

Board Agenda Item

TO: Air Pollution Control District Board

FROM: Terry Dressler, Air Pollution Control Officer

CONTACT: Rebecca Armstrong, 961-8888

SUBJECT: Proposed Amended Regulation XI - Rules 1101-1105, Public Notification

RECOMMENDATION:

That the Board:

- A. Hold a public hearing to receive testimony on proposed amended Regulation XI.
- B. Approve the Resolution attached to this Board Letter. Approval of the resolution will result in the following actions:
 1. CEQA Findings: Adopt the CEQA findings (Attachment 1) pursuant to the California Environmental Quality Act (CEQA) and the CEQA guidelines.
 2. Rule Findings: Adopt the associated rule findings (Attachment 2) in support of the proposed amended Regulation XI pursuant to Health and Safety Code Section 40727 regarding necessity, authority, clarity, consistency, nonduplication, and reference. The rule findings also acknowledge public comments received on the proposed rules (Attachment 3) and adopt the response to comments (Attachment 4) as findings of the Board.
 3. Amended Rule Adoption: Adopt proposed amended Regulation XI (Attachment 5).

DISCUSSION:

Enclosed please find proposed amended Regulation XI (Rules 1101-1105), Public Notification for your review. This Regulation XI is being updated by Air Pollution Control District (District) staff in order to reflect the current Public Notification procedures. This revised draft version of the rule includes the following proposed revisions that are shown in ~~strike-out~~ and underline format.

Staff presented the proposed amended Regulation XI to the Community Advisory Council (CAC) on October 28, 2009.

The CAC recommended one minor revision as a result of a typographical error and voted unanimously to recommend that the Board adopt this new rule.

Objectives

This Public Notification Regulation (XI), created and adopted in 1980, is being revised and updated for the following reasons:

1. The advent of electronic media – The methods we use to communicate effectively with the public have changed significantly since this regulation was approved (September 15, 1980). Revisions incorporate our current communication practices.
2. Outdated information – Specifically, the Air Quality Standards listed in the existing rule have been revised and need to be updated.

Background

This Public Notification Regulation XI was created and adopted in 1980. The advent of electronic media, and changes in Air Quality Standards since 1980 have made it necessary to update this regulation to reflect current practices and standards.

Regulation XI Requirements

There are no requirements, for industry or permitted sources, associated with these Public Notification rules.

Implications to the Regulated Community

There are no direct implications to sources as a result of these rule revisions.

Implications to District Budget

There are no new costs associated with implementing proposed amended Regulation XI as the current proposed revisions include the public notification procedures, methodology, and approach that District staff are using at this time.

Comparison to Existing Federal, State and Local Requirements

Pursuant to the H&SC §40727.2, the District is required to identify all existing federal, state, and local air pollution control requirements that apply to the same equipment or source category as the rule proposed for adoption or modification by the District. These other air pollution control requirements include federal New Source Performance Standards (NSPS), federal National Emissions Standards for Hazardous Air Pollutants (NESHAPs), Best Available Control Technology (BACT) and any other District rule applying to the same equipment. This proposed regulation XI amendment is

administrative in nature and as a result, this comparison on existing Federal, State and local Requirements is not applicable or required.

Emission Reductions

There are no emission reductions as a result of these rule revisions. These rules are administrative in nature and include public notification procedures and methodology.

Rulemaking Process and Schedule

The draft amended regulation, including the ~~strike-out~~ and underline formatted rules, was presented to the Community Advisory Council (CAC) on October 28, 2009. At this meeting, after discussing proposed amended Rules 1101 through 1105, the CAC recommended that the Board adopt proposed amended Regulation XI as presented by the District staff with one minor revision to fix a typographical error. The motion passed with a unanimous vote.

Cost-Effectiveness

There is no specific equipment that is affected by the Regulation XI (Rules 1101-1105) amendments. Therefore, this analysis is not feasible to accomplish.

California Environmental Quality Act (CEQA)

The California Environmental Quality Act (CEQA) requires environmental review for certain actions. This rulemaking project for proposed amended Regulation XI, Rules 1101-1105, consists of revisions to District staff administrative public notification procedures. The District found that the potential environmental impacts of the revisions made to Regulation XI, Rules 1101-1105, are insignificant. The District determined that a Notice of Exemption (Attachment 6) will be filed for this rulemaking effort. CEQA Findings to be adopted by the District Board are provided in Attachment 1. Any subsequent changes in the project description during the public review period will undergo additional environmental review under the CEQA.

