

Agenda Date: August 25, 2016  
Agenda Placement: Regular  
Estimated Time: 25 mins  
Continued Item: No

## Board Agenda Item

TO: Air Pollution Control District Board

FROM: Aeron Arlin Genet, Air Pollution Control Officer

CONTACT: Michael Goldman, Engineering Manager (961-8821)

SUBJECT: Amendment of Regulation VIII – New Source Review, and Other Associated Rules

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### RECOMMENDATION:

That the Board:

- A. Hold a public hearing to receive testimony on the following rules listed below and on the Environmental Impact Report for the proposed rule revisions:
- 1) Rule 102. Definitions
  - 2) Rule 105. Applicability
  - 3) Rule 202. Exemptions to Rule 201
  - 4) Rule 204. Applications
  - 5) Rule 801. New Source Review – Definitions and General Requirements
  - 6) Rule 802. New Source Review
  - 7) Rule 803. Prevention of Significant Deterioration
  - 8) Rule 804. Offsets
  - 9) Rule 805. Air Quality Impact Analysis, Modeling, Monitoring, and Air Quality Increment Consumption
  - 10) Rule 806. Emission Reduction Credits
  - 11) Proposed New Rule 809. Federal Minor Source New Source Review
  - 12) Rule 1301. Part 70 Operating Permits – General Information
- B. Approve the Resolution attached to this Board Letter (Attachment 1). Approval of the Resolution will result in the following actions:
- 1) EIR Certification: Certify that the Final Environmental Impact Report prepared for the Amendment of Regulation VIII – New Source Review, and Other Associated Rules has been prepared in compliance with the California Environmental Quality Act (CEQA),

was reviewed and considered by the Board prior to approving the proposed rule revisions, and the Final Environmental Impact Report reflects the Board's independent judgment and analysis (Attachment 2).

- 2) CEQA Findings: Adopt the CEQA Findings (Attachment 3).
- 3) Rule Findings: Adopt the associated Rule Findings (Attachment 4) in support of the proposed rules pursuant to Health and Safety Code Section 40727 regarding necessity, authority, clarity, consistency, nonduplication, and reference.
- 4) Rule Adoption: Adopt all proposed rules (Attachment 6).

## **BACKGROUND:**

The New Source Review (NSR) permitting program is an important tool to help the District meet our Clean Air Plan goal of attaining and maintaining all State and Federal ambient air quality standards. The NSR rules require the District to evaluate proposed emission controls, offset mitigation packages, and ambient air quality analyses when permitting new or modified stationary sources of air pollution. The current NSR rules have safeguarded our air quality since 1997, but they have recently become more difficult and costly to implement due to various circumstances that were unforeseen at the time of adoption.

## **DISCUSSION:**

We propose to address these issues by amending ten rules, adopting one new rule and repealing one rule. The main changes include:

- Update the calculation methodologies;
- Update the offsets program and adding new offsets exemptions;
- Revise the rule text to be clearer and to eliminate redundancies;
- Add PM<sub>2.5</sub> as a regulated pollutant; and
- Add a new Federal Minor Source NSR rule, as mandated by EPA.

Of these changes, modifications to the offset program are the most notable. Santa Barbara County is categorized as moderate nonattainment for the state ozone standard, and as such, the District is required by California Health and Safety Code Section 40918 to have an offsets program. The District's current offsets program divides the County into zones which prevents the reasonable trading of Emission Reduction Credits (ERCs) between the North, South, and Cuyama areas. The District proposes to consolidate the three areas into a single zone since ozone is a regional pollutant. Furthermore, the District also proposes to allow ERCs to be traded into Santa Barbara from San Luis Obispo and Ventura counties, as we are all within the same air basin. These trades will still require offset ratios higher than 1:1, so a net air quality benefit will still be retained regionally for each and every ERC transaction. Any localized impacts will be addressed on a project specific basis through an Air Quality Impact Analysis (AQIA).

In addition, we are required to comply with Senate Bill 288 - *the Protect California Act of 2003*. SB 288 prevents the District from relaxing NSR permitting rules. Per guidance from ARB staff, our analysis was done "*on a programmatic basis*." This means that certain specific aspects, on their own, may be less stringent, but when viewed in its entirety, the program must be at least as stringent

as before. The staff report and accompanying Environmental Impact Report (EIR) provide the necessary analyses to show that on a programmatic basis, the proposed rule revisions successfully comply with SB 288.

### **IMPACTS TO THE REGULATED COMMUNITY:**

Large companies that have to provide ERCs for the first time will see an increase in costs. However, the *overall* impact to the regulated community due to the proposed rule amendments will be a decrease in costs associated with the purchase of ERCs. This is because the pool of sources subject to the offset requirements will be limited to the large sources which have the resources to either purchase ERCs and/or create their own ERCs.

### **IMPACTS TO THE APCD BUDGET:**

The District does not envision substantive changes to fee revenues or staffing requirements due to the proposed rule amendments.

### **PUBLIC REVIEW:**

The proposed revisions were publicly noticed on August 16, 2015 and two workshops were held. The first workshop was held at the District's office in Santa Barbara on September 17, 2015 and the second workshop was held at the Santa Maria Public Library on September 18, 2015.

The District brought the proposed changes to the Community Advisory Council (CAC) on December 9, 2015. The CAC approved the package by a vote of 16-2.

There have been no substantial changes to the proposed rules since the workshops in September 2015.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

In compliance with the California Environmental Quality Act (CEQA), the APCD prepared an EIR (State Clearing House No. 2015091030) for the Amendment of Regulation VIII – New Source Review, and Other Associated Rules. The proposed amendments to the District's NSR permitting program are intended to and expected to benefit public health and the environment. In particular, the proposed amendments will add new permitting requirements for PM<sub>2.5</sub> and will allow more permitting projects that reduce actual emissions to be fully approved. Notwithstanding these air quality benefits, the EIR evaluated whether the proposed amendments could cause any significant impacts as a result of the proposed rule amendments. The EIR's analysis has found that the proposed amendments to Regulation VIII, and other associated rules, will not result in any significant adverse environmental impacts.

The public review period for the Draft EIR began April 27, 2016 and closed June 10, 2016. The District received no comments on the Draft EIR. The Final EIR is contained in this approval package for the Board's consideration (see Attachment 2).

**CONCURRENCES:**

County Counsel has reviewed this Board Letter and its attachments and approves them as to form.

**SPECIAL INSTRUCTIONS:**

After adoption by the Board, please have the Board Chair sign the attached resolution and return a copy along with a copy of the minute order to Tim Mitro of the Air Pollution Control District.

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**ATTACHMENTS:**

- Attachment 1 – Board Resolution
- Attachment 2 – Final Environmental Impact Report
- Attachment 3 – California Environmental Quality Act Findings
- Attachment 4 – Rule Findings
- Attachment 5 – Staff Report
  - Attachment 5A – SB 288 Analysis
  - Attachment 5B – Public Comments
  - Attachment 5C – Response to Public Comments
- Attachment 6 – Proposed Rules