

Agenda Date: June 20, 2013
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Continued Item: No

Board Agenda Item

TO: Air Pollution Control District Board

FROM: Dave Van Mullem, Air Pollution Control Officer

CONTACT: Douglas Grapple, 961-8883 (grappled@sbcapcd.org)

SUBJECT: Adoption of Proposed Amended Rule 810 to Implement the United States Environmental Protection Agency's Federal Prevention of Significant Deterioration Provisions

RECOMMENDATION:

That the Board:

- A. Hold a public hearing to receive testimony on the proposed amended Rule 810, Federal Prevention of Significant Deterioration (PSD).
- B. Approve the Resolution attached to this Board Letter. Approval of the Resolution will result in the following actions:
 1. CEQA Findings: Adopt the CEQA Findings (Attachment 1) pursuant to the California Environmental Quality Act (CEQA) and the CEQA guidelines.
 2. Rule Findings: Adopt the associated Rule Findings (Attachment 2) in support of the proposed amended rule pursuant to Health and Safety Code Section 40727 regarding necessity, authority, clarity, consistency, nonduplication, and reference. The Rule Findings also acknowledge public comments on the proposed amended rule and adopt the responses to public comments as findings of the Board (See Attachment 3).
 3. Rule Adoption and Amendments: Adopt proposed amended Rule 810 (Attachment 4).

EXECUTIVE SUMMARY:

On January 20, 2011, the District adopted Rule 810 as part of a suite of rules to implement the United States Environmental Protection Agency's (EPA's) Prevention of Significant Deterioration (PSD) and Title V to address new greenhouse gas requirements under EPA's "tailoring rule." Rule 810 incorporates federal PSD requirements by reference, and was based on an EPA model rule. EPA subsequently determined that slight changes to Rule 810 are necessary before EPA will incorporate the rule into the State Implementation Plan.

Rule 810 benefits the regulated community by increasing greenhouse gas emission trigger levels for PSD permits. Adoption of amended Rule 810, and inclusion into the SIP, will allow the District to process any required federal PSD permit applications.

DISCUSSION:

Objectives:

To fully implement EPA Greenhouse Gas Tailoring Rule requirements, the District needs to adopt amended Rule 810. Once adopted, the District will submit Rule 810 for inclusion into:

1. The State Implementation Plan (SIP), and
2. The federal Outer Continental Shelf Air Regulations.

Background:

Historically, the District rules applied to "criteria" air pollutants, their precursors, hazardous air pollutants, and toxic air contaminants. "Criteria" pollutants include ozone, particulate matter, carbon monoxide, sulfur dioxide, nitrogen oxides, and lead, but not greenhouse gases (GHGs). EPA expanded the federal regulations to include greenhouse gases as regulated pollutants. To adjust the District rules to include federal provisions on GHGs, the Board of Directors adopted the following new/amended rules on January 20, 2011:

1. New Rule 810, Federal Prevention of Deterioration (PSD): Rule 810 incorporates by reference the federal "Prevention of Significant Deterioration of Air Quality" rule requirements.^a
2. Amended Rule 102, Definitions: The District added a definition for "greenhouse gas" or "greenhouse gases." In addition, the definition of *attainment pollutant* was amended to exclude greenhouse gases.

^a The District has an existing PSD rule: Rule 803, Prevention of Significant Deterioration (PSD). Pursuant to requirements of the California Health and Safety code, the District will retain Rule 803 as a locally enforceable rule.

3. Amended Rule 202, Exemptions to Rule 201: Rule 202.D.2 included a change to ensure existing permit exemptions will continue to apply to sources of GHGs.
4. Amended Rule 370, Potential to Emit – Limitations for Part 70 Sources, and Amended Rule 1301, Part 70 Operating Permits – General Information: The District revised definitions in both rules for consistency and to include the federal GHG threshold for a major source. The rule amendments also incorporate the federal definition of GHGs, found in the Part 70 (Title V) regulation (40 CFR 70.2).

