

Draft Staff Report

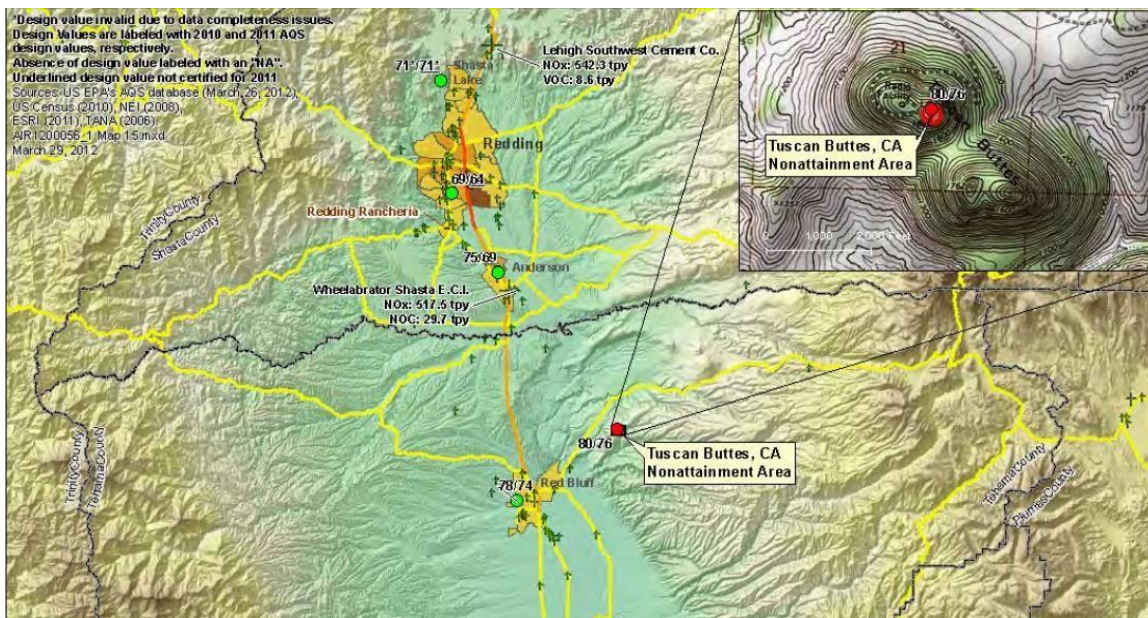
For the Proposed addition of Rule 2:3C New Source Review (NSR) Rule for New and Modified Major Stationary Sources in the Tuscan Buttes Nonattainment Area.

BACKGROUND

On February 28, 2023, the Tehama County Board of Supervisors will consider adoption of proposed Rule 2:3c New source Review (NSR) Rule for New and Modified Major Stationary Sources in the Tuscan Buttes Nonattainment Area.

March 2009, California recommended that a new partial-county area be designated as “nonattainment” for the 2008 Ozone National Ambient Air Quality Standard (NAAQS) based on 2006-2008 air quality data. On October 2015 the EPA strengthen the NAAQS for ground-level ozone to 70 parts per billion (ppb). The Tuscan Buttes was designated as a Rural Transport nonattainment area for the 2015 standard. The classifications are based on data from Federal Equivalent Method (FEM) monitors sited and operated in accordance with 40 CFR Part 58.

The Tuscan Buttes comprises the portions of Tehama County above 1,800 feet. The proposed rule amendments will pertain specifically to the area depicted below (see map).



RULE SUMMARY

This NSR is a program under the Clean Air Act that regulates the construction and modification of new or modified major stationary sources of air pollution. The purpose of NSR is to ensure that new and modified sources of air pollution do not significantly worsen air quality and to mitigate the impact of pollution on public health and the environment. To accomplish this, NSR program sets emissions limits and establishes monitoring and reporting requirements to ensure that the source meets federal and state air quality standards.

Currently the Tehama County Air Pollution Control District implements a comprehensive program to evaluate the expected air quality impacts of stationary, portable, and other non-mobile sources to ensure that these sources are constructed and operated in a manner that reduces the expected

air quality impacts. The District's permitting program includes review of preconstruction permits, annual and ongoing regulation of sources through operating permits and applicable emission standards, and regular inspections of these sources to ensure that they comply with all applicable requirements

Tehama County (Tuscan Buttes) is currently designated as a nonattainment area for the federal ozone standard. A strategy to control air pollution is to reduce emissions from new and modified existing stationary sources located at an existing facility through a New Source Review (NSR) program. The Federal Clean Air Act (CAA) and its associated regulations contain requirements for the District to adopt and implement a State Implementation Plan (SIP)-approved NSR program for minor stationary sources and major stationary sources and major modifications. Under the California Health and Safety Code (HSC) and California Code of Regulations, the District is required to establish a no net increase program for emissions of nonattainment pollutants from new or modified stationary sources located at facilities listed in 40 CFR 81.305, which emit, or have the potential to emit, 100 tons or more per year of volatile organic compounds (VOCs) or nitrogen oxides (NOx).

Rule 2:3c New and Modified Major Sources in the Tuscan Buttes Nonattainment Area became effective on September 1, 2015 per Board action on September 1, 2015. The District submitted the adopted rule to the California Air Resources Board (CARB) on September 4, 2015 for adoption into the SIP. On November 13, 2015 the rule was adopted by the rule to the SIP and were submitted to US EPA for approval.

