**ATTACHMENT 1**

**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

**Attachment 1 to the Governing Board Resolution for:**
**Final Subsequent Environmental Assessment for Proposed Amended Rule 1110.2 – Emissions from Gaseous- and Liquid-Fueled Engines**

**Findings and Statement of Overriding Considerations**

**SCAQMD No. 150728CC**
**State Clearinghouse No: 2015071072**

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## INTRODUCTION

Proposed Amended Rule 1110.2 – Emissions from Gaseous- and Liquid-Fueled Engines, is considered a "project" as defined by the California Environmental Quality Act (CEQA) (California Public Resources Code §§21000 et seq.). The South Coast Air Quality Management District (SCAQMD) as Lead Agency for the proposed project, prepared a Notice of Preparation/Initial Study (NOP/IS) which identified environmental topics to be analyzed in a Draft Subsequent Environmental Assessment (SEA). The NOP/IS provided information about the proposed project to other public agencies and interested parties prior to the release of the Draft SEA. The initial evaluation in the NOP/IS identified the topic of air quality and greenhouse gas emissions as potentially being adversely affected by the proposed project. The NOP/IS was distributed to responsible agencies and interested parties for a 30-day public review and comment period from July 29, 2015 to August 27, 2015. During that public comment period, the SCAQMD received no comment letters.

The Draft SEA was prepared as a public disclosure document intended to: (a) provide the lead agency, responsible agencies, decision makers and the general public with information on the environmental impacts of the proposed project; and, (b) be used as a tool by decision makers to facilitate decision making on the proposed project. The Draft SEA was released for a 45-day public review and comment period from September 1, 2015 to October 16, 2015. The Draft SEA, was prepared pursuant to CEQA Guidelines §15161, and evaluated the topic of air quality and greenhouse gas emissions as an area that may be adversely affected by the proposed project. The Draft SEA concluded that only the topic of operational air quality and greenhouse gas emissions impacts would have significant adverse impacts. During that public comment period, the SCAQMD received no comment letters.

## CERTIFICATION OF THE FINAL SEA

The SCAQMD Governing Board certifies that it has been presented with the Final SEA for Proposed Amended Rule (PAR) 1110.2 and that it has reviewed and considered the information contained in the Final SEA prior to making the following certifications and findings. Pursuant to CEQA Guidelines §15090 (Title 14 of the California Code of Regulations, §15090), the SCAQMD Governing Board certifies that the Final SEA has been completed in compliance with the CEQA statutes and the CEQA Guidelines. The SCAQMD Governing Board certifies the Final SEA for the actions described in these findings and in the Final SEA, i.e., the proposed project. The SCAQMD Governing Board further certifies that the Final SEA reflects its independent judgment and analysis. The Governing Board Resolution includes the certification of the Final SEA.

## SUMMARY OF THE PROPOSED PROJECT

The SCAQMD is proposing to amend Rule 1110.2 – Emissions from Gaseous- and Liquid-Fueled Engines. Currently, Rule 1110.2 limits emissions of nitrogen oxides (NOx), volatile organic compounds (VOCs) and carbon monoxide (CO) from the combustion of gaseous and liquid fueled engines. This rule applies to engines that are operating in the SCAQMD and are rated more than 50 brake horsepower (bhp). The rule was adopted in 1990 and last amended in 2012 to establish an effective date of January 1, 2016 for owners and operators of biogas engines

to meet the emission limits that all other engines under this rule were required to meet in July 1, 2011.

There are two key issues to be resolved in this amendment:

1. SCAQMD staff's recent evaluation of the state of compliance with Rule 1110.2 as well as feedback from industry revealed that some equipment owners/operators are experiencing compliance challenges, in particular, with certain effective dates in the rule. Because some control technologies have not matured in a timely manner for biogas engines, SCAQMD staff is proposing to amend Rule 1110.2 to delay implementation of NOx, VOC, and CO emission limit compliance dates for biogas engines. The delayed emission reductions are greater than the SCAQMD's mass daily operational significance thresholds for NOx, VOC, and CO, thus the air quality impacts from PAR 1110.2 are considered significant. However, all emission reductions will be recaptured over time, so the impacts are not permanent.
2. Limits are being proposed on the number of breakdowns and excess emissions during breakdown events in order to be consistent with the EPA's breakdown provisions and to allow the rule to be included in the State Implementation Plan (SIP).