Public Review

Attachments 3 and 4 contain public comments and staff responses. District staff have not received any public comments on these proposed rule revisions to date.

Public comments are being accepted up until this Board Hearing.

FISCAL IMPACT:

There are no new costs associated with implementing proposed amended Regulation XI as the current proposed revisions include the public notification procedures and methodology that District staff are using at this time.

SPECIAL INSTRUCTIONS:

After adoption by the Board, please send a certified minute order and signed resolution to Rebecca Armstrong, District, for transmittal to the Air Resources Board.

CONCURRENCES:

County Counsel has reviewed this board letter, its enclosures, and attachments and approves them as to form.

ATTACHMENTS:

- Resolution
- Attachment 1: CEQA Findings
- Attachment 2: Rule Findings
- Attachment 3: Public Comments
- Attachment 4: Response to Public Comments
- Attachment 5: Proposed Amended Regulation XI – Rules 1101-1105
(Strikeout/Underline Format)
- Attachment 6: Notice of Exemption (NOE) for CEQA

BOARD RESOLUTION

**PROPOSED AMENDED REGULATION XI,
PUBLIC NOTIFICATION**

January 21, 2010

Santa Barbara County Air Pollution Control District

**260 North San Antonio Road, Suite A
Santa Barbara, California 93110**

(805) 961-8800

**RESOLUTION OF THE AIR POLLUTION
CONTROL DISTRICT BOARD OF THE COUNTY OF
SANTA BARBARA, STATE OF CALIFORNIA**

In the Matter of) **APCD Resolution No.**
)
Amending Regulation XI – Rules 1101-1105)
_____)

RECITALS

1. The Air Pollution Control District Board of the County of Santa Barbara (“Board”) is authorized to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code section 40725 *et seq.*

2. Pursuant to Health and Safety Code section 40001, the Board is required to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards.

3. The Board has determined that a need exists to amend Regulation XI, Rules 1101 through 1105, to reflect updated public notification procedures.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1) This Board has held a hearing and accepted public comments in accordance with the requirements of Health and Safety Code section 40725 *et seq.*

2) The California Environmental Quality Act (“CEQA”) findings set forth in Attachment 1 of the Board Package dated January 21, 2010 (herein after “Board Package”) are hereby adopted as findings of this Board pursuant to CEQA and the CEQA guidelines.

3) The general rule findings set forth in Attachment 2 of the Board Package are hereby adopted as findings of this Board pursuant to Health and Safety Code section 40727.

4) The Responses to Public Comments set forth in Attachment 4 of the Board Package are hereby adopted as findings of this Board.

5) Regulation XI (Rules 1101 through 1105), as set forth in Attachment 5 of the Board Package, is hereby amended as a rule of the Santa Barbara County Air Pollution Control District pursuant to Health and Safety Code section 40725 *et seq.*

6) The Board authorizes the Control Officer to transmit amended Regulation XI (Rules 1101 through 1105) to the State Air Resources Board in compliance with applicable state and federal law. Additionally, the Board authorizes the Control Officer to do any other acts necessary and proper to obtain necessary approvals of the amended regulation by the California Air Resources Board and the United States Environmental Protection Agency.

PASSED AND ADOPTED by the Air Pollution Control District Board of the County of Santa Barbara, State of California, this 21st day of January, 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:
TERRY DRESSLER
CLERK OF THE BOARD,

By _____
Deputy

Chair, Air Pollution Control
District Board of the County of
Santa Barbara

APPROVED AS TO FORM:
DENNIS MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____
Deputy
Attorneys for the Santa Barbara
Air Pollution Control District

ATTACHMENT 1

CEQA FINDINGS

PROPOSED AMENDED REGULATION XI,

PUBLIC NOTIFICATION

January 21, 2010

Santa Barbara County Air Pollution Control District

260 North San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

ATTACHMENT 1

CEQA FINDINGS

This Public Notification Regulation XI (Rules 1101-1105), created and adopted in 1980, is being revised and updated for the following reasons:

1. The advent of electronic media – The methods in which we communicate effectively with the public have changed significantly since this regulation was approved (September 15, 1980). Revisions incorporate our current communication practices.
2. Outdated information – Specifically, the Air Quality Standards listed in the existing rule have been revised and need to be updated.