EPA notified the District that changes were necessary for inclusion into the SIP. Changes requested by EPA include 1) adding a requirement to notify the EPA when the District receives a permit application for a PSD-type permit, 2) adding provisions on determining an application is complete, 3) adding a one-year deadline from the receipt of a complete application for the District to take action on the application, 4) deleting text that revised definitions found in the federal law, and 5) updating the “in effect” date.

Implications to the Regulated Community:

Rule 810 benefits the regulated community by increasing greenhouse gas emission trigger levels for PSD permits. Adoption of amended Rule 810, and inclusion into the SIP, will allow the District to process any required federal PSD permit applications. This avoids facilities submitting PSD permit applications directly to USEPA will streamline the permit process at the local level.

Emission Reductions and Cost Effectiveness:

The proposed amended rule governs administrative processes for permitting. The proposed amended rule does not require specific control techniques. Hence, there are no emission reductions or cost-effectiveness figures associated with this project.

Implications to the APCD Budget:

The District anticipates the current staffing levels will handle the revised permitting procedures and new applications.

Public Review:

The District made documents on this project available for review on April 17, 2013. On May 8, 2013, the Community Advisory Council voted to recommend that the Board adopt the proposed amended rule. On May 19, 2013, the District published a public notice on the June 20, 2013 Board Hearing to adopt proposed amended Rule 810.

California Environmental Quality Act (CEQA):

The adoption of the amended rule will not result in the relaxation of air pollution control requirements in general, or in the relaxation of air pollution control standards that apply to any specific existing facilities (or processes). Pursuant to § 15061(b)(3) of the State CEQA Guidelines, the project is exempt from CEQA as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. As a result, the project is exempt from any additional CEQA review. A Notice of Exemption will be prepared in compliance with CEQA Guidelines Section 15162.

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 Douglas Grapple of the Air Pollution Control District.

Attachments

Resolution

Attachment 1 - CEQA Findings

Attachment 2 - Rule Findings

Attachment 3 - Public Comments and Responses to Public Comments

Attachment 4 - Proposed Amended Rule 810, Federal Prevention of Significant Deterioration (PSD)

Attachment 5 - Project Description Summary

BOARD RESOLUTION

PROPOSED AMENDED RULE 810

**FEDERAL PREVENTION OF SIGNIFICANT
DETERIORATION (PSD)**

June 20, 2013

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

**RESOLUTION OF THE AIR POLLUTION
CONTROL DISTRICT BOARD OF THE COUNTY OF
SANTA BARBARA, STATE OF CALIFORNIA**

In the Matter of)	APCD Resolution No.
)	
Adopting Amended Rule 810)	
)	
_____)	

RECITALS

1. The Air Pollution Control District Board of the County of Santa Barbara (“Board”) is authorized to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code section 40725 *et seq.*

2. Pursuant to Health and Safety Code section 40001, the Board is required to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards.

3. The Board has determined that a need exists to amend Rule 810, Federal Prevention of Significant Deterioration (PSD). The United States Environmental Protection Agency requires amendments to Rule 810 before they can incorporate the rule into the State Implementation Plan (SIP). Once the rule is incorporated into the SIP, the United States Environmental Protection Agency will provide the District authority to issue federal permits required by the federal Prevention of Significant Deterioration program (40 Code of Federal Regulations, Part 52.21).

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1) This Board has held a hearing and accepted public comments in accordance with the requirements of Health and Safety Code section 40725 *et seq.*

2) The California Environmental Quality Act (“CEQA”) findings set forth in Attachment 1 of the Board Package dated June 20, 2013 (herein after “Board Package”) are hereby adopted as findings of this Board pursuant to CEQA and the CEQA guidelines.

3) The general rule findings, as set forth in Attachment 2 of the Board Package, are hereby adopted as findings of this Board pursuant to Health and Safety Code section 40727.

4) The Responses to Public Comments, as set forth in Attachment 3 of the Board Package are hereby adopted as findings of this Board.

