BAY AREA
AIR QUALITY
MANAGEMENT
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APPENDIX H

Response to Comments

Summary of Comments and Response on the Regulatory Package for Proposed Amendments to Regulation 2, Rule 1: General Requirements and Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants

Table of Contents

List of Commenters

The following table lists the individuals and organizations from whom Air District staff received written comments prior to the November 18, 2021 comment deadline.

Commenter	Contact Information
California Council for Environmental and Economic Balance (CCEEB)	Christine Wolfe Policy and Communications Director Letter, November 18, 2021
Environmental Law and Justice Clinic at Golden Gate University School of Law (GGU)	Lucas Williams Visiting Associate Professor of Law and Staff Attorney Susann Bradford Graduate Fellow
	First Generation Environmental Health & Economic Development Communities for a Better Environment West Oakland Environmental Indicators Project Greenaction for Health and Environmental Justice The Environmental Justice Committee of the National Lawyers Guild's San Francisco Chapter Dr. Raymond J. Tompkins All Positives Possible
	Letter, November 18, 2021
Illingworth & Rodkin, Inc. (I&R)	James Reyff Principal Email, November 18, 2021
Tesla	Yesenia Villasenor Associate General Counsel Letter, November 18, 2021

General Comments

General Support for proposed amendments

Comment: The commenter provided general support of the proposed amendments.

Tesla

Response: The Air District appreciates the comments in support of the proposed amendments.

Support for additional measures in Overburdened Communities

Comment: The commenter expressed support for further expansion of enhanced public noticing beyond the proposed amendments. Additionally, the commenter expressed support of an equity checklist in all permitting decisions.

GGU

Response: The Air District appreciates the opportunity to identify additional measures to increase health protection in Overburdened Communities. The Air District will continue to engage stakeholders to help guide future rulemaking and program development to support emissions reductions, especially in Overburdened Communities.

Cancer Risk

Different standards may lead to undesired outcomes for business activity, provision of essential public services, and public participation throughout the region

Comment: Comments suggested differential cancer risk standards may have unintended consequences, including the reduction of services in Overburdened Communities and may impact the ability of essential public services to provide reliable and safe service. Additionally, the public right-to-know would be guided by the characteristics of census tracts, which would mean that different projects with identical risk profiles are noticed in some communities but not others even within the same city.

CCEEB

Response: The goal of amending the Air District's Permitting Regulation, including the proposed cancer risk limits for new and modified projects in Overburdened Communities is to mitigate disproportionate impacts and health vulnerabilities to air pollution in Overburdened Communities. Additionally, limiting the risk posed by projects in Overburdened Communities helps to reduce the disparity between these communities and the rest of the Bay Area in a way a singular risk limit would not.

Further, the proposed amendments do not preclude or prohibit the permitting of sources to support public services. Projects that do not meet the proposed standards may amend their projects to adjust operations or configurations, install control technology, adjust throughputs or a combination of measures to meet the proposed standards.

Adequate communications about what cancer risk means is important

Comment: Commenter stated providing adequate communications about what cancer risk does and doesn't mean is important so that individual residents are armed with accurate and understandable information. Contextualization about the relative contribution of risk generated by a facility is important. For example, the allowable threshold of additional incremental cancer risk from a project is currently 10 in one million (10/M), or a 0.001 percent chance, and the proposed amendments would add an additional project-level threshold of six in one million

(6/M), or a 0.0006 percent chance. A cancer risk threshold of 10/M represents the chance that, in a population of one million people, not more than ten additional people would be expected to develop cancer as the result of the exposure to the substance causing that risk at outdoor air levels 24 hours a day, 350 days a year, for 70 years. Because of these conservative exposure assumptions, an individual's actual risk of contracting cancer from exposure to air pollution from a project is often less than the theoretical risk to the entire population calculated in the risk assessment for that project.

CCEEB

Response: The Air District has noted this comment and aims to provide clarity on the topic of cancer risk. As defined in the proposed amendments and stated in the staff report, cancer risk is an estimate of the chance that an individual may develop cancer as a result of exposure to emitted carcinogens at a given receptor location, and considering, where appropriate, age sensitivity factors to account for inherent increased susceptibility to carcinogens during infancy and childhood. As this comment states, cancer risk is *not* the chance that an individual *will* develop cancer as a result of exposure to toxic air contaminants.

