

Appendix C - Comments and Responses on Proposed Amendments to Refinery Rules

350 BAY AREA, 350 CONTRA COSTA COUNTY, BIOFUELWATCH, COMMUNITY ENERGY RESOURCE, NATURAL RESOURCES DEFENSE COUNCIL, RODEO CITIZENS ASSOCIATION, SAN FRANCISCO BAYKEEPER, SIERRA CLUB SF BAY CHAPTER AND SUNFLOWER ALLIANCE

Proposed Amendments to Refinery Rules Definitions

October 11, 2021

Comment #1:

350 Bay Area, 350 Contra Costa County, Biofuelwatch, Community Energy reSource, Natural Resources Defense Council, Rodeo Citizens Association, San Francisco Baykeeper, the Energy and Climate Change Committee of the Sierra Club San Francisco Bay Chapter, and Sunflower Alliance fully support this proposal.

As explained in the Air District's staff report, the rule change is important to ensure that refineries proposing to convert from petroleum to biofuel refining are covered by rules currently applicable to petroleum refining. Although that is clearly the intent of current rules, the proposal is a useful clarification of such intent.

Response #1:

The Air District would like to thank the representatives of each group referenced above for supporting these proposed rule amendments. In addition, we appreciate you sharing the CEQA scoping comments regarding Marathon's biofuel conversion project.

Western States Petroleum Association

WSPA Comments to Proposed Amendments to Refinery Rules Definitions

October 14, 2021

Comment #1:

WSPA states that it requested the comment deadline of October 11th be extended to October 18th, which request WSPA -asserts District staff denied.

WSPA complains the rule development timeline is unnecessarily short and does not allow sufficient time for review of the proposed amendments.-

Response #1:

The deadlines set by the Air District are to allow adequate time for staff to receive, review and address comments prior to the final hearing. However, the Air District will accept comments up to the final rule adoption hearing. In this case, the Air District did not decline WSPA's request for extension. The Air District informed WSPA that it would accept comments after the October 11th deadline. WSPA acknowledged and thanked the Air District for the flexibility and the Air District has accepted WSPA's comments provided on October 14th. In addition, the Air District understood the direct impact this would have on industry and requested a meeting with WSPA a week prior to posting the proposed amendments for public comment. The Air District met with WSPA on September 13th and discussed the proposed rule changes. On September 20th, the Air District notified WSPA once the proposed

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amendments were posted for public comment and staff received a response from WSPA stating they had a “near-final draft comment letter narrative” which they planned to have finalized that day. However, comments from WSPA were not provided until October 14th as stated above.

Finally, we note that a real urgency does exist to adopt the proposed amendments because, as noted in the Staff Report, the Air District is currently reviewing applications from two of the five petroleum refineries in the District’s jurisdiction to modify the facility to process non-petroleum feedstocks. Without this rule development and the adoption of the proposed amendments, the facilities that change to non-petroleum operation may no longer be subject to the emission standards and other regulatory requirements that currently apply to them. Such an outcome would be contrary to the recent Air District efforts and achievements to create a healthier environment for all Bay Area residents, especially those in the petroleum refinery frontline communities.

Comment #2:

WSPA notes that, in Regulation 9-1-313, the Air District's proposed language retains the current phrase "20,000 barrels per stream day of crude oil," but in 9-1-313.1 the District has altered the language from "crude oil" to "crude oil or other feedstock"--without marking this as a change, which WSPA states would change rule requirements for existing petroleum refineries.

To be consistent with the stated intent of the rule, WSPA suggests the new references to "other feedstock" should refer to "other alternative feedstock" as defined in the proposed rule, as follows:

9-1-313 Sulfur Removal Operations at Petroleum Refineries: Effective September 1, 1990, a person shall not operate a petroleum refinery processing more than 20,000 barrels per stream day of crude oil or other alternative feedstocks unless one of the following is met:

313.1 The sulfur content of the crude oil or other alternative feedstocks does not exceed 0.10 percent by weight, or...

Response #2:

The Air District agrees with these changes suggested by WSPA to maintain consistency with the other amendments. The Air District has added and identified the proposed language to Regulation 9 Rule 1 Section 313 and subsection 313.1. It has also been identified in the Staff Report.

