



Mendocino County  
Air Quality  
Management District

# REGULATION 1

## PROPOSED NSR AMENDMENTS



# Clean Air Act

The US National Ambient Air Quality Standards (NAAQS) are standards established by EPA under authority of the **Clean Air Act** (42 U.S.C. 7401 et seq.) that apply for outdoor air throughout the country. These standards are designed to protect human health, with an adequate margin of safety, including sensitive populations such as children, the elderly, and individuals suffering from respiratory diseases.



# Clean Air Act

**N**ational  
**A**mbient  
**A**ir  
**Q**uality  
**S**tandards

## National Ambient Air Quality Standards

- ☐ Ozone
- ☐ Respirable Particulate PM<sub>10</sub>
- ☐ Fine Particulate PM<sub>2.5</sub>
- ☐ Carbon Monoxide (CO)
- ☐ Nitrogen Dioxide (NO<sub>2</sub>)
- ☐ Sulfur Dioxide (SO<sub>2</sub>)
- ☐ Lead

*Nation-wide limits based on potential health effects and are updated as new health based science is discovered*



# **Clean Air Act**

A **State Implementation Plan (SIP)** is a state plan for complying with the Clean Air Act administered by EPA. The SIP consists of a narrative, rules, technical documentation and agreements that an individual state will use to clean up polluted areas not meeting the NAAQS.

A state or district meeting a given standard is known as an "attainment area" for that standard, and otherwise considered a "non-attainment area".



# Clean Air Act

A **State Implementation Plan (SIP)** does not need to contain exactly the same provisions that EPA might require, but must be consistent with the requirements of the Act and assure consistent implementation by states across the country.



The State Implementation Plan for California is a compendium of regulations that apply throughout the state, although they are specific to each Air District. The SIP contains basic regulatory infrastructure, attainment of the NAAQS, and transport of air pollution across state or national boundaries.

In order to be included, SIP rules must meet certain legal and regulatory standards and once incorporated, are federally enforceable.



EPA is currently more than 10 years behind in approving some aspects of the California SIP, mostly due to every changing regulatory priorities. (*AKA: lawsuits challenging rule changes*)

EPA is planning to approve and partially disapprove 5 California Infrastructure SIP submittals;

- 1997 and 2008 Ozone Standards
- 1997, 2006, and 2013 fine particulate matter (PM<sub>2.5</sub>) standards
- 2008 lead (Pb) standard
- 2010 nitrogen dioxide (NO<sub>2</sub>) standard
- 2010 Sulfur dioxide (SO<sub>2</sub>) standard



As part of the re-authorization process, EPA is approving most of California's SIP submittals and currently finalizing disapproval for several narrow deficiencies for several districts, including Prevention of significant deterioration (PSD) permit program requirements to regulate PM<sub>2.5</sub> in Mendocino, North Coast, Northern Sonoma districts – *the North Coast Air Basin* – as well as South Coast.



Staff is proposing to amend the rules within our Regulation 1 that implement the ***federal*** programs for review of significant new and modified sources of air pollution known as the Prevention of Significant Deterioration Program, or PSD. The proposed changes will incorporate specific definitions and procedures consistent with EPA's most recent standards for this program. These proposed changes will allow EPA to approve the program as part of the SIP, allowing these rules as federally enforceable.



To make the program consistent with current federal requirements, the District is proposing to change the following rules:

- Regulation 1, Rule 130 – Definitions
- Regulation 1, Rule 200 – Permitting Requirements
- Regulation 1, Rule 220 – New Source Review
- Regulation 1, Rule 230 – Action on Applications

In addition, District staff is proposing to replace the outdated table (1 – 1) which references the federal and state ambient air quality standards with a more accurate version.



Additionally, several of the District's rules that were previously submitted no longer meet the criteria for approval. There is a backlog of rules submitted by air districts nation-wide for inclusion in the SIP, with some of these submittals pending for over ten years. As part of a national effort to reduce the backlog and remove rules that no longer meet SIP criteria, EPA has approached the District with a request that certain submittals be withdrawn.



The District is proposing to withdraw the following rules from the SIP at EPA's request:

- Regulation 1, Rule 221 – Federal Permitting for Greenhouse Gas Emissions
- Regulation 1, Rule 494 – Potential To Emit Limitations

These rules no longer meet EPA's criteria for inclusion in the SIP, are federally unenforceable and are unnecessary in the SIP.



(Obligatory Legal Disclaimer)

Staff has reviewed the withdrawals with District Counsel and determined that specific rules could be withdrawn without impacting the effectiveness or underlying authority of the District's regulatory program. Rules that are withdrawn from the SIP or from submittal to the SIP will remain in effect as local regulations enforceable by the District.



