



San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT



DRAFT STAFF REPORT

RULE 9510 INDIRECT SOURCE REVIEW

APRIL 26, 2016

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Draft Staff Report: Rule 9510

April 26, 2016

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DRAFT STAFF REPORT

**Amendments to Rule 9510
(Indirect Source Review)**

April 26, 2016

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I. SUMMARY

The San Joaquin Valley Air Pollution Control District (District) is proposing to amend District Rule 9510 (Indirect Source Review (ISR) Rule) to ensure that the rule applies consistently throughout the San Joaquin Valley (Valley). Currently the rule applies to an applicant of a development project when such project is subject to a discretionary approval from a public agency. However, the approval process for similar projects can vary between public agencies resulting in inconsistency in the applicability of the ISR rule across the Valley and a diminished ability to reduce project related emissions. In fact, while a development project may require a discretionary approval from one public agency, the same project proposed in a different geographic location could be subject to a ministerial approval from another public agency. Based on the District's experience implementing the ISR rule, the most significant impacts related to inconsistent rule applicability have historically been associated with large development projects. Therefore, the District is proposing to refine the rule to eliminate the source of the applicability inconsistency and thereby ensure that all large development projects are subject to the ISR rule.

In addition, consistent with the District's core value of bringing continuous improvement to all District activities, staff is taking this opportunity to enhance and clarify other aspects of the rule.

II. DESCRIPTION OF RULE 9510 (INDIRECT SOURCE REVIEW)

The San Joaquin Valley is expected to be one of the fastest growing regions in the state from 2010 to 2020. The Demographic Research Unit of the Department of Finance released its latest population growth projections in December 2014 and projects approximately 13% growth in the Valley's population during the 2010 to 2020 period. In contrast, the total population for the State of California is projected to increase by only 9% over the same period of time.

Population growth results in increased number of vehicle miles traveled (VMT), resulting in more emissions due to the combustion of vehicle fuels. Area source emissions from activities such as consumer product use, fuel combustion for heating and cooking, and landscape maintenance, also increase with population growth. The projected growth in "indirect source" emissions erodes the benefits of emission reductions achieved through the District's stationary source program and the state and federal mobile source controls.

The District has longstanding statutory authority to regulate indirect sources of air pollution. Pursuant to this authority, the District made a federally enforceable commitment to regulate indirect sources when it adopted its PM10 Attainment Plan in June 2003. Subsequently, the California State Legislature passed Senate Bill 709, Florez, in the fall of 2003, which Governor Gray Davis subsequently signed and codified into the Health and Safety Code in §40604. This additional legislation required the District to adopt, by regulation, a schedule of fees to be assessed on area wide or indirect sources of emissions that are regulated by the District.

Rule 9510 is a commitment in the PM10 and Ozone Attainment Demonstration Plans. The objective of the rule is to reduce emissions of nitrogen oxides (NOx) and particulate matter smaller than ten microns in aerodynamic diameter (PM10) associated with construction and operational activities of development projects occurring within the San Joaquin Valley.

The Indirect Source Review (ISR) rule, which went into effect March 1, 2006, requires developers of new residential, commercial and industrial projects to reduce smog-forming and particulate emissions generated by their projects. The ISR rule also applies to transportation and transit projects whose construction exhaust emissions will result in a total of two tons per year of NOx or PM10. The ISR rule seeks to reduce the growth in NOx and PM10 emissions associated with construction and operation of new development, transportation and transit projects in the San Joaquin Valley.

The ISR rule requires developers to reduce construction NOx and PM10 exhaust emissions by 20% and 45%, respectively, and reduce operational NOx and PM10 emissions by 33.3% and 50%, respectively, as compared to the unmitigated

baseline. Developers can achieve the required reductions through any combination of District approved on-site emission reduction measures. When a developer cannot achieve the required reductions through on-site measures, off-site mitigation fees are imposed to mitigate the difference between the required emission reductions and the mitigations achieved on-site. Monies collected from this fee are used by the District to fund emission reduction projects in the San Joaquin Valley on behalf of the project.