5) The amendments to Rule 810 as set forth in Attachment 4 of the Board Package are hereby adopted as a rule of the Santa Barbara County Air Pollution Control District pursuant to Health and Safety Code section 40725 *et seq.*

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6) The Board authorizes the Control Officer to transmit Rule 810 to the State Air Resources Board in compliance with applicable state and federal law. Additionally, the Board authorizes the Control Officer to do any other acts necessary and proper to obtain necessary approvals of the amended rule by the California Air Resources Board and the United States Environmental Protection Agency.

PASSED AND ADOPTED by the Air Pollution Control District Board of the County of Santa Barbara, State of California, this ____ day of _____, 20__, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Louis D. Van Mullem, Jr.
Clerk of the Board

By _____
Deputy

Chair, Air Pollution Control
District Board of the County of
Santa Barbara

APPROVED AS TO FORM:

DENNIS A. MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____
Deputy

Attorneys for the Santa Barbara County
Air Pollution Control District

ATTACHMENT 1

CEQA FINDINGS

PROPOSED AMENDED RULE 810

FEDERAL PREVENTION OF SIGNIFICANT
DETERIORATION (PSD)

June 20, 2013

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

ATTACHMENT 1

CEQA FINDINGS

Pursuant to State CEQA Guidelines, Santa Barbara County Air Pollution Control District (District), as Lead Agency, reviewed the adoption of proposed Rule 810, Federal Prevention of Significant Deterioration (PSD). The District found that there is no potential for significant environmental impacts from the adoption of the amended rule.

The Board finds that:

- The adoption of amended Rule 810 will not have significant adverse impacts on the environment.
- No relaxation in meeting ambient air quality standards will result. No cross-media impacts were identified.
- Pursuant to § 153061(b)(3) of the CEQA Guidelines, the project is exempt from CEQA as it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

The District will prepare and file a Notice of Exemption for the project with the County Clerk of the Board in compliance with State Public Resources Code § 21152(b).

Discussion of CEQA Guidelines Section 15061(b)(3) finding of no significant effect

District staff has evaluated the environmental impacts related to the adoption of amended Rule 810 in the context of the California Environmental Quality Act (CEQA) Guidelines Section 15061, *Review for Exemption*. Subsection (a) of this section states that, “*once a lead agency has determined that an activity is a project subject to CEQA, a lead agency shall determine whether the project is exempt from CEQA.*” A CEQA exemption can be in the form of a statutory exemption, a categorical exemption, or it can be covered by the general rule, as expressed in Section 15061(b)(3), that, “*...CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.*”

The project consists of adopting amended Rule 810. The adoption of the amendments to Rule 810 is necessary to implement the United States Environmental Protection Agency Prevention of Significant Deterioration provisions (40 Code of Federal Regulations (CFRs), Part 52). Specifics about the amended rule are provided below.

The existing adopted Rule 810 incorporates by reference the federal “Prevention of Significant Deterioration of Air Quality” rule requirements, and the District determined the current rule to be exempt from CEQA. The amendments to Rule 810 are very narrow, administrative-type changes and will not cause any emission increase. Once adopted, the District will request EPA to incorporate Rule 810 into the State Implementation Plan (SIP) for national primary ambient air quality standards.

District staff have concluded with certainty that there is no possibility the project will have a significant effect on the environment. As a result, the project is not subject to any additional CEQA review and the District will prepare and file a Notice of Exemption in compliance with State Public Resources Code § 21152(b).

ATTACHMENT 2

RULE FINDINGS

PROPOSED AMENDED RULE 810

FEDERAL PREVENTION OF SIGNIFICANT
DETERIORATION (PSD)

June 20, 2013

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
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ATTACHMENT 2

RULE FINDINGS FOR AMENDED RULE 810, FEDERAL PREVENTION OF SIGNIFICANT DETERIORATION (PSD)

Pursuant to California Health and Safety Code Section 40727, the Board makes the following findings for the adoption of amended Rule 810, Federal Prevention of Significant Deterioration (PSD).

Necessity

The Board determines that it is necessary to adopt amended Rule 810, Federal Prevention of Significant Deterioration (PSD) to implement the EPA Greenhouse Gas Tailoring Rule provisions (40 Code of Federal Regulations, Parts 51, 52, 70, and 71).