## **Changes Proposed to Regulation 1, Rule 130 - Definitions:**

In addition to updating references to the CAA and 40 CFR 52.21, staff is proposing to exclude specific definitions in 40 CFR 52.21 related to NSR reform and add a “General Provisions” section as requested by EPA. This includes added definitions for “Actual Emissions (a1), “Allowable Emissions (a6), “Area Classifications” (a9), “Baseline Actual Emissions” (b1), “Major Modification” (m1) and “Major Stationary Source” (m2).



## **Changes Proposed to Regulation 1, Rule 200 – Permit Requirements:**

In addition to updating reference dates, Staff is proposing to clarify certain exemptions and add Section (e), Procedures. EPA has also requested changes to the language for the exemptions in (d)(5)(c) and (d)(8) that limits the scope of discretion afforded to the Air Pollution Control Officer in a manner consistent with federal standards for approvability. The new Section (e) specifies the information an applicant for a permit must provide in order to be deemed complete. These are procedures District staff already follows, however EPA is requiring them to be explicitly expressed in the rules.



## **Changes Proposed to Regulation 1, Rule 220 – New Source Review:**

In addition to updating reference dates and specifying that the calculation methods referenced in 40 CFR 52.21 are the methods provided before NSR reform was enacted, Staff is proposing to:

- A. Amend Section (b) New Source Review Procedure by replacing terms in (b)(1) and (b)(2) with terms preferred by EPA that proscribe the same requirements;



## **Changes Proposed to Regulation 1, Rule 220 – New Source Review: (Continued)**

- B. Amend Section (b)(3) , separating two elements required into two separate sections – an amended (b)(3) and a new (b)(4). As part of the new Section (b)(4), language changes will state that the APCO will ensure that the project will not result in an increase that would exceed any ambient air quality standard or allowable PSD increment. These criteria are also not new, they are simply being included in the District rules;



## **Changes Proposed to Regulation 1, Rule 220 – New Source Review: (Continued)**

- C. Amend Section (b)(3) , separating two elements required into two separate sections – an amended (b)(3) and a new (b)(4). As part of the new Section (b)(4), language changes will state that the APCO will ensure that the project will not result in an increase that would exceed any ambient air quality standard or allowable PSD increment. These criteria are also not new and are included in state law, they are simply being included in the District rules.



## **Changes Proposed to Regulation 1, Rule 220 – New Source Review: (Continued)**

- D. Amend sections (b)(7) and (b)(9) to clarify the public participation procedures regarding District notification when intending to take action on a PSD permit, how the notice is given, and how comments may be provided.

These changes also codify existing practice as well.



### **Changes Proposed to Regulation 1, Rule 230 – Action on Applications:**

In addition to reference dates, staff is proposing to add Section (e), Performance Standards in Effect, to specify that issuance of an Authority to Construct does not relieve the permit holder from the obligation to comply with all applicable requirements, whether explicitly stated in the permit or not. This language is already incorporated into permits upon issuance, but EPA now requires it be explicitly stated in the District's rules.



### **Existing SIP Amendments:**

At the request of EPA, the District is proposing to withdraw the following rules from the SIP or from submittal into the SIP:

- ***Regulation 1, Rule 221*** – Federal Permitting of Greenhouse Gas Emissions (*Remove from SIP*)
- ***Regulation 1, Rule 494*** – Potential To Emit Limitations (*Remove from SIP submittal*)



### **SIP Amendments: (Continued)**

Rule 221 is no longer needed for the SIP because of various court rulings regarding Green House Gas and is no longer enforceable.

EPA has also determined that Rule 494, Potential to Emit Limitations, is not required to be a SIP approved rule and therefore should be removed from the SIP submittal.



## **RECAP:**

For the most part, the proposed changes clarify or codify existing practice by providing more explicit reference to or incorporation of the underlying federal requirements. These changes are needed to meet current EPA standards for the content of an approvable program.



### **IMPACTS:**

Because there will be no change in the implementation of the District's PSD program, staff does not anticipate any change in emissions from affected sources, in ambient levels of any regulated pollutants, nor any associated health impacts. There will be no change in the compliance obligations of any affected sources, therefore no costs are anticipated as a result of these amendments.



(Another Obligatory Legal Disclaimer)

## **IMPACTS:**

These actions are being taken to comply with federal and state requirements. As such, they are consistent with federal laws and regulations. These actions also minimize regulatory duplication as required under HSC Section 40727 (a), and are not less stringent than those rules in existence on December 30, 2002.

(H&SC 42504)





## **CONCLUSION:**

The proposed actions are being undertaken at the request of EPA and in order to comply with federal requirements. The changes are necessary to maintain full approval of the District's program. The proposed actions are consistent with state and federal laws and regulations. They will not result in any adverse impacts on emissions, air quality, public health, compliance costs or cost-effectiveness, or have other socio-economic impacts.

# QUESTIONS?