The District found that there is no potential for significant environmental impacts from the implementation of the revisions made to Regulation XI, Rules 1101-1105.

The Board finds that:

- Pursuant to § 15061(b)(3) of the State CEQA Guidelines, the project is not subject to CEQA as it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

The Santa Barbara County District prepared a Notice of Exemption (Attachment 6 of the Board Package dated January 21, 2010) for the project. The District will file the Notice of Exemption with the County Clerk of the Board in compliance with State Public Resources Code § 21152(b).

ATTACHMENT 2

RULE FINDINGS

PROPOSED AMENDED REGULATION XI,

PUBLIC NOTIFICATION

January 21, 2010

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

ATTACHMENT 2

RULE FINDINGS FOR PROPOSED AMENDED REGULATION XI

Pursuant to California Health and Safety Code Section 40727, the Board makes the following findings for the amendments of Regulation XI (Rules 1101-1105), Public Notification.

Necessity

The Board determines that it is necessary to adopt amended Regulation XI (Rules 1101-1105) to bring the Rule text up-to-date with current District staff Public Notification procedures. This Public Notification Regulation XI, created and adopted in 1980, is being revised and updated for the following reasons:

1. The advent of electronic media – The methods in which we communicate effectively with the public have changed significantly since this regulation was approved (September 15, 1980). Revisions incorporate our current communication practices.
2. Outdated information – Specifically, the Air Quality Standards listed in the existing rule have been revised and need to be updated.

Authority

The Board is authorized under state law to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code Section 40000, and 40725 through 40728 which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to Health and Safety Code Section 40702, the District Board is required to adopt rules and regulations and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.

Clarity

The Board finds that proposed amended Regulation XI (Rules 1101-1105) is sufficiently clear. The rules were publicly noticed, and reviewed by the Community Advisory Council. The rules are written or displayed so that persons directly affected by them can easily understand their meaning.

Consistency

The Board determines that proposed amended Regulation XI (Rules 1101-1105) is consistent with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions, or regulations.

The air pollution control districts throughout the state of California have adopted similar public notification rules. Based on this evidence, the Board finds that the rules are consistent with neighboring air pollution control districts.

Nonduplication

The Board finds that the amended Regulation XI (Public Notification) does not impose the same restrictions as any existing state or federal regulation, and the proposed rule amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, the District.

Reference

The Board finds that we have authority under state law to adopt amended Regulation XI pursuant to Health and Safety Code Section 39002 which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to Health and Safety Code Section 40702, the Board is required to adopt rules and regulations and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.

Public Comment

Response to Comments

The Board has reviewed the response to comments included in Attachment 4 and hereby approves those responses to comments as findings.

ATTACHMENT 3

PUBLIC COMMENTS ON
PROPOSED AMENDED REGULATION XI,
PUBLIC NOTIFICATION

January 21, 2010

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110
(805) 961-8800

ATTACHMENT 3

PUBLIC COMMENTS PROPOSED AMENDED REGULATION XI, PUBLIC NOTIFICATION

As of January 6, 2010, the District has not received any public comments on this proposed amended regulation.

ATTACHMENT 4

DISTRICT RESPONSE TO
PUBLIC COMMENTS ON
PROPOSED AMENDED REGULATION XI,
PUBLIC NOTIFICATION

January 21, 2010

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

ATTACHMENT 4

DISTRICT RESPONSE TO PUBLIC COMMENTS PROPOSED AMENDED REGULATION XI, PUBLIC NOTIFICATION

As of January 6, 2010, the District has not received any public comments on this proposed amended regulation.

