

ATTACHMENT G

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Final Staff Report

Proposed Amended Rule 110 – Rule Adoption Procedures to Assure Protection and Enhancement of the Environment

Proposed Amended Rule 212 – Standards for Approving Permits and Issuing Public Notice

Proposed Amended Rule 301 – Permitting and Associated Fees

Proposed Amended Rule 303 – Hearing Board Fees

Proposed Amended Rule 306 – Plan Fees

Proposed Amended Rule 307.1 – Alternative Fees for Air Toxics Emissions Inventory

Proposed Amended Rule 309 – Fees for Regulation XVI and Regulation XXV

Proposed Amended Rule 315 – Fees for Training Classes and License Renewal

Proposed Amended Rule 518.2 – Federal Alternative Operating Conditions

Proposed Amended Rule 1310 – Analysis and Reporting

Proposed Amended Rule 1605 – Credits For The Voluntary Repair of On-Road Motor Vehicles Identified Through Remote Sensing Devices

Proposed Amended Rule 1610 – Old-Vehicle Scrapping

Proposed Amended Rule 1612 – Credits for Clean On-Road Vehicles

Proposed Amended Rule 1620 – Credits for Clean Off-Road Mobile Equipment

Proposed Amended Rule 1623 – Credits for Clean Lawn and Garden Equipment

Proposed Amended Rule 1710 – Analysis, Notice, and Reporting

Proposed Amended Rule 1714 – Prevention of Significant Deterioration for Greenhouse Gases

Proposed Amended Rule 3006 – Public Participation

March 2019

Deputy Executive Officer

Planning, Rule Development, and Area Sources
Philip M. Fine, Ph.D.

Assistant Deputy Executive Officer

Planning, Rule Development, and Area Sources
Susan Nakamura

Planning and Rules Manager

Planning, Rule Development, and Area Sources
Michael Morris

Authors: James McCreary – Assistant Air Quality Specialist

Contributors: Amir Dejbakhsh – Assistant Deputy Executive Officer
Robert Gottschalk – Air Quality Specialist
David Hauck – Senior Air Quality Engineer
Mark Henninger – Technology Implementation Manager
Elaine-Joy Hills – Air Quality Inspector II
Saad Karam – Systems & Programming Supervisor
Kevin McDaniel – Mail/Subscription Services Supervisor
David Ono – Program Supervisor
Barbara Radlein – Program Supervisor
Tracy Tang – Air Quality Specialist

Reviewed By: Barbara Baird – Chief Deputy Counsel
Brian Tomasovic – Senior Deputy District Counsel
Uyen-Uyen Vo – Program Supervisor

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Supervisor, Second District
County of San Bernardino

EXECUTIVE OFFICER:

WAYNE NASTRI

TABLE OF CONTENTS

CHAPTER 1: BACKGROUND

INTRODUCTION	1-1
BACKGROUND	1-1
AFFECTED INDUSTRIES	1-4
PUBLIC PROCESS	1-4

CHAPTER 2: SUMMARY OF PROPOSAL

INTRODUCTION	2-1
PROPOSED RULE AMENDMENTS	2-1
PROPOSED IMPLEMENTATION.....	2-5

CHAPTER 3: IMPACT ASSESSMENT

INTRODUCTION	3-1
RULE ADOPTION RELATIVE TO COST EFFECTIVENESS.....	3-1
COMPLIANCE COSTS	3-1
SOCIOECONOMIC ASSESSMENT.....	3-1
CALIFORNIA ENVIRONMENTAL QUALITY ACT ANALYSIS	3-1
DRAFT FINDINGS UNDER CALIFORNIA HEALTH AND SAFETY CODE SECTION 40727.....	3-1
<i>Requirements to Make Findings</i>	3-1
<i>Necessity</i>	3-2
<i>Authority</i>	3-2
<i>Clarity</i>	3-2
<i>Consistency</i>	3-2
<i>Non-Duplication</i>	3-2
<i>Reference</i>	3-2
COMPARATIVE ANALYSIS	3-2

APPENDIX 1: PROCEDURES FOR INCLUDING ELECTRONIC PUBLIC NOTICE

BACKGROUND	A1-1
CURRENT PRACTICE FOR MANAGING EMAIL SUBSCRIPTION AND PUBLIC NOTICE LISTS	A1-1
PROCEDURES TO COMPLY WITH SB 1502	A1-2
<i>Phase I: Data Gathering and Basic Email Noticing</i>	A1-2
<i>Phase II: Advanced Email Noticing</i>	A1-2
NOTIFYING PERMIT HOLDERS OF INTERESTED PARTIES OF PROCEDURES	A1-3

APPENDIX 2: PUBLIC COMMENTS

PUBLIC COMMENTS.....	A2-1
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CHAPTER 1: BACKGROUND

INTRODUCTION

BACKGROUND

AFFECTED INDUSTRIES

PUBLIC PROCESS

INTRODUCTION

Based on SCAQMD's concept to modernize public noticing, California Senate Bill (SB) 1502 was approved in June 2018, allowing air districts to electronically mail (email) public notices in lieu of mail for any person who requests noticing by email. Additionally, in 2016, the U.S. Environmental Protection Agency (U.S. EPA) revised the public notice provisions for Clean Air Act permitting programs (81 Fed. Reg. FR 71613), requiring electronic notice (e-notice) for permit actions for federal permit programs in lieu of providing public notice by newspaper publication. U.S. EPA's rule further allows for e-notice as an option for permit actions by permitting authorities implementing U.S. EPA-approved programs, including but not limited to, New Source Review and Title V permitting. Permitting authorities that implement e-notice are also required to make the draft permit available electronically, such as by posting on a permitting authority's South Coast Air Quality Management District's (SCAQMD) public website or on a public website identified by the permitting authority SCAQMD, for the duration of the comment period (e-access).

