SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Draft Staff Report
Proposed Amended Rule 301 – Permitting and Associated Fees

(INCLUSION OF CERTIFICATION REQUIREMENT FOR EMISSIONS REPORTS)

June 2019

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Introduction and Summary of Proposal

In response to a request from the United States Environmental Protection Agency (U.S. EPA), staff is proposing to amend Rule 301 by adding a requirement for facilities to certify that information contained within annual emissions reports is accurate to the best knowledge of the official certifying the report. The addition of this certification requirement is necessary to implement §182(a)(3)(B) of the Clean Air Act and to memorialize a current practice.

The proposed amendment would apply to all facilities reporting emissions under Regulation III, but is administrative in nature and has no cost impact. Implementing the proposed amendment to Rule 301 will require minor, if any, administrative changes from facilities when reporting emissions, as the amendment simply adds the federally required element into the rule language to supplement what already occurs with current emission reporting practice. The only potential change in practice could occur if a consultant submits emissions reports on behalf of a facility. Currently, the consultant may sign the certification statement on behalf of the facility on its own. With this amendment, the facility will also need to attest that the consultant is authorized to submit the certification on behalf of the facility. A public comment period for this Rule 301 amendment began on May 17, 2019, and will close on July 2, 2019, 10 days before the July 12, 2019 Public Hearing.

Staff is also proposing to submit PAR 301 (e)(1)(A) and (e)(1)(B), (e)(2), (e)(5) and (e)(8) to the California Air Resources Board (CARB) for inclusion into the State Implementation Plan.

Background

Clean Air Act

Section 182(a)(3)(B) of the Clean Air Act (CAA) includes the following requirements for emissions statements:

> …the State shall submit a revision to the State implementation plan to require that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds provide the State with a statement, in such form as the Administrator may prescribe (or accept an equivalent alternative developed by the State), for classes or categories of sources, showing the actual emissions of oxides of nitrogen and volatile organic compounds from that source. The first such statement shall be submitted within 3 years after November 15, 1990. Subsequent statements shall be submitted at least every year thereafter. The statement shall contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement.

Historically, the South Coast AQMD has relied upon provisions in Rule 301(e) for purposes of complying with Section 182(a)(3)(B). In so doing, prior versions of Rule 301 pertaining to emissions reporting requirements were submitted to EPA in 1983 and 1994, but those provisions were inadvertently removed from the State Implementation Plan via EPA's correction authority at a time when they were making a sweeping cleanup of the federally-approved SIP in 2003. After conducting an initial review of the 2016 AQMP prepared by the South Coast AQMD, EPA identified the potential non-compliance with Section 182(a)(3)(B) and requested that the South Coast AQMD add a certification requirement to Rule 301 and submit paragraphs (e)(1)(A) and (B), (e)(2), (e)(5) and (e)(8) to CARB and forwarding to the EPA and inclusion into the SIP.

Rule 301

Rule 301 provides for permit processing and operating fees, including emission fees for both criteria and toxic emissions. Rule 301 was most recently amended on June 7, 2019. EPA's request for the addition of a certification language came after the prior rulemaking was already in progress and could not be included at that time due to insufficient time for the statutory 30-day notice.

Proposed Rule Language

Proposed Amended Rule 301 adds a new subparagraph (e)(8)(D), which reads:

> *The reported emissions shall be certified by an authorized official. For purposes of reporting, an "authorized official" is defined as an individual who has knowledge and responsibility for emissions data and has been authorized by an officer of the permit holder to submit and certify the accuracy of the data presented in the emissions report on behalf of the permit holder, based on best available knowledge.*

Other Language in PAR 301 to be Submitted to CARB for Inclusion into the SIP

In addition to the new language of subparagraph (e)(8)(D), the following language is proposed for submission to CARB for inclusion into the SIP.

PAR 301

(e) Annual Operating Emissions Fees

(1) Annual Operating Emission Fee Applicability

In addition to the annual operating permit renewal fee, the owner/operator of all equipment operating under permit shall pay annual emissions fees if any of the criteria in subparagraphs (e)(1)(A) through (e)(1)(C) are met.

