MINUTES OF THE GOVERNING BOARD
OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
LANCASTER, CALIFORNIA

AGENDA ITEM 8

DATE: June 20, 2006

RECOMMENDATION: 1. Open continued public hearing to consider the amendment of Regulation XIII – *New Source Review* (Specifically Rules 1302 – *Procedure* and 1305 – *Emissions Offsets*) and the adoption of new Rule 1310 – *Federal Major Facilities and Federal Major Modificaitons* and 2. Continue Hearing to August 15, 2006.

SUMMARY: Regulation XIII is proposed for amendment to comply with the requirements of 40 CFR 51.165 and Health & Safety Code §§42500 et seq. The AVAQMD has received comments which require a substantive changes to the proposed amendments therefore the hearing should be continued.

BACKGROUND: On December 31, 2002 the U.S. Environmental Protection Agency (USEPA) promulgated final changes to the requirements for New Source Review (NSR) in Federal nonattainment areas (67 FR 80187). These regulations were immediately challenged by a variety of industry, government and environmental petitioners. The cases were consolidated under State of New York et. al. vs. US Environmental Protection Agency (D.C. Circuit Case #02-1387). On June 24, 2005 the Court issued an opinion affirming various portions of the regulations and invalidating others. A request for reconsideration was filed with and granted by the court. A stay has not been granted as a part of the reconsideration, therefore, the affirmed provisions of the regulation remain in force.

The new federal regulations require that State and Local agencies which contain areas that have been designated nonattainment for any regulated air pollutant submit minimum program elements to comply with the changed regulations on or before January 2, 2006. Since the AVAQMD is designated nonattinment for ozone and classified moderate under the new 8 hour ozone standard the AVAQMD must submit a revised NSR program to USEPA.

In 2003 the California Legislature enacted the Protect California Air Act of 2003 (Health & Safety Code §§42500 et seq). In short, this legislation required the retention of NSR requirements that are at least as stringent as those in place as of December 30, 2002 and prohibits changes to certain NSR requirements unless specific findings are made.

Cc: Karen Nowak

I, CRYSTAL BATES, DEPUTY CLERK OF THE GOVERNING BOARD OF THE ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT, HEREBY CERTIFY THE FOREGOING TO BE A FULL, TRUE AND CORRECT COPY OF THE RECORD OF THE ACTION AS THE SAME APPEARS IN THE OFFICIAL MINUTES OF SAID GOVERNING BOARD MEETING

Crystal Bates DEPUTY CLERK OF THE BOARD
ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT.

In response to both the new Federal regulations and Health & Safety Code (H&S Code) §§42500 et. seq the AVAQMD has developed amendments to Regulation XIII which will comply with both the Federal regulation and state law. The proposed amendments bifurcate the NSR program into a State NSR and a Federal NSR portion. All of the current requirements for State NSR are retained with the exception of two requirements which were solely Federal in nature. The new Federal NSR portion is primarily contained in proposed Rule 1310 and implements the requirements of the Federal regulations. Changes are proposed to Rule 1302 to implement the Federal analysis requirements. Please note that changes will be proposed to Rule 1401 in a separate action to conform various cross references to proposed changed citations in Rule 1302.

The net result of the proposed amendments will be that any new facility or modification to a facility will initially be analyzed to determine its emissions change under the State NSR thresholds. Best Available Control Technology and/or Offsets may be required if the emissions are greater than the applicable thresholds found in current Rule 1303. Any modification to a facility requiring BACT and/or Offsets under State NSR will also be analyzed under the Federal NSR requirements in proposed Rule 1310 to determine if an alternative site analysis and a certification of statewide compliance are necessary. This Federal analysis will use the new Federal Significance thresholds and the new calculation procedures found the Federal regulation. In addition, the proposed amendments allow a Federal Major Facility to apply for and receive a Plant-wide Applicability Limit (PAL). A PAL, when implemented, would exempt the Federal Major Facility from further Federal NSR requirements so long as a proposed modification remained under the PAL limit. Please note however that a facility with a PAL would still remain subject to the applicable State NSR requirements.

A Notice of Exemption, Categorical Exemption (Class8; 14 Cal. Code Reg. §15308) will be prepared by the AVAQMD for the amendment of Regulation XIII pursuant to the requirements of CEQA.

REASON FOR RECOMMENDATION: Health & Safety Code §§40702 and 40703 require the Governing Board to hold a public hearing before adopting rules and regulation. Also, 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing.

REVIEW BY OTHERS: This item was reviewed as to legal form by Karen Nowak, Deputy District Counsel and by Eldon Heaston, Executive Director on June 5, 2006.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Bret Banks, Operations Manager

ACTION OF THE GOVERNING BOARD
CONTINUED TO AUGUST 15, 2006

Ayes:	**5**	**MCCOY, HEARNS, SMITH, DISPENZA, LEDFORD**
Noes:		
Absent:	**1**	**LAWSON**
Abstain:		
Vacant:		

CRYSTAL BATES, DEPUTY CLERK OF THE GOVERNING BOARD
BY_____
Dated: June 20, 2006