



Air Pollution Control District Governing Board

San Diego County Air Pollution Control District

AGENDA ITEM #F.3

DATE: October 12, 2023

TO: San Diego County Air Pollution Control District Governing Board

SUBJECT:

NOTICED PUBLIC HEARING: ADOPTION OF AMENDMENTS TO RULE 1415 - PERMIT PROCESS-PUBLIC NOTIFICATION

REQUESTED ACTION:

1. Find that the adoption of the proposed amended Rule 1415 – Permit Process-Public Notification is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, and pursuant to Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
2. Adopt the Resolution entitled: RESOLUTION ADOPTING AMENDED RULE 1415 – PERMIT PROCESS-PUBLIC NOTIFICATION, OF REGULATION XIV OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.
3. Direct the Air Pollution Control Officer to forward a copy of this Resolution and amended Rule 1415 to the California Air Resources Board (CARB) for approval and subsequent submittal to the U.S. Environmental Protection Agency (EPA) for approval as a revision to the Title V program.

OVERVIEW:

The San Diego County Air Pollution Control District (District) Title V permitting program is mandated by Title V of the federal Clean Air Act. It requires certain industrial facilities that are either “major stationary sources” of regulated air pollutants or that are commercial electrical generating facilities to obtain a single operating permit (Title V Permit) which consolidates and lists all applicable requirements for that facility. The Title V permitting program does not require any additional air pollution controls beyond the requirements of existing local permits, but it provides for enhanced monitoring, enforceability, public participation, and EPA review. Rule 1415 – Permit Process-Public Notification is an administrative rule that specifically governs the mandatory public notification requirements for Title V permits. More specifically, Rule 1415 describes the public, affected states, and federal noticing requirements of the District’s Regulation XIV Title V permitting program.

Since 1994, Rule 1415 has undergone several updates, and was last amended by the Air Pollution

Control Board on June 26, 2019. The amended Rule was subsequently approved by CARB and submitted to EPA on August 19, 2019. Though the amended rule met all applicable federal requirements at the time (2019), subsequent changes were made to the federal notification requirements in the Title V program prior to review and approval by EPA. Consequently, the District withdrew the submittal to EPA on December 13, 2022, and agreed to submit it once again when amendments were completed. The District is now proposing amendments to Rule 1415 again, to ensure Rule 1415 adheres to these new federal requirements.

To address feedback received by EPA, the District is proposing to amend Rule 1415 Sections (a), (c), and (d), to specify that in addition to posting a draft of the proposed Title V permit, a published draft of the Statement of Basis (SB) must also be electronically available for review and comment by the public, affected states, and federal agencies. An SB is prepared by a District permit engineer to explain to EPA, the permit applicant, and the public of the legal and factual basis of the permit decision including the permits the District has previously evaluated and approved, and why the source is subject to Title V requirements. The SB must also demonstrate that existing and new Title V facilities meet applicable federal requirements. The SB is a document that is currently part of the District's existing permitting procedure and has been published online and provided to EPA with each relevant permit action; however, EPA has requested that the rule be modified to explicitly state this requirement. The proposed amendments to Rule 1415 also would remove the prior federal requirement for newspaper notices and replace it with an electronic public notification system, as is now allowed. Additionally, the District is proposing to clarify existing procedures for publishing a list of new applications in the Title V program, as well as recordkeeping requirements described in Sections (g) and (j).

If approved by the Governing Board, amended Rule 1415 will be submitted through CARB to the EPA for approval as part of the Title V permitting program. The proposed amendments to Rule 1415 are administrative in nature and will take effect upon approval by the EPA. The proposed amendments to Rule 1415 will not have any emissions impact, as this is an administrative rule designed to implement the public notification process and procedures outlined in federal requirements of the Title V permitting program. However, the proposed amendments will ensure the rule reflects current District practices, streamline existing District notification procedures, and meet all applicable federal requirements.

FISCAL IMPACT:

There is no fiscal impact associated with these requested actions.

ENVIRONMENTAL STATEMENT:

California Environmental Quality Act (CEQA) requires environmental review of certain actions. District staff conducted a review of whether CEQA applies to the adoption of proposed amendments to Rule 1415. The proposed rule will not result in greater air pollutant emissions from existing, new, or modified stationary sources in San Diego County. Therefore, District staff determined that adoption of proposed amendments to Rule 1415 is exempt from the provisions of CEQA pursuant to California

Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, and pursuant to Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse effect on the environment.

PREVIOUS RELEVANT BOARD ACTIONS:

June 26, 2019 (Item #1), NOTICED PUBLIC HEARING: ADOPTION OF PROPOSED AMENDMENTS TO RULES 20.1, 20.2, 20.3 AND 20.4 (NEW SOURCE REVIEW); RULE 26.0 (EMISSION REDUCTION CREDITS); AND 1415 (PERMIT PROCESS-PUBLIC NOTIFICATION)

PUBLIC ENGAGEMENT AND OUTREACH:

A public notice regarding the proposed amendments was posted in a local newspaper, on the District's website, and sent via email and US Mail to approximately 102 recipients including each potentially affected facility and chamber of commerce in the region. The public notice was also sent to over 10,000 subscribers to the District's email notification service, CARB, and the EPA.

The District invited and encouraged the public to participate and provide input regarding amendments to Rule 1415 during a 30-day comment period. The District did not receive any comments (see Attachment C). Additionally, a public notice regarding today's hearing was posted in a local newspaper, on the District's website, and sent to subscribers of the District's email notification service, CARB, and the EPA.

