



San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

Proposed Amendments to Rule 9510

(Indirect Source Review)

Webcast participants: submit comments to
webcast@valleyair.org

May 18, 2017



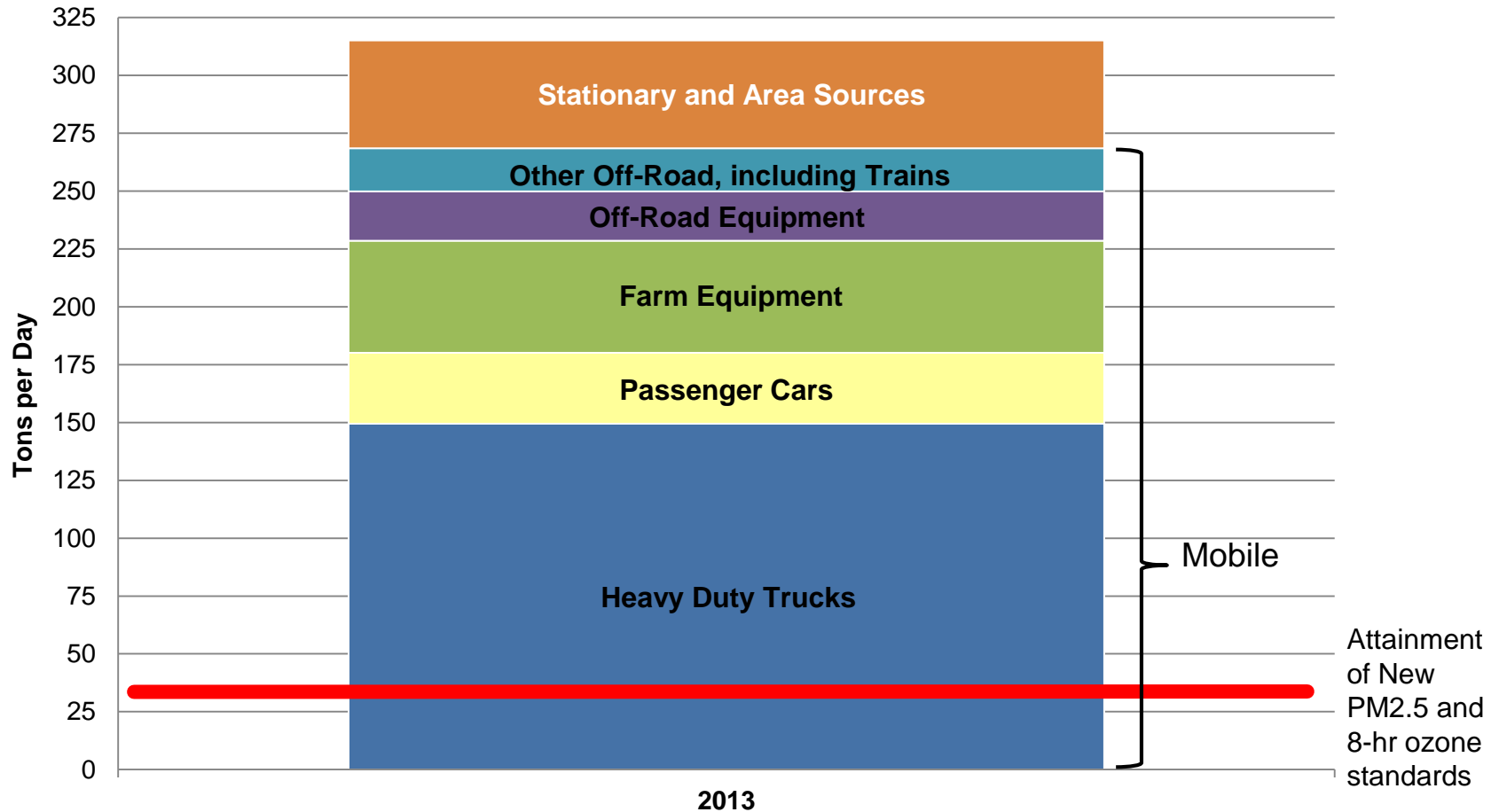
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ISR Amendment Public Process

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

Meeting Federal Air Quality Standards



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



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Current ISR Applicability

- 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



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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



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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



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Rule Amendment: Applicability

- 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 have sidestepped 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



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Rule Amendment: Applicability

- Large development projects seeking approval subject to ISR
- 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

Applicability: Comments Received

- Recent comment received:

Large development project thresholds applicability should be clarified to indicate that the rule does not apply to projects vested by the rule amended date

Vested Right to Develop

- Examples of “Vested Right to Develop”:
 - Tentative map approval
 - Contract between developer and the agency
 - Site Plan Review approval
 - Some amendments to a developed site
 - Building permit issuance
 - Other approval from a gov’t agency

Applicability Clarification

- Section 2.1: On and after 3/1/06, development projects with final discretionary approval above certain thresholds remain subject to the ISR rule.
- Section 2.2: On and after (rule amendment date), large development projects above certain thresholds are subject to the ISR rule.
- Section 2.3: Section 2.2 does not apply if any of following:
 - The rule applies pursuant to Section 2.1,
 - Project received final discretionary approval prior to 3/1/06, or
 - Project received non-discretionary approval, including but not limited to a building permit **or other Vested Right to Develop** prior to (rule amendment date).



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Vested Right to Develop

- Added “Vested Right to Develop” definition
Section 3.36:

For the purposes of this rule, a contract, tentative map approval, or other form of approval received from a governmental agency, which authorizes a guaranteed legal right to proceed with the Development Project, provided any such approval was not a discretionary decision.

Applicability Clarification

- Existing applicability threshold:
 - Final discretionary approval received **before** March 2006: project not subject to rule
 - Final discretionary approval received **after** March 2006: project subject to rule
- Amendment for large projects:
 - Current applicability threshold remains: final discretionary approval
 - Project not subject to Discretionary approval AND received Ministerial project approval OR have Vested Right to Develop **before** Rule amendment adoption date: project not subject to rule
 - otherwise: project subject to rule



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“Large Project” ISR Application Timing

- Rule effective upon District Governing Board adoption
- Application process for large development projects:
 - Submit Air Impact Assessment (AIA) application to District no later than applying for approval from a public agency (30 days to apply if already requested, but haven’t received building permit)

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



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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



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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



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Next Steps...

2 Weeks:
May 18 – June 1, 2017

Public comment period

August 17, 2017

Governing Board
Public Hearing

July 14, 2017

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

Comment Period Deadline

June 1, 2017 at 5:00 PM

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Questions/Comments

Please come to podium,
state name and affiliation

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