20.2, 20.3, 20.4, and 20.6 will protect air quality by ensuring air pollutant emissions from new and modified facilities are effectively controlled.

Respectfully submitted,

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SIGNATURE

SARAH E. AGHASSI
Deputy Chief Administrative Officer

ROBERT J. KARD
Air Pollution Control Officer

ATTACHMENT(S)

Attachment A – Resolution Adopting Revised Rule 20.1 – New Source Review – General Provisions; Rule 20.2 – New Source Review Non-Major Stationary Sources; Rule 20.3 – New Source Review Major Stationary Sources and Prevention of

SUBJECT: ADOPTION OF PROPOSED AMENDMENTS TO NEW SOURCE REVIEW
RULES 20.1, 20.2, 20.3, 20.4, AND 20.6 (DISTRICTS: ALL)

Significant Deterioration (PSD) Stationary Sources; Rule 20.4 – New Source Review Portable Emission Units; and, Rule 20.6 – Standards for Permit to Operate Air Quality Analysis, of Regulation II of the Rules and Regulations of the San Diego County Air Pollution Control District

Attachment B – Compliance with Senate Bill 288

Attachment C – Comparative Analysis

Attachment D – Workshop Report

Attachment E – Rule 20.1 Change Copy

Attachment F – Rule 20.2 Change Copy

Attachment G – Rule 20.3 Change Copy

Attachment H – Rule 20.4 Change Copy

Attachment I – Rule 20.6 Change Copy

SUBJECT: ADOPTION OF PROPOSED AMENDMENTS TO NEW SOURCE REVIEW RULES 20.1, 20.2, 20.3, 20.4, AND 20.6 (DISTRICTS: ALL)

AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
 Yes No

PREVIOUS RELEVANT BOARD ACTIONS:
November 4, 1998, Amendment of New Source Review Rules 20.1, 20.2, 20.3, and 20.4

BOARD POLICIES APPLICABLE:
N/A

BOARD POLICY STATEMENTS:
N/A

MANDATORY COMPLIANCE:
N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):
N/A

ORIGINATING DEPARTMENT: AIR POLLUTION CONTROL DISTRICT

OTHER CONCURRENCES(S): N/A

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