In an effort to streamline and modernize public noticing and communications with the public, staff reviewed all public noticing and communications in its regulatory program. SCAQMD is proposing amendments to Proposed Amended Rules 110, 212, 301, 303, 306, 307.1, 309, 315, 518.2, 1310, 1605, 1610, 1612, 1620, 1623, 1710, 1714, and 3006 (Proposed Amended Rules) will to modernize and extend flexibilities for public notice-noticing and other communications and to allow electronic payment of certain fee invoices. Pursuant to SB 1502, SCAQMD is also proposing procedures to develop a process to collect email addresses for those stakeholders that elect to receive public notices via email instead of mail and procedures to update email addresses and preferences for email or mail.

BACKGROUND

In response to SB 1502 and 81 Fed. Reg. FR 71613, SCAQMD is proposing amendments to modernize communications and streamline public notification. The Proposed Amended Rules which can be divided into four categories of amendments: 1) Public Notifications for New Source Review and Federal Permit Programs; 2) Public Notifications for Rulemaking Activities; 3) Communications for Implementing Fee Rules; and 4) Public Notifications for Offset Program Rules.

California Health and Safety Code Sections 40440.5 and 40440.7 require air districts SCAQMD to send public workshop and public hearing notices for rule adoption, amendment, or repeal by mail. In June 2018, SB 1502¹ was approved which allows air districts to send public notices by email in lieu of by mail. Under SB 1502, air districts are required to send notices by mail to any person who requests noticing by mail and to adopt procedures for the public to request public notices to be sent by mail and a process to update their email addresses. These procedures must be adopted, and updated as needed, by the air districts' Governing Board. The requirements of SB 1502 are now codified in relevant part at California Health and Safety Code Section 40006. Consistent with state law, proposed amendments to Rule 110 will allow for both email and mail distribution of public notifications for rulemaking activities.

In October 2016, the U.S. EPA revised the public notice and public participation provisions for federal permit programs including the New Source Review (NSR), Title V, Prevention of

¹ California Senate Bill 1502:

https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1502

Significant Deterioration (PSD),² and Outer Continental Shelf (OCS) permit programs of the Clean Air Act by revising permitting provisions in 40 Code of Federal Regulations (CFR) Parts 51, 52, 55, 70, 71, and 124 to update permit processing requirements.² The 2016 final rule removed the mandatory requirement for public notice of a draft air permit through publication in a newspaper, and instead requires ~~e-notice e-noticing~~ for U.S. EPA actions and actions by permitting authorities implementing the federal permitting rules, and allows for ~~e-notice e-noticing, such as posting on an air district's website,~~ as an option for actions by permitting authorities implementing U.S. EPA-approved programs. When ~~e-notice e-noticing~~ is provided, there must also be e-access to the draft permit. U.S. EPA defines “e-notice” as electronic posting on a publicly accessible website identified by the permitting authority and “e-access” as making a draft permit available electronically on a publicly accessible website identified by the permitting authority for the duration of the public comment period.

SCAQMD has received delegated authority to implement two programs under federal permitting rules. For these two permit programs, e-notice instead of newspaper publication is now mandated. The first program is a 2007 “Agreement for Partial Delegation of Authority” between SCAQMD and the U.S. EPA which partially delegated authority to issue PSD initial permits and to modify certain existing PSD permits, subject to the terms and conditions of the agreement.³ The proposed changes in PAR 212 and Regulation XVII – Prevention of Significant Deterioration, specifically PAR 1710 and 1714, will ensure federal permitting rules are followed for permitting actions in keeping with the partial delegation. -The second program is a 1994 “Agreement for Delegation of Authority” between SCAQMD and the U.S. EPA which delegated the authority to implement and enforce the requirements of the OCS Air Regulations (40 CFR Part 55) within 25 miles of the state’s seaward boundary.⁴ The delegation was expressly premised on SCAQMD working to ensure Rule 212 was interpreted (and amended, as needed) to incorporate the “public notice and comment procedures for permitting of OCS facilities.”⁵ The proposed changes in PAR 212 will also accomplish consistency with this historical delegation.⁶

Additionally, U.S. EPA’s final rule on e-noticing includes the option of e-noticing for permits issued under the authority of U.S. EPA-approved programs. ~~Given~~ With reference to this option, SCAQMD implements an U.S. EPA-approved Title V permit program and is also the permitting authority of Nonattainment NSR permits. In June 2018, California Air Resources Board (CARB)

² Revisions to Public Notice Provisions in Clean Air Act Permitting Programs, 81 ~~Fed. Reg.~~ FR 71613 (Oct. 18, 2016). <https://www.gpo.gov/fdsys/pkg/FR-2016-10-18/pdf/2016-24911.pdf>. New Source Review includes the minor NSR, Prevention of Significant Deterioration (PSD), and Nonattainment NSR programs.

³ U.S. EPA-South Coast Air Quality Management District Agreement for Partial Delegation of Authority to Issue and Modify Prevention of Significant Deterioration Permits Subject to 40 CFR 52.21, July 25, 2017, https://www.epa.gov/sites/production/files/2015-08/documents/south_coast_aqmd_psd_delegation_agreement.pdf

⁴ U.S. EPA-South Coast Air Quality Management District Agreement for Delegation of Authority for Outer Continental Shelf Air Regulations (40 CFR Part 55), May 9, 1994, https://www.epa.gov/sites/production/files/2015-08/documents/south_coast_ocs_agreement.pdf; Notice of the delegation was published in the Federal Register on July 15, 1994.

⁵ Updating Rule 212 is “mandatory” and appropriate according to the terms of the delegation agreement. In the fine print of the rule on e-noticing, U.S. EPA explained that e-notice and e-access was not generally required for “permitting authorities that are delegated authority to issue permits under 40 CFR part 55,” and that this was not proposed. 81 ~~Fed. Reg.~~ FR at 71618, n. 11.

