

# **FINAL STAFF REPORT**

## **REGULATION X STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (NSPS)**

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## **REGULATION XI NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP)**

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Rule Development Section

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## EXECUTIVE SUMMARY

Pursuant to the Federal Clean Air Act (CAA), the U.S. Environmental Protection Agency (EPA) establishes emission standards for various emission source categories. These emissions standards limit the amount of air pollutants entering the ambient air in order to protect public health and the environment. Section 111 of the CAA requires that EPA establish nationwide emission standards for new and modified sources of pollutants, called New Source Performance Standards, or NSPS, whereas Section 112 of the CAA requires similar standards for existing sources of pollution, called National Emissions Standards for Hazardous Air Pollutants, or NESHAP. Facilities must comply with all existing and applicable NSPSs and NESHAPs, though such requirements are typically incorporated into existing permits and/or local rules.

This item describes the San Diego County Air Pollution Control District's (District) new streamlined process for updating and administering new and revised NSPSs and NESHAPs from EPA, in a transparent and predictable manner for both District staff and affected stakeholders. Additionally, through the revised process completed within this action, the District is requesting revisions to specific NSPSs as noted below, which require Governing Board approval prior to incorporating them by reference and requesting EPA to delegate authority to the District to implement and enforce them.

District Regulation X (Standards of Performance for New Stationary Sources) incorporates federal NSPS 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 April 6, 2021. Since then, the EPA has issued several new and amended standards to further protect air quality and public health, as noted in Appendix A. Consequently, Regulation X has become inconsistent with current federal requirements and requires amendment. The District proposes to amend Regulation X in accordance with the revisions in Appendix A, which includes the adoption by reference of all corresponding amendments to several previously locally adopted Subparts. District administration of the federal standards will facilitate local implementation and is preferred by both the EPA and regulated businesses. If approved by the Governing Board, District staff will submit a request for delegation authority from the EPA to implement and enforce any new, repealed, or amended NSPSs in the San Diego region. Routine approval by the EPA is anticipated.

Additionally, the District has prepared an informational update of NESHAP that has been recently modified to ensure stakeholders are aware of relevant changes at the federal level. NESHAP is similar to NSPS, however, the EPA requires facilities subject to NSPS to be subject to testing requirements to confirm compliance with the applicable NSPS. EPA has recently issued several new and amended NESHAPs to further protect air quality and public health. These are presented for informational purposes for regulated facilities and the community to ensure such facilities are aware of such changes in a public manner (beyond which already occurs at the EPA). The revisions are noted in Appendix A. EPA Section 105 grant funding, which the District receives on an annual basis, requires the District to adopt or take action to otherwise implement any new or amended NESHAPs within 12 months of promulgation by the EPA. Local air districts can request delegation of authority to implement applicable NESHAPs from the EPA. To receive delegation, a local Subpart must be adopted incorporating the NESHAP's requirements, or implementation of the federal NESHAP must be authorized in some other manner acceptable to the EPA.

Staff has also incorporated a new process that is more transparent and streamlined, and ensures a more routine review of NSPS and NESHAP changes occur in a more timely fashion and allow staff resources to work on other important rule development activities that could further reduce air pollution. This process is further described within the Staff Report. As such, the District has revised the NSPS and NESHAP adoption process, and envisions this process will occur on an annual basis (or as needed).

The proposed rule amendments under consideration pertain solely to Regulation X and NSPSs. As such, Sections III through X of this staff report will refer only to analysis specific to the proposed revisions. A complete summary of modifications being made to Regulation X, as well as informational updates about NESHAPs that have been recently modified, are included within this staff report as Appendix A.

The following statements summarize important elements of the proposed rulemaking:

#### Comparative Analysis

An analysis comparing proposed amendments to Regulation X with applicable requirements of federal and local regulations (“Comparative Analysis”) is not required because the proposed amendments are verbatim adoption or incorporation by reference of a federal New Source Performance Standard adopted pursuant to Section 111.

#### Socioeconomic Impact Assessment

Sources must already comply with the requirements included in Regulation X whether or not the requirements are adopted by the District. The NSPS subparts included in Regulation X are already in effect under federal regulations and are enforceable by EPA. The action of adopting these regulations by reference does not impose any additional requirements on affected sources. Therefore, an assessment of the socioeconomic impacts of proposed amendments to Regulation X is not required.

#### California Environmental Quality Act (CEQA)

Proposed administrative amendments to Regulation X are categorically exempt from the provisions of CEQA as there is no possibility that the activity in question may have a significant effect on the environment.

#### Environmental Justice

The proposed amendments to Regulation X support the District’s commitment to integrating environmental justice and equity in District’s operations, policies, and regulations by ensuring relevant NSPSs at facilities countywide, including those in under-resourced communities, are made enforceable by the District at the local level. The Board actions will also support the District’s Public Participation Plan by ensuring affected stakeholders and members of the community understand what changes have recently been made in a clearer, more streamlined manner.

## **I. INTRODUCTION**

### *Standards of Performance for New Stationary Sources (NSPS)*

Section 111 of the Federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to develop New Source Performance Standards (NSPS) for new and modified stationary sources. The regulations are located in Title 40, Part 60 of the Code of Federal Regulations (CFR).