EQUITY IMPACT STATEMENT

Today's action supports the District's commitment to integrating environmental justice and equity in District's operations, policies, and regulations through its adopted Public Participation Plan, by ensuring that communities near large polluting sources are informed of any new or modified facilities, provided with supporting permit information, and are given the opportunity to provide input.

RECOMMENDED BY:

Michael Watt, Deputy Director

CONTACT PERSON(S):

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ATTACHMENTS:

[Item F3_AttA_Rule 1415 Resolution.pdf](#)

[Item F3_AttB_Rule 1415 Staff Report.pdf](#)

[Item F3_AttC_Rule 1415 Response to Comments Report.pdf](#)

[Item F3_AttD_Rule 1415 Change Copy.pdf](#)

Resolution No: 23-008
Meeting Date: 10/12/2023

**RESOLUTION ADOPTING AMENDED RULE 1415 – PERMIT PROCESS-
PUBLIC NOTIFICATION, OF REGULATION XIV
OF THE RULES AND REGULATIONS OF THE
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT**

On motion of Member Medina, seconded by Member Sanchez, the following resolution is adopted:

WHEREAS, the San Diego County Air Pollution Control District Governing Board (Governing Board), pursuant to Section 40702 of the California Health and Safety Code, adopted Rules and Regulations of the San Diego County Air Pollution Control District (District); and

WHEREAS, said Governing Board now desires to amend said Rules and Regulations; and

WHEREAS, notice has been given and a public hearing has been held relating to the amendments of said Rules and Regulations pursuant to Section 40725 of the California Health and Safety Code and Section 51.102 of Title 40 of the Code of Federal Regulations; and

WHEREAS, pursuant to Section 40727 of the California Health and Safety Code, the Governing Board makes the following findings:

- (1) (Necessity) The adoption of proposed amended Rule 1415 is necessary in order to be consistent with federal requirements, update the public notice system, and clarify recordkeeping requirements for the Title V permitting program of the San Diego County Air Pollution Control District;
- (2) (Authority) The adoption of proposed amendments to Rule 1415 is authorized by Section 40702 of the California Health and Safety Code;
- (3) (Clarity) Proposed amended Rule 1415 can be easily understood by persons directly affected by it;
- (4) (Consistency) The adoption of proposed amended Rule 1415 is in harmony with, and not in conflict with or contrary to, existing statutes, court decisions, and state and federal regulations;
- (5) (Non-duplication) The adoption of proposed amended Rule 1415 does not impose the same requirements as an existing, District, state or federal regulation unless the District finds that the requirements are necessary or proper to execute the power and duties granted to, and imposed upon, the District;

- (6) (Reference) The adoption of proposed amended Rule 1415 is necessary to comply with federal law, Title 40, Sections 64 and 70 of the Code of Federal Regulations; and

WHEREAS, the Governing Board further finds pursuant to the California Health and Safety Code Section 40001 that adoption of proposed amended Rule 1415 will facilitate the attainment and maintenance of ambient air quality standards; and

WHEREAS, the Governing Board further finds that supporting documentation for proposed amended Rule 1415, including but not limited to the Final Staff Report, was presented to the Governing Board and the Governing Board has reviewed and considered this information, as well as considered staff testimony and public comment prior to approving the proposed amendments; and

WHEREAS, the Governing Board further finds that an analysis comparing proposed amended Rule 1415 with applicable requirements of federal and local regulations (“Comparative Analysis”) is not required pursuant to Section 40727.2 of the California Health and Safety Code because the proposed amendments do not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements; and

WHEREAS, the Governing Board further finds that a cost-effectiveness analysis pursuant to Section 40920.6(a) of the California Health and Safety Code is not required for proposed amended Rule 1415; and

WHEREAS, the Governing Board further finds that an assessment of the socioeconomic impacts of the proposed amended Rule 1415 is not required pursuant to Section 40728.5(a) of the California Health and Safety Code, as the proposed amendments will not significantly affect air quality or emissions limitations; and

WHEREAS, the Governing Board further finds that the adoption of proposed amended Rule 1415 is categorically exempt from the provision of the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, where the regulatory process involves procedures for protection of the environment, and Section 15061(b)(3) since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

WHEREAS, proposed amended Rule 1415 meets the requirements of Title 40, Sections 64 and 70 of the Code of Federal Regulations, and will be submitted to the U.S. Environmental Protection Agency (EPA) through the California Air Resources Board (CARB) for inclusion in the San Diego County Air Pollution Control District Title V permitting program.

NOW THEREFORE IT IS RESOLVED AND ORDERED by the San Diego County Air Pollution Control Governing Board that the Rules and Regulations of the San Diego County Air Pollution Control District be, and hereby are amended as follows:

1. Proposed amended Rule 1415 is to read as follows:

RULE 1415. PERMIT PROCESS-PUBLIC NOTIFICATION

(Adopted 1/18/94; Revised 3/7/95)

(Rev. 5/23/01; Eff. 12/31/01)

(Rev. 8/13/03; Eff. 2/27/04)

(Rev. Adopted *(date of adoption)*; Effective *(date of EPA approval)*)

(a) PUBLIC NOTICE

At least 30 days prior to issuance of a five year initial permit to operate subject to this regulation, a revised permit resulting from an application for significant modification or renewal of such a permit, the Air Pollution Control Officer shall publicly notice and make available a draft of the proposed permit and Statement of Basis (SB) for public and affected state review and comment as follows:

(1) Posting a notice of intent to issue a permit to operate, along with a draft of the proposed permit and SB, on the public notice section of the Air Pollution Control District's web site, for the duration of the public comment period, that includes the comment period duration and dates.

