



CALIFORNIA METALS COALITION

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October 29, 2019

Min Sue, Air Quality Specialist
South Coast Air Quality Management District
21865 East Copley Drive
Diamond Bar, California 91765

Dear Mr. Sue:

The California Metals Coalition appreciates the opportunity to comment on the South Coast Air Quality Management District (“District” or “SCAQMD”) workshop proceedings and consideration of **SCAQMD Proposed Rule (PR) 1480**.

These comments on PR 1480 are divided into the following sections: Summary; Background on CMC; Comments on Slides and Draft Language; and Closing Comments.

SUMMARY

This comment letter addresses the PR 1480 slides presented on October 23, 2019 at working group meeting #10. At working group meeting #10, SCAQMD staff further explained Proposed Rule 1480, draft language, and Rule 1402.

BACKGROUND ON CMC

California is home to approximately 4,000 metalworking facilities, employing over 350,000 Californians. The average industry salary is \$66,400/year in wages and benefits.

8 out of 10 employees in the metalworking sector are considered ethnic minorities or reside in disadvantaged communities throughout Southern California. A job in the metals sector is often the only path to the middle class for many of these Californians.

Here is a breakdown of the metalworking industry’s impact on the 4 counties within SCAQMD jurisdiction:

- **Los Angeles County:** 54,290 Direct Jobs | 52,741 Indirect Jobs | \$7 billion wages | \$26 billion economic activity

- **Orange County**: 25,448 Direct Jobs | 18,912 Indirect Jobs | \$2.9 billion wages | \$10.8 billion economic activity
- **San Bernardino**: 9,778 Direct Jobs | 8,378 Indirect Jobs | \$1.2 billion wages | \$4.5 billion economic activity
- **Riverside**: 6,971 Direct Jobs | 7,712 Indirect Jobs | \$957 million wages | \$3.2 billion economic activities
- **Total**: 96,487 Direct Jobs | 87,743 Indirect Jobs | \$12 billion wages | \$33.8 billion economic activity

California metal manufacturers use recycled metal (ex: aluminum, brass, iron and steel) to make parts for the aerospace industry, clean energy technologies, electric cars, biotech apparatuses, medical devices, national defense items, agriculture, infrastructure, construction machinery, household appliances, food processing and storage, movement of water, and millions of other products demanded by society.

COMMENTS ON SLIDES AND/OR DRAFT LANGUAGE

Item #1, Draft Language (d)(5)(D)(iv): Creating a Guidance Document on Multi-TAC Source Apportionment:

Draft language in (d)(5)(D)(iv) states that the facility can provide “Evidence demonstrating that the cause(s) and source(s) of the Metal TAC emissions is not attributed to the facility.”

The following concerns were raised at the October 23, 2019, working group meeting:

- PR 1480’s model does not effectively account for multiple TAC sources. The model presupposes that differences between the modeled and monitored concentrations are due to “fugitive” in-facility sources despite multiple examples¹ in Paramount and Compton. The January 19, 2019 report *Application of Next Generation Air Monitoring Methods in the South Coast Air Basin* pinpoints several outside sources that have potentially major impacts:
 - “Unexpected emission sources were encountered numerous times during neighborhood surveys or during drives focused on other potential sources.” (Page 2)
 - “A significant enhancement of Cr(VI) was observed on Freeway 91, and in fact, throughout the campaign, several Cr(VI) enhancements were noted during highway drives.” (Page 16)
 - “One notable area of enhanced particulate matter chromium (PMCr) occurred during a measurements where the AML followed a street sweeper in the Longwood neighborhood.” (Page 19)
- As currently written, PR 1480 puts the burden on the facility to demonstrate whether or not other sources are contributing to exceedances. But there is not guidance for this demonstration.

CMC suggests that with no established guidance for the facilities or SCAQMD on how to set apportionment to potential sources, the guidance document staff is preparing should detail the apportionment information. This guidance should define the types and quality of information a facility would need to record in preparation for this type of demonstration and guidance to the SCAQMD as to the level of evidence needed (ex: freeways, construction, street sweeping, fires, etc.) that would be sufficient to

¹ <http://www.aqmd.gov/docs/default-source/compliance/Paramount/mobile-monitoring.pdf?sfvrsn=8>

accept such a demonstration. This guidance for source apportionment will directly impact (d)(7), and if the facility will be designated as a Metal TAC Facility. Given the criticality of such guidance to the implementation of the rule, it should be developed before 30 days rule adoption to inform stakeholders and the Governing Board.

Item #2, Draft Language (d)(8)(F) & Appendix 2: Guidance for Source Apportionment in Benchmark Concentration.

Section (d)(8)(F) includes the “Benchmark Concentration” as part of the Metal TAC Monitoring Facility designation. As noted in the previous comment (Item #1), there is no guidance for how the SCAQMD will consider the impact of other sources on the Benchmark Concentration.

CMC suggests adding to the guidance document how source apportionment will be determined when establishing the Benchmark Concentration.

Item #3, Draft Language (d)(2): What is the Trigger for the Information Request?

Section (d)(2) of the draft language states: “No later than the date specified in an Information Request, an owner or operator of a facility shall comply with all Information Requests from the Executive Officer...”

