Public Hearing – September 12, 2006
Ventura County Air Pollution Control District
Proposed Amendments to APCD Rule 33 – Part 70 Permits, and Rule 76, Federally Enforceable Limits on Potential to Emit

BACKGROUND

Title V of the federal Clean Air Act (42 U.S.C. § 7661 et seq.) requires state and local air agencies to develop and implement federal operating permitting programs for "major sources" of air pollution. United States Environmental Protection Agency (EPA) rules codified in Part 70 of Title 40 of the Code of Federal Regulations specify the minimum elements of such a permitting program. Rules 33 and 76 are components of the Ventura County APCD's federal operating permits program.

The following sources are required to have federal operating permits: Any stationary source, or group of stationary sources located in a contiguous area and under common control with a potential to emit that equals or exceeds the following thresholds:

- 100 tons per year of any regulated air pollutant. Regulated air pollutants include the following:
  - Nitrogen oxides (NOx)
  - Reactive Organic Compounds (ROC)
  - Carbon Monoxide (CO)
  - Sulfur Oxides (SOx)
  - Particulate Matter (PM10)
- 10 tons per year of any EPA hazardous air pollutant;
- 25 tons per year of any combination of EPA hazardous air pollutants; or
- A lesser quantity, as established by regulations promulgated by the Administrator of the EPA, of any EPA hazardous air pollutant.
- Any stationary source in a source category required to obtain a Part 70 permit pursuant to regulations promulgated by the Administrator of the EPA.
- Any acid rain source.
- Any solid waste incineration unit required to obtain a Part 70 permit pursuant to Section 129(e) of the federal Clean Air Act.

Some of the above thresholds are replaced with lower thresholds in areas that are not in attainment of federal ambient air quality standards. For ozone nonattainment areas, the lower thresholds in Table 1 apply. For CO and PM10 nonattainment areas, the lower thresholds in Table 2 apply.

Table 1 - Major Source Thresholds
For Federal Ozone Nonattainment Areas

Nonattainment Classification	Tons per Year ROC or NOx
Marginal and Moderate	100
Serious	50
Severe	25
Extreme	10

Table 2 - Major Source Thresholds
For Federal CO and PM10 Nonattainment Areas

Nonattainment Classification	Tons per Year CO	Tons per Year PM10
Serious	50	70

Because Ventura County was classified as a Severe nonattainment area for the 1-hour ozone standard when Rules 33 & 76 were adopted in 1993 and 1995 respectively, the rules were crafted to apply to sources with a potential to emit 25 tons per year of ozone precursors (ROC or NOx). Effective June 15, 2004, EPA classified Ventura County to be a Moderate nonattainment area for the federal 8-hour ozone standard (69 FR 23889, April 30, 2004). However, the District continued to also be classified as a Severe ozone nonattainment area until June 30, 2005, when the 1–hour standard was formally rescinded.

California Health and Safety Code section 42301.12(a)(1) requires that air districts' Title V rules be not more stringent than the federal requirements: *42301.12 (a) Any district permit system or permit provision established by a district board to meet the requirements of Title V shall, consistent with federal law, minimize the regulatory burden on Title V sources and the district and shall meet all of the following criteria:*
(1) Apply only to Title V sources

Therefore the District's Title V related rules must be amended to be consistent with the District's new

attainment status. As a result of this amendment, some sources will no longer be considered federal major sources and may revert to state and local air quality permitting requirements. However, any source having a potential to emit 100 tons per year of any pollutant (even though "permitted emissions" are below 100 tons per year) must continue to maintain its federal operating permit.

Staff is also proposing minor amendments to Rules 33, 33.1 and 33.9 to update the rules in conformance with notices published by EPA in the Federal Register on 6/27/03 (68 FR 38518) and 11/29/05 (70 FR 71690). These District Rule amendments are intended to codify existing federal requirements already being implemented by the District.

Rule 76 establishes optional emission limits that, when complied with, give owners and/or operators of smaller sources a simple way to demonstrate that they are not subject to the federal permitting program. The emission limits are based on a fraction of the applicable major source thresholds set out in the Tables above. The proposed amendments to Rule 76 will make it consistent with the District's new attainment status by adjusting those thresholds. Rule 76 amendments may also allow source owners and/or operators who have opted for a "synthetic minor" source designation pursuant to Rule 35, to instead avoid Title V requirements by complying with the provisions in amended Rule 76.

