



Air Pollution Control Board

San Diego County Air Pollution Control District

GOVERNING BODY

GREG COX
First District

DIANNE JACOB
Second District

KRISTIN GASPAR
Third District

NATHAN FLETCHER
Fourth District

JIM DESMOND
Fifth District

AGENDA ITEM

DATE: January 29, 2020

AP1

TO: Air Pollution Control Board

SUBJECT

NOTICED PUBLIC HEARING: ADOPTION OF AMENDMENTS TO REGULATION X – STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (DISTRICTS: ALL)

OVERVIEW

This is a request for the Air Pollution Control Board (Board) to adopt proposed amendments to Regulation X (Standards of Performance for New Stationary Sources) of the Air Pollution Control District (District). Regulation X incorporates federal standards to control and reduce air pollutant emissions from specified new, modified or reconstructed stationary sources such as power plants, manufacturing operations, landfills and numerous other industry types. Regulation X provides facilities with a single, local regulation identifying the applicable federal standards. The U.S. Environmental Protection Agency (EPA) has, for many decades, delegated its primary authority to the District to implement and enforce the federal standards in the San Diego region, as authorized by the federal Clean Air Act. As indicated in its policies and guidelines, the EPA prefers to delegate its authority to local air districts that regulate and interact daily with local sources, ensuring efficient and effective implementation of the standards.

Regulation X was last updated on June 24, 2009 (AP1). Since then, the EPA has issued new and amended federal standards to further protect air quality and public health. Accordingly, today's request is to update Regulation X to incorporate these new and amended federal standards. If approved, the amendments will incorporate 31 current federal standards by reference and repeal 16 outdated standards.

The proposed amendments to Regulation X are not expected to have regulatory impacts on local sources, which are already in compliance. This is because other, more health-protective District rules are in place that require new, modified and reconstructed sources of air pollutants to control and reduce their emissions to the lowest achievable levels. Further, local sources are required to comply with all applicable federal standards regardless of whether they are incorporated in District Regulation X.

Additionally, the proposed amendments to Regulation X also incorporate by reference future federal amendments to the 31 federal standards due to the frequency with which they are updated.

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As a result, the District proposes to provide notice to the regulated community of any future amendments by publishing a 30-day public notice in the newspaper and conducting outreach to affected sources and the Air Pollution Control Board prior to the implementation of the amended federal standards. If approved, this updated procedure will continue to provide for transparency and outreach to affected sources while bringing greater efficiency to the local adoption of amended federal standards. The procedure provides an efficient mechanism to ensure these District rules remain current and consistent with federal regulations. By contrast, any new federal standard would be submitted to the Board for consideration of adoption, by reference, into Regulation X.

**RECOMMENDATION(S)
AIR POLLUTION CONTROL OFFICER**

1. Find that it can be seen with certainty that there is no possibility that the adoption of the proposed amendments to Regulation X may have a significant adverse effect on the environment, and the adoption of those amendments is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, Title 14, Section 15061(b)(3).
2. Adopt the resolution entitled: RESOLUTION ADOPTING AMENDMENTS TO REGULATION X – STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (NSPS) OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.
3. Direct the Air Pollution Control Officer to request updated delegation of authority from the U.S. Environmental Protection Agency to the San Diego County Air Pollution Control District to locally implement and enforce the current federal Standards of Performance for New Stationary Sources, as incorporated in amended Regulation X.
4. Direct the Air Pollution Control Officer to provide public notice to affected sources and the Air Pollution Control Board prior to implementing and enforcing future federal amendments to a standard previously adopted by reference and incorporated in amended Regulation X.

FISCAL IMPACT

There is no fiscal impact associated with the recommended actions. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

The proposed amendments to Regulation X do not impose requirements beyond existing applicable federal requirements. The proposed amendments replace outdated standards and increase regulatory certainty for local businesses.

Local administration of the federal standards is generally preferred by affected businesses. Businesses can continue to work with the District to resolve any compliance issues that may arise rather than dealing directly with the federal government, thereby streamlining communication.

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ADVISORY BOARD STATEMENT

The Air Pollution Control District Advisory Committee considered the proposed amendments to Regulation X during its meeting on June 12, 2019. The one Advisory Committee member in attendance expressed support for the proposed amendments. No concerns with the proposal were raised to the District by Advisory Committee members.

BACKGROUND

Standards of Performance for New Stationary Sources, more commonly known as New Source Performance Standards (NSPS), are federal regulations that establish air pollution control standards for certain new, modified or reconstructed stationary sources. They are issued by the U.S. Environmental Protection Agency (EPA) as Subparts of Title 40, Chapter 1, Part 60, of the Code of Federal Regulations (40 CFR Part 60) and apply uniformly throughout the country. The EPA often delegates primary implementation and enforcement authority to state and local air pollution control agencies. Even so, the EPA retains independent enforcement authority.