The Air District will strive to continuously improve how we communicate the results of health risk calculations.

California Environmental Quality Act (CEQA)

CEQA Thresholds

Comment: The commenter requested clarity on how the proposed amendments would affect CEQA review for lead agencies and whether the Air District has engaged other lead agencies, especially in Overburdened Communities to communicate these proposed amendments and receive feedback.

I&R

Response: The Air District provides guidance to lead agencies on how to determine significant air quality and greenhouse gas impacts under the California Environmental Quality Act (CEQA), and how to mitigate such impacts. The Air District's current recommended threshold of significance for project-level local cancer risk is 10 in one million. The proposed amendments to Rule 2-5 would reduce the risk limit to 6 in one million for new and modified permitted sources of toxic air contaminants in overburdened communities for the purpose of the Air District's permitting program. The Air District's CEQA threshold for cancer risk encompasses both regulated (e.g., permitted sources) and unregulated (e.g., mobile sources) activities for projects in the Bay Area. The proposed amendments to Rule 2-1 and Rule 2-5 will have no immediate direct impact on CEQA project review, and if the Air District determines an update to the CEQA thresholds of significance for cancer risk are necessary, there will be a public engagement process to seek input.

Regulation 2's Exemption for Permitting Decisions from CEQA should be eliminated

Comment: The commenter stated that Regulation 2 does not comply with the California Environmental Quality Act. The current rules exempt nearly all of the Air District's permitting

decisions from CEQA review on the ground that permit approvals are ministerial—as opposed to discretionary—decisions. However, the Air District's decisions to grant permits to facilities—particularly facilities located in overburdened communities—involve significant discretion and judgment concerning air pollution controls. The commenter stated that the California Supreme Court's recent decision in Protecting Our Water & Env't Res. v. Cty. of Stanislaus (2020) 10 Cal. 5th 479, confirms that permitting decisions that allow agencies to determine appropriate mitigation of environmental impacts cannot be categorically classified as ministerial, and therefore, Rule 2, Section 2-2-311 should be deleted, and Section 2-2-310 should be revised to omit the reference to Section 2-2-311.

GGU

Response: The Air District's practice is to review permits on a case-by-case basis to ensure consistency with the CEQA statute, guidelines, and court decisions. Revision to the CEQA provisions of Rule 2-1, including those addressing exemptions, is outside the scope of the proposed amendments. The Air District will, in the future, review Rule 2-1 for consistency with CEQA and current Air District practice, and will propose revisions if appropriate.

Implementation and Effective Date

Effective dates for proposed amendments

Comment: The commenter supports staff's suggestion that the amendments not take effect until an analysis of the resources needed to process the permits according to the proposed timelines has been completed, whether these resources come from efficiencies identified as part of the upcoming management audit and/or from additional staff resources. The Air District should explicitly memorialize the proposed July 1, 2022 effective date in the final rule. The commenter states that having a clear effective date ensures that stakeholders and regulated entities are afforded adequate certainty for project scheduling and implementation. However, for certain projects, such as diesel engines that will require retrofits, implementing compliance measures will take more time. A proposed July 1, 2022 effective date will afford these entities appropriate time in which to safely and effectively secure compliance, which will in turn allow for more efficient and effective implementation of the proposed amendments.

CCEEB

Response: This comment is noted. Section VII, Economic Impacts of the staff report contains discussion on the additional Air District staff resources to support this proposed amendment. To confirm, the proposed amendments are to take effect July 1, 2022 should the Board of Directors adopt the proposed amendments at the Public Hearing and that date will be reflected in the final rule.

Enhanced Notifications

The Air District should provide permit processing information that is accessible to the public

Comment: In general, commenters supported the proposed enhanced notification requirements in Rule 2-1. Commenters expressed interest in accessing not just information subject to the Public Noticing requirements, but all permit application information. Commenters provided feedback that the Air District should implement an online dashboard that shows permit activity across the region.

CCEEB, GGU

Response: The proposed amendments to Rule 2-1, Section 412 require new and modified sources located within an Overburdened Community and for which a Health Risk Assessment is required to prepare and distribute a public notice to the local community. This public notice must describe the source and anticipated emissions.

