

Yolo-Solano Air Quality Management District
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PROPOSED ADOPTION OF RULE 3.23, ACID DEPOSITION CONTROL

FINAL STAFF REPORT

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I. EXECUTIVE SUMMARY

On August 12, 2009, the Yolo-Solano Air Quality Management District (District) Board of Director's will consider proposed Rule 3.23 Acid Deposition Control. The rule adopts by reference provisions of 40 Code of Federal Regulations (CFR) Part 72 through 78.

The main purpose for Rule 3.23 will be to establish general provisions and the operating permit program requirements for affected sources (fossil fuel fired utility units) under the Acid Rain Program, pursuant to Title IV of the Clean Air Act. The District is required (by US EPA) to adopt this rule.

The Acid Rain Program, established in 1990, represents a departure from traditional command and control regulatory methods that establish specific, inflexible emissions limitations with which all affected sources must comply. Instead, the Acid Rain Program introduces an allowance trading system that harnesses the incentives of the free market to reduce pollution.

Under this system, affected utility units are allocated allowances based on their historic fuel consumption and a specific emissions rate. Each allowance permits a unit to emit 1 ton of Sulfur Dioxide (SO₂) during or after a specified year. For each ton of SO₂ emitted in a given year, one allowance is retired, that is, it can no longer be used.

Allowances may be bought, sold, or banked. Anyone may acquire allowances and participate in the trading system. However, regardless of the number of allowances a source holds, it may not emit at levels that would violate federal, state, or local limits set to protect public health.

The District does not expect the proposed rule to have either a significant nor a detrimental effect on the environment. Therefore, staff has prepared a Notice of Exemption (NOE) to satisfy the California Environmental Quality Act (CEQA) requirements. The NOE states that the adoption of this proposed rule is exempt from the requirements of CEQA pursuant to Section 15308, Actions by Regulatory Agencies for Protection of the Environment.

A. BACKGROUND

On January 26, 1994, the Yolo-Solano Air Quality Management District's Board adopted Rule 3.8, FEDERAL OPERATING PERMITS. On May 3, 1995, EPA granted Final Interim Approval of the District Operating Permits Program, and then Final Approval upon amendments adopted in April, 2001. The final approval delegated authority over the Acid Rain Program to the District. Because we didn't have any sources subject to the Acid Rain Program, we did not adopt a rule. Now we have one permitted source and one more going through the permit process. In order to better serve the needs of our affected sources, the District is proposing adoption of this rule by reference. Acid Rain Program requirements will be included in each affected facility's Title V federal operating permit.

II. DISCUSSION OF PROPOSED RULE 3.23 REQUIREMENTS

Listed below are section by section descriptions of the proposed requirements of Rule 3.23 - Acid Deposition Control.

Section 100 - General

Section 101 - Purpose: The purpose of this rule is to provide for the issuance of Acid Rain Permits as required under the provisions of Title IV of the Federal Clean Air Act by incorporating those provisions into this rule by reference.

Section 102 - Applicability: The provisions of this rule are applicable to an affected source as defined in 40 CFR Part 72.

Section 200 - Definitions

The rule proposes the definition of two (2) terms in order to describe delegating authority.

Section 300 - Standards

Section 301 - 40 CFR Parts 72 through 78 Provisions: Cites the provisions of 40 CFR Parts 72 through 78 that are adopted by reference.

III. COMPARISON TO OTHER APPLICABLE REGULATIONS AND REQUIREMENTS

California Health and Safety Code (CH&SC) Section 40727.2 requires districts to perform a comparative alternative analysis of any new control standard. Since there are no new control standards being proposed with this rule, this analysis can not be performed.

IV. IMPACTS OF THE PROPOSED RULE

Emissions Impacts

There is currently one source in the District that would be subject to the proposed rule, however they are already complying with the federal regulations so there are no additional emission reductions expected as a result of this rule.

Cost Effectiveness

CH&SC Section 40703 requires the District, in the process of the adoption of any regulation, to consider and make public its findings related to the cost effectiveness of a control measure. Cost effectiveness for rulemaking purposes is calculated by dividing the cost of air pollution controls required by the rule by the amount of air pollution reduced.

Since there are no reductions expected from the adoption of this rule, and there are no additional air pollution controls expected, no cost effectiveness calculations are required.

