

Yolo-Solano Air Quality Management District
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Davis, CA 95618
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PROPOSED AMENDMENTS TO RULE 2.43, BIOMASS BOILERS

FINAL STAFF REPORT

November 28, 2023

Prepared by Eden Winniford

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I. EXECUTIVE SUMMARY

On December 13, 2023 the Yolo-Solano Air Quality Management District (District) Board of Directors will consider the proposed amendment to Rule 2.43, BIOMASS BOILERS. Rule 2.43 contains emission standards for biomass fired boilers. The amendment being proposed to Rule 2.43 is to require the owner/operator of any biomass boiler within the District to submit emissions records to the EPA at a minimum of every six months.

The proposed amendment 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 revisions to Rule 2.43 are exempt from the requirements of CEQA pursuant to Section 15308, Actions by Regulatory Agencies for Protection of the Environment.

A. BACKGROUND

History

Rule 2.43 Biomass Boilers was originally adopted by the District on November 10, 2010. This version of the Rule was submitted for State Implementation Plan (SIP) approval in 2011 and was approved into the SIP in 2012. The rule was originally adopted to satisfy a requirement in our Reasonably Available Control Technology State Implementation Plan (RACT SIP) from 2006. The RACT SIP requires that we must have a Rule for all major non Control Technique Guideline (CTG) sources.

In July of 2023 the District was notified by EPA Region 9 that they couldn't approve our 2008 RACT SIP because of EPA's recent disapproval of a Colorado SIP due to insufficient reporting requirements. The Colorado SIP required sources to report by request only, which EPA believes is not sufficient under the Clean Air Act since it limits the public's ability to participate in enforcement. Our existing rule required owners/operators to retain emissions records and submit them to the District upon request. EPA Region 9 requested that we amend Rule 2.43 to require reporting to our agency every 6 months. Due to the potentially large volume, our District does not want those records submitted to us every 6 months, so we proposed an alternative – to have the facility submit the records to EPA every 6 months.

Overview of source category

This rule applies to biomass fired boilers, of which our District only has 1 permitted source (Woodland Biomass Power Ltd).

II. DISCUSSION OF PROPOSED RULE 2.43 AMENDMENTS

The proposed amendments to Rule 2.43 are to add 2 new sections, as follows:

Section 503

SOURCE TEST REPORTS: The owner/operator of an affected unit shall maintain the results of any RATA performed under section 304.

Section 504

FEDERAL REPORTING: At least every six (6) months, the owner/operator of an affected unit shall submit all records required by this rule to the U.S. EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through U.S. EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov>), or analogous electronic submission system provided by U.S. EPA.

There will be no emissions reductions from this rule amendment.

III. COMPARISON WITH OTHER APPLICABLE REGULATIONS AND REQUIREMENTS

California Health and Safety Code (CH&SC) Section 40727.2 requires districts to perform a comparative alternative analysis of any new control standard. Specifically, the District is required 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 applies 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. However, as discussed above, since prior amendments to this rule were required to meet RACT guidelines, a RACT determination was made in place of a BACT analysis. The District has determined that the rule meets RACT guidelines. This amendment is administrative in nature, so the specified elements (e.g., averaging provisions, operating parameters, monitoring, etc....) are not applicable.

IV. IMPACTS OF THE PROPOSED RULEEmissions Impacts

This is an administrative amendment and does not have a direct impact on emissions.

Cost Effectiveness

CH&SC Section 40703 requires the District, in the process of the adoption of any rule or regulation, to consider and make public its findings related to the cost effectiveness of the rule. Cost effectiveness for rulemaking purposes is calculated by dividing the cost of air pollution controls required by the rule by the amount of air pollution reduced. The amendment to this Rule will not impact emissions and therefore cost effectiveness calculations cannot be performed.

Socioeconomic Impacts

California Health and Safety Code 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 well below the 500,000-person threshold. Therefore, a socioeconomic analysis for this rulemaking 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. Again, the District does not expect any emissions changes from this administrative amendment, so no incremental cost-effectiveness analysis can be done.

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.

This is an administrative amendment and does not have a direct impact on emissions. Therefore, an evaluation under this Section cannot be performed.

The proposed rule amendment will not have a significant effect on the environment and is considered to be an action taken to maintain and protect the environment. Therefore, 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, non-duplication 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: The rule amendment is necessary in order to satisfy EPA's requirements for our RACT SIP.

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: There are no other statutes, court decisions, or other provisions 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

Since the single amendment to this Rule is administrative in nature and will only impact one source, the District did not hold a public workshop. Staff discussed the proposed changes with the facility, and they will be able to comply with the reporting requirements.

Staff will hold a public hearing on December 13, 2023 to discuss the proposed amendment to Rule 2.43. Notification was sent to ARB, EPA, and the one affected source. The public hearing notice was published in the Woodland Democrat prior to the hearing.

A copy of the public hearing notice, the proposed staff report, and proposed rule language, were posted on the District's web page prior to the public hearing. No comments were received prior to the hearing.

VIII. REFERENCES

EPA Plan Approval, Conditional Approval, Limited Approval, and Limited Disapproval; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area

ATTACHMENT A

**PROPOSED RULE 2.43, BIOMASS BOILERS
STRIKE-OUT UNDERLINE VERSION**

ATTACHMENT B

NOTICE OF EXEMPTION FROM CEQA GUIDELINES

Notice of Exemption

To: Office of Planning and Research
(submitted electronically at <https://ceqasubmit.opr.ca.gov/>)
1400 Tenth Street, Room 121
Sacramento, CA 95824

County Clerk
County of Yolo
625 Court Street Room 105
Woodland, CA 95695

County Clerk
Solano County
600 Texas Street
Fairfield, CA 94533

From: Yolo-Solano Air Quality Management District
1947 Galileo Court, Suite 103
Davis, CA 95618

Project Title: Revision of Rule 2.43 – BIOMASS BOILERS

Project Location: Yolo-Solano Air Quality Management District

Project Description: The District is proposing to amend Rule 2.43, BIOMASS BOILERS to require the owners/operators of biomass boilers to submit emissions records to the U.S. EPA at a minimum of every six months.

