

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

**Attachment 1 to the Governing Board Resolution for:
Final Subsequent Environmental Assessment to the December 2008 Final Environmental
Assessment for Proposed Rule 1147 – NO_x Reductions from Miscellaneous Sources, and
to the September 2011 Final Subsequent Environmental Assessment for Proposed
Amended Rule 1147 – NO_x Reductions from Miscellaneous Sources**

Findings and Statement of Overriding Considerations

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INTRODUCTION

The proposed amendments to Rule 1147 - NO_x Reductions From Miscellaneous Sources, are considered a “project” as defined by the California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000 et seq.). The 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 Environmental Assessment (EA). Since PAR 1147 was identified in the NOP/IS as potentially having statewide, regional or areawide significance, a CEQA scoping meeting is required (pursuant to Public Resources Code Section 21083.9(a)(2)) and was held at the SCAQMD’s Headquarters in conjunction with the Public Workshop on February 15, 2017.

The NOP/IS provided information about the proposed project to other public agencies and interested parties prior to the intended release of the Draft EA. The NOP/IS was distributed to responsible agencies and interested parties for a 30-day review and comment period from February 1, 2017, to March 3, 2017. The initial evaluation in the NOP/IS identified the topic of operational air quality as potentially having potentially significant adverse impacts requiring further review. During the public comment period, the SCAQMD received two comment letters relative to the NOP/IS.

Following the release of the NOP/IS, further analysis of the proposed project indicated that the type of CEQA document appropriate for the proposed project is a Subsequent Environmental Assessment (SEA), in lieu of an EA. The SEA is a substitute CEQA document, prepared in lieu of a Subsequent EIR (CEQA Guidelines § 15162(b)), pursuant to the SCAQMD’s Certified Regulatory Program (CEQA Guidelines § 15251(l); codified in SCAQMD Rule 110). . Therefore, a SEA is appropriate because new information of substantial importance, which was not known and could not have been known at the time the Final EA was certified for the adoption of Rule 1147 in December 2008 (referred to herein at the December 2008 Final EA) and the Final Subsequent EA that was certified for the amendments to Rule 1147 in September 2011 (referred to herein as the September 2011 Final SEA), became available (CEQA Guidelines § 15162(a)(3)). Further, PAR 1147 is expected to have significant effects that were not discussed in the previous December 2008 Final EA or September 2011 Final SEA (CEQA Guidelines § 15162(a)(3)(A)). In the event that new information becomes available that would change a project, the lead agency shall prepare a subsequent Environmental Impact Report (EIR) (CEQA Guidelines § 15162(b)). However, under SCAQMD's certified regulatory program, an equivalent document, a subsequent EA, can be a substitute for preparing a subsequent EIR.

The SEA is also a public disclosure document intended to: 1) provide the lead agency, responsible agencies, decision makers and the general public with information on the environmental impacts of the proposed project; and 2) be used as a tool by decision makers to facilitate decision making on the proposed project.

Thus, the SCAQMD, as lead agency for the proposed project, has prepared the Draft SEA pursuant to its Certified Regulatory Program. The Draft SEA identified and analyzed the topic of operational air quality as the only area that may have significant adverse impacts if the proposed project is implemented. The Draft SEA concluded that only the topic of operational air quality emission impacts would have significant adverse impacts. Because PAR 1147 may have statewide, regional or areawide significance, a CEQA scoping meeting was required for the proposed project pursuant to Public Resources Code § 21083.9(a)(2) and was held at the SCAQMD’s Headquarters in conjunction with the Public Workshop on February 15, 2017. Further, pursuant to CEQA Guidelines § 15252, since significant adverse impacts were identified,

an alternatives analysis and mitigation measures are required. However, since PAR 1147 contains adjustments to compliance dates for certain types of equipment and alternatives to the project that are either the ‘no project’ alternative, or different adjustments to the compliance dates than what is proposed in PAR 1147 (see Chapter 5 of the Final SEA), the analysis in the Final SEA concluded that there are no feasible mitigation measures that would eliminate or reduce the significant adverse operational air quality impacts for NO_x emissions to less than significant levels.