The preferred options for complying with the ISR rule is for the project proponent to use clean construction fleets (cleaner than the State's average) and incorporate project design elements that result in on-site reduction in emissions associated with the operation of the development project. Since the adoption of the ISR rule, the District has seen a significant increase in the use of clean construction fleets, from 14% of the approved ISR Air Impact Assessment projects to 39% resulting in eliminating 1,227 tons of PM10 and NOx emissions from construction phases. For operational emissions, since the adoption of the ISR rule, the incorporation of "clean" design elements has resulted in the elimination of more than 10,000 tons of NOx and PM10 combined.

III. DISCUSSION OF PROPOSED RULE AMENDMENTS

A. Applicability

Currently the rule applies to a development project proponent seeking "final discretionary approval" action over the proposed project. However, as mentioned above, what is considered to be subject to a discretionary approval can vary between public agencies in the Valley for the same type of project. For instance, a Site Plan Review approval for a development project could be considered to be discretionary by one public agency, while a similar Site Plan Review approval for an identical development project located in a different area may be considered ministerial by another public agency. Based on the District's experience implementing the ISR rule, the more significant impacts related to inconsistent applicability of the rule have historically been associated with large development projects.

To illustrate this difference in approval processes among public agencies in the Valley, consider a large 200,000 square foot office development project, which exceeds the ISR applicability threshold of 39,000 square feet. In a jurisdiction that concludes this large project is exempt from a discretionary approval process (in other words, the land-use agency determines it has no authority to approve or disapprove the project), Rule 9510 would not apply. In such a case, the mitigation expected under Rule 9510 would not occur, resulting in 20% to 50% higher unmitigated NOx and PM10 emissions contributing to the Valley's air

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quality issues, compared to the case where the land-use agency exercised discretion over the project's approval. Because there are multiple public agencies in the Valley, including eight counties, fifty-nine cities, and several other state or local regulatory agencies, each of which have land use and/or project approval authority, removing this inconsistency is critical to providing fair and equitable application of the rule.

To ensure that development projects are addressed and mitigated equally and consistently throughout the Valley under Rule 9510, the District explored the following rule applicability options:

- Option 1: Applicability Triggered by Building Permit

The District considered changing the applicability mechanism to be simultaneous with a lead agency's issuance of a building permit since this requirement is applied consistently by all land use agencies.

In considering this option, it's important to note that land use decisions, such as preventing urban sprawl and encouraging mix-use development, and project designs reducing vehicle miles traveled have proven to be beneficial for air quality. Addressing land use and site design issues while a proposed project is still in the conceptual stage increases opportunities to incorporate project design features to minimize land use compatibility issues and air quality impacts. However, building permits tend to be the final step required before construction of a development can proceed. An applicability mechanism that is set earlier in the land use process provides a better opportunity for the project proponent to prepare and consider project design elements that can benefit air quality.

Generally, it would be too late for the project proponent to consider and incorporate project design elements that would contribute to reducing emissions from the development project if rule applicability decisions were simultaneous with the issuance of a building permit. Therefore, establishing an applicability trigger that is simultaneous with the issuance of a building permit would conflict with the overall ISR rule goal of reducing emissions from new development.

- Option 2: Applicability Triggered by First Public Agency Approval

The District also considered using the initial public agency approval (ministerial or discretionary) rather than the final discretionary approval. If selected, this option would remove the inconsistent use of discretionary approval as explained above. This option would also ensure that the ISR applicability determination of a development project is made as early as

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possible in the project's approval process, thus allowing the maximum time available for the project proponent to incorporate design elements to reduce project impact on air quality.

However, the District does not currently receive information regarding all approvals from public agency. Therefore this option would create a significant and costly burden on public agencies and the District to ensure that all approvals adopted by public agencies are communicated to the District for evaluation.

