



# San Diego County Air Pollution Control District

March 2, 2022

## COMPLIANCE ADVISORY

- **Rule 20.1 – New Source Review (NSR) – General Provisions;**
- **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 of Regulation II of the Rules and Regulations;**
- **Title V Operating Permits Rule 1401 – General Provisions of Regulation XIV of the Rules and Regulations of the San Diego County Air Pollution Control District**

On October 14, 2021, the San Diego County Air Pollution Control District (District) Governing Board adopted revisions to District NSR Rules 20.1, 20.3, and 20.4, and to District Title V Rule 1401.

The District's NSR Rules 20.1, 20.3 and 20.4 specify the air pollutant emission controls and related requirements applicable to new, modified, replaced, or relocated stationary equipment or portable emission units, operations and processes which require an Authority to Construct and Permit to Operate in accordance with District Rule 10 – Permits Required. The requirements are based on federal and State laws and regulations.

In summary, the amendments made the following four primary changes to these rules:

- Lowered the NSR major source applicability thresholds in Rule 20.1 for NO<sub>x</sub> and VOC due to the redesignation of the San Diego region to a severe ozone non-attainment area. A major stationary source is now defined as a source which has an aggregate Potential to Emit (PTE) of 25 tons or more per year of either NO<sub>x</sub> or VOC.
- Corrected a deficiency identified by the U.S. Environmental Protection Agency (EPA) in their limited disapproval of the District NSR Rule 20.1, adopted on June 26, 2019. The correction clarifies that facilities must comply with applicable NSR requirements (i.e. BACT/LAER, Emission Offsets, Modeling) at the time the Authority to Construct is issued instead of when the application is deemed complete. This means that federal major source thresholds of PTE of 25 tons or more per year of either NO<sub>x</sub> or VOC, based on the San Diego region's Severe ozone non-attainment status, immediately apply to all applications that have not already been issued an authority to construct.
- Revised interpollutant trading provisions of Rule 20.4 based on court's decision (January 29, 2021, where the D.C. Circuit Court of Appeals decision in *Sierra Club v. EPA*, 984 F.3d 1055, issued a decision holding that the Clean Air Act does not allow interpollutant trading for ozone precursors) by prohibiting interpollutant trading of offsets for ozone precursors (NO<sub>x</sub> and VOCs), and to provide consistency with interpollutant offset provisions found in existing Rule 20.3; and



## San Diego County Air Pollution Control District

- Revised the applicability thresholds for Rule 1401, due to the redesignation of the San Diego region to severe non-attainment for ozone. The redesignation lowered the threshold requirement for “major stationary sources” to obtain a Title V operating permit. A major stationary source is now defined as a source which has an aggregate PTE of 25 tons or more per year of either NO<sub>x</sub> or VOC.

Existing facilities that become subject to Title V permitting must file an initial application and corresponding fees within 12 months of becoming subject to Title V permitting. This date will be based on the effective date of the Rule 1401 provision which is currently pending EPA approval. The District expects this to occur this year and will issue a subsequent advisory when the deadline to apply for a Title V permit for affected existing facilities is set (i.e., the application deadline will likely be mid-2023).

The applicability of Title V permitting is based on a facility's "potential" emissions, which assumes the facility continuously operates at maximum permitted capacity, rather than its actual emissions.

Consequently, a facility with actual emissions that are less than the applicability thresholds may be at risk of federal enforcement or citizen lawsuit to obtain a Title V permit based on its potential emissions. To avoid this possibility, existing District Rule 60.1 (Limiting Potential to Emit at Small Sources) and District Rule 60.2 (Limiting Potential to Emit – Synthetic Minor Sources) are rules that specify procedures to voluntarily opt out of Title V permitting.

Rule 60.1 is designed for sources with actual emissions below 50 percent of the applicability thresholds and specifies recordkeeping and reporting requirements that must be met in order to be exempt from Title V permitting. Rule 60.2 is designed for sources with actual emissions between 50 and 100 percent of the applicability thresholds and provides an exemption from Title V permitting through applying for permit modifications to impose enforceable permit conditions that limit potential emissions to less than the applicability thresholds. Please note that the deadline to apply for synthetic minor status is 60 days prior to the applicable Title V application filing deadline. However, the District encourages sources to contact the District on the information required to be included in their application or file applications earlier to ensure compliance with the deadlines.

Copies of the amended rules are available on the District's website [here](#). If you have any questions, please contact the District's Engineering Division at (858) 586-2600 or by email at [apcdengineering@sdapcd.org](mailto:apcdengineering@sdapcd.org).