This enhanced public notice builds upon existing public noticing for new and modified sources located within 1,000 feet of a K-12 school site, which are required to undergo the same public noticing procedure.

Additionally, all permit applications received are posted to the Air District website here: https://www.baaqmd.gov/permits/public-notices/permit-applications-received. Applications can be filtered by number, facility name, project title, date received, city, county, status, and various alerts. Additional information such as Overburdened Community status and application status start dates may be considered in the future.

The public may submit public comments on any permit application. In addition to the public noticing described under proposed amendments to Rule 2-1, Section 2-1-412, a ten-day public comment period is available for all permit applications.

Interested parties may also sign up for email notifications to receive weekly updates of new permit applications.

Expansion of the Public Notification requirement to all projects located in Overburdened Communities

Comment: The commenter stated that public notice requirement for new or modified facilities located in overburdened communities should be expanded. The Air District proposes to amend Rule 2-1, Section 2-1-412 to require notice of new permitting actions for facilities in overburdened communities. But the notice will be provided only when a project requires a health risk assessment. The notice requirement should not be limited to projects that trigger a health risk assessment. Overburdened communities are impacted not only by facilities that emit TACs but also by criteria pollutants including particulate matter. Indeed, the Air District acknowledges that "particulate matter is the most important health risk driver in Bay Area air quality, and that there is no known threshold for harmful health effects from particulate matter in the form of PM2.5." Accordingly, all new projects that will increase emissions of criteria or toxic pollutants in overburdened communities should be subject to public notice. Thus, Rule 2-1, Section 2-1-412

should omit the reference to health risk assessments as a trigger for the public notice requirement.

GGU

Response: The Air District recognizes the need for increased transparency and access to permit details and information. The proposed amendments to Rule 2-1, Section 2-1-412 provide expanded public notifications for projects located in Overburdened Communities and subject to health risk assessments.

All other permit applications are available on the Air District website, and can be accessed here: https://www.baaqmd.gov/permits/public-notices/permit-applications-received. Additionally, the Air District provides a ten-day public comment period. All Title V initial and significant permits revisions also have a public notice and comment period.

Clarification on Air District Implementation of Enhanced Public Notification

Comment: The commenter noted that the Staff Report states that "applicants…will be required" to give notice. The commenter questions whether the Air District intends to rely on applicants to provide notice, when the agency would be in a better position to track this and guarantee that the requirement is met.

GGU

Response: The public noticing requirement is administered by the Air District. Air District staff will identify, draft, and mail the public notices to recipients, as required by Rule 2-1, Section 2-1-412. The Final Staff Report has been updated to clarify the roles of the Air District and applicants in distributing public notices.

Essential Public Services

Definition of Essential Public Services

Comment: The commenter stated the most appropriate definition of Essential Public Services is from the California Air Resources Board's definition of Provider of Essential Public Services provided in 2452(hh) of the PERP regulation. The Air District should explicitly exempt equipment used in firefighting, flood prevention, and emergency response.

CCEEB

Response: The goal of this rule amendment is to provide greater health protections in communities disproportionately impacted by air pollution. The Air District provides exemptions to police or firefighting facilities, hospitals and other medical emergency facilities, and buildings designated as emergency shelter locations. Increasing the scope of essential public services to additional facility types could significantly reduce the effectiveness of the intended goal of this rule amendment. Additionally, the proposed amendments do not prohibit the permitting of these sources, but require sources to meet the standards by implementing additional control technology, adjusting project parameters and operations, limiting throughputs or a combination of these measures to protect public health in Overburdened Communities.

Further, the narrow scope of Essential Public Services provides regulatory clarity for facilities to plan projects based on the requirements of Rule 2-1 and Rule 2-5 as in many instances, additional control technology is available to achieve the standards.

Equity and Environmental Justice

Equity and Environmental Justice in Air District permitting decisions

Comment: One commenter recommended the Air District incorporate an equity checklist and health impact assessments in all permitting decisions.

GGU

Response: As proposed, amendments to Rule 2-1 and Rule 2-5 augment numerous requirements to provide greater transparency and reduce emissions exposures in Overburdened Communities. An equity checklist and health impact assessment was not considered as part of this rule amendment effort although Health Risk Screening Analysis (HRSA) are required for a number of projects. The Air District looks forward to collaborating with stakeholders to identify opportunities to further protect public health, especially in overburdened communities.