In addition, at the time a project is proposed for initial approval by a public agency, specific project design information necessary to perform the District Air Impact Assessment is typically not available. Therefore, District analyses performed at the time of the first public agency approval would be general in nature, and would require further assessment to incorporate project specific design elements once proposed by the applicant. These subsequent reassessments would result in unnecessary delays in finalizing the ISR AIA for the project.

- Option 3: Applicability Triggered by Non-discretionary Approval of Large Development Projects not Otherwise Subject to the Rule Under Section 2.1.

To ensure the applicability mechanism applies to all large development projects consistently throughout the Valley, the District considered adding a secondary rule applicability trigger for large development projects that have not been subjected to a discretionary approval. This secondary threshold would apply to large projects that had been considered non-discretionary projects by the local land-use agency, but were subject to a non-discretionary (ministerial) approval process. Such ministerial decisions would include any permitting or approval processes by such agencies, up to and including the issuance of building permits.

The current ISR applicability thresholds for development projects are based on an estimated projection of two tons of NO_x or PM₁₀ project-related emissions. If the District were to establish a secondary applicability threshold for large development projects, it would be natural to consider projects that exceed the District's threshold of significance under the California Environmental Quality Act (CEQA), for instance 10 tons per year for NO_x emissions, to be "large development projects". Projects with emissions exceeding the District's CEQA significance thresholds are already deemed to have a significant impact on air quality, and projects with significant impacts should be subject to the project-specific emission reduction requirements of the ISR rule, at a minimum. Of course, under CEQA, a proponent of a project

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with significant impacts on air quality is required to implement all feasible mitigation measures to reduce such impacts.

To correlate the large development projects thresholds to the District CEQA significance threshold of 10 tons for NO_x, the District would propose to base the new “large development project” applicability thresholds at levels five times greater than the current applicability levels. The proposed applicability thresholds for large development projects would be:

- 250 residential units;
- 10,000 square feet of commercial space;
- 125,000 square feet of light industrial space;
- 500,000 square feet of heavy industrial space;
- 100,000 square feet of medical office space;
- 195,000 square feet of general office space;
- 45,000 square feet of educational space;
- 50,000 square feet of government space;
- 100,000 square feet of recreational space; or
- 45,000 square feet of space not identified above

Recommendation

Option 3 appears to be the most workable solution. It addresses the issue of development projects that are not subject to discretionary approvals and that have the potential to significantly impact the Valley’s air quality, but without impacting the majority of projects that are already subject to Rule 9510. Each of the other options could cause significant confusion among land use agencies and developers, and would result in less opportunity to modify a proposal’s design to provide on-site or would cause agencies, including the District, to expend considerable resources for little additional positive air quality impact.

To implement the proposed change in the applicability mechanism presented under Option 3, the following amendments will be required:

Applicability: The rule will include applicability thresholds for large development projects, as discussed under Option 3 above.

March 1, 2006 Exemption: When the rule first went into effect, projects that receive a final discretionary approval prior to March 1, 2006, were exempt. A section has been added to the rule to maintain this exemption.

Exemption for In-process Projects Currently Not Subject to the Rule: Projects that are not subject to the current rule, and have already received a building

permit from the land use agency prior to adoption of this rule amendment will be exempt from the amended rule.

ISR Application Submittal Timing: Currently the rule requires that an applicant subject to this rule submit an Air Impact Assessment (AIA) application no later than applying for a final discretionary approval with the public agency. Since the proposed amendment will include large development projects seeking non-discretionary approval, the rule will be amended to require the developer of a large development project subject to this rule to submit an ISR application no later than applying for, or otherwise seeking, the public agency's approval for the development project.

ISR Application Submittal Transition Timing: For projects for which a non-discretionary approval is pending at the date of the amended rule becomes effective, the District also proposes to incorporate a transitional timing component. If the applicant for a large development project has not received a building permit prior to the adoption date of this rule amendment, the developer will be given 30 days after the rule amendment date to submit an ISR application to the District.

