



**Ramine Cromartie**

Senior Manager, Southern California Region

January 17, 2024

Heather Farr  
Planning and Rules Manager  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

Via e-mail at: hfarr@aqmd.gov

**Re: SCAQMD Proposed Amended Rule 1118, Control of Emissions from Refinery Flares  
WSPA Comments on Initial Preliminary Draft Rule Language**

Dear Ms. Farr,

Western States Petroleum Association (WSPA) appreciates the opportunity to participate in South Coast Air Quality Management District (SCAQMD or District) Proposed Amended Rule 1118, Control of Emissions from Refinery Flares (PAR1118). In 2019, SCAQMD issued a Community Emissions Reduction Plan (CERP) for the Wilmington, Carson, West Long Beach Assembly Bill 617 (AB617) community.<sup>1</sup> The CERP included several action items for Rule 1118, including lowering of performance targets. The purpose of this rulemaking is to align Rule 1118 with the action items listed in the CERP.<sup>2</sup>

WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport, and market petroleum, petroleum products, natural gas, renewable fuels, and other energy supplies in five western states including California. WSPA has been an active participant in air quality planning issues for over 30 years. WSPA member companies operate petroleum refineries and other facilities in the South Coast Air Basin that are within the purview of the SCAQMD and thus will be impacted by PAR1118.

SCAQMD published the Initial Preliminary Draft Rule Language on December 8, 2023.<sup>3</sup> WSPA offers the following comments.

- 1. PAR1118 would require facilities to make the video images of refinery flares available at the real-time of the flare event to SCAQMD to post on the public website. There are significant cybersecurity and associated homeland security implications from this requirement which SCAQMD has failed to consider, with no associated emission**

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<sup>1</sup> Community Emissions Reduction Plan, Wilmington, Carson, West Long Beach, September 2019. Available at: <https://www.aqmd.gov/docs/default-source/ab-617-ab-134/steering-committees/wilmington/cerp/final-cerp-wcwlb.pdf?sfvrsn=8>.

<sup>2</sup> SCAQMD PAR 1118 Working Group Meeting #2. Available at: <https://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1118/par-1118-wgm-2-presentation.pdf?sfvrsn=8>.

<sup>3</sup> PAR 1118 Initial Preliminary Draft Rule Language, December 2023. Available at: <https://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1118/par-1118-initial-preliminary-draft-rule-language.pdf?sfvrsn=14>.

**reduction benefits. WSPA strongly recommends this requirement be removed from the draft rule language.**

PAR1118(j)(8) states:

*Effective 12 months from [Date of Adoption], the owner or operator of a Facility shall make the images of the Flare available at the real-time of Flare Event to South Coast AQMD to post on the public website.*

There are significant federal cybersecurity and homeland security concerns associated with providing real-time images of flare events. Refineries are subject to the Chemical Facility Anti-Terrorism Standards (CFATS) administered by the federal Cybersecurity and Infrastructure Security Agency (CISA).<sup>4</sup> Under this program, each covered facility is required to complete security vulnerability assessments, develop site security plans, and implement protective measures necessary to meet the Department of Homeland Security (DHS) risk-based performance standards (RBPSs). CFATS establishes eighteen RBPSs that identify areas for which a facility's security posture is examined, including cybersecurity. Specifically, facilities are required to:

*Deter cyber sabotage, including by preventing unauthorized on-site or remote access to critical process controls, such as Supervisory Control and Data Acquisition (SCADA) systems, Distributed Control Systems (DCSs), Process Control Systems (PCSs), Industrial Control Systems (ICSs); critical business systems; and other sensitive computerized systems.*

Per the CFATS Guidance Document, access must be controlled to ensure cybersecurity.<sup>5</sup> The guidance notes that it is also good cybersecurity practice for all external connections to/from critical systems to have a documented business need. SCAQMD has provided no assurances that the refinery systems could not be accessed through this image transfer. There could be serious homeland security impacts if the cybersecurity at refineries were to be breached.

SCAQMD has indicated that they may be willing to extend the effective date of this requirement to 18 months to allow facilities more time to ensure that their systems are protected. WSPA does not believe that there is an amount of time that can ensure that facility systems are safe from attack if required to transfer images in real-time.

SCAQMD has stated that they are requesting real-time images of flare events due to public interest. There are no emission reduction benefits from providing these images for which written FENS notifications would already have been sent, and WSPA is unaware of any rule precedent for this requirement. WSPA is concerned with how such flare images could be used by the public.

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<sup>4</sup> Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014. Available at: <https://www.govinfo.gov/content/pkg/PLAW-113publ254/pdf/PLAW-113publ254.pdf>.

<sup>5</sup> Department of Homeland Security Risk-Based Performance Standards Guidance, Chemical Facility Anti-Terrorism Standards Guidance, May 2009. Available at; [https://www.cisa.gov/sites/default/files/publications/cfats-rbps-guidance\\_508.pdf](https://www.cisa.gov/sites/default/files/publications/cfats-rbps-guidance_508.pdf).

