Southern California Gas Company and San Diego Gas & Electric Company
Comments on Second Draft 2007 Air Quality Management Plan

Attachment A

Control Measure CMB-01 – NO_X Reduction from Non-RECLAIM Ovens, Dryers and Furnaces

SoCalGas and SDG&E do not support proposed Control Measure CMB-01 as currently presented in the Second Draft AQMP.

Summary Description of Control Measure (Page IV-A-41)
This proposed control measure would obtain further emission reductions of NO_X from non-RECLAIM ovens, dryers, furnaces, kilns, afterburners, and incinerators with no source specific (BARCT) NO_X rules. SCAQMD believes further NO_X reductions can be achieved if these specific sources employ the latest advancement in burner technologies.

Proposed Method of Control and Emissions Reduction (Page IV-A-42)
The SCAQMD proposes to force these specific sources to employ the latest Low NO_X burners. The SCAQMD is proposing to adopt source specific rules and may incorporate more stringent control requirements such as BACT as it subsequently seeks to adopt a Facility Modernization (MCS-01) control measure. In addition, as part of its rulemaking process, the SCAQMD may adopt emissions limits for new pieces of equipment that do not require a permit through an equipment certification program.

Comments

SoCalGas and SDG&E support the development and use of clean natural-gas-fired technologies for the improvement of the environment in southern California. However, SoCalGas and SDG&E are concerned that Control Measure CMB-01, as described in the Second Draft AQMP, continues to lack detailed information that would be necessary to adequately analyze and respond to the Control Measure. While we applaud the District for committing to provide detailed information (including cost-effectiveness and exemptions) during the rulemaking process, and to involve affected businesses, manufacturers and stakeholders in that process, it is not appropriate to defer the entire analysis to the rulemaking stage.

By the District's own admission, "[t]he [California Clean Air Act (CCAR)] requires each plan revision [to] include an assessment of the cost-effectiveness of available and proposed control measures...." *Proposed Modifications to the Draft 2007 Air Quality Management Plan, Proposed Modifications to the Main Document* at 6-12. Moreover, "the district shall consider the relative cost-effectiveness of the measure as well as other factors including, but not limited to, technological feasibility, total emission reduction potential, the rate of reduction, public acceptability, and enforceability." *Id.*

Table 6-5 to the *Proposed Modifications to the Draft 2007 AQMP* document (entitled "Cost-Effectiveness Ranking of District's Stationary Source Control Measures") estimates that CMB-01 will result in a cost-effectiveness of $4,000-$13,000 per ton. However, SCAQMD has not provided any backup for this estimate. In our comments to

the First Draft AQMP, we requested that the SCAQMD provide cost-effectiveness, feasibility and other data as part of the AQMP process. SCAQMD's general response was that this information would be provided during the rule development. Because we believe (and the SCAQMD has itself acknowledged) that SCAQMD must provide this information as part of the AQMP process, we incorporate by reference the comments we previously submitted to SCAQMD on December 1, 2006, to CMB-01, and ask again that these questions be answered with more detailed responses. For your convenience, our prior comments are attached and incorporated herein as Enclosure 1.

If the District retains CMB-01, SoCalGas and SDG&E request that SCAQMD add the following language to the Control Measure:

> *"In implementing this control measure, SCAQMD will work collaboratively with affected stakeholders, including industry employing the equipment identified in Figure 1 – NOx Emission Contribution of NOx Non-RECLAIM Equipment Categories, to:*
>
> 1. *explore and implement all feasible incentive mechanisms to cost-effectively assist businesses with compliance; and*
>
> 2. *identify categories of equipment that should be exempt from the control measure's requirements because they have no technological, viable or cost-effective means of emissions control."*

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Attachment B

Control Measure CMB-03 – Further NO_X Reductions from Space Heaters

SoCalGas and SDG&E support the development and use of clean natural-gas-fired technologies. However, we do not believe CMB-03's proposed emissions reduction requirements (anticipated emission levels of 10 to 20 ng/j) and timetables (2012) are cost-effective. Consequently, we cannot support CMB-03.

Summary Description of Control Measure (Page IV-A-50)
This proposed control measure is anticipated to achieve NOx emission levels of 10 to 20 ng/J by approximately 2012. Additional reductions from 2010 through 2023 would potentially be pursued through incentive programs.

Proposed Method of Control and Emissions Reduction (Page IV-A-50 &51)
The contribution to emission reductions of this proposed regulation would be evaluated as part of rule development.

Comments

SoCalGas and SDG&E support the development and use of clean natural-gas-fired technologies for the improvement of the environment in Southern California. However, we are concerned that the District's anticipated NOx emission levels and timetables of 10 to 20 ng/J by 2012 are unduly aggressive.