Project Objectives

CEQA Guidelines §15124(b) requires the project description to include a statement of objectives sought by the proposed project, including the underlying purpose of the proposed project. Compatibility with project objectives is one criterion for selecting a range of reasonable project alternatives and provides a standard against which to measure project alternatives. The project objectives identified in the following bullet points have been developed: 1) in compliance with CEQA Guidelines §15124 (b); and, 2) to be consistent with policy objectives of the SCAQMD's New Source Review program. The project objectives are as follows:

- to maintain the lower limits on NOx, VOC, and CO emissions from the combustion of gaseous and liquid biogas engines;
- place biogas engines on a more suitable compliance schedule with achievable emission limitations due to the fact that retrofit construction schedules may extend beyond the current compliance deadline and demonstration project control technologies have not matured in a timely manner for these types of engines;
- to comply with EPA Breakdown provision requirements; and
- aside from temporary air quality impacts, avoid generating any new adverse environmental impacts.

## SIGNIFICANT ADVERSE IMPACTS WHICH CAN BE REDUCED BELOW A SIGNIFICANT LEVEL OR WERE CONCLUDED TO BE INSIGIFICANT

The Final SEA identified air quality and greenhouse gas emissions as an area that may be adversely affected by the proposed project. The proposed project was evaluated according to the CEQA environmental checklist of approximately 17 environmental topics for potential adverse impacts from a proposed project. The screening analysis concluded that the following environmental areas would not be significantly adversely affected by the proposed project:

- aesthetics
- agriculture and forestry resources
- biological resources
- cultural resources
- energy
- geology and soils
- hazards and hazardous materials
- hydrology and water quality
- land use and planning
- mineral resources
- noise
- population and housing
- public services
- recreation
- solid/hazardous waste
- transportation/traffic

**POTENTIAL SIGNIFICANT ADVERSE IMPACTS THAT CANNOT BE REDUCED BELOW A SIGNIFICANT LEVEL**

The Final SEA identified the topic of operational air quality and greenhouse gas emissions as the only area that may be significantly adversely affected by the proposed project and could not identify and quantify enough feasible mitigation measures to adequately reduce potential impacts to less than significant.

Operational Air Quality

NOx, CO, and VOC emission reductions from PAR 1110.2 will be delayed and will result in approximately 0.9 tons per day of NOx, 0.5 tons per day of VOC, and 20 tons per day of CO emissions delayed by 2019. The quantity of peak daily NOx, VOC, and CO emission reductions delayed exceeds the SCAQMD CEQA significance thresholds for operation. Thus, PAR 1110.2 will result in adverse significant operational air quality impacts.

It should be noted, however, PAR 1110.2 also includes options for alternate compliance plans, and a compliance flexibility fee option that currently exists in Rule 1110.2. In Rule 1110.2, all mitigation fees are used to reduce NOx emissions through the SCAQMD's leaf blower exchange program. The fees collected as a result of the implementation of PAR 1110.2 from the affected facilities electing to use the mitigation fee option will be used in the same manner as fees collected for Rule 1110.2. By funding this program, emission reductions will be generated that provide a regional air quality and corresponding GHG benefit to reduce the impact from the potential delay in emission reductions from those facilities choosing to delay compliance. It is possible that the use of these fees will fully offset the adverse air quality impact, but this cannot be foreseen at this time. No further feasible mitigation measures are identified at this time that would reduce or eliminate the expected foregone emission reductions. Consequently, the operational air quality emission impacts from the proposed project cannot be mitigated to less than significant.

Even though the proposed project could result in emission reductions delayed during operation that exceeds the applicable operational air quality significance thresholds, they are not expected to interfere with the air quality progress and attainment demonstration projected in the AQMP or cause a cumulative impact. Based on regional modeling analyses performed for the 2012 AQMP, implementing control measures contained in the 2012 AQMP, in addition to the air quality benefits of the existing rules, it is anticipated that the South Coast air basin will be in attainment with all national and most state ambient air quality standards by the year 2023. Therefore, when cumulative operational air quality impacts from the proposed project, previous amendments, and all other AQMP control measures are considered together, cumulative impacts are not expected to be significant because implementation of all AQMP control measures is expected to result in net emission reductions and overall air quality improvement. This determination is consistent with the conclusion in the 2012 AQMP Final Program EIR that direct cumulative air quality impacts from implementing all AQMP control measures are not expected to be significant (SCAQMD, 2012). For these aforementioned reasons, the proposed project would not result in irreversible environmental changes or an irretrievable commitment of resources.

## FINDINGS

Public Resources Code §21081 and CEQA Guidelines §15091(a) state that no public agency shall approve or carry out a project for which a CEQA document has been completed which identifies one or more significant adverse environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. Additionally, the findings must be supported by substantial evidence in the record (CEQA Guidelines §15091(b)). As identified in the Final SEA and summarized above, the proposed project has the potential to create significant adverse operational air quality impacts. The SCAQMD Governing Board, therefore, makes the following findings regarding the proposed project. The findings are supported by substantial evidence in the record as explained in each finding. The Findings will be included in the record of project approval and will also be noted in the Notice of Decision. The Findings made by the SCAQMD Governing Board are based on the following significant adverse impact identified in the Final SEA.

