

**Public Workshop for Amendments to
District Rule 2201
(New and Modified Stationary Source Review Rule)
and
District Rule 2301
(Emission Reduction Credit Banking)**

October 26, 2022

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Background

- June 5, 2020: CARB's Review of District Emission Reduction Credit System final report released
- During CARB's review and since, the District has been working to address offset equivalency issues with the Public Advisory Workgroup
- April 15, 2022: Public Scoping Meeting
- June 29, 2022: Public Workshop #1
- July 29, 2022: EPA proposed limited approval/limited disapproval of the 2019 version of the Rule 2201

Discussion of Principal Amendments Proposed for Rule 2201

- NSR Background
- EPA's comments on 2019 version of 2201
- Multi-Path Approach
 - Adopt federal offsetting for NO_x and VOC
 - Maintain federal offsetting equivalency system for PM₁₀, PM_{2.5}, SO_x, and CO

District's New Source Review Rule

- District Rule 2201 (New and Modified Stationary Source Review)
 - Designed to meet both federal and state NSR requirements
 - Subject to most rigorous NSR requirements due to attainment status
- Key elements of Rule 2201 include:
 - Best Available Control Technology (BACT) – mandates emission controls to minimize emission increases
 - Emission Offsets – requires emissions above specified offset threshold levels to be mitigated with either concurrent reductions or banked ERCs. ERCs cannot be used in lieu of meeting other control requirements (e.g., BACT or prohibitory rules)
 - Federal Offset Equivalency – system to ensure local NSR offset requirements are at least as stringent as federal requirements
 - Public notification – a notice period prior to issuance of Authority to Construct (ATC) to garner comments on projects that result in emissions above specified levels

Addressing EPA Comments on 2019 Version of Rule 2201

2019 Revisions to Rule 2201

- Aug 2019: District adopted revisions to Rule 2201 to address minor approvability issues related to 2016 revisions
 - Enhanced PM_{2.5} precursor demonstration for ammonia using new EPA guidance published after rule adopted in 2016
 - Definitions related to Routine Replacement Emissions Unit and Temporary Replacement Emissions Unit
- Nov 2019: Amended Rule 2201 was submitted to EPA
- Jul 2022: EPA proposed a limited approval / limited disapproval of the 2019 version of Rule 2201

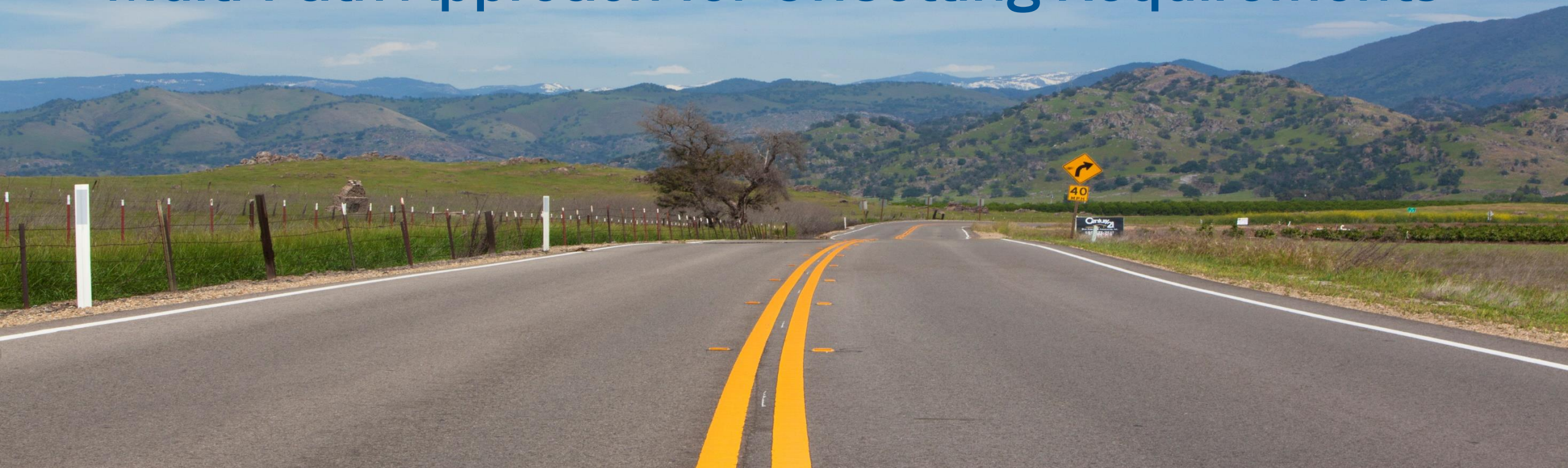
Approvability Considerations Related to EPA Action