The District has stated that "technology exists to achieve NOx emission levels of ... 10 to 20 ng/J ... from burners in this size range." However, burner technology is only one component of a space heater. Other technology requirements and equipment redesign issues must also be considered. Industry information suggests that new equipment capable of achieving 20 ng/J will not be available for another 2-4 years and will require a cost premium on a per-unit basis of approximately 45%. We do not believe such a cost premium is cost-effective.

Please provide additional information regarding the cost-effectiveness analysis that the District is relying on to support CMB-03. By the District's own admission, "[t]he [California Clean Air Act (CCAR)] requires each plan revision [to] include an assessment of the cost-effectiveness of available and proposed control measures...." *Proposed Modifications to the Draft 2007 Air Quality Management Plan, Proposed Modifications to the Main Document* at 6-12. Moreover, "the district shall consider the relative cost-effectiveness of the measure as well as other factors including, but not limited to, technological feasibility, total emission reduction potential, the rate of reduction, public acceptability, and enforceability." *Id.*

Table 6-5 to the *Proposed Modifications to the Draft 2007 AQMP* document (entitled "Cost-Effectiveness Ranking of District's Stationary Source Control Measures")

estimates that CMB-03 will result in a cost-effectiveness of $10,000 per ton of NOx. Elsewhere, in the text accompanying CMB-03, the District concludes that the cost effectiveness of meeting 20 ng/J would be approximately $12,500 per ton of NOx reduced, of meeting 14 ng/J would be up to $10,000 per ton of NOx reduced, and of meeting 10 ng/J for premixed atmospheric radiant burners (30,000 to 50,000 Btu/hr used in residential tank-type water heaters) would be $16,000 per ton of NOx reduced. However, SCAQMD has not provided backup supporting these estimates.

In our comments to the First Draft AQMP, we requested that the SCAQMD provide cost-effectiveness, feasibility and other data as part of the AQMP process. SCAQMD's general response was that this information would be provided during the rule development. While we applaud the District for committing to provide detailed information during the rulemaking process, we do not believe it is appropriate to defer the entire analysis to the rulemaking stage. Because we believe (and the SCAQMD has itself acknowledged) that SCAQMD must provide this information as part of the AQMP process, we incorporate by reference questions 1 through 9 (Attachment H, pages H-1 to H-2) that we previously submitted to SCAQMD on December 1, 2006, to CMB-03, and ask again that SCAQMD answer these questions with more detailed responses. For your convenience, our prior comments are attached and incorporated herein as Enclosure 1.

Lastly, we strongly encourage the SCAQMD to meet with furnace manufacturers, furnace distributors, installing contractors, local utility companies, consumer groups and other key stakeholders to develop realistic and cost-effective emission reduction targets and timelines.

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Attachment C

Control Measure MCS-01 – Facility Modernization

SoCalGas and SDG&E oppose Control Measure MCS-01 as currently drafted and are concerned that the measure lacks important information. The comments below reflect the companies' request that the SCAQMD add appropriate justification, including the basis of assumptions, a more thorough explanation of the factors involved, and address serious regulatory policy questions with regard to new source review requirements.

Summary Description of Control Measure (Page IV-A-78)
This control measure would obtain emission reductions of NO_X, VOC and PM2.5 by requiring that facilities modernize equipment at the end of its pre-specified equipment useful life. For VOC solvent/coating facilities, this measure would design a program to encourage application of supercompliant materials or process changes to achieve emission reductions.

Proposed Method of Control and Emissions Reduction (Page IV-A-80 & 81)
The concept of this control measure is to ensure timely upgrade of existing technology to the cleanest technology available. The District, as part of rulemaking, will develop a list of useful equipment life by equipment category. The equipment operators are expected to achieve BACT or equivalent emission limits at the end of useful life through equipment replacement or retrofit technology.

Comment #1 – Facility Economic Considerations

SoCalGas and SDG&E remain concerned that Control Measure MCS-01, as described in the Second Draft AQMP, lacks important information that would help facilities accurately assess impacts to their operations. The District's responses to our previous comments routinely deferred further detailed analysis of economic and other impacts, including serious new source review policy issues, to the rulemaking process. However, by the District's own admission, "the CCAA requires that each plan revision shall include an assessment of the cost-effectiveness of available and proposed control measures." *Proposed Modifications to the Draft 2007 Air Quality Management Plan, Proposed Modifications to the Main Document* at 6-12.

Our data suggests that, when the District conducts the cost-effectiveness analysis that the CCAA requires, the District will quickly conclude that the proposed measure must include off-ramps and exemptions. A limited survey conducted by SoCalGas showed that 35% of industrial facilities anticipate that the Facility Modernization control measure would cause them to either relocate or shut down their businesses. Although this is only a sample of customers, we believe it is a good indicator of the potential negative economic impacts associated with the proposed measure. Even more alarmingly, we believe our survey underestimated the potential costs of the proposed measure because it assumed that installing the control equipment required by the measure will not trigger new source review requirements. The District has acknowledged that the control

equipment installations could potentially trigger major new source review requirements because the District has no authority to waive such requirements.