Comment #3:

WSPA notes the District proposed to add “or any other method approved or requested by the APCO” to provisions related to acceptable methodologies in various rules. WSPA observes that the phrase “as requested by the APCO” introduces compliance uncertainty as it would allow the BAAQMD to make rule changes without a collaborative stakeholder review process, and requests the phrase be removed.

Response #3:

The Air District agrees with this change suggested by WSPA and will amend the provision to state, “or any other method approved by the APCO.”

Comment #4:

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WSPA asserts that the proposed change to 12-15-408, Table 2 – Vapor Pressure Part b (“Part b”) conflicts with the WSPA / BAAQMD Regulation 12-15 litigation settlement agreement (Settlement Agreement), which struck that item out from the previous version of Regulation 12-15 that was adopted in December 2015.

Response #4:

It is not the intent of the Air District to reinstate Part b. The District will remove the proposed amendment to Part b.

Comment #5:

WSPA observes that amendments were made to Regulations 8-33 (Sections 8-33-601 and -605) and 9-1 (Sections 9-1-313, 601, -602, -606, -607, -608, and -609); however, they were not marked as edited in the redline/strikeout draft document “Proposed Amendments to Refinery Rules Definitions” posted on the Air District’s website and not noted in the staff report summary of changes (Table 1).

WSPA notes that it does not know if there are other instances where changes have been made but were not marked as amended, and again complains the rulemaking timeline was too short.

Response #5:

As stated in the Staff Report for these rule amendments, the Air District is proposing four primary amendments as part of this rule development effort to be implemented across all rules to ensure any emission standards, exemptions, or limited exemptions that are currently applicable to the five existing petroleum refineries continue to apply, even if the facility is repurposed to process material that is not petroleum. The Air District is proposing amendments to definitions (Section 200) of “petroleum refinery,” “gasoline,” and “liquid petroleum gas (LPG)” in each applicable refinery rule and, the Air District is proposing amendments to Section 600 Manual of Procedures of each rule which will ensure facilities containing non-petroleum products continue to utilize the appropriate testing methods for the materials they are handling.

To be clear, the 600 section changes identified by WSPA are part of the amendments proposed and identified in the Staff Report Table 4 – Proposed Administrative Changes to 600 Section. The non-identified amendments to Regulation 8 Rule 33 and Regulation 9 Rule 1 was an oversight by the Air District and the proposed amendments are now identified with [blue underline](#).

Marathon Martinez Refinery

Marathon Comments to BAAQMD Proposed Language

September 20, 2021 & October 14, 2021

Comment #1:

Marathon proposes an exemption to Regulation 12-15, and offers the draft narrative below:

Regulation 12-15-103 Exemption, Refineries Processing Alternative Feedstock Only: The requirements of this rule shall not apply to refineries processing alternative feedstocks only.

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Marathon asserts that alternative feedstocks do not contain air toxics in appreciable quantities and are therefore outside the purpose of the original rulemaking for Regulation 12-15.

Further, Marathon characterizes its facility as “much smaller” and states that it has decreased staffing. Marathon states it intends to continue to supply information for annual inventories but asserts it should no longer be required to report monthly.

Response #1:

The Air District disagrees with this suggested exemption. The purpose of Regulation 12, Rule 15 is to track air emissions from refineries and, as Marathon admits in its comment, the alternative feedstocks it will process do contain air toxics. As a result, the Marathon refinery remains properly subject to the requirements of Regulation 12, Rule 15.

Comment #2:

Marathon asserts that the Health Risk Assessment it generated for its non-petroleum feedstock conversion project demonstrated hazard indices below applicable regulatory limits and hazard index thresholds.

Marathon as a result proposes to change in the exemption *Regulation 12-15-102, specifically to modify the language from 20,000 bpd to 50,000 bpd as the definition of a small facility.*

The key item is that the feed has significantly lower toxics and does not warrant monthly reporting.

Response #2

The Air District disagrees with the suggested modification to exemption Regulation 12-15-102. See the Air District’s response to Marathon’s Comment #1.