

BOARD MEETING DATE: January 10, 2020

Agenda No.

PROPOSAL: Determine That Proposed Amendment to Rule 1100 – Implementation Schedule for NOx Facilities Is Exempt from CEQA; and Amend Rule 1100

SYNOPSIS: Rule 1100 establishes the implementation schedule for some NOx source-specific rule for RECLAIM and former RECLAIM facilities. Rule 1100 includes specific provisions for facilities with equipment that are in an “industry-specific category.” Proposed Amended Rule 1100 will modify the definition of industry-specific category to clarify the applicability as originally intended.

COMMITTEE: No Committee Review

RECOMMENDED ACTIONS:

Adopt the attached Resolution:

1. Determining that the proposed amendment to Rule 1100 – Implementation Schedule for NOx Facilities is exempt from the California Environmental Quality Act; and
2. Amending Rule 1100 – Implementation Schedule for NOx Facilities

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This Board letter is intended to serve as the staff report for the proposed amendment to Rule 1100.

Background

Regulation XX – Regional Clean Air Incentives Market (RECLAIM) program was adopted in October 1993 and is a market-based program for facilities with more than four tons per year of NOx or SOx emissions. Staff has been working on a series of rules that establish NOx BARCT emission limits for equipment at RECLAIM and former RECLAIM facilities. The implementation schedule for RECLAIM and former RECLAIM facilities is specified in Rule 1100 - Implementation Schedule for NOx Facilities for three source-specific rules: Rule 1110.2 – Emissions from Gaseous- and

Liquid-Fueled Engines; Rule 1146 – Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters; and Rule 1146.1 – Emissions of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters. Under Rule 1100, RECLAIM and former RECLAIM facilities that are subject to an “industry-specific category” are exempt from the NOx emission limits in Rules 1110.2, 1146, and 1146.1. The definition of industry-specific category under Rule 1100 refers to facilities subject to NOx emission limits in a rule adopted on or after November 2, 2018 for refineries or electricity generating facilities. Additional clarification is needed for the definition of industry-specific category to reflect the intent to include a rule that is, or will be adopted.

Proposal

Proposed Amended Rule 1100 would modify the definition of “industry specific category” to clarify the intent. Rule 1100 currently defines industry-specific category as:

INDUSTRY-SPECIFIC CATEGORY means RECLAIM or former RECLAIM facilities subject to NOx emission limits in a rule adopted on or after November 2, 2018 for refineries or electricity generating facilities.

The intent of this definition was to exempt equipment from the NOx emission limits of Rules 1110.2, 1146, and 1146.1 that will be regulated in an industry-specific rule for refineries and related industries under Proposed Rule 1109.1 – Emissions of Oxides of Nitrogen from Petroleum Refineries and Related Industries and electrical generating facilities under Rule 1135 – Emissions of Oxides of Nitrogen from Electricity Generating Facilities. Since Rule 1135 has been amended, it is covered under the current definition of industry-specific category. When Rule 1100 was originally adopted, it was anticipated that Proposed Rule 1109.1 would be adopted in 2019. However, since Rule 1109.1 has not been adopted yet, it is not clear the equipment at those facilities are exempt from the NOx emission limits under Rules 1110.2, 1146, and 1146.1.

Proposed Amended Rule 1100 would define an industry-specific category as:

INDUSTRY-SPECIFIC CATEGORY means RECLAIM or former RECLAIM facilities that are, or will be, subject to NOx emission limits in a rule adopted on or after November 2, 2018 for refineries or electricity generating facilities.

This amendment provides clarification to the definition of an industry-specific category to reflect the original intent of this definition. This amendment addresses the petroleum refineries and related industries that will be subject to Proposed Rule 1109.1, such as asphalt plants; biodiesel plants; hydrogen production plants fueled in part with refinery gas; sulfuric acid plants; and sulfur recovery plants.