The District was informed by the US EPA that the model NSR Rule that EPA had previously provided to the District had been revised. The US EPA requires that the current version of Regulation 2:3c be revised in order to be approved. EPA provided a new template that indicated the revisions that were needed before the Rule would be approvable by the EPA. The new NSR rule had only minor changes and did not materially change the content of Regulation 2:3c. Except for minor organizational changes, the main changes are stack height procedures, addition of clarifying definitions and incorporation by reference for certain definitions. On June 2020, these changes were adopted by the board and resubmitted to the EPA for SIP approval.

On December 2022, the US EPA again informed the District that they would not be able to approve the Rule due to a recent U.S. Court of Appeals case decided on January 29, 2021. The decision disallows interpollutant offset trading for ozone precursors and impacts section 4.5.2 of the June 2020 rule. The revised rule removes section 4.5.2 and clarifies section 1.3 and Provides for monitoring of visibility in section 5.1.

HEALTH IMPACTS:

Ground level ozone is a secondary pollutant formed from photochemical reactions of NOx and VOCs in the presence of sunlight. Ozone is a strong irritant that adversely affects the human health and damages crops and other environmental resources. As documented by the U.S Environmental Protection Agency (EPA) in the most recent Criteria Document for Ozone (U.S EPA 2006), both short-term and long-term exposure to ozone can irritate and damage the human respiratory system, resulting in:

- Decreased lung function;
- Development and aggravation of asthma;

- Increased hospitalizations and emergency room visits; and
- Premature deaths.

SOCIOECONOMIC IMPACT:

HSC Section 40728.5 exempts districts with a population of less than 500,000 persons from the requirement to assess the socioeconomic impacts of proposed rules. Tehama County population is below 500,000 persons.

RULE CONSISTENCY ANALYSIS

Pursuant to the California H&SC Section 40727.2 (g) a rule consistency analysis of the draft rule is not required. The draft rule does not strengthen emissions limits or impose more stringent monitoring, reporting, or recordkeeping requirements.

WRITTEN ANALYSIS OF EXISTING FEDERAL AND DISTRICT REGULATIONS

The proposed amended rule does 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. Pursuant to Health and Safety Code section 40727.2, subdivision (g), the foregoing satisfies the requirement of a written analysis of existing regulations prior to adopting, amending or repealing a regulation.

RULE DEVELOPMENT PROCESS

U.S. EPA Region IX worked with the California Air Resources Board (CARB) to draft a nonattainment Model NSR Rule that would satisfy the SIP submittal requirements.

A Public notice for a public hearing inviting the community to review and comment on the proposed revisions was published in the Red Bluff Daily newspaper, on May 1, 2020, and the Districts website.

BOARD ACTIONS AND ALTERNATIVES:

Staff requests the Board to do the following:

- a) Hold a Public Hearing to consider the repeal of current Tehama County Air Pollution Control District Rule 2:3C New and Major Sources (NSR), and adoption of the amended Tehama County Air Pollution Control District Rule 2:3C New and Major Sources (NSR) and;
- b) RESOLUTION - Request the repeal of current Tehama County Air Pollution Control District Rule 2:3C New and Major Sources (NSR), and adoption of the amended Tehama County Air Pollution Control District Rule 2:3C New and Major Sources (NSR). or;
- c) Propose changes to the text of the amendment to Rule 2:3c New and Major Sources (NSR), and re-schedule the public hearing to consider the proposed Rule(s) as revised.
or;
- d) Take no action.

ENVIRONMENTAL REVIEW AND COMPLIANCE:

REQUIRED FINDINGS

FINDINGS	DEFINITIONS	REFERENCE
Authority	A district shall adopt rules and regulations and do such acts as may be necessary or proper to execute the powers and duties granted to, and imposed upon, the district by this division and other statutory provisions.	Health and Safety Code sections 40000, 40001, 40716, 40910, and 42311, subdivision (g) are provisions of law that provide the District with the authority to adopt this Rule.
Necessity	The District has demonstrated a need for the rule.	Districts with area designated as nonattainment for federal National Ambient Air Quality Standards (NAAQS) are required by US EPA to establish Federal New Source Review (NSR) rules for inclusion into the Districts State Implementation Plan (SIP)
Clarity	The rule is written or displayed so that their meanings can easily be understood by the persons directly affected by it.	There is no indication, at this time, that the proposed rule is written in such a manner that persons affected by the proposed rule cannot easily understand them.
Consistency	The proposed rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or State or federal regulations.	The District has found that the proposed rule is consistent with applicable statutory requirements.
Non-duplication	The proposed rule does not impose the same requirements as an existing State or federal regulation, unless the District finds that the requirements are necessary and proper and duties granted to, and imposed upon, the district.	The proposed rule does not duplicate any existing local, state or federal requirements.
Reference	Any statute, court decision, or other provision of law that the district implements, interprets, or makes specific by adopting, amending, or repealing a regulation.	The proposed rule implements Health and Safety Code sections 40716, 40910, and 42311, subdivision (g).

Respectfully submitted,

Joseph H. Tona

Air Pollution Control Officer