(2) Notification to all persons requesting to be included in a mailing list for purposes of notification of all permit actions.

(3) By other means if determined necessary by the Air Pollution Control Officer to assure adequate notice to the affected public.

(4) Availability of a copy of the draft proposed permit and SB for public review at the Air Pollution Control District offices.

(b) PUBLIC HEARINGS

Pursuant to any petition from the public as a result of public notice, the Air Pollution Control Officer shall, with reasonable cause, hold a public hearing to receive comments regarding initial issuance, modification, or renewal of a permit to operate. All public hearings shall be preceded by issuance of a public notice containing all information specified in Section (d) of this rule at least 30 days prior to the public hearing.

(c) NOTICE TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prior to issuance of a five year initial permit to operate subject to this regulation, or significant modification or renewal of such a permit, a draft of the proposed permit, and SB shall be made available to the federal EPA, Region IX, for their 45-day review period to comment on the proposed permit. In the event a proposed permit to operate issuance or renewal is substantively changed after submittal to federal EPA, such changes shall be resubmitted to federal EPA. An additional 45 days shall be provided for federal EPA review and comment

regarding the changes. The federal EPA shall be provided with a copy of the final permit with supporting analysis used as a basis for permit issuance.

The Air Pollution Control Officer shall not issue a permit to operate required by this regulation if the Administrator of the federal EPA objects, within the specified review period, to such issuance. In such case, a permit to operate shall not be issued by the Air Pollution Control Officer except in a form consistent with the objection, or after the Administrator withdraws the objection.

(d) CONTENTS OF PUBLIC NOTICE

Notice to the public shall:

- (1) Identify the affected facility by name and address;
- (2) Provide the name and address of the District processing the permit;
- (3) Identify the activity or activities involved in the proposed permit action;
- (4) Identify the emissions change involved in any modification;
- (5) Any additional information, as determined by the APCO, that ensures the notice is meaningful, relevant, and understandable to the public;
- (6) Identify the name, telephone number and address of the person who can provide additional information including:
 - (i) a copy of the proposed permit draft;
 - (ii) a copy of the SB;
 - (iii) the permit application; and
 - (iv) all relevant supporting materials available to the Air Pollution Control Officer.
- (7) Describe procedures for providing comments;
- (8) Include the time and place of any hearing, if already scheduled, or the procedures for petitioning for a hearing; and
- (9) Identify the scope of the permit review and identify areas that are appropriate for public comment.

(e) COORDINATED PROCESSING OF RELATED PERMITS

The District shall endeavor to issue a single public notice, to hold a single public hearing (if a hearing is necessary), and to coordinate notice to the federal EPA for any group of permits for similar sources that raises similar issues.

(f) EXCEPTIONS

The public notice requirements of this rule shall not apply to minor modifications and administrative amendments.

(g) NEW APPLICATION LISTS

Permit applications received will be posted in the District office or on the District's website for public review. Copies of the applications can also be provided to any person or interested group who requests a copy in writing.

(h) CONSIDERATION OF COMMENTS

(1) Comments that are relevant to the permit review and areas appropriate for public comment identified pursuant to Subsection (d)(8) of this rule shall be considered and responded to by the District in the review of an application for permit.

(2) The Air Pollution Control Officer shall provide a written response, including reasons for not accepting comments and recommendations for a proposed permit, to persons or agencies that submitted written comments which are postmarked or otherwise submitted by the close of the public notice and comment period. All written comments and responses to such comments shall be kept on file at the District office and made available upon request.

(i) COPIES OF PERMIT ACTION

Upon issuance of an Authority to Construct, Temporary Authorization, Permit to Operate, or a revised Permit to Operate, the Air Pollution Control Officer shall mail a copy of such action to any person or interested group who has requested a copy in writing.

(j) PUBLIC INSPECTION

(1) The permit file will be open to public inspection to the extent required by District Rules and Regulations, and state and federal law.

(2) The District shall retain all records listed in subsections (d)(5)(i) through (d)(5)(iv) of this rule in electronic and/or hardcopy format for at least five calendar years from the date of permit approval by the District and made available to the public, affected State, and EPA upon request.

(k) **TRADE SECRETS**

Nothing in this regulation shall require or authorize the Air Pollution Control Officer to release to the public or the federal EPA any information which has been labeled as "trade secret" by the person furnishing such information except as provided in Regulation IX and 40 CFR Section 70.4 (b)(3)(viii). However, the Air Pollution Control Officer will provide the federal EPA with notice of which specific trade secret information has been withheld.

(l) **ACTION ON APPLICATIONS**

Notwithstanding the requirements of Sections (a) through (k) of this rule, the Air Pollution Control Officer shall take final permit action on an application for an initial permit, a revised permit, or a reopening of a permit within the time limits specified in Rule 1410.

(m) **TRANSMITTAL OF PERMIT DOCUMENTS TO THE FEDERAL EPA**

The Air Pollution Control Officer shall provide to the Administrator of the federal EPA a copy of each application (or summary thereof) for initial permit, permit renewal, administrative permit amendment and permit modification, each proposed permit, and each final initial, revised or renewed permit.

FURTHER RESOLVED AND ORDERED by the San Diego County Air Pollution Control District Governing Board that proposed amended Rule 1415, of Regulation XIV of the San Diego County Air Pollution Control District, shall be submitted to the U.S. Environmental Protection Agency (through the California Air Resources Board) for inclusion in the San Diego County Air Pollution Control District Title V permitting program. Proposed amended Rule 1415 of Regulation XIV shall take effect on *(date of EPA approval)*.

