

RESOLUTION NO. 24-17

A Resolution of the Governing Board of the South Coast Air Quality Management District (South Coast AQMD) determining that Proposed Amended Rule 1146.2 – Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers and Process Heaters qualifies as a later activity within the scope of the program approved earlier for the 2022 Air Quality Management Plan (AQMP) per California Environmental Quality Act (CEQA) Guidelines Section 15168 (c), and the Final Program Environmental Impact Report (EIR) for the 2022 AQMP adequately describes the activity for the purposes of CEQA such that no new environmental document will be required.

A Resolution of the South Coast AQMD Governing Board amending Rule 1146.2 – Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers and Process Heaters.

WHEREAS, the South Coast AQMD Governing Board finds and determines that Proposed Amended Rule 1146.2 is considered a "project" as defined by CEQA; and

WHEREAS, the South Coast AQMD has had its regulatory program certified pursuant to Public Resources Code Section 21080.5 and CEQA Guidelines Section 15251(1), and has conducted a CEQA review and analysis of the proposed project pursuant to such program (South Coast AQMD Rule 110); and

WHEREAS, the South Coast AQMD Governing Board finds and determines that: 1) Proposed Amended Rule 1146.2 implements Control Measure C-CMB-01 – Commercial Water Heating which was previously adopted in the 2022 AQMP; 2) no subsequent EIR would be required per CEQA Guidelines Section 15168 (c)(2) because there are no new or modified physical changes that would result from implementing Proposed Amended Rule 1146.2 which were not previously analyzed in the Final Program EIR for the 2022 AQMP specific to Control Measure C-CMB-01; and 3) the Final Program EIR for the 2022 AQMP can be relied on for CEQA compliance; and

WHEREAS, the South Coast AQMD Governing Board finds and determines that Proposed Amended Rule 1146.2 is a later activity within the scope of the program approved earlier in the 2022 AQMP per CEQA Guidelines Section 15168 (c)(2), and the Final Program EIR for the 2022 AQMP adequately describes and analyzes the activities associated with implementing the proposed project for the purposes of CEQA such that no new environmental document will be required; and

WHEREAS, the South Coast AQMD Governing Board finds and determines that based on substantial evidence in the record and in accordance with the noticing requirements in CEQA Guidelines Section 15168 (e), Proposed Amended Rule 1146.2 qualifies as a later activity within the scope of the program approved earlier for the 2022 AQMP, and the Final Program EIR for the 2022 AQMP adequately describes the activity for the purposes of CEQA; and

WHEREAS, Proposed Amended Rule 1146.2, and supporting documentation, including but not limited to, the Final Staff Report which includes the CEQA analysis, and the Final Socioeconomic Impact Assessment, were presented to the South Coast AQMD Governing Board and the South Coast AQMD Governing Board has reviewed and considered this information, as well as has taken and considered staff testimony and public comment prior to approving the project; and

WHEREAS, the South Coast AQMD Governing Board finds and determines, taking into consideration the factors in Section (d)(4)(D) of the Governing Board Procedures (Section 30.5(4)(D)(i) of the Administrative Code), that the modifications to Proposed Amended Rule 1146.2 since the latest Notice of Public Hearing published through email notification on May 7, 2024 are clarifications that meet the same air quality objective and are not so substantial as to significantly affect the meaning of Proposed Amended Rule 1146.2 within the meaning of Health and Safety Code Section 40726 because: (1) revising the utility upgrade extensions in subparagraphs (i)(1)(B) and (i)(1)(C) from 18 months to 24 months including an additional 12-month extension in subparagraph (i)(1)(D) is to address implementation barriers for utility upgrades; (2) moving clause (i)(1)(C)(iii) to paragraph (i)(1)(E) is for clarification; (3) including progress reports in subparagraph (i)(1)(E) establishes a check-in to ensure progress with the utility upgrades; (4) adding specific references to “subparagraphs (i)(1)(B), (i)(1)(C), and (i)(1)(D)” in subparagraph (i)(1)(H) is for clarity; (5) defining Rule 306 – Plan Fees as Rule 306 in subparagraph (i)(2)(A) streamlines the language; (6) replacing existing subparagraph (i)(2)(C) with the revised paragraph is for clarity and includes the extensions for the utility upgrades and progress reports included in subparagraph (i)(1) for consistency; (7) revising clause (i)(2)(D)(ii) is to reflect the new provision for utility upgrade extensions; (8) replacing “or” with “and” in subparagraph (i)(3)(C) is for clarification; (9) replacing “until” with “before” in paragraph (i)(5) is for clarification; (10) adding “from the applicable compliance” date and adding that the alternative compliance option does not apply to units complying with the alternative compliance options in paragraphs (i)(1), (i)(2), and (i)(7) is for clarification; (11) adding “from the applicable compliance” date and adding “or relocate” to paragraph (i)(7) is for clarification; (11) revising six months to 18 months for additional time provided in paragraph (i)(7) for required construction or relocation is to address an implementation barrier; (12) adding the reference of “subparagraph (d)(5)(B)” in paragraph (i)(8) is for consistency; (13) correcting the typos in paragraphs (j)(1), (j)(2), and subparagraph (k)(3)(A) is for clarification; (14) adding “or subparagraph (i)(2)(C)” to paragraph (j)(6) is for clarification; (15) adding language in paragraph (j)(8) regarding unit relocation is for consistency; and: (a) the

changes do not impact emission reductions, (b) the changes do not affect the number or type of sources regulated by the rule, (c) the changes are consistent with the information contained in the notice of public hearing, and (d) the consideration of the range of CEQA alternatives was conducted in the Final Program EIR for the 2022 AQMP, which evaluated Control Measure C-CMB-01 upon which Proposed Amended Rule 1146.2 relies; and

