



**Patty Senecal**

Senior Director, Southern California Region

August 5, 2021

Michael Morris  
Manager, Planning and Rules  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

Via e-mail at: mmorris@aqmd.gov

**Re: SCAQMD Regulation XIII, New Source Review: Proposed Amended Rule 1304, Exemptions.**

***WSPA Comments on Proposed Rule Language***

Dear Mr. Morris,

Western States Petroleum Association (WSPA) appreciates the opportunity to participate in the Working Group Meetings (WGMs) for South Coast Air Quality Management District (SCAQMD or District) Regional Clean Air Incentives Market (RECLAIM) Transition and Regulation XIII, New Source Review (NSR). These rulemakings are being undertaken to transition facilities in the RECLAIM program for NO<sub>x</sub> emissions to a command-and-control structure (i.e., the "RECLAIM Transition Project"). WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport, and market petroleum, petroleum products, natural gas, and other energy supplies in five western states including California. WSPA has been an active participant in air quality planning issues for over 30 years. WSPA-member companies operate petroleum refineries and other facilities in the South Coast Air Basin that are within the purview of the RECLAIM Program administered by the SCAQMD and will be impacted by the RECLAIM Transition Project.

SCAQMD Rule 1303 requires implementation of Best Available Control Technology (BACT) for any new or modified source that results in an emission increase of any nonattainment air contaminant. Proposed Rule 1109.1 (PR1109.1), NO<sub>x</sub> Emission Reduction for Refinery Equipment, is expected to require installation of selective catalytic reduction (SCR) technology for the control of NO<sub>x</sub> emissions for certain equipment categories. SCR catalysts are known to cause the conversion of SO<sub>2</sub> to SO<sub>3</sub>, which can react with ammonia to form primary and secondary particulate matter (PM).

If a primary PM emissions increase caused by PR1109.1 required controls were to exceed the Regulation XIII threshold of one pound per day BACT would be triggered, triggering potentially significant additional compliance costs for sulfur cleanup in refinery fuel gas systems. For this reason, Proposed Amended Rule (PAR) 1304 draft rule language would provide a limited BACT exemption for certain modifications made in order to comply with a BARCT rule.<sup>1</sup>

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<sup>1</sup> Proposed Amended Rule 1304 Draft Rule Language. Available at:

<http://www4.aqmd.gov/enewsletterpro/uploadedimages/000001/PAR%201304%20Draft%20Rule%20Language%20July%202021.pdf>.

Accessed: August 2021.

WSPA has been working with the District for over a year on this co-pollutant BACT matter and stakeholder concerns that facilities' efforts to comply with PR1109.1 could inadvertently trigger a PM or SO<sub>x</sub> BACT requirement.

WSPA supports the District's PAR1304 proposal to resolve this matter, but the District must affirmatively demonstrate that the proposal will be approvable by the United States Environmental Protection Agency (US EPA) and the California Air Resources Board (CARB) since the (future) availability of the PAR1304 exemption is a key premise underlying the District's cost-effectiveness analysis for the District's proposed PR1109.1 NO<sub>x</sub> BARCT determination.

**WSPA offers the following additional comments:**

- 1. The PAR1304 (f)(1) exemption includes PM<sub>10</sub> and SO<sub>x</sub> emissions. PM<sub>10</sub> is also regulated under Regulation XVII, Prevention of Significant Deterioration. PM<sub>2.5</sub> is regulated under Rule 1325. The District should evaluate whether a similar exemption to PAR1304 (f)(1) should be included in both Rule 1325, Rule 2005, and Regulation XVII.**

Rule 1325 applies to any new major polluting facility, major modifications to a major polluting facility, and any modification to an existing facility that would constitute a major polluting facility in and of itself that will emit PM<sub>2.5</sub> or its precursors located in areas federally designated pursuant to Title 40 of the Code of Federal Regulations (40 CFR) 81.305 as non-attainment for PM<sub>2.5</sub>.

Rule 1701 applies to a new source or modification at an existing source where the increase in potential to emit is at least 100 or 250 tons of attainment air contaminants per year, depending on the source category; or a significant emission increase at an existing major stationary source; or any net emission increase at a major stationary source located within 10 km of a Class I area, if the emission increase would impact the Class I area by 1.0 ug/m<sup>3</sup>, (24-hours average). The BACT requirement under Rule 1701 applies to a net emission increase of a criteria air contaminant from a permit unit at any stationary source.

Rule 2005 sets forth pre-construction review requirements for new facilities subject to the requirements of the RECLAIM program and for modifications to RECLAIM facilities. It states that BACT must be applied to every new source or modification of an existing source which results in an emission increase.

WSPA recommends that the District evaluate if it is necessary to include a similar exemption to PAR 1304(f)(1) in Rule 1325, Rule 2005, and Regulation XVII (Prevention of Significant Deterioration, PSD). We would note that SCAQMD only has a partial delegation of authority for the PSD program administered under Regulation XVII.

- 2. The PAR1304 (f)(1) exemption states that new or modified permit units installing add-on air pollution control equipment for control of NO<sub>x</sub> emissions shall be exempt from the BACT requirement for any associated increase in PM<sub>10</sub> and/or SO<sub>x</sub> emissions caused by the operation of the add-on air pollution control equipment, provided the project meets certain criteria. The exemption should be expanded to include all related BARCT projects, not only those involving installation of add-on air pollution control equipment.**

The PAR1304 (f)(1) exemption narrowly applies to projects involving installation of add-on air pollution control equipment. It is possible that a facility may be able to meet the Near Limits

listed in Table 2 of PR1109.1 by adding catalyst to the unit. This type of project would require a SCAQMD permit application and engineering evaluation.