⁶ The District adopted Rule 1183-Outer Continental Shelf (OCS) Air Regulations on March 12, 1993, to enable its exercise of authority under the delegation. Changes to Rule 1183 which only incorporates provisions of 40 CFR Part 55, ~~and are~~ not presently warranted or needed.

Advisory 299⁷ addressed the availability of this option for air districts, explaining that air districts can permissibly change their rules and practices for approved permit programs to accord with federally-authorized e-noticing and that such changes would not violate the Protect California Air Act of 2003⁸. CARB Advisory 299 also recommends a dedicated web page for listing all public notices related to NSR permitting and that all public notices contain certain minimum information requirements. U.S. EPA and CARB allow e-noticing to enhance public participation and to better inform the public. As CARB Advisory 299 indicates, newspaper publication of public notices may still be required under other provisions of the California Health and Safety Code and other laws and regulations, such as the California Environmental Quality Act.

Proposed amendments to Rules 212, 518.2, 1710, 1714, and 3006 are ~~offered~~ in direct response to the U.S. EPA rule changes in 2016 that allow or require e-noticing. Rules 1310, 1605, 1610, 1612, 1620, and 1623 were identified by staff. These rules concern permit-type actions (or actions ancillary to permitting actions) that involve offsets and emission reduction credits. California Health and Safety Code Section 40713 requires that there be procedures for the approval of reductions under offset programs, specifying that they provide “for public comment within 30 days after notice of any proposed approval” and that the procedures be “comparable to district permit procedures.” There is no Health and Safety Code or federal requirement for notice by newspaper advertisement for these types of actions, and staff has therefore identified these rules as eligible for amendment ~~that also warrant updates~~ to enable e-noticing. Neither the U.S. EPA rule on e-noticing nor CARB Advisory 299 had reason to address these types of actions or to mandate requirements for them, but the stated justifications and rationale for e-noticing are the same, and the proposed amendments will serve to ensure that procedures remain “comparable to district permit procedures.”

Proposed amendments to Rules 301, 303, 306, 307.1, 309, and 315 would also authorize modern means of communications and correspondence in the implementation of SCAQMD rules under Regulation III – Fees. These rules are subject to amendment under SCAQMD’s general authority to adopt and revise rules, and they are eligible for amendment apart from the enactment of SB 1502. These changes would generally enable SCAQMD to mail, email, or electronically issue notices, communications, and invoices in the implementation of fee rules. The changes would also recognize that certain fee invoices may be paid electronically.

Rules 510 – Notice of Hearing, 515 – Findings and Decision, and 812 – Notice of Hearing, were initially identified as eligible for amendment by SB 1502. These rules call for the mailing or delivery of certain notices in the conduct of Hearing Board activities. Under further review, these notices are not necessarily “public notices” under the terms of Health and Safety Code Section 40006. Staff now recommends Rules 510, 515, and 812 not be amended, because SB 1502 does not specifically enable or invite such changes. Delivery of notices by email may be consistent with current rule text, yet staff has determined that the previously contemplated rule changes for these rules that had been considered in reference to SB 1502 are no longer warranted.

Staff had additionally studied Rule 1309 – Emission Reduction Credits and Short Term Credits, as eligible for amendment to also allow for e-noticing in lieu of notice by newspaper advertisement, but that rule’s requirement to publish a newspaper notice (Rule 1309(f)(3)) is strictly the

⁷ California Air Resources Board Advisory 299: <https://www.arb.ca.gov/enf/advs/advs299.pdf>

⁸ California Senate Bill 288: http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200320040SB288; California Health and Safety Code §§ 42501-42507.

responsibility of a facility that would request to generate or use Short Term Credits. It also bears noting that facilities have not been known to use this provision since its adoption. The rationale for e-noticing that applies when SCAQMD seeks public comment on its own proposed actions is not germane to this part of Rule 1309, and staff accordingly does not recommend amending Rule 1309.

AFFECTED INDUSTRIES

The proposed amendments are for permit actions, public notices required for rulemaking, and fee invoices. Therefore these amendments potentially affect every industry within the SCAQMD's jurisdiction.

PUBLIC PROCESS

~~The A Public Workshop was held at the SCAQMD Headquarters in Diamond Bar on November 29, 2018. The proposed rule amendments are administrative changes, and were deemed to not have a material impact on subject businesses, given the retention of the right to opt in to remain on a mailing list for rules made eligible for amendment by SB 1502. A Public Hearing will be held, during which the public may provide input on the proposed amendments. The Public Hearing is scheduled to be held at the SCAQMD Headquarters in Diamond Bar on March 1, 2019.~~

CHAPTER 2: SUMMARY OF PROPOSAL

INTRODUCTION

PROPOSED RULE AMENDMENTS

PROPOSED IMPLEMENTATION

INTRODUCTION

The purpose of the proposed amendments is to allow for the option to send public notices by electronic mail (email), electronically notice (e-notice) permit actions, and email fee invoices. Proposed Amended Rule 110 incorporates the option provided by California Senate Bill (SB) 1502 to email public notices regarding rule development to stakeholders that indicate their preference to receive such notices by email.