Therefore, as part of the AQMP process, SCAQMD should develop an off-ramp process for businesses that would face economic hardship if they had to replace/upgrade their equipment with BACT. Eligibility for the off-ramp should be based on a combination of equipment age (actual service), current permitted emissions limits, cost of replacement with BACT or BACT equivalent, company profitability and other factors.

Comment #2 – Low Use Equipment Considerations

The District should also exempt "low use" equipment from having to be upgraded after a pre-determined life span. Equipment such as emergency/standby generators may operate very few hours per year and produce very few emissions as compared to similar devices that operate year-round. It is neither cost-effective nor necessary to require equipment upgrades for standby equipment that is rarely used.

Comment #3 – Affected Sources

The revised language states that "for NO_X emission reductions, existing equipment at facilities not participating in the NO_X RECLAIM program would need to be retrofitted or replaced with BACT at the end of a pre-determined life span. For facilities participating in the NO_X RECLAIM program, further NO_X reductions will be obtained through periodic BARCT evaluation and other program review."

The narrative goes on to state that "PM2.5 emissions reductions would be obtained for both RECLAIM and non-RECLAIM facilities through this control measure."

Further, in response #5-2 (Carrier), the District states that "a precursor gaseous emission of nitrate is NO_X which is chemically transformed to nitrate in the atmosphere... NO_X emissions must be reduced by 50% to attain the annual PM2.5 standard by 2015...."

The conclusion appears to be that both RECLAIM and non-RECLAIM facilities are ultimately subject to NO_X reductions to BACT levels under MCS-01. As such, the RECLAIM program would no longer enable facility operators the flexibility to determine when and how they would reduce overall NO_X emissions at their respective facilities. Please clarify the following:

a) Will both RECLAIM and non-RECLAIM facilities be subject to NOx reductions under MCS-01?
b) What strategy will the District employ to ensure that RECLAIM facilities retain their ability to decide when and how they reduce facility-wide NO_X emissions?
c) If RECLAIM facilities will be required to reduce PM2.5 emissions pursuant to MCS-01, will the District include alternative mechanisms (other than a simple reduction in RTC allocations) that RECLAIM facilities may use to achieve necessary reductions?

Comment #4 - BACT

The revised version of MCS-01 has removed the term "Today's BACT" and replaced it with "BACT". Despite this change, use of the term "BACT" continues to suggest that MCS-01 will be part of the District's new source review program. Yet, in the District's response to our prior comments, the District noted its intent that MCS-01 "will result in an entirely new rule" that is separate and apart from new source review. In response to our recommendation that the District use a term other than "BACT" to define the technology requirement, the District responded that "further analysis will be performed during the rulemaking to determine the appropriate application of BACT to sources subject to this control measure."

We remain very concerned that the District's use of the term BACT is confusing both in terms of its new source review connotations and its technology requirement. Therefore, rather than defer this issue to future rulemaking, we strongly request that the District avoid any confusion by using a different technology term (e.g., Reasonable End of Life Technology). If the District does not use an alternative concept to NSR BACT, the economic consequences to regulated entities could be profound. This point is too important to defer to rulemaking.

Moreover, we strongly request that the District define the technology requirement as a technology defined as of a particular year (e.g., 2007) or time (e.g., application submittal) rather than a "moving" compliance target. Given the sometimes lengthy permit application reviews (several years in some cases, depending on project complexity), it is highly conceivable that a technology requirement that changes over time (such as BACT) will change while a permit application is under District review. This would force a facility to incur added costs to redesign and reengineer the replacement equipment, and update the application. This would also impact the Permit Engineer's schedule and workload and could prevent the facility from taking advantage of early replacement tax incentives.

Comment #5 – Useful Life Criteria

The District notes that the concept is to ensure timely upgrade of existing technology to the cleanest technology available. Also, "equipment operators are expected to achieve BACT … at the end of useful life…." Comments by the District note that detailed analysis to determine "end of useful life" will be delayed until actual rulemaking. Because this is such an important issue, the District should include in the AQMP a framework for how useful life will be determined.

Moreover, the language in Rule 1146.2(c)(4) provides a numerical date as follows:

> *"On or after January 1, 2006, no person shall operate in the District any unit more than 15 years old, based on the original date of manufacture as specified..."*

The District relied upon information from industry and input from stakeholders to arrive at the 15-year useful life for small boilers/large water heaters. Please identify the key

criterion underlying the 15-year useful life period and the relative influence of these criteria on the District's useful life determination.

Comment #6 – Enforcement Issues

We have raised the question, along with other commenters, of how "end of useful equipment life" will be identified and enforced in the field. Rule 1146.2 uses the original date of manufacture. However, existing equipment in the field may have little or inconsistent information in this regard. We request that the District establish a task force of equipment users, equipment manufacturers and other interested stakeholders to identify factors for determination of the end of useful life.