- EPA's action identified additional approvability areas which must be addressed during the current Rule 2201 amendment process
 - Inclusion of certain federal NSR definitions
 - Inclusion of federal visibility requirements
 - Analysis of minor source NOx and VOC public notice thresholds
 - Removal of interpollutant offset trading for ozone precursors
 - Revision to definitions of Routine Replacement Emissions Unit and Temporary Replacement Emissions Unit
 - Stack Height
 - Federal Offset Equivalency Demonstration
 - Other minor administrative issues

Proposed Amendments to Address EPA Action

- Various definitions are being proposed to be revised or added in Section 3.0:
 - Federal Major Modification
 - Major Source
 - PM10 and VOC
 - Secondary Emissions
- Include federal visibility provisions from 40 CFR 51.307 in Section 4.16
- Consistent with *Sierra Club v EPA*, 984 F.3d 1055, interpollutant offset trading is no longer allowed for ozone precursors (NO_x and VOC) for NMS and FMM projects, Section 4.14.3
- Include stack height procedures, provisions, and definitions from 40 CFR 51.164, 40 CFR 51.118, and 40 CFR 51.100 in Section 4.15
- Federal Offset Equivalency concepts discussed in following slides
- District currently analyzing minor source NO_x and VOC public notice thresholds and definitions of Routine Replacement Emissions Unit and Temporary Replacement Emissions Unit
 - Proposed rule concepts will be presented at a future workshop

Multi-Path Approach for Offsetting Requirements



Multi-Path Approach for Offsetting Requirements

- Path for NO_x and VOC emissions:
 - For New Major Sources (NMS) and Federal Major Modifications (FMM):
 - Integrate federal offsetting program, Section 4.8
 - Require Federal Offset Quantity (FOQ), Section 4.8.4
 - Require FOQ to be satisfied with ERCs that are surplus at time-of-use, Section 4.8.1.1
 - FOQ exemption for “Rule Compliance” projects, Section 4.8.2
 - Administrative requirements for “Federal Offsets”, Sections 4.8.1 and 4.8.3
 - No longer a need for NO_x and VOC projects to be tracked and included in the offset equivalency system
 - Refer to Attachment for proposed Rule language

Multi-Path Approach for Offsetting Requirements (cont'd)

- Path for NOx and VOC emissions:
 - For All Other ATC Projects:
 - No change proposed to the requirements in the current rule
 - Require District Offset Quantity (DOQ), Section 4.7
 - NMS and FMM for NOx and VOC are exempt from DOQ requirement, Section 4.6.10 and 4.6.11
 - Exempt from DOQ since the federal offset requirements are programmatically more stringent.
 - DOQ may be satisfied with ERC that are valued at time of banking/issuance
 - Consistent with state law and historic California air district practice
 - Refer to Attachment for proposed Rule language

Multi-Path Approach for Offsetting Requirements (cont'd)

- Path for PM10, PM2.5, SOx, and CO emissions:
 - Maintain equivalency to federal offsetting requirements
 - For All ATC Projects:
 - Require District Offset Quantity (DOQ), Section 4.7
 - DOQ may be satisfied with ERCs that are valued at time of banking/issuance, Section 4.14.12
 - Consistent with State law and historic California air district practice
 - Programmatically Rule 2201 offsetting requirements are more stringent than federal NSR offsetting requirements
 - Offsetting requirements are not expected to change
 - Refer to Attachment for proposed Rule language

Federal Offset Equivalency Tracking

Federal Offset Equivalency Tracking System

- NO_x and VOC tracking is no longer necessary
 - Federal NSR offsetting requirements will be applied to New Major Sources (NMS) and Federal Major Modifications (FMM) for NO_x or VOC, (Section 4.8.1)
- PM₁₀, PM_{2.5}, SO_x, and CO will remain
 - Replace the two-test demonstration with a single test
- Improve rule clarity and transparency
- District is considering transitioning the equivalency system from an annual demonstration to a system that demonstrates ongoing equivalency at the time of ATC issuance to address EPA comments

