



April 12, 2021

**VIA: ELECTRONIC MAIL ONLY** (mkrause@aqmd.gov)

Michael Krause  
Planning & Rules Manager  
South Coast AQMD  
21865 Copley Dr.  
Diamond Bar, CA 91765

**Re: Proposed Changes to Refinery Rule 1109.1**

Dear Mr. Krause:

The undersigned organizations submit these comments concerning recent proposed changes to Refinery Rule 1109.1. Over the last month, the South Coast Air Quality Management District (South Coast AQMD) has made several concessions to petroleum refineries under Refinery Rule 1109.1. These changes have diminished the potential emissions reductions under the regulation and are not only concerning, but also unjustified. The reasons provided by the agency for these rule changes are based on broad generalizations and speculation. Moreover, these changes conflict with the Health and Safety Code and other legal mandates, as well as the agency's own analysis and evidence. In the aggregate, these proposed rule changes have weakened the rule by allowing for increased NOx emissions, while undermining accountability and transparency. For the reasons detailed below, the South Coast AQMD must reverse these changes.

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- **The South Coast AQMD Proposes to Increase the Emissions Limit to 5ppm from 2ppm Based on Speculative and Generalized Safety Concerns.**

The South Coast AQMD's Best Available Retrofit Control Technology (BARCT) analysis concluded that a 2ppm emissions limit is feasible and cost effective for large boilers and heaters. The agency now proposes to weaken this limit based on general assertions made by petroleum refineries that meeting the 2ppm limit would result in safety concerns. These safety assertions are highly speculative. The agency has not verified the number of equipment that would experience safety issues, and based on information presented, it appears these safety concerns would impact a small number of equipment at maybe one or two petroleum refineries. The South Coast AQMD cannot use these safety assertions to move the emissions limit to 5ppm for an *entire* category of equipment across *all* petroleum refineries, the vast majority of which would not experience any safety issues in achieving the 2ppm emissions limit for large boilers and heaters. Rather than increasing the emissions limit across all petroleum refineries, staff should consider alternatives to address any potential safety concerns:

- The agency should consider whether the availability of other technologies, such as premix burners, could address potential safety concerns raised by petroleum refineries (e.g., flame impingement). There is no evidence that the agency has considered the feasibility and cost-effectiveness of available technology solutions in lieu of weakening the emissions limit.
- The agency should consider creating a separate provision for large boilers and heaters with *documented and verified* safety issues that allows for an alternative 5ppm limit at the permit to construct stage. This targeted approach would avoid generalizing across the entire category of equipment and undermining the requirement that facilities achieve the *maximum* degree of emissions reductions under BARCT.
- **The South Coast AQMD Proposes to Provide an Alternative BARCT Equivalent Compliance Plan (or “b-Plan”) that Contravenes Applicable Legal Mandates.**

The South Coast AQMD moved from command-and-control to an alternative BARCT equivalent compliance (“b-Plan”) approach to achieving BARCT. Under this alternative approach, petroleum refineries can select their own emissions limits within an equipment bubble to meet BARCT for each equipment category. The maximum emissions limits for various equipment would be selected *after* rule adoption, undermining public participation and transparency. Despite the agency’s public assertions that this alternative approach would be limited to large boilers and heaters with continuous emissions monitoring systems, the proposal allows all petroleum refineries “with 6 or more units” to use this option, which includes equipment without any continuous emissions monitoring systems to verify compliance.<sup>1</sup> There are several concerns regarding the South Coast AQMD’s proposed approach that warrant abandoning the b-Plan concept:

- Health and Safety Code Section 40920.6(f) authorizes a “stationary source” to use an alternative approach provided by an air district to achieve equivalent reductions *only after* the source has “*demonstrated* compliance cost exceeding that established dollar amount.” In other words, each individual source must show compliance cost above applicable cost-effectiveness thresholds before utilizing an alternative compliance approach. Under the current proposal, the South Coast AQMD allows *all* petroleum refineries to use this alternative, regardless of the equipment categories at issue and whether cost is a barrier to compliance.
- CMB-05 requires the agency to “transition [NOx RECLAIM] to a *command and control regulatory structure* requiring BARCT level controls as soon as practicable.”<sup>2</sup> Command-and-control involves setting target emissions limits for each piece of equipment. The proposed b-Plan deviates from a command-and-control approach to achieve BARCT emissions limits. Instead, this alternative approach creates an internal facility trading bubble that allows petroleum refineries to (1) *choose*

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<sup>1</sup> SCAQMD, Proposed Rule 1109.1 – NOx Emission Reduction for Refinery Equipment and Related Operations, Presentation at slide 17 (Mar. 4, 2021)(Working Group Meeting #19), [http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1109.1/1109-1\\_wgm19\\_030421.pdf?sfvrsn=12](http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1109.1/1109-1_wgm19_030421.pdf?sfvrsn=12).

<sup>2</sup> SCAQMD, Final 2016 Air Quality Management Plan at 4-15 (Mar. 2017), <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/2016-air-quality-management-plan/final-2016-aqmp/final2016aqmp.pdf>.

whether to meet the emissions limit for covered equipment and (2) *trade* emissions between various equipment to achieve BARCT equivalence.<sup>3</sup>

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We request that the South Coast AQMD consider these concerns and provide a response. As the agency understands, this rule would secure long-overdue emissions reductions at petroleum refineries. Achieving this objective requires that petroleum refineries implement all feasible and cost-effective life-saving pollution controls to achieve the maximum degree of emissions reductions.

Sincerely,

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<sup>3</sup> SCAQMD, Proposed Rule 1109.1 – NOx Emission Reduction for Refinery Equipment and Related Operations, Presentation, *supra* note 1, at slide 22.