Authority

The Board is authorized under state law to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code Section 40000, and 40725 through 40728 which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to Health and Safety Code Section 40702, the District Board is required to adopt rules and regulations and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.

Clarity

The Board finds that proposed amended Rule 810, Federal Prevention of Significant Deterioration (PSD), is sufficiently clear. Proposed Amended Rule 810 was publicly noticed and reviewed by the Community Advisory Council. The rule is written or displayed so that its meaning can be easily understood by persons directly affected by it.

Consistency

The Board determines that proposed amended Rule 810 is consistent with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions, or regulations.

The neighboring air pollution control districts include the Ventura County Air Pollution Control District, the San Luis Obispo County Air Pollution Control District, and the San Joaquin Valley Unified Air Pollution Control District. The San Luis Obispo County APCD and the Ventura County APCD are in the process of amending their PSD rules in a fashion similar to the District's proposed amended Rule 810. The San Joaquin Valley Unified APCD Rule 2410 is similar to the District's Rule 810. EPA approved Rule 2410 into the SIP with the understanding that the San Joaquin Valley Unified APCD would revise the rule in the future for clarity.

Based on this evidence, the Board finds that the rules are consistent with neighboring air pollution control districts.

Nonduplication

The Board finds that the proposed amended Rule 810, Federal Prevention of Significant Deterioration (PSD) does not impose the same restrictions as any existing state or federal regulation, and the proposed amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, the District.

Reference

The Board finds that we have authority under state law to adopt amended Rule 810, Federal Prevention of Significant Deterioration (PSD), pursuant to Health and Safety Code Section 39002. Health and Safety Code Section 39002 assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to Health and Safety Code Section 40702, the Board is required to adopt rules and regulations and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.

Public Comment

Response to Comments

The Board has reviewed the responses to public comments included in Attachment 3 and hereby approves those responses to comments as findings.

ATTACHMENT 3
PUBLIC COMMENTS AND RESPONSES TO PUBLIC
COMMENTS

PROPOSED AMENDED RULE 810
FEDERAL PREVENTION OF SIGNIFICANT
DETERIORATION (PSD)

June 20, 2013

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ATTACHMENT 3

PUBLIC COMMENTS AND RESPONSES TO PUBLIC COMMENTS

Note: To date, the District has not received any public comments.

[Placeholder]

[COMMENT 1]

[Placeholder]

[RESPONSE TO COMMENT 1]

[Placeholder]

ATTACHMENT 4

PROPOSED AMENDED RULE 810
FEDERAL PREVENTION OF SIGNIFICANT
DETERIORATION (PSD)

June 20, 2013

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
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(805) 961-8800

Attachment 4

Proposed Amended Rule 810

Federal Prevention of Significant Deterioration (PSD)

[Proposed amended rule text is provided in strikeout and underlined format. Strikeout indicates text proposed for deletion. Underlined text indicates proposed new text.]

RULE 810. FEDERAL PREVENTION OF SIGNIFICANT DETERIORATION (PSD). (Adopted 1/20/2011, amended [date of amended rule adoption])

A. Purpose

The federal Prevention of Significant Deterioration program is a construction permitting program for new major stationary sources and major modifications to existing major stationary sources located in areas classified as attainment or in areas that are unclassifiable for any criteria air pollutant. Rule 201~~2~~ (Permits Required)~~2~~ contains application requirements and Rule 204~~2~~ (Applications), Rule 205~~2~~ (Standards for Granting Applications), Rule 206~~2~~ (Conditional Approval of Authority to Construct or Permit to Operate), Rule 207~~2~~ (Denial of Applications), and Rule 208~~2~~ (Action on Applications - Time Limits)~~2~~ contain processing requirements for permit actions. The purpose of this rule is to incorporate the federal Prevention of Significant Deterioration rule requirements into the District's Rules and Regulations by incorporating the federal requirements by reference.