Therefore, the exemption should be expanded to include all related projects used to comply with a BARCT emission limit, not only those involving installation of add-on air pollution control equipment.

- 3. PAR1304 (f)(1)(A) states that in order to qualify for the exemption the new or modified permit unit(s) must be "...installed or modified to comply with South Coast AQMD rule to meet a specified NOx Best Available Retrofit Control Technology (BARCT) emission limit initially established before December 31, 2023." WSPA does not agree with the proposed limited time period in this exemption.**

The District frequently amends the Source Specific Standards in Regulation XI. This PAR1304 limited BACT exemption should extend to associated increases in PM10 and/or SOx emissions caused by the add-on air pollution control equipment resulting from District-adopted BARCT rules, regardless of when the limit may be established.

WSPA recommends that the language of be revised to:

*(f)(1)(A) The new or modified permit unit(s) is located at a RECLAIM or former RECLAIM facility and is being installed or modified to comply with a South Coast AQMD rule to meet a specified NOx Best Available Retrofit Control Technology (BARCT) emission limit or a programmatic NOx BARCT project under Regulation XX-established before December 31, 2023;*

- 4. PAR1304 (f)(1)(B) states that in order to qualify for the exemption, "the new and/or modified permit unit(s) will serve the same purpose as those being replaced and modified." The District should clarify that replacing units within different source categories meets the requirement to "serve the same purpose."**

In certain circumstances, a facility may choose to replace a unit with a unit in a different source category (e.g., replace a gas turbine with a boiler).

The District should clarify in the rule language that this type of replacement would qualify as serving the same purpose.

- 5. PAR1304 (f)(1)(B) states that "For the new and/or modified permit unit(s) and the permit unit(s) being replaced, a maximum of 90 days is allowed as a startup period for simultaneous operation." The length of time allowed for simultaneous operation of replacement units should be adjusted to align with the requirements of 40 CFR 51.165 (a)(1)(vi)(F).**

40 CFR 51.165 (a)(1)(vi)(F) allows a 180-day transition period for replacement units. This is a more appropriate time period when units are being replaced. Rule 1304(f)(1)(B) should be adjusted to align with 40 CFR 51.165 (a)(1)(vi)(F).

- 6. PAR1304 (f)(1)(C) states that in order to qualify for the exemption, the facility must "not have an increase in physical or operational design capacity, except for those changes needed for the new or modified permit unit(s) that meet the requirement of subparagraph (f)(1)(B)." The proposed rule language is vague and could be subject to**

**different interpretations. Additionally, WSPA believes the District should broadly be supportive of facility modernization actions which can improve efficiencies, as these will inherently be less polluting.**

The PAR1304 draft rule language should be modified to make it clear that the exemption will not cover facility improvements or upgrades which result in an increase in physical or design capacity that are not related to BARCT compliance. WSPA recommends that the language of be revised to:

*(f)(1)(C) The changes needed for the new or modified permit unit(s) that meet the requirement of subparagraph (f)(1)(B) are the only changes allowed to have an increase in physical or operational design capacity at a RECLAIM or former RECLAIM facility. An increase in efficiency is not an increase in the physical and operational design capacity*

WSPA also notes that the District should be supportive of all facility modernization projects that would result in increased efficiencies and therefore would inherently be less polluting.

- 7. PAR1304 (f)(1)(E) states that in order to qualify for the exemption the new or modified permit unit(s) must “not constitute a federal Major Stationary Source or Major Modification determined pursuant to 40 CFR 51.165 and 40 CFR 52.21.” SCAQMD has not adequately addressed how PM BACT/LAER will be exempted under Federal NSR rules. SCAQMD has proposed in recent WGMs that engineering calculations will be used to determine federal major NSR applicability. WSPA is concerned that this approach may not be acceptable to US EPA, nor legally defensible.**

SCAQMD is proposing to calculate PM emissions for the purpose of NSR applicability determination based on the following engineering parameters<sup>2</sup>:

- SO<sub>2</sub> to SO<sub>3</sub> conversion rate in the catalyst based on vendor performance specification
- Sulfur content in the fuel
- Unit firing rate

SCAQMD presented example calculations for various catalyst conversion rates and fuel sulfur content and concluded that no single boiler or heater, or group of boilers and heaters project would exceed the federal NSR threshold of 10 tons per year.

WSPA is concerned with this approach. The calculations used to determine federal NSR applicability will result in an emission estimate that will be entirely different than the limit included in the permit to operate. The permit to operate would instead reflect the emission limit that the facility could comply with based on SCAQMD Method 5.2. This number could be several times greater than the limit used to determine federal NSR applicability.

The District would need to ensure that the emission estimate based on engineering parameters would not be subject to verification by SCAQMD Method 5.2. The District must also ensure that this approach has US EPA concurrence, as we are not aware of a similar approach having been approved by US EPA.

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<sup>2</sup> SCAQMD Proposed Rule 1109.1 WGM #23. Available at: [http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1109.1/pr1109-1\\_wgm23\\_presentation.pdf?sfvrsn=18](http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1109.1/pr1109-1_wgm23_presentation.pdf?sfvrsn=18). Accessed: August 2021.

WSPA appreciates the opportunity to provide these comments related to PAR1304. We look forward to continued discussion of this important rulemaking. If you have any questions, please contact me at (310) 808-2144 or via e-mail at [psenecal@wspa.org](mailto:psenecal@wspa.org).

Sincerely,

A handwritten signature in black ink that reads "Patty Senecal". The signature is written in a cursive, flowing style.

Cc: Wayne Nastri, SCAQMD  
Susan Nakamura, SCAQMD  
Cathy Reheis-Boyd, WSPA