

Emissions Reduction Credit Program Public Advisory Workgroup

Amendments under Consideration for
District Rule 2201
(New and Modified Stationary Source Review Rule)
and
District Rule 2301
(Emission Reduction Credit Banking)

June 2, 2022

webcast@valleyair.org

Discussion of Principle Amendments Proposed for Rule 2201 and Rule 2301

- Rule 2201 Amendments
 - Federal Offset Equivalency Demonstration
 - Offsetting Requirements
 - Other Potential Amendments
- Rule 2301 Amendments
 - Application Timeliness
 - Definition of Shutdown
 - Other Potential Amendments

Proposed Amendments to Rule 2201 (NSR)

Federal Offset Equivalency Tracking System

- NO_x and VOC will be removed from the system going forward
 - Federal NSR offsetting requirements will be applied to New Major Sources and Federal Major Modifications for NO_x or VOC
- PM₁₀, PM_{2.5}, SO_x, and CO will remain in the system
 - Evaluation of equivalency will be based on one comprehensive test for each pollutant:
 - For all ATC projects issued during the tracking year, the District must be able to match the total Federal Offset Quantity (FOQ) required for that pollutant with an equal amount of surplus emission reductions valued at time-of-use
 - This would be a version of “Test 2”, the surplus value test (Rule 2201, 7.2.2), and is the appropriate measure of programmatic equivalency
 - Remedy for failure is implementation of the federal NSR offset system
 - The current two-test approach and associated separate remedies are not sufficient to ensure the District will remain equivalent with federal offsetting requirements when one test fails
 - Using one test for equivalency ensures federal offset equivalency, reduces complexity and eliminates potential interpretive confusion of having different remedies for different tests

Multi-Path Approach for Offsetting Requirements

- Path for NO_x and VOC emissions:
 - Integrate federal offsetting program into Rule 2201
 - Consistent with current requirements and equivalency remedies in place
 - For New Major Sources (NMS) and Federal Major Modifications (FMM)
 - Require Federal Offset Quantity (FOQ)
 - Since reclassification to “extreme” non-attainment for ozone, programmatically, the FOQ is at least as stringent as the District Offset Quantity (DOQ)
 - Require FOQ be satisfied with ERCs that are surplus at time-of-use
 - For all other ATC projects
 - Require District Offset Quantity (DOQ)
 - DOQ may be satisfied with any valid ERC
 - consistent with State law and historic California air district practice
 - No longer a need for NO_x and VOC projects to be tracked and included in the offset equivalency system

Multi-Path Approach for Offsetting Requirements

(cont'd)

- Path for PM₁₀, PM_{2.5}, SO_x, and CO:
 - For all ATC projects
 - Require DOQ
 - DOQ may be satisfied with any valid ERC
 - consistent with State law and historic California air district practice
 - Rule 2201 offsetting requirements are more stringent than federal NSR
 - Continue to track and include these pollutants in federal offset equivalency system to ensure federal offset equivalency
 - Offsetting requirements are not expected to change

Other Potential Amendments to District NSR Rule

- Amendments to clarify which provisions may be utilized for NO_x and VOC NMS and FMM consistent with federal offsetting requirements
 - Explore amending Baseline Emissions definition to clarify when Historic Actual Emissions must be used rather than Pre-Project Potential to Emit:
 - Remove *Clean Emissions Unit* provision
 - Explore retaining a modified *Fully-Offset Emissions Unit* definition and provision
 - Explore retaining the *Highly Utilized Emission Unit* provision
 - Explore emission offset exemptions including, but not limited to, the exemption for emergency equipment
- Specify provisions for calculating Unbanked Shutdown Emission Reductions (USERS) from facility, e.g. require they be Actual Emission Reductions
- Explore Clean Air Act Sec. 182(e)(2) offset provisions for Extreme Areas
 - Add requirements to allow the use of internal offsets at 1.3:1