Rules 212, 518.2, 1710, 1714, and 3006 pertain to approved or delegated Clean Air Act permit programs, specifically New Source Review (NSR) permitting, which includes Prevention of Significant Deterioration (PSD) permitting; Outer Continental Shelf (OCS) permitting; and the Title V operating permits program. These rules are proposed for amendment to align with new amendments to the U.S. Environmental Protection Agency's (U.S. EPA's) permitting rules for the e-noticing of draft permits. These changes for Clean Air Act permit programs were published as a final rule on October 18, 2016 at 81 ~~Fed. Reg.~~ FR 71613. Accordingly, for South Coast Air Quality Management District's (SCAQMD's) delegated permit programs, e-noticing of draft permits has been required per 40 Code of Federal Regulations (CFR) parts 52, 55, 71, and 124 since the effective date in 2016. For SCAQMD's approved permit programs, the final rule authorizes permitting authorities to adopt e-noticing when it is adopted as the "consistent noticing method". Permitting authorities that conduct e-noticing are not precluded from supplementing ~~e-noticing~~ e-noticing with additional means of notification to the public, which may include newspaper advertisement. SCAQMD staff has coordinated with California Air Resources Board (CARB) staff in its development of the proposed changes to permit rules to ensure appropriate adherence to CARB Advisory 299. The text of the proposed amendments has been made to align with the regulatory text that U.S. EPA promulgated in its final rule, as now found in the pertinent paragraphs on public participation at 40 CFR sections 51.165, 51.166, 52.21, 70.7, and 124.10. To satisfy the final rule's requirement for electronic access (e-access) to draft permits, SCAQMD will host its existing, dedicated public web pages for permit actions to meet requirements for e-notice and e-access, as federally required. Adjusting changes to the website will be made, as appropriate, to reflect that ~~e-noticing~~ e-noticing will serve as the consistent noticing method for permit actions. The provision of e-access will not affect the SCAQMD's record retention policies.

SCAQMD proposes to enable options for electronic notification or communication in multiple other rules. The proposed rule amendments are administrative changes.

Additional details regarding the implementation of these options for electronic notification or communication are found in Appendix 1 – Procedures for Including Electronic Public Notice ~~and Invoice Delivery~~.

PROPOSED RULE AMENDMENTS

The rules proposed for amendment include:

- Rule 110 – Rule Adoption Procedures to Assure Protection and Enhancement of the Environment
- Rule 212 – Standards for Approving Permits and Issuing Public Notice
- Rule 301 – Permitting and Associated Fees
- Rule 303 – Hearing Board Fees
- Rule 306 – Plan Fees
- Rule 307.1 – Alternative Fees for Air Toxics Emissions Inventory

- Rule 309 – Fees for Regulation XVI and Regulation XXV
- Rule 315 – Fees for Training Classes and License Renewal
- Rule 518.2 – Federal Alternative Operating Conditions
- Rule 1310 – Analysis and Reporting
- Rule 1605 – Credits For The Voluntary Repair of On-Road Motor Vehicles Identified Through Remote Sensing Devices
- Rule 1610 – Old-Vehicle Scrapping
- Rule 1612 – Credits for Clean On-Road Vehicles
- Rule 1620 – Credits for Clean Off-Road Mobile Equipment
- Rule 1623 – Credits for Clean Lawn and Garden Equipment
- Rule 1710 – Analysis, Notice, and Reporting
- Rule 1714 – Prevention of Significant Deterioration for Greenhouse Gases
- Rule 3006 – Public Participation

The proposed amendments are categorized into four groups:

1. Public Notifications for New Source Review and Federal Permit Programs

Proposed Amended Rules 212, 518.2, 1710, 1714, and 3006 ~~are proposed for amendment to~~ will satisfy U.S. EPA's modernized requirements for public noticing ~~notice and public participation for delegated and approved Clean Air Act permit programs. The proposed amendments include removing provisions requiring public notification by newspaper and adding requirements to post draft air permits and public notices for permit actions on the SCAQMD website.~~ These changes ensure SCAQMD permit processing will follow the e-notice and e-access requirements in U.S. EPA regulations.

2. Public Notifications for Rulemaking Activities

Proposed Amended Rule 110 ~~is proposed for amendment to~~ will allow SCAQMD to send public notices by email if an email address is available; by other electronic means; and by mail should an individual opt-in to receive public notices by mail only or has not registered his or her noticing preferences. SB 1502 enables the SCAQMD to amend its rules to expand public noticing options to include by email.

3. Communications for Implementing Fee Rules

Proposed Amended Rules 301, 303, 306, 307.1, 309, and 315 ~~will~~ are proposed for amendment to allow SCAQMD to email certain fee invoices to be emailed and expand ~~Additionally, payment options for certain fee invoices payment options are expanded to include electronic payment.~~

4. Public Notifications for Offset Program Rules

Proposed Amended Rules 1310, 1605, 1610, 1612, 1620, and 1623 ~~will~~ are proposed for amendment to allow SCAQMD to post notices for public comment on the publicly accessible SCAQMD website, remove the requirement to conduct public noticing by newspaper publishing and instead require posting public notices on the SCAQMD website. Additionally, changes clarify that information required at the time the public notice is posted will now be available for public inspection upon request instead of immediately available.

Tables 1 through 4 summarizes the categories of categorical amendments for each rule:

Table 1. Public Notifications for New Source Review and Federal Permit Programs

Rule Number	Rule Title
212	Standards for Approving Permits and Issuing Public Notice
518.2	Federal Alternative Operating Conditions
1710	Analysis, Notice, and Reporting
1714	Prevention of Significant Deterioration for Greenhouse Gases
3006	Public Participation

Table 2. Public Notifications for Rulemaking Activities

Rule Number	Rule Title
110	Rule Adoption Procedures to Assure Protection and Enhancement of the Environment

Table 3. Communications for Implementing Fee Rules

Rule Number	Rule Title
301	Permitting and Associated Fees
303	Hearing Board Fees
306	Plan Fees
307.1	Alternative Fees for Air Toxics Emissions Inventory
309	Fees for Regulation XVI and Regulation XXV
315	Fees for Training Classes and License Renewal

