

Air Pollution Control District Governing Board
San Diego County Air Pollution Control District
AGENDA ITEM # 01

DATE: October 14, 2021

TO: Air Pollution Control District Governing Board

SUBJECT:

ADOPTION OF PROPOSED AMENDMENTS TO RULES 20.1, 20.3, 20.4 (NEW SOURCE REVIEW) AND RULE 1401 (TITLE V OPERATING PERMITS-GENERAL PROVISIONS)

REQUESTED ACTION:

1. Find that the adoption of proposed amended New Source Review (NSR) Rule 20.1 (General Provisions), Rule 20.3 (Major Stationary Sources and Prevention of Significant Deterioration (PSD) Stationary Sources, and Rule 20.4 (Portable Emission Units) and Title V Operating Permits Rule 1401 – General Provisions are 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, 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 20.3 – NEW SOURCE REVIEW-MAJOR STATIONARY SOURCES AND PREVENTION OF SIGNIFICANT DETERIORATION (PSD) STATIONARY SOURCES; AND RULE 20.4 – NEW SOURCE REVIEW-PORTABLE EMISSION UNITS OF REGULATION II OF THE RULES AND REGULATIONS; AND 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

OVERVIEW:

The San Diego County Air Pollution Control District (District) rules apply to factories and other stationary sources of air pollution in the San Diego region and include requirements for facilities to obtain permits to operate from the District. 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. Rules 20.1, 20.3 and 20.4 regulate emissions of air contaminants from new and modified facilities requiring permits from the District, and Rule 1401 governs the District's Title V permitting program which requires each existing "major stationary source" of regulated air pollutants to obtain a federally enforceable operating permit from the District.

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The proposed amendments make three primary changes to these rules, as required pursuant to federal law:

- 1) Correct Rule 20.1, which was last amended in 2019, by removing a reference to the application submittal date in determining the applicability of New Source Review (NSR) emission thresholds. This correction was required by the U.S. Environmental Protection Agency (EPA) in its partial approval of the rule on October 16, 2020;
- 2) Remove language which allows the offsetting of increased emissions of one air pollutant by reducing the emissions of another air pollutant (known as "inter-pollutant offset trading") for ozone precursors including Oxides of Nitrogen (NOx) and Volatile Organic Compounds (VOCs) from Rules 20.3 and 20.4, due to the ruling in *EPA v. Sierra Club*, 985 F.3d 1055 (D.C. Cir. 2021); and
- 3) Revise 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 emitting 25 tons or more per year of either NOx or VOC.

California Health and Safety Code Section 42500 et seq. (Senate Bill (SB) 288) prohibits California air districts from changing their NSR program requirements in ways that would make them less stringent than the rules that existed on December 30, 2002. District staff evaluated the proposed rule amendments, in coordination with the California Air Resources Board (CARB) and determined they do not result in a relaxation of the NSR rules in effect on that date, therefore the amendments are permissible. Staff's evaluation pertaining to the State law (Senate Bill (SB) 288) is documented in Attachment C, fulfilling CARB's request to include this information in today's proceedings.

FISCAL IMPACT:

There is no fiscal impact associated with these recommendations.

PUBLIC ENGAGEMENT AND OUTREACH:

District staff conducted a public webinar on February 3, 2021, to discuss the proposed rule amendments and solicit input from affected parties. A webinar notice was posted on the District's website and sent to approximately 5,000 recipients including air quality permit holders, each of the Chambers of Commerce in the region, the EPA and CARB via direct mail, and other interested parties via the County's email subscription service.

Approximately 45 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 E). Due to the court ruling abolishing inter-pollutant offset trading, an addendum to the workshop report (also included in Attachment E) was prepared and sent out to all participants.

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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, 20.3, 20.4 and 1401. The proposed amended rules will not result in greater air pollutant emissions from new or modified stationary sources in San Diego County. Additionally, the proposed rule amendments to Rules 20.1, 20.3, 20.4 and 1401 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, 20.3, 20.4 and 1401 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.

PREVIOUS RELEVANT BOARD ACTIONS:

June 26, 2019 (AP1) 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 Rule 1415 (Permit Process-Public Notification); August 13, 2003 (AP2) Amendments to Regulation XIV – Title V Operating Permits, Rule 60.1 (Limiting Potential to Emit at Small Sources), and Rule 60.2 (Limiting Potential to Emit – Synthetic Minor Sources)

ATTACHMENT(S):

Attachment A– Resolution Adopting Amended Rule 20.1 – New Source Review-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; and 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.

Attachment B – Background

Attachment C – Senate Bill 288 Analysis

Attachment D – Comparative Analysis

Attachment E – Workshop Report & Addendum

Attachment F – Rule 20.1 Change Copy

Attachment G – Rule 20.3 Change Copy

Attachment H – Rule 20.4 Change Copy

Attachment I – Rule 1401 Change Copy

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SUBMITTED BY:

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