

# Public Workshop #3 for Amendments to:

Rule 1020 (Definitions)

Rule 2201 (New and Modified Stationary Source Review Rule)

Rule 2301 (Emission Reduction Credit Banking)

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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
- October 26, 2022: Public Workshop #2

# 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<sub>x</sub> and VOC
  - Maintain a federal offsetting equivalency system for PM<sub>10</sub>, PM<sub>2.5</sub>, SO<sub>x</sub>, and CO
- Public noticing for minor sources
- Routine replacement emissions unit

# 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<sub>2.5</sub> 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 definition of Routine Replacement Emissions Unit
  - 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 – simplified and more concise in §3.21
  - Major Source – update reference to federal list of sources for which fugitive emissions are included in major source determinations and include the federal requirements for the handling of emissions from nonroad IC engines in major source determinations
  - Fully Offset – include additional requirements for Federal offsets in §3.23
  - New Major Source – now includes a definition in §3.30
  - Complete Application – include specific items in the definition pursuant to 40 CFR 51.160(c) in §3.15
  - Other definitions, discussed in later slide
- Include federal visibility provisions from 40 CFR 51.307 in Section 4.16



# Proposed Amendments to Address EPA Action (cont'd)

- Consistent with *Sierra Club v EPA*, 984 F.3d 1055, interpollutant offset trading is no longer allowed for ozone precursors (NO<sub>x</sub> and VOC) for NMS and FMM projects
- Include stack height procedures, provisions, and definitions from 40 CFR 51.164, 40 CFR 51.118, and 40 CFR 51.100
- Federal Offset Equivalency discussed in following slides
- Public noticing requirements for synthetic minor sources

# Public Notifications for Minor Sources

- District conducted an analysis to determine if the current public notice thresholds for minor sources of NO<sub>x</sub> and VOC are sufficient to only exclude emissions that would not adversely impact the District's attainment status
  - Analysis consistent with similar analysis conducted by other air districts
- Analysis found that emissions from minor sources represent only a small fraction of total Valley-wide emissions inventory (NO<sub>x</sub>: 1% & VOC: 4%)
  - These emissions would not adversely impact the District's attainment status
- Notwithstanding, additional opportunity for public comment for sources that are nearing a major source threshold is appropriate
  - Proposing to add new public notice threshold for sources exceeding 80% of a major source threshold

# Routine Maintenance, Repair & Replacements

- Routine Replacement Emission Units could be interpreted to allow Federal Major Modifications to be exempt from Rule 2201
  - 40 CFR 51.165 exempts routine maintenance, repair and replacements from being a physical change or change in the method of operation (i.e. a major modification)
  - 40 CFR 51.165 does not exempt the routine replacement of an entire emission unit
- Add language in definition of Routine Replacement Emissions Unit (§3.38) to explicitly exclude Federal Major Modifications
- Add language in definition of Modification (§3.29) in Rule 2201 to clarify that Federal Major Modifications are modifications under Rule 2201

# Federal Visibility Requirements

- The CAA requires visibility protection for Mandatory Class I Federal areas, which is implemented through 40 CFR 51.307(b) and (c)
- Include requirements for each federal major modification and new major source to determine the impact to visibility of any mandatory Class I area in accordance with the applicable requirements of 40 CFR 51.307
  - Written notification and consultation with the Federal Land Manager (FLM)
  - Monitoring of visibility in any Federal Class I area, if deemed necessary by FLM
  - After consultation with the FLM, a project that would have an adverse impact on visibility of in any Federal Class I area, as defined in 40 CFR 52.21(b)(29), may be denied



# Multi-Path Approach for Offsetting Requirements





# Multi-Path Approach for Offsetting Requirements

- Path for NO<sub>x</sub> and VOC emissions:
  - For New Major Sources (NMS) and Federal Major Modifications (FMM):
    - Integrate project-level federal offsetting program, Section 4.8
    - Require Federal Offset Quantity (FOQ), Section 4.8.4
      - FOQ determined as difference between post-project PE and federal baseline emissions
      - Internal Emission Reductions can be used at an offset ratio of 1.3:1, Section 4.9.1
    - Require 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
    - NMS and FMM for NO<sub>x</sub> 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.

