Proposed Amendments to Rule 9510
(Indirect Source Review)

Webcast participants: submit comments to webcast@valleyair.org

August 29, 2017
ISR Amendment Public Process

- Public process
  - Public workshop on April 26, 2016
  - Public notice issued August 15, 2016
  - Public workshop on January 17, 2017
  - Public workshop, May 18, 2017
  - Public workshop, today, August 29, 2017
- Comments addressed in latest version
Current ISR Requirements

- Mitigation for indirect and area source required per SB 709 (CH&SC 40604)
- Rule 9510 is a commitment in the EPA approved ozone and PM10 Attainment Demonstration Plans
- Reduce construction exhaust emissions
  - NOx by 20% cleaner than State Fleet Average
  - PM10 by 45% cleaner than State Fleet Average
- Reduce operational emissions (area and mobile sources)
  - NOx by 33% of project baseline
  - PM10 by 50% of project baseline
• New development projects requiring discretionary approval

• Threshold examples:
  – 50 residential units
  – 2,000 sq ft of commercial space
  – 25,000 sq ft of light industrial space
  – 100,000 sq ft of heavy industrial space
  – 39,000 sq ft of general office space
  – 9,000 sq ft of educational space

• Transportation/Transit projects with minimum construction emissions of 2.0 tons of NOx or PM10
Project Design Elements

• District encourages on-site project design mitigation measures
• District provides an extensive list of project design features to assist developers
  – Clean construction equipment, trucking fleets
  – Minimize vehicle miles traveled
  – Energy efficiency
• Benefits
  – Achieve immediate and permanent emission reductions
  – Emissions reductions directly benefit local community
  – Overall better project
  – Minimize or eliminate mitigation fees
Mitigation Fees

• In lieu of onsite measures developers may choose to pay mitigation fees
• Fees based on the difference between emission reductions required by the rule and those achieved through on-site measures
• All mitigation fees collected by the District are invested in Valley communities to reduce emissions
• Benefits
  – Fees used to fund emission reduction projects (agricultural tractors, irrigation pumps, vanpool subsidies, wood burning inserts and stoves, etc.)
ISR Program Success

• On-site emissions reductions
  – Clean construction fleet
  – Project designs: 9,300 tons of emission reductions

• Off-site emission reductions
  – 3,000 emission reduction projects
    Ag irrigation pumps, tractors, fireplace inserts, lawn mowers, vanpool subsidies
  – 6,000 tons of emission reductions
Currently the rule applies to a development project proponent seeking “final discretionary approval”: no change proposed

Discretionary approval can vary among public agencies in the Valley

Some large projects did not require discretionary decisions even though potentially significant impacts on air quality

Removing this inconsistency is critical to providing fair and equitable application of the rule throughout the Valley
Rule Amendment: Applicability

- Large development projects seeking approval subject to ISR (§2.2)
- Large development projects: set at 5 times above standard ISR applicability thresholds
- Large development projects threshold examples:
  - 250 residential units
  - 125,000 sq ft of light industrial space
  - 500,000 sq ft of heavy industrial space
  - 195,000 sq ft of general office space
Comments Received

• Recent comment received:

Vested Right to Develop must be modified to more broadly address the intent that projects currently in the “pipeline” will remain exempt from the rule
Applicability Summary

• Existing applicability threshold remains (§2.1):
  – Final discretionary approval received prior to March 2006: project not subject to rule
  – Final discretionary approval received after March 2006: project subject to rule

• Amendment: Rule applies to Large Projects not subject to discretionary approval (§2.2), unless prior to Rule amendment effective date (§2.3):
  – Received project-level building permits, a conditional use permit, or similar approvals (§2.3.3), or
  – Qualifies as a Grandfathered Project (§2.3.4)
Grandfathered Project

• Replaced proposed “Vested Right to Develop” with “Grandfathered Large Development Project”
  – New Definition (§3.17)
    • Project must be identified by applicant and must be of a particular and defined project,
    • Provide written confirmation from the public agency that project has received land-use entitlement and requires no discretionary approval prior to starting construction, &
    • Applicant has entered into binding agreements or contractual obligations which cannot be canceled/modified without substantial loss to applicant
ISR Application Timing for Large Projects After Rule Amendment

• Rule effective 90 days after District Governing Board adoption

• Large development projects applying for project approval from a public agency after rule effective date:
  – ISR application required no later than applying for project approval

• Large development projects applying for project approval from a public agency prior to rule effective date:
  – ISR application required no later than 120 days after rule adoption
Other Rule Enhancements

• Clarify “Development” Project definition
  – Independent from Land Use Agency approval type
  – No changes to project currently subject to the rule

• Clarify “Transit” and “Transportation” Project definitions
  – These are development projects
  – No changes to requirements

• Remove obsolete reference to “URBEMIS”
  – URBEMIS no longer utilized
Other Rule Enhancements (Cont’d)

• Add “seismic safety” to the list of exemptions
  – Currently retrofits for seismic safety are not exempt

• Allow all projects to defer payment of off-site mitigation fees according to approved fee deferral schedule:
  – Currently off-site fees up to $50,000 are required up front
  – Alleviates additional financial burden by allowing fee deferral for small businesses, too
Other Rule Enhancements (Cont’d)

• Clarify that off-site fee rate is based on fee rate applicable at the time of invoice issuance
  – Correction to address current rule issue

• Clarify that payment of applicable fees required prior to generating emissions
  – Consistent with original rule intent

• Requirement to report a change in ownership of a project
  – Eliminates responsible party’s confusion and avoid non-compliance situations
Socioeconomics Analysis

• District reviewed original socioeconomic impact analysis from 2005
  – Original concluded no significant impact

• 2016-17 Analysis:
  – The actual costs over 10-year implementation are considerably less than projected
  – Many projects significantly reduced or even eliminated fee obligation by using clean trucking and construction fleets, and incorporating other air friendly design elements
  – 2005 conclusion remains relevant and accurate
Next Steps…

2 Weeks:
August 29, 2017 – September 12, 2017

Public comment period

November 20, 2017

Publication of proposed rule package to District web page for 30-day comment period

December 21, 2017

Governing Board Public Hearing
Comment Period Deadline

September 12, 2017 at 5:00 PM

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Questions/Comments

Please come to podium, state name and affiliation

Webcast participants can send questions/comments by e-mail while the webcast is operational: webcast@valleyair.org