Name of Public Agency Approving Project: Yolo-Solano Air Quality Management District

Name of Person or Agency Carrying Out Project: Yolo-Solano Air Quality Management District

Exempt Status:

- Ministerial
- Emergency Project
- Categorical Exemption (CEQA Guidelines Section 15308, Action by Regulatory Agency for Protection of the Environment)
- Statutory Exemption

Reason why project is exempt: The revision of Rule 2.43 is an action to increase the frequency of emission reporting to increase accountability and protect the environment and is therefore exempt from CEQA because it constitutes a Class 8 categorical exemption pursuant to CEQA Guidelines 15308.

Lead Agency Contact Person: Gretchen Bennett, Air Pollution Control Officer

Telephone Number: (530) 757-3650

Signature: _____ **Date:** _____ **Title:** _____

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Lead Agency Contact Person: Gretchen Bennitt, Air Pollution Control Officer

Telephone Number: (530) 757-3650

Signature: _____ **Date:** _____ **Title:** _____

ATTACHMENT C
RESOLUTION NO. 23-14

RESOLUTION NO. 23-14

RESOLUTION AMENDING YOLO-SOLANO AIR QUALITY MANAGEMENT DISTRICT RULE 2.43

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, non-duplication, 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 the protection of the environment, are categorically exempt from CEQA review (Class 8 Categorical Exemption); and

WHEREAS, Yolo-Solano Air Quality Management District staff identified requirements within Rule 2.43, Biomass Boilers, which required updating for consistency with federal policy.

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 amending District Rule 2.43; and
 - b. Authority: Health and Safety Code section 40702 permits the District to amend District Rule 2.43; and
 - c. Clarity: District Rule 2.43 as amended is written so that its meaning can be easily understood by the persons directly affected by it; and

- d. Consistency: District Rule 2.43 as amended is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations; and
 - e. Non-Duplication: District Rule 2.43 as amended does not impose the same requirements as an existing state or federal regulation; and
 - f. Reference: There are no other statutes, court decisions, or other provisions of law that the District implements, interprets, or makes specific by adopting, amending or repealing the rule.
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 amending District Rule 2.43 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 the protection of the environment, and is therefore categorically exempt from CEQA review as a Class 8 Categorical Exemption.
 5. The Board of Directors hereby amends District Rule 2.43, Biomass Boilers, as set forth in Exhibit 1 (Attachment A of the Staff Report), which is attached and incorporated by reference. The amendment shall become effective immediately upon adoption.

PASSED AND ADOPTED by the Board of Directors of the Yolo-Solano Air Quality Management District this 13th day of December 2023, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Gloria Partida, Chair Board of Directors
Yolo-Solano Air Quality Management District

Attest:

Approved as to Form:

Denise Almaguer, Board Clerk

Hope P. Welton, District Counsel

ATTACHMENT D
WRITTEN COMMENTS RECEIVED

From: Lakin, Matt (he/him/his) <Lakin.Matthew@epa.gov>
Sent: Wednesday, July 26, 2023 8:06 AM
To: Gretchen Bennett <GBennett@ysaqmd.org>; Paul Hensleigh <PHensleigh@ysaqmd.org>
Cc: Bauer, Meredith (she/her/hers) <Bauer.Meredith@epa.gov>; Beckham, Lisa (she/her/hers) <BECKHAM.LISA@EPA.GOV>; Lueders, Jesse (he/him/his) <Lueders.Jesse@epa.gov>; Chen, Eugene <Chen.Eugene@epa.gov>
Subject: RACT SIP and Rule 2.43 Biomass Boiler Amendment

Hi Gretchen,

As you may know, we are currently reviewing the Yolo-Solano Rule 2.43 (Biomass Boilers) amendments that the District made to establish numeric limits that apply during periods of startup and shutdown. We wanted to make you aware of an emerging national issue regarding reporting requirements in State Implementation Plan rules, and how it affects the Rule 2.43 amendments. On May 9, 2023, the EPA took final action to disapprove portions of the state of Colorado's 2008 RACT SIP. As a quick summary, the basis for the disapproval action was that reporting requirements that only required sources to provide records upon request by the State/District, and not on a periodic basis, did not ensure enforceability of rule requirements. A more detailed explanation can be found in the response to comments document (comment and response #40) of the final action on the Colorado RACT SIP.

We'd like to schedule a meeting to have a discussion of this issue with you and your staff, because I understand that this issue may be a surprise and frustrating. If you could let us know who to invite and provide some available dates and times over the next couple of weeks, we can send out a calendar invite. Eugene Chen is our lead for this. I'm helping out because it's an emerging national issue with legal vulnerability, plus we have a rapidly approaching court-ordered deadline of March 31, 2024 to promulgate a FIP if we don't fully approve your rule.

Thanks,
Matt

Matthew Lakin, Ph.D.
Acting Director, Air and Radiation Division
US EPA, Region 9 (AIR-1) | 75 Hawthorne St. | San Francisco, CA 94105
C: 415-317-3744 | E: Lakin.Matthew@epa.gov
pronouns: he, him