Regulation Exemptions

The Air District should eliminate Rule 2's exemptions for polluting industries and equipment

Comment: The commenter suggested the Air District eliminate permitting exemptions for sources that negatively impact overburdened communities, including exemptions for metal finishing and plating operations (Rule 2-1, Section 2-1-127.3) and concrete facilities (Rule 2-1, Section 2-1-115.1, subd. (1.2)). Additionally, Rule 2-1, Section 2-1-112.1 exemption has allowed the pipe casting machines at AB&I Foundry to operate for decades unabated and without a permit.

GGU

Response: The proposed amendments to Rule 2-1 and Rule 2-5 address how the Air District issues permits for sources of air pollution, with particular emphasis on increasing health protections in overburdened communities. While the Air District has not evaluated potential modifications to these specific exemptions beyond the intended scope of this rule development effort, the Air District welcomes further engagement to help guide future rule development efforts, including reviewing and evaluating exemptions. The Air District continues to evaluate and consider potential efforts to further strengthen and improve permitting processes in collaboration with community stakeholders.

Additionally, as the requirements of the Air District Permitting regulations evolve to meet newly discovered and better understood challenges, the Air District recognizes that permit conditions for older facilities may lag unless there is an opportunity for a new source review (and potentially a permit modification that could trigger Best Available Control Technology

requirements) or a specific rule or regulation is adopted affecting the source of pollution. Regulation 11, Rule 18: Reduction of Risk from Air Toxic Emissions at Existing Facilities is an example of such a rule that has been adopted by the Air District to evaluate and reduce the impact of emissions from the existing facilities in the Bay Area, including facilities such as AB&I Foundry.

The proposal should not expand exemptions for small engines

Comment: The commenter stated the proposed amendments to Rule 2-1-114 would unacceptably expand the existing exemptions for small engines to include small boilers and combustion equipment and portable engines. These exemptions are contrary to the purpose of enhancing protections for Overburdened Communities and should be rejected.

GGU

Response: The goal of proposed amendments to Rule 2-1, Section 2-1-114 are to streamline and simplify the regulatory language, and are not expanding permit exemptions to new equipment. The proposed amendments to this section have been transcribed from Rule 2-5, Section 2-5-113 and there are no changes to the administration of this exemption. Because of this, Rule 2-5, Section 2-5-113 is subsequently rendered moot, and proposed for deletion.

The Final Staff Report has been updated to clarify the intent of the proposed amendments to Rule 2-1, Section 2-1-114 and Rule 2-5, Section 2-5-113.

Overburdened Community Identification and Definition

Definition of Overburdened Community

Comment: The commenter requested clarity on the definition of Overburdened Communities in proposed Rule 2-1, Section 243. As written, Overburdened Communities are defined as:

"An area located (i) within a census tract identified by the California Communities Environmental Health Screening Tool (CalEnviroScreen), Version 4.0, as having an overall CalEnviroScreen score at or above the 70th percentile, or (ii) within 1,000 feet of any such census tract."

The commenter asks if the amendments lock the Air District into defining communities based on Version 4 of this tool, and suggests considering flexibility in the definition so the Air District can use newer and more accurate information as that becomes available.

I&R

Response: As proposed, the definition of Overburdened Community includes census tracts identified by the California Environmental Protection Agency (CalEPA) CalEnvironScreen 4.0 tool scoring at or above the 70th percentile, or within 1,000 feet of any such tract.

As written, any updates to existing CalEnviroScreen 4.0 will be incorporated and reflected by the definition of Overburdened Community in Rule 2-1. Subsequent versions of CalEnviroScreen

would not be incorporated directly by reference. The Air District will review any proposed updates or subsequent versions of the CalEnviroScreen tool and determine whether a rule amendment to update the definition of Overburdened Community is warranted.

The 1,000 foot threshold for the definition of Overburdened Community should be expanded

Comment: The commenter suggested the Air District should increase the 1,000 foot buffer included in the definition of Overburdened Community (Rule 2-1, Section 243) to 2,000 feet. The 1,000 foot trigger is arbitrary and not protective of public health.

