



**Robert Brown**  
Director, Bay Area Region

March 19, 2021

Mr. Barry Young  
Senior Advanced Projects Advisor, Engineering Division  
Bay Area Air Quality Management District  
375 Beale Street, Suite 600  
San Francisco, CA 94105

via email: [byoung@baaqmd.gov](mailto:byoung@baaqmd.gov)

Re: Proposed amendments to Regulation 3; February 18 workshop comments

Dear Mr. Young,

The Western States Petroleum Association (WSPA) is a non-profit trade association representing twenty-six companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California, Arizona, Nevada, Oregon, and Washington. Our members in the Bay Area have operations and facilities regulated by the Bay Area Air Quality Management District (BAAQMD or District).

WSPA appreciates the opportunity to offer comments and input on the proposed amendments to Regulation 3 following the February 18 Fees Workshop. These comments reflect the input of our five refinery member companies. We will continue to have input as the process moves forward.

### **Executive Summary**

The five refineries are a significant portion of the BAAQMD's total fee revenue source. The 2021 permit fees paid collectively by the refineries is nearly \$16 million as noted in the District's recent presentation. BAAQMD staff are proposing a Criteria and Air Toxics Emission Reporting fee that could result up to \$50,000 in new fees, as well as additional increases in existing fees impacting the refineries, ranging from 7% to 15%, to include:

- Schedule W: Refinery Emissions Tracking – 15%
- Schedule P: Major Facility Review (Title V) – 7%
- Schedule T: Greenhouse Gas – 9%

The petroleum industry is still recovering from the economic impacts of COVID-19 and is expected to continue doing so for some time. Now is not the time to increase fees in a struggling economy for the industry. We know you and the board agree that it is critical to provide clarity, accountability, and transparency to the process, as well as maintain efficiency during these distressing times.

WSPA urges the Board to stay all fee increases for the BAAQMD 2021 fiscal year.

## **Fee Schedule Concerns**

Figure 2 in the 2021 Cost Recovery Study Report reflects fee schedules and percent recovery for the year 2020. We will be focusing our comments on this figure.

### Schedule X: Community Monitors

The refinery community air monitoring program, Schedule X shows over a 1,000 percent cost recovery. The refineries continue to pay annual fees for Schedule X, collectively totaling several million dollars, and yet no monitors have been put into operation. The BAAQMD should discontinue collecting the Schedule X fee until plans are in place to install monitors, or at the least have regular reporting to the Stationary Source Committee as to status of installation.

### Schedule W: Refinery Emissions Tracking

The refineries pay a total of \$150,000 a year for staff to review inventories that the refineries have prepared for them. However, Schedule W indicates staff expended over \$1.3 million in 2020 to administer emissions tracking for the five facilities, equating to over 6,500 hours to review inventories reported from five facilities (equating to approximately three full-time equivalents at 40 hours/week, 52 weeks per year).

The previous year 2020 Cost Recovery Study Report assessed costs for Schedule W at approximately \$600,000, which then grew to nearly \$1.3 million in 2021. Since most of the work for each inventory is done by the refineries, it is difficult to conceive that staff need over \$1 million dollars to conduct their reviews.

In addition, no refinery inventories have been approved by the BAAQMD since Regulation 12-15 was adopted in 2016. This indicates a broken process that WSPA has repeatedly brought before the Board as a need for change.

In parallel, staff have changed the Schedule W reporting format for 2020 emissions and frequently from that in 2016 when Regulation 12-15 was adopted. This required the refineries to completely change their detailed reporting sheets to accommodate this new request by staff.

The disparity between what is required for emissions tracking and the staff level of effort to review inventories demonstrates inefficiencies that continue to grow. We hope to see future process improvements that can ensure inventory methodologies are consistent across Bay Area industries and with other districts per AB 617.

### Schedule P: Major Facility Review

Figure 2 shows fee revenues for Schedule P to be meeting over 100% of costs, yet staff are recommending a 7% increase in the fee. Staff should not be asking for fee increases when costs are being fully recovered. Additionally, WSPA requests that that the Schedule P "MFR/SYNTHETIC MINOR MONITORING FEE" be removed or drastically reduced. We are not clear what work staff perform associated with monitors other than reviewing monthly reports prepared by the facilities and occasional approval of newly installed monitors. If there is additional work, WSPA requests a log of the efforts performed for the previous three years.

### Schedule T: Greenhouse Gases

Figure 2 shows that staff expended \$4.6 million in costs for 2020 to administer the greenhouse gas (GHG) program, yet CARB is the regulating authority managing GHG emissions reporting. At a nominal billing rate of \$210 per hour, staff expended over 22,000 hours in a single year and the work products from the programs Schedule T supports are completely unknown to the facilities paying the fees. BAAQMD provided WSPA a document with 2020 staff hours, and only 5,289 staff hours were attributed to Schedule T – GHG for Rule Development, leaving well over 15,000 hours unaccounted for. Over 10 million dollars has been collected from fees from 2015 to 2019, and other than cursory inventory updates and one chapter in the 2017 Clean Action Plan, we are unclear how these funds are being used. This reflects a broken process that the Board needs to address for transparency.

#### *Schedule T costs/collections (from cost recovery reports)*

Year	Total Cost – Schedule T	Total Collected – Schedule T
2013-2015 average	1,672,437	1,541,545
2015	2,189,697	1,971,136
2016	3,006,410	2,585,343
2017	2,333,516	2,179,797
2018	3,933,682	2,746,114
2019	3,463,443	2,963,989

### **Conclusion**

The Bay Area economic impacts of COVID-19 are evident, including impacts in the refining industry. Last year, the Board agreed that until the economy rebounds, no new fees or fee increases would be implemented. We are seeing continued COVID-19 economic impacts to our member facilities and expect those to continue through this year. It is not timely to increase fees to our members.

We also request staff provide an update on how they are addressing their list of efficiency improvements as outlined by the 2011 Matrix Consulting Cost Recovery and Containment Report (Report). The Report outlined numerous recommendations for efficiency and effectiveness with recommendations such as:

- Provide an online means for determining the status of permit applications. Currently our members must email the permit engineer – sometimes getting no response and requiring multiple follow ups for status.
- There are numerous references to efficiency enhancements the Production System was going to make which have not come to fruition.
- Permitting performance metrics have not been published or shared publicly.
- Permit applications are not triaged, ending up in potential bottlenecks with one assigned permit engineer.

WSPA asked for this at the Budget Advisory Group meeting on January 19 which was attended by Board members Groom and Bauters.

We appreciate your consideration of our comments, suggestions, and observations. While we have noted some specific breakdowns in transparency and process - we also appreciate the complexity, scale, and challenges of this work, balanced with District successes achieved with air quality improvements, inspections, grants, and public awareness.

Thank you for your attention to this process. We look forward to continuing to work with you on the proposed changes which are critically important. If you have any questions, please contact me at (925) 266-4082 or via e-mail at [bbrown@wspa.org](mailto:bbrown@wspa.org).

Sincerely,