Table 4. Public Notifications for Offset Program Rules

Rule Number	Rule Title
1310	Analysis and Reporting
1605	Credits For The Voluntary Repair of On-Road Motor Vehicles Identified Through Remote Sensing Devices
1610	Old-Vehicle Scrapping
1612	Credits for Clean On-Road Vehicles
1620	Credits for Clean Off-Road Mobile Equipment
1623	Credits for Clean Lawn and Garden Equipment

An example of each type of change is below:

Public Notifications for New Source Review and ~~Title V Permit Programs~~ Federal Permit Programs

Proposed Amended Rule 3006 - Subparagraph (a)(1)(A)

The District shall give ~~public~~ notice by posting a public notice on the District public website for the duration of the public comment period. In addition, public notice shall be given to persons on a mailing or electronic mailing list that has been developed to enable interested parties to subscribe to the mailing list. The Executive Officer may update the mailing list from time to time by requesting written indication of continued interest from those listed and may delete from the list the name of any person who fails to respond to such request within a reasonable timeframe. ~~publication in a newspaper of general circulation in the county where the source is located, by mail to those who request in writing to be on a list to receive all such notices, and by any other means determined by the Executive Officer to be necessary to assure adequate notice to the affected public.~~

Public Notifications for Rulemaking Activities

Proposed Amended Rule 110 - Subdivision (a)

In addition to providing the public notice of District Board meetings and hearings as required by Health and Safety Code Section 40725, the District shall consult with state and local governmental agencies having jurisdiction by law with respect to the subject matter of a proposed rule or regulation, and public notice shall be sent by mail, electronic mail, or other electronic means, mailed to all persons who have requested such notice in writing. For informational purposes, public notice may be posted on the District public website and may be provided to newspapers of general circulation, to all persons believed to be interested in the proceeding, and to the State Clearinghouse for circulation to public agencies.

Communications for Implementing Fee Rules

Proposed Amended Rule 301 - Subparagraph (c)(1)(B)

For fees due upon notification, such notice may be given by personal service ~~or by deposit, postpaid, in the United States~~ or sent by mail, electronic mail, or other electronic means, and shall be due thirty (30) days from the date of personal service, ~~or mailing, or electronic transmission.~~ For the purpose of this subparagraph, the fee payment will be considered to be received by the District if it is delivered, postmarked by the United States Postal Service, or electronically paid on or before the expiration date stated on the billing notice. If the expiration date falls on a Saturday, Sunday, or a state holiday, the fee payment may be delivered, postmarked, or electronically paid on the next business day following the Saturday, Sunday, or the state holiday with the same effect as if it had been delivered, postmarked, or electronically paid on the expiration date.

Public Notifications for Offset Program Rules

Proposed Amended 1310 – Paragraph (c)(2)

Within ten calendar days following such decision, post a public notice on the District public website ~~publish a notice by prominent advertisement in at least one newspaper of general circulation in the District~~ stating the preliminary decision of the Executive Officer or designee and where the public may inspect the information required to be made available

under paragraph (c)(3). The public notice shall provide 30 days from the date of ~~publication~~ ~~public notice~~posting for the public to submit written comments on the preliminary decision; and

PROPOSED IMPLEMENTATION

These administrative amendments will facilitate: e-noticing of permit actions and providing e-access to draft permits; sending public notices by email; and sending certain fee invoices by email and allowing electronic payment for certain fee invoices when possible and appropriate. Public notices required for rulemaking activities will continue to be delivered by mail until a facility or interested party submits a confirmation that notice by email ~~or e-notice~~ is preferred.

~~Air Districts~~ districts utilizing the flexibilities extended by SB 1502 are required to have their district board “adopt, and update as needed, procedures for a person to request public notices to be sent by mail and update an electronic email address.” These procedures are included in Appendix 1 – Procedures for Including Electronic Public Notice, and Invoice Delivery. ~~and will occur in two phases. Phase I will be a data gathering campaign to collect email addresses and preferences. During Phase I, public notices will be mailed in addition to being emailed. Phase II will continue to collect email addresses and preferences and will remove public noticing by mail for individuals who have requested public noticing by email. In addition, Appendix 1 discusses procedures regarding how permitted facilities and interested parties may receive other types of public notices and fee invoices regularly sent by SCAQMD, but these procedures are not in the purview of SB 1502 and the requirement for procedures that is codified at Health and Safety Code Section 40006(e).~~

In order to comply with U.S. EPA rules for e-noticing in the administration of Clean Air Act permit programs and CARB Advisory 299, SCAQMD will maintain and enhance a dedicated web page on its website to e-notice all public notices related to permit actions. This web page will provide e-access to the public and contain the draft permit. Supplementary material such as the permit application and preliminary determination materials will be made available for public inspection, upon request. These public notices will be available for e-access by the public for the duration of the public comment period for each permit action. Information on permitting actions that require public notice is maintained on the website beyond the end of the comment period, up to a maximum duration of six (6) months, under existing practices. The posted public notice provides directions on how to submit comments on a draft permit.

Noticing of permit actions by newspaper publication may continue to be retained as an additional and supplemental means of public noticing while SCAQMD pursues web page enhancements to better promote public participation in keeping with the e-notice and e-access requirements for Clean Air Act permit programs. An existing dedicated web page already serves to ensure SCAQMD satisfies e-noticing requirements for the issuance of federal Prevention of Significant Deterioration permits, and public notices for permit actions under Rule 3006 are already posted on the SCAQMD website. Changes will be made to specifically indicate that the website provides these notices to accomplish a consistent noticing method. Historically, public notices for permit-related actions, e.g., Rule 1310 or in the Rules under Regulation XVI, have been rare, but they would have the potential to be posted on the same dedicated web page.