NSPSs establish emission standards applicable to criteria pollutant emissions. NSPSs establish the minimum control requirements, known as “best demonstrated technology” for all facilities within a specified category. In addition, some standards developed are directed toward existing sources. These standards, known as emission guidelines, are either adopted by the state within their implementation plan or implemented through a federal plan. Each standard is aimed at a specific industry and/or emission unit. Each standard includes emission limitations (some may also include requirements for control equipment), monitoring, testing, reporting, and recordkeeping requirements.

The Federal Clean Air Act (CAA) authorizes EPA to delegate authority for implementing and enforcing NSPS regulations to states or local districts. The San Diego County Air Pollution Control District (District) first accepted delegation for the NSPS program on September 4, 2008. Delegation to the District allows staff to implement and enforce federal regulations at the local level, without further involvement by the EPA.

### *National Emissions Standards for Hazardous Air Pollutants (NESHAPs)*

Section 112 of the Federal Clean Air Act requires that the U.S. Environmental Protection Agency (EPA) develop NESHAPs for all stationary sources. The regulations are located in Title 40, Part 63 of the Code of Federal Regulations (CFR).

NESHAPs are rules that apply to specific types of equipment or industries that emit hazardous air pollutants (HAPs). NESHAPs control HAPs through maximum achievable control technology (MACT) standards, which include control requirements for sources at facilities that have a potential to emit HAPs over the major source thresholds. Examples of sources regulated under NESHAPs include: asbestos in sources such as insulation, roofing, and paint; dry cleaning facilities; glass manufacturing plants; primary copper smelting; and wood furniture manufacturing. Often, the District incorporates requirements found in federal NESHAPs into local District rules.

The Federal Clean Air Act (CAA) authorizes EPA to delegate authority for implementing and enforcing NESHAP regulations to states or local districts. The San Diego County Air Pollution Control District (District) first accepted delegation for the NESHAP program on September 4, 2008.

## **II. BACKGROUND**

### *Standards of Performance for New Stationary Sources (NSPS)*

NSPSs 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) pursuant to Clean Air Action Section 111 through 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.

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 April 6, 2021. Since then, the EPA has issued several new and amended standards to further protect air quality and public health, as noted in Appendix A. Consequently, Regulation X has become inconsistent with current federal requirements.

In a January 29, 2020, Governing Board action (AP #1), the District revised its historical process for incorporating amended NSPSs issued by the EPA in an effort to streamline implementation. The intent of the process revision in 2020 was envisioned to automatically incorporate by reference any amendments to a previously Board-adopted NSPS into Regulation X, contingent upon the following actions:

1. The District conducting outreach to potentially affected sources;
2. The District conducting outreach to the Governing Board;
3. The District publishing a 30-day notice of the proposed amendments in a newspaper of general circulation in the region.

The January 29, 2020, process also noted that any new (i.e., not previously Board-adopted) NSPS issued by the EPA would continue to be submitted to the Governing Board for consideration of adoption, by reference, into Regulation X at a public hearing.

While the process established in 2020 to streamline incorporation of amended NSPSs was well-intentioned, implementation of the process has not been successful. In practice, the requirement to conduct enhanced outreach to affected stakeholders (or to conduct a public workshop for any new NSPS) and the Governing Board for every amended NSPS that is issued by the EPA has made it difficult for District staff to keep up with the multitude of actions from EPA. This has created a “backlog” of NSPS actions that need attention. Given the rate of annual NSPS amendments that are typically processed by EPA (many of which are administrative in nature), as well as limited District resources, the District cannot adhere to this requirement over time, as the backlog will continue to grow. Furthermore, staff believes conducting “local” outreach may be duplicative, as EPA already conducts outreach to affected industries and typically offers up to 45 days to receive comments on any new or revised NSPS action. Once adopted/amended, such NSPS actions are non-discretionary; thus, the District cannot make changes based upon any comments received.

For context, the 2020 process to conduct outreach to the Governing Board in particular, was included to address public concerns regarding the District’s level of transparency at the time. Assembly Bill 423 (Gloria, 2019) was enacted just prior to that in October 2019 to address and correct many of these concerns. While such outreach could still be conducted, the District believes such notifications may quickly overwhelm Board members given the number of annual NSPS amendments that occur, most of which are administrative in nature. Additionally, the requirement

to still have the Governing Board consider/adopt by reference any new NSPS issued by the EPA, would not necessarily save any staff time to implement such changes. Staff now believes a formal rulemaking process, such as the one today, could fully address such transparency concerns on an ongoing basis.

The proposed process for amending NSPSs has been improved to be more transparent, simplified, and harmonized with similar processes for federal National Emission Standards for Hazardous Air Pollutants (NESHAP) (i.e., Regulation XI). Furthermore, staff believes the spirit of the process established in previous Regulation amendments can still be maintained, but completed in a more streamlined and routine way that could free up additional staff resources to work on other important rule development activities that could further reduce air pollution, and reduce the backlog of NSPS actions needing attention. As such, the District has revised the NSPS adoption process, which is in effect as of the time of this Board item, to constitute the following actions. The District envisions this process will occur on an annual basis (or as needed):

1. To ensure stakeholders are notified of applicable NSPS revisions, the District will publish a 30-day Notice of Public Hearing for proposed revisions to Regulation X and corresponding revisions to Appendix C (as found on the District's website) in a local newspaper (in print and/or electronically) for any new, repealed, or amended NSPS that has been issued by the EPA since the prior related Board action.
2. On an annual (or as needed) basis, the Governing Board will consider incorporating by reference any new, repealed, or amended NSPS, and to request EPA to delegate authority to the District to implement and enforce any new, repealed, or amended NSPS, through a recommended action.
3. If recommended by the Board, District staff will submit a request for delegation authority from the EPA to implement and enforce any new, repealed, or amended NSPS.
4. If needed, District staff will notify the public and relevant stakeholders of any significant NSPS changes via a Compliance Advisory or other similar outreach.