Please also address the following questions:

a) Will the operator be required to certify the manufacturing date or date of equipment upgrade?
b) How will equipment existing prior to rule adoption be addressed if there is little or no date documentation?
c) Will end of useful life be determined by calendar time (years) regardless of frequency or operating hours?
d) Will there be an opportunity for customers to seek a waiver from the rule implementing MCS-01 if their equipment is still operating properly, if replacement is non-economic, and if they can meet emission requirements?
e) How will upgrades, retrofits and routine maintenance impact a unit's useful life?
f) What training will be provided to inspectors to recognize upgrades, retrofits, and routine maintenance to determine a reset of the useful life "clock"?

Comment #7 – Two Step Public Hearing Procedure

The District added verbiage describing the 2-step public hearing procedure it will use prior to the adoption of a new rule that implements MCS-01. The new language appears to describe the District's normal rulemaking procedure, however, this language was not added elsewhere in the Second Draft AQMP. Is the 2-step process simply being stated for the record, or does the verbiage describe a process that departs in some way from the District's normal rulemaking procedures?

Comment #8 – Credit Generation

The District proposed to investigate opportunities for potential credit generation during rule development. What mechanisms for credit generation are expected to be in place prior to the effective date of rules implementing MCS-01?

Comment #9 – Cost Effectiveness

A cost-effectiveness of $10,000/ton and $19,000/ton is estimated for VOC and PM2.5 sources respectively, with corresponding justification. However, we note that there is not justification for the cost-effectiveness range of $10,600 - $17,000 per ton for NO_X sources. Please provide the basis of the District's estimated cost-effectiveness of NOx reductions.

Also, the cost estimate for PM2.5 is multiplied by a factor to obtain the $19,000/ton figure, based on the weighted ratio of PM10 to PM2.5. However this seems to assume that the technology to control PM2.5 and PM10 is similar. Our understanding is that PM10 control requires filtration devices to capture particulates while PM2.5 control may include condensable pollutants such as nitrates that form in a completely different manner and require a different control technology altogether. Please explain how the different control technologies and associated cost effectiveness estimates can be accounted for by a factor of 4-5 as discussed in the revised control measure.

Please also confirm whether the estimated cost-effectiveness for VOC, PM2.5 and/or NO_X includes costs and expenses that a source will incur if installation of the equipment that MCS-01 requires triggers new source review. As the District acknowledged in its response to comments document, the District may not waive or exempt sources from major new source review. Because major new source review no longer includes an exemption for pollution control projects, there is a real possibility that installing technology at the end of a piece of equipment's useful life could trigger major new source review. See Enclosure 1 at page F-4. The District's cost-effectiveness analysis should include the costs associated with this possibility. Moreover, as the SCAQMD is well aware, there are not sufficient emission offsets available to satisfy the current demand at the current rate of equipment turnover. Without adequate offsets, an accelerated equipment turnover requirement may be impossible to comply with and this effort may fail.

Comment #10 – Other Incentive Mechanisms

The District seems to recognize the need to provide industry with incentives for such an aggressive control measure. The implication seems to be that facility modernization would be more difficult without possible tax incentives or potential credit generation. What incentives beyond tax incentives for significant early replacement would the District consider? See Enclosure 2, "Governor's Executive Order", paragraph 10, for incentives that should be considered.

Additional information request based on previous comments from Initial Draft of AQMP

SoCalGas and SDG&E respectfully request additional information on issues raised in our comments to MCS-01 as drafted in the First Draft AQMP, as they were not adequately addressed in the District's response to comments document.

Comment #11

(Previous Comment #2 – Equipment Useful Life)

We remain concerned that the District has not identified basic criteria by which "end of useful life" is determined, whether or not the details can be fully analyzed at this time.

Please include a summary of the criteria that you believe are necessary to develop a list of equipment useful life, including but not limited to operating time, economic drivers, etc.

Comment #12
(Previous Comment #3 – Tax Incentives for Early Replacement)

We remain concerned that the District has not sought to identify possible criteria for early replacement incentives, or what is considered "significantly" early replacement. In addition to this, those who are able to replace equipment "significantly prior" to a specified end of useful life may be rare if it is determined that a great number of the affected facilities are already near or at the "end of useful life".

Comment #13
(Previous Comment #4 - Impact on RECLAIM Facilities)

It was initially unclear if the Facility Modernization measure affected RECLAIM sources. However, with the need for dramatic NO_X reductions to meet the PM2.5 goals, it appears that the District believes BACT for NO_X RECLAIM sources is necessary. This effectively eliminates the option that RECLAIM sources have of electing when and how they reduce facility-wide NO_X emissions. Further, it is unclear exactly what technologies will assist in the attainment of the PM2.5 reductions. Does the cost-effectiveness range of $10,600 - $17,000 per ton for NO_X sources take into account that some RECLAIM sources will have to completely revise their previously established long term facility modernization strategies to make upgrades pursuant to the control measure? Does it account for new source review? Please provide your updated cost-effectiveness calculations and assumptions for Control Measure MSC-01.

