



California Apartment Association

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June 5, 2025

SENT VIA EMAIL TO: cob@aqmd.gov

Chair Vanessa Delgado & Governing Board
South Coast AQMD
21865 Copley Drive
Diamond Bar, CA 91765

Subject: Opposition to Proposed Amended Rules 1111 and 1121 (Item #28)

Dear Chair and Members of the Governing Board:

On behalf of the California Apartment Association (CAA), I respectfully urge you to vote **NO** on the proposed amendments to Rules 1111 and 1121, which would effectively phase out natural gas appliances, including furnaces and those water heaters not already outlawed by Rule 1146.2.

CAA is the nation's largest statewide trade group representing owners, investors, developers, managers, and suppliers of rental housing. CAA represents more than 13,000 member companies who employ 60,000 industry professionals. Our members manage over two million market-rate and affordable homes throughout the state.

PAR 1111 AND 1121 ARE PREEMPTED BY FEDERAL LAW

The federal Energy Policy and Conservation Act (EPCA) expressly prohibits state and local regulations that affect the energy use of appliances covered by federal standards. EPCA's broad preemptive effect was affirmed in the Ninth Circuit's 2024 decision in *California Restaurant Association v. City of Berkeley*. PAR 1111 and 1121's framing as emissions control measures do nothing to evade EPCA preemption, as the functional effect of the rules is identical to Berkeley's ordinance: a de facto ban on appliances based on fuel type. SCAQMD is currently subject to litigation for its zero NOx mandate in Rule 1146.2 on the same basis. Moving forward with PAR 1111 and 1121 would double down on an unlawful approach. On this basis alone, SCAQMD should cease consideration of PAR 1111 and PAR 1121.

UNJUSTIFIABLE COMPLIANCE COSTS FOR HOUSING PROVIDERS

The proposed rules would impose significant and unmanageable capital costs on rental housing providers – especially “mom and pop landlords”, many of whom rely on their property for retirement income. While SCAQMD staff projected minor utility savings from fuel switching, these are heavily blunted by the reality that electricity prices in Southern California have risen at an average of 6% annually over the past decade—double the regional inflation rate. The minimal operational savings projected do not come close to justifying the initial capital investment, and payback periods would span years or decades. This leaves property owners in the impossible position of being forced to make huge upfront investments – at a time when debt service costs are high – with little more than a hope of eventual modest cost savings.

Exacerbating the concerns about costs is the uncertainty about the continued availability of federal tax credits (i.e., under 26 U.S. Code § 25C), which are now at risk of repeal in Congress. It is irresponsible to assume that housing providers can simply absorb these upfront costs, especially without meaningful and accessible financial support. While SCAQMD's proposed rebate program is well-intentioned, it still requires landlords to

front costs that many simply cannot afford and are likely insufficient to make a smooth transition toward alternative fuel sources.

OPERATIONAL BARRIERS TO COMPLIANCE WITH PAR 1111 AND 1121

The burden of forced conversions mandated by PAR 1111 and 1121 goes far beyond appliance replacement. In many cases, electric systems cannot simply be swapped in – they require upgrades to electric panels, reconfiguration of building space, and installation of new venting systems or condensate management infrastructure. Heat pump systems often necessitate additional ductwork and sound suppression measures to mitigate elevated noise levels. In older buildings, these construction activities may also trigger costly lead paint and asbestos abatement requirements under state and federal law. Fulfilling all of these requirements is not only costly, it also requires a significant administrative investment to find qualified contractors, obtain necessary permits, and manage scheduling challenges – all while still trying to provide safe, stable housing to tenants.

Providing safe and stable housing is not merely a laudable goal for housing providers. It is the law. Under California Health & Safety Code Section 17920.3, the absence of adequate heat or running hot water renders a dwelling “substandard.” When furnaces or water heaters fail, repairs are urgent. Yet, the proposed restrictions on gas appliance replacements severely limit a housing provider’s ability to make timely, code-compliant emergency repairs. A landlord unable to restore those services promptly is in violation of their legal obligation to maintain habitable housing. Under well-established case law, such failure also suspends the tenant’s obligation to pay rent. In short: delayed compliance creates a lose-lose scenario of legal exposure for landlords and hardship for tenants.

HOUSING REGULATIONS ARE OUTSIDE OF THE AGENCY’S PURVIEW

Beyond the serious policy concerns with PAR 1111 and 1121, discussed above, is that SCAQMD has allowed housing policy – an area far outside its mission – to influence the rulemaking process. Chapter 2-31 of the Staff Report contains recommendations regarding tenant protection measures that would curtail property rights and impose even greater financial burdens. The Staff Report includes verbatim language from tenant activists who call for (1) prohibiting evictions for government-mandated improvements, (2) lowering rent caps far below what the state legislature has approved, and (3) banning the cost of recovery. These are not air quality measures. They are housing regulations – policy decisions that rest squarely with the state Legislature and local elected bodies, not an air quality management district. Rent control and tenant protections are deeply complex, politically charged topics that affect the rights of both tenants and housing providers. SCAQMD has neither the subject-matter expertise nor the legal authority to wade into this space.

CONCLUSION

We respectfully request that the Governing Board:

1. Vote NO on Proposed Amended Rules 1111 and 1121.
2. Remove Chapter 2-31 to eliminate housing policy recommendations.
3. Reaffirm SCAQMD’s commitment to its core mission—air quality management—without encroaching into the legislative responsibilities of other agencies and jurisdictions.

Thank you for your time and thoughtful consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Victor Cao", with a stylized flourish at the end.

Victor Cao
Senior Vice President, Local Public Affairs