B. Applicability

The provisions of this rule shall apply to any source and the owner or operator of any source subject to any requirement under 40 Code of Federal Regulations, Part 52, Section 52.21 (40 CFR 52.21) in effect ~~August 2, 2010~~ [date of amended rule adoption] as incorporated into this rule.

C. Incorporation by Reference

Except as provided below, the provisions of Title 40 CFR 52.21 in effect ~~August 2, 2010~~ [date of amended rule adoption] are incorporated herein by reference and made part of the Rules and Regulations of the Santa Barbara County Air Pollution Control District.

1. The following subsections of 40 CFR 52.21 are excluded: (a)(1), (b)(55-58), (f), (g), (i)(1)(i-v), (i)(1)(ix-x), (i)(6-8), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z), and (cc).
2. ~~The following definitions found in 40 CFR 52.21(b) are revised as follows:~~
 - a. ~~The definition of "potential to emit" contained in 40 CFR 52.21(b)(4) is revised so that the phrase "is federally enforceable" shall read "is federally enforceable or enforceable as a practical matter."~~
 - b. ~~The definition of "allowable emissions" contained in 40 CFR 52.21(b)(16) is revised so that:~~
 - 1) ~~the phrase "unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both" shall read, "unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both."~~
 - 2) ~~paragraph (iii) shall read as follows: "The emissions rate specified as an enforceable permit condition, including those with a future compliance date."~~
3. The following terms and phrases found in 40 CFR 52.21(b) are revised as follows:
 - a. The term "administrator" means:

- 1) “~~federal~~ Environmental Protection Agency administrator” in 40 CFR 52.21(b)(17), (b)(37)(i), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (l)(2) and (p)(2); and
 - 2) “Control Officer” elsewhere, as defined in Rule 102, ~~(Definitions)~~.
- b. The phrase “paragraph (q) of this section” in 40 CFR 52.21 (l)(2) and (p)(1) shall read as follows: “the public notice and comment provisions of Rule 810 Section E ~~below~~.”
3. The phrase “permit to construct” found in 40 CFR 52.21(p)(1) means “Authority to Construct” as defined in Rule 102, Definitions.

D. Requirements:

1. The Control Officer shall provide written notice of any permit application for a proposed major stationary source or major modification to the Environmental Protection Agency administrator. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for an Authority to Construct.
2. The Control Officer shall determine whether an application is complete not later than 30 days after receipt of the application or after such longer time as both the applicant and the Control Officer may agree. If the Control Officer determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information that is required. Upon receipt of any resubmittal of the application, a new 30-day period to determine completeness shall begin. If the Control Officer determines that the application is still not complete, the applicant may appeal that determination to the Board. The Board shall make its written determination within 60 days after receiving the applicant's appeal. If such determination is not made within that 60-day period, the application with the submitted materials shall be deemed complete. Appeals will be assessed a fee based on the cost reimbursement provisions of Rule 210, Fees. Upon determination that the application is complete, the Control Officer shall notify the applicant in writing. The date of receipt of the application shall be the date on which the reviewing authority received all required information.
- ~~13.~~ An owner or operator must obtain a federal Prevention of Significant Deterioration permit pursuant to this rule before beginning actual construction of a new major stationary source, a major modification, or a plantwide applicability limitation (PAL) major modification, as defined in 40 CFR 52.21(b).
- ~~24.~~ Notwithstanding the provisions of any other District Rule or Regulation, the Control Officer shall require compliance with this rule prior to issuing a federal Prevention of Significant Deterioration permit as required by Clean Air Act Section 165.
- ~~35.~~ The applicant shall pay the applicable fees specified in Rule 210, ~~(Fees)~~.

