



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

**AGENDA: 7**

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

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# Presentation Overview

- I. Background on Permitting Programs**
- II. Proposed Amendments**
- III. Additional Revisions Being Considered**
- IV. Public Engagement**
- V. CEQA Negative Declaration**



# Background

## 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  $\frac{\text{size of source (TPY)}}{\text{distance (km)}} > 10$
- **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”)



# 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

Date	Location
June 12, 2017	Air District Headquarters, San Francisco
June 12, 2017	City Council Chambers, Martinez
June 13, 2017	Family Resource Center, Fremont

- 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



# Staff Recommendation

- 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

Year	National 8-Hour	State 1-Hour	State 8-Hour
2014*	5	3	10
2015*	5	4	11
2016	15	5	15
2017	6	6	6

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  $\mu\text{g}/\text{m}^3$  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<sub>2.5</sub> Seasons

Year	Days > 35 µg/m <sup>3</sup>	Winter Spare the Air Alerts
2014/2015	6	23
2015/2016	0	1
2016/2017	0	7
2017/2018	0	0

- Spare the Air Alert Called for:
- Days > 35 µg/m<sup>3</sup> 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)