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November 15, 2006

Joe Cassmassi  
Planning and Rules Manager  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765-4178

Dear Mr. Cassmassi:

Attached are comments from the Los Angeles County Regional Planning Department regarding draft control measures for new or redevelopment projects (EGM-01) of the draft 2007 Air Quality Management Plan (AQMP). If you have any questions regarding the analysis, please contact Clement Lau of the Regional Planning Department at (213) 974-6422 or Eddie Washington of my staff at (213) 893-2479. Thank you for the opportunity to participate in this process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerri Kariya".

Gerri Kariya  
Assistant Administrative Officer  
Intergovernmental Relations Branch

GK:MAL  
EW:hg

Attachment



Los Angeles County  
Department of Regional Planning



*Planning for the Challenges Ahead*

November 14, 2006

Bruce W. McClendon FAICP  
Director of Planning

TO: Eddie Washington, Intergovernmental Relations  
Chief Administrative Office

FROM: Ron Hoffman, Administrator  
Advance Planning

**SUBJECT: ANALYSIS OF DRAFT CONTROL MEASURE FOR NEW OR REDEVELOPMENT PROJECTS (EGM-01) OF THE DRAFT 2007 AIR QUALITY MANAGEMENT PLAN (AQMP)**

**Recommended Action: Participate in working group to be created by the South Coast Air Quality Management District**

Description

The purpose of this control measure is to mitigate emission growth from new development and redevelopment projects. This measure is designed to reduce emissions related to new residential, commercial, industrial and institutional development, including redevelopment. Lead agencies for projects subject to California Environmental Quality Act (CEQA) currently prepare air quality analyses as part of their environmental documents, including emissions during construction and operations. The proposed measure aims to: (1) ensure that all feasible measures to mitigate air quality impacts are pursued, and (2) capture emission reduction opportunities during project development phase.

Background and Current Law

New development projects produce new sources of air pollution from new vehicle trips, use of consumer products, landscape maintenance, new stationary source processes such as fuel combustion, as well as emissions generated during construction activities. In addition, older residential, commercial and industrial areas may undergo major redevelopment involving construction activities, with emissions comparable to new development projects. Redevelopment projects may also generate additional vehicular traffic compared to the projects they replace because redevelopment projects often involve increasing population density compared to the previous use. Redevelopment includes demolishing existing buildings, increasing overall floor area, or building additional capacity on an existing property.

California Health and Safety Code Section 40716 states that an air quality management district may adopt and implement regulations to reduce or mitigate emissions from indirect and Areawide sources of air pollution. It also states that the authority of a district to “reduce or mitigate emissions from indirect and Areawide sources of air pollution (does not) ...constitute an infringement on the existing authority of counties and cities to plan or control land use.” Health and Safety Code 42311(g) allows districts to adopt a schedule of fees on areawide or indirect sources which are regulated, but for which permits are not issued, to cover the costs of district programs related to this source.

San Joaquin Valley Unified Air Pollution Control District’s (SJVUAPCD) Rule 9510 – Indirect Source Review, adopted on December 15, 2005, requires new development projects to submit an Air Impact Assessment application to the District prior to obtaining final discretionary planning approvals. Developers are required to implement mitigation measures to reduce PM10 and NOx emissions or, as an alternative, may pay into a mitigation fund for SJVUAPCD-sponsored emission reducing off-site projects. The rule applies to projects that include any of the following:

- 50 residential units
- 2,000 sq.ft. of commercial space
- 25,000 sq.ft. of light industrial space
- 100,000 sq.ft. of heavy industrial space
- 20,000 sq.ft. of medical office space
- 9,000 sq.ft. of educational space
- 10,000 sq.ft. of government space
- 20,000 sq.ft. of recreational space
- 9,000 sq.ft. of space not identified
- 39,000 sq.ft. of general office space

The rule is designed to reduce the impact of development projects to the extent needed to allow SJVUAPCD to reach attainment of ozone and PM10 standards.

#### Control Measure Summary/Major Provisions

Several different approaches are being considered by AQMD for this control measure. The District will convene a working group involving stakeholders from the industry, local governments, and community representatives to further explore approaches to achieve air pollutant reduction targets. Currently, the approaches under consideration are:

1. SJVUAPCD Approach: SJVUAPCD’s Rule 9510 will be evaluated through the working group process to determine if a similar program can be developed to meet the local need or other equivalent approach to meet the state requirements.
2. New Development Project Threshold Approach: The AQMD would develop a rule to establish emission thresholds for new development and redevelopment projects. Projects exceeding those thresholds would be required to implement a series of mitigation measures. The quantity and the source of emission would be taken into consideration in developing the thresholds and mitigation measures to be implemented. Fee options in lieu of mitigation measures would be explored or

could be required to offset the residual emissions above the thresholds. The collected fees will fund emission reduction projects within the impacted community, to the extent feasible.