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Attachment D

Control Measure MCS-03 – Energy Efficiency and Conservation

SoCalGas and SDG&E support proposed Control Measure MCS-03 as currently presented in the Second Draft AQMP, but we require additional clarification from the SCAQMD to verify how this proposed measure interfaces with required mandates under AB32.

Summary Description of Control Measure (Page IV-A-90)
This proposed control measure would obtain further emission reductions through the promotion of cleaner sources of energy, reductions in energy demand and support of state and federal energy efficiency and conservation initiatives and programs.

Proposed Method of Control and Emissions Reduction (Page IV-A-93)
The proposed method of control is to provide incentives for businesses or residents to use energy efficient equipment in the SCAQMD and increase the effectiveness of existing energy conservation programs. The SCAQMD is proposing to develop and implement specific energy efficiency and conservation programs above and beyond the state and federal mandated programs to achieve further emission reductions.

Comments

SoCalGas and SDG&E fully support Control Measure MCS-03 as described in the Second Draft AQMP and appreciate the District's commitment to work with us to consider the two energy efficiency proposals set forth in the comments to MCS-03 that we previously submitted to SCAQMD on December 1, 2006. (See Enclosure 1.)

Moreover, while we support MCS-03, we urge SCAQMD to clarify that this measure is not intended to deprive entities subject to AB32 of the opportunity to obtain credit for energy efficiency strategies. We are prepared to partner with SCAQMD on energy efficiency strategies, but will need assurance that greenhouse gas (and potentially criteria pollutant) reductions from the implementation of such strategies will remain fully creditable towards AB32 reduction obligations (and, as appropriate, towards criteria pollutant responsibilities). Please confirm our understanding.

Attachment E

Control Measure MCS-07 – Application Of All Feasible Measures

SoCalGas and SDG&E support the concept set forth in proposed Control Measure MCS-07. However, we are concerned that the language currently presented in the Second Draft AQMP could be misinterpreted or misapplied. Therefore, we request that the District modify the control measure's language to make clear that the BARCT review and emissions reductions that the proposed control measure contemplates will be conducted in accordance with California Health and Safety Code Section 39616 and the District's 2004 RECLAIM BARCT Determination White Paper.

Summary Description of Control Measure (Page IV-A-107)
This proposed control measure would require the District to continue to review new emission limits to determine if District regulations remain equivalent or more stringent than other regions and to initiate and perform a BARCT analysis with potential rule amendments if deemed appropriate. In addition, the District will continue to monitor technology advances in order to implement new BARCT where applicable. For RECLAIM sources, the proposed measure anticipates that BARCT technology will evolve in the next 10 to 15 years and that facilities will install BACT if RECLAIM NSR is triggered. The control measure would further reduce RECLAIM allocations to reflect future BARCT and any BACT installations due to RECLAIM NSR requirements. Finally, the proposed control measure would examine and ensure equity between RECLAIM and non-RECLAIM sources.

Proposed Method of Control and Emissions Reduction (Page IV-A-108)
Adopt and implement new retrofit technology control standards that are feasible and cost-effective as new BARCT standards become available in the future. This control measure is anticipated to reduce 3 to 5 tons per day of NO_X.

Comments

SoCalGas and SDG&E support Control Measure MCS-07 in concept. However, we are concerned that the proposed control measure could be misinterpreted or misapplied as currently drafted. Therefore, we request that the District modify the control measure's language to make clear that the BARCT review and emissions reductions that the proposed control measure contemplates will be conducted in accordance with California Health and Safety Code Section 39616 (requiring, among other things, BARCT assessments to be made every 3 years) and consistent with the District's 2004 RECLAIM BARCT Determination White Paper.

Additionally, before any reductions are quantified or imposed, SCAQMD should commit to perform a comprehensive BARCT and BACT equivalency assessment and related impact study involving collaborative input from all affected stakeholders, including a broad cross-section of affected industries, end-users, industry trade groups, technology

trade groups, vendors, and suppliers. For a reasonable and accurate assessment approach, key evaluation criteria should include:

- Methodology of BARCT/BACT determination
- Cost-effectiveness evaluation
- Method of applying reductions (program-wide or industry-specific)
- Timing of reductions
- Socioeconomic impact

The above requests can be accomplished with the following revisions to MCS-07:

"Control Method

The District will continue to review new emission limits introduced through federal, state or other local regulations to determine if district regulations remain equivalent or more stringent than other regions. If not, a rulemaking process will be initiated to perform BARCT analysis with potential rule amendments if deemed appropriate. In addition, the District will continue to monitor technology advances in order to implement new BARCT where applicable. ***The BARCT analyses contemplated by this control measure will (a) be conducted every three years; (b) be conducted in accordance with California Health and Safety Code Section 39616 and the District's 2004 RECLAIM BARCT Determination White Paper; (c) involve input from all affected stakeholders; and (d) include, among other things, the methodology of BARCT/BACT determination, a cost-effectiveness evaluation, the method of applying reductions (program-wide or industry-specific), the timing of reductions, and socioeconomic impacts.*** *"*

For the record, we would also like to request that, during the rulemaking process, careful consideration must be taken in establishing and committing to any proposed reductions goal as we could anticipate a more accelerated advancement in mobile source emissions control technology reductions which may offset the overall required reductions from stationary sources to meet Ozone attainment goals in 2024. In addition, as in previous RECLAIM BARCT equivalency analyses, great care and diligence must be considered to avoid a "one size fits all" approach as technological advancements become more sophisticated and process specific. The SCAQMD must further consider and identify equipment classes with a more detailed and finite approach, taking into account economic and financial impacts as well as industry-specific operating environments. This approach is important as it gives industry the certainty it requires for effective business and financial planning and reflects upon the SCAQMD's certainty for accurate air quality emissions projections.

Finally, SoCalGas and SDG&E are submitting the following questions for response:

1. Will the BARCT/BACT equivalency analysis incorporate a "useful life expectancy" in the equation?

2. In performing the BARCT/BACT equivalency analysis, what will the District use as the anticipated cost-effectiveness threshold and what is the basis for this number?
3. Will the SCAQMD continue their policy to take RECLAIM reductions system-wide (versus on an industry-specific basis)?

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Attachment F

Control Measure MCS-08 – Emission Charges Of $5,000 Per Ton For Stationary Sources With Potential To Emit Over 10 Tons Per Year [VOC and NO_X]

SoCalGas and SDG&E understand that SCAQMD is proposing Control Measure MCS-08 to comply with the December 22, 2006 United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit or Court) decision in SCAQMD v. EPA. However, SoCalGas and SDG&E are concerned that, as currently drafted, the proposed Control Measure could be interpreted to be more stringent than the federal Clean Air Act and D.C. Circuit would require, and therefore cannot support this measure as currently proposed. SoCalGas and SDG&E request that the SCAQMD adjust the language of the Control Measure to track more closely the federal Clean Air Act and D.C. Circuit requirements.

Summary Description of Control Measure (Page IV-A-110)
This control measure proposes that if the former federal 1-hour ozone ambient air standard is not met by the year 2010, the District shall impose an emissions fee of $5,000 per ton of VOC emitted by every "major stationary source" of VOC and NO_X (whether permitted or not) in excess of 80 percent of any such source's 2010 emissions beginning in 2011.

Proposed Method of Control and Emissions Reduction (Page IV-A-111)
Implementation of this measure expects to reduce major stationary source emissions as facilities seek to further reduce their emissions to avoid or reduce fees proposed by this measure. Projected emissions are yet to be determined.

Comments

SoCalGas and SDG&E have followed the SCAQMD v. EPA litigation and understand why SCAQMD is proposing this proposed control measure. However, SoCalGas and SDG&E are concerned that, as currently drafted, the proposed Control Measure could be interpreted to be more stringent than the federal Clean Air Act and D.C. Circuit would require.

First, SoCalGas and SDG&E request that SCAQMD make clear that Section 185 fees will not be imposed unless and until Section 185 of the federal Clean Air Act and the courts interpreting such section require imposition of such fees. Specifically, on December 22, 2006, the D.C. Circuit issued an order that the Clerk withhold issuance of the mandate set forth in the Court's December 22, 2006 ruling in SCAQMD v. EPA until "seven days after disposition of any timely petition for rehearing or petition for rehearing en banc." The "mandate" set forth in the Court's December 22, 2006 ruling is either (a) the Court's mandate to vacate and remand the 8-hour implementation rule, or (b) the Court's December 22, 2006 ruling in its entirety. Under either interpretation, the Court made clear that the 8-hour implementation rule shall not be vacated or remanded until seven days after disposition of a timely filed petition for rehearing on the December 22,

2006 ruling. Our understanding is that the United States Environmental Protection Agency (USEPA) filed a petition for rehearing by the March 22, 2007 deadline. Therefore, because the 8-hour implementation rule is not vacated until seven days after this petition for rehearing is resolved, the 8-hour implementation rule continues in force today.

The 8-hour implementation rule requires that Section 185 fees shall no longer apply for purposes of the 1-hour ozone standard under the theory that the 1-hour ozone standard was revoked and Section 185 control fees are not a "control measure" that must be retained under Section 185 of the federal Clean Air Act. Therefore, until seven days after disposition of USEPA's petition for rehearing on the December 22, 2006 decision, the Section 185 fees shall not apply.

