

BOARD MEETING DATE: January 9, 2009

AGENDA NO.

PROPOSAL: Set Hearing February 6, 2009 to Amend Rule 2701 – SoCal Climate Solutions Exchange

SYNOPSIS: Rule 2701 - SoCal Climate Solutions Exchange was adopted at the December 5, 2008 Board meeting. The Board directed staff to evaluate the potential environmental justice impacts, if any, relative to the Manure Management Project Protocol prior to adding it to the list of approved protocols under the District's greenhouse gas reduction program. Staff recommends inclusion of the Manure Management Project Protocol with some local requirements to the list of approved greenhouse gas emission reduction protocols in Rule 2701.

COMMITTEE: Review: Climate Change Committee, January 16, 2009

RECOMMENDED ACTION:

Set Public Hearing for Proposed Amended Rule 2701 – SoCal Climate Solutions Exchange

Barry R. Wallerstein, D.Env.
Executive Officer

EC:JW

Background

This Board letter serves as the staff report for proposed amendments to Rule 2701 – SoCal Climate Solutions Exchange. This rule was adopted by the Governing Board at the December Governing Board meeting. Concerns were expressed

regarding potential environmental justice issues related to implementation of the manure management protocol. This proposal would add restrictions for local projects that would fall under this rule for the manure management protocol.

The objectives of the SoCal Climate Solutions Exchange are to provide high quality certified greenhouse gas emission reductions that enhance the local economy and capture needed co-benefits for Southern California as businesses achieve voluntary reductions. The SoCal Climate Solutions Exchange can assist in providing a mechanism to recognize and quantify voluntary early reductions. A local program operated by AQMD can ensure that reductions are real, additional (surplus), quantifiable, verifiable, permanent over a specific time, and enforceable. This will be of great value to facilities that need reductions for CEQA or other environmental mitigation.

Proposed Amendments

The SoCal Climate Solutions Exchange is a voluntary program where facilities in the AQMD could undertake projects to voluntarily reduce greenhouse gas emissions in advance of, or in the absence of, any regulatory requirement. The manure management protocol provides guidance to account for and report GHG reductions from the installation of a manure biogas control system for livestock operations. The protocol focuses upon quantifying the GHG reduction from converting methane emissions into carbon dioxide based upon a determination that methane is 21 times as potent as carbon dioxide in its global warming potential. The effects of other carbon dioxide emissions such as support equipment are also considered. Under this protocol captured methane used to produce electricity for the grid would be considered a complementary and separate GHG reduction.

Staff is proposing that if a project is located in an environmental justice area, any equipment would be located greater than a quarter mile (1,320ft, 400m) of any sensitive receptors. A sensitive receptor means any residence including private homes, condominiums, apartments, and living quarters; education resources such as preschools and kindergarten through grade twelve (k-12) schools; daycare centers; and health care facilities such as hospitals or retirement and nursing homes. A sensitive receptor also includes long term care hospitals, hospices, prisons, and dormitories or similar live-in housing. This distance is recommended in land use guidance criteria for new school sites as a conservative distance to protect health of students from agricultural and stationary source emissions. The land use guidance criteria recommended this distance from the review of documents addressing appropriate minimum distances between sensitive receptors and sources.

Environmental justice areas for the District have two components – poverty level and air quality. An environmental justice area has 10 percent or more of the

population below the federal poverty level and the top 15 percent particulate exposures or more than 1,000 in a million cancer risk. Data from the Multiple Air Toxic Exposure Study (MATES III) is being used to update the map for the District, and this will be used for the local requirements for the manure management protocol. Sensitive receptors include schools, public and private (kindergarten through grade 12), licensed daycare centers, hospitals, and convalescent homes.

Public Process

Staff will host a meeting with community and environmental representatives in January, including groups that testified at the December public hearing, to discuss their concerns and the proposed amendments.

Key Issues

Staff believes that the additional proposed amendments will address the potential environmental justice concerns related to this specific protocol. There are some groups that remain fundamentally opposed to any emission trading or offsets for climate change.

CEQA

The proposed project has no potential to adversely impact air quality or any other environmental area. Proposed Amended Rule 2701 is administrative in nature and adds local restrictions for projects under the manure management protocol that wish to have District staff certify the emission reductions. A Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties immediately following the adoption of the proposed project.

Socioeconomic Analysis

Participation in Rule 2701 is voluntary, and there are no negative socioeconomic impacts expected from the amendments. Since this rule does not significantly affect air quality or emissions limitations, the law does not require a socioeconomic assessment.

AQMP and Legal Mandates

There are no AQMP or legal mandates that require adoption of these rules, however staff anticipates that many of the greenhouse gas emission reduction projects will have concurrent air pollution benefits.

Draft Findings

Health and Safety Code Section 40727 requires the SCAQMD to adopt written findings of necessity, authority, clarity, consistency, non-duplication and reference.

Necessity

A need exists to adopt the amendment to Proposed Rule 2701 to provide protection from any adverse impacts in environmental justice areas from the manure management protocol, and to add the manure management protocol to Table 1, the list of approved protocols.

Authority

The SCAQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from California Health & Safety Code Sections 40000, 40001, 40702, and 40725 through 40728, inclusive.

Clarity

The proposed rule has been written or displayed so that its meaning can be easily understood by persons directly affected by them.

Consistency

The proposed rule is in harmony with and not in conflict with or contrary to, existing statutes, court decisions or state or federal regulations.

Non-Duplication

The proposed rule does not impose the same requirements as any state or federal regulations. The adoption is necessary and proper to execute the powers and duties granted to SCAQMD.

Reference

By adopting the proposed rule, the SCAQMD Governing Board will be implementing, interpreting, and making specific the provisions of the California Health & Safety Code 40000 (District's primary authority to regulate air pollutants from non-vehicular sources) Section 40001 (rules to achieve ambient air quality standards) and 38562 (CARB rules including market-based rules to reduce greenhouse gases.)

Alternative Control Measures

Health and Safety Code Section 40440.5, subsection (c)(3) requires an analysis of alternative control measures. The analysis of alternative control measures is not applicable to Rule 2701 because the rule does not significantly affect air quality or emissions limitations.

Comparative Analysis

Health and Safety Code §§40727.2 requires a written analysis comparing a proposed rule or amendment with existing federal, State and District regulations.

Health and Safety Code §§40727.2, subsection (c) and (d) further require the analysis to review averaging provisions, operating parameters, work practice requirements, and monitoring, reporting and recordkeeping requirements associated with existing applicable rules and proposed regulations. This requirement is not applicable to Rule 2701 because the rule does not impose a new emissions limit, make an existing limit more stringent, or impose new or more stringent monitoring, recordkeeping, or reporting requirements.

Resource Impacts

Existing resources should be sufficient to implement this rule.

Attachments

- A. Rule Language