**NOx, VOC, and CO emission reductions from PAR 1110.2 will be delayed as compared with Rule 1110.2 (current applicable rule), and will result in approximately 0.9 tons per day of NOx, 0.5 tons per day of VOC, and 20 tons per day of CO emissions delayed by 2019 as a result of the compliance extension date.**

Finding and Explanation:

PAR 1110.2 is concluded to result in adverse significant operational NOx, VOC and CO air quality impacts as a result of a "worst case" scenario analysis. The significant adverse environmental impacts are identified in a CEQA document; and the CEQA document described all feasible measures that could minimize the impacts of the proposed project.

The affected equipment consists of all stationary and portable engines over 50 rated brake horsepower within the SCAQMD jurisdiction. More specifically, the delayed emissions stems from the biogas fueled engines. This equipment is currently regulated by SCAQMD Rule 1110.2. Due to the fact that control technologies have not matured in a timely manner to retrofit biogas

engines, the proposed project would place the affected equipment on a more suitable compliance schedule with achievable emission limitations under a new proposed rule. The proposed project would delay the compliance dates outlined in Rule 1110.2, and therefore, there would be adjustments to the annual operational NOx emission reductions during the varying compliance years. The proposed project will result in approximately 0.9 tons per day of peak daily NOx, 0.5 tons per day of VOC, and 20 tons per day of CO emissions delayed by 2019 as a result of the delay in compliance dates.

PAR 1110.2 also includes options for alternate compliance plans, equipment certification and a mitigation fee option to delay compliance. The alternate compliance option allows facilities to phase in compliance for equipment over one year. The mitigation fee option provides facilities an option to delay compliance by up to three years. However, the air quality analysis presented in the Final SEA represents a "worst case" analysis and accounts for these potential additional delays in compliance.

The mitigation fee option for PAR 1110.2 is the same mitigation fee program that currently exists in Rule 1110.2, which is available to the affected sources. In Rule 1110.2, all mitigation fees are used to reduce NOx emissions through the SCAQMD's leaf blower exchange program. The fees collected as a result of the implementation of PAR 1110.2 from the affected facilities electing to use the mitigation fee option will be used in the same manner as fees collected for Rule 1110.2. Emission reductions funded through the mitigation fee alternative compliance option can be achieved through a variety of projects including but not limited to replacement of commercial leaf blowers with low emission or electric units, replacement of gas powered lawnmowers with electric mowers, automobile scrapping, co-funding with Carl Moyer or similar programs or purchasing of emission reduction credits or mobile source emission reduction credits for the relevant time period. By funding this program, emission reductions will be generated that provide a regional air quality improvement and GHG co-benefit, to reduce the impact from the potential delay in emission reductions from those facilities choosing to delay compliance. It is possible that the use of these fees will fully offset the adverse air quality impact, but this cannot be foreseen at this time. However, it could be anticipated that those taking advantage of the mitigation fee option under Rule 1110.2 would also participate under PAR 1110.2, thus similar emission reductions would result. There are no further feasible mitigation measures identified at this time that would reduce or eliminate the expected delay in emission reductions. Consequently, the operational air quality emissions impacts from the proposed project cannot be mitigated to less than significant.

The Governing Board finds that no feasible mitigation measures have been identified that would mitigate the potentially significant adverse impacts to operational air quality to less than significant levels. CEQA defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors" (Public Resources Code §21061.1).

The Governing Board finds further that the Final SEA considered alternatives, pursuant to CEQA Guidelines §15126.6. The proposed project was considered to provide the best balance between meeting the objectives of the project while minimizing potentially significant adverse environmental impacts. The administrative record for the CEQA document and adoption of the rule is maintained by the SCAQMD Office of Planning, Rule Development and Area Sources.

Conclusion

The Governing Board finds that the findings required by CEQA Guidelines §15091(a) are supported by substantial evidence in the record. The record of approval for this project may be found in the SCAQMD's Clerk of the Board's Office located at SCAQMD headquarters in Diamond Bar, California.

## STATEMENT OF OVERRIDING CONSIDERATIONS

If significant adverse impacts of a proposed project remain after incorporating mitigation measures, or no measures or alternatives to mitigate the adverse impacts are identified, the lead agency must make a determination that the benefits of the project outweigh the unavoidable adverse environmental effects if it is to approve the project. CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project [CEQA Guidelines §15093(a)]. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable" [CEQA Guidelines §15093 (a)]. Accordingly, a Statement of Overriding Considerations regarding potentially significant adverse operational NOx, VOC, and CO air quality impacts resulting from the "worst case" analysis of the proposed project has been prepared. This Statement of Overriding Considerations is included as part of the record of the project approval for the proposed project. Pursuant to CEQA Guidelines §15093(c), the Statement of Overriding Considerations will also be noted in the Notice of Decision for the proposed project.