GGU

Response: As discussed in the Staff Report, staff reviewed and evaluated health risk assessments for several common project types and found that impacts decreased by at least 56 percent at a distance of 1,000 feet. Based on this analysis, a new project located just outside the 1,000-foot buffer zone and permitted at the maximum impact level of 10 in a million cancer risk would be anticipated to result in a cancer risk of less than 5 in a million in the overburdened community (excluding the buffer zone). As shown in Table 4 of the Staff Report, the health risk typically declines with distance at a faster rate than this single example project; for many projects, the cancer risk is reduced by more than 80 percent at a distance of 1,000 feet. Therefore, it is not necessary to extend the buffer zone to 2,000 feet.

Permit Review Timeline

Increased project review timelines could exacerbate the existing permit backlog

Comment: Generally, commenters were not supportive of the proposed permitting review timelines. Commenters expressed concern regarding the existing permitting backlog and delays. The proposed amendments may introduce additional delays.

Commenters also expressed concern surrounding extending permitting timelines for all projects. Specifically, a commenter believes the permitting review timeline should not be increased across-the-board for all permit applications.

Commenters expressed concern surrounding the effectiveness of Air District's permitting program and suggested the underlying issue resides in an under-resourced permitting program, that should also be simplified.

CCEEB, Tesla

Response: The Air District has reviewed the scope of work currently involved in reviewing applications for completeness, evaluating routine applications including conducting the health risk assessment that is often required, conducting public notices, and evaluating complex permit applications and applications at Title V facilities. The Air District has proposed permit review timelines that are reasonable and achievable considering the scope of work for each step in the review process and the Air District's permit processing history.

For 1,730 permit applications processed during the last three years that were not subject to public noticing or Title V review requirements, the average completeness review period was 23 days, and the completeness review was completed within the proposed 30-day period for 86 percent of the applications. For the final action period, the average processing time was 51 days, and 85 percent of the applications were processed within the proposed 90-day period. For 302 applications processed for Title V facilities, the average review period was 145 days and 81 percent of the applications were completed within the proposed 180-day review period.

Although most of the permit applications are currently processed within the proposed processing time periods, the Air District is taking steps to increase the percentages of applications that are processed within the proposed action periods while also reducing the current permit back-log. The Air District is increasing permitting staff resources and has requested the additional resources needed to address these issues and to ensure that the proposed permit processing timelines are achieved for all applications.

Additionally, it is often not clear at the initial submittal of an application if the application will be subject to a health risk assessment. Therefore, processing times for health risk assessments are built into the internal review procedures for all permit applications. Applications that are not subject to an HRA will be processed in the time period allotted for the non-HRA review stages and will be issued in much less time than the allotted 90-day review period.

Furthermore, the Air District's proposed permit review timelines are consistent with or shorter than the permit review timelines authorized by most large air districts for similar activities. To clarify, the current 49-calendar day (35-working day) final action review period does not apply to major facilities that are subject to Rule 2-6. The final action review period for major facilities subject to Rule 2-6 is not specifically stated in Rule 2-1, Section 2-1-408. The Air District is proposing to correct this oversight by stating in Rule 2-1, Section 2-1-408 that permit applications for major facilities will be subject to a 180-day final action review period. As shown in Table 5 of the Staff Report, the Bay Area's proposed 180-day final action review period for major facilities (i.e., Title V facilities) is consistent with the review periods authorized for major facilities by the following air districts: South Coast, San Joaquin Valley, San Diego, Ventura, Santa Barbara, and Monterey Bay. South Coast, San Diego, Ventura and Santa Barbara air districts recognize the added complexity of the permit review process for major facilities and have specifically authorized additional review time (180 days instead of 90 days) for major facilities, while San Joaquin Valley and Monterey Bay give 180-day review periods for all applications. Therefore, staff conclude that the Bay Area's proposed 180-day review period for permit applications at major facilities is reasonable.

Impact of regulations on "common" source category permit applications

Comment: The commenter requested further clarification and justification on which "common" source categories are impacted by Airborne Toxic Control Measures (ATCM), New Source Performance Standards (NSPS) and National Emission Standards for Hazard Air Pollutants (NESHAP) prior to 2005 and the ability of the Air District to effectively process permits under the existing timeframe authorized by the Air District Board of Directors.

Tesla

Response For fiscal year 2021, the new source review permit applications included: 50 percent internal combustion engines, 20 percent gasoline dispensing facilities, six percent coating and solvent sources, three percent soil vapor extraction operations, three percent other combustion sources, and 11 percent other source types.

