

Via email to: [jfinkle@baaqmd.gov](mailto:jfinkle@baaqmd.gov)

September 1, 2021

Mr. Jacob Finkle  
Bay Area Air Quality Management District  
375 Beale Street, Suite 600  
San Francisco, CA 94105

**Re:** Comments on Public Workshop & Draft Amendments to the Permitting Rules 2-1 and 2-5

Dear Mr. Finkle:

Tesla appreciates this opportunity to provide comments on the proposed changes to the Regulation 2: Permits, Rule 1: General Requirements (Rule 2-1) and Rule 5: New Source Review of Toxic Air Contaminants (Rule 2-5).

Tesla's mission is to accelerate the world's transition to sustainable energy. Since the company's founding in 2003, our goal has been to accelerate the advent of sustainable transport by bringing compelling mass-market electric cars and clean energy products to market as soon as possible. Tesla proudly manufactures vehicles at our Fremont and Lathrop factories employing more than 35,000 workers in California and supporting at least an additional 30,000 jobs via our supply chain. Over 60% of our U.S. workforce comes from underrepresented communities and Tesla pays industry-leading wages even before equity is considered. Our skilled trades and workforce development programs provide "upskilling" opportunities for students and our associates, allowing them to develop long-term career paths in the clean energy industry.

A Summary of the proposed changes along with Tesla's respective comments are as follows:

**Rule 2-1: General Requirements:** The proposed changes to Rule 2-1 would identify and classify areas which experience high levels of cumulative impacts as "overburdened communities." For projects in these overburdened communities which require a health risk assessment (HRA), staff is proposing a requirement to notify residents living in and around these communities. To account for the potential increase in permit application review time due to greater community involvement, staff is also proposing to increase the overall review timeline from 35 to 45 days.

**Tesla Comments:** Tesla strongly supports policies that lead to more equitable outcomes for disadvantaged communities. However, we are concerned that this proposal is duplicative of existing district rules. BAAQMD Rule 2-1-408 already provides additional permit review time for applications that trigger public notice under existing regulations. Rather than increasing the time allowed for District review of all permits by more than 30%, we suggest that Rule 2-1.408 should be revised to accommodate any need for additional permit review on a project-by-project basis as a result of outreach to “overburdened communities”. We believe the staff report does not make a sufficiently persuasive case for the need to add additional permit review time across the board.

**Rule 2-5: New Source Review of Toxic Air Contaminants:** The three changes proposed to this rule include having cancer risk made more stringent for “overburdened communities”, updates to the HRA procedures for gasoline dispensing facilities and updates to Table 2-5-1, the Toxic Air Contaminant Trigger Levels table, including updated trigger levels.

**Tesla Comments:** Tesla supports enhancing the stringency of risk management thresholds for “overburdened communities” in the Bay Area. Tesla also supports the proposed public notice and comment requirements. As discussed above, however, the proposed increase in permit processing time should only apply to affected projects. No justification for an across-the-board increase in permit review time has been provided. While Tesla’s Fremont factory would not be designated within an “overburdened community”, the proposed rule as written could have the unintended effect of delaying our permit applications and thus impacting the timeline our clean energy products can positively impact the environment.

Despite staff’s hard work and dedication, we believe the District is currently unable to meet certain permit review deadlines. As such, we are concerned that taking on additional permit responsibilities may exacerbate this condition. Regardless of the disposition of the proposed changes to Rule 2-1, we respectfully offer the following measures to reduce current permitting backlogs:

1. **Reduce workload by improving efficiency.** Tesla understands that the District is already exploring a proposal that would shorten the length of time that an application is under review. Tesla supports this effort. In addition, maintaining and using the BACT/TBACT workbook would greatly enhance workload efficiency.
2. **Reduce workload by simplifying permit requirements.** At times, we believe costly testing requirements are imposed without regard for the likelihood or significance of noncompliance. We respectfully suggest that the District reassess its current approach to compliance monitoring with the goal of imposing certain requirements commensurate with the risk of noncompliance.

3. **Increasing resources.** As previously suggested, we strongly urge the District to authorize overtime or rely on external consultants for discrete tasks in order to enhance existing staff resources.

With respect to the proposed changes to Rule 2-5, we are also concerned with the proposed adjustment of acute trigger levels. Currently, the acute trigger level is determined based on an acute hazard index of 1.0. The proposed acute trigger levels will instead be based on an acute hazard index of 0.2. The District has not commented on the impact of this change to the accelerated permitting program as Rule 2-1-302.2 requires that the project not trigger limits set forth in Table 2-5-1. The proposed acute trigger levels for IPA would decrease by a factor of 80%. This could potentially create further permitting backlogs; for example, a project that has a low emission potential and would have otherwise qualified for the accelerated permit program may no longer qualify for accelerated permitting due to IPA usage. Accordingly, we respectfully request the District to consider the real-world implications and the impacts to the permitting process due to the proposed change to Rule 2-5.

Finally, Tesla would also like to reiterate that that emergency hours are neither predictable nor routine thus should not be included in HRAs for emergency generator permitting.

Tesla appreciates the opportunity to engage with the District looks forward to providing additional feedback to help advance and strengthen the District's environmental initiatives and increase community involvement in the District's permitting process. I can be reached at [dchia@tesla.com](mailto:dchia@tesla.com) for any questions.

Sincerely,



Dan Chia, Senior Manager  
Public Policy & Business Development

cc:

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