(A) The owner/operator of a facility operates equipment under at least one permit.

(B) The total weight of emissions at a facility are greater than or equal to the thresholds for any of the contaminants specified in paragraph (e)(5), except for ammonia, 1,1,1 trichloroethane, and chlorofluorocarbons, from all equipment used by the owner/operator at all locations. The total weight of emissions of each of the contaminants specified in paragraph (e)(5) includes:

(i) Emissions from permitted equipment

(ii) Emissions resulting from all products which continue to passively emit air contaminants after they are manufactured, or processed by such equipment, with the exception of such product that is shipped or sold out of the District so long as the manufacturer submits records which will allow for the determination of emissions within the District from such products.

(iii) Emissions from equipment or processes not requiring a written permit pursuant to Regulation II.

…

(2) Emissions Reporting and Fee Calculation

All major stationary sources of NOx and VOC, as defined in Rule 317, shall annually report and pay the appropriate clean air act non-attainment fees for all actual source emissions including but not limited to permitted, unpermitted, unregulated and fugitive emissions. Each facility subject to subparagraph (e)(1)(B) shall annually report all emissions for all pollutants listed in paragraph (e)(5) and Table IV and incur an emissions fee as prescribed in Table III.

Non-permitted emissions which are not regulated by the District shall not be reported and shall be excluded from emission fees if the facility provides a demonstration that the emissions are not regulated and maintains sufficient records to allow the accurate demonstration of such non-regulated emissions.

…

(5) Emission Fee Thresholds

Air Contaminant(s)	Annual Emissions Threshold
Gaseous sulfur compounds (expressed as sulfur dioxide)	≥4 TPY
Total organic gases (excluding methane and exempt compounds as defined in Rule 102, and specific organic gases as specified in subdivision(b))	≥4 TPY
Specific organic gases as specified in subdivision (b)	≥4 TPY
Oxides of nitrogen (expressed as nitrogen oxide)	≥4 TPY
Total particulate matter	≥4 TPY
Carbon monoxide	≥100 TPY
Ammonia	≥0.1 TPY
Chlorofluorocarbons	≥1 lb per year
1,1,1 Trichloroethane	≥1 lb per year

…

(8) Reporting of Total Emissions from Preceding Reporting Period and Unreported or Under-reported Emissions from Prior Reporting Periods

(A) The owner/operator of equipment subject to paragraph (e)(2) shall report to the Executive Officer the total emissions for the immediate preceding reporting period of each of the air contaminants listed in Table III and Table IV from all equipment. The report shall be made at the time and in the manner prescribed by the Executive Officer. The permit holder shall report the total emissions for the twelve (12) month period reporting for each air contaminant concerned from all equipment or processes, regardless of the quantities emitted.

(B) The Executive Officer will determine default emission factors applicable to each piece of permitted equipment or group of permitted equipment, and make them available to the owner/operator in a manner specified by the Executive Officer and provide them to the owner/operator upon request. In determining emission factors, the Executive Officer will use the best available data. A facility owner/operator can provide alternative emission

factors that more accurately represent actual facility operations subject to the approval of the Executive Officer.

A facility owner/operator shall report to the Executive Officer, in the same manner, and quantify any emissions of air contaminants in previous reporting periods which had not been reported correctly and should have been reported under the requirements in effect in the reporting period in which the emissions occurred.

California Environmental Quality Act (CEQA)