CHAPTER 3: IMPACT ASSESSMENT

INTRODUCTION

RULE ADOPTION RELATIVE TO COST-EFFECTIVENESS

COMPLIANCE COSTS

SOCIOECONOMIC ASSESSMENT

CALIFORNIA ENVIRONMENTAL QUALITY ACT ANALYSIS

**DRAFT FINDINGS UNDER CALIFORNIA HEALTH AND SAFETY CODE
SECTION 40727**

COMPARATIVE ANALYSIS

INTRODUCTION

The proposed amendments allow for the option to send public notices by electronic mail (email), to electronically notice (e-notice) permit actions and provide electronic access (e-access) to these permit actions, and to email and allow for electronic payment of fee invoices.

RULE ADOPTION RELATIVE TO COST EFFECTIVENESS

The proposed amendments are administrative and have been determined to have no negative impact on air quality.

COMPLIANCE COSTS

South Coast Air Quality Management District (SCAQMD) has determined that no additional costs will be incurred to stakeholders. All elections to remain on a mailing list will be made either on the SCAQMD website or on existing print material presented to an individual, such as a sign-in sheet.

SOCIOECONOMIC ASSESSMENT

The amendments proposed are administrative in nature and will not impose any additional costs to facilities or result in other socioeconomic impacts. The proposed amendments do not significantly affect air quality and do not establish an emission limit or standard, and therefore, no socioeconomic analysis is required under California Health and Safety Code Sections 40440.8 and 40728.5.

CALIFORNIA ENVIRONMENTAL QUALITY ACT ANALYSIS

Pursuant to the California Environmental Quality Act (CEQA) and SCAQMD Rule 110, the SCAQMD, as lead agency for the proposed project, has reviewed the proposed amendments to the rules identified above (the proposed project) pursuant to: 1) CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA; and 2) CEQA Guidelines Section 15061 – Review for Exemption, procedures for determining if a project is exempt from CEQA. SCAQMD staff has determined that it can be seen with certainty that there is no possibility that the proposed project may have a significant adverse effect on the environment. Therefore, the project is considered to be exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Activities Covered by General Rule. A Notice of Exemption will be prepared pursuant to CEQA Guidelines Section 15062 – Notice of Exemption. If the proposed project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside, and San Bernardino counties.

DRAFT FINDINGS UNDER CALIFORNIA HEALTH AND SAFETY CODE SECTION 40727

Requirements to Make Findings

California Health and Safety Code Section 40727 requires that prior to adopting, amending, or repealing a rule or regulation, the SCAQMD Governing Board shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference based on relevant information presented at the public hearing and in the staff report.

Necessity

Proposed Amended Rules 110, 212, 301, 303, 306, 307.1, 309, 315, 518.2, 1310, 1605, 1610, 1612, 1620, 1623, 1710, 1714, and 3006 are needed to align SCAQMD's rule language with U.S. Environmental Protection Agency, California Air Resources Board, and California Senate directives and recommendations. These proposed amendments are necessary to facilitate email public noticing and fee invoicing and to increase the public awareness of permit actions such as those triggered by New Source Review via e-noticing on the SCAQMD website. The proposed amendments also address the need that persons may still desire to receive communications from SCAQMD by mail, which the proposed amendments, in alignment with California Senate Bill 1502, allow. The adoption of these proposed amendments will allow for more efficient communication between SCAQMD and facilities and interested parties, promoting increased public engagement and improved communication.

Authority

The SCAQMD obtains its authority to adopt, amend, or repeal rules and regulations pursuant to California Health and Safety Code Sections 39002, 39650 et. seq., 40000, 40440, 40441, 40506, 40702, 40709, 40725 through 40728, 41508, 42300 et. seq., and 44380 et. seq.~~41511~~.

Clarity

Proposed Amended Rules 110, 212, 301, 303, 306, 307.1, 309, 315, 518.2, 1310, 1605, 1610, 1612, 1620, 1623, 1710, 1714, and 3006 are written or displayed so that their meaning can be easily understood by the persons directly affected by them.

Consistency

Proposed Amended Rules 110, 212, 301, 303, 306, 307.1, 309, 315, 518.2, 1310, 1605, 1610, 1612, 1620, 1623, 1710, 1714, and 3006 are in harmony with and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.

Non-Duplication

Proposed Amended Rules 110, 212, 301, 303, 306, 307.1, 309, 315, 518.2, 1310, 1605, 1610, 1612, 1620, 1623, 1710, 1714, and 3006 will not impose the same requirements as any existing state or federal regulations. The proposed amended rules are necessary and proper to execute the powers and duties granted to, and imposed upon, the SCAQMD.

Reference

In amending these rules, the following statutes which the SCAQMD hereby implements, interprets, or makes specific are referenced: Health and Safety Code Sections 39002, 40001, 40506, 40006, 40702, 40709, 40713, 40440(a), 40725 through 40728.5, and 41511.

COMPARATIVE ANALYSIS

Pursuant to Health and Safety Code 40727.2(g), the SCAQMD is electing to comply with subdivision (a) by finding that the proposed amended rules do not impose new or more stringent monitoring, reporting, or recordkeeping requirements.

APPENDIX 1: PROCEDURES FOR INCLUDING ELECTRONIC PUBLIC NOTICE AND INVOICE DELIVERY

INTRODUCTION

~~RULE ADOPTION RELATIVE TO COST-EFFECTIVENESS~~

~~COMPLIANCE COSTS~~

~~SOCIOECONOMIC ASSESSMENT~~

~~CALIFORNIA ENVIRONMENTAL QUALITY ACT ANALYSIS~~

**~~DRAFT FINDINGS UNDER CALIFORNIA HEALTH AND SAFETY CODE
SECTION 40727~~**

~~COMPARATIVE ANALYSIS~~

BACKGROUND

California Senate Bill (SB) 1502, adopted on June 28, 2018, requires the South Coast Air Quality Management District (SCAQMD) Governing Board to adopt and update procedures that must identify how a person:

~~Requests public notices to be sent by mail;~~ and

~~Updates an electronic mail (email) address.~~

The procedures in this ~~appendix~~ Appendix describe how certain email distribution and ~~e-noticing~~ noticing processes will take place ~~and how permitted facilities and interested parties may receive other types of public notices and fee invoices regularly sent by SCAQMD.~~

~~Separately, this appendix also provides details on programmatic compliance with U.S. Environmental Protection Agency rules for e-noticing in the administration of Clean Air Act permit programs and California Air Resources Board Advisory 299.~~

CURRENT PRACTICE FOR MANAGING EMAIL SUBSCRIPTION AND PUBLIC NOTICE LISTS

SCAQMD currently collects and manages email subscription and public notice lists for various purposes. These lists are used to send communications via mail, email, or both, and utilize various means of data collection and storage for mailing addresses, email addresses, and other similar contact information.