3. The CEQA Approach: This approach contains three components:
  - a) Improved Documentation of CEQA Mitigation Measures - The AQMD will expand, organize, and further document its CEQA mitigation measures for residential, commercial, and industrial development projects. These measures will help developers and lead agencies to evaluate and incorporate adequate reduction strategies to mitigate significant impacts.
  - b) Enhanced CEQA Review: The AQMD will enhance its review of CEQA documents prepared by other public agencies to ensure that the air quality analyses are consistent with the methodologies identified in AQMD's CEQA Air Quality Handbook and on the AQMD's website. The District also reviews CEQA documents to determine if all feasible mitigation measures identified by AQMD are incorporated into the proposed project to reduce significant air quality impacts below the significance thresholds or to the maximum extent feasible.
  - c) CEQA Mitigation Fee Program: The AQMD may establish a CEQA mitigation fee program in which mitigation fees may be paid for residual emissions above the significance thresholds after mitigation. All feasible mitigation measures required under CEQA have to be incorporated before the developers or local agencies can participate in the mitigation fee program. Participation in this program will be voluntary. AQMD will invest the mitigation funds on emission reduction projects within the impacted community, to the extent feasible, to minimize the impacts.

#### Operational and Fiscal Impacts on the County

All three approaches will impact the Department of Regional Planning, the County agency responsible for reviewing and issuing planning approvals for development projects in the unincorporated areas. In particular, Regional Planning staff will likely spend additional time and resources coordinating with the AQMD to address the air quality impacts of development projects that will be subject to the control measure.

Also, under the SJVUAPCD approach, projects that include 10,000 square feet of government space, including any new County offices, will be required to submit an Air Impact Assessment application to the AQMD, implement mitigation measures to reduce PM10 and NOx emissions, or pay into a mitigation fund. All of these requirements will have fiscal impacts on the County. Because specific mitigation fees have not been proposed, staff is unable to determine the monetary costs of complying with these requirements.

Issues/Concerns Regarding the Control Measure

The following issues should be considered as the AQMD, along with its stakeholders, works out the details of an approach to mitigate emissions from new development and redevelopment projects:

1. The SJVUAPCD and the New Development Project Threshold approaches would require projects exceeding certain thresholds to implement a series of mitigation measures or pay into a mitigation fund. This requirement may result in more proposals for smaller projects that are just below the thresholds. For example, there may be an increase in the number of applications for residential developments consisting of 49 or fewer units if the SJVUAPCD approach is implemented. This translates into an increase in the number of projects that are not subject to the new requirements.
2. The AQMD will need to determine whether the requirements of the SJVUAPCD or New Development Project Threshold approach should apply to certain projects, including the following:
  - Reconstruction of a development project that was damaged or destroyed and is rebuilt to the same use and intensity;
  - Change-of-use projects that do not involve construction or reconstruction and do not increase vehicle trips for the project;
  - Construction or modification of facilities or projects whose primary functions already are regulated by AQMD permit requirements; and
  - Affordable housing developments to be occupied by low- and moderate-income households.
3. If the SJVUAPCD approach is selected for implementation, the AQMD will also need to work closely with local agencies in the processing of applications for Air Quality Impact Assessment and local land use approvals. This is especially critical if the developer's application to the Air District needs to be submitted before or concurrently with the planning application to the local agency. In addition, the AQMD will need to adequately educate developers, government agencies, and other stakeholders to ensure compliance with the new requirements.
4. Implementations of the SJVUAPCD approach will likely result in delays in the development process because this approach requires applicants to submit an Air Quality Impact Assessment prior to obtaining discretionary approval for a building permit.
5. Under the New Development Project Threshold approach, there may be a need to establish different emission thresholds for projects based upon development type and location. For example, should an apartment complex with 50 units in an

urban location such as Marina del Rey be treated equally as a subdivision of 50 detached single-family residences in the Antelope Valley?

6. It is unclear how improved documentation of CEQA mitigation measures or enhanced CEQA review under the CEQA approach will result in any significant quantifiable reduction in emission from new or redevelopment projects. Without a mandatory CEQA mitigation fee program, this approach may accomplish little beyond the status quo.
7. Under the CEQA mitigation fee program, the AQMD states that it "will invest the mitigation funds on emission reduction projects within the impacted community, to the extent feasible, to minimize the impacts." How will the "impacted community" be defined? Will it include the neighborhood, city, county, or the entire area under AQMD's jurisdiction? Also, will local agencies and community members have the opportunity to participate in deciding where and how mitigation funds may be used?

### Conclusion

The Department supports the intent of the draft control measure to further reduce emissions from new development and redevelopment projects. Given the potential operational, fiscal, and other impacts of the measure, the County must participate in the working group that will be created by AQMD to further explore the approaches to achieve reduction targets. In addition, the concerns raised earlier need to be considered and addressed before any of the approaches is actually implemented.

We trust that this analysis will assist you in preparing a comprehensive comment letter on the draft control measure. If you have any questions or wish to discuss, please contact me or Clement Lau of my staff at (213) 974-6422.

RDH:CL