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YOLO-SOLANO
AIR QUALITY MANAGEMENT DISTRICT

**PROPOSED ADOPTION OF
RULE 3.26, OIL AND GAS REGISTRATION**

PROPOSED STAFF REPORT

September 6, 2019

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I. EXECUTIVE SUMMARY

On Month XX, 2019, the Yolo-Solano Air Quality Management District (District) Board of Directors will consider the adoption of RULE 3.26, Oil and Gas Registration. Rule 3.26 is being adopted to satisfy the requirements of the Memorandum of Agreement entered by the District with the California Air Resources Board (CARB) on June 27, 2018, to implement the requirements of the California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4, Subarticle 13: Greenhouse Gas Emissions Standards for Crude Oil and Natural Gas Facilities (COGR). Rule 3.26 applies to all owners and operators of equipment subject to the COGR.

The proposed rule will not have a significant or detrimental effect on the environment. Therefore, staff prepared a Notice of Exemption to satisfy the requirements of the California Environmental Quality Act (CEQA). The notice states that the adoption of Rule 3.26 is exempt from the requirements of CEQA pursuant to Section 15308, Actions by Regulatory Agencies for Protection of the Environment.

A. BACKGROUND

History

In March of 2017, the California Air Resources Board (CARB) adopted the COGR. This regulation establishes greenhouse gas emission standards for crude oil and natural gas facilities located in California.

Overview of Source Category

This rule applies to oil and gas facilities including oil and gas production, processing, and storage facilities; natural gas gathering and boosting stations; natural gas underground storage facilities; and natural gas transmission compressor stations. The regulation includes standards for separator and tank systems, circulation tanks, well casing vents, liquids unloading, leak detection and repair (LDAR), underground natural gas storage monitoring, natural gas compressors, and natural gas powered pneumatic devices and pumps. There are recordkeeping and reporting requirements.

II. DISCUSSION OF PROPOSED RULE 3.26

The proposed sections of Rule 3.26 are as follows:

Section 101 PURPOSE

The purpose of this Rule is to provide an administrative mechanism for the registration that satisfies the requirements of and will ensure compliance with COGR.

Section 102 APPLICABILITY

As proposed, the provisions of this rule shall apply to owners and operators of equipment subject to COGR.

Section 200 DEFINITIONS

The Rule proposes to define a total of 9 terms in order to adequately describe all aspects of the rule

and its requirements.

Section 300 STANDARDS

This section of the Rule includes the requirements for a registration, the standards under which a registration will be issued, standards to which subject facilities will be held, and conditions associated with the transfer of a registration, District right of entry, and violations.

Section 400 ADMINISTRATIVE REQUIREMENTS

This section of the Rule includes specific requirements for applying for a registration, conditional approval of a registration, revisions to a registration, the term of a registration, registration appeals, and reporting.

Section 500 MONITORING AND RECORDS

This section of the Rule includes record keeping and record retention requirements.

Section 600 FEES

This section of the Rule provides the mechanism for District registration fee collection, should CARB grant funding cease to adequately fund the program.

III. COMPARISON WITH OTHER APPLICABLE REGULATIONS AND REQUIREMENTS

Health and Safety Code Section 40727.2 requires districts to prepare a written analysis (usually in the form of a matrix) that identifies all existing federal air pollution control requirements, including, but not limited to, emission control standards constituting best available control technology (BACT) that apply to the same equipment or source type as the rule or regulation proposed for adoption or modification by the District. In addition, the analysis shall identify any other District rule or regulation that applies to the same equipment or source type. Since there are no new control standards being proposed with this rule, this requirement is not applicable.

IV. IMPACTS OF THE PROPOSED RULE

Emissions Impacts

Proposed Rule 3.26 establishes a registration program for facilities subject to the COGR, but does not establish new emission control measures itself. This rule will provide an administrative mechanism to enforce the COGR. Proposed Rule 3.26 will, at the minimum, maintain the air quality attainment status of the District.

Cost Effectiveness

Section 40703 of the CH&SC requires that the District consider and make public its findings relating to the cost effectiveness of implementing an emission control measure.

Proposed Rule 3.26 establishes a registration program for oil and gas facilities. The rule does not establish new emission control measures. The costs to sources associated with the proposed rule

are potential District fees for registration applications, transfers, and annual registration fees.

The cost to the District for maintaining the new oil and gas registration program is expected to be offset by grant funding from CARB and/or the registration fee structure that would be amended to this Rule should CARB cease grant funding.

Socioeconomic Impacts

CH&SC Section 40728.5 (a) requires the District, in the process of the adoption of any rule or regulation, to consider the socioeconomic impact if air quality or emission limits may be significantly affected. However, districts with a population of less than 500,000 persons are exempt from the provisions of Section 40728.5 (a). The District's population is estimated to be approximately 345,000 and below the 500,000 person threshold. Therefore, a socioeconomic analysis for this rule-making is not required.

