

Air Quality Update

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CALIFORNIA PROPOSITION 65 UPDATED CLEAR AND REASONABLE WARNING REQUIREMENTS

California Code of Regulations Title 27, §25600, et seq. (2016)

On August 30, 2016, California's Office of Environmental Health Hazard Assessment (OEHHA) approved modifications to the "clear and reasonable warning" requirements under California's "right-to-know" regulation, Proposition 65 (Prop 65). Until August 30, 2018, companies may follow any combination of the prior or the modified version of the regulation; after August 30, 2018, companies must comply with the revised regulation. The modified regulation changes the standards and responsibilities for providing warnings under Prop 65, but not whether a warning is required, so only businesses already required to provide Prop 65 notifications are expected to be impacted by the changes.

Under Prop 65, businesses with 10 or more employees must provide "clear and reasonable warning" to individuals they expose to carcinogens or reproductive toxics, at amounts exceeding OEHHA's established No Significant Risk Level (NSRL) for carcinogens or Maximum Allowable Dose Level (MADL) for reproductive toxics. Exposure can be from the use or consumption of a Consumer Product and/or an Environmental Exposure from chemicals present in the air or water.

OEHHA promulgated "safe harbor" warning methods for providing Prop 65 notifications, which offer businesses a minimum standard for warnings, such that there is a reasonable certainty the warnings will not result in enforcement action. However, businesses have the option of providing notifications using any other methods that meet the "clear and reasonable" standards of the regulation, without the safe harbor protections. As part of the 2016 rule modification, the safe harbor warning standards have been amended with more stringent requirements, which include:

- Identify by name at least one chemical requiring warning, for each endpoint (cancer and/or reproductive toxic);
- Identify the *source* of the chemical named in the warning;
- Include website: www.P65Warnings.ca.gov;
- Include "Warning Symbol": ;
- "Contains" has been replaced with "can expose you to";
- Post at all public entrances to the affected area, in at least 72-point type;
- "Clearly identify" the area for which a warning is being provided;
- Provide in English and "in any other language used in signage in the affected area"; and
- Include specific language for exposure to categories of certain exposure types, including diesel exhaust, petroleum products, and

smoking areas (categories listed in §25607).

Revised rule language is available for review at: <http://oehha.ca.gov/proposition-65>

Air Quality Tip

For good compliance, look to your air permit conditions. There will be four areas of potential conditions to pay attention to: monitoring/testing, record-keeping, throughput or limits, and rule requirements. Be sure to check the current rules. Changes to the rules can affect the compliance requirements.

Upcoming Training Offered by Yorke Engineering

- South Coast Air Quality Regulations, Permitting, and Compliance Seminar: March 15 – March 16, 2017
<http://www.yorkeengr.com/AirQualityClasses.htm>
- UCI Extension Air Quality Permitting and Compliance – Spring Quarter:
<http://unex.uci.edu/courses>
(see Environmental Management)

Upcoming Due Dates for 2017*

- SCAQMD Rule 1110.2 Quarterly..... 1/15
- RECLAIM Quarterly (Cycle 2) 1/30
- CARB On-Road Heavy-Duty DV** Reporting for Flexibility Options..... 1/31
- Title V – 500-SAM 2/28
- Title V – 500-ACC..... 3/1 (Except RECLAIM Cycle 2 8/29)
- SCAQMD AER 3/1
- RECLAIM APEP (Cycle 1)..... 3/1
- CARB In-Use Off-Road DV** Annual Reporting for Medium/Large Fleets..... 3/1
- CARB PERP Equipment Units Annual Report..... 3/1
- CARB Refrigerant Report (Med./Lrg.)... 3/1
- USEPA GHG Report 3/31
- CARB GHG > 25K Metric Tons 4/10
- CARB GHG 10-25K Metric Tons and All Electric Retailers 6/1
- CARB GHG SF₆ Switchgear 6/1
- Title V – Application for Permit Renewal – Due 180 Days Prior to Permit Expiration

*All due dates listed are the statutory dates; sometimes dates are extended when they fall on a weekend/holiday.

**Diesel Vehicle

Example Prop 65 Safe Harbor Warning Before August 30, 2018:

WARNING: This area contains a chemical known to the State of California to cause cancer.