B. Other Proposed Rule Amendments

In addition to updating the applicability mechanism, the District is taking this opportunity to enhance and clarify several other aspects of the rule.

Clarifying “Development Project” Definition:

The current definition of “development project” is:

Development Project: any project, or portion thereof, that is subject to a discretionary approval by a public agency, and will ultimately result in the construction of a new building, facility, or structure, or reconstruction of a building, facility, or structure for the purpose of increasing capacity or activity.

With the proposed rule amendment to include large development projects subject to ministerial approval, the term “discretionary” will be removed from the definition in an effort to address non-discretionary approval without impacting the current rule applicability for those projects subject to a discretionary approval.

Also, this definition could be misinterpreted that a “construction of a new building, facility, or structure” must result in an increase “in capacity or activity” to be considered a development project subject to the rule. Therefore, this definition

will be rearranged to clarify that the “purpose of increasing capacity or activity” only applies to the reconstruction of a new building, facility, or structure.

Clarifying “Transit and Transportation Project” Definitions:

Similarly to housing or commercial development projects, transportation and transit projects contribute to growth in the San Joaquin Valley and the related increase in emissions from motor vehicles. As such, transportation and transit projects can be referred to as development projects. Therefore, the District is proposing to revise the definitions of Transit project and Transportation project to include reference to “development” project.

Removing Reference to “URBEMIS”:

The District previously used the URBEMIS model to assess project impact on air quality. However, the URBEMIS model has been superseded by a new approved model, CalEEMod. This new model utilizes more recent emission factors and data and has been used by the District for several years. CalEEMod is maintained by experts, and is better suited to assess project emissions.

Although the rule did not contain a mandate to use the URBEMIS model, the reference to “URBEMIS” is no longer relevant and has been removed from the rule.

Adding Seismic Safety to List of Exemptions:

The current rule exempts reconstruction of development projects that have been damaged or destroyed and is rebuilt to essentially the same use and intensity. Based on several requests from project proponents, the District has determined that including a similar exemption for seismic safety is consistent with the original intent of the rule. Therefore, the list of exemptions for a reconstruction of a project has been expanded to include retrofits solely for seismic safety.

Removing \$50,000 Minimum Fee Deferral Qualifier and Down Payment:

Currently, the rule allows projects with total off-site mitigation fees exceeding \$50,000 to qualify for a fee deferral schedule. Furthermore, the rule currently requires a minimum initial down payment of \$50,000 when a fee deferral schedule is proposed by the applicant. Based on District experience, in addition to the obvious financial burden on developers, this requirement has been very difficult for the District to implement and track. Furthermore, the District’s direct enforcement authority provides adequate mechanisms to pursue developers who do not meet their post-application financial obligations under this rule. Therefore, to alleviate this financial burden, especially for smaller project developers, the

District is proposing to remove this unnecessary \$50,000 minimum fee deferral qualifier and initial \$50,000 down payment requirement.

Payment of Applicable Fees Required Prior to Generating Any Emissions:

As clearly presented in the original rule adoption staff report, the payment of applicable fees must occur prior to generating any emissions associated with the project. To avoid any potential confusion, and assist project developers to comply with the rule requirements, the District is proposing to amend the rule to more clearly specify that the payment of applicable fees is required prior to generating any emissions associated with the project or within 60 days of invoice issuance, whichever occurs first.

Clarifying that Off-Site Fee Rate is Based on Fee Rate Applicable at the Time of Invoice Issuance:

The rule currently requires that the off-site fee rate be based on the year the payment is made. However, rate specified on a District invoice is necessarily the rate in place at the time of issuance. Also, because invoices are issued with a 60-day term of payment, the rate could change prior to payment being made. In recognition of the unfairness to developers that this inconsistency causes, the District is proposing to amend the rule to clarify that the off-site fee rate is based on the fee in effect at the time of invoice issuance.