WHEREAS, Proposed Amended Rule 1146.2 will be submitted for inclusion in the State Implementation Plan; and

WHEREAS, Health and Safety Code Section 40727 requires that prior to adopting, amending, or repealing a rule or regulation, the South Coast AQMD 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 Final Staff Report; and

WHEREAS, the South Coast AQMD Governing Board has determined that a need exists to amend Rule 1146.2 to establish appropriate Best Available Retrofit Control Technology (BARCT) emission limits and implement the 2022 AQMP Control Measure C-CMB-01; and

WHEREAS, 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 40728.5, 40920.6, and 41508 as well as the federal Clean Air Act; and

WHEREAS, the South Coast AQMD Governing Board has determined that Proposed Amended Rule 1146.2 is written or displayed so that its meaning can be easily understood by the persons directly affected by it; and

WHEREAS, the South Coast AQMD Governing Board has determined that Proposed Amended Rule 1146.2 is in harmony with, and not in conflict with or contradictory to, existing statutes, court decision, or state or federal regulations; and

WHEREAS, the South Coast AQMD Governing Board has determined that Proposed Amended Rule 1146.2 does not impose the same requirements as any existing state or federal regulations, and the proposed amended rule is necessary and proper to execute the powers and duties granted to, and imposed upon, the South Coast AQMD; and

WHEREAS, the South Coast AQMD Governing Board, in amending Rule 1146.2, references the following statutes which the South Coast AQMD hereby implements, interprets or makes specific: Health and Safety Code Sections 39002, 40000, 40001, 40406, 40702, 40440(a), 40725 through 40728.5, 40920.6, 41508 and Clean Air Act Sections 110, 172, and 182(e); and

WHEREAS, Health and Safety Code Section 40727.2 requires the South Coast AQMD to prepare a written analysis of existing federal air pollution control requirements applicable to the same source type being regulated whenever it adopts, or amends a rule, and that the South Coast AQMD's comparative analysis of Proposed Amended Rule 1146.2 is included in the Final Staff Report; and

WHEREAS, the South Coast AQMD Governing Board finds that staff's proposed control options for Proposed Amended Rule 1146.2 are being adopted because they constitute BARCT, and that there is no other control options that meet BARCT and the air quality objectives; and

WHEREAS, the South Coast AQMD Governing Board has determined that the Final Socioeconomic Impact Assessment for the proposed project is consistent with the March 17, 1989, Governing Board Socioeconomic Resolution for rule adoption; and

WHEREAS, the South Coast AQMD Governing Board has determined that the Final Socioeconomic Impact Assessment is consistent with the provisions of Health and Safety Code Sections 40440.8, 40728.5, and 40920.6; and

WHEREAS, the South Coast AQMD Governing Board has determined that the Final Socioeconomic Impact Assessment concludes that Proposed Amended Rule 1146.2 will result in increased costs to nearly all affected industries in the South Coast AQMD jurisdiction, yet such costs are considered to be reasonable; and

WHEREAS, the South Coast AQMD Governing Board has considered the Final Socioeconomic Impact Assessment, and has made a good faith effort to minimize such impacts; and

WHEREAS, the South Coast AQMD staff conducted a Public Workshop regarding Proposed Amended Rule 1146.2 on February 7, 2024; and

WHEREAS, the Public Hearing has been properly noticed in accordance with the provisions of Health and Safety Code Sections 40725 and 40440.5; and

WHEREAS, the South Coast AQMD Governing Board has held a Public Hearing in accordance with all provisions of state and federal law; and

WHEREAS, the South Coast AQMD Governing Board specifies the Planning, Rule Development and Implementation Manager overseeing the rule development for Proposed Amended Rule 1146.2 as the custodian of the documents or other materials which constitute the record of proceedings upon which the adoption of this proposed project is based, which are located at the South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, California; and

NOW, THEREFORE, BE IT RESOLVED, that the South Coast AQMD Governing Board does hereby determine, pursuant to the authority granted by law, that Proposed Amended Rule 1146.2 qualifies as a later activity within the scope of the program approved earlier for the 2022 AQMP per CEQA Guidelines 15168 (c), and the Final Program EIR for the 2022 AQMP adequately describes the activity for the purposes of CEQA such that no new environmental document will be required. This information was presented to the South Coast AQMD Governing Board, whose members exercised their independent judgement and reviewed, considered, and approved the information therein prior to acting on the proposed project; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board directs staff to conduct a status update/technology check-in and report to the Stationary Source Committee by June 1, 2027, if the zero-emission limits established in Proposed Amended Rule 1146.2 are technically feasible, cost effective, and represent BARCT as defined in the Health and Safety Code Section 40406; and

BE IT FURTHER RESOLVED, that the Governing Board directs staff to work to conduct a demonstration project with a small commercial facility located in an AB 617 community using incentive funds, if available, and incorporate the results of the demonstration project into the technology assessment; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board does hereby adopt, pursuant to the authority granted by law, Proposed Amended Rule 1146.2 as set forth in the attached, and incorporated herein by reference; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board requests that Proposed Amended Rule 1146.2 be submitted for inclusion in the State Implementation Plan; and

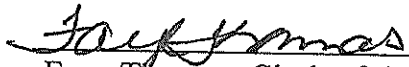
BE IT FURTHER RESOLVED, that the Executive Officer is hereby directed to forward a copy of this Resolution and Proposed Amended Rule 1146.2 to CARB for approval and subsequent submittal to U.S. EPA for inclusion into the State Implementation Plan.

AYES: Cacciotti, Delgado, Hagman, Kracov, McCallon,
Padilla-Campos, Perez, Raman, and Solache

NOES: Rodriguez

ABSENT: Lock Dawson, Do, and Mitchell

DATE: June 7, 2024



Faye Thomas, Clerk of the Boards