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

- Path for NO<sub>x</sub> and VOC emissions:
  - For All Other ATC Projects (i.e., not NMS or FMM):
    - No change proposed to the requirements in the current rule
    - Require District Offset Quantity (DOQ), Section 4.7
    - DOQ may be satisfied with ERC that are valued at time of banking/issuance
      - Consistent with state law and historic California air district practice

# 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 for these pollutants
    - Offsetting requirements are not expected to change



# Federal Offset Equivalency Tracking

# Federal Offset Equivalency Tracking System

- NO<sub>x</sub> and VOC tracking is no longer necessary
  - Federal NSR offsetting requirements will be applied to NMS and FMM for NO<sub>x</sub> or VOC, (Section 4.8.1)
- PM<sub>10</sub>, PM<sub>2.5</sub>, SO<sub>x</sub>, and CO will remain in the tracking system
  - Replace the two-test demonstration with a single test
- Improve rule clarity and transparency
- District is 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 proposing a programmatic permit-level demonstration for each ATC project that is a NMS or FMM for PM10, PM2.5, SO<sub>x</sub>, or CO
- The proposed programmatic permit-level demonstration would not allow the equivalency demonstration to operate at a deficit since ongoing real-time program-wide equivalency would be determined for each project

# Programmatic Permit-Level Equivalency Demonstration

- What would be the same?
  - No change to the key concepts, calculations and definitions in practice, e.g. FOQ, DOQ, surplus-at-time-of-use
  - The District still makes up any project shortfalls using extra creditable emission reductions from the carry-over balance in the tracking system

# Programmatic Permit-Level Equivalency Demonstration

- What would be different?
  - Each ATC project that is a NMS or FMM will have to demonstrate equivalency before the District can proceed with a preliminary decision to approve the ATC(s)
  - No potential for operation at a deficit or lag between an equivalency “failure” and the remedy
  - The demonstration will be included as part of the ATC application review, which is already subject to EPA, CARB, and public review
  - The annual equivalency report will be a summary of the previous years’ projects and updates to the carryover balances for each pollutant and not the focus of the demonstration



# Proposed Amendments to Rule 2301 (Emission Reduction Credit Banking)

# Proposed Amendments for Rule 2301

- Application Timeliness (5.5)
  - Definition of Shutdown (3.14)
- Discontinue new GHG banking (1.2.1, 1.2.3, 4.5, 5.5.2, 5.6)
- Unbanked Shutdown Emission Reductions (3.17)
- Rule clarifications



# ERC Application Timeliness

- Application timeliness was noted in CARB Program Review
  - Key concern was the definition of “Shutdown”
- Proposed amendments to:
  - 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)
  - Add language to clarify the meaning of “date of emission reduction” in application procedures and make timeliness language (Section 5.5) consistent with eligibility criteria in Section 4.2.3

# Discontinue New GHG Banking

- District is proposing to discontinue new banking of GHG ERCs
  - Originally adopted to accommodate the request of stakeholders
  - Since then, many alternative GHG banking options have developed
  - District issued GHG ERCs are not used
  - Regulation of GHGs are not central to the District's mission
- Proposed Amendments
  - Remove sections 1.2.1, 1.2.3, 4.5, 5.5.2, and 5.6
  - Retain provisions for all other GHG-related banking transactions

# 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 definition in Rule 2201
- Clarify prohibited emission reductions from power plants (4.4.2)
- Clarify when surplus-adjusting of ERCs may be performed (6.9)

# Proposed Amendments to Rule 1020 (Definitions)





# Proposed Amendments to Rule 1020

- As per EPA comment, update VOC definition to exclude several new negligible photochemically reactive compounds consistent with 40 CFR 51.100(s)
- Move PM<sub>2.5</sub> definition from Rule 2201 to Rule 1020
- Update PM<sub>10</sub> definition to include condensables which is consistent with historic District practice



# Next Steps: Public Engagement Process for Rule 1020, Rule 2201 and Rule 2301 Amendments

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graph LR; A[Public Comment Period Through March 1, 2023] --> B[Publication of Proposed Rule Package March 21, 2023]; B --> C[Governing Board Public Hearing April 20, 2023];
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# Contact

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# Comments/Questions

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