Socioeconomic Impacts

CH&SC Section 40728.5 (a) requires the District, in the process of the adoption of any rule or regulation, to consider the socioeconomic impact if air quality or emission limits may be significantly affected. However, districts with a population of less than 500,000 persons are exempt from the provisions of Section 40728.5 (a). The District's population is estimated

to be approximately 310,000 and well below the 500,000 person threshold. Therefore, a socioeconomic analysis for this rulemaking is not required.

Incremental Cost Effectiveness

CH&SC Section 40920.6 requires an assessment of the incremental cost-effectiveness for proposed regulations relative to ozone, Carbon Monoxide (CO), Sulfur Oxides (SO_x), Nitrogen Oxides (NO_x), and their precursors. Incremental cost-effectiveness is defined as the difference in control costs divided by the difference in emission reductions between two potential control options that can achieve the same emission reduction goal of a regulation. There is no incremental cost effectiveness for this rule, since there are no expected reductions.

Impacts to the District

It is anticipated that the proposed rule will have little to no impact on staff workload at the District. It is expected that any additional work load such as development of application forms and permit evaluation and issuance can be absorbed within the stationary source division at the District.

V. ENVIRONMENTAL IMPACTS OF METHODS OF COMPLIANCE

California Public Resource Code Section 21159 requires the District (at the time of adopting a rule requiring the installation of pollution control equipment, or a performance standard) to perform an environmental analysis of the reasonably foreseeable methods of compliance. This rule does not require installation of control equipment or a performance standard, therefore this analysis is not required.

The adoption of Rule 3.23 will not have a significant effect on the environment or humans due to unusual circumstances. In addition, proposed Rule 3.23 is an action taken to protect the environment. Therefore, staff have determined that the project is categorically exempt from the requirements of the CEQA pursuant to Section 15308, Actions by Regulatory Agencies for Protection of the Environment. Staff prepared a Notice of Exemption (NOE) to meet the CEQA Guidelines (Attachment B).

VI. REGULATORY FINDINGS

Section 40727(a) of the CH&SC requires that prior to adopting or amending a rule or regulation, an air district's board make findings of necessity, authority, clarity, consistency, nonduplication, and reference. The findings must be based on the following:

1. Information presented in the District's written analysis, prepared pursuant to CH&SC Section 40727.2;
2. Information contained in the rulemaking records pursuant to CH&SC Section 40728; and
3. Relevant information presented at the Board's hearing for adoption of the rule.

The required findings are:

Necessity: The rule is required in order to promulgate the District's Acid Rain Program.

Authority: The District is authorized to adopt rules and regulations by CH&SC, Sections 40001, 40702, 40716, 41010 and 41013.

Clarity: District staff have reviewed the proposed rule and determined that it can be easily understood by the affected industry. In addition, the record contains no evidence that the persons directly affected by the rule cannot understand the rule. (CH&SC Section 40727(b)(3)).

Consistency: The proposed rule does not conflict with and is not contradictory to, existing statutes, court decisions, or state or federal regulations. (CH&SC Section 40727(b)(4)).

Non-Duplication: The proposed rule does not duplicate any state laws or regulations, regarding the attainment and maintenance of state and federal air quality limits. (CH&SC Section 40727(b)(5)).

Reference: The District must refer to any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending or repealing the rule.

VII. PUBLIC COMMENTS AND STAFF RESPONSES

Staff held a public workshop on July 22, 2009, to discuss the proposed adoption of Rule 3.23. Notification was sent to surrounding Air Districts, City Managers within the District, building/planning/community development departments within the District, all city and county libraries within the District, all Board members, and affected permitted source(s).

A copy of the public workshop notice, the proposed staff report, and proposed rule language, were posted on the District's web page. There were no attendees for the public workshop.

Staff has prepared a public hearing notice for the hearing which will be held August 12, 2009. The notice was sent to all the same parties which received the public workshop notice. The hearing notice was also published in the West Sacramento Press, Dixon Tribune, Vacaville Reporter, Woodland Daily Democrat, Rio Vista River News Herald, Winters Express, and the Davis Enterprise. A copy of the public hearing notice and proposed documents (proposed staff report and proposed rule language), were posted on the District's web page. To date, the District received no comments.

A copy of the updated documents (final staff report and final rule language) were provided to the Governing Board prior to the hearing and posted on the District's web page.

VIII. REFERENCES

1. 40 CFR Part 72 through 78

ATTACHMENT A

**PROPOSED RULE 3.23, ACID RAIN DEPOSITION CONTROL
STRIKE-OUT UNDERLINE VERSION**

ATTACHMENT B
NOTICE OF EXEMPTION FROM CEQA GUIDELINES

ATTACHMENT C
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