Example Prop 65 Safe Harbor Warning After August 30, 2018:

WARNING: Entering this area can expose you to chemicals known to the State of California to cause cancer, including asbestos, from construction debris. For more information, go to www.P65Warnings.ca.gov.

SCAQMD RECLAIM NO_x SHAVE UPDATE

In December 2015, the South Coast Air Quality Management District (SCAQMD) finalized changes to its Regional Clean Air Incentives Market (RECLAIM) program, which reduced the number of nitrogen oxide (NO_x) RECLAIM Trading Credits (RTCs) available in the emissions trading program by 12 tons of NO_x per day. Under the modified rule, NO_x RTCs will be shaved from the holdings and annual allocations of 9 refineries and 48 other non-refinery facilities, which together hold approximately 90% of all SCAQMD NO_x RTCs.

First NO_x RTC Reduction Compliance Year

The 2016 RECLAIM compliance year saw the first NO_x RTC reductions under the shave. These reduced NO_x RTCs by 9.4% for impacted refineries and 6.9% at the 48 non-refinery facilities. These 2016 reductions are approximately 17% of the eventual shave totals, which will be phased in through 2022.

NO_x RTCs for 2016 did not appear to increase in cost during the initial months of the shave. The 12-month rolling average 2016 NO_x RTC prices through July 2016 were \$3,296 per ton, down from \$3,625 for 2015 NO_x RTCs for the same 2015 averaging period. Trading prices for NO_x RTCs are anticipated to increase as the NO_x RTC reductions continue.

The cost for Infinite-Year-Block (IYB) NO_x RTCs did increase during 2016, reaching \$365,856 per ton, up from approximately \$182,000 per ton in 2015.

RECLAIM Shutdown Provisions Finalized

Additional modifications to the RECLAIM program's Rule 2002 were finalized on October 7, 2016, to establish procedures for reducing NO_x RTC

allocations following facility shutdowns at the 57 facilities subject to NO_x RTC reductions under the shave.

Under the modified Rule 2002, following a facility shutdown, the facility's annual NO_x RTC allocation will be reduced by the difference between the facility's actual NO_x emissions and emissions if Best Available Retrofit Control Technology (BARCT) were installed. The BARCT adjustment for RTCs is similar to the Best Available Control Technology (BACT) adjustment applied to applications for Emission Reduction Credits (ERCs).



SCAQMD UPDATES BACT GUIDELINES

The SCAQMD is proposing to amend its BACT Guidelines, last updated in 2006. The proposed updates in the October 7th draft include the following changes:

- Clarification of New Source Review (NSR) requirements for carbon monoxide (CO) following the South Coast Air Basin's attainment of federal CO standards;
- Updates to reference rule limits as BACT to provide flexibility after rule modifications, including:
 - Rule 1146 and 1146.1 NO_x limits for combustion equipment;

- Rule 1110.2 limits for non-emergency stationary engines;
- Rule 1420 and 1420.1 requirements for lead emissions;
- Rule 461 requirements for fuel dispensing facilities; and
- Rule 1470 for compression ignition engines; and
- Guidance for Prevention of Significant Deterioration (PSD) requirements for greenhouse gas (GHG) emissions established by the U.S. Environmental Protection Agency (EPA).

The draft BACT Guidelines are available for review at:

<http://www.aqmd.gov/home/permits/bact>

SCAQMD 2016 AIR QUALITY MANAGEMENT PLAN (AQMP)

The SCAQMD published a revised Draft 2016 Air Quality Management Plan (AQMP) on October 7, 2016. The AQMP is the SCAQMD's blueprint for emissions reductions. In addition to typical enforceable regulatory measures to reduce emissions, the 2016 AQMP proposes the use of incentive-based programs, funded through collaboration with other agencies, to accelerate transition to cleaner vehicles and modernization of buildings and industrial facilities to cleaner technologies. The SCAQMD also emphasizes the role mobile source emissions play in contributing to pollution in the air basin, which are regulated at the state and federal level.

The 2016 Draft AQMP can be reviewed at:

<http://www.aqmd.gov/home/library/clean-air-plans/air-quality-mgt-plan/reviseddraft2016AQMP>

Yorke Engineering, LLC specializes in air quality and environmental consulting for stationary and mobile sources, including dispersion modeling, health risk assessments, permitting, emission inventories, air quality compliance systems, etc. Yorke Engineering has assisted over 600 customers, including a wide variety of industrial facilities and government organizations throughout California.