

Faye Thomas

From: Clerk of Board
Sent: Tuesday, July 30, 2024 1:57 PM
Cc: Faye Thomas
Subject: FW: Request for Consent Case 6256-2,

From: Brady, Andrew <Andrew.Brady@us.dlapiper.com>
Sent: Monday, July 29, 2024 8:14 AM
To: Clerk of Board <Front_PC@aqmd.gov>
Cc: Josephine Lee <JLee4@aqmd.gov>
Subject: [EXTERNAL] RE: Request for Consent Case 6256-2,

Good morning,

On behalf of the facility operator, we are following up on and concur with the points raised by Ms. Lee, forwarded below. We wish to add a few additional points for Board consideration.

As indicated by Ms. Lee, the operator and the District have an unresolved disagreement about whether and how, in the past, Rule 1147 was complied with by the equipment at issue here (a regenerative thermal oxidizer).

However, both District staff and the operator have set the disagreement aside because there is a viable alternative means of Rule 1147 compliance for the RTO, going forward. That alternative means of compliance uses the Rule's 1lb per day limit as a daily cap on emissions, which the RTO is able to meet, as evidenced by the data thus far provided on its gas usage (it also bears noting that we are ultimately talking about a very small source of NOx emissions, as signified by the RTO's compliance with the 1lb daily limit under Rule 1147).

The District and the operator have also agreed to a process for implementing the change in compliance pathway and amending the permit to reflect that change, which includes taking a source test.

The operator specifically requested the source test because, among other things, it is necessary to establish the RTO's actual NOx emissions level. This, in turn, will be the basis for determining the actual 1lb per day limit that will go in the revised permit.

The interim monthly emissions total under the proposed conditions relies on a default emissions figure that is not consistent with, and overstates, actual emissions from the RTO. The source test thus enables the establishment of an accurate 1lb permit on a go forward basis rather than what is, in this case, an inaccurate default assumption (to be clear, the operator agrees that the default limit is appropriate as an interim limit pending a source test).

We believe approval on consent is warranted here, where District staff and the operator have fully compromised and agreed to a workable alternative compliance pathway that meets all requirements of Rule 1147 for a piece of equipment with minimal emissions. We do not believe there are any

controversies or issues that must be resolved in a public hearing. We also sincerely hope we have answered Board Member Balagopalan's questions in a satisfactory manner.

If so, we request the Board reconsider authorizing for the item to be decided on the consent calendar for the scheduled hearing this Thursday, July 31st.

Thank you. We are available to answer any further questions.

Andrew Brady

Partner

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DLA Piper LLP (US)

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From: Josephine Lee <JLee4@aqmd.gov>

Sent: Friday, July 26, 2024 5:06 PM

To: Clerk of Board <Front_PC@aqmd.gov>; Brady, Andrew <Andrew.Brady@us.dlapiper.com>

Subject: RE: Request for Consent Case 6256-2,

 EXTERNAL MESSAGE

Thank you for forwarding these questions from Board Member Balagopalan, Madam Clerk. District staff has provided responses below, as well as an attachment of the 2011 version of Rule 1147. We appreciate the Board's consideration of the parties' stipulated request. Please let us know there are any additional concerns, thank you.

1. If this is the case, why require a test on the existing burners if it is already known that it would not meet the standards?

Respondent did not conduct a source test of the RTO. They did conduct preliminary testing for NOx emission, but no source testing per approved protocol has been conducted. Additionally, the facility can rely on the source tests if they submit a permit application to add a condition limiting NOx emissions to less than 1 lb/day of NOx. The permit limit can be calculated using the source test results, rather than default factors. The parties have negotiated and agreed to the source testing condition.

2. Why was this Permit G76174 not updated during the Change of Operator process if the District was aware of the issue with Rule 1147 as early as March 2024 in the original SV petition?

During the Change of Operator process, only the name of the owner/operator is changed from the previous permit to the current permit. This process is strictly administrative- no evaluation is conducted and permit conditions are untouched.

3. When the original permit, G24004, for this RTO, was issued on 4/16/2013, what was the reason for not including a source test or adding a requirement for a flow meter to meet

Rule 1147? Instead, it just states ".shall comply with the Rule 1147". What was in the evaluation file for A/N 535931 that indicated how the facility would comply?

At the time P/O G24004 (A/N 535931) was issued, Rule 1147 amended Sept. 9, 2011 (see attached rule) exempted new thermal oxidizers installed after Dec. 5, 2008 and before March 1, 2012 from the emissions limits unit July 1 of the year the unit is 15 years old under subparagraph (g)(4).

Historically, the thermal oxidizer was modified several times since its initial Permit to Construct was issued under A/N 472484. The RTO was formally permitted under A/N 472484, 487700, 499302, and 535931. Based on communications from the Facility, the RTO was installed sometime in February 2009. Therefore, emissions limits nor source test permit conditions were not added to the 2013 RTO permit issuance as they were not required at that time.

4. Why not require the facility to submit the permit modification application with a request for expedited processing to modify their permit as soon as possible?

The proposed conditions which were negotiated and agreed upon by both parties provide a couple compliance options. Even if the two recent months of data demonstrate RTO emissions below 1 lb/day of NOx using default factors, the facility is not exempt under (d)(7)(A) as they have not demonstrated compliance per subd. (g) or maintained records per subd. (j), specifically requiring that the meter be installed Nov 2022. However, the facility can apply to add a permit condition limiting NOx emissions to less than 1lb/day pursuant to 1147(d)(7)(B). They don't currently do not have permit condition limiting emissions to less than 1 lb/day, which is why the proposed conditions give them this compliance option.

