

AGENDA BILL

Subject: Amendments to Municipal Code Chapter 8.30, Particulate Emissions Regulations and Adoption of the Air Quality Maintenance Plan and PM-10 Redesignation Request for the Town of Mammoth Lakes

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RECOMMENDATION:

Staff recommends the following to the Town Council:

That the Town Council adopt the Air Quality Maintenance Plan and PM-10 Redesignation Request; direct staff to file a Notice of Exemption from CEQA; and introduce by title only the ordinance repealing and restating the Town of Mammoth Lakes Municipal Code Section 8.30, Particulate Emissions Regulations.

CONSIDERATION OF THE TOWN'S VISION, TOWN COUNCIL PRIORITIES, AND MANDATES:

- *The proposed action is not legally mandated.*

The proposed Air Quality Maintenance Plan and PM-10 Redesignation Request for the Town (AQMP) is an update to the 1990 Air Quality Management Plan (1990 plan). While this update is not legally mandated, the 1990 plan is 23 years old and no longer accurately describes the air quality and related conditions in the town. This has the potential to affect project approvals under the California Environmental Quality Act and transportation grants that the Town might apply for. Furthermore, funding became available for this update through the APCD's Clean Air Projects Program (CAPP), which the Town was awarded in 2012.

- *The proposed action relates to the following Town Council priorities:*

The decision to proceed with the update to the AQMP was made prior to the Council's adoption of the five priority areas and was made in response to CAPP funding available through the APCD.

The AQMP does not directly respond to any of the five Town Council priority areas for funding. It does indirectly affect public transit priorities and funding, transportation infrastructure grants, and overall government efficiency in the area of development project approvals.

- *The proposed action meets the following aspect(s) of the Town's Vision:*

Improved air quality in Mammoth Lakes is a vital component of the overall vision to provide "...the very highest quality of life for our residents and the highest quality of experience for our visitors." Components of the vision addressed include: environmental stewardship, attractive ambiance, and protection of the natural environment.

BACKGROUND:

In 1987, the United States Environmental Protection Agency (EPA) identified the Mammoth Lakes area as Non-Attainment area for the National Ambient Air Quality Standard (NAAQS) for particulate air pollution with a particle size smaller than ten microns (PM-10). This determination was based on monitoring by the APCD showing that, on average, the town's air quality exceeded the NAAQS of 150 micrograms per cubic meter per day 11 times per winter.

To meet the NAAQS, the Town and the APCD worked together to develop strategies for control of particulate emissions in the community. The analysis, conclusions, and control measures, were adopted in 1990 as the Air Quality Management Plan. The 1990 plan showed that, overwhelmingly, the primary sources of PM-10 pollution in Mammoth Lakes came from smoke caused by residential wood burning and by road dust from cinders spread on the streets for traction control in icy conditions.

To address the identified sources of PM-10, the Town instituted a change-out program for wood burning appliances not meeting the emissions requirements of the EPA, wood burning restrictions on days where high PM-10 levels were anticipated, a limitation on the total number of vehicle miles traveled (VMT) on any given day, and a street sweeping program designed to remove cinders and other dirt from the roadways to prevent the creation of airborne dust. As a result of these actions, Mammoth Lakes has not exceeded the NAAQS since 1994 with the recent exception of episodes caused by smoke from the Aspen Fire.

On September 11, 2013 the Planning and Economic Commission held a public workshop to discuss the draft AQMP update and revisions to the Municipal Code. The Commission provided minor comments and supported the direction.

ANALYSIS/DISCUSSION:

Since the adoption of the 1990 plan, the Town has updated its General Plan and developed a new traffic model. During the same period, there have been revisions to the federal and District regulations related to PM-10. Because of the success of the Town's control measures, changes in Town growth projections, and other regulatory changes, the 1990 plan no longer accurately reflects the PM-10 conditions in Mammoth Lakes. Therefore, a revised AQMP has been prepared.

The revised AQMP reassesses the source contributions to PM-10 in Mammoth Lakes, makes recommendations for revisions to the Particulate Emissions Regulations of the Town of Mammoth Lakes (Municipal Code 8.30), and requests the District ask that the EPA redesignate Mammoth Lakes to Attainment for PM-10.