Internal combustion engines are subject to:

- ATCM for Stationary Compression Ignition Engines adopted November 20, 2003, amended November 16, 2006, October 21, 2010, and May 19, 2011
- 40 CFR Part 60, Subpart IIII "Standards of Performance for Stationary Compression Ignition Internal Combustion Engines" adopted July 11, 2006; amended June 28, 2011, January 30, 2013, August 15, 2014, July 7, 2016, and November 13, 2019
- 40 CFR Part 60, Subpart JJJJ Standards of Performance for Stationary Spark Ignition Internal Combustion Engines adopted January 18, 2008; amended June 28, 2011, January 30, 2013, and August 15, 2014
- 40 CFR Part 63, Subpart ZZZZ National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines adopted June 15, 2004, amended January 18, 2008, March 3, 2010, August 20, 2010, January 30, 2013, and August 15, 2014

In addition to these requirements for engines, many other source types are subject to NSPSs, NESHAPs, and ATCMs that were adopted or amended after 2005. Overall, the complexity of the engineering review and health risk assessments has increased significantly since 2005.

2001 rule changes affecting diesel engines do not support the need for longer processing times

Comment: Commenter stated the 2001 regulatory changes affecting diesel engines did not result in an overwhelming workload for Air District staff. The Air District had reduced the number of overdue permit applications to zero in 2005, four years after the regulatory change. The Air District was able to accomplish this while permitting staff was also expending a considerable effort with the initial issuance of Title V permits. The increase in the number and complexity of routine permit applications reviewed by the Air District is within the Air District's capacity.

Tesla

Response: The initial permitting effort for diesel engines during the 2001-2005 timeframe involved a streamlined review process for diesel engines that lost the exemption from permitting requirements due to regulation changes. This streamlined process did not require a new source review analysis, a public notice for proximity within 1,000 feet of a school or health risk assessment for the majority of the emergency engine applications processed. Since 2005, the scope of the engine permit applications has shifted from streamlined loss of exemption applications to new source review applications with health risk assessment and public notice requirements if located within 1,000 feet of a K-12 school. In addition, the engines are subject to an increasing number of state and federal regulations. The complexity of the required health risk analysis has also increased due to additional regulations and more complex risk assessments since the 2015 OEHHA changes to California's HRA Guidelines. Furthermore, the number of engine applications received per year has increased by 30 percent in recent years. The increase in

both the number and complexity of permit applications processed and additional program responsibilities has resulted in the need for additional staff resources.

Justification for treating applications at Major Facilities differently

Comment: Commenter requested justification in increasing permit review timelines across the board, as the proposed amendments would introduce unreasonable delays in the installation of abatement devices, small routine sources, and minor upgrades. The processing time should be a function of the process being permitting, not the existing facility.

The Staff Report suggests several examples of "extra review" in its effort to justify a four-fold increase in processing time:

- BACT is triggered.
- Inclusion of multiple sources in the health risk analysis (HRA).
- NSPS and NESHAP are sometimes applicable.
- More detailed permit conditions are required.
- CEQA Notice of Determination (NOD) or Notice of Exemption (NOE) may be required.

The commenter provided counterpoints including:

- BACT/TBACT workbook exists in order to streamline BACT analysis. As such, BACT does not justify a four-fold increase in permit processing times.
- While multipoint HRA is more complex than single point HRA, this does not justify 90 extra days of processing time.
- The staff report does not indicate what fraction of NSPS and NESHAP permits occur at Title V facilities, nor how much additional processing time this extra review actually incurs.
- Permit conditions should be based on the process, not the operator. Permit conditions are intended to be reasonably uniform, following 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 NOD and NOE are triggered by project and not facility, and thus does not justify extra processing time for all Major Facilities.

Tesla

Response: Major facilities are inherently more complex to analyze than minor facilities because of BACT and offset requirements, de-bottlenecking analyses, related application reviews, NSPS and NESHAP requirements, and preparation of Title V permit changes. Major facilities will often ask for changes to the project scope during permit condition review that impact the analysis causing re-work and increasing the amount of required staff effort. These actions can occur for even seemingly routine applications such as an abatement device replacement with non-identical equipment. However, projects that meet accelerated permit requirements will be issued a temporary permit to operate to ensure that application processing time does not hold up applications that do not involve emission increases or new regulatory requirements.

