



**COUNTY OF SAN DIEGO**  
**AIR POLLUTION CONTROL DISTRICT**

**BOARD OF SUPERVISORS**

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First District

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**DATE:** August 6, 2008

**TO:** San Diego County Air Pollution Control Board

**SUBJECT:** PROPOSED NEW RULE 27.1 – FEDERAL REQUIREMENTS FOR THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT'S ALTERNATIVE MOBILE SOURCE EMISSION REDUCTION PROGRAM (District: All)

**SUMMARY:**

**Overview**

The federal Clean Air Act requires that the Air Pollution Control District New Source Review rules address increases in emissions from large new or modified sources by providing offsetting emission reductions. Federal, State, and local rules and regulations have reduced the availability and increased the cost of offsets from stationary sources. Consequently, there is substantial interest in making mobile source emission reduction credits available for use as federal emission offsets.

Adoption by the Air Pollution Control Board is requested for proposed new Rule 27.1 – Federal Requirements for the San Diego County Air Pollution Control District's Alternative Mobile Source Emission Reduction Program. In addition, authorization by the Air Pollution Control Board is requested to submit proposed new Rule 27.1 to the Environmental Protection Agency for approval and inclusion in the State Implementation Plan.

Proposed Rule 27.1 will allow use of already created mobile source emission reduction credits that were under a specified Air Pollution Control District alternative mobile source emission reduction program to be used as federal new source review offsets.

Proposed new Rule 27.1 and the underlying alternative mobile source emission reduction program have been requested by business to provide flexibility in creating emission offsets and improve offsets availability and cost-effectiveness.

**Recommendation(s)**

**CHIEF ADMINISTRATIVE OFFICER**

1. Find that it is certain there is no possibility that the proposed new Rule 27.1 may have a significant adverse effect on the environment, and that this action is exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, Title 14, Section 15061(b)(3).

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2. Find that an assessment of the socioeconomic impact of the adoption of the proposed new Rule 27.1 is not required by Section 40728.5 of the State Health and Safety Code because the adoption of the proposed new Rule 27.1 will not significantly affect air quality emissions or emission limitations.
3. Adopt a resolution titled Resolution Adopting Rule 27.1 into Regulation II of the Rules and Regulations of the San Diego County Air Pollution Control District.

**Fiscal Impact**

Proposed new Rule 27.1 will not have a fiscal impact on the Air Pollution Control District. There is no change in the Air Pollution Control District enforcement obligations from the existing underlying alternative mobile source emission reduction program, which remains in effect and is enforced by the Air Pollution Control District.

**Business Impact Statement**

The proposed rule is necessary to allow mobile source emission reduction credits already created under the existing Alternative Program to be used as federal new source review offsets. The proposed new rule will not adversely impact the business community.

**Advisory Board Statement**

There was no quorum at the June 11, 2008, meeting of the District Advisory Committee. Members present recommended adopting proposed new Rule 27.1.

**BACKGROUND:**

The federal Clean Air Act requires the Air Pollution Control District (District) to have New Source Review (NSR) rules to address significant increases from major sources of air pollution. One NSR provision requires that emissions from new or modified sources with a potential to emit 50 tons or more of oxides of nitrogen (NOx) per year offset emission increases by providing actual emission reductions that are 20% greater than the emission increase (1.2 to 1.0 offset ratio). NOx is a precursor to Ozone. The primary user of NOx emission offsets in San Diego are new electrical generating power plants, which generate power more efficiently and with lower associated emissions than the older power plants in the county.

To satisfy the offset provisions of federal NSR, actual emission reductions that meet federal requirements for offsetting emission increases must be provided. The actual emission reductions must be quantifiable, valid for the life of the project that is being offset, and surplus to all emission reductions required by federal, State, and District rules and regulations. In addition, the actual emission reductions must be federally enforceable. Persons needing emission offsets may obtain them by the purchase of transferable banked emission reduction credits that the District has certified as representing actual emission reductions that meet the federal requirements, the

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requirements, the credits having been previously created and banked by the actions of a third party.

The increasing stringency of federal, State, and District rules for stationary sources have made it difficult to identify cost-effective and surplus actual emission reductions from stationary sources. The limited supply of cost-effective emission offsets could significantly increase cost and adversely impact business expansion plans in San Diego. This includes the construction of newer, more efficient power plants that provide an overall environmental benefit.

To address this issue, on November 29, 2004 (APCB #1), the Air Pollution Control Board (Board) adopted Rule 27 – Banking of Mobile Source Emission Reduction Credits – to allow creation of short-term mobile source emission reduction credits (MERCs) from mobile sources. Although credits created through Rule 27 are useful in providing offsets for short-term or medium-term projects, they have not proved useful for offsetting normal industrial projects, which typically have lifetimes of 20 years or more. In recognition that additional flexibility in creating MERCs was needed beyond the specified programs, Rule 27 contains a provision, Subsection (c)(1)(vi), which authorizes the District to establish alternative MERC programs with the concurrence of the Air Resources Board (ARB).