Currently, the SCAQMD website includes a link for individuals to sign up for email distribution of public notices and other information of specific interest to that person at <http://www.aqmd.gov/sign-up>. The list of subscriptions for which an individual may enroll includes:

- General Notifications
- Clean Air Plans/CEQA Updates
- Equipment Exchange
- Incentive Programs
- Permit/Compliance Notifications
- Refinery Flare Emission Notification
- New Technology
- Rule Updates

Additionally, SCAQMD offers newsletter updates on these topics through its subscription-based public outreach tool. The subscriber is allowed to manage and update his or her subscription information including unsubscribing from lists, subscribing to additional lists, or updating his or her email address and other additional information. Subscription information is stored and managed at SCAQMD and communications are distributed to subscribers via automated public notices, for example Air Alerts for daily pollution forecasts or specific pollution levels in a particular area. In addition, subscribers may receive targeted information on selected and subscribed topics.

PROCEDURES TO COMPLY WITH SB 1502

SCAQMD will develop a program to collect and manage preferences for public noticing required by SCAQMD rules and regulations and a mechanism to provide and update an email address from approximately 22,000 permitted facilities as well as from interested parties. The procedures will be developed in ~~three~~ two phases: 1) Data Gathering and Basic Email Noticing; and 2) Advanced Email Noticing; ~~and 3) Email Delivery of Fee Invoices.~~

Once completed, the program will allow SCAQMD to send notices:

1. By email to all facilities required to receive these public notices;
2. By mail to all facilities requesting to receive these public notices by mail; and
3. By email or mail to all interested parties that specify an interest in receiving these public notices either by email or mail, respectively.

Phase I: Data Gathering and Basic Email Noticing

The first phase of these procedures is to provide a means for permit holders and interested parties to provide their email addresses for notification. The primary objective is to collect email addresses and associated contact information, as well as public notice preferences (e.g.i.e., “All Permit Actions” or “All Title V Permit Actions”). Subsection “Notifying Permit Holders and Interested Parties of Procedures” within this Appendix 1 lists outreach methods for notifying individuals and permit holders to register their public notice preferences. Phase I will use the SCAQMD’s existing subscription-based public outreach program which can be accessed at <http://aqmd.gov/sign-up>. This tool will be used for emailing public notices, but will not replace any required mail-outs to permit holders and interested parties. Persons who specify an email notice preference will receive that public notice by both mail and email until Phase II is complete. The information collected in Phase I will be transferred to the new tool in Phase II.

Phase II: Advanced Email Noticing

Phase II will create a dedicated tool for emailing the appropriate public notices to permit holders and interested parties. This phase of the procedures is to enhance Phase I by adding additional, more-specific noticing preferences (e.g., noticing by NAICS code). The new tool will require an input field for mailing address in order to remove duplicate mailed public notices for those that ~~specified~~ specify the email noticing preference.

Phase III: Email Delivery of Fee Invoices

~~This phase of the procedures is to provide a means for permit holders and interested parties to receive fee invoices by email instead of by mail. This phase will require a separate and more complex system to be developed and released in the future. Appropriate and advance notice will be given to all permit holders and interested parties when that project is complete and will include instructions for how to register their information to receive such items by email.~~

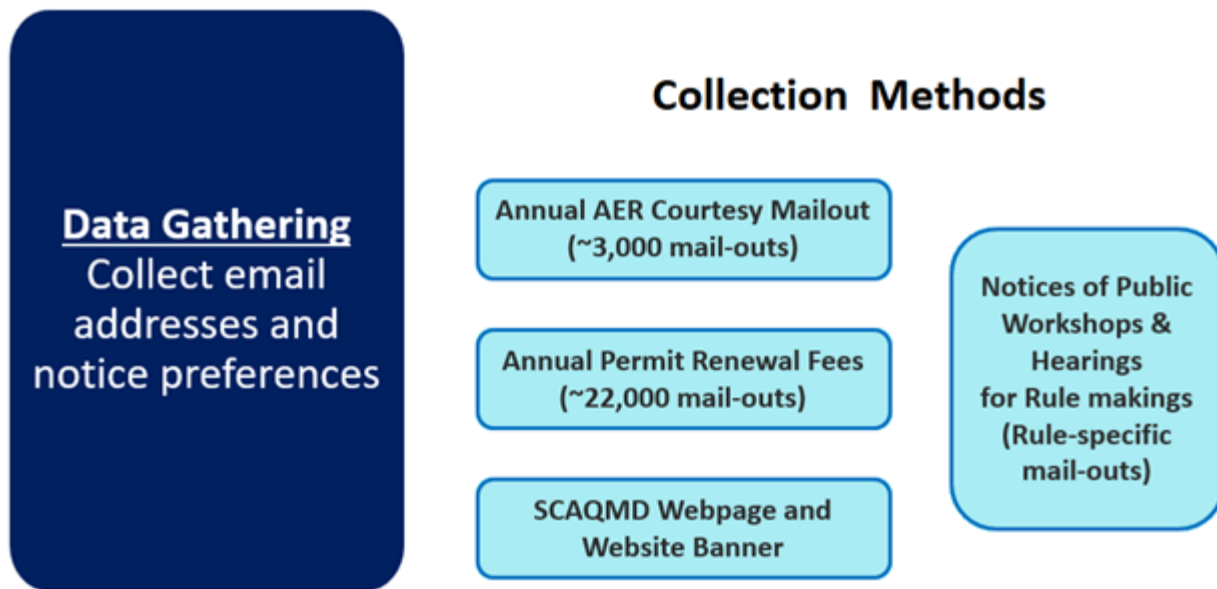
SCAQMD proposes to establish through these procedures the process to collect email addresses for all permit holders and for other interested parties who wish to receive certain notices ~~through the Procedures~~. The electronic infrastructure to collect and update email addresses needs to be developed. This document will be updated as necessary.