Requirement to Report a Change in Ownership of a Project:

It is common for an applicant of a project to sell a project, or a portion thereof, to another applicant or developer. Currently, either the seller or the buyer contacts the District to proceed with changes to the project. However, this process is not clearly identified in the rule. Therefore, the District is proposing to clearly identify the process involved in a change of ownership of a development project.

The rule is being amended to require that, if a project, or portion thereof, changes ownership, the seller must inform the District of the change in ownership by completing a "Change of Developer" form with the District prior to the buyer starting activities generating any ground disturbance activities associated with the project or portion of the project. Both Seller and Buyer must sign the form.

Until the seller of the development project releases his rights to the development through this change of ownership process, the seller retains the responsibility for compliance with the rule.

Deleting the Reference to the Effective Date

The effective date in Section 11.0 will be deleted. The effective date of the rule amendment shall be the amended date identified in the rule title.

IV. PROPOSED AMENDMENTS TO RULE 9510

The following discussion details the pertinent amendments to Rule 9510. Corrections to typographical errors and other insubstantial changes are not itemized here, but are captured in strikeout and underline in the attached draft revised rule.

Refining the Applicability Mechanism

- To address the rule applicability issues discussed above for large development projects not subject to a discretionary approval, the proposed new section reads as follows:

2.2 Unless this rule applies pursuant to section 2.1, this rule shall apply to any applicant that seeks to gain ministerial or otherwise non-discretionary approval from a public agency for a large development project, which upon full build-out will include any one of the following:

2.2.1 250 residential units;

2.2.2 10,000 square feet of commercial space;

2.2.3 125,000 square feet of light industrial space;

2.2.4 500,000 square feet of heavy industrial space;

2.2.5 100,000 square feet of medical office space;

2.2.6 195,000 square feet of general office space;

2.2.7 45,000 square feet of educational space;

2.2.8 50,000 square feet of government space;

2.2.9 100,000 square feet of recreational space; or

2.2.10 45,000 square feet of space not identified above.

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- The following provision has been added to exempt projects that have already received a building permit from the land use agency during this rule amendment process:

4.5 A development project that was granted a final discretionary approval prior to March 1, 2006 shall be exempt from the requirements of this rule.

- Projects that are not subject to the current rule, and have received a building permit from the land use agency during this rule amendment process will be exempt from the amended rule:

4.6 Any large development project that has received a building permit prior to (rule amendment date) shall be exempt from the requirements of this rule. This exemption shall not apply to development projects that failed to comply with applicable requirements of prior version of this rule.

- To be consistent with the proposed changes related to the applicability mechanism, the submission of an AIA is revised to address the proposed new section 2.2. In addition, for projects with a pending non-discretionary approval at the date of the amended rule becomes effective, the District also proposes to incorporate the transitional 30-day application due-date timing discussed above:

5.0 Application Requirements

Any applicant subject to this rule shall submit an Air Impact Assessment (AIA) application no later than applying for a final discretionary approval with the public agency. ~~An applicant for a project for which a discretionary approval is pending at the date of rule effectiveness, shall also submit an AIA application by 30 days after the rule effectiveness date.~~ Nothing in this rule shall preclude an applicant from submitting an AIA application prior to filing an application for a final discretionary approval with the public agency. It is preferable for the applicant to submit an AIA application as early as possible in the process for that final discretionary approval.

An applicant for a large development project subject to this rule under section 2.2 shall submit an AIA application no later than applying for, or otherwise seeking to gain an approval from a public agency for the project. An applicant for a large development project which has not received a building permit by the rule amendment date shall submit an AIA application within 30 days after the rule amendment date.

Clarifying “Development Project” Definition:

As discussed above, the proposed amended section reads as follows:

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- 3.13 ~~Development Project: any project, or portion thereof, that is subject to an discretionary approval by a public agency, and will ultimately result in: the construction of a new building, facility, or structure, or reconstruction of a building, facility, or structure for the purpose of increasing capacity or activity.~~
- the construction of a new building, facility, or structure; or
 - the reconstruction of a building, facility, or structure for the purpose of increasing capacity or activity.

