



July 12, 2020

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Bay Area Air Quality Management District  
375 Beale St., Suite 600  
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**Re: Comments on Draft Amendments to Regulation 6, Rule 5: Particulate Emissions from Petroleum Refinery Fluidized Catalytic Cracking Units (FCCUs)**

Dear Messrs. Broadbent and Joe,

350 Bay Area represents thousands of Air District constituents who are deeply concerned about climate chaos, toxic air, and environmental injustice. Thank you for the opportunity to review and provide comments on the Air District's proposed amendments to Rule 6-5 to reduce deadly particulate matter (PM) emissions, which are responsible for increased cancer; dire cardiovascular, respiratory, and neurological disease; and early death at the local and regional level. We appreciate the work and thought that has gone into the Initial Staff Report. In addition to associating ourselves fully with the comments submitted by Mr. Greg Karras on this matter, we thank you for the opportunity to add our own.

Background

The federal government is moving backwards on PM regulation. They have frozen the current PM standards, which are widely recognized as not health-protective; they have expanded and deregulated the use and storage of coal and its byproducts; they have recently loosened controls on mercury emissions; and on and on. Therefore, California must lead the nation—and as usual, the region must lead the state—in reducing PM emissions to protect both public health and public coffers.

Yet the Air District's own Advisory Council has found that—as far as PM emissions are concerned—the agency is falling short of its mission to “create a healthy breathing environment for every Bay Area resident while protecting and improving public health, air quality, and the global climate.” The Council officially found in 2019 that there is no safe level of exposure to fine PM; that current federal and state PM standards are not adequately health-protective; and that health benefits could be achieved by lowering PM emissions *well* beyond those standards.

Meanwhile, the communities nearest the FCCUs have lived through decades of environmental racism and injustice that made their neighborhoods industrial sacrifice zones of a sort to begin with; and those same communities and their neighbors have been disproportionately saddled with the terrible health insults arising from huge local concentrations of PM from FCCUs and other industrial sources over time. To properly align the Air District's assiduousness on air quality regulation with the Board of Directors' June 17, 2020 “Resolution Condemning Racism and Injustice and Affirming Commitment to Diversity, Equity, Access and Inclusion” (including particularly in its external operations and policies), as well as subsequent Board of Directors and staff discussions on this matter, the Air District must take every step it feasibly can to do right by these

historically overburdened communities and to undo the policy violence it has been involved in permitting for so long.

Given the egregious impacts of PM pollution on health, life, and economic activity; given new information suggesting that small differences in PM exposure may be tied to huge differences in COVID-19 mortality, illustrating the as-yet-unknown future costs of our polluting actions; and given that the sources controlled by this rule are the largest single emitters of PM in the region, it is absolutely critical that these rule amendments ensure the maximum feasible reductions in emissions. As currently constituted, we believe it is clear they do not. We urge you to increase your level of ambition and seriousness on this matter by (1) taking full responsibility over the inputs into the regulatory process and (2) implementing the Best Available Retrofit Control Technology (BARCT) standard in a more robust manner.

#### Public Regulation Requires Public Monitoring & Public Assessment

We can't find anyone except for the fossil fuel industry and Air District staff who thinks that it's an acceptable idea for Big Oil to themselves provide the baseline information about their own polluting activities that the agency uses for describing the state of the sector or researching potential rule concepts and rule development. This sentiment is even more pronounced on the fecklessness of having the fossil fuel industry provide to the agency the ongoing emissions data that would indicate their own compliance with this rulemaking and others. Yet the draft amendments unfortunately proceed along just such ineffectual lines. **Fossil fuel industry self-monitoring, self-assessment, and self-reporting must be eliminated in these rule amendments and, indeed, throughout the District's implementation and enforcement of other relevant rules.**

Mr. Greg Karras' comment letter on these draft amendments provides a number of technical arguments for why industry self-monitoring is unsupportable; however, from our perspective this is a simpler issue: We the breathing public of the Bay Area do not pay you to take polluters at their word and file their paperwork. We firmly request that the Air District take full responsibility over the inputs into its work on the public's behalf, starting with FCCUs.

**The Air District needs to conduct its own baseline measurements at every refinery, and those data should be presented publicly and included as a key part of the stakeholder and Board of Directors discussion this fall leading up to final adoption of the amended Rule 6-5 (proposed for November). The Air District also needs to be the party that tests, measures, and assesses compliance with these new proposed standards (as well as the existing mandates of Rule 6-5) in an ongoing manner. The draft amendments under consideration must be revised thusly to provide any true public oversight and accountability.**

Meaningful and efficacious pollution standards must be based on measurements by publicly controlled and publicly accountable agencies, not polluters. In serving the role of neutral scientific arbiter reliably over time, the agency may even be able to build some public trust that is now sorely lacking. If the agency requires more staff to execute these mission-critical tasks in the robust and expeditious manner that your public mandate demands, it should levy fees on these polluters to recoup those costs when the fee structure is next re-examined by the Board of Directors this fall. Outsourcing or devolving your critical refinery monitoring and compliance work to the refineries themselves is no longer an option.

#### "Best Available" Should Mean Best Available

The Air District's Initial Staff Report indicates that the best emission controls that are available for FCCUs and demonstrated in practice elsewhere can achieve a PM<sub>10</sub> emissions limit of 0.020 gr/dscf (grains/dry standard cubic foot). This arcane number translates into the extent that the Air District is willing to fight to protect the

lives, lungs, hearts, and brains of Bay Area residents from damages being caused where they live by private multinational corporations. Yet as Mr. Greg Karras' comment letter presents, PM<sub>10</sub> emissions less than half of the proposed limit have been documented at several FCCUs that have previously undergone BARCT—not just in California, but even in the Gulf Coast petrochemical corridor. **The emissions limit proposed in the draft amendments is too loose to ensure that emissions will be reduced by the BARCT, and it must be lowered to ensure that Bay Area residents receive the best available health protection that they deserve.**

There are three refineries in the region with FCCUs that have not already undergone retrofitting—this rule really only pertains to three sources total. Of those three, the Air District's currently proposed emission limit *would not even touch