PASSED AND ADOPTED by the Air Pollution Control District Governing Board of the San Diego County Air Pollution Control District, this 12th day of October, 2023, by the following votes:

AYES: Birkbeck-Garcia, Elo-Rivera, Gloria, Medina, Sanchez, Shu

ABSENT: Bush, Gomez, Lawson-Remer, Martinez, Vargas

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY: Veera Tyagi, Senior Deputy

STATE OF CALIFORNIA)
County of San Diego)^{SS}

I hereby certify that the foregoing is a full, true and correct copy of the Original Resolution entered in the Minutes of the San Diego County Air Pollution Control District Governing Board.



MARVICE MAZYCK
Clerk of the San Diego County Air Pollution Control District Governing Board

FINAL STAFF REPORT

EXISTING RULE 1415 PERMIT PROCESS-PUBLIC NOTIFICATION OF THE TITLE V PERMITTING PROGRAM

San Diego County Air Pollution Control District
Rule Development Section

Completed by Miriam Sanchez
Reviewed by Nick Cormier

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EXECUTIVE SUMMARY

To address feedback received from the U.S. Environmental Protection Agency (EPA) on amendments made to Rule 1415 (Permit Process-Public Notification) in 2019, and to update the San Diego County Air Pollution Control District's (District) Title V permitting program public notification system, the District is proposing amendments to Rule 1415. Proposed amendments to Rule 1415 in Sections (a), (c), and (d) are being made to comply with new federal regulations that require that in addition to posting a draft of the proposed Title V permit, a draft of the Statement of Basis (SB) must also be electronically published and available for public, affected states, and federal review and comment. Proposed amendments to Rule 1415 also replace the requirement to publish the notice of intent to issue a Title V permit in a newspaper with an electronic public notification system, as is now allowed per federal regulations. Lastly, proposed amendments to Rule 1415 are to clarify existing procedures for the publishing of a list of new applications in the Title V program and recordkeeping requirements described in Sections (g) and (j). Proposed amendments to Rule 1415 discussed in this report will not result in any emission increases or reductions, as this is an administrative rule that complies with the public notification process of the Title V permitting program and does not control nor impact any emissions.

The following statements summarize important elements of the proposed rulemaking:

Comparative Analysis

An analysis comparing proposed amended Rule 1415 with applicable requirements of federal and local regulations ("Comparative Analysis") is not required because the proposed amendments do not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements.

Socioeconomic Impact Assessment

An assessment of the socioeconomic impacts of proposed amended Rule 1415 is not required because it will not significantly affect air quality or emissions limitations.

California Environmental Quality Act (CEQA)

Proposed administrative amendments to Rule 1415 are categorically exempt from the provisions of CEQA as there is no possibility that the activity in question may have a significant effect on the environment.

Environmental Justice

The proposed amendments to Rule 1415 support the District's commitment to integrating environmental justice and equity in District's operations, policies, and regulations through its adopted Public Participation Plan, ensuring all communities within San Diego County are informed and have access to information for any new or modified Title V major stationary source facilities, and by providing data to keep the public informed and encourage public participation.

I. INTRODUCTION

The District's Title V permitting program is mandated by Title V of the federal Clean Air Act. The Title V permitting program requires certain industrial facilities that are either “major stationary sources” of regulated air pollutants or that are commercial electrical generating facilities (subject to the Title IV of the Clean Air Act - Acid Rain Program) to obtain a single comprehensive permit which consolidates and lists all applicable requirements for that facility. [Rule 1401 of District's Regulation XIV](#) defines a major stationary source as any stationary source (excluding any non-road engines) which emits or has the potential to emit one or more air contaminants in amounts equal to or greater than any of the following emission rates:

- (i) 10 tons per year of any federal hazardous air pollutant, including fugitive emissions.
- (ii) 25 tons per year of any combination of federal hazardous air pollutants, including fugitive emissions.
- (iii) Emission rates of a “Federal Major Stationary Source” as defined in [Rule 20.1 – New Source Review \(NSR\)-General Provisions, Section \(c\) Definitions, Table 20.1 – 5b](#):

**TABLE 20.1 – 5b
Federal Major Stationary Source**

<u>Air Contaminant</u>	<u>Emission Rate (Ton/yr)</u>
Fine Particulate Matter (PM _{2.5})	100
Particulate Matter (PM ₁₀)	100
Oxides of Nitrogen (NO _x)*	
marginal or moderate	100
serious	50
severe	25
extreme	10
Volatile Organic Compounds (VOC)*	
marginal or moderate	100
serious	50
severe	25
extreme	10
Oxides of Sulfur (SO _x)	100
Carbon Monoxide (CO)	100
Lead (Pb)	100

* based on EPA's ozone nonattainment designation for the San Diego Air Basin in 40 CFR 81.305

The District implements this program by reviewing, organizing, and listing all the existing permits into one single document (Title V permit) to show compliance with applicable federal requirements. The Title V permitting program does not require any additional air pollution controls nor impose emission standards directly. However, the program provides for enhanced monitoring, enforceability, public participation, and EPA review. A Title V permit includes additional recordkeeping, reporting and source compliance certifications and must be renewed every five years. Once a facility is subject to the Title V permitting program and has obtained an initial Title V permit, any modifications to the individual permits under the Title V permit will be reviewed through a parallel process that often includes an opportunity for EPA and public review. The Title V program does not grant the District any additional discretionary authority to deny or revoke a facility's permit if they are in compliance with all applicable requirements.