Most of the changes to MC 8.30 revise outdated sections or make non-substantive technical edits. The three meaningful changes are:

- Section 8.30.040.B. This section is modified to clarify that no new wood burning appliances may be installed in multi-family developments. Prohibition of new wood burning appliances in multi-family projects has been the policy of the Town. The proposed revision formalizes that practice and implements General Plan Policy R.10.3.
- Section 8.30.080, Mandatory Curtailment. This section has been modified to include all wood burning appliances, except pellet stoves, in the no-burn day program. Currently, EPA certified stoves are exempted under Town regulations, but are required to participate under the District regulations. This revision eliminates ambiguity between the Town and District regulations and better protects the community's air quality on those days forecast to exceed 130 micrograms per cubic meter.
- Section 8.30.100.B. This section sets a limit for vehicle miles traveled (VMT) within the town. The current limit is 106,600 VMT on any given day. Proposed development projects and other Town approved activities which affect vehicle trips are evaluated against this limit. Projects, programs, or policies which would cause an exceedance of this limit would have to incorporate higher levels of traffic mitigation or potentially be denied. The revised traffic model for the community incorporates additional roadway segments and revises VMT projections based on updated traffic counts and current modeling technologies. It shows an estimated VMT at

General Plan buildout of 179,708 for the revised model roadway segments. The air quality modeling shows that this overall level of traffic will not cause an exceedance of the NAAQS and is suggested as the VMT limit for the AQMP.

Also, in response to concerns that woodstove changeout requirements are not being complied with at time of property sale, Section 8.30.050.C has been expanded to prohibit the issuance of any building permit that increases the habitable area of the structure until the changeout requirement is satisfied. The Town is working to update our property sale and woodstove changeout records, as well as related compliance inspections.

A red-lined copy of the regulations is included as Attachment 3.

The recommended revisions to the control measures are projected to maintain compliance with the NAAQS through 2050. They should also improve compliance with the California standard, but are not sufficient to demonstrate full compliance with the state standard which is substantially more stringent than the federal standard.

OPTIONS ANALYSIS

Option 1: Adopt the Air Quality Maintenance Plan and PM-10 Redesignation Request as submitted or with modifications; direct staff to file a Notice of Exemption from CEQA; and introduce by title only the ordinance repealing and restating Chapter 8.30 of the Town of Mammoth Lakes Municipal Code as submitted or with modifications.

Option 2: Do not adopt the AQMP or the revisions to the Municipal Code.

Option 1 would make the AQMP current with regard to the content of the 2007 General Plan, the VMT calculations in the current Town traffic model, and would redesignate Mammoth Lakes to Attainment of the NAAQS for PM-10. The amendments to Municipal Code Chapter 8.30 would remove out-of-date sections, align the Code with current practices regarding new and replacement residential wood combustion appliances, and would ensure attainment of the NAAQS through build-out of the General Plan.

Option 2, not adopting the AQMP and Municipal Code changes, would leave the existing policies and procedures in place, perpetuating existing ambiguities, and leaving open CEQA questions related to VMT and growth of wood smoke emissions.

STAFFING CONSIDERATION:

The revisions to the Municipal Code would not require any changes to Town staffing and could eventually lead to a slight reduction in the monitoring requirements. Effective enforcement of the change out requirements will require additional staff time than is currently being spent; however, this is a requirement of the current Code. Staffing levels are tied to annual budget priorities and is not affected by the changes to the Code.

FINANCIAL CONSIDERATIONS:

The update of the AQMP and Municipal Code 8.30 are funded through the APCD' Clean Air Projects Program (CAPP). The redesignation of Mammoth Lakes to Attainment by the EPA (acknowledged as meeting the federal standards) should facilitate the application process for transportation funding. Staff costs as described in the section above will be tied to the level of enforcement pursued by the Town.

ENVIRONMENTAL CONSIDERATIONS:

The project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15308: Actions by Regulatory Agencies for Protection of the Environment. Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

LEGAL CONSIDERATIONS:

Compliance with the Clean Air Act is mandatory. The AQMP demonstrates that the Town complies with the National Ambient Air Quality Standards for particulate matter smaller than 10 microns (PM-10).

Attachments:

- Attachment 1 Air Quality Maintenance Plan and PM-10 Redesignation Request
- Attachment 2 Ordinance Repealing and Restating Municipal Code Chapter 8.30, Particulate Emissions Regulations
- Attachment 3 Red-Line Version of Amendments to Municipal Code 8.30