Incremental Cost Effectiveness

CH&SC Section 40920.6 requires an assessment of the incremental cost-effectiveness for proposed regulations relative to ozone, Carbon Monoxide (CO), Sulfur Oxides (SOx), Nitrogen Oxides (NOx), and their precursors. Incremental cost-effectiveness is defined as the difference in control costs divided by the difference in emission reductions between two potential control options that can achieve the same emission reduction goal of a regulation. Since the proposed rule does not establish emission control measures, an incremental cost effectiveness evaluation is not applicable.

Impacts to the District

It is anticipated that the proposed rule will require the registration of approximately 20 oil and gas facilities operating 250 natural gas wells and associated equipment. The work associated with this program is split into two phases, initial program development and ongoing program activities.

The initial program development will include outreach to affected sources and other stakeholders, development of the registration rule and staff report, database updates, and initial facility registration and inspection. The District was awarded a grant from CARB in the amount of \$242,000 which will cover the costs associated with these tasks.

Ongoing program activities will include new registration issuance, registration renewal, reviews of quarterly and annual program reports, and ongoing inspections. It is anticipated that the cost associated with these tasks will total approximately one half of a full-time employee or \$112,320 per year (\$108 time and materials rate for FY 2019/2020 multiplied by 1,040 hours per year). The District has been awarded ongoing grant funding by CARB in the amount of \$100,000 that is expected to cover these costs.

In the event that CARB ceases to provide ongoing grant funding, the District will commence proceedings to amend to this Rule a fee structure that will recover the costs of implementing the COGR.

V. ENVIRONMENTAL IMPACTS OF METHODS OF COMPLIANCE

California Public Resource Code Section 21159 requires the District to perform an environmental analysis of the reasonably foreseeable methods of compliance. The analysis must include the following information:

1. An analysis of the reasonably foreseeable environmental impacts of the methods of compliance.
2. An analysis of the reasonably foreseeable mitigation measures.
3. An analysis of the reasonably foreseeable alternative means of compliance with the rule or regulation.

The proposed rule includes only administrative requirements. Therefore, the District does not expect any change in emissions from this rule, and an evaluation under this section cannot be performed.

Staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15308, Actions by Regulatory Agencies for Protection of the Environment. Staff prepared a Notice of Exemption (NOE) to meet the CEQA Guidelines (Attachment B).

VI. REGULATORY FINDINGS

Section 40727(a) of the California Health & Safety Code (H&SC) requires that prior to adopting or amending a rule or regulation, an air district's board make findings of necessity, authority, clarity, consistency, nonduplication, and reference. The findings must be based on the following:

1. Information presented in the District's written analysis, prepared pursuant to H&SC Section 40727.2;
2. Information contained in the rulemaking records pursuant to H&SC Section 40728; and
3. Relevant information presented at the Board's hearing for adoption of the rule.

The required findings are:

Necessity: It is necessary for the District to adopt this rule in order to effectively administer the COGR to affected sources.

Authority: The District is authorized to adopt rules and regulations by California Health and Safety Code, Sections 40001, 40702, 40716, 41010 and 41013. [H&SC Section 40727 (b)(2)]

Clarity: The proposed rule is written so that the meaning can be easily understood by the persons directly affected by it. In addition, the record contains no evidence that the persons directly affected by the rule cannot understand the rule. [H&SC Section 40727(b)(3)]

Consistency: The proposed rule does not conflict with and is not contradictory to, existing statutes, court decisions, or state or federal regulations. [H&SC Section 40727(b)(4)]

Non-Duplication: The proposed rule does not duplicate any state laws or regulations, regarding the attainment and maintenance of state and federal air quality limits. [H&SC Section 40727(b)(5)]

Reference: The District must refer to any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending or repealing the rule. [H&SC Section 40727(b)(6)]

VII. PUBLIC COMMENTS AND STAFF RESPONSES

Staff held a public workshop on September 3, 2019, to discuss the proposed Rule 3.26. Notification was sent to surrounding Air Districts, City Managers within the District, building/planning/community development departments within the YSAQMD, all city and county libraries within the District, all Board Members, and all affected sources. The workshop notice was published in the Vacaville Reporter, Woodland Democrat, and the Davis Enterprise.

A copy of the public workshop notice, the draft staff report, and draft rule language, was posted on the District's web page prior to the public workshop.

CARB commented on the draft rule and recommended that Staff include an exemption for registration application to owners or operators who have already submitted registrations to CARB. They believed that this would prevent duplication of work on the part of owners or operators.