What is the trigger for the Information Request? Without clear guidelines for what triggers an Information Request, it must be assumed that the Information Request has no requirements.

CMC suggests including what will trigger the facility to receive an Information Request.

Item #4, Slide #20 and (d)(5)(C): Artificially Negates Deadlines and Investments in Other Rules (a.k.a. Cumulative Impact of Multiple Metal Rules).

Draft language states in section (d)(5)(C) that “A written list of Enforceable Measures where equipment or processes will be implemented within 90 days of the Notice of Findings...”. This section attempts to recognize the significant efforts being made by the metals sector through other SCAQMD rules to target emission reductions.

As reference, over the last 48 months, the metals sector has seen the passage of Rules 1420, 1420.1, 1420.2, 1430, 1469, and 1407. Anticipated metal rules include, but may not be limited to, 1435, 1426, 1469.1, 1147, 1147.1, and 1147.2. Twelve rules are anticipated to cost the metals sector at least \$250 million.

The current provisions in (d)(5)(C)(i)(ii) and (iii) are too restrictive and do not recognize the significant time and investment being placed on small businesses through the other rules listed above.

CMC suggests:

- Deferring to the actual emission-reducing deadlines in a specific rule (ex: Rule 1407, 1469 or 1435) rather than the arbitrary requirements in (d)(5)(C)(i) (ii) and (iii).

- As an example, section (d)(5)(C)(i) states that “Equipment will be installed within 60 days from the Notice of Findings...”. What if the facility is implementing emission-reducing measures in a SCAQMD rule that will take 61 days? CMC believes that if the facility is committing to the emission-reducing measures in another rule, PR 1480 should not create an artificial timeline that will negate this investment.
- As a second example, section (d)(5)(C)(iii) states that “Equipment will be routinely operated no later than 90 Days from the Notice of Findings...” Again, this is unnecessarily restrictive. If a facility is installing a \$1 million baghouse to control the TACs of concern, an arbitrary 90 day requirement in PR 1480 should not negate this investment.
- As a third example, section (d)(5)(C)(i) states that “Permit to Construct has been issued.” What if there is not a permit to construct needed in the emission-reducing measure? All of the new metal rules include housekeeping and facility enclosure requirements that will reduce emissions, but do not always require a permit to construct. Based on the current PR 1480 draft language, these emission-reducing measures will not be recognized.

Item #5, Slide #6: Additional Costs for Ambient Air Monitoring: Back-Up Power.

On October 11, 2019, Governor Gavin Newsom stated that the power outages occurring in Northern California (PG&E territory) are the new “norm” for the state. Some businesses, and residents, have experienced up to 5 days of no electricity. These unscheduled power outages during the fire season may also impact areas within the SCAQMD jurisdiction.

Slide #6 of the presentation describes the anticipated costs of ambient air monitoring. CMC requests that the cost of back-up power to the unit(s) be incorporated. The staff report should also describe if the power outage counts as a “mechanical failure.”

Lastly, it should also be noted that CMC expects most metal facilities—especially the larger facilities—to utilize at least 2 monitors per facility.

Item #6, SLIDE #6 and Draft Language Appendix Table 1, Section 4 “Payment Deadline” Pre-Payment:

Draft language states that operating and maintenance fees be billed “in advance of any three month period.” CMC disagrees with the requirement. Pre-payment occurs when the vendor believes the facility is financially unstable or may not pay for services after receiving them.

CMC suggests eliminating the pre-payment requirement and replacing it with a 5% down payment on services, and then the balance being due 45 days after the ambient air monitoring data is provided to the facility.

Item #7, SLIDE #6 and Draft Language Appendix Table 1, Section 4 “Payment Deadline” Penalties:

Draft language states that unpaid operating and maintenance fees will incur a 10% surcharge every 60 calendar days, which equates to a 60% annual rate. As an example, the expected annual fee of \$168,000 for 2 monitors and 2 staff would generate a penalty of \$100,800/year. CMC disagrees with this steep requirement in PR 1480.

On October 11, 2019, Governor Newsom signed into law AB 539, which limits the interest rates on installment loans in the state of California. California's legislature recognized the excessive interest rates, 30-40%/year, being charged by lenders. For PR 1480, CMC suggests using market rates, approximately 6%-8%/year, as the annual interest rate on late payments.

Item #8, Adding a Provision to Report on the Rule in 3 Years

There are many new concepts and significant costs being introduced in PR 1480. As an example, "Benchmark Concentration" was introduced for the first time on October 23, 2019 —approximately one week before the November 1, 2019 set hearing date.

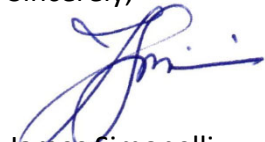
The Benchmark Concentration calculation includes a series of calculations and related risk results that cannot be determined intuitively. This is true for long-term, advanced degree consultants and air experts, much less the average metal facility operator.

CMC suggests that PR 1480 include a provision requiring that staff present to the SCAQMD Board (2 years from adoption), how well the key aspects of the rule are working.

CONCLUSION

Thank you for your time, and for allowing CMC to participate and comment on PR 1480. We look forward to continued discussions.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Simonelli", with a long horizontal flourish extending to the right.

James Simonelli
Executive Director

CC: Susan Nakamura, SCAQMD