Rule 1415 is an administrative rule that prescribes the mandatory public notification requirements for Title V permits. More specifically, Rule 1415 describes the public, affected states, and federal notice requirements of the District's Regulation XIV Title V permitting program.

II. BACKGROUND

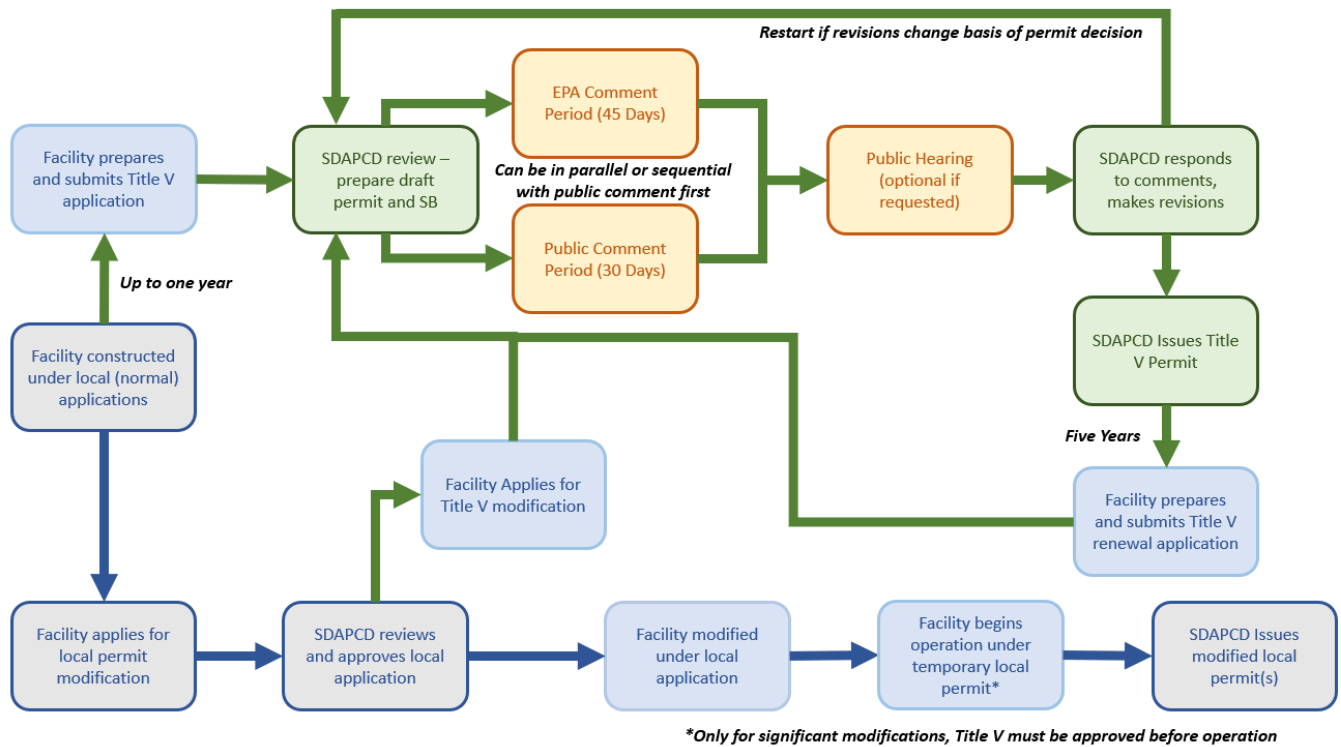
Rule 1415 was first adopted in 1994 and last amended by the San Diego County Air Pollution Control Board (Board) on June 26, 2019. The amended rule satisfied all existing federal requirements at the time of Board action. Amended Rule 1415 was subsequently submitted to the California Air Resources Board (CARB), approved, and then submitted to EPA on August 19, 2019, for federal approval. However, after CARB's submittal and prior to EPA's review and approval of the amendments to Rule 1415, on January 14, 2020, EPA finalized several revisions to the Title V permitting regulations, Title 40 Code of Federal Regulations (CFR) Part 70. Specifically, EPA revised 40 CFR 70.4(b), 70.7(h), and 70.8(a) to identify that the SB is a required document which must be included during the public comment period and during the EPA's 45-day review period. These revisions to the Title V permitting regulations were finalized to be consistent with the language contained in the Clean Air Act. The SB is a document which describes the legal and factual basis for the Title V permit terms and/or conditions and is a necessary component for an effective and efficient permit review by the EPA, permit applicant, and the public.

Rule 1415 now requires an additional amendment to incorporate the additional federal requirements into the rule prior to EPA approval. Consequently, the District withdrew the 2019 version of Rule 1415 submitted to the EPA and will submit the rule once again when amendments are completed. District staff (i.e., Engineering, Compliance, Rule Development, and Environmental Justice) met with EPA staff throughout the course of development of these proposed amendments to ensure that Rule 1415 now adheres to the new federal noticing requirements, as well as updated District processes.

In addition to EPA's requested revisions, the District also proposes to amend Rule 1415 Subsection (a)(1) to replace the federal requirement for newspaper notices with an electronic notification system. The District is also proposing amendments to Subsection (d)(5) to enhance transparency of information provided in the public notice in support of the District's Public Participation Plan. Moreover, the District proposes to amend Rule 1415 Section (g) to ensure the public is aware of 24/7 access to the lists of new Title V applications on the District's website. Lastly, the District proposes to amend Rule 1415 Subsection (j)(2) to comply with federal requirements and ensure all records are kept for at least five years from the date of permit approval.