#### National Emissions Standards for Hazardous Air Pollutants (NESHAPs)

Section 112 of the Federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to promulgate NESHAPs that apply throughout the country. EPA Section 105 grant funding which the District receives on an annual basis, requires the District to adopt or take action to otherwise implement any new or amended NESHAPs within 12 months of promulgation by the EPA. Local air districts can request delegation of authority to implement applicable NESHAPs from the EPA. To receive delegation, a local Subpart must be adopted incorporating the NESHAPs' requirements, or implementation of the federal NESHAPs must be authorized in some other manner acceptable to the EPA. NESHAPs are similar to NSPSs, however, the EPA requires facilities subject to NSPSs to be subject to testing requirements to confirm compliance with the applicable NSPS.

To avoid the necessity, related expense, and cycle time for local businesses to obtain a NESHAP permit from the EPA, the District accepted EPA delegation in November 1976 and assumed responsibility for the NESHAP program. Through 1995, the Air Pollution Control Board would adopt a revised District regulation reflecting new and modified NESHAP requirements into

Regulation XI of the District's Rules and Regulations after an established notice and workshop process. Regulation XI originally included six Subparts, (one of which, Asbestos, was repealed in 2017 in favor of adopting new local Rule 1206), applying to General Provisions, Beryllium, Beryllium Rocket Motor Firing, Mercury, and Vinyl Chloride.

However, in 1995 the Board modified the Regulation XI NESHAP process to comprise of the following actions. The actions were intended to decrease cycle times and reduce costs, while still allowing for a public review process:

1. Maintain a District participative review process (i.e., public workshop).
2. NESHAPs would not be restructured into a local rule or Subpart. Instead, the published federal NESHAP would be used for the participative review process.
3. The (Governing) Board would no longer adopt (or adopt by reference) a local rule or new Subpart unless the District, businesses, or the public had a compelling interest to do so.
  - a. In such cases, the District would propose adoption of a local regulation using the standard rule development process (e.g., Rule 1206 to control Asbestos in 2017, which was concurrently repealed from Regulation XI).
4. All newly promulgated or amended federal NESHAPs, including those in Regulation XI, would be included in Appendix B (Title 40, Subparts 61 and 63) of the District's Rules and Regulations.

Under State law, a federal NESHAP becomes the State airborne toxic control measure (ATCM), unless the California Air Resources Board (CARB) has already adopted an ATCM for the source category and associated hazardous air pollutant(s). Once a NESHAP becomes an ATCM, CARB and air districts have certain responsibilities related to the implementation and enforcement of the NESHAP/ATCM. To comply with Health and Safety Code, air districts are required to either implement and enforce the final NESHAP/ATCM no later than 120 days after the effective date of the NESHAP, or adopt an alternative regulation no later than six months after the effective date of the NESHAP.

Like the process established for NSPSs, the results of the proposed streamlining of the NESHAP review process have been varied. While the District has tracked and reviewed NESHAPs continually, complying with the self-imposed requirement to conduct a public workshop has not always occurred, or has been done ad-hoc. In many cases, staff resources simply would not allow the District to conduct a public workshop until a bundle of new/repealed NESHAPs required action, which by then would have been several months to years after the NESHAP may have been adopted. In light of complying with other more critical state and federal requirements, such rule development activities for new/repealed NESHAPs were frequently de-prioritized.

Similarly, in recent years the District elected to notify stakeholders of significant NESHAP amendments via letter or Compliance Advisories. These occurred infrequently, and often there is uncertainty as to whether such notifications are necessary given the subject matter. Oftentimes, the same NESHAP may have been revised multiple times, making it difficult to stay on track with such outreach activities. Furthermore, like NSPSs, EPA will frequently open a public comment period and conduct outreach to affected stakeholders, making any local notifications and outreach



duplicative. Once adopted/amended, such NESHAP actions are non-discretionary; thus, the District cannot make any changes based upon comments received.

Staff believes incorporating an informational NESHAP element for public review, within the annual NSPS review process proposed above, will ensure the District maintains the participative review process envisioned in 1995. Staff believes this new process is more transparent and streamlined, and ensures a more routine review of NESHAP changes occurs in a timely fashion and allows staff resources to work on other important rule development activities that could further reduce air pollution. As such, the District has revised the NESHAP adoption process, which is in effect as of the time of this Board item, to constitute the following actions. The District envisions this process will occur on an annual basis (or as needed):

1. To ensure stakeholders are notified of applicable NESHAP revisions, the District will publish a 30-day Notice of Public Hearing in a local newspaper (in print and/or electronically) prior to the relevant Governing Board item with information noting any new, repealed, or amended NESHAP (as found in Regulation XI and Appendix B of the District's Rules and Regulations) that have occurred since the prior related Board action.
2. On an annual (or as needed) basis, the Governing Board will hear informational updates regarding any new, repealed, or amended NESHAP; no recommended actions, Board votes, or further delegation authority is necessary for implementation of applicable NESHAPs.
3. If needed, District staff will notify the public and relevant stakeholders of any significant NESHAP changes via a Compliance Advisory or other similar outreach.