ATTACHMENT 5

PROPOSED AMENDED REGULATION XI,

PUBLIC NOTIFICATION

Rules 1101, 1102, 1103, 1104, 1105
(~~Strikeout~~ and Underline Format)

January 21, 2010

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

RULE 1101. GENERAL. (Adopted 9/15/1980, Revised [date of revised rule adoption])

This Regulation is adopted pursuant to Section 127 of the Federal Clean Air Act, as amended ~~August 1977-1990~~ (the Act). The Act requires that the District adopt a regulation that contains provisions for:

- A. Notifying the public on a regular basis of instances in areas in which any primary National Ambient Air Quality Standard (~~NAAQS~~) was exceeded during any portion of the preceding calendar year;
- B. Advising the public of the health hazards associated with such an exceedance of a primary standard; and
- C. Increasing public awareness of:
 - 1. Measures ~~which that~~ can be taken ~~be taken~~ to prevent ~~thea~~ primary standard from being exceeded; and
 - 2. Ways in which the public can participate in regulatory and other efforts to improve air quality.

RULE 1102. DAILY REPORTING OF AIR QUALITY. (Adopted 9/15/1980, Revised [date of revised rule adoption])

The District ~~will~~

~~A. reports Reports on county air quality in real time on its website, providing information on levels of ozone and particulate matter recorded at county air monitoring stations. to the public the previous day's ambient air quality value for ozone from the State and Local Air Monitoring Stations (SLAMS) which are operated by the District and for which the data is collected on a daily basis.~~

~~AB. The District Maintains on its website charts showing exceedances of air quality standards. will provide prominent public notice of the previous day's air quality value by furnishing the report to one or more of the appropriate news media (radio, television, newspapers) and by making the daily report publicly available to anyone contacting the District's office.~~

~~BC. Reports the air quality values by using the Air Quality Index (AQI) specified in 40 CFR 58.50. The District will report the previous day's air quality value by using the Pollutant Standards Index (PSI) specified in Appendix G of 40 CFR 58.40.~~

~~C. In the event that one or more primary National Ambient Air Quality Standards are violated, the District will report the pollutant exceeding the standard by the greatest amount.~~

~~D. The District will report daily air quality for those SLAMS operated by Air Resources Board as provided to the District.~~

~~E. The primary National Ambient Air Quality Standards for which exceedances will be made available to the public are:~~

~~1. Sulfur oxides (sulfur dioxide) as stated in 40 CFR 50.4(b). This is the 24-hour standard of 365 (0.14 ppm) micrograms per cubic meter.~~

~~2. Particulate matter as stated in 40 CFR 50.6(b). This is the 24-hour standard of 260 micrograms per cubic meter.~~

~~3. Carbon monoxide as stated in 40 CFR 50.8(a). This is the 8-hour standard of 10 milligrams per cubic meter (9 ppm).~~

~~4. Ozone as stated in 40 CFR 50.9. This is the 1-hour daily maximum standard of 240 micrograms per cubic meter (0.12 ppm).~~

RULE 1103. ANNUAL REPORTING. (Adopted 9/15/1980, Revised [date of revised rule adoption])

A. The District ~~will~~ reports annually to the general public any exceedance recorded at District county monitoring stations SLAMS of the following primary National Ambient Air Quality Standards; as described in Title 40 Part 50 of the Code of Federal Regulations.

—Pollutant	—Standard	—Averaging Time	—Reference
Sulfur Oxides (as SO₂)	80 ug/m³ (.03 ppm) 365 ug/m³ (.14 ppm)	Annual Arith. Mean 24 Hours	40 CFR 50.4 (a) 40 CFR 50.4 (b)
Particulate Matter	75 ug/m³ (NA) 260 ug/m³ (NA)	Annual Arith. Mean 24 Hours	40 CFR 50.6 (a) 40 CFR 50.6 (b)
Carbon Monoxide	40 mg/m³ (35 ppm) 10 mg/m³ (9 ppm)	1 Hour 8 Hours	40 CFR 50.8 (b) 40 CFR 50.8 (a)
Ozone	240 ug/m³ (.12 ppm)	1 Hour	40 CFR 50.9
Nitrogen Dioxide	100 ug/m³ (.05 ppm)	Annual Arith. Mean	40 CFR 50.11
Lead	1.5 ug/m³ (NA)	Quarterly	40 CFR 50.12

B. The annual report will be made available on the District's website, and paper copies will be available as requested by included as a portion of the District's fourth quarterly report and shall be distributed to state, county and city agencies, and libraries, high schools, colleges and University libraries, Air Resources Board, Environmental Protection Agency and interested public members and agencies. ~~members of the public.~~

C. In reporting exceedances of primary National Ambient Air Quality Standards in the annual report to the public, the District will provide, for each exceedance, and for each pollutant, the following information:

1. City name or other area designation as appropriate;
2. Site location;
3. Date of exceedance; and,
4. Measured concentrations of the pollutant greater than the standard.

