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BOARD MEETING DATE: February 6, 2009

AGENDA NO.

**PROPOSAL:** Amend Rule 1173 – Control of Volatile Organic Compound Leaks and Releases from Components at Petroleum Facilities and Chemical Plants

**SYNOPSIS:** The proposed amendments will require changes in the rule to amend the exemption listed in paragraph (1)(5) for enforceability. When the rule was last amended in June 2007 two new paragraphs – (h)(1) and (h)(3) were added to address the installation schedule for continuous monitors for atmospheric process pressure relief devices (PRDs), but the references made in the exemption were inadvertently left unchanged as (h)(4) and (h)(5) as opposed to (h)(6) and (h)(7). The new amendment will not result in any changes in emissions and solely reflects administrative changes that will correctly express the intent of the June 2007 rule amendment.

**COMMITTEE:** Stationary Source, January 23, 2009, Reviewed

**RECOMMENDED ACTION:**

Adopt the Resolution:

1. Certifying the CEQA Notice of Exemption for Proposed Amended Rule 1173 – Control of VOC Compound Leaks from Components at Petroleum Facilities and Chemical Plants; and
2. Adopting Proposed Amended Rule 1173 - Control of VOC Compound Leaks and Releases from Components at Petroleum Facilities and Chemical Plants.

Barry R. Wallerstein, D.Env.  
Executive Officer

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**Background**

The most recent Rule 1173 amendment on June 1, 2007, required monitoring and reporting of releases from atmospheric process PRDs and the option of either venting

PRDs that release significant amounts of VOCs to control or vapor recovery or payment of a \$350,000 mitigation fee. An installation schedule for atmospheric process PRD electronic monitors was also established based on the number of PRDs located at a facility. This amendment will solely correct administrative changes relative to an oversight in paragraph renumbering when new paragraphs were added to subdivision (h).

### **Affected Facilities**

The facilities subject to this amendment include refineries, marine terminals and lubricating oil and gas re-refiners.

### **Public Process**

After the June 1, 2007 amendment of the rule, industry brought it to the attention of staff that paragraph (1)(5) of the “Exemptions” was inadvertently left unchanged and did not incorporate changes made in subdivision (h) which was amended to include new subparagraphs (h)(1) and (h)(3). As a result, paragraph (1)(5) inadvertently referenced paragraphs (h)(4) and (h)(5) as opposed to paragraphs (h)(6) and (h)(7). A public consultation meeting was scheduled and held on Wednesday, January 7, 2009 at the SCAQMD headquarters to discuss this issue with stakeholders, industry, interested parties, and the public.

### **Proposal**

The primary objective of PAR 1173 is make administrative changes that will allow staff to properly enforce the rule. The changes relate specifically to exemption (1)(5) that addresses releases that take place during natural disasters or acts of war or terrorism. Since Rule 1173 was amended in June 2007 there have been no such occurrences. This amendment will not in any way affect emissions or add new requirements. The following is a summary of the proposed amendment:

- Amend paragraph (1)(5) to reference paragraphs (h)(6) and (h)(7) as opposed to paragraphs (h)(4) and (h)(5).

### **Cost Effectiveness Determination**

The proposed rule change is solely an administrative procedure to the rule and does not significantly affect air quality or emission limitations. Therefore, cost effectiveness determination pursuant to California Health and Safety Code § 40922 is not applicable.

### **AQMP and Legal Mandates**

This amendment is an administrative change to the rule to improve enforceability and is not an AQMP control measure although it is consistent with the goals of the AQMP. The proposed amendment does not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, recordkeeping, or reporting requirements and therefore, the comparative analysis of California Health and Safety Code § 40727.2 is not required. The proposed amendment

is not a requirement for retrofit of best available control technology and therefore, the incremental cost effectiveness analysis of Health and Safety Code § 40920.6 is not applicable.

### **California Environmental Quality Act (CEQA)**

Staff has reviewed the proposed amendments to Rule 1173 Control of Volatile Organic Compound Leaks and Releases from Components at Petroleum Facilities and Chemical Plants, pursuant to CEQA Guidelines § 15002(k)(1) - Three Step Process, and has determined that the proposed amendments are exempt from CEQA pursuant to CEQA Guidelines § 15061(b)(3) – Review for Exemption. The proposed amendments are covered by the general rule that CEQA applies only to projects which may have a significant effect on the environment. Staff has reviewed the proposed amendments and has determined that they are primarily administrative in nature. Therefore, it can be seen with certainty that there is no possibility that the proposed amendments will have a significant impact on air quality or other environmental areas and, therefore, the proposed project is exempt from CEQA. If approved by the Governing Board, a Notice of Exemption (NOE) will be prepared for the proposed project pursuant to CEQA Guidelines §15062 – Notice of Exemption, and mailed to the county clerks of Los Angeles, Orange, Riverside, and San Bernardino counties.

### **Socioeconomic Analysis**

The proposed amendment does not significantly affect air quality or emission limitations and therefore, a socioeconomic impact assessment pursuant to California Health and Safety Code §§ 40440.8 and 40728.5 are not required.

### **Draft Findings Pursuant to Health and Safety Code § 40727**

Health and Safety Code § 40727 requires that prior to adopting, amending or repealing a rule or regulation, the AQMD Governing Board shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference based on relevant information presented at the hearing.

**Necessity** - A need exists to amend Rule 1173 to make an administrative change and to improve enforceability.

**Authority** - The AQMD Governing Board obtains its authority to adopt, amend or repeal rules and regulations from California Health and Safety Code Sections 39002, 40000, 40001, 40440, 40702 and 41508.

**Clarity** - The proposed amended rule is written or displayed so that its meaning can be easily understood by the persons directly affected by it.

**Consistency** - The proposed amended rule is in harmony with and not in conflict with or contradictory to, existing statutes, court decisions or state or federal regulations.

**Non-Duplication** - The proposed amended rule does not impose the same requirements as any existing state or federal regulations, and the amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, the AQMD.

**Reference** - The AQMD Governing Board by adopting this proposed amended rule is implementing, interpreting or making specific the provisions of: Health and Safety Code Sections 40001 (rules to achieve ambient air quality standards), 40440(a), (rules to carry out the Air Quality Management Plan), (b) (Best Available Retrofit Control Technology), and (c) (rules which are also cost-effective and efficient), 40702 (rules to execute duties) and 40910 et seq., (California Clean Air Act).

**Implementation and Resources**

No additional AQMD resources are required to implement the proposed amendment.