A combined summary of the proposed processes for both NSPS and NESHAP revisions are included in the table on the following page:

	<b>NSPS</b>	<b>NESHAPs</b>
<b>Public Notification</b>	To ensure stakeholders are notified of applicable NSPS revisions, the District will publish a 30-day Notice of Public Hearing for proposed revisions to Regulation X and corresponding revisions to Appendix C (as found on the District's website) in a local newspaper (in print and/or electronically) for any new, repealed, or amended NSPS that has been issued by the EPA since the prior related Board action.	To ensure stakeholders are notified of applicable NESHAP revisions, the District will publish a 30-day Notice of Public Hearing in a local newspaper (in print and/or electronically) prior to the relevant Governing Board item with information noting any new, repealed, or amended NESHAP (as found in Regulation XI and Appendix B of the District's Rules and Regulations) that have occurred since the prior related Board action.
<b>Timeline</b>	On an annual (or as needed) basis, the Governing Board will consider incorporating by reference any new, repealed, or amended NSPS, and to request EPA to delegate authority to the District to implement and enforce any new, repealed, or amended NSPS, through a recommended action.	On an annual (or as needed) basis, the Governing Board will hear informational updates regarding any new, repealed, or amended NESHAP.
<b>Board &amp; EPA Action</b>	If approved by the Board, District staff will submit a request for delegation authority from the EPA to implement and enforce any new, repealed, or amended NSPS.	N/A; Board votes or further delegation authority are unnecessary for implementation of applicable NESHAPs.
<b>Notification to Affected Stakeholders</b>	If needed, District staff will notify the public and relevant stakeholders of any significant NSPS changes via a Compliance Advisory or other similar outreach.	If needed, District staff will notify the public and relevant stakeholders of any significant NESHAP changes via a Compliance Advisory or other similar outreach.

EPA has recently issued several new and amended NESHAPs to further protect air quality and public health. These are presented for informational purposes for regulated facilities and the community to ensure such facilities are aware of such changes in a public manner (beyond which already occurs at the EPA). The revisions are noted in Appendix A.

### III. CONTROL TECHNOLOGIES

This section is not applicable to Regulation X. Sources must comply with the requirements included in Regulation X whether or not the requirements are adopted by the District. The NSPS subparts included in Regulation X are already in effect under federal regulations and are enforceable by EPA. The action of adopting these regulations by reference does not impose any additional requirements on affected sources.

### IV. SUMMARY OF PROPOSED AMENDMENTS

The requirements for proposed amendments to Regulation X are summarized below:

Deletion of following language pertaining to process of adopting NSPSs by reference

~~“Any new Subpart promulgated after the date of adoption of this Regulation shall be submitted to the Air Pollution Control Board for adoption by reference. Subparts adopted by reference shall include subsequent amendments of any Subpart, no earlier than 30 days after public notice of the proposed changes is published in a newspaper of general circulation in the District, and outreach to affected sources and the Air Pollution Control Board has been conducted.”~~

Updated dates of recent amendment and/or adoption of NSPS Subparts through June 30, 2024

NSPS Subpart	CFR Reference	NSPS Subpart Title
Subpart A	40 CFR 60.1-19	General Provisions
Subpart L	40 CFR 60.120-123	Standards of Performance for Secondary Lead Smelters
Subpart AAA	40 CFR 60.530-539b	Standards of Performance for New Residential Wood Heaters
Subpart CCCC	40 CFR 60.2000-2265	Standards of Performance for Commercial and Industrial Solid Waste Incineration Units
Subpart EEEE	40 CFR 60.2880-2977	Standards of Performance for Other Solid Waste Incineration Units for which Construction is Commenced after December 9, 2004, or for which Modification or Reconstruction is Commenced on or after June 16, 2006.
Subpart IIII	40 CFR 60.4200-4219	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines

<b>NSPS Subpart</b>	<b>CFR Reference</b>	<b>NSPS Subpart Title</b>
Subpart JJJJ	40 CFR 60.4230-4248	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines
Subpart QQQQ	40 CFR 60.5472-5483	Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces
Subpart TTTT	40 CFR 60.5508-5580	Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units

For consistency, other minor administrative edits were made to dates throughout the proposed amended Regulation X to reflect publication dates, rather than dates made effective in the Federal Register.

## **V. COMPARATIVE ANALYSIS**

### Statutory Requirements

Prior to adopting, amending, or repealing a rule or regulation, California Health and Safety Code Section [40727](#) requires findings of necessity, authority, clarity, consistency, non-duplication, and reference, as defined therein. As part of the consistency finding and to ensure proposed rule requirements do not conflict with or contradict other District and/or federal regulations, Health and Safety Code Section 40727.2(a) requires the District to perform a written analysis identifying and comparing the air pollution control standards and other provisions of proposed amended Regulation X with existing or proposed District rules and guidelines and existing federal rules, requirements, and guidelines applying to the same source category.