E. Public Participation

Prior to issuing a federal Prevention of Significant Deterioration permit pursuant to this rule and within one year after receipt of a complete application, the Control Officer shall:

1. Make a preliminary determination whether construction should be approved with conditions or disapproved.

2. Make available in at least one location in Santa Barbara County a copy of all materials the applicant submitted, a copy of the preliminary determination, a copy of the proposed permit and a copy or summary of other materials, if any, considered in making the preliminary determination.
3. Notify the public, by advertisement in a newspaper of general circulation in Santa Barbara County of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for written public comment.
4. Send a copy of the notice of public comment to the applicant, United States Environmental Protection Agency Region 9, any persons requesting such notice and any other interested parties such as: Any other State or local air pollution control agencies; the chief executives of the cities in the County; the County Executive Officer; any comprehensive regional land use planning agency; and any State, Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification.
5. Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the Control Officer's judgment such a hearing is warranted.
6. Consider all written comments that were submitted within 30 days after the notice of public comment is published and all comments received at any public hearing(s) in making a final decision on the approvability of the application and make all comments available for public inspection in the same locations where the District made available preconstruction information relating to the proposed source or modification.
7. Make a final determination whether construction should be approved with conditions or disapproved.
8. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the District made available preconstruction information and public comments relating to the source.

APPROVED AS TO FORM:

DENNIS A. MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____

Deputy
Attorneys for the Santa Barbara County
Air Pollution Control District

ATTACHMENT 5

PROJECT DESCRIPTION SUMMARY

PROPOSED AMENDED RULE 810

FEDERAL PREVENTION OF SIGNIFICANT
DETERIORATION (PSD)

June 20, 2013

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

PROJECT DESCRIPTION SUMMARY OF THE EFFECTS OF PROPOSED AMENDED RULE 810, FEDERAL PREVENTION OF SIGNIFICANT DETERIORATION (PSD)

Project Overview:

The Santa Barbara County Air Pollution Control District (District) Rule 810 implements the federal Prevention of Significant Deterioration (PSD) requirements. Under the federal provisions, any new or modified major stationary source must undergo preconstruction review and permitting.

Several years ago the federal Environmental Protection Agency (EPA) began to regulate greenhouse gas (GHG) emissions. As part of those regulations, the agency adjusted the requirements as to when PSD permitting would be triggered by GHG emissions. The agency accomplished this by establishing GHG emission thresholds for triggering PSD permits (per the Greenhouse Gas Tailoring Rule). These thresholds are higher than those for “criteria” air pollutants.”^a

To promulgate federal PSD rules at the local district level, EPA developed a model PSD rule. However, EPA has since found that the model PSD rule, which we adopted in 2011, needs minor revisions before EPA can incorporate the Rule 810 into the State Implementation Plan (SIP). EPA is working with a number of California air districts on similar rule changes to assure SIP approval. The District is proposing to amend Rule 810 to facilitate SIP approval.

Objectives:

Once adopted, the District will submit Rule 810 to the California Air Resources Board (CARB) and EPA for inclusion into:

1. the State Implementation Plan (SIP), and
2. the federal Outer Continental Shelf Air Regulations.

Inclusion in the SIP will allow for the District to process any PSD permits for major stationary sources with emissions level above PSD permit triggers.

Background

Congress amended the federal Clean Air Act in 1997. Included in those amendments was a requirement that each state (and therefore district) adopt a PSD program. In December 2009, EPA 1) promulgated an “endangerment finding” for GHG emissions, and 2) made the finding that GHGs from new motor vehicles contribute to the GHG pollution, which threatens public health and welfare. As a direct result of these findings, EPA proceeded to control GHG emissions from new and modified major stationary sources as well.

On May 13, 2010, EPA issued a GHG Tailoring Rule that effectively raised the thresholds for GHG emissions that trigger PSD and Title V permits for new and existing major stationary sources.

^a “Criteria” pollutants include oxides of nitrogen, reactive organic compounds, particulate matter, oxides of sulfur, and carbon monoxide, but not GHGs.

Working with local air districts and the California Air Resources Board through the California Air Pollution Control Officers Association (CAPCOA), EPA released a PSD model rule on September 21, 2010. Staff modeled Rule 810 on the CAPCOA PSD model rule and the District Board adopted the rule on January 20, 2011. However, recently, EPA indicated that they could not approve Rule 810 into the SIP as it is currently written. The changes necessary are narrow in scope, and EPA has worked with the District on the revised rule text.

Implications to the Regulated Community:

WHO IS AFFECTED?