Diagram 1 further explains the federal Title V permitting process and where opportunities exist for public feedback.

Diagram 1. General Title V Permitting Process



III. CONTROL TECHNOLOGIES

This section is not applicable to Rule 1415. Rule 1415 is an administrative rule that does not control nor impact any emissions; therefore, no control technologies apply to this rule.

IV. SUMMARY OF PROPOSED AMENDMENTS

The requirements for the amended rule, which were developed to align with Title 40 CFR Parts 64 and 70 are summarized below.

Section (a) – Public Notice:

Amended to specify that in addition to posting a draft of the proposed Title V permit, a draft of the SB must also be electronically published and available for public, affected states, and federal review and comment. This section was also amended to remove the federal requirement for newspaper notices, now allowed per 40 CFR 70.7(h)(1) requirements, and replace it with an electronic public notification system.

Section (c) – Notice To EPA:

Amended to specify a copy of the SB must also be provided to the EPA for federal review. Following the public comment period, an additional administrative edit was incorporated, as noted in double underline/strikethrough in the post-workshop change copy.

Section (d) – Contents of Public Notice:

Amended to specify that in addition to publishing a copy of the SB on the District’s website, the public may receive a copy of the SB upon request. This section was also amended to ensure that the public notice will include any additional information as determined by the Air Pollution Control Officer to establish a notice that is relevant, inclusive, and understandable to the public, in support of the District’s Public Participation Plan.

Section (g) – New Application Lists:

Amended to clarify existing procedures for the publishing of a list of new applications in the Title V program, that enhance transparency and public access of such information.

Section (j) – Public Inspection:

Amended to clarify existing recordkeeping requirements listed in Subsections (d)(5)(i) through (d)(5)(iv) of this rule.

V. COMPARATIVE ANALYSIS

Statutory Requirements

Prior to adopting, amending, or repealing a rule or regulation, California Health and Safety Code Section [40727](#) requires findings of necessity, authority, clarity, consistency, non-duplication, and reference, as defined therein. As part of the consistency finding and to ensure proposed rule requirements do not conflict with or contradict other District and/or federal regulations, Health and Safety Code Section 40727.2(a) requires the District to perform a written analysis identifying and comparing the air pollution control standards and other provisions of proposed amended Rule 1415 with existing or proposed District rules and guidelines and existing federal rules, requirements, and guidelines applying to the same source category.

Analysis

The District finds that an analysis comparing proposed amended Rule 1415 with applicable requirements of federal and local regulations (“Comparative Analysis”) is not required pursuant to Section 40727.2(g) of the California Health and Safety Code because the proposed amendments do not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements. The proposed amendments to Rule 1415 are based on 40 CFR Parts 64 and 70 and help clarify the interpretation and streamline the implementation of the federal regulations at the local level.

VI. EMISSION SOURCES AND IMPACTS

There are approximately 30 existing permits found to be subject to the District’s Title V permitting program. The affected permit holders were mailed and emailed a public notice informing them of the proposed amendments and inviting them to provide comments. The proposed amendments result in no emission impacts as this is an administrative rule.

An SB is prepared by a District permit engineer to explain to EPA, the permit applicant, and the public the legal and factual basis of the permit decision, which includes what permits the District has previously evaluated and approved, why the source is subject to Title V requirements, and which demonstrates compliance with applicable federal requirements. The SB is a document that is currently part of the District's existing permitting procedure and has been published online and provided to EPA with each relevant permit action; however, EPA has requested that the rule be modified to explicitly state this requirement in the rule. Therefore, the proposed amendments to Rule 1415 regarding an SB's inclusion and publication will not impose any preparation or additional documentation requirements for new or existing Title V facilities beyond what is already being prepared. Other proposed amendments to Rule 1415 related to the SB streamline, clarify, and/or improve efficiency of existing Title V processes that are already being practiced; hence, no additional administrative burden will result from the proposed amendments to either the Title V facilities or the District.

VII. ECONOMIC IMPACTS & COST-EFFECTIVENESS

Statutory Requirements

California Health & Safety Code [40703](#) requires that in adopting any regulation, the district shall consider, pursuant to Section 40922, and make available to the public, its findings related to the cost effectiveness of a control measure, as well as the basis for the findings and the considerations involved. A district shall make reasonable efforts, to the extent feasible within existing budget constraints, to make specific reference to the direct costs expected to be incurred by regulated parties, including businesses and individuals. The district shall also comply with California Health & Safety Code [40920.6\(a\)](#) pertaining to cost-effectiveness of best available retrofit control technology as applicable.

Cost Effectiveness, Incremental Cost-Effectiveness, and Other Costs

Cost effectiveness accounts for the cost of emission reductions, typically expressed in dollars spent per pound or ton of emissions reduced. The District finds that a cost effectiveness evaluation (including an evaluation of incremental cost-effectiveness and other costs) is not applicable to Rule 1415 of the District's Title V permitting program pursuant to Section 40920.6(a), since it is an administrative rule and it neither requires emission reduction nor does it require new or additional control equipment installation. The amendments proposed will not result in additional administrative costs to affected facilities.

Socioeconomic Impacts Assessment (SIA)

Per California Health & Safety Code [40728.5](#) (if applicable), whenever a district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency shall, to the extent data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation. The Governing Board shall actively consider the socioeconomic impact of regulations and make a good faith effort to minimize adverse socioeconomic impacts. This section does not apply to the adoption, amendment, or repeal of any rule or regulation that results in any less restrictive emissions limit if the action does not interfere with the district's adopted plan to attain ambient air quality standards or does not result in any significant increase in emissions.