Evaluate Need for Annual Demonstration

- Current system has a programmatic annual “true-up”
 - A shortfall is not determined until the annual true-up analysis,
 - Lag between a shortfall and the true-up
 - Potential for the offset system to operate at a deficit
- In place of the annual demonstration, District is considering a time-of-ATC-issuance demonstration for each ATC project that is a NMS or FMM for PM10, PM2.5, SOx, or CO
- A time-of-ATC-issuance demonstration would not allow District federal offset equivalency program to operate at a deficit since ongoing real-time program-wide equivalency would be determined for each project

Time-of-ATC-Issuance Equivalency Demonstration

- What would be the same?
 - The District still makes up any project shortfalls using extra creditable emission reductions from the tracking system carried-over from prior years
- What would be different?
 - Each ATC project that is a NMS or FMM would have to demonstrate equivalency before the District can proceed with a preliminary decision to approve the ATC(s)
 - The demonstration of federal offset equivalency would be included as part of the ATC application review, which is already subject to EPA, CARB, and public review

Time-of-ATC-Issuance Equivalency Demonstration (cont'd)

- Procedure:
 - A FOQ is calculated for the project
 - Any ERCs provided for the project would be counted as an offset for the FOQ (to the extent the ERCs had surplus-at-time-of-use value)
 - The District will make up any shortfall in offsets for the FOQ from the available carryover balance in the tracking system
 - The District will include the appropriate creditability demonstrations within the ATC project evaluation

Time-of-ATC-Issuance Equivalency Options

- If project cannot demonstrate equivalency as proposed, the District cannot issue the Authority to Construct Permit
- Applicants may revise project proposals to:
 - Include more creditable emission reductions, or
 - Lower (or eliminate) potential emissions and the subsequent FOQ obligation
- The District accumulates sufficient creditable emission reductions in the tracking system to mitigate the FOQ

Proposed Amendments to Rule 2301 (Emission Reduction Credit Banking)

Discussion of Principal Amendments Proposed for Rule 2301

- Application Timeliness
 - Definition of Shutdown
- Other Potential Amendments
 - Discontinue new GHG banking
 - Orphan shutdowns/USERS
 - Rule clarifications

ERC Application Timeliness

- Application timeliness was noted in CARB Program Review
 - Principal area of concern was the definition of “Shutdown”
- Proposed amendments from Workshop #1
 - Amend definition of “shutdown” (Section 3.14) according to language from District Policy APR 1805, Policy on the Interpretation of the Definition of Shutdown (from 1992)
 - Amend language in Section 5.5. application procedures to clarify the meaning of “date of emission reduction”

ERC Application Timeliness

- Updates:
 - *Shutdown* definition (3.14)
 - Include maintenance activities among list of items that show *evidence of intent to operate again*
 - Application procedures (5.5)
 - For an ERC requiring an ATC permit, the date of emission reduction is the date the ATC is the date the District completes its verification that the ATC has been fully implemented and the associated emission reductions have occurred
 - Refer to Attachment for proposed rule language

GHG Banking Assessment

- Workshop #1: evaluate need for future banking of new greenhouse gas (GHG) emission reductions
 - Minimal historical use
 - Existence of alternative mature GHG banking programs
- Update:
 - Proposing to remove provisions for banking of new GHG reductions (e.g. Sections 1.2.1, 1.2.3, 4.5, 5.5.2, 5.6)
 - Retain provisions for all other GHG-related banking transactions

Other Amendments to Rule 2301: Other Creditable Reductions

- Workshop #1:
 - Review administrative mechanisms, definitions, and procedures for the banking and use of other creditable emission reductions (Unbanked Shutdown Emission Reductions (USERs), Air Quality Improvement Deduction (AQID), mobile source credits, etc.)
- Updates:
 - Proposed definition (3.14) for USERs to ensure they match ERCs in quality
 - Continue to study recent mobile source ERC banking by other air districts (e.g. Maricopa, AZ)

Other Amendments to Rule 2301: Rule Clarifications

- Add “AER” as an abbreviation for Actual Emission Reductions (3.1)
- Include “AER” in the definition of “offset” (3.13) to match Rule 2201
- Add language clarifying prohibited emission reductions from power plants (4.4.2)
- Clarify provision ensuring enforceability of ERCs based on non-permitted sources (6.1.4)
- Clarify when surplus-adjusting of ERCs may be performed (6.9)

Next Steps: Public Engagement Process for Rule 2201 and Rule 2301 Amendments

Upcoming Public
Workshop(s)
Q4 2022/Q1 2023

Publication of Proposed
Rule
Q1 2023

Governing Board Public
Hearing
Q1/Q2 2023

Public Participation and Comment Invited throughout Process

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Comments/Questions

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