### Analysis

The District finds that an analysis comparing proposed amendments to Regulation X with applicable requirements of federal and local regulations (“Comparative Analysis”) is not required pursuant to Section 40727.2(g) of the California Health and Safety Code because the proposed amendments are verbatim adoption or incorporation by reference of a federal New Source Performance Standard adopted pursuant to Clean Air Act Section 111.

## **VI. EMISSION SOURCES AND IMPACTS**

The proposed amendments to Regulation X, many of which are administrative in nature, are not expected to result in substantial emission reductions. Regardless, affected sources must comply with the revised NSPS requirements proposed for inclusion in Regulation X whether or not the requirements are ultimately adopted by the District. The NSPS subparts included in Regulation X are already in effect under federal regulations and are enforceable by EPA. The action of adopting these regulations by reference does not impose any additional requirements on affected sources. New or amended NSPSs added into Regulation X will result in additional administrative workload for the District’s Compliance and Engineering divisions, to enforce the new federal regulations at the local level and amendments to permits as needed. However, such federal provisions are non-

discretionary for the District, and the impacts to existing workload by these divisions will need to be evaluated as new requirements are implemented.

## **VII. ECONOMIC IMPACTS & COST-EFFECTIVENESS**

### Statutory Requirements

California Health & Safety Code [40703](#) requires that in adopting any regulation, the District shall consider, pursuant to Section 40922, and make available to the public, its findings related to the cost effectiveness of a control measure, as well as the basis for the findings and the considerations involved. A district shall make reasonable efforts, to the extent feasible within existing budget constraints, to make specific reference to the direct costs expected to be incurred by regulated parties, including businesses and individuals. The District shall also comply with California Health & Safety Code [40920.6\(a\)](#) pertaining to cost-effectiveness of best available retrofit control technology as applicable.

### Cost Effectiveness, Incremental Cost-Effectiveness, and Other Costs

Cost effectiveness accounts for the cost of emission reductions, typically expressed in dollars spent per pound or ton of emissions reduced. The District finds that a cost effectiveness evaluation (including an evaluation of incremental cost-effectiveness and other costs) is not applicable to proposed amendments for Regulation X pursuant to Section 40920.6(a). Proposed amendments to Regulation X are verbatim adoption or incorporation by reference of a federal New Source Performance Standard adopted pursuant to Clean Air Act Section 111. Sources must comply with the requirements included in Regulation X whether or not the requirements are adopted by the District. The NSPS subparts included in Regulation X are already in effect under federal regulations and are enforceable by EPA. The action of adopting these regulations by reference does not impose any additional requirements on affected sources. Therefore an analysis of cost-effectiveness is not required.

### Socioeconomic Impacts Assessment (SIA)

Per California Health & Safety Code [40728.5](#) (if applicable), whenever a district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency shall, to the extent data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation. The Governing Board shall actively consider the socioeconomic impact of regulations and make a good faith effort to minimize adverse socioeconomic impacts. This section does not apply to the adoption, amendment, or repeal of any rule or regulation that results in any less restrictive emissions limit if the action does not interfere with the district's adopted plan to attain ambient air quality standards or does not result in any significant increase in emissions.

The District finds that an assessment of the socioeconomic impacts of proposed amended Regulation X is not required pursuant to Section 40728.5(a) of the California Health and Safety Code. Affected sources must comply with the requirements included in Regulation X whether or not the requirements are adopted by the District. The NSPS subparts included in Regulation X are already in effect under federal regulations and are enforceable by EPA. The action of adopting these regulations by reference does not impose any additional requirements on affected sources.

Therefore, an assessment of the socioeconomics impacts of proposed amendments to Regulation X is not required.

## **VIII. ENVIRONMENTAL ANALYSIS**

### CEQA (California Environmental Quality Act)

CEQA requires environmental review of certain actions. District staff conducted a review of whether CEQA applies to the adoption of proposed amendments to Regulation X. The District finds that proposed amendments to Regulation X are 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, where the regulatory process involves procedures for protection of the environment, and 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.

### Analysis of Expected Methods of Compliance

Proposed amendments to Regulation X are verbatim adoption or incorporation by reference of a federal New Source Performance Standard adopted pursuant to Clean Air Act Section 111. Sources must comply with the requirements included in Regulation X whether or not the requirements are adopted by the District. The NSPS subparts included in Regulation X are already in effect under federal regulations and are enforceable by EPA. The action of adopting these regulations by reference does not impose any additional requirements on affected sources. Therefore, an analysis of expected methods of compliance is not required.

### Environmental Justice

The proposed amendments to Regulation X support the District's commitment to integrating environmental justice and equity in District's operations, policies, and regulations. The amendments incorporate more stringent and up-to-date federal regulations, ensuring that such regulations apply to facilities located within or adjacent to under-resourced communities and are enforceable at the local level. Additionally, the District's revised process for adopting new/revised NSPSs and notifying the public about new/revised NESHAPs at the Governing Board level on an annual basis, will ensure communities that are disproportionately impacted by air pollution are made aware of such revisions in a meaningful way through standard District processes, rather than having to find such information through the EPA.