PROPOSED RULE AMENDMENTS

Rule 33, Section A is amended by deleting obsolete language.

Rule 33, Section Subdivision B.2 is amended by updating the major source thresholds for Ventura County's reclassified ozone nonattainment area status. The existing version of this language is applicable only for a Severe ozone nonattainment area. Given the fact that state law specifies that an air district's Title V rules shall not be more stringent than the federal permitting requirements and that Ventura County has been reclassified as a Moderate ozone nonattainment area, this section must be amended. It is possible that APCD planning strategy would result in Ventura County being reclassified again in the not-too-distant future to either a Serious or Severe nonattainment area. Therefore, to avoid unnecessary and time consuming future rule amendments, the proposed new rule language lists the different major source thresholds for each of the possible ozone nonattainment classifications under the federal Clean Air Act. Any near-future reclassification of the County's ozone nonattainment classification would likely be associated with approval of the District's revised federal ozone attainment which must be submitted to EPA by June 15, 2007. Further out in the future, nonattainment area reclassification may be a possibility as a result of the District failing to meet a future national ambient air quality standard attainment deadline (6/15/2010 for moderate ozone nonattainment areas, 6/15/2013 for serious ozone nonattainment areas, or 6/15/2019 for severe-15 areas).

Rule 33 Subdivision B.7 is added to address the remote possibility that Ventura County could be reclassified as a federal nonattainment area for PM10 or CO.

Rule 33 Subdivision B.8 is added at the direction of EPA to codify that sources required to have a permit pursuant to part C or Part D of Title 1 of the federal Clean Air Act must continue to maintain a federal operating permit, irrespective of the major source thresholds. These sources include sources that were ever subject to review under the federal New Source Review (NSR) program or the federal Prevention of Significant Deterioration (PSD) program.

Rule 33.1 is revised by adding definitions of the terms "Exceedance" and "Excursion." These terms are used in the new language proposed to be added to Rule 33.3. The definitions are modified versions of the federal definitions of these terms found in 40 CFR Part 64, Compliance Assurance Monitoring. The definitions are slightly modified for consistency with the District's approved federal operating permit program.

Rule 33.3 Subdivision A.10 is added. It states that the required elements of compliance certifications must be specified in each federal operating permit. EPA rulemaking published on June 27, 2003 (68 FR 38518) requires this language to be codified in the District's regulation. These requirements already exist in the District's approved federal operating permit program.

Rule 76, Subdivision A.3 is obsolete and is deleted.

Rule 76, Sub-paragraph B.1.a.2) is amended in a manner similar to the amendment to Subdivision B.2 of Rule 33, except in the existing context of this section, the table must list 50 percent of the federal major source thresholds for ozone precursors.

Rule 76, Sub-paragraph E.1.f.1) is also amended to account for the multiple possible attainment / nonattainment classifications that could take effect in the District.

Rule 76, Paragraph G.7.b. is amended in a manner similar to the amendment to Section B.2 of Rule 33.

Socioeconomic Impacts, Cost-Effectiveness, and CEQA

SOCIOECONOMIC IMPACTS

California Health and Safety Code Section 40728.5 requires the APCD Board to consider the socioeconomic impacts of the adoption, amendment, or repeal of any rule that will significantly affect air quality or emissions limitations. This section does not apply to the proposed amendments to Rules 33, 33.1, 33.3 and 76, as the revisions do not significantly affect air quality or emissions limitations. The rules are administrative and do not require reductions of air pollution.

COST-EFFECTIVENESS

California Health and Safety Code Section 40703 requires the District, in adopting a regulation, to consider and make public its findings related to cost-effectiveness of control measures. This section does not apply as it does not adopt or revise a control measure.

WRITTEN ANALYSIS

California Health and Safety Code Section 40727.2 requires the District to prepare a written analysis identifying all federal air pollution control requirements that apply to the same equipment or source type as the rule or regulation proposed for modification by the district. This requirement is satisfied pursuant to Section 40727.2(g), as the proposed amendments do not impose new or more stringent emission limits, standards, or reporting requirements on existing sources.

CEQA

The proposed revisions are exempt from CEQA under section 15061(b) (3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that these changes may have a significant effect on the environment.