The District finds that an assessment of the socioeconomic impacts of proposed amended Rule 1415 is not required pursuant to Section 40728.5(a) of the California Health and Safety Code, as the proposed amendments will not significantly affect air quality or emissions limitations. The proposed amendments will not impact any emissions as Rule 1415 is an administrative rule.

VIII. ENVIRONMENTAL ANALYSIS

CEQA

CEQA requires environmental review of certain actions. District staff conducted a review of whether CEQA applies to the adoption of proposed amended Rule 1415. The District finds that proposed administrative amendments to Rule 1415 are categorically exempt from the provisions of CEQA pursuant to California Code of Regulations, Title 14, Section 15308, as an action taken to assure the protection of the environment, where the regulatory process involves procedures for protection of the environment, and Section 15061(b)(3) since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Analysis of Expected Methods of Compliance

Rule 1415 is an administrative rule that complies with the public notification process of the Title V permitting program and does not control nor impact any emissions. Therefore an analysis of expected methods of compliance is not required.

Environmental Justice

The proposed amendments to Rule 1415 support the District's commitment to integrating environmental justice and equity in District's operations, policies, and regulations through its adopted Public Participation Plan. In addition to meeting federal requirements, the proposed amendments to Rule 1415 ensure that under-resourced communities living near large polluting sources are informed and have access to information for any new or modified Title V major stationary source facilities, providing a permit notification with supporting permit data and additional information (as determined by the Air Pollution Control Officer) in a meaningful, relevant, and understandable way to the public that encourages opportunities to provide input.

IX. RULE DEVELOPMENT AND PUBLIC PARTICIPATION PROCESS

A public notice regarding the proposed amendments was posted in a local newspaper, on the District's website, and sent via email and US Mail on August 1, 2023, to approximately 102 recipients including each potentially affected facility and chamber of commerce in the region. The public notice was also sent to over 10,000 subscribers to the District's email notification service, CARB, and the EPA. The District discussed and received feedback from the EPA prior to the publishing of the proposed amendments for comment.

The District invited and encouraged the public to participate and provide input regarding amendments to Rule 1415 during a 30-day comment period through August 31, 2023. The District did not receive any comments. Additionally, a public notice regarding the Governing Board's public hearing to consider the proposed rule amendments was posted in a local newspaper for a 30-day review period, on the District's website and sent to subscribers of the District's email notification service, CARB, and the EPA.

X. OTHER RULE AMENDMENTS

District's Existing Rules

Currently, there are no other ongoing rule amendments that are directly tied to the proposed amendments to Rule 1415. However, the District's Title V permitting program has existing rules (Rules 1410 and 1420) that refer to Rule 1415. Rules 1410 and 1420 were reviewed and determined that the amendments do not conflict with any of the existing rules. Since the existing permits were written in accordance with the applicable sections of 40 CFR Parts 64 and 70, the review of the possibly affected existing rules is not time sensitive.

XI. CONCLUSION

Proposed amended Rule 1415 is not expected to negatively impact affected residents or industries including small businesses, nor to affect employment or the economy of San Diego County. There are approximately 30 existing permits found to be subject to the District's Title V permitting program. These facilities are familiar with existing Title V permit process-public notification requirements, as they are currently in compliance and the proposed amendments discussed in this report are primarily for clarification purposes and to fulfill new federal requirements. The proposed amended rule will help ensure the rule meets all federal requirements, which through implementation, will improve access to important air quality data in communities throughout the region. This Staff Report addresses all the requirements specified in Health and Safety Code Sections 40725 through 40728.5 for rule development.

XII. REFERENCES

There are no references to this report.

XIII. ATTACHMENTS

There are no attachments to this report.

**SAN DIEGO COUNTY
AIR POLLUTION CONTROL DISTRICT**

**DRAFT PROPOSED AMENDMENTS
RULE 1415 – PERMIT PROCESS-PUBLIC NOTIFICATION**

RESPONSE TO COMMENTS REPORT

On August 1, 2023, the San Diego County Air Pollution Control District (District) posted a public notice in a local newspaper, on the District's website and social media and sent via email and US Mail to various recipients, including affected facilities, interested parties, chambers of commerce in the region, California Air Resources Board (CARB), and the U.S. Environmental Protection Agency (EPA) requesting input regarding proposed amendments to Rule 1415 – Permit Process-Public Notification during a 30-day comment period.

The 30-day comment period concluded on August 31, 2023. A summary of the comments and District responses are provided below.

1. PUBLIC COMMENT

No public comments were received during the comment period.

2. CARB COMMENT

CARB has no official comments at this time.

3. EPA COMMENT

EPA has no official comments at this time.

NC:AQD:jl
09/01/23

RULE 1415. PERMIT PROCESS-PUBLIC NOTIFICATION

(Adopted 1/18/94; Revised 3/7/95)

(Rev. 5/23/01; Eff. 12/31/01)

(Rev. 8/13/03; Eff. 2/27/04)

(Rev. Adopted (date of adoption); Effective (date of EPA approval))

(a) **PUBLIC NOTICE** (Rev. 8/13/03; Eff. 2/27/04)

At least 30 days prior to issuance of a five year initial permit to operate subject to this regulation, a revised permit resulting from an application for significant modification or renewal of such a permit, the Air Pollution Control Officer shall publicly notice and make available a draft of the proposed permit and Statement of Basis (SB) for public and affected state review and comment as follows:

(1) ~~Publication in a newspaper of general circulation of a notice of intent to issue a permit to operate. Posting a notice of intent to issue a permit to operate, along with a draft of the proposed permit and SB, on the public notice section of the Air Pollution Control District's web site, for the duration of the public comment period, that includes the comment period duration and dates.~~

(2) Notification to all persons requesting to be included in a mailing list for purposes of notification of all permit actions.

