



September 15, 2017

Mr. Wayne Nastri
Executive Officer
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Re: *SCAQMD rulemaking schedules for Proposed Rule 1180 and other rules*

Dear Mr. Nastri:

We are writing to express our concerns regarding recent rulemaking activities. The accelerated rulemaking schedules for several proposed rules have resulted in an abridged process that makes it difficult for stakeholders to provide timely comments. In many instances, the shortened timelines for rule development does not allow for staff's technical documents to be provided in a timely manner, which results in stakeholders not having time to sufficiently review documents prior to working group meetings or workshops. While Proposed Rule 1180 is a current example of this concern, this has also been the District's approach on several other recent rulemakings (e.g., Rule 1401, Rule 1430, 1469, and 1407).

The rulemaking process is a critically important and impactful authority exercised by the District, taking control measure concepts (generally outlined in the Air Quality Management Plan (AQMP) or Clean Communities Plan) and translating them into proposed rule language. This process involves extensive research on technology, meetings with affected industries to determine feasibility and alternatives, public task force and workshop meetings, in-depth analyses of environmental, social and economic impacts, and thorough review by the appropriate Governing Board committees. With respect to stakeholder involvement, the District recently described it as follows:

This extensive process of public and policymaker participation encourages consensus in development of rule requirements so that affected sources have an opportunity for input into the rules that will regulate their operations. Once the requirements are developed, the proposed rule, along with an Environmental Assessment and a socioeconomic report, is presented to SCAQMD's Governing Board at a public hearing. Public testimony is presented and considered by the Board before any rule is adopted.¹

¹ See SCAQMD Budget & Work Program, Fiscal Year 2017-2018, page 8.

Historically, the District staff collected information, developed a technical proposal with supporting analyses, and engaged industry and public stakeholders on the technical content of the proposal before progressing to the Governing Board committees and finally a public hearing. Recently this process has been severely shortened.

For example, Proposed Rule 1180 is being presented to the Stationary Source Committee on Friday September 15, despite District Staff not yet completing the revisions of the technical guidelines that are the heart of the rule requirements. District Staff acknowledged at the Public Workshop on September 6th that the guidelines will be significantly revised, and another Working Group meeting has been scheduled for September 21st. However, Proposed Rule 1180 is being considered for set hearing on Friday, September 15 by the Stationary Source Committee with no final draft rule language, final draft staff report, revisions of the preliminary draft guidelines still pending, and all prior to the consideration of the scheduled working group on September 21.

Proposed Rule 1180 involves a number of complex technical and stakeholder issues which deserve to be considered in a deliberate manner. Such issues have been further complicated with the recent passage of Assembly Bill 617, which requires the Air Resources Board (ARB) and the air districts to develop community air monitoring plans and to deploy new community air monitoring systems. Given the considerable overlap with the intended Proposed Rule 1180 scope and the AB 617 program, PR 1180 should be revised to exclude new community monitoring, as the clear intent of AB 617 was for that work to be done by air districts following guidance issued by ARB.

With respect to the rulemaking schedule, the District's recent approach is moving faster than can be supported by the Staff's technical work. We respectfully request that District Staff revise the Proposed Rule 1180 rulemaking schedule to: 1) align it with the ability of the SCAQMD staff to provide the revised technical documents and rule language to the stakeholders in a timely manner; and 2) allow a reasonable period of time for stakeholders to review and provide appropriate recommendations and comments on all of the technical issues.

We strongly recommend the District do the same thing for other pending and future rulemakings. Thank you for your consideration of these comments.

Best regards,

California Independent Marketers Association

California Metals Coalition

California Small Business Alliance

Regulatory Flexibility Group

Southern California Air Quality Alliance

The Los Angeles Business Federation (BizFed)

Western States Petroleum Association