- While BACT Guidelines are available for many common source types, BACT is a case-by-case analysis. Large facilities including many Title V facilities often have more unusual source proposals and site-specific details that need to be considered in a case-by-case BACT analysis.
- Title V facilities commonly submit multiple applications per year, which must be considered in determining related projects for the risk assessment. It is not just the number of sources included that determines the complexity of the HRA. The complexity is also affected by the type of emission point, related projects, the location of facility, and the extent to which neighbors and workers are impacted by a proposed project. All of these points together are often more complex for Title V facilities.
- Facilities may be subject to Title V requirements due to facility emissions exceeding major facility thresholds or because the site is designated as subject to Title V by an applicable NSPS or NESHAP.
- Review and compliance determinations with the federal regulations take time for analysis in addition to drafting permit conditions to assure compliance.
- Standard permit conditions are used whenever possible. Title V facilities are complex and while some sources allow for the use of standard or template permit conditions, a large majority or large fraction does not, and custom conditions are required.
- Title V facilities require additional compliance checks, reporting, monitoring, and testing. Additional time is required to establish these requirements and consultation with other divisions at the Air District is required.
- Many projects at Title V facilities are controversial, therefore the Air District has a policy to file Notice of Exemptions in cases where such projects are exempt from CEQA. Although the filing a Notice of Exemption is optional, the Air District files the notices to notify the county of the permit action and to be transparent with the public by sending a copy of the notice to the interested party list for the facility.

Socioeconomic Impact Analysis

Further clarification on the detail to evaluating impacts

Comment: Commenter stated the Socioeconomic Impact Analysis acknowledges the potential for significant impacts and there are negligible details provided as to what was considered in evaluating these impacts. Further, while the analysis provides cost ranges for affected industries, it does not discuss the range of probable costs that may result outside of the affected industries, including consumer impacts, whether increased consumer prices or disproportionate access may result from implementation of the proposed amendments.

For example, the Socioeconomic Impact Analysis finds that, for at least two gasoline dispensing facilities in Overburdened Communities, the proposed amendments will result in a net impact of as much as 25 percent decrease on existing profits based on reduced throughput. While the District considers these net profit impacts, it does not consider the likely accompanying impacts on consumer costs and access to affordable fuel. As the Socioeconomic Impact Analysis indicates, “many gasoline dispensing facilities are independently owned small businesses.” It is

possible that these facilities may pass on some or all of these losses onto consumers through higher and regressive pricing in order to sustain their operations. Alternatively, these facilities may choose to shut down and relocate further from customers in Overburdened Communities, many of whom rely on personal vehicles and face long commutes between the communities in which they live and work. Accordingly, the District should explicitly consider these economic equity issues before finalizing the Proposed Amendments, including providing consumers with an estimate of potential pricing impacts associated with its rulemaking to ensure that they are fully informed.

CCEEB

Response: The Socioeconomic Impact Analysis complies with the requirements set forth in the Health and Safety Code Section 40728.5. The Socioeconomic Impact Analysis considers the impacts of the rule or regulation on employment and the economy of the region affected by the adoption of the rule or regulation. Additionally, the Socioeconomic Impact Analysis provides probable costs, including costs to industry or business.

The Air District analyzed the costs and economic impacts, which are the probable cost of installing new equipment that is not already in place or modifying existing equipment. This information was obtained based on staff estimates of control costs based on previously permitted projects, information from vendors, or information from permitted facilities. The IMPLAN input-output model, which assesses direct impacts of the rule on employment, indirect impacts, and induced impacts from compliance costs associated with the proposed rules was also utilized.

While additional factors beyond the scope of the Socioeconomic Impact Analysis may impact the analysis of gasoline dispensing facilities, these factors remain hypothetical and not quantifiable. For instance, a gasoline dispensing facility may adjust their operations or configurations to meet the cancer risk limit. Additionally, gasoline dispensing facilities are permitted at their maximum eligible throughput and may not dispense the full annual allowable throughput. As a result, while these factors are important, they are not included in the Socioeconomic Impact Analysis due to the speculative nature.

The Air District remains concerned regarding equity considerations, and welcomes continued feedback to strengthen equity considerations in the permitting program.