CARB Comment: CARB suggested to add the following language to 401.4: "Complete registrations submitted to CARB pursuant to 17 CCR §95674 (b)(2)(A) by [insert date] satisfy this requirement, provided the application includes all information required by Section 401.2 of this rule. In such cases, owners or operators are not required to submit a separate initial registration."

District Response: Staff agreed and amended the Rule language to include this exemption, setting the exemption deadline to November 30, 2019. Staff also noted that the District can, at any time, ask for more information from a registrant if the CARB registration form does contain all the information that the District requires.

The District also received several verbal comments during the public workshop regarding the effect that the proposed fee structure would have on small well operators or owners. In response, the District removed the proposed fee structure from Section 600 of this Rule and added language in Section 601 which would have the District amending this Rule to include a fee structure. This fee structure would serve to recover the costs of implementing the COGR if CARB ceases grant funding.

Staff believed that adding a fee structure after this Rule has been adopted would allow for information to be gathered on the actual cost of implementing the COGR. Thereafter, and if necessary, a more accurate fee structure than the one previously proposed can be amended to this Rule.

VIII. REFERENCES

- California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4, Subarticle 13: Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities

ATTACHMENT A

**PROPOSED RULE 3.26, OIL AND GAS REGISTRATION
STRIKE-OUT UNDERLINE VERSION**

ATTACHMENT B

NOTICE OF EXEMPTION FROM CEQA GUIDELINES

ATTACHMENT C

RESOLUTION NO. 19-08

RESOLUTION NO. 19-08

RESOLUTION ADOPTING YOLO-SOLANO AIR QUALITY MANAGEMENT DISTRICT RULE 3.26

WHEREAS, California Health and Safety Code section 40702 provides that an air quality management district shall adopt rules and regulations as may be necessary or proper to execute the powers and duties granted to, and imposed upon, the district by Division 26 of the Health and Safety Code; and

WHEREAS, Health and Safety Code section 40727 provides that before adopting, amending, or repealing a rule or regulation, a district board shall make findings of necessity, authority, clarity, consistency, nonduplication, and reference, based upon information developed pursuant to section 40727.2, information in the rulemaking record maintained pursuant to section 40728, and relevant information presented at the public hearing required by section 40725; and

WHEREAS, section 15308 of the CEQA Guidelines provides that actions taken by regulatory agencies as authorized by state law to assure the maintenance, restoration, or enhancement of the environment where the regulatory process involves procedures for protection of the environment, are categorically exempt from CEQA review (Class 8 Categorical Exemption); and

WHEREAS, the District signed a Memorandum of Agreement (MOA) with the Air Resources Board agreeing to enforce the California Oil & Gas Regulation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Yolo-Solano Air Quality Management District hereby finds, authorizes, directs and declares as follows:

1. The Board of Directors has considered and hereby adopts by reference the staff report prepared in this matter.
2. The Board of Directors makes the following findings pursuant to Health and Safety Code section 40727:
 - a. Necessity: Information in the District's rulemaking record maintained pursuant to Health and Safety Code section 40728 demonstrates a need for adopting District Rule 3.26;
 - b. Authority: Health and Safety Code section 40702 permits the District to adopt District Rule 3.26;
 - c. Clarity: District Rule 3.26 as adopted is written so that its meaning can be easily understood by the persons directly affected by it;

- d. Consistency: District Rule 3.26 as adopted is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations;
 - e. Nonduplication: District Rule 3.26 as adopted does not impose the same requirements as an existing state or federal regulation;
 - f. Reference: By adopting District Rule 3.26, the District meets the requirements of Health & Safety Code Sections 40702.
- 3. The Board of Directors finds that the District has complied with the procedural requirements set forth in Chapters 6 and 6.5 of Part 3 of Division 26 of the Health and Safety Code.
 - 4. The Board of Directors finds that District Rule 3.26 is an action taken by a regulatory agency as authorized by state law to assure the maintenance, restoration, or enhancement of the environment where the regulatory process involves procedures for protection of the environment, and is therefore categorically exempt from CEQA review as a Class 8 Categorical Exemption.
 - 5. The Board of Directors hereby adopts District Rule 3.26 as set forth in Exhibit 1 (Attachment A of the Staff Report), which is attached and incorporated by reference. The adoption is effective MONTH XX, 2019.

PASSED AND ADOPTED by the Board of Directors of the Yolo-Solano Air Quality Management District this XXth day of MONTH, 2019, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Tom Stallard, Chair Board of Directors
Yolo-Solano Air Quality Management District

Attest:

Approved as to Form:

Denise Almaguer, Clerk
Board of Directors

Hope Welton, District Counsel

ATTACHMENT D

WRITTEN COMMENTS RECEIVED