



Air Pollution Control Board

San Diego County Air Pollution Control District

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Fifth District

AGENDA ITEM

DATE: June 26, 2019

AP1

TO: Air Pollution Control Board

SUBJECT

ADOPTION OF PROPOSED AMENDMENTS TO RULES 20.1, 20.2, 20.3 AND 20.4 (NEW SOURCE REVIEW); RULE 26.0 (EMISSION REDUCTION CREDITS); AND 1415 (PERMIT PROCESS-PUBLIC NOTIFICATION) (DISTRICTS: ALL)

OVERVIEW

Today's requested action is to update certain rules of the San Diego County Air Pollution Control District (District) to enable their approval by the U.S. Environmental Protection Agency (EPA) as explained below. The rules of the District, including the requirement to have permits to operate, apply to factories and other stationary sources of air pollution in the San Diego region. A permit outlines the actions a facility must take to control and reduce its air pollutant emissions to protect public health. Permits must comply with federal, State and local requirements.

The EPA has requested two specific additions to District Rules 20.1 through 20.4 (New Source Review) to ensure consistency with federal requirements. These District rules specify the emissions controls and related requirements applicable to new or modified stationary sources of air pollutants. The proposed rule amendments are administrative in nature and reflect existing federal requirements for: (1) record keeping by major stationary sources that use a federal alternative method to calculate their emissions increases, and (2) a ban on permit issuance to proposed new or modified sources if the EPA were to find that the region's plans to attain and maintain federal air quality standards are not being adequately implemented.

Additional amendments to the District's permitting rules are also proposed in order to comply with other recent changes in federal requirements and to improve clarity, public outreach, and public health protection. These changes include modernizing and expanding the process for notifying the public of a preliminary District decision to issue a permit or take certain other permit-related actions. Historically, these public notices were required to be published in a local newspaper of general circulation. However, with advancements in information technology and changes in how the public receives information, the EPA recently issued a federal rule allowing public notifications to be conducted via electronic media such as website postings instead of, or in addition to, print media. The District's proposed rule amendments will require both notification methods so that public notices will continue to be published in the newspaper and will be posted on the District's website, thereby increasing opportunities for public participation and input. This

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expansion of public noticing is reflected in the proposed amendments to the New Source Review rules and to the other District rules with public notification requirements, specifically Rule 26.0 (Emission Reduction Credits) and Rule 1415 (Permit Process-Public Notification).

RECOMMENDATION(S)

AIR POLLUTION CONTROL OFFICER

1. Find that the adoption of proposed amended Rules 20.1 through 20.4, 26.0 and 1415 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 the 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.
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 26.0 – BANKING OF EMISSION REDUCTION CREDITS (ERCs)-GENERAL REQUIREMENTS OF REGULATION II; AND RULE 1415 – PERMIT PROCESS-PUBLIC NOTIFICATION OF REGULATION XIV 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. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

The proposed rule amendments are necessary to ensure consistency with federal requirements. If adopted, the proposed rule amendments will enable the U.S. Environmental Protection Agency's (EPA) approval of the rules and prevent a possibility of federal sanctions – including limitations on business expansion in the region – that may be imposed by the EPA if it were to disapprove the District's rules for not meeting federal requirements and the rules were not updated accordingly.

ADVISORY BOARD STATEMENT

At its meeting on March 13, 2019, with a quorum present, the Air Pollution Control District Advisory Committee voted unanimously in support of staff's recommendations.

BACKGROUND

The Air Pollution Control District (District) is required by federal and State law to adopt and implement New Source Review rules requiring a proposed new or modified facility in the San Diego region to obtain a permit that outlines the actions the facility must take to control and reduce

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its air pollutant emissions. The purpose of these rules is to protect air quality and public health as new industrial facilities are built and existing facilities expand.

Additions Requested by EPA

Existing New Source Review Rules 20.1 through 20.4 were adopted by the Air Pollution Control Board (Board) on April 27, 2016 (AP01). These rules were developed in close collaboration with the U.S. Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) to ensure compliance with applicable federal and State requirements. Subsequent to the Board's approval in 2016, the EPA identified two federal requirements that must be added to the rules. Today's requested actions would amend the District rules accordingly. First, the New Source Review rules would be amended to include a requirement for major stationary sources of air pollution to keep specified records if they use a federal alternative method to calculate their emissions increases from proposed new or modified operations. Second, the New Source Review rules would be amended to include a provision that prohibits the District from issuing permits if the EPA were to find that the air pollution control program in the San Diego region is not being adequately implemented.

Public Noticing Requirements

Certain permitting and related actions require public notification prior to District approval. In conformance with federal and State requirements, public notices must be published in a newspaper of general circulation on the first day of a specified public comment period. However, with advancements in information technology and changes in how the public receives information, the EPA recently issued a federal rule allowing public notifications to be conducted via electronic methods (e-noticing) such as website postings instead of, or in addition to, print media. Subsequently, CARB issued an advisory supporting e-noticing and outlining how it should take place to comply with State requirements.

The proposed amendments to District Rules 20.1 through 20.4 (New Source Review), Rule 26.0 (Emission Reduction Credits), and Rule 1415 (Permit Process-Public Notification) incorporate the e-noticing provisions for permitting and related actions while preserving the requirement for newspaper publication. If approved, any required public notices of permitting and related actions would be published in both the newspaper (as is the current practice) and on the District's website to better inform the public of District permitting actions.