Federal PSD regulations affect existing major sources or new sources when emissions increases of criteria pollutant or GHG emissions are above specified pollutant thresholds. For example, a new source with potential to emit GHG over 100,000 tons/year would be subject to a federal PSD permit. The amended Rule 810 does not change permit applicability requirements or establish any new requirements on existing sources.

WHAT ARE THE PROPOSED RULE CHANGES?

Attachment 4 of the Board Package shows the proposed Rule 810 changes and Attachment A to this Project Description Summary is a table that summarizes the reasons for the rule changes.

The proposed amendments are administrative in nature (e.g., revise formatting, update the *in effect* date, and improved text for clarity).

Comparisons to Adjacent Local Air Pollution Control Districts:

The San Luis Obispo County APCD and the Ventura County APCD are in the process of amending their PSD rules in a similar fashion.^a The San Joaquin Valley Unified APCD Rule 2410 is similar to the District's Rule 810. EPA approved Rule 2410 into the SIP with the understanding that the SJV APCD would revise the rule for clarity in the future.

Emission Reductions, Cost Effectiveness, and Incremental Cost-Effectiveness:

The proposed amended rule changes are administrative in nature and they are relative to permitting actions. Rule 810 is not a control measure. Hence, there are no emission reductions expected from the proposed rule action. For this reason there are also no cost-effectiveness or incremental cost-effectiveness figures relative to this rulemaking task. Thus, the requirements of California Health and Safety Code Section 40703 and Section 40920.6 do not apply.

Fiscal Impacts to the Regulated Industry due to the Proposed Amended Rule:

There are no additional fiscal impacts to the regulated sources that stem from the rule amendments.

^a Rules 220 and 26.13, respectively.

Implications to the District Work Load and Budget:

There are no known impacts. Based on historical data, future federal PSD permit actions are expected to be very low in number.

Public Review:

Before the May 8, 2013 Community Advisory Council (CAC) meeting, the District sent notices about the proposed rule amendments to operators of large sources in Santa Barbara County. Besides explaining the project, the letter mentioned the upcoming CAC Meeting and invited comments on the project.

On May 19, 2013, the District published a public notice announcing that the District Board of Directors will consider adopting the amended Rule 810 at the June 20, 2013 Board Hearing.

Attached:

Attachment A, Summary of Reasons for Proposed Amended Rule 810 Changes

Summary of Reasons for Proposed Amended Rule 810 Changes

Rule 810 Section Changed	Proposed Changes in Strikethrough and Underline Formatting	Reason for Change
A, Purpose	[. . .] Rule 201 2 (Permits Required) 2 , contains application requirements and Rule 204 2 (Applications), Rule 205 2 (Standards for Granting Applications), Rule 206 2 (Conditional Approval of Authority to Construct or Permit to Operate), Rule 207 2 (Denial of Applications), and Rule 208 2 (Action on Applications - Time Limits) 2 contain [. . .]	Changes make the text consistent with the standard format used in other rules.
B, Applicability	[. . .] 40 Code of Federal Regulations, Part 52, Section 52.21 (40 CFR 52.21) in effect August 2, 2010 <u>[date of amended rule adoption]</u> as incorporated into this rule.	<p>This change is consistent with the CAPCOA model rule. By changing the rule’s <i>in effect</i> date to refer to the most current 40 CFR 52.21 the rule will incorporate by reference the most recent changes and revisions made to 40 CFR 52.21 (and, by extension, 40 CFR 51.166).</p> <p>The substantive changes made to these sections include a revision to the definition of “regulated NSR pollutant” so that 1) condensable particulate matter is included as part of the emissions measurements for regulation of PM2.5 and PM10, and 2) the January 22, 2013 D.C. Circuit Court of Appeal Order vacating certain provisions of 40 CFR 51.166 and 40 CFR 52.21.</p> <p>Additional information on changes to the 40 CFR 52.21 may be obtained from this web page: www.epa.gov/nsr/actions.html.</p>
C. Incorporation by Reference	Except as provided below, the provisions of Title 40 CFR 52.21 in effect August 2, 2010 <u>[date of amended rule adoption]</u> are incorporated herein by reference [. . .]	Same as above.