The Draft SEA was released for a 46-day public review and comment period from March 24, 2017 to May 9, 2017. The comments made at the CEQA scoping meeting and the responses to these comments are included in Appendix D of this Final SEA. The comment letters received relative to the NOP/IS and the responses to the comments are included in Appendix E of the Final SEA. In addition, all comments received during the public comment period on the analysis presented in the Draft SEA have been responded to and included in Appendix F of the Final SEA.

Subsequent to release of the Draft SEA, modifications were made to PAR 1147 and some of the revisions were made in response to verbal and written comments on the project’s effects. At the time the Draft SEA was released for public review and comment, the estimate of total NO_x emission reductions foregone of 0.9 ton per day included the portion of emission reductions foregone attributable to the original proposal to increase the NO_x compliance limit for low temperature ovens and other units with a heat rating less than 325,000 BTU/hour until 2044. However, subsequent to the release of the Draft SEA, the proposed project was modified to fully exempt all units, not just low temperature units, in this category. The effect of exempting these units is now expected to have permanent, instead of temporary, NO_x emission reductions foregone of approximately 49 pounds per day, which is less than the NO_x significance threshold of 55 pounds per day. Staff has reviewed the modifications to PAR 1147 and concluded that none of the modifications constitute significant new information or a substantial increase in the severity of an environmental impact, nor provide new information of substantial importance relative to the draft document. In addition, revisions to PAR 1147 in response to verbal or written comments would not create new, avoidable significant effects. As a result, these revisions do not require recirculation of the Draft SEA pursuant to CEQA Guidelines § 15088.5.

SUMMARY OF THE PROPOSED PROJECT

SCAQMD staff is proposing to amend Rule 1147 – NO_x Reductions from Miscellaneous Sources, in order to resolve compliance issues that have been raised by stakeholders. If adopted, PAR 1147 would:

- remove the requirement to comply with the NO_x emission limit for units with a heat input rating of less than 325,000 British Thermal Units per hour (BTU/hour). These units would still be subject to maintenance and recordkeeping requirements;
- change the NO_x emission limit for low temperature afterburners, burn-off ovens, incinerators, and related equipment from 30 ppm to 60 ppm;
- change the compliance date for small in-use units (with NO_x emissions of one pound per day or less) from a schedule based on a 20 year lifetime to a 30 year lifetime or until the units are replaced or retrofit;
- change the compliance date for existing in-use heated process tanks and pressure washers from a schedule based on a 15 year to 20 year lifetime to when the units are replaced or retrofit. These units would not be required to comply with an emission limit at any specific age and may be relocated with a facility move;

- add a testing exemption for ultra-low NO_x infrared burners;
- provide compliance flexibility for low emission units by clarifying options for demonstrating emissions less than one pound per day;
- add an exemption for units with emission less than one pound per day when a company relocates a facility and remains under the same ownership;
- add an exemption for units that become subject to the rule upon amendment of Rule 219 on or after May 5, 2017, until the unit is replaced;
- add flexibility for demonstrating compliance with emission limits including an alternative compliance demonstration option based on a manufacturer's performance guarantee;
- clarify an exemption for food ovens; and
- clarify an exemption for flare type systems.

If adopted, PAR 1147 is expected to result in NO_x emission reductions foregone of up to 0.9 ton per day in 2017. However, while most of the estimated NO_x emission reductions foregone will be eventually recaptured because the existing units will be regularly replaced and upgraded over time, approximately 0.03 ton per day of the NO_x emission reductions foregone will be permanent (see the Final SEA, Table 4-3). Other minor changes are also proposed for clarity and consistency throughout the rule.

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

The Final SEA identified air quality 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
- air quality and greenhouse gases during construction (and greenhouse gases during operation)
- 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 and hazardous waste
- transportation and traffic

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

The Final SEA identified the topic of operational air quality as the only area that may be significantly adversely affected by the proposed project.

Operational Air Quality Impacts

Of the amendments proposed in PAR 1147, only the amendment to delay the compliance for NO_x emission limits and the exempt units with a heat rating less than 325,000 BTU/hour would have significant adverse operational air quality impacts. The air quality analysis for PAR 1147 in the Final SEA indicates that NO_x emission reductions delayed during operation will continue to exceed the NO_x operational significance threshold for each compliance year in 2017 and beyond. Thus, the operational air quality impacts from implementing PAR 1147 are considered to be significant. If significant adverse environmental impacts are identified in a CEQA document, the CEQA document shall describe feasible measures that could minimize the impacts of the proposed project. However, since PAR 1147 contains adjustments to compliance dates for certain types of equipment and alternatives to the project that are either the ‘no project’ alternative, or different adjustments to the compliance dates than what is proposed in PAR 1147, there are no feasible mitigation measures that would eliminate or reduce the significant adverse operational air quality impacts for NO_x emissions to less than significant levels.