Proposed Amendments to Rule 2301 (Emission Reduction Credit Banking)

ERC Application Timeliness

- CARB Report flagged ERC Application Timeliness as an issue for ERCs generated by facility shutdowns
- District Policy APR 1805, Policy on the Interpretation of the Definition of Shutdown also flagged this issue and proposed a solution which the District had put into practice
- ERC Application Timeliness – an emission reduction is eligible for banking if an application is submitted within 180 days of the emission reduction occurrence (Rule 2301, Section 4.2.3 and 5.5)
- Clarify rule language to implement longstanding practice

Emission Reductions

- For permitted sources, an emission reduction can come about through:
 - Reducing emissions from an emissions unit (e.g. voluntarily adding an emission control device not required by law or regulation)
 - Requires implementation of an ATC
 - On the day the ATC is implemented, the emissions unit begins operating with reduced emissions
 - Thus, generally, the date of emission reduction is the ATC implementation date
 - Shutdown of an emissions unit
 - Rule 2301 defines shutdown in Section 3.14

Current Rule 2301 Definition of Shutdown

- Section 3.14, Shutdown: shall mean either the earlier of the permanent cessation of emissions from an emitting unit or the surrender of that unit's operating permit. If, prior to the surrender of the operating permit, the APCO determines that:
 - Section 3.14.1: the unit has been removed or fallen into an inoperable and unmaintained condition such that startup would require an investment exceeding 50% of the current replacement cost; and
 - Section 3.14.2: the owner cannot demonstrate to the satisfaction of the APCO that the owner intended to operate again, then the APCO may cancel the permit and deem the source shutdown as of the date of last emissions. Evidence of an intent to operate again may include valid production contracts, orders, other agreements, or any economically based reasons which would require the operation of the emitting unit after initial cessation of emissions

Potential Opportunities for Clarification:

- As written, Section 3.14 and Sections 3.14.1 and 3.14.2 are difficult to reconcile
 - 3.14 implies priority should be given to last emissions over PTO surrender for shutdowns
 - But 3.14.1 and 3.14.2 imply 3.14 gives priority to PTO surrender over last emissions
 - Sections 3.14.1 and 3.14.2 describe a contingency where the District should use date of last emissions over PTO surrender of a PTO. But Sections 3.14.1 and 3.14.2 are logically unnecessary if 3.14 already gives priority to last emissions
- Section 3.14 also implies surrender of PTO can legally occur before last emissions (in violation of Rule 2010, Permits Required)
 - Since permitted sources cannot legally operate without a permit, 3.14 would not allow for any situation where surrender of PTO is given priority over last emissions. But if this is the intention, why mention PTO surrender at all?
- As written, the definition could be read to create an incentive to operate (and to emit) merely to extend application eligibility
- As written, the definition could be read to effectively eliminate seasonal sources from banking emission reductions

Recommended Shutdown Language

- District Policy APR 1805, Policy on the Interpretation of the Definition of Shutdown (from 1992) provides language that is coherent and has been used in practice since the formation of SJVAPCD:
 - For unpermitted sources, the date of the shutdown shall be the date of the last emissions from the emissions unit
 - For permitted sources, the date of the shutdown shall be the date of the surrender of the operating permit, unless the Control Officer determines that:
 - the unit has been removed or has fallen into an inoperable and unmaintained condition such that start-up would require an investment exceeding 50% of the current replacement cost; and,
 - the owner cannot demonstrate to the satisfaction of the Control Officer that the owner intended to operate again. Evidence of "intent to operate again" may include valid production contracts, orders, other agreements, or any economically based reasons which would require the operation of the emissions unit

Other Potential Amendments to Rule 2301

- Revise as needed administrative mechanisms, definitions, and procedures for the banking and use of other creditable emission reductions (USERS, AQID, mobile source credits, etc.)
- Evaluate appropriateness of future banking of greenhouse gas (GHG) ERCs

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



Comments/Questions