Based on the above, and because it is possible that the December 22, 2006 decision could be altered upon rehearing or appeal, we respectfully request that SCAQMD make clear that the fee contemplated in MCS-08 shall not apply unless and until it is required to apply pursuant to federal Clean Air Act Section 185 and pending court decisions interpreting that section.

Second, please clarify that the emissions fee would be calculated on a calendar year basis, as Section 185 requires.

Third, the draft language in MCS-08 assumes that the baseline used to calculate the mitigation fee will be a facility's actual 2010 emissions. Please note that Section 185(b)(2) gives USEPA the discretion to issue guidance authorizing a different baseline amount to be determined in accordance with "the lower of <u>average</u> actuals or <u>average</u> allowables, determined over a period of more than one calendar year" (emphasis added). While USEPA has not yet issued such guidance, it is possible they may do so in the future, and we request that you draft MCS-08 in a way that would accommodate that possibility.

Finally, there is an apparent typographical error in the second paragraph of the "Regulatory History" section. Specifically, the paragraph says that "serious or severe" areas that fail to attain the 1-hour standard by the statutory date must impose fees. Pursuant to Clean Air Act Section 185, we believe the reference should be to "severe or extreme" areas.

In summary, we believe the above clarifications and correction can be accomplished with the following minor revisions to MCS-08:

<u>"Regulatory History</u>:

On December 22, 2006, the federal Court of Appeals in Washington, D.C., ruled that EPA did have the authority to revoke the one-hour ozone standard. Therefore, the 2007 AQMP does not need to demonstrate attainment of the one hour standard. However, the court also ruled that EPA must require areas that had not yet attained the one-hour

*standard to continue to implement control requirements at least as stringent as those in effect under the one-hour standard. In particular, the one-hour ozone NSR and conformity provisions must continue to be implemented. In addition, if a ~~serious or~~ severe **or extreme** area fails to attain the one hour standard by the statutory date, the area must implement a measure requiring major stationary sources to either reduce their emissions to 80% of ~~what they were in the attainment year~~ **their baseline emissions**, or pay an annual fee of $5,000 (adjusted for inflation) for each ton in excess of 80% of baseline. **The Court's decision is stayed until seven days after disposition of any timely petition for rehearing or petition for rehearing in banc. On March 22, 2007, the U.S. EPA filed a timely petition for rehearing. Therefore, the Court's decision is stayed until that petition is resolved.***

Once the stay on the Court's decision is lifted and pursuant to the timeframes established by the Court and Section 185 of the federal Clean Air Act, a *~~the~~ $5,000 per ton fee applies to every "major stationary source" of VOC emissions, whether permitted or not....*

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Proposed Method of Control

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This control measures proposes that if the former federal 1-hour ozone ambient air standard is not met by the year 2010, ***and if and when required by the federal Clean Air Act Section 185 and the courts interpreting such section,*** *the District shall impose an emissions fee of $5,000 per ton of VOC, emitted by each major source* ***during a calendar year*** *in excess of 80 percent of the source's 2010 emissions* ***or such other baseline amount as may be authorized by USEPA pursuant to CAA Section 185(b)(2).*** *~~beginning in 2011~~. The fee rate will be adjusted ...."*

In addition to the above clarifications, SoCalGas and SDG&E request that SCAQMD provide information regarding how the fees collected pursuant to MCS-08 would be used to help mitigate emissions contributing to ozone nonattainment within the SCAQMD's jurisdiction.

Finally, in light of the fact that the Court's decision in SCAQMD v. EPA is stayed until seven days after USEPA's petition for rehearing is resolved, we request that SCAQMD move MCS-08 to a contingency measure.

Attachment G

Control Measure MOB-07 – Concurrent Reductions from Global Warming Strategies

SoCalGas and SDG&E support proposed Control Measure MOB-07 as currently presented in the Second Draft AQMP. However, SoCalGas and SDG&E encourage the SCAQMD to ensure that rules promulgated pursuant to AB32 and this AQMP be drafted in a manner that does not undercut the ability of regulated sources to obtain greenhouse gas credit under AB32.

Summary Description of Control Measure (Page IV-A-166)
This control measure seeks to claim concurrent SIP reductions from all fuel combustion source global warming strategies related to fuel efficiency improvements and renewable energy sources.

Achieving reduction targets specified in AB32 could concurrently reduce emissions of criteria pollutants associated with fossil fuel combustion. This measure proposes to quantify the concurrent emission reductions associated with Statewide GHG programs targeted at stationary and mobile sources in the Basin working with various state agencies. Once quantified, these reductions will be incorporated in the revised baseline emissions as part of the SIP revision process.

Proposed Method of Control and Emissions Reduction (Page IV-A-172)
Every three to five years, concurrent emission reductions associated with implementation of global warming strategies will be quantified and incorporated in the revised baseline emissions as part of the SIP revision process.