NOTIFYING PERMIT HOLDERS OF INTERESTED PARTIES OF PROCEDURES

To facilitate the transition to email noticing ~~and~~, web-based e-noticing, ~~and email invoicing~~, SCAQMD will conduct outreach efforts to permitted facilities and interested parties as part of a Data Gathering campaign to collect notice preference information. Figure 1 illustrates some, but not all, avenues SCAQMD may utilize for its Data Gathering campaign. These include mail-outs that are normally distributed to permit holders and interested parties which will include language to submit the recipients’ notice preferences on the SCAQMD website.

With regard to delivery of public notices required under rulemakings, SCAQMD will make the effort to contact each permit ~~holder~~ a minimum of three times to obtain an email address ~~and noticing preferences~~, using the methods described above in Phase I.

Figure 1. Data Gathering Collection Methods



~~PROCEDURES TO ELECTRONICALLY NOTICE PERMIT ACTIONS SUBJECT TO PUBLIC NOTIFICATION AS ALLOWED OR REQUIRED BY THE CODE OF FEDERAL REGULATIONS AND CALIFORNIA AREA RESOURCES BOARD ADVISORY 299~~

~~SCAQMD will maintain and enhance a dedicated web page on its website to e-notice all public notices related to permit actions. This web page will provide e-access to the public and contain the draft permit. with any sSupplementary material such as the permit application and preliminary determination materials will be made available for public inspection, upon request, at the SCAQMD officemade available, upon request. These public notices will be available for e-access by the public for the duration of the public comment period for each permit action. Information on permitting actions that require public notice is already maintained on the website beyond the~~

~~end of the comment period, up to a maximum duration of six (6) months, under existing practices. The posted public notice provides directions on how to submit comments on a draft permit.~~

~~Noticing of permit actions by newspaper publication may continue to be retained as an additional and supplemental means of public notice while SCAQMD pursues web page enhancements to better promote public participation in keeping with the e-notice and e-access requirements for Clean Air Act permit programs. An existing dedicated web page already serves to ensure SCAQMD satisfies e-noticing requirements for the issuance of federal Prevention of Significant Deterioration permits, and public notices for permit actions under Rule 3006 are already posted on the SCAQMD website. Changes will be made to specifically indicate that the website provides these notices to accomplish a consistent noticing method. Historically, public notices for permit-related actions, e.g., Rule 1310 or in the Rules under Regulation XVI, have been rare, but they would have the potential to be posted on the same dedicated web page.~~

APPENDIX 2: PUBLIC COMMENTS

Public Comments

Comments on the preliminary proposed amended rules ~~draft rule~~ were provided by stakeholders at the November 29, 2018 Public Workshop. Comments received at the Public Workshop and South Coast Air Quality Management District (SCAQMD) staff's responses are summarized below.

Comments Made During the Public Workshop

Todd Paxman, Environmental Consultant for AECOM

Comment 1: Facilities will have difficulty verifying delivery of public notices for permit actions to recipients within a quarter-mile for permit actions if they are delivered by email.

Response to Comment 1: The proposed language has been removed. The requirement for facilities to mail or distribute public notices for permit actions to recipients will remain unchanged. If an email address is provided by an individual within the quarter-mile area, they will receive an email version of the public notice in addition to the facility's mailed public notice.

Curtis Coleman, Executive Director for Southern California Air Quality Alliance

Comment 2: I have concern over if there is a designee for a facility for receipt of public notices by email that then leaves or retires and the email does not reach the facility or bounces back. How will SCAQMD handle this?

Response to Comment 2: Under the proposal, SCAQMD will deliver public notices to permitted facilities by mail until a facility affirmatively indicates a preference for email. The email option will allow for multiple individuals from a facility to receive the email, mitigating the single-point-of-contact issue.

Bill La Marr, Executive Director for the California Small Business Alliance

Comment 3: An individual may receive multiple copies of the same public notice and/or receive the same public notice under different titles and affiliations the individual has had.

Response to Comment 3: Staff will make an effort to minimize duplicate delivery of public notices to the same recipient. As stated in Phase I of ~~the Procedures~~ Appendix 1, an individual may update his or her subscription information, including email address and other contact information.

Comment 4: Who is the permit holder for a facility? What happens when an individual retires from the company? A physical mailed notice coming to a mailing address will draw the attention of someone there, another manager or owner or some responsible person, and will hopefully get forwarded to the proper channel.

Response to Comment 4: Please see Response to Comment 2.

Susan Stark, Marathon Oil

Comment 5: It appears that occasionally an individual will be dropped from an email list and said individual will not find out about the notice of the working group until a friend or colleague forwards it to him/her. Occasionally the forward recipient will unsubscribe, thus indirectly unsubscribing the original recipient.

Response to Comment 5: Under the proposal, SCAQMD will develop a data management tool to ensure that emails are sent to the email addresses provided by a facility or interested party. This issue will be taken into consideration in the development of this tool.