As authorized by Rule 27(c)(1)(vi) and at the request of business, on September 8, 2000, the District, with the concurrence of ARB, established an Alternative MERC Program that allows the owners of certain existing mobile sources powered with diesel engines to voluntarily create and bank long-term MERCs for NO<sub>x</sub> by replacement of existing diesel-fueled vehicles with natural gas-fueled vehicles or replacement of existing diesel engines with low-emitting diesel engines (marine vessels only).

The Alternative Program allows creation of MERCs with sufficient lifetimes to be used to offset emission increases from typical new or modified stationary sources. The Alternative Program only allows the creation of MERCs for NO<sub>x</sub> and does not allow those credits to be used as interpollutant offsets (e. g., to offset emission increases of volatile organic compounds).

To date, approximately 78.6 tons of MERCs for NO<sub>x</sub> have been created and banked under the Alternative Program. Because the District’s NSR rules require federal offsets at a ratio of 1.2-to-1.0, there remains a net air quality benefit even after those credits are used to provide offsets. In addition, MERCs created thus far have provided an ancillary benefit of reducing diesel particulate emissions, a known human carcinogen. Thus, Rule 27.1 would promote, rather than conflict with or obstruct air quality plan implementation by the District.

Therefore, at the further request of business, the District now proposes to adopt new Rule 27.1, which incorporates certain specific elements of the Alternative Program with additions and revisions as necessary to satisfy EPA requirements and submit the adopted rule through ARB to EPA for EPA approval and inclusion into the State Implementation Plan (SIP). Since the time the Alternative Program was established the District has worked closely with EPA staff to

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determine the necessary elements of the Alternative Program for inclusion in the SIP and any revisions or additions to those elements.

On May 7, 2008, the District held a public workshop to discuss and receive comments on the proposed amended rule. No significant issues were raised.

**Environmental Statement**

An Environmental Impact Report (EIR) was prepared and certified for the Alternative Program pursuant to the provisions of the CEQA at the time the Alternative Program was established. The EIR determined that there was no significant impact from the creation or use of MERCs under the Alternative Program. The Alternative Program remains fully in effect. Proposed new Rule 27.1 places additional requirements on the use of MERCs generated under the Alternative Program (EPA approval of any MERC that is used) further ensuring there is no significant environmental impact. Therefore, it can be seen with certainty that there is no significant adverse environmental impact from adopting proposed new Rule 27.1.

**Linkage to the County of San Diego’s Strategic Plan**

The County's five-year strategic plan includes an Environment Initiative to ensure environmental preservation and enhance quality of life. Rule 27.1 provides a net air quality benefit. The amended rule appropriately balances air quality preservation, public health protection, and economic development needs.

Respectfully submitted,



CHANDRA L. WALLAR  
Deputy Chief Administrative Officer



ROBERT KARD  
Air Pollution Control Officer

**ATTACHMENT(S)**

Attachment A – Resolution Adopting Rule 27.1 into Regulation II of the Rules and Regulations of the San Diego County Air Pollution Control District.

Attachment B – Comparative Analysis

Attachment C – Workshop Report

Attachment D – Alternative Program

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**AGENDA ITEM INFORMATION SHEET**

**CONCURRENCE(S)**

|   |   |   |
|---|---|---|
| <b>COUNTY COUNSEL REVIEW</b>                            | <input checked="" type="checkbox"/> Yes |   |
| Written disclosure per County Charter §1000.1 required? | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No  |
| <b>GROUP/AGENCY FINANCE DIRECTOR</b>                    | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> N/A |
| <b>CHIEF FINANCIAL OFFICER</b>                          | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> N/A |
| Requires Four Votes                                     | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No  |
| <b>GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR</b>     | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> N/A |
| <b>COUNTY TECHNOLOGY OFFICE</b>                         | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> N/A |
| <b>DEPARTMENT OF HUMAN RESOURCES</b>                    | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> N/A |

**Other Concurrence(s):** N/A

**ORIGINATING DEPARTMENT:** Air Pollution Control District, County of San Diego

**CONTACT PERSON(S):**

|                                    |       |
|------------------------------------|-------|
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**AUTHORIZED REPRESENTATIVE:** \_\_\_\_\_  
ROBERT KARD  
Air Pollution Control Officer

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(continued)

**PREVIOUS RELEVANT BOARD ACTIONS:**

November 29, 2004 (APCB #1), Adoption of New Rule 27 – Mobile Source Emission Reduction Credits, and Amendments to Existing Rule 21 – Permit Conditions.

**BOARD POLICIES APPLICABLE:**

N/A

**BOARD POLICY STATEMENTS:**

N/A

**CONTRACT AND/OR REQUISITION NUMBER(S):**

N/A