

Mariposa County Air Pollution Control District
5100 Bullion Street
Mariposa, CA 95338

Eric Sergienko – Air Pollution Control Officer

REVISED DRAFT STAFF REPORT
February 22, 2019

I. EXECUTIVE SUMMARY

On March 12, 2019 the Mariposa County Board of Supervisors will consider adoption of proposed Regulation XI New Source Review (NSR) Rule for New and Modified Major Stationary Sources in the Mariposa County APCD.

On the basis of 2016 ozone design value of 75 parts per billion 8-hour average (Jerseydale), Mariposa County has been designated as moderate non-attainment for the 2015 federal ozone standard. The 2015 federal ozone standard is 70 ppb over 8 hours.

The proposed Regulation XI is a requirement by the EPA for Districts that have been designated as non-attainment. The Rule applies to any new source in the Mariposa County Air Pollution Control District and once approved will meet the State Implementation Plan (SIP) requirements.

The District had issued a Draft Staff Report on May 15, 2018 for Regulation XI that was approved by the Board. That report discussed the development and need for the proposed NSR Regulation XI. That Rule was developed in consultation with the EPA that provided a template of the content and organization of the NSR Rule.

On October 25, 2018, the District was notified by the EPA that the model NSR Rule that EPA had previously provided to the District had been revised and that the current version of Regulation XI had to be revised. EPA provided a new template that indicated the revisions that were needed before the Rule would be approvable by the EPA. The new NSR rule had only minor changes and did not materially change the content of Regulation XI. Except for minor organizational changes, the main changes are the options involving plant wide applicable limits (Section 9) and incorporation by reference certain definitions that have been included in other District rules.

II. BACKGROUND

New Source Review (NSR) is a pre-construction permitting review requirement that ensures that when a new source is built, or when an existing source is modified, the source will minimize emissions consistent with applicable District, state and federal

regulations. Based on the pre-construction review, the District issues an Authority to Construct permit for the source. The permit authorizes construction and stipulates conditions designed to minimize emissions and ensure compliance with applicable regulations.

III. DESCRIPTION OF REGULATION XI, NEW AND MODIFIED MAJOR SOURCES IN MARIPOSA COUNTY

The District implements a program to evaluate the expected air quality impacts from stationary, portable, and other non-mobile sources. The program is intended to ensure that these sources are constructed and operated in a manner that minimizes air quality impacts and comply with state and federal regulations. The District's permitting program includes review of preconstruction permits, annual and ongoing regulation of sources through operating permits and applicable emission standards, and regular inspections of these sources to ensure that they comply with all applicable requirements.

Mariposa County will be designated as a nonattainment area for the federal 2015 8-hour ozone standard of 70 parts per billion. A strategy to control air pollution is to reduce emissions from new and modified existing stationary sources located at an existing facility through a New Source Review (NSR) program. The Federal Clean Air Act (CAA) and its associated regulations contain requirements for the District to adopt and implement a State Implementation Plan (SIP)-approved NSR program for any new major stationary source or any major modification located at an existing major stationary source located at facilities in the Mariposa County.

A major stationary source emits, or has the potential to emit, 100 tons or more per year of volatile organic compounds (VOCs) or nitrogen oxides (NOx). Currently the District has no permitted major sources within its region.

IV. HEALTH IMPACTS

Ground level ozone is a secondary pollutant formed from photochemical reactions of NOx and volatile organic compounds (VOCs) in the presence of sunlight. Ozone is a strong irritant that adversely affects the human health and damages crops and other environmental resources. As documented by the U.S Environmental Protection Agency (EPA) in the most recent Criteria Document for Ozone (U.S EPA 2006), both short-term and long-term exposure to ozone can irritate and damage the human respiratory system, resulting in:

- Decreased lung function;
- Development and aggravation of asthma;
- Increased hospitalizations and emergency room visits; and
- Premature deaths

V. SOCIOECONOMIC IMPACT AND COST EFFECTIVENESS:

HSC Section 40728.5 exempts districts with a population of less than 500,000 persons from the requirement to assess the socioeconomic impacts of proposed rules. Mariposa County population is below 500,000 persons.

Pursuant to the California Health & Safety Code Section 4090.6(a), the District is required to analyze the cost effectiveness of new rules. The District does not anticipate that any sources will be affected by the proposed regulation and therefore are not subject to the cost effectiveness analysis.

VI. WRITTEN ANALYSIS OF EXISTING FEDERAL AND DISTRICT REGULATIONS

The proposed amended rule does not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements. Pursuant to California Health and Safety Code section 40727.2, subdivision (g), the foregoing satisfies the requirement of a written analysis of existing regulations prior to adopting, amending or repealing a regulation.

VII. ENVIRONMENTAL REVIEW AND COMPLIANCE

Adoption of Regulation XI is a regulatory activity, authorized by state statute, to assure the maintenance and protection of the environment, and includes procedures for protection of the environment. This action is therefore categorically exempt from review under the California Environmental Quality Act under the Class 8 Categorical Exemption (California Code of Regulations., Title 14, § 15308).

VIII. RULE DEVELOPMENT PROCESS

A Public notice for a public hearing inviting the community to review and comment on the proposed revisions was published in the Sierra Sun Times, Mariposa County’s daily newspaper, on February 7, 2019 and the District’s website.

A Public Hearing by the Mariposa County of Air Pollution Control District is scheduled for March 12, 2019, after which if the Rule is approved it will be forwarded to the ARB and US EPA for inclusion into the SIP.

IX. REQUIRED FINDINGS

Section 40727(a) of the California Health & Safety Code (CH&SC) requires that prior to adopting or amending a rule or regulation, an Air Districts makes findings of necessity, authority, clarity, consistency, non-duplication, and reference. The findings must be based on the following:

1. Information presented in the written analysis, prepared pursuant to

- California Health & Safety Code Section 40727.2;
2. Information contained in the rulemaking records pursuant to California Health & Safety Code Section 40728; and
 3. Relevant information presented at the Board's Hearing for adoption of the rule.

The required findings are:

Necessity: Districts with area designated as Nonattainment for federal National Ambient Air Quality Standards (NAAQS) are required by US EPA to establish Federal New Source Review (NSR) Rules for inclusion into the Districts State Implementation Plan (SIP)

Authority: The District is authorized to adopt rules and regulations by California Health & Safety Code, Sections 40001, 40702, 40716, 41010, and 41013. (CH&SC 40727(B)(2))

Clarity: District staff has reviewed the proposed rule and determined that it can be easily understood by the affected industry. (CH&SC Section 40727(b)(3))

Consistency: The proposed rule does not conflict with, and is not contradiction 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.

X. BOARD ACTIONS AND ALTERNATIVES:

Staff requests the Board to do the following:

1. Hold a Public Hearing to take comments on proposed Model Regulation XI New Source Review, New and Modified Major Sources in the Mariposa County and;
2. RESOLUTION - Request adoption of Mariposa County Air Pollution Control District Regulation XI New Source Review, New and Major Sources, or:
3. Take no action.

Respectfully Submitted by:
Eric Sergienko, Air Pollution Control Officer