

## District Advisory

April 4, 2022

Under District Rule 2201, new facilities and modifications to existing facilities that result in increases in permitted emissions above specified levels are required to provide offsets as mitigation as a part of the requirements to obtain an "Authority to Construct" permit. Emission Reduction Credits (ERCs) are the currency of offsets. As allowed by the federal Clean Air Act, the District's ERC program has historically differed from a direct implementation of the federal offsetting requirements. EPA approved the District's programmatic approach in 2001 as the District's local program was at least as stringent as the federal program, which is implemented at the individual project level. As included in the District's EPA-approved rule, the District is required to demonstrate ongoing equivalency with the federal offsetting requirements on a programmatic level, and, if the system is unable to demonstrate equivalency with federal requirements, immediate and specified remedies are required to be enacted to ensure federal offsetting obligations are met.

The 2020-21 Annual Offset Equivalency Report highlighted the possibility that the current surplus-value remedy in District Rule 2201 will not be sufficient to ensure the District will be able to remain equivalent with federal offsetting requirements. It is imperative that the District operates an offsetting program that ensures that federal offsetting requirements can be met on an ongoing basis. Consistent with the District's efforts to evaluate the offsetting program and ensure that all state and federal requirements are met, the District's Governing Board took action on February 17, 2022, to require that all new major sources or federal major modifications triggering offsets for NO<sub>x</sub> be required to provide ERCs for the full federal offset quantity, and that those credits be surplus at time of ATC issuance. As a result of this action, the District is no longer operating a federal offset equivalency system for NO<sub>x</sub>, and all new major sources or federal major modifications will be required to comply with the federal offset requirements of 40 CFR 51.165 and part D of Title I of the Clean Air Act. This action builds on previous actions that ended the federal offset equivalency system for VOC in late 2020. The District's Board also directed staff to begin a public process to amend Rule 2201 (New Source Review) to formalize these changes and ensure the applicability and offset requirements within Rule 2201 comply with the federal new source review requirements.

Therefore, **EFFECTIVE FEBRUARY 17, 2022**, pursuant to Sections 7.4.1.1 and 7.4.2.1 of District Rule 2201:

- **For NO<sub>x</sub> and VOC:** All ATCs issued for new major sources or federal major modifications triggering offsets for NO<sub>x</sub> or VOC are required to provide ERCs that are surplus at time of ATC issuance for the full federal offset quantity as calculated in 40 CFR 51.165(a)(3)(ii)(J).
- **For PM<sub>10</sub>, PM<sub>2.5</sub>, and SO<sub>x</sub>:** No change to the offset quantity and ERC surplus value requirements at this time.

### Questions and Assistance

If you have any questions regarding this advisory, please contact the District's Small Business Assistance:

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