



## Legislation Details (With Text)

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**Type:** Agenda Item      **Status:** Approved

**File created:** 6/28/2021      **In control:** Board of Supervisors

**On agenda:** 12/7/2021      **Final action:** 12/7/2021

**Title:** Air Quality Management District (AQMD) recommending the Board, acting as the AQMD Board of Directors:  
 1) Adopt and authorize the Chair to sign Resolution 154-2021, approving proposed revised Rule 523-1 Federal Non-Attainment New Source Review ("Rule"); and  
 2) Direct staff to forward the Rule to the California Air Resources Board for transmittal to the U.S. Environmental Protection Agency as a revision to the State Implementation Plan, replacing the previous 2019 version of Rule 523-1.

FUNDING: N/A

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Revised Proposed Rule 523-1 Resolution, 2. B - Staff Report Federal NA NSR Rule 523-1, 3. C - Proposed Revised Federal NA NSR Rule 523-1 Markup Copy, 4. D - Proposed Revised Federal NA NSR Rule 523-1 Clean Copy, 5. E - Approved Blue Route Resolution Rule 523-1, 6. F - Proof of Publication - Mountain Democrat, 7. G - Proof of Publication - Tahoe Daily Tribune, 8. Executed Resolution 154-2021

Date	Ver.	Action By	Action	Result
12/7/2021	2	Board of Supervisors	Approved	Pass
7/20/2021	1	Board of Supervisors	Approved	Pass

Air Quality Management District (AQMD) recommending the Board, acting as the AQMD Board of Directors:

- 1) Adopt and authorize the Chair to sign Resolution **154-2021**, approving proposed revised Rule 523-1 Federal Non-Attainment New Source Review ("Rule"); and
- 2) Direct staff to forward the Rule to the California Air Resources Board for transmittal to the U.S. Environmental Protection Agency as a revision to the State Implementation Plan, replacing the previous 2019 version of Rule 523-1.

**FUNDING:** N/A

### DISCUSSION/BACKGROUND

In 2017, the United States Environmental Protection Agency (EPA) found the Sacramento area attained the 2006 federal 24-hour fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS). However, EPA has not yet officially designated the region as attainment for PM<sub>2.5</sub>. Therefore, western EDC (approximately Pollock Pines westward to the County line) is still designated as nonattainment for the 2006 24-hr PM<sub>2.5</sub> NAAQS. As such, EPA requires the EDC AQMD to implement measures to control emissions of ozone precursors volatile organic compounds / reactive organic compounds (VOC/ROC) and oxides of nitrogen (NOx); emissions of PM<sub>2.5</sub> precursors NOx, sulfur oxides (SOx), VOC, ammonia; and emissions of PM<sub>2.5</sub> from major stationary sources. The 2006 federal 24-hr PM<sub>2.5</sub> NAAQS is 35 micrograms per cubic meter (ug/m<sup>3</sup>).

AQMD and the other Sacramento region air districts have committed to attaining the NAAQS by submitting a State Implementation Plan (SIP) to EPA. NSR rules are required as part of the SIP. Once the proposed revisions are approved, 523-1 will satisfy that SIP requirement. Rule 523-1 applies to any new or modified major source in EDC AQMD.

AQMD NSR Rule 523 was adopted on 4/26/94 and amended on 1/23/01, 11/20/01, 3/8/05 and 6/6/06. AQMD NSR Rule 523-1 was adopted on 3/8/16, to address PM<sub>2.5</sub> and ozone precursors from federal or major sources. Adoption of Rule 523-1 satisfied the federal 2006 PM<sub>2.5</sub> and 2008 ozone nonattainment area requirements. To satisfy the State of California SB288 anti-backsliding requirement, Rule 523 was left in place because it is more stringent than federal requirements, as it also applies to non-major sources of NO<sub>x</sub>, SO<sub>x</sub>, and VOC.

Rule 523-1 was submitted to EPA in June of 2016. EPA subsequently issued a completeness determination, but has not approved and included Rule 523-1 into the SIP. In February 2019, EPA informed AQMD that they had re-evaluated 523-1, determined it to be deficient and requested specific revisions be made. On 6/25/19, AQMD revised and adopted Rule 523-1 in accordance with EPA's direction. However, on 12/7/20, EPA again notified AQMD that they had found additional minor deficiencies that required revisions. EPA provided a new template that indicated the revisions needed for approval. These revisions are minor and will not materially change the content of Rule 523-1. If these revisions are not adopted and submitted to the EPA in the near future, EPA could issue a limited approval/limited disapproval (LA/LD) action for the 6/25/19, version of 523-1, which would formally trigger a requirement to make these revisions for full approval. Full approval within 18 months of the LA/LD is required to stop the sanctions clocks that would start when a SIP action is disapproved.

In addition to correcting the minor deficiencies, the ozone Inter Pollutant Trading (IPT) provisions (Section 4, Restrictions on Trading Pollutants) will be removed. This is a result of the D.C. Circuit Court of Appeals ruling on 1/29/21, in the Sierra Club, ET, AL. against the EPA, Case No. 15-1465. That ruling found that the Clean Air Act (CAA) does not allow IPT for ozone precursors and vacated provisions allowing IPT for ozone precursors in EPA's nonattainment NSR regulations.

These revisions to 523-1 will not add new requirements to any existing source in EDC as there are no major sources. Any new major source that applies for a district permit after the revisions to 523-1 are adopted will be subject to the revised rule. Revised 523-1 will satisfy the federal requirement to have an approved Federal ozone and PM<sub>2.5</sub> nonattainment NSR permitting program. Without these revisions, the Sacramento region may be subject to federal sanctions, including the loss of transportation funding.

This Rule revision was presented to and approved by the Board as item 5 on the 7/20/21, agenda (Legistar Item # 21-1101). It is being brought back as US EPA staff determined that a longer public notice period was required and re-approval by the Board was necessary.

## **ALTERNATIVES**

The Board could choose to not adopt the revised Rule. If so, the EPA will most likely issue a LA/LD action for the currently submitted 2019 version of Rule 523-1, which would trigger the requirement for AQMD to make these same revisions to Rule 523-1 within 18 months for full approval.

## **OTHER DEPARTMENT/AGENCY INVOLVEMENT**

None.

**CAO RECOMMENDATION**

Approve as recommended.

**FINANCIAL IMPACT**

Revised Rule adoption and implementation are unlikely to create any significant financial impacts for staff, nor for the business community.

**CLERK OF THE BOARD FOLLOW UP ACTIONS**

Clerk to provide AQMD with two signed copies of the Resolution to be forwarded to the California Air Resources Board.

**STRATEGIC PLAN COMPONENT**

This revised Rule will contribute to achieving the Healthy Communities strategic plan goal.

**CONTACT**

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