RULE 1104. HEALTH EFFECTS. (Adopted 9/15/1980, Revised [date of revised rule adoption])

The District ~~shall~~will inform the public about health effects associated with poor air quality, using a variety of means, including the District website, media, publications, and outreach through other agencies and organizations. Communication efforts may include conveying information about days when air quality exceeded health-based standards, and also information about days when air quality is poor in localized areas due to specific events, for example, smoke from wildfires drifting into the area.
~~, via the District's Quarterly Report, of the availability of information on health effects associated with exceedances of the NAAQS.~~

RULE 1105. PUBLIC AWARENESS AND INVOLVEMENT. (Adopted 9/15/1980, Revised [date of revised rule adoption])

The District provides information to the public in a variety of ways to enhance awareness of air quality and public health issues, increase knowledge of air pollution control techniques, and help the public participate in regulatory and other efforts to improve air quality.

The District:

- A. Maintains a public website with documents, rules, Board agendas, and other informational materials available for access and download.
- B. Publishes legal notices informing the public of upcoming public hearings, workshops, and opportunities for public input.
- C. Issues news releases announcing important developments. District staff are available to the public via phone and email, the media, forums and community events, and publications to involve the public in ongoing efforts to improve air quality.

~~In order to enhance the public's awareness of air quality and public health relationships, air pollution control techniques, and ways in which the public can participate in regulatory and other efforts to improve the air quality, the District will:~~

- ~~A. Provide information to the public via the District's Quarterly Report;~~
- ~~B. Publish prominent public notice in the news media of the District's regulatory actions;~~
- ~~C. Make itself available to the public via public forums, the news media, etc., to involve the public in the District's on-going efforts to improve air quality.~~

APPROVED AS TO FORM:

DENNIS MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____
Deputy
Attorneys for the Santa Barbara
Air Pollution Control District

ATTACHMENT 6

CEQA NOTICE OF EXEMPTION

FOR

PROPOSED AMENDED REGULATION XI,
PUBLIC NOTIFICATION

Rules 1101, 1102, 1103, 1104, 1105

January 21, 2010

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

NOTICE OF EXEMPTION

TO: Clerk of the Board
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

FROM: Santa Barbara County
Air Pollution Control District
260 N. San Antonio Rd, Suite A
Santa Barbara, CA 93110

Project I.D.: Revision to Air Pollution Control District (District) Regulation XI, Public Notification - Rules 1101-1105

Project Title: Revision to District Regulation XI – Amended/Updated Public Notification Procedures

Location: Santa Barbara County, California

Project Description: The project consists of an amendment to the District Regulation XI, Public Notification (Rules 1101 through 1105). This Public Notification Regulation (XI), created and adopted in 1980, is being amended and updated for the following reasons:

1. The advent of electronic media – The methods in which we communicate effectively with the public have changed significantly since this regulation was approved (September 15, 1980). Revisions incorporate our current communication practices.
2. Outdated information – Specifically, the Air Quality Standards listed in the existing rule have been revised and need to be updated.

These proposed amendments to this regulation will bring it current.

Exempt Status: (Check One)

- Ministerial (Section 21080 (b)(1); 15268)
 Declared Emergency (Section 21080(b)(3); 15269(a))
 Emergency Project (Section 21080(b)(4); 15269(b)(c))
 Categorical Exemption
CEQA Section(s):
 Statutory Exemption
Code Number(s):
 General Exemption under CEQA Section 15061(b)(3)

Reasons Why Project is Exempt: This is an administrative change and will not affect emissions in Santa Barbara County. The project is an action taken by the District for public notification and the protection of the environment and does not involve any physical changes to the environment. There will be no relaxation of standards, and no cross-media impacts will result.

Contact Person: Molly Pearson

Telephone: (805) 961-8838

Bobbie Bratz
Technology and Environmental Assessment Division

Date: January 21, 2010

Clerk of the Board Date and Time Stamp

Terry Dressler
Air Pollution Control Officer