The proposed project, an amendment to Rule 301 – Permitting and Associated Fees, adds a requirement for facilities to certify that information contained within annual emission reports is accurate to the best knowledge of the official certifying the report. The addition of this certification requirement is necessary to implement Section 182(a)(3)(B) of the Clean Air Act and to memorialize a current practice. In addition, subparagraphs (e)(1)(A) and (e)(1)(B) and paragraphs (e)(2), (e)(5), and (e)(8) of Rule 301 are proposed to be submitted to the California Air Resources Board for inclusion into the State Implementation Plan (SIP). Pursuant to the California Environmental Quality Act (CEQA) and South Coast AQMD Rule 110, the South Coast AQMD, as lead agency for the proposed project, has reviewed 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. Since facilities currently certify their annual emission reports in practice, the proposed amendment to Rule 301 is administrative in nature such 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. Thus, the proposed project is considered to be exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. The proposed project is also statutorily exempt from CEQA pursuant to CEQA Guidelines 15273 – Rates, Tolls, Fares and Charges because the emissions being certified are used to calculate the amount of emissions fees to be paid by a facility. Furthermore, the proposed project is categorically exempt from CEQA because the proposed submission of subparagraphs (e)(1)(A) and (e)(1)(B) and paragraphs (e)(2), (e)(5), and (e)(8) of Rule 301 for inclusion into the SIP is considered an action to protect or enhance the environment pursuant to CEQA Guidelines Section 15308 – Actions by Regulatory Agencies for Protection of the Environment. South Coast AQMD staff has determined that there is no substantial evidence indicating that any of the exceptions to the categorical exemption apply to the proposed project pursuant to CEQA Guidelines Section 15300.2 – Exceptions. A Notice of Exemption has been 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.

Socioeconomic Analysis

The proposed amendment to Rule 301 does not significantly affect air quality or emissions limitations and does not impose new controls (and are not expected to impose any new costs). Therefore, pursuant to California Health and Safety Code Section 40440.8, a socioeconomic analysis is not required.

Comparative Analysis

Under Health and Safety Code Section 40727.2, the South Coast AQMD is required to perform a comparative written analysis when adopting, amending, or repealing a rule or regulation. Since this proposed amendment is administrative in nature, and does not impose a new or more stringent emissions limit or standard, or new or more stringent monitoring, reporting or recordkeeping requirements, it falls within the exceptions set forth in Health and Safety Code section 40727.2(g), and a comparative analysis is not required.

Incremental Cost Effectiveness

California H&S Code Section 40920.6 requires an incremental cost-effectiveness analysis for BARCT rules or emission reduction strategies when there is more than one control option which would achieve the emission reduction objective of the proposed amendment, relative to ozone, CO, SOx, NOx, and their precursors. The proposed amendment does not include new BARCT requirements; therefore this provision does not apply to the proposed amendment.

Draft Findings Under California Health and Safety Code Section 40727

California Health and Safety Code Section 40727 requires that the Board 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. In order to determine compliance with Sections 40727 and 40727.2, a written analysis is required comparing the proposed rule with existing regulations. The draft findings are as follows:

Necessity: PAR 301 is necessary to meet Clean Air Act section 182(a)(3)(B) which requires facilities to certify that information contained within annual emission reports is accurate to the best knowledge of the official certifying the report.

Authority: The South Coast AQMD obtains its authority to adopt, amend, or repeal rules and regulations from Health and Safety Code Sections 40000, 40001, 40440, 40441, 40506, 40510, 40702, 40725 through 40728, 41511, and 44366.

Clarity: PAR 301 has been written or displayed so that its meaning can be easily understood by the persons affected by the rules.

Consistency: PAR 301 is in harmony with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions or federal regulations.

Non-Duplication: PAR 301 does not impose the same requirement as any existing state or federal regulation, and is necessary and proper to execute the powers and duties granted to, and imposed upon the South Coast AQMD.

Reference: In amending this rule, the following statutes which the South Coast AQMD hereby implements, interprets or makes specific are referenced: Health and Safety Code Sections 39002, 40001, 40001, 40440, 40441, 40506, 40702, 40725 through 40728.5, 41511, 44366, and Clean Air Act section 182(a)(3)(B) [42 U.S.C. §7511a].

Conclusions and Recommendations

The proposed amendment is needed to comply with Federal Clean Air Act requirements, by requiring facilities to certify that the information contained within annual emissions reports is accurate to the best knowledge of the official certifying the report. The amendment adds the required language to Rule 301, but does not fundamentally change the annual emission reporting procedure which already effectively requires the same certification practice during submittal. Upon approval of the amendment, the Executive Officer will submit Rule 301 to CARB to be forwarded to EPA and incorporated into the SIP.