It is important to note that because PAR 1147 focuses on reducing NO_x emissions, emissions of other criteria pollutants (e.g., CO, VOC, SO_x, PM₁₀, and PM_{2.5}) and toxic air contaminants are not expected to change as a result of PAR 1147 compared with the current requirements for the affected sources under Rule 1147. Thus, PAR 1147 will not result in significant adverse operational air quality impacts for CO, VOC, SO_x, PM₁₀, PM_{2.5} and toxic air contaminants.

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. These 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.

Potential NO_x emission reductions delayed and permanently foregone exceed the SCAQMD's applicable significance air quality thresholds and cannot be mitigated to insignificance.

Finding and Explanation:

As explained earlier, except for NO_x emissions, no other criteria pollutant or toxic air contaminant emissions exceed the SCAQMD's applicable significance thresholds during operation. Thus, PAR 1147 is concluded to result in adverse significant operational NO_x air quality impacts.

The Governing Board finds that there are no feasible mitigation measures that would eliminate or reduce the significant adverse operational air quality impacts for NO_x emissions 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, but, aside from the No Project Alternative, no project alternatives would reduce to insignificant levels the significant air quality impacts identified for the proposed project and still achieve the objectives of the proposed project. The administrative record for the CEQA document and adoption of the rule amendments is maintained by the 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 NO_x air quality impacts resulting from 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 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. The potential adverse impacts from implementing PAR 1147 consist of delay in anticipated NOx emission reductions and small amount of permanent emission reduction foregone, not emission increases.
3. Despite the delay in some of the compliance dates, most NOx emission reductions foregone are expected to be recovered each year based on up to 0.9 ton per day from compliance year 2017 to 2044. The permanent emission reductions foregone are estimated to be 0.03 ton per day.
4. In consideration of the total net accumulated emission reductions projected overall, the delay in NOx emission reductions would not interfere with the air quality progress and attainment demonstration projected in the AQMP. The 2012 AQMP allocated one ton per day of NOx emissions in the SIP set aside account for every year starting in year 2013 to year 2030 in the event that NOx emission reductions were not achieved via rule adoptions or amendments. This NOx set aside account was re-evaluated and revised in the Final 2016 AQMP based on expected growth and the number of projects expected to take place in near future years to 2.0 tons per day for every year starting in year 2017 to year 2025 and 1.0 ton per day for every year starting in year 2026 to year 2031. As a result, even though PAR 1147 would delay NOx emission reductions and exempt some units, implementation of other control measures in the 2016 AQMP will provide human health benefits by reducing population exposures to existing NOx emissions. The cumulative air quality impacts from the proposed project and all other AQMP control measures, when considered together, are not expected to be significant because ongoing implementation of AQMP control measures is expected to result in net emission reductions and overall air quality improvement.
5. The proposed project will help relieve certain affected industries of the compliance challenges currently being experienced by certain affected sources with the existing Rule 1147 and ensures that equipment owners/operators are not unnecessarily burdened with compliance costs.

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 MONITORING PLAN

When making findings as required by Public Resources Code § 21081 and CEQA Guidelines § 15091, the lead agency must 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 and CEQA Guidelines § 15097[a]). However, SCAQMD found there are no feasible mitigation measures that would eliminate or reduce the significant adverse operational air quality impacts for NOx emissions to

less than significant levels. Therefore, no mitigation monitoring plan has been developed for PAR 1147 at this time.

CONCLUSION

Based on a “worst-case” analysis, the potential adverse operational air quality impacts from the adoption and implementation of PAR 1147 are considered significant and unavoidable. No feasible mitigation measures have been identified that would reduce the operational air quality impacts associated with implementing the PAR 1147 from the entire project to less than significant levels. Further, no project alternatives have been identified that would reduce these impacts to insignificance.