There could be unintended implications of having this information public, including, but not limited to, potential market speculation about the operability of a facility based on the visual of the flaring event. Flare images may show the facility in the background.

SCAQMD has indicated that part of the motivation for this requirement is to provide full disclosure to the public. However, facilities are already submitting notifications within one hour of the start of a flare event, as well as quarterly reports.

Due to the significant and unaddressed cybersecurity and homeland security concerns, as well as the lack of any emission reduction benefits, WSPA strongly recommends the requirement to provide real-time images of flare events be removed from the rule.

**2. PAR1118 includes a retrospective review of annual throughput for clean service flares and establishes associated permitting and equipment installation timelines based on the results of the review. Rule 1118 should not include a retrospective review which could potentially result in a facility failing a throughput standard prior to the rule being adopted. WSPA recommends that the rule language be updated such that the review of annual throughput begins after date of rule adoption.**

PAR1118(g) provides requirements for non-hydrogen clean service flares. Section (g)(1) states:

*An owner or operator of a Refinery with a Non-Hydrogen Clean Service Flare that exceeded an annual throughput of 15,000 MMBtu per year for any two consecutive years prior to [Date of Rule Adoption] since 2017 shall:*

*(A) Submit a permit application within 12 months from [Date of Rule Adoption] to install equipment to reduce the amount of combusted Vent Gas in the Non-Hydrogen Clean Service Flare to below the threshold and the schedule to install equipment; and*

*(B) Install equipment in compliance with the schedule pursuant to subparagraph (g)(1)(A) no later than 12 months from the date that the permit is issued.*

SCAQMD has indicated that the rationale for retrospectively looking back to 2017 is that 2017 is the baseline year in the Wilmington, Carson, West Long Beach CERP.<sup>6</sup> Rule 1118 should not include a retrospective review which could potentially result in a facility failing a throughput standard prior to the rule being adopted. The throughput limit should only be applicable after the rule is adopted. WSPA recommends: 1.) that the rule language be updated such that the review of annual throughput begins after the date of rule adoption, and 2.) that SCAQMD works with stakeholders to determine what throughput is technically feasible.

**3. PAR1118 provides updated sulfur dioxide (SO<sub>2</sub>) performance targets and associated effective dates. SCAQMD has not provided any technical foundation for the 50% reduction in the performance target. Additionally, the timeline provided in the draft rule language is arbitrary and insufficient to implement flare minimization projects. WSPA requests demonstration that the updated performance targets are cost**

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<sup>6</sup> WSPA/SCAQMD Staff to Staff meeting, January 10, 2024.

**effective. WSPA also recommends an extended timeline for the effective date for each performance target.**

PAR1118(f) provides updated SO<sub>2</sub> performance targets and associated effective dates as follows:

| SO <sub>2</sub> Performance Target | Effective Date               |
|------------------------------------|------------------------------|
| 0.5                                | Calendar Year 2024           |
| 0.35                               | Calendar Year 2025           |
| 0.25                               | Calendar Year 2026 and after |

The Wilmington, Carson, West Long Beach CERP included an action to lower performance targets and/or increase mitigation fees, with a goal to reduce flaring events and/or emissions by 50%, if feasible.<sup>7</sup> But SCAQMD noted in the CERP that emission reduction goals are subject to future assessments and regulatory analyses.<sup>8</sup> SCAQMD still has not provided any technical foundation for the proposed 50% reduction in the performance target and has not demonstrated that the targets are technical feasible or cost-effective.

Further, the timeline for the updated performance targets is not reasonable. The timeline must consider the time needed to prepare and obtain SCAQMD approval of a flare minimization plan, and fully implement a flare minimization project. WSPA suggests a minimum of three years between each of the SO<sub>x</sub> performance target dates, with an effective date of calendar year 2027 for the 0.35 performance target, and an effective date of calendar year 2030 for the 0.25 performance target.

WSPA appreciates the opportunity to provide these comments related to PAR1118. We look forward to continued discussion of this important rulemaking. If you have any questions, please contact me at (310) 808-2146 or via e-mail at [rcromartie@wspa.org](mailto:rcromartie@wspa.org).

Sincerely,



Cc: Wayne Nastri, Executive Officer  
Susan Nakamura, Chief Operating Officer  
Sarah Rees, Deputy Executive Officer  
Michael Krause, Assistant Deputy Executive Officer  
Sarady Ka, Program Supervisor  
Zoya Banan, Air Quality Specialist

<sup>7</sup> Community Emissions Reduction Plan, Wilmington, Carson, West Long Beach, September 2019. Available at: <https://www.aqmd.gov/docs/default-source/ab-617-ab-134/steering-committees/wilmington/cerp/final-cerp-wcwlb.pdf?sfvrsn=8>.

<sup>8</sup> Ibid.