The Air Pollution Control District's (District) Regulation X (Standards of Performance for New Stationary Sources) incorporates federal standards that were locally adopted and for which the District has received delegated authority to implement and enforce in the San Diego region. Regulation X was last updated on June 24, 2009 (AP01). Since then, the EPA has issued new and amended standards to further protect air quality and public health (e.g., in 2015, EPA adopted a regulation to further reduce air emissions from power plants). Consequently, Regulation X has become inconsistent with current federal requirements. Accordingly, the District proposes the following updates to its Regulation X:

A. Adopt by reference the following 16 current federal Subparts of 40 CFR Part 60 and repeal the corresponding existing local rules from District Regulation X:

1. Subpart A - General Provisions
2. Subpart E - Incinerators
3. Subpart I - Hot Mix Asphalt Facilities
4. Subpart J - Petroleum Refineries
5. Subpart L - Secondary Lead Smelters
6. Subpart M - Secondary Brass and Bronze Production Plants
7. Subpart O - Sewage Treatment Plants
8. Subpart DD - Grain Elevators
9. Subpart EE - Surface Coating of Metal Furniture
10. Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing
11. Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations
12. Subpart SS - Industrial Surface Coating: Large Appliances
13. Subpart TT - Metal Coil Surface Coating
14. Subpart BBB - Rubber Tire Manufacturing Industry
15. Subpart FFF - Flexible Vinyl and Urethane Coating and Printing
16. Subpart JJJ - Petroleum Dry Cleaners

B. Adopt by reference the following 4 current federal Subparts of 40 CFR Part 60, which were previously not included in District Regulation X:

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1. Subpart IIII - Stationary Compression Ignition Internal Combustion Engines
2. Subpart JJJJ - Stationary Spark Ignition Internal Combustion Engines
3. Subpart QQQQ - New Residential Hydronic Heaters and Forced-Air Furnaces
4. Subpart TTTT - Greenhouse Gas Emissions for Electric Generating Units

C. Adopt by reference all the corresponding amendments to the following 11 current federal Subparts of 40 CFR Part 60, which were subsequently amended by the EPA after the 2009 update of District Regulation X:

1. Subpart D - Fossil-Fuel-Fired Steam Generators
2. Subpart Da - Electric Utility Steam Generating Units
3. Subpart Db - Industrial-Commercial-Institutional Steam Generating Units
4. Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units
5. Subpart Ec - Hospital/Medical/Infectious Waste Incinerators
6. Subpart GG - Stationary Gas Turbines
7. Subpart AAA - New Residential Wood Heaters
8. Subpart OOO - Nonmetallic Mineral Processing Plants
9. Subpart WWW - Municipal Solid Waste Landfills
10. Subpart CCCC - Commercial and Industrial Solid Waste Incineration Units
11. Subpart KKKK - Stationary Combustion Turbines

In total, the District proposes the repeal of 16 existing local rules from District Regulation X; the adoption by reference of 20 current federal standards; and the adoption by reference of all corresponding amendments to 11 previously locally adopted Subparts. If adopted, the District will petition the EPA to receive updated delegation of authority to implement and enforce these federal standards in the San Diego region. Routine approval by the EPA is anticipated. District administration of the federal standards will facilitate local implementation and is preferred by both the EPA and regulated businesses.

Additionally, the proposed amendments to Regulation X would streamline the procedure for incorporating any subsequent federal amendments to a standard previously adopted by the Air Pollution Control Board (Board). Currently, any amended federal standard issued by the EPA is subject to the District's formal rule development process – including the Board's consideration of adoption of the standard at a public hearing – prior to its implementation and enforcement by the District. The District proposes that these standards be adopted by reference, and that any future federal *amendment* to a previously Board-adopted standard would be automatically incorporated into Regulation X. This would occur only after the District conducts outreach to affected sources and the Board, and publishes a 30-day notice of the proposed amendments in a newspaper of general circulation in the region. If approved, this procedure will simplify the local adoption of amended federal standards while maintaining the District's commitment to transparency and outreach. Any *new* federal standard would be submitted to the Board for consideration of adoption, by reference, into Regulation X at a public hearing.

Customer/Stakeholder Notification

District staff conducted a public workshop to solicit input on the proposed amended regulation from affected parties. A workshop notice was posted on the District's website and sent to

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approximately 5,000 recipients including each air quality permit holder and chamber of commerce in the region, members of the Air Pollution Control District Advisory Committee, subscribers to the County's email notification service, the EPA and the California Air Resources Board.

Six people attended the workshop including industry representatives. No issues were raised and there was no opposition to the proposed actions.

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. The proposed amendments to Regulation X do not impose requirements beyond existing applicable federal requirements, and local sources are required to comply with all applicable federal standards regardless of whether they are incorporated into Regulation X. For these reasons, the proposed amendments to Regulation X will not significantly affect air quality or emission limitations, and therefore a socioeconomic impact assessment is not required and has not been prepared.

ENVIRONMENTAL STATEMENT

The California Environmental Quality Act (CEQA) requires an environmental review for certain actions. The District has conducted a preliminary review of whether CEQA applies to the adoption of the proposed amendments to Regulation X. The proposed regulatory amendments incorporate new and amended federal standards that are already in effect and that are designed to protect air quality and public health. Therefore, District staff determined that the adoption of the proposed amendments to Regulation X is exempt from the provisions of CEQA pursuant to California Code of Regulations, Title 14, 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 adverse effect on the environment.

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 2020-2025 Strategic Plan with an objective to enhance the quality of the environment by focusing on sustainability, pollution prevention and strategic planning. The proposed amendments to Regulation X will protect air quality by ensuring air pollutant emissions from new and modified local facilities are effectively controlled.

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer



ROBERT J. KARD
Air Pollution Control Officer

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ATTACHMENT(S)

Attachment A – Resolution Adopting Amendments to Regulation X – Standards of Performance
for New Stationary Sources (NSPS) of the Rules and Regulations of the San
Diego County Air Pollution Control District

Attachment B – Regulation X Change Copy

Attachment C – Workshop Report

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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:

June 24, 2009 (AP1), Repeal Subparts D, Da, Db, Dc of Regulation X and Adopt by Reference
Federal New Source Performance Standards Subparts D, Da, Db, Dc for Boilers

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): None

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