

November 18th, 2021

Via email to: mtang@baaqmd.gov

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

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

Dear Mr. Tang,

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 energy products to market as soon as possible. Tesla proudly manufactures vehicles at our Fremont Factory, employing more than 10,000 workers 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.

Tesla strongly supports policies that lead to more equitable outcomes for disadvantaged communities. Tesla also supports enhancing the stringency of risk management thresholds for "overburdened communities" in the Bay Area. However, the proposed rule as currently 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.

The Staff Report offers the following reasons as justification for extending the permit review time from 49 calendar days to 90 calendar days:

- 2001 regulatory changes affecting diesel engines;
- Adoption of ATCMs, NSPS, and NESHAP rules for several unidentified “common” source categories since 1995;
- More complex health risk assessment procedures in 2016; and,
- The rule doesn’t provide additional time for non-routine sources at facilities subject to Rule 2-6 (Major Facility Review).

Tesla Comment: The 2001 rule changes affecting diesel engines do not support the need for longer processing time.

The 2001 regulatory changes affecting diesel engines did not result in an overwhelming workload for District permit staff. The District had reduced the number of overdue permit applications to zero in 2005, four years after the regulatory change. The District was able to accomplish this while permitting staff was also expending a considerable effort with the initial issuance of Title V permits.

While Tesla believes the 2001 regulatory changes did increase the number and complexity of routine permit applications being reviewed by the District. The increase is within the District’s capacity to review permits in the current timeframe authorized by the Board.

Tesla Comment: Adoption of ATCMs, NSPS, and NESHAP rules for “common” sources is not adequately documented.

Tesla believes the staff report does not adequately address which “common” source categories are involved and the fraction of permit applications that are affected by this. Any state or federal regulations adopted prior to 2005 were already being handled within the existing permit program. Tesla respectfully requests The Board require further information from Staff before taking this item into account.

Tesla Comment: More complex health risk assessment procedures imposed in 2016 justify additional processing time for affected permits—but not all permits.

Tesla believes the District could address this issue by extending the permit review time for only affected sources. Instead, the staff has proposed to increase the review time for all routine permit applications, nearly doubling the review time. Tesla believes the Staff has not been able to sufficiently prove the need for an across-the-board increase in permit review time. Tesla respectfully requests The Board request an explanation of this choice.

Tesla Comment: No valid justification is provided for treating applications at Major Facilities differently.

The proposed amendments would introduce unreasonable delays in the installation of abatement devices, small routine sources, and minor upgrades. It proposed to add 120 days of delay to every project involving air permits, regardless of complexity or environmental impact.

The processing time should be a function of the process being permitted, not the existing facility. The Staff report provides several examples of “extra review” in its effort to justify a four-fold increase in processing time:

- BACT is triggered.
Tesla Feedback: Tesla believes this is not an uncommon and unusual situation. The BACT/TBACT workbook exists in order to streamline BACT analysis. As such, BACT does not justify a four-fold increase in permit processing times.
- Inclusion of multiple sources in the health risk analysis (HRA).
Tesla Feedback: Tesla agrees that a multipoint HRA is more complex than a single point HRA. However, Tesla respectfully disagrees that a multipoint HRA justifies 90 extra days of processing time.
- NSPS and NESHAP are sometimes applicable.
Tesla Feedback: The Staff Report does not indicate what fraction of such permits occur at Title V facilities, nor how much additional processing time this extra review actually incurs.
- More detailed permit conditions are required.
Tesla Feedback: Permit conditions should be based on the process, not the operator. Permit conditions are intended to be reasonably uniform, following the templates in the Board-approved permit handbook. In addition, customization of permit conditions for routine or small equipment may be a significant contributor to Staff workload and processing time, with very little added value.
- CEQA Notice of Determination or Notice of Exemption may be required.
Tesla Feedback: CEQA NOD and NOE are triggered by project and not facility, and thus does not justify extra processing time for all Major Facilities.

Tesla believes the proposed increase in review time will not address the underlying issue that BAAQMD is currently under resourced and that the permit review process needs to be simplified. The Staff Report also fails to provide any concrete justification for longer review times and treating projects at major facilities differently than those at minor facilities. The Board should reject the permit review time revisions and the 180-day review period for major facilities.

Tesla appreciates the opportunity to engage with the District and looks forward to providing additional feedback to help advance and strengthen the District's environmental initiatives and community involvement within the District's jurisdiction.

Respectfully submitted,


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