(3) By other means if determined necessary by the Air Pollution Control Officer to assure adequate notice to the affected public.

(4) Availability of a copy of the draft proposed permit and SB for public review at the Air Pollution Control District offices.

(b) **PUBLIC HEARINGS**

Pursuant to any petition from the public as a result of public notice, the Air Pollution Control Officer shall, with reasonable cause, hold a public hearing to receive comments regarding initial issuance, modification, or renewal of a permit to operate. All public hearings shall be preceded by issuance of a public notice containing all information specified in Section (d) of this rule at least 30 days prior to the public hearing.

(c) NOTICE TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA)

~~At least 45 days prior~~ Prior to issuance of a five year initial permit to operate subject to this regulation, or significant modification or renewal of such a permit, a draft of the proposed permit, and SB shall be made available to the federal EPA, Region IX, ~~for the purpose of their 45-day review period to~~ comment on the proposed permit. In the event a proposed permit to operate issuance or renewal is substantively changed after submittal to federal EPA, such changes shall be resubmitted to federal EPA. An additional 45 days shall be provided for federal EPA review and comment regarding the changes. The federal EPA shall be provided with a copy of the final permit with supporting analysis used as a basis for permit issuance.

The Air Pollution Control Officer shall not issue a permit to operate required by this regulation if the Administrator of the federal EPA objects, within the specified review period, to such issuance. In such case, a permit to operate shall not be issued by the Air Pollution Control Officer except in a form consistent with the objection, or after the Administrator withdraws the objection.

(d) CONTENTS OF PUBLIC NOTICE

Notice to the public shall:

- (1) Identify the affected facility by name and address;
- (2) Provide the name and address of the District processing the permit;
- (3) Identify the activity or activities involved in the proposed permit action;
- (4) Identify the emissions change involved in any modification;
- (5) Any additional information, as determined by the APCO, that ensures the notice is meaningful, relevant, and understandable to the public;

(65) Identify the name, telephone number and address of the person who can provide additional information including:

- (i) a copy of the proposed permit draft;
- (ii) a copy of the SB;
- (iii) the permit application; and
- (~~iv~~iii) all relevant supporting materials available to the Air Pollution Control Officer.

(76) Describe procedures for providing comments;

(87) Include the time and place of any hearing, if already scheduled, or the procedures for petitioning for a hearing; and

(98) Identify the scope of the permit review and identify areas that are appropriate for public comment.

(e) COORDINATED PROCESSING OF RELATED PERMITS

The District shall endeavor to issue a single public notice, to hold a single public hearing (if a hearing is necessary), and to coordinate notice to the federal EPA for any group of permits for similar sources that raises similar issues.

(f) EXCEPTIONS

The public notice requirements of this rule shall not apply to minor modifications and administrative amendments.

(g) NEW APPLICATION LISTS

~~Lists of new p~~Permit applications received will be posted in the District office ~~on a weekly basis or on the District's website. These lists will be available for public review during normal business hours. A e~~Copies of the list will be applications can also be provided to any person or interested group who ~~has requested~~s a copy in writing.

(h) CONSIDERATION OF COMMENTS (Rev. 5/23/01; Eff. 12/31/01)

(1) Comments that are relevant to the permit review and areas appropriate for public comment identified pursuant to Subsection (d)(8) of this rule shall be considered and responded to by the District in the review of an application for permit.

(2) The Air Pollution Control Officer shall provide a written response, including reasons for not accepting comments and recommendations for a proposed permit, to persons or agencies that submitted written comments which are postmarked or otherwise submitted by the close of the public notice and comment period. All written comments and responses to such comments shall be kept on file at the District office and made available upon request.

(i) COPIES OF PERMIT ACTION

Upon issuance of an Authority to Construct, Temporary Authorization, Permit to Operate, or a revised Permit to Operate, the Air Pollution Control Officer shall mail a copy of such action to any person or interested group who has requested a copy in writing.

(j) PUBLIC INSPECTION

(1) The permit file will be open to public inspection to the extent required by District Rules and Regulations, and state and federal law.

(2) The District shall retain all records listed in subsections (d)(5)(i) through (d)(5)(iv) of this rule in electronic and/or hardcopy format for at least five calendar years from the date of permit approval by the District and made available to the public, affected State, and EPA upon request.

(k) TRADE SECRETS

Nothing in this regulation shall require or authorize the Air Pollution Control Officer to release to the public or the federal EPA any information which has been labeled as "trade secret" by the person furnishing such information except as provided in Regulation IX and 40 CFR Section 70.4 (b)(3)(viii). However, the Air Pollution Control Officer will provide the federal EPA with notice of which specific trade secret information has been withheld.

(l) ACTION ON APPLICATIONS

Notwithstanding the requirements of Sections (a) through (k) of this rule, the Air Pollution Control Officer shall take final permit action on an application for an initial permit, a revised permit, or a reopening of a permit within the time limits specified in Rule 1410.

(m) TRANSMITTAL OF PERMIT DOCUMENTS TO THE FEDERAL EPA

The Air Pollution Control Officer shall provide to the Administrator of the federal EPA a copy of each application (or summary thereof) for initial permit, permit renewal, administrative permit amendment and permit modification, each proposed permit, and each final initial, revised or renewed permit.