Summary of Reasons for Proposed Amended Rule 810 Changes

Rule 810 Section Changed	Proposed Changes in Strikethrough and Underline Formatting	Reason for Change
C.2	<p>2. The following definitions found in 40 CFR 52.21(b) are revised as follows:</p> <p>a. The definition of “potential to emit” contained in 40 CFR 52.21(b)(4) is revised so that the phrase “is federally enforceable” shall read “is federally enforceable or enforceable as a practical matter.”</p> <p>b. The definition of “allowable emissions” contained in 40 CFR 52.21(b)(16) is revised so that:</p> <p>1) the phrase “unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both” shall read, “unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both.”</p> <p>2) paragraph (iii) shall read as follows: “The emissions rate specified as an enforceable permit condition, including those with a future compliance date.”</p>	EPA determined that revisions to the <i>potential to emit</i> and <i>allowable emissions</i> terms are not necessary for approval.
C.2 (renumbered)	The following terms <u>and phrases</u> found in 40 CFR 52.21(b) are revised as follows:	The revision is needed to make the statement consistent with the sections below it.
C.2.b (renumbered)	The phrase “paragraph (q) of this section” in 40 CFR 52.21(1)(2) and (p)(1) shall read as follows: “the public notice and comment provisions of Rule 810 Section E below .”	40 CFR 52.21(1)(2) also includes the phrase “paragraph (q) of this section.”. Including “below” in the phrase may have been confusing.
C.3 (new)	<u>The phrase “permit to construct” found in 40 CFR 52.21(p)(1) means “Authority to Construct” as defined in Rule 102, Definitions.</u>	This change is needed for consistency with phrases found in other SBC APCD rules and the D.1 provision below.
D.1 (renumbered and new)	<u>The Control Officer shall provide written notice of any permit application for a proposed major stationary source or major modification to the Environmental Protection Agency administrator. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for an Authority to Construct</u>	Upon review and approval of other PSD rules using the CAPCOA Model Rule, EPA determined these revisions are a required element of a PSD program. See 40 CFR 51.166(p)(1). 40 CFR 52.21 does not contain these requirements because the regulation was intended to be administered by EPA.

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Rule 810 Section Changed	Proposed Changes in Strikethrough and Underline Formatting	Reason for Change
D.2 (renumbered and new)	<p><u>The Control Officer shall determine whether an application is complete not later than 30 days after receipt of the application or after such longer time as both the applicant and the Control Officer may agree. If the Control Officer determines that the application is not complete, the applicant shall be notified in writing of the decision specifying the information that is required. Upon receipt of any resubmittal of the application, a new 30-day period to determine completeness shall begin. If the Control Officer determines that the application is still not complete, the applicant may appeal that determination to the Board. The Board shall make its written determination within 60 days after receiving the applicant's appeal. If such determination is not made within that 60-day period, the application with the submitted materials shall be deemed complete. Appeals will be assessed a fee based on the cost reimbursement provisions of Rule 210, Fees. Upon determination that the application is complete, the Control Officer shall notify the applicant in writing. The date of receipt of the application shall be the date on which the reviewing authority received all required information.</u></p>	<p>Upon review and approval of other PSD rules using the CAPCOA Model Rule, EPA determined these revisions are a required element of a PSD program. See 40 CFR 51.166(q)(1). 40 CFR 52.21 does not contain these requirements because they are contained in a separate portion of the CFR, which is not included in Rule 810. The specific language chosen is intended to be consistent with how the District already determines application completeness.</p>
E, Public Participation	<p>Prior to issuing a federal Prevention of Significant Deterioration permit pursuant to this rule and <u>within one year</u> after receipt of a complete application, the Control Officer shall:</p>	<p>Upon review and approval of other PSD rules using the CAPCOA Model Rule, EPA determined this additional phrase was inadvertently left out of the Model Rule. This is a required element of a PSD Program [reference 40 CFR 51.166(q)(2)].</p>