## **IX. RULE DEVELOPMENT AND PUBLIC PARTICIPATION PROCESS**

On August 13, 2024, a 30-day public notice regarding the Governing Board's public hearing to consider the proposed rule amendments was posted in a local newspaper for a 30-day review period, on the District's website and sent to subscribers of the District's email notification service, CARB, and the EPA. The public notice was sent to over 10,000 subscribers to the District's email notification service. The public notice invited an opportunity for the public to comment on the proposed action prior to and during the Governing Board's consideration of the action. District staff will provide an overview of any comments received and tentative staff responses to them, at the Governing Board Hearing.

## **X. OTHER RULE AMENDMENTS**

There are no other rule amendments associated with this report and rule development action.

## **XI. CONCLUSION**

Proposed amendments to Regulation X are not expected to negatively impact affected residents or industries including small businesses, nor affect employment or the economy of San Diego County. Sources must already comply with the requirements proposed for inclusion in Regulation X whether or not the requirements are adopted by the District. The NSPS subparts included in Regulation X are already in effect under federal regulations and are enforceable by EPA. The action of adopting these regulations by reference does not impose any additional requirements on affected sources. The proposed amended regulation will help ensure the rule meets all federal requirements, which through implementation, will improve air quality throughout the region. This Staff Report addresses all the requirements specified in Health and Safety Code Sections 40725 through 40728.5 for rule development.

## **XII. REFERENCES**

There are no references to this report.

## **XIII. APPENDICES**

Appendix A – NSPS/NESHAP Table

**Appendix A****Summary of Relevant NSPS Revisions (as of June 30, 2024)**

Subpart	Title	Date(s) of Final Actions Taken since January 9, 2022	Most Recent Corresponding Federal Register	Summary of Changes	District Action to be taken
<b>A</b>	General Provisions	5/16/2024 (+ 17 additional times)	89 FR 43067	<ul style="list-style-type: none"> <li>Additions and deletion of federal register references,</li> <li>Updates to local agencies name/address/delegation status,</li> <li>Additions/deletion/edits of some test methods.</li> <li>Material incorporated by reference available in the National Archives and Records Administration.</li> </ul>	Adopt by reference the corresponding amendment to the following current federal Subpart of 40 CFR Part 60, which were subsequently amended by the EPA after the 2020 update of District Regulation X.
<b>D</b>	Fossil-Fuel-Fired Steam Generators	No Action Taken			None
<b>Da</b>	Electric Utility Steam Generating Units	No Action Taken			None
<b>Db</b>	Industrial-Commercial-Institutional Steam Generating Units	No Action Taken			None
<b>Dc</b>	Small Industrial-Commercial-Institutional Steam Generating Units	No Action Taken			None
<b>E</b>	Incinerators	No Action Taken			None
<b>Eb</b>	Large Municipal Waste Combustors	No Action Taken			None
<b>Ec</b>	Hospital/ Medical/ Infectious Waste Incinerators	No Action Taken			None
<b>I</b>	Hot Mix Asphalt Facilities	No Action Taken			None
<b>J</b>	Petroleum Refineries	No Action Taken			None
<b>K</b>	Storage Vessels for Petroleum Liquids (06/11/73-05/19/78)	No Action Taken			None



Subpart	Title	Date(s) of Final Actions Taken since January 9, 2022	Most Recent Corresponding Federal Register	Summary of Changes	District Action to be taken
<b>Ka</b>	Storage Vessels for Petroleum Liquids (05/18/78-07/23/84)	No Action Taken			None
<b>Kb</b>	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels)	No Action Taken			None
<b>L</b>	Secondary Lead Smelters	11/20/2023	88 FR 80610	<ul style="list-style-type: none"> <li>Amended applicability to be for equipment that began operation between 6/11/1973 and 12/1/2022.</li> <li>Required initial and periodic performance tests to demonstrate compliance with PM standards.</li> <li>Specified PM test methods to demonstrate compliance.</li> <li>Specified monitoring, notification, record keeping and reporting requirements.</li> </ul>	Adopt by reference the corresponding amendment to the following current federal Subpart of 40 CFR Part 60, which were subsequently amended by the EPA after the 2020 update of District Regulation X.
<b>M</b>	Secondary Brass and Bronze Production Plants	No Action Taken			None
<b>O</b>	Sewage Treatment Plants	No Action Taken			None
<b>DD</b>	Grain Elevators	No Action Taken			None
<b>EE</b>	Surface Coating of Metal Furniture	No Action Taken			None
<b>GG</b>	Stationary Gas Turbines	No Action Taken			None
<b>QQ</b>	Graphic Arts Industry: Publication Rotogravure Printing	No Action Taken			None
<b>RR</b>	Pressure Sensitive Tape and Label Surface Coating Operations	No Action Taken			None
<b>SS</b>	Industrial Surface Coating: Large Appliances	No Action Taken			None
<b>TT</b>	Metal Coil Surface Coating	No Action Taken			None