As discussed above, the definitions for “Transit” and “Transportation Projects” were amended to include the term “development”. The proposed new definitions read as follows:

- 3.33 Transit Development Project: any project solely intended to create a passenger transportation service, local, metropolitan or regional in scope, that is available to any person who pays a prescribed fare. Examples of transit development projects include: ~~Transportation~~ by bus, rail, or other conveyance, either publicly or privately owned, which is provided to the public or specialty service on a regular or continuing basis. Also known as “mass transit,” “mass transportation,” or “public transportation.”
- 3.34 Transportation Development Projects: any project solely intended whose sole purpose is to create a new paved surface that is used for the transportation of motor vehicles, or any structural support thereof. Examples of transportation development projects include: streets, highways and any related ramps, freeways and any related ramps, and bridges. This does not include development projects where traffic surfaces are a portion of the project, but not the main land-use.

Removing Reference to “URBEMIS”:

Since URBEMIS model is no longer relevant, as discussed above, PM10 reference to “URBEMIS” and its definition have been removed as follows:

- ~~3.35 URBEMIS: a computer model that is owned and modified by the local air pollution control districts and air quality management districts in the State of California. URBEMIS estimates construction, area source and operational emissions of NOx and PM10 from potential land uses, using the most recent approved version of relevant ARB emissions models and emission factors and/or District-specific emission factors; and estimates emissions reductions. The model has the capacity for changes to defaults when new or project specific information is known.~~

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Adding Seismic Safety to Reconstruction Exemptions List:

The exemptions list for a reconstruction project has been expanded to include retrofits solely for seismic safety.

- 4.4.1 Reconstruction of any development project that is damaged or destroyed, or is retrofitted solely for seismic safety, and is rebuilt to essentially the same use and intensity.

Removing \$50,000 Minimum Fee Deferral Qualifier and Down Payment:

As discussed above, the District is proposing to remove the unnecessary \$50,000 minimum fee deferral qualifier and initial \$50,000 down payment requirement.

- 5.5 Off-Site Fee Deferral Schedule (FDS): The District shall provide a standardized Fee Deferral Schedule form. ~~An applicant may propose a FDS with the District if the total Off-Site Fee exceeds \$50,000.~~ The payment schedule must provide assurance that reductions from off-site emission reduction projects can be obtained reasonably contemporaneous with emissions increases associated with the project and shall, at minimum, include the following:

~~5.5.7 Off-Site Fee down payment, to be not less than \$50,000;~~

Payment of Applicable Fees Required Prior to Generating Any Emissions:

As discussed above, the District is proposing to clarify requirements related to timing of payment of applicable fees:

- 7.3 The applicant shall pay the Off-Site Fees in full by the invoice due date or prior to generating emissions associated with the project or any phase thereof, whichever occurs first. ~~within sixty (60) calendar days after the AIA application is approved or in accordance to the schedule contained in the APCO approved FDS.~~
- 8.5 Off-Site Fee: After the APCO approves the AIA application and its contents; the APCO shall provide the applicant with an estimate for the projected off-site fees, if applicable. The applicant shall pay the off-site fee within 60 days, unless a FDS has been approved by the District in accordance with Section 7.3.

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Clarifying that Off-Site Fee Rate is Based on Fee Rate Applicable at the Time of Invoice Issuance:

As discussed above, the District is proposing to clarify requirements related to applicability of off-site fees:

7.1.1.1 NOx Emissions

CNR = Cost of NOx Reductions identified in Section 7.2.1 below, in dollars per ton. ~~For projects with an approved FDS, the fees shall be based on the year each payment is made.~~ The cost of emissions reductions, in dollars per ton, shall be based on the applicable rate at the time the invoice is issued.