Despite the inability to incorporate changes into the proposed project that will mitigate potentially significant adverse operational air quality impacts to a level of insignificance, the SCAQMD's Governing Board finds that the following benefits and considerations outweigh the potentially significant unavoidable adverse environmental impacts:

1. The analysis of potential adverse environmental impacts incorporates a "worst case" approach. This entails the premise that whenever the analysis requires that assumptions be made, those assumptions that result in the greatest adverse impacts are typically chosen. This method likely overestimates the actual emission reductions delayed from the proposed project.
2. PAR 1110.2 would place biogas engines on a more suitable compliance schedule with achievable emission limitations due to the fact that control technologies have not matured in a timely manner for this particular category of equipment.
3. The fees collected from the affected facilities electing to use the mitigation fee option will be used in the same manner as fees collected for Rule 1110.2. By funding this program, emission reductions will be generated that provide a regional air quality and corresponding GHG benefit to reduce the impact from the potential delay in emission reductions from those facilities choosing to delay compliance. It is possible that the use of these fees will fully offset the adverse air quality impact, but this cannot be foreseen at this time.

4. Supplemental projects funded by the mitigation fee option will reduce emissions from the proposed project and will aid the advancement of technology, which will facilitate compliance with the 8-hour ozone standard and the annual PM2.5 standard.
5. By maximizing funding for air quality improvement programs with the mitigation fee from the proposed project, emission reductions will be generated that provide local and regional air quality benefits to reduce the impact of the potential delay in emission reductions from those facilities choosing to delay compliance.

The SCAQMD's Governing Board finds that the aforementioned considerations outweigh the unavoidable significant effects to the environment as a result of the proposed project.

## MITIGATION

CEQA requires an agency to prepare a plan for reporting and monitoring compliance with the implementation of measures to mitigate significant adverse environmental impacts. Mitigation monitoring requirements are included in CEQA Guidelines §15097 and Public Resources Code §21081.6, which specifically state:

When making findings as required by subdivision (a) of Public Resources Code §21081 or when adopting a negative declaration pursuant to paragraph (2) of subdivision (c) of Public Resources Code §21080, the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment (Public Resources Code §21081.6). The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of an agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.

The provisions of CEQA Guidelines §15097 and Public Resources Code §21081.6 are triggered when the lead agency certifies a CEQA document in which mitigation measures, changes, or alterations have been required or incorporated into the project to avoid or lessen the significance of adverse impacts identified in the CEQA document. However, since no feasible mitigation measures to fully reduce significant adverse operational NOx, VOC, and CO air quality impacts were identified, a mitigation monitoring and reporting plan for operations is not required. However, fees collected from the affected facilities electing to use the mitigation fee option will be used in the same manner as fees collected for Rule 1110.2. By funding this program, emission reductions will be generated that provide a regional air quality and corresponding GHG benefit to reduce the impact from the potential delay in emission reductions from those facilities choosing to delay compliance. It is possible that the use of these fees will fully offset the adverse air quality impact, but this cannot be foreseen at this time.

## CONCLUSION

Based on a "worst case" analysis, the potential adverse operational air quality impacts from the adoption and implementation of the proposed project are considered significant and unavoidable.

NOx, VOC, and CO emission reductions from PAR 1110.2 are delayed compared with Rule 1110.2, and will result in approximately 0.9 tons per day of peak daily NOx, 0.5 tons per day of VOC, and 20 tons per day of CO emissions delayed by 2019 as a result of the delay in compliance dates.

However, PAR 1110.2 also includes options for alternate compliance plans, equipment certification and a mitigation fee option that currently exists in Rule 1110.2. In Rule 1110.2, all mitigation fees are used to reduce NOx emissions through the SCAQMD's leaf blower exchange program. The fees collected as a result of the implementation of PAR 1110.2 from the affected facilities electing to use the mitigation fee option will be used in the same manner as fees collected for Rule 1110.2. Emission reductions funded through the mitigation fee alternative compliance option can be achieved through a variety of projects including but not limited to replacement of commercial leaf blowers with low emission or electric units, replacement of gas powered lawnmowers with electric mowers, automobile scrapping, co-funding with Carl Moyer or similar programs or purchasing of emission reduction credits or mobile source emission reduction credits for the relevant time period. By funding these programs, emission reductions will be generated that provide a regional air quality and corresponding GHG benefit to reduce the impact from the potential delay in emission reductions from those facilities choosing to delay compliance. It is possible that the use of these fees will fully offset the adverse air quality impacts, but this cannot be foreseen at this time. No additional feasible mitigation measures or project alternatives have been identified that would reduce these impacts to insignificance.