During the process of amending Rules 1110.2, 1146, and 1146.1, equipment at petroleum refineries and electrical generating facilities was not included under these source-specific rules and was excluded from the analysis, as clearly stated in the staff reports for these rules. Since the intent was to exempt equipment at refineries from the NOx emission limits in Rules 1110.2, 1146, and 1146.1, revising the definition of industry-specific category to reflect RECLAIM or former RECLAIM facilities that are, or will be, subject to NOx emission limits in a rule adopted on or after November 2, 2018 for refineries clarifies that refineries and their associated facilities are not subject to the NOx emission limits or permit submission deadlines specified in Rule 1100 or in any of the three source-specific rules.

Public Process

This rule change is an administrative amendment to reflect original intent; therefore, no public meetings are required, however, South Coast AQMD staff will have a public consultation meeting on December 18, 2019 at 10:00 a.m. in the Auditorium at the South Coast AQMD Headquarters.

Key Issues

Staff is not aware of any further outstanding issues.

California Environmental Quality Act

The proposed amendment to Rule 1100 has been reviewed pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15002 (k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA, and CEQA Guidelines Section 15061 – Review for Exemption, procedures for determining if a project is exempt from CEQA. The proposed amendment to Rule 1100 is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. A Notice of Exemption has been prepared pursuant to CEQA Guidelines Section 15062 – Notice of Exemption. If the project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside and San Bernardino counties.

Socioeconomic Impact Assessment

The proposed amendment to Rule 1100 is administrative in nature and has no adverse socioeconomic impacts.

Comparative Analysis

Health & Safety Code Section 40727.2 (g) is applicable and a comparative analysis is not required because the proposed amended rule does not impose a new or more stringent emissions limit or standard, or other air pollution control monitoring, reporting, or recordkeeping requirements.

AQMP and Legal Mandates

The California Health and Safety Code requires the South Coast AQMD to adopt an Air Quality Management Plan (AQMP) to meet state and federal ambient air quality standards in the South Coast Air Basin. In addition, the California Health and Safety

Code requires the South Coast AQMD to adopt rules and regulations that carry out the objectives of the AQMP but the proposed amendment is not the result of an AQMP control measure.

Resource Impacts

The amendment is administrative in nature, and there are no additional resource impacts to implement Proposed Amended Rule 1100.

Draft Findings under the California Health and Safety Code 40727

Before adopting, amending, or repealing a rule, the California Health and Safety Code requires South Coast AQMD to adopt written findings of necessity, authority, clarity, consistency, non-duplication, and reference, as defined in Health and Safety Code Section 40727. The draft findings are as follows:

Necessity - Proposed Amended Rule 1100 – Implementation Schedule for NO_x Facilities, is necessary to modify a definition of “industry-specific category” to clarify the applicability as originally intended.

Authority - The South Coast AQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from Health and Safety Code Sections 39002, 40000, 40001, 40440, 40702, 40725 through 40728, 41508, and 41700.

Clarity - The South Coast AQMD Governing Board has determined that Proposed Amended Rule 1100 – Implementation Schedule for NO_x Facilities, is written and displayed so that the meaning can be easily understood by persons directly affected by them.

Consistency - The South Coast AQMD Governing Board has determined that Proposed Amended Rule 1100 – Implementation Schedule for NO_x Facilities, is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, federal or state regulations.

Non-Duplication - The South Coast AQMD Governing Board has determined that Proposed Amended Rule 1100 – Implementation Schedule for NO_x Facilities, does not impose the same requirement as any existing state or federal regulation, and the proposed amendment is necessary and proper to execute the powers and duties granted to, and imposed upon, the South Coast AQMD.

Reference - In adopting this regulation, the South Coast AQMD Governing Board references the following statutes, which the South Coast AQMD hereby implements, interprets, enforces, or makes specific: California Health and Safety Code Section 40440 (c).

Attachment

Rule Language for Proposed Amended Rule 1100