7.1.1.2 PM10 Emissions

CPR = Cost of PM10 Reductions identified in Section 7.2.2 below, in dollars per ton. ~~For projects with an approved FDS, the cost of reductions shall be based on the year each payment is made.~~ The cost of emissions reductions, in dollars per ton, shall be based on the applicable rate at the time the invoice is issued.

7.1.2.1 NOx Emissions

CNR = Cost of NOx Reductions identified in Section 7.2.1 below, in dollars per ton. ~~For projects with an approved FDS, the cost of reductions shall be based on the year each payment is made.~~ The cost of emissions reductions, in dollars per ton, shall be based on the applicable rate at the time the invoice is issued.

7.1.2.2 PM10 Emissions

CPR = Cost of PM10 Reductions identified in Section 7.2.2 below, in dollars per ton. ~~For projects with an approved FDS, the fees shall be based on the year each payment is made.~~ The cost of emissions reductions, in dollars per ton, shall be based on the applicable rate at the time the invoice is issued.

Requirement for a Change in Ownership of a Project:

As discussed above, the District is proposing to clarify the process involved in reporting to the District a change of ownership of a development project:

9.1.3 If a project, or portion thereof, changes ownership, the seller shall inform the District of the change in ownership by filing a "Change of Developer" form with the District prior to the buyer generating emissions associated with the project.

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Removing Section 11.0 the Effective Date

The effective date in Section 11.0 will no longer be necessary and will be deleted:

~~11.0 Effective date of this rule~~

~~The provisions of this rule shall become effective on March 1, 2006.~~

V. RULE AMENDMENT PROCESS

A. Public Workshop

As part of the rule development process for this project, the District will be holding a public workshop on April 26, 2016 to present, discuss and take comments on the proposed revisions. During this rule development process, the District invites comments and suggestions on the proposed revisions. A four-week comment period will follow the public workshops. Comments received during the public workshop and associated comment period will be considered, and incorporated into the draft rule or final staff report as appropriate.

B. Public Hearing

The Hearing to consider adoption of the amended Rule 9510 by the District's Governing Board is expected to be held this year. The specific date has not yet been determined. If adopted by the Board, Rule 9510 will be forwarded to EPA via ARB for inclusion into the SIP.

In accordance with California Health and Safety Code (CH&SC) Section 40725, the final draft of the rule and final draft staff report will be publicly noticed and made available on the District's website prior to the Governing Board public hearing to consider adoption of the proposed rule amendments.

VI. COST EFFECTIVENESS AND SOCIOECONOMIC IMPACT ANALYSIS

Pursuant to CH&SC Section 40920.6(a), the District is required to analyze the cost effectiveness of new rules or rule amendments. Additionally, state law (CH&SC § 40728.5(a)) requires the District to analyze the socioeconomic impacts of any proposed rule amendment that significantly affects air quality or strengthens an emission limitation. As this rule amendment primarily addresses large projects that have avoided so-called discretionary decision processes, but which have always been expected to be subject to the rule, the draft amendments will have neither

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effect, and is therefore not subject to the cost effectiveness nor socioeconomic analysis requirements.

VII. RULE CONSISTENCY ANALYSIS

Pursuant to CH&SC Section 40727.2 (g) a rule consistency analysis of the draft rule is not required, because the draft rule does not strengthen emission limits or impose more stringent monitoring, reporting, or recordkeeping requirements.

VIII. ENVIRONMENTAL ASSESSMENT

According to the California Environmental Quality Act (CEQA) statutes and pursuant to Section 15061 of the CEQA Guidelines, the District investigated the possible environmental impacts of the amendments to Rule 9510. Based on the lack of evidence to the contrary, the District has concluded that the rule amendments will not have any significant adverse effects on the environment. As such, the District finds that the rule amendment project is exempt per the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment (CEQA Guidelines §15061 (b)(3)). Therefore pursuant to Section 15062 of the CEQA Guidelines, Staff will file a Notice of Exemption upon Governing Board approval of amendments to Rule 2020.