


# Revised Proposal for Regulatory Amendments Request for Comments

October 21, 2009

**TO:** INTERESTED PARTIES  
**FROM:** EXECUTIVE OFFICER/APCO   
**SUBJECT:** PROPOSED AMENDMENTS TO REGULATION 2, RULE 5:  
NEW SOURCE REVIEW OF TOXIC AIR CONTAMINANTS

---

On July 10, 2009, District staff issued draft amendments to Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants, and the associated Health Risk Screening Assessment (HRSA) Guidelines. The draft rule amendments would have increased the stringency of the standards of Regulation 2, Rule 5, by a factor of two for new and modified stationary sources located in Priority Communities established under the CARE Program, or located in close proximity to a school.

A workshop was held on July 30, 2009, to discuss the draft rule amendments, and a number of written comments were also submitted subsequent to the workshop. Business and government commenters stated strong opposition to the proposal to establish more stringent permitting requirements in the Priority Communities relative to other parts of the Bay Area. These comments indicate that differentiated requirements may discourage investment in the Priority Communities without providing significant health risk benefits (or perhaps inadvertently increasing health risks due to decreased access to health care as a result of job losses and other economic impacts to the community). Commenters also expressed concern over the process used for establishing the Priority Communities.

An environmental health collaborative provided comments indicating that the District's draft amendments do not go far enough, and that permits for new and modified sources should be prohibited in the Priority Communities, unless a proposed project would result in a net onsite reduction in emissions, or if the project would meet an urgent community need.

Staff has also been working closely with Cal/EPA's Office of Environmental Health Hazard Assessment (OEHHA) to understand the effects of newly adopted and pending revisions to health risk assessment methodologies that could be incorporated into the Air Toxics New Source Review program. These changes reflect new scientific knowledge and techniques, and in particular, explicitly include consideration of possible differential effects on the health of infants, children and other sensitive subpopulations in accordance with the mandate of the Children's Environmental Health Protection Act (Senate Bill 25, Escutia).

Age Sensitivity Factors (ASFs) were adopted by OEHHA on June 1, 2009 to account for inherent increased susceptibility to carcinogens during infancy and childhood. ASFs are used to estimate cancer risk as follows: (1) a factor of 10 for exposures that occur from the third trimester of pregnancy to 2 years of age, and (2) a factor of 3 for exposures that occur from 2 years through 15 years of age. OEHHA has indicated that revisions to the Exposure Assessment and Stochastic Analysis Technical Support Document are expected to be adopted in mid-2010. These changes in exposure assessment methodology, when combined with ASFs, will increase estimates of residential cancer risk by a factor of 2 to 3 relative to existing procedures.

After considering the comments received and consulting with OEHHA, District staff now believe that the goals of the current Air Toxics NSR rule development project would be best served by the use of revised OEHHA health risk assessment methodologies for proposed projects throughout the District, rather than by numerically reducing health risk standards for projects within Priority Communities or near schools. Under this revised proposal, the District would incorporate ASFs into HRSAs, thereby increasing the stringency of T-BACT and Project Risk cancer risk standards by a factor of 1.7 relative to existing requirements. Staff would also incorporate revised exposure assessment methodologies into the District HRSA guidelines upon adoption by OEHHA.

The revised staff proposal also retains a new provision for tracking toxic air contaminant emissions within the Priority Communities. The scope of this provision has been broadened, however, to include emissions from stationary, mobile, and area wide sources, and to address both increases and decreases in emissions from these sources.

For additional information about the District's revised proposed rule amendments, please see the District website at:

*<http://www.baaqmd.gov/Divisions/Planning-and-Research/Rule-Development/Rule-Workshops.aspx>*

Any questions regarding the District's draft amendments should be directed to Scott Lutz, Manager of the District's Toxic Evaluation Section, at (415) 749-4676, or sent electronically to [slutz@baaqmd.gov](mailto:slutz@baaqmd.gov). Please provide written comments on the draft amendments by November 13, 2009; comments may be sent by email, or alternatively by letter to:

Scott Lutz  
Bay Area Air Quality Management District  
939 Ellis St.  
San Francisco, CA 94109