Subpart	Title	Date(s) of Final Actions Taken since January 9, 2022	Most Recent Corresponding Federal Register	Summary of Changes	District Action to be taken
<b>AAA</b>	New Residential Wood Heaters	3/29/2023	88 FR 18402	<ul style="list-style-type: none"> <li>Added new requirements to test methods.</li> </ul>	Adopt by reference the corresponding amendment to the following current federal Subpart of 40 CFR Part 60, which were subsequently amended by the EPA after the 2020 update of District Regulation X.
<b>BBB</b>	Rubber Tire Manufacturing Industry	No Action Taken			None
<b>FFF</b>	Flexible Vinyl and Urethane Coating and Printing	No Action Taken			None
<b>JJJ</b>	Petroleum Dry Cleaners	No Action Taken			None
<b>OOO</b>	Non-Metallic Mineral Processing Plants	No Action Taken			None
<b>UUU</b>	Calciners and Dryers in Mineral Industries	No Action Taken			None
<b>VVV</b>	Polymeric Coating of Supporting Substrates Facilities	No Action Taken			None
<b>WWW</b>	Municipal Solid Waste Landfills	No Action Taken			None
<b>AAAA</b>	Small Municipal Waste Combustion Units	No Action Taken			None
<b>CCCC</b>	Commercial and Industrial Solid Waste Incineration Units	3/20/2023	88 FR 16742	<ul style="list-style-type: none"> <li>Modified methods to determine toxic equivalency</li> </ul>	Adopt by reference the corresponding amendment to the following current federal Subpart of 40 CFR Part 60, which were subsequently amended by the EPA after the 2020 update of District Regulation X.

Subpart	Title	Date(s) of Final Actions Taken since January 9, 2022	Most Recent Corresponding Federal Register	Summary of Changes	District Action to be taken
<b>EEEE</b>	Other Solid Waste Incineration Units	4/17/2024	89 FR 27397	<ul style="list-style-type: none"> <li>Modified criteria and requirements associated with Title V permits</li> <li>Deleted section for temporary use incinerators</li> </ul>	Adopt by reference the corresponding amendment to the following current federal Subpart of 40 CFR Part 60, which were subsequently amended by the EPA after the 2020 update of District Regulation X.
<b>III</b>	Stationary Compression Ignition Internal Combustion Engines	1/24/2023, 8/10/2022	88 FR 4471, 87 FR 48606	<ul style="list-style-type: none"> <li>Added provisions for confidential business information.</li> <li>Emergency demand response no longer considered an emergency use.</li> </ul>	Adopt by reference the corresponding amendment to the following current federal Subpart of 40 CFR Part 60, which were subsequently amended by the EPA after the 2020 update of District Regulation X.
<b>JJJ</b>	Stationary Spark Ignition Internal Combustion Engines	1/24/2023 8/10/2022	88 FR 4471, 87 FR 48606	<ul style="list-style-type: none"> <li>Added provisions for confidential business information.</li> <li>Emergency demand response no longer considered an emergency use.</li> </ul>	Adopt by reference the corresponding amendment to the following current federal Subpart of 40 CFR Part 60, which were subsequently amended by the EPA after the 2020 update of District Regulation X.
<b>KKKK</b>	Stationary Combustion Turbines	No Action Taken			None
<b>QQQQ</b>	New Residential Hydronic Heaters and Forced-Air Furnaces	3/29/2023	88 FR 18402 and 18403	<ul style="list-style-type: none"> <li>Corrected conversion error (lb/mmBTU to g/MJ).</li> <li>Amended test methods.</li> </ul>	Adopt by reference the corresponding amendment to the following current federal Subpart of 40 CFR Part 60, which were subsequently amended by the EPA after the 2020 update of District Regulation X.

Subpart	Title	Date(s) of Final Actions Taken since January 9, 2022	Most Recent Corresponding Federal Register	Summary of Changes	District Action to be taken
<b>TTTT</b>	Greenhouse Gas Emissions for Electric Generating Units	5/9/2024	89 FR 40035	Revised Tables 1 and 2.	Adopt by reference the corresponding amendment to the following current federal Subpart of 40 CFR Part 60, which were subsequently amended by the EPA after the 2020 update of District Regulation X.

### **Summary of NESHAP Revisions (as of June 30, 2024)**

<b>Subpart</b>	<b>Title</b>	<b>Date(s) of Final Actions Taken since September 1, 2022</b>	<b>Most Recent Corresponding Federal Register</b>	<b>Summary of Changes</b>	<b>District Action to be Taken</b>
<b>A</b>	General Provisions	6/24/2024 (+ 18 additional times)	89 FR 45771	<ul style="list-style-type: none"> <li>• Deletions and additions of Federal Register references.</li> <li>• Amended subsections of incorporation of reference for other local agencies (not San Diego County).</li> <li>• Material incorporated by reference available in the National Archives and Records Administration.</li> <li>• Updates to contact information for some referenced agencies</li> </ul>	None – Automatic EPA delegation that will be reflected in Appendix B of the District’s Rules and Regulations after participative review process (i.e. Governing Board update).
<b>R</b>	Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)	No Action Taken			
<b>T</b>	Halogenated Solvent Cleaning	No Action Taken			
<b>DD</b>	Off-Site Waste and Recovery Operations	No Action Taken			
<b>GG</b>	Aerospace Manufacturing and Rework Facilities	No Action Taken			
<b>II</b>	Shipbuilding and Ship Repair (Surface Coating)	No Action Taken			
<b>JJ</b>	Wood Furniture Manufacturing Operations	No Action Taken			
<b>VVV</b>	Publicly Owned Treatment Works	No Action Taken			
<b>AAAA</b>	Municipal Solid Waste Landfills	No Action Taken			
<b>MMMM</b>	Surface Coating of Miscellaneous Metal Parts and Products	No Action Taken			