Best,



Josephine Lee
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Pronouns: she/her

From: Clerk of Board <Front_PC@aqmd.gov>
Sent: Friday, July 26, 2024 1:02 PM
To: Brady, Andrew <Andrew.Brady@us.dlapiper.com>; Josephine Lee <JLee4@aqmd.gov>
Subject: FW: Request for Consent Case 6256-2,

From: Mohan Balagopalan
Sent: Friday, July 26, 2024 11:57 AM
To: Clerk of Board <Front_PC@aqmd.gov>
Subject: Re: Request for Consent Case 6256-2,

Hi,
As a follow-up to my comment yesterday about not agreeing to a Consent Hearing, here are some questions I have for the Hearing on this case next week.

In the previous petition for Short Variance for 5/14/24, Case No 6256-1, ID # 13563, Petitioner, 3M ESPT Dental Products, indicated that the burners were tested in February 2024 and were determined that these burners would not meet the 30 ppm guarantee and was tested around 58 ppm. The Petitioner asked for quotes for new burners to meet the 20-ppm limit.

1. If this is the case, why require a test on the existing burners if it is already known that it would not meet the standards?

The new ID is 203538, and the attached permit, G 76174, A/N 653015 with SOA that was issued on 5/31/24, is identical to the previous permit, G24004,A/N 535931 for the Regenerative Thermal Oxidizer (RTO).

2. Why was this Permit G76174 not updated during the Change of Operator process if the District was aware of the issue with Rule 1147 as early as March 2024 in the original SV petition?
3. When the original permit, G24004, for this RTO, was issued on 4/16/2013, what was the reason for not including a source test or adding a requirement for a flow meter to meet Rule 1147? Instead, it just states ".shall comply with the Rule 1147". What was in the evaluation file for A/N 535931 that indicated how the facility would comply?

The Declaration of Mr. Bob Wilcox indicates that a fully automated gas meter was installed sometime in June 2024, and the monthly readings for May and June were 124 600 scf (daily average of 4,154 scf) and 121600 scf (daily average of 4,164 scf), respectively. The readings for July are expected to be 129,993 scf (daily average 4,193 scf).

By my calculations, these readings indicate that the Nox emissions, using the default of 60 ppm, 0.073 lbs/MMBTU the daily NOx emissions would be less than a pound a day.

Therefore, they have been in compliance with Rule 1147 and Condition #4 pursuant to Rule 1147 (d)(7) since at least May 2024. If this is the intent of 3M to comply with the rule and not install new burners, they would need to modify this permit to add a condition to limit their monthly gas usage and maintain monthly records of the daily NOx emissions as per R1147 (j).

4. Why not require the facility to submit the permit modification application with a request for expedited processing to modify their permit as soon as possible?

A variance or an SOA is not needed to do that, in my opinion, as they are currently in compliance with Permit condition #4 as per the newly issued Permit G76174.

If they also plan to replace the burners, then they should submit the necessary application to do so after the permit is modified to reflect the exemption of 1 pound/day of NOx or less.

Mohan Balagopalan

From: Clerk of Board <Front_PC@aqmd.gov>

Sent: Thursday, July 25, 2024 11:51 AM

To: Josephine Lee <JLee4@aqmd.gov>; Brady, Andrew <Andrew.Brady@us.dlapiper.com>

Subject: FW: Request for Consent Case 6256-2,

See below.

From: Mohan Balagopalan
Sent: Thursday, July 25, 2024 11:26 AM
To: Clerk of Board <Front_PC@aqmd.gov>
Subject: Re: Request for Consent Case 6256-2

Hi,

I have several issues with this Stipulated Order of Abatement and do not agree that this case should be heard on Consent.

Mohan Balagopalan

From: Clerk of Board <Front_PC@aqmd.gov>
Sent: Wednesday, July 24, 2024 4:23 PM
To: Hearing Board
Subject: FW: Request for Consent Case 6256-2,

Attached are documents requesting to be placed on the Hearing Board's Consent Calendar. Please review and let me know **by 4:00p on July 25, 2024**, whether this matter may be heard on the consent calendar.

From: Josephine Lee <JLee4@aqmd.gov>
Sent: Wednesday, July 24, 2024 4:10 PM
To: Clerk of Board <Front_PC@aqmd.gov>
Cc: Brady, Andrew <Andrew.Brady@us.dlapiper.com>; Lucy Tom-Cao <ltomcao@aqmd.gov>
Subject: Request for Consent Case 6256-2,

Dear Clerk of the Board,

Petitioner South Coast AQMD and Respondent 3M Healthcare US Opco, LLC respectfully requests that Case Number 6256-2, Stipulated Order for Abatement set for hearing on July 31, 2024, be heard on the Hearing Board's Consent Calendar. Counsel for Respondent has been included in this communication.

Attached are the final Consent Calendar documents:

1. The Stipulation requesting that the Hearing Board hear the Petition for Modification on the Consent Calendar, signed by Josephine Lee and Andrew Brady;
2. The Declaration of Austin Stewart, air quality engineer with the District's Engineering and Permitting division, in support of the Stipulated OA;
3. The Declaration of Daniel Hernandez, air quality inspector with the District's Office of Compliance and Enforcement, in support of the Stipulated OA;
4. The Declaration of Bob Wilcox, Plant Engineering and Tool Room Supervisor for 3M Healthcare US Opco, LLC, in support of the Stipulated OA; and
5. The Proposed Findings and Decision, as stipulated to by Josephine Lee and Andrew Brady.

We appreciate the consideration of this request.

Best,



Josephine Lee
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