TECHNICAL AND ADMINISTRATIVE AMENDMENTS TO NEW SOURCE REVIEW AND TITLE V PERMITTING REGULATIONS

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ASSISTANT COUNSEL

Board of Directors Meeting
December 6, 2017
I. Background on Permitting Programs
II. Proposed Amendments
III. Additional Revisions Being Considered
IV. Public Engagement
V. CEQA Negative Declaration
Two Permitting Programs:
- “New Source Review” (NSR)
- “Title V”

Regulations Involved:
- Reg. 2, Rule 1 – General Requirements
- Reg. 2, Rule 2 – New Source Review
- Reg. 2, Rule 4 – Emissions Banking
- Reg. 2, Rule 6 – Title V
Air District Permitting Programs

New Source Review (NSR): Reg. 2-2
Air District Permitting Programs

New Source Review (NSR): Reg. 2-2

• **Pre-Construction** Permitting Program
  – Applies to **New** and **Modified** Sources

• Targets Criteria Pollutants and Greenhouse Gases

• Substantive Requirements:
  – Best Available Control Technology
  – Offsets ("no net increase” requirement)
  – Air Quality Impact Analysis
Air District Permitting Programs

Title V – “Major Facility Review”
Air District Permitting Programs

Title V “Major Facility Review”

• **Operating** Permit Program
  – Does not impose new substantive requirements
  – Compiles existing requirements in a single permit document

• Applies only to the largest facilities ("major" facilities):
  – 100 ton/yr threshold for regional ("criteria") pollutants
  – 10-25 ton/yr threshold for hazardous air pollutants
Need To Amend Regulations

• Environmental Protection Agency (EPA) Requires Changes To Approve Regulations Under Clean Air Act
  – EPA approved most provisions in 2016
  – 13 “deficiencies” identified
  – Sanctions if deficiencies not fixed

• Revisions identified by Air District staff

• Supreme Court decision in *UARG v. EPA*
Proposed Amendments

“Major” Facility Applicability

• Whether To Count “Fugitive” Emissions
  – Current Rule: Count fugitives if facility is in one of 28 listed categories
  – Revision: Add a few more categories required by EPA

• Applicability of Federal Requirements for Attainment Pollutants
  – Current Rule: Facility must be “major” for attainment pollutants
  – Revision: Apply to facilities that are “major” for any pollutant (including non-attainment pollutants)
Proposed Amendments

Air Quality Impact Analyses

• Analysis of Impacts in “Class I Areas” (National Parks, etc.)
  – Current Rule: Required within 100 km of Class I Area
  – Revision: Required if \( \text{size of source (TPY)} > 10 \)
    \( \text{distance (km)} \)

• Approval of Alternative Computer Modeling Programs
  – Current Rule: Applicants need Air District approval
  – Revision: Applicants will need EPA approval as well
Proposed Amendments

Offsets & Emission Reduction Credits

• Calculating Amount of Reductions
  – **Current Rule**: “Fully-offset” sources use *permitted* emissions as baseline
  – **Revision**: All sources must use *actual* emissions as baseline

• Time Limits on Requesting Refunds for Unused Credits
  – **Current Rule**: No time limits
  – **Revision**: 6 months or 2 years (depending on the situation)

• Banking of Emission Reduction Credits
  – Revisions to clarify that reductions must be *permanent* and *enforceable*

• Demonstration that District Offset Requirement Equal to EPA’s
  – More specific procedures for making equivalency demonstration
  – If District program less stringent, facilities to provide offsets per EPA rules
Proposed Amendments

Terminology Revisions

• Terminology Related to Agricultural Source Regulations
  – Regulation 2-1-113 (agricultural source exemptions)
  – Regulation 2-1-239 (definition of “agricultural source”)
  – Regulation 2-1-424 (permit requirements for animal feeding operations)

• Federal Definitions Incorporated Into “Modification” Test
  – Regulation 2-1-234.2 (federal threshold for when New Source Review requirements apply to “modifications”)

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Proposed Amendments

Staff-Identified Revisions

• **Small-Source Exemption Thresholds for Greenhouse Gases**
  – Agricultural Sources: 50 tons per year
  – Portable Sources: 10 tons per year

• **Permits for Contractor Equipment In Long-Term Use At Facility**
  – Require contractor equipment to be permitted on facility’s permit, if it remains at facility for more than 12 consecutive months
Proposed Amendments

Supreme Court *UARG v. EPA* Case

- **Holding:** GHG Emissions Alone Can’t Subject A Facility To New Source Review and Title V Permit Requirements
  - EPA Can Still Regulate GHG Emissions Under New Source Review and Title V Programs;
  - But Facility Must Exceed “Major” Facility Threshold For Some Other Regulated Pollutant Besides GHGs

- Air District Regulations Can Be More Stringent; District Staff Currently Considering Options
Additional Revisions
Under Development

• Additional GHG Permitting Requirements
  – **Proposal**: Reduce threshold for “Best Available Control Technology” for GHGs
  – **Status**: Proposal preempted by AB398; staff exploring additional ways to address GHGs in permitting regulations

• Enhanced NSR Enforcement For Refinery Crude Slate Changes
  – **Proposal**: Require District pre-approval before refinery makes a “significant” change in crude slate
  – **Status**: Finalizing proposal for what will be “significant”
Public Engagement

• Draft Rule Revisions Published – May 2017
• Public Workshops – June 2018

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<td>June 12, 2017</td>
<td>City Council Chambers, Martinez</td>
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• Final Proposal Published for Comment – August 2017
• 6 Comments Received
California Environmental Quality Act (CEQA) Analysis

• Initial Study prepared under CEQA

• No Evidence of Any Significant Environmental Impacts

• Staff proposes adoption of CEQA Negative Declaration
1. Adopt CEQA “Negative Declaration” Finding No Significant Environmental Impacts

2. Adopt Proposed Technical and Administrative Amendments to New Source Review and Title V Permit Regulations
   - Reg. 2, Rule 1 – General Requirements
   - Reg. 2, Rule 2 – New Source Review
   - Reg. 2, Rule 4 – Emissions Banking
   - Reg. 2, Rule 6 – Title V
## Summary of Ozone Seasons

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Spare the Air Alerts: 5/3/17, 5/22/17, 6/18/17, 6/22/17, 6/23/17, 8/1/17, 8/26/17, 8/27/17, 8/28/17, 8/31/17, 9/1/17, 9/2/17, 9/3/17, 9/4/17, 9/27/17, 10/10/17 – 10/19/17 (due to smoke from wildfires), 10/26/17, 10/27/17

Days > 0.070 ppm 8-hour NAAQS: 8/26/17, 8/28/17, 8/31/17, 9/1/17, 9/2/17, 9/3/17

Days > 35 µg/m³ 24-hr NAAQS: 9/1/17, 9/2/17, 9/3/17, 9/4/17 (due to smoke from wildfires), 10/10/17 – 10/18/17

*Based on NAAQS of 0.075 ppm that was in place during those years
## Winter PM$_{2.5}$ Seasons

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<th>Year</th>
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- Spare the Air Alert Called for:
- Days > 35 µg/m$^3$ 24-hr NAAQS: 9/1/17, 9/2/17, 9/3/17, 9/4/17, 10/10/17 – 10/18/17 (due to smoke from wildfires)