Subpart	Title	Date(s) of Final Actions Taken since September 1, 2022	Most Recent Corresponding Federal Register	Summary of Changes	District Action to be Taken
<b>PPPP</b>	Surface Coating of Plastic Parts and Products	No Action Taken			
<b>YYYY</b>	Stationary Combustion Turbines	No Action Taken			
<b>ZZZZ</b>	Stationary Reciprocating Internal Combustion Engines	5/30/2023	88 FR 18413	<ul style="list-style-type: none"> <li>Deleted reference to Federal Register.</li> <li>Minor edits to Performance Test table.</li> <li>Added requirement to measure moisture content to measure CO, O2, formaldehyde and THC concentrations on a dry basis.</li> </ul>	None – Automatic EPA delegation that will be reflected in Appendix B of the District’s Rules and Regulations after participative review process (i.e. Governing Board update).
<b>ZZZZ</b>	Stationary Reciprocating Internal Combustion Engines	3/29/2023	88 FR 18413	<ul style="list-style-type: none"> <li>Added reference to Federal Register.</li> </ul>	None – Automatic EPA delegation that will be reflected in Appendix B of the District’s Rules and Regulations after participative review process (i.e. Governing Board update).
<b>DDDDD</b>	Industrial, Commercial, and Institutional Boilers and Process Heaters	10/6/2022	87 FR 60863	<ul style="list-style-type: none"> <li>Updated formatting on Tables and Equations.</li> <li>Added alternative limit options prior to October 6, 2025.</li> <li>Added new emission limit requirements on Tables 1 and 14.</li> <li>Added monitoring requirements and use continuous opacity / parameter monitoring systems.</li> <li>Added definition of 12-month rolling average.</li> <li>Corrections made to Table 1.</li> <li>Added emission limits to Tables 13, 14 and 15.</li> </ul>	None – Automatic EPA delegation that will be reflected in Appendix B of the District’s Rules and Regulations after participative review process (i.e. Governing Board update).
<b>GGGGG</b>	Site Remediation	12/22/2022	87 FR 78558	<ul style="list-style-type: none"> <li>Deleted exemption of projects performed under CERCLA and RCRA.</li> <li>Added clarification for existing and new projects that started under CERCLA or RCRA.</li> <li>Added a compliance date.</li> </ul>	None – Automatic EPA delegation that will be reflected in Appendix B of the District’s Rules and Regulations after participative review process (i.e. Governing Board update).

Subpart	Title	Date(s) of Final Actions Taken since September 1, 2022	Most Recent Corresponding Federal Register	Summary of Changes	District Action to be Taken
<b>PPPPP</b>	Engine Test Cells/Stands	5/29/2023	88 FR 18415	<ul style="list-style-type: none"> <li>Deleted and added references to Federal Register.</li> <li>Modified equipment allowed to be used to measure pressure drop.</li> <li>Added references to Federal Register</li> </ul>	None – Automatic EPA delegation that will be reflected in Appendix B of the District’s Rules and Regulations after participative review process (i.e. Governing Board update).
<b>BBBBBB</b>	Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities	5/8/2024	89 FR 39386	<ul style="list-style-type: none"> <li>Added vapor balancing requirements always required once a bulk plant reaches or exceeds an annual average throughput of 4,000 gallons per day.</li> <li>Added compliance dates for new construction and reconstruction of emission sources.</li> <li>Added alternative pressure monitoring to be used.</li> <li>Added new compliance determination, leak detection and leak repair program requirements.</li> <li>Deleted requirement for monitoring plan to include conditions considered malfunctions.</li> <li>Added test requirements and specifics on how to submit Notification of Compliance Status reports.</li> <li>Modified record keeping and reporting requirements and a few definitions.</li> <li>Added requirements to Tables 1 and 2.</li> <li>Added new Table 3 and moved previous Table 3 to Table 4.</li> </ul>	None – Automatic EPA delegation that will be reflected in Appendix B of the District’s Rules and Regulations after participative review process (i.e. Governing Board update).
<b>CCCCC</b>	Gasoline Dispensing Facilities	No Action Taken			

Subpart	Title	Date(s) of Final Actions Taken since September 1, 2022	Most Recent Corresponding Federal Register	Summary of Changes	District Action to be Taken
<b>HHHHHH</b>	Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources	11/10/2022	87 FR 67804-67806	<ul style="list-style-type: none"> <li>• Added option to inform EPA no HAPs are sprayed and keep records to demonstrate exemption.</li> <li>• Modified requirements to demonstrate filter efficiency.</li> <li>• Added a requirement to be in compliance at all times.</li> <li>• Added requirement to provide required initial and annual notifications via EPA's CEDRI or other approved methods for confidential information.</li> <li>• Amended definition of HAP containing material, spray-applied coating operations and target HAP containing coating.</li> <li>• Deleted definition of non-HAP solvent.</li> </ul>	None – Automatic EPA delegation that will be reflected in Appendix B of the District's Rules and Regulations after participative review process (i.e. Governing Board update).
<b>OOOOOO</b>	Flexible Polyurethane Foam Production and Fabrication Area Sources	No Action Taken			
<b>VVVVVV</b>	Chemical Manufacturing Area Sources	No Action Taken			
<b>WWWWWW</b>	Area Source Standards for Plating and Polishing Operations	No Action Taken			