Applicability Thresholds

Under federal law, the emissions thresholds for the applicability of certain New Source Review requirements on new and expanding facilities vary depending on the region's degree or "classification" of ozone nonattainment, i.e., Marginal, Moderate, Serious, Severe or Extreme. The San Diego region is currently a Moderate ozone nonattainment area. Existing New Source Review Rules 20.1 and 20.3 list the emissions applicability thresholds for three of the five possible federal ozone nonattainment classifications – Marginal, Moderate and Serious. The proposed rule amendments would add the remaining two emissions applicability thresholds associated with the other possible ozone nonattainment classifications, Severe and Extreme. If adopted, these rule amendments will provide additional clarity and certainty about which requirements apply to a

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proposed project depending on the applicable EPA ozone nonattainment classification of the region.

Inter-pollutant Offset Trading

Pursuant to existing federal law and District rules, certain large facilities that propose large increases in air pollutant emissions must mitigate or offset those increases with emissions reductions achieved on site or elsewhere in the region. This requirement is designed to protect air quality while allowing for economic growth in the region. Furthermore, facilities may offset their increased emissions of one air pollutant by reducing the emissions of another air pollutant, at prescribed ratios, where both pollutants contribute to the same air quality nonattainment problem. For example, volatile organic compounds (VOC) and oxides of nitrogen (NO_x) emissions both contribute to the formation of ozone, therefore these two ozone-causing air pollutants can be "traded" during the permitting process to satisfy offset requirements. This is known as "inter-pollutant offset trading" and provides flexibility for businesses while also protecting overall air quality in the region.

Currently, Rule 20.3 specifies fixed ratios for inter-pollutant trading. VOC emission reductions may offset NO_x emission increases at a 2:1 ratio (e.g., 200 pounds of VOC emission reductions are required for every 100 pounds of NO_x emission increases), and NO_x emission reductions may offset VOC emission increases at a 1:1 ratio (e.g., 100 pounds of NO_x emission reductions are required for every 100 pounds of VOC emission increases). However, consistent with a new federal requirement associated with implementation of the federal ozone standard established in 2015, the proposed rule amendments will require a permit applicant to conduct a thorough technical analysis following federal guidelines before inter-pollutant trading will be allowed for a project. The analysis will determine the appropriate ratios for inter-pollutant trading that will provide an equivalent or greater ozone benefit in the region as compared to simple, non-traded emissions offsets.

Inter-pollutant trading has been used to satisfy emissions offset requirements three times in the past ten years and only by new large emitters of air pollutants. Because new large emitters are proposed infrequently, the proposed rule amendment is not anticipated to have a substantive impact. If approved, the rule amendment will satisfy the corresponding new federal requirement of the EPA's 2015 Ozone Standard Implementation Rule issued in December 2018.

Rule Evaluations and Comparisons

Federal and State law prohibit relaxing or weakening New Source Review rules compared to the rules that were in effect on November 15, 1990 (per federal law) and on December 30, 2002 (per State law). District staff evaluated the proposed rule amendments in coordination with the EPA and CARB and determined they do not result in a relaxation of the New Source Review rules in effect on those dates, therefore the amendments are permissible. Staff's evaluation pertaining to the State law (California 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.

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Additionally, State law requires the District to 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 is provided in Attachment C.

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 Rules 20.1 through 20.4 (New Source Review), Rule 26.0 (Emission Reduction Credits), and Rule 1415 (Permit Process-Public Notification) will not significantly affect air quality or emission limitations. The proposed amendments are either administrative in nature, implement existing federal requirements or preserve existing options for compliance under newer federal requirements. Accordingly, a socioeconomic impact assessment is not required.

Customer/Stakeholder Notification

District staff conducted a public workshop to discuss the proposed rule amendments and solicit input from affected parties. A workshop notice was posted on the District's website and sent to approximately 5,000 recipients including each air quality permit holder and chamber of commerce in the region, the EPA and CARB via direct mail, and other interested parties via the County's email subscription service.

Approximately 35 people attended the workshop including representatives of businesses, government and other organizations. The participants requested clarifying information but did not raise any significant concerns. District staff prepared responses to all comments and questions received, which were provided to the workshop participants in a workshop report (Attachment D).

Submittal to EPA

If adopted, the proposed amended rules will be submitted to the EPA through CARB for approval and inclusion, as appropriate, in the San Diego County portion of the State Implementation Plan for attaining and maintaining air quality standards.

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 through 20.4, 26.0 and 1415. 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, most 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 through 20.4, 26.0 and 1415 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, 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 rules.

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LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed actions support the Sustainable Environments/Thriving Initiative in the County of San Diego's 2019-2024 Strategic Plan with an objective of enhancing the quality of the environment by focusing on sustainability, pollution prevention and strategic planning. Proposed amended Rules 20.1 through 20.4, 26.0 and 1415 will protect air quality by ensuring air pollutant emissions from new and modified facilities are effectively controlled.

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer



ROBERT J. KARD
Air Pollution Control Officer

ATTACHMENT(S)

Attachment A– 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 26.0 – Banking of Emission Reduction Credits (ERC)-General Requirements of Regulation II; and Rule 1415 – Permit Process-Public Notification of Regulation XIV of the Rules and Regulations of the San Diego County Air Pollution Control District *Note: Due to the large size of this attachment, it will only be available online through the Clerk of the Board's website as a supporting document for this agenda item.*

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 26.0 Change Copy

Attachment J – Rule 1415 Change Copy

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED

 Yes No

PREVIOUS RELEVANT BOARD ACTIONS:

April 27, 2016 (AP01), approval of amendments to New Source Review Rules 20.1, 20.2, 20.3 and 20.4; August 13, 2003 (AP02) approval of amendments to Title V Rule 1415; October 22, 1997 (AP01), adoption of Emission Reduction Credit Rule 26.0

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 CONCURRENCE(S): N/A

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