Comments

SoCalGas and SDG&E support the intent of SCAQMD's proposed Control Measure and appreciate the District changing LTM-04 (Concurrent Reductions from Global Warming Strategies) to MOB-07. This new approach enables SCAQMD to avoid committing to specific in-state reduction strategies given that CARB has yet to select the AB32 implementation strategies and that the program may permit reductions to occur outside of California. We agree that SCAQMD should reflect any observed reductions in criteria pollutants that result from AB32 programs in its periodically updated baseline inventory.

We also wish to note that AB32 Section 38562(d)(2) states that for market-based compliance mechanisms:

> "...the [greenhouse gas] reduction [must be] in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur."

We ask the SCAQMD to continue its support of market mechanisms for environmental improvement by supporting a robust trading system under AB32. It is important that rules promulgated pursuant to AB32 and this AQMP be drafted in a manner that does not undercut the ability of regulated sources to obtain greenhouse gas credit under AB32. Since market mechanisms offer a proven way to achieve low-cost air quality compliance, we urge the SCAQMD to coordinate this AQMP, including the criteria pollutant rules adopted pursuant to this AQMP, with CARB's AB32 proceedings.

Southern California Gas Company and San Diego Gas & Electric Company
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Attachment H

Control Measure CTY-02 Emission Charges Of $5,000 Per Ton For Stationary Sources With Potential To Emit Over 10 Tons Per Year [VOC and NO_X]

SoCalGas and SDG&E are concerned that, as currently drafted, the proposed Control Measure could be interpreted to be more stringent than the federal Clean Air Act would require. SoCalGas and SDG&E request that the SCAQMD adjust the language of the Control Measure to more closely track federal Clean Air Act requirements.

Summary Description of Control Measure (Page IV-A-201)
This control measure proposes that if the 8-hour ozone ambient air standard is not met by the year 2024, the District shall impose an emissions fee of $5,000 per ton of VOC emitted by every "major stationary source" of VOC and NO_X (whether permitted or not) in excess of 80 percent of any such source's baseline emissions.

Proposed Method of Control and Emissions Reduction (Page IV-A-201)
Implementation of this measure expects to reduce major stationary source emissions as facilities seek to further reduce their emissions to avoid or reduce fees proposed by this measure. Projected emissions are yet to be determined.

Comments

SoCalGas and SDG&E are concerned that, as currently drafted, the proposed Control Measure could be interpreted to be more stringent than the federal Clean Air Act would require.

First, please clarify that the emissions fee would be calculated on a calendar year basis, as Section 185 requires.

Second, the draft language in CTY-02 assumes that the baseline used to calculate the mitigation fee will be a facility's 2024 emissions. Please note that Section 185(b)(2) gives USEPA the discretion to issue guidance authorizing a different baseline amount to be determined in accordance with "the lower of average actuals or average allowables, determined over a period of more than one calendar year" (emphasis added). While USEPA has not yet issued such guidance, it is possible they may do so in the future, and we request that the SCAQMD draft CTY-02 in a way that would accommodate that possibility.

Finally, there is an apparent typographical error in the second paragraph of the "Regulatory History" section. Specifically, the paragraph says that "serious or severe" areas that fail to attain the 8-hour standard by the statutory date must impose fees. Pursuant to Clean Air Act Section 185, we believe the reference should be to "severe or extreme" areas.

In summary, we believe the above clarifications and correction can be accomplished with the following minor revisions to CTY-02:

"Regulatory History:

This control measure was first introduced in the 1994 AQMP and then carried over to the 1997 AQMP and then the 2003 AQMP.

*If a ~~serious or~~ severe **or extreme** area fails to attain the 8 hour standard by the statutory date, the area must implement a measure requiring major stationary sources to either reduce their emissions to 80% of ~~what they were in the attainment year~~ **their baseline emissions**, or pay an annual fee of $5,000 (adjusted for inflation) for each ton in excess of 80% of baseline ~~(2024)~~.*

The $5,000 per ton fee applies to every "major stationary source" of VOC emissions, whether permitted or not....

* * * *

Proposed Method of Control

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*This control measures proposes that if the federal ambient air standards **for 8-hour ozone** are not met by the year 2024, the District shall impose an emissions fee of $5,000 per ton of VOC and NO_X, separately, emitted by each major source **during a calendar year** in excess of 80 percent of the source's baseline emissions. The fee rate will be adjusted ...."*

In addition to the above clarifications, SoCalGas and SDG&E request that SCAQMD provide information regarding how the fees collected pursuant to CTY-02 would be used to help mitigate emissions contributing to ozone nonattainment within the SCAQMD's jurisdiction.

Southern California Gas Company and San Diego Gas & Electric Company
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ENCLOSURE 1

2007 AQMP
omments 120106.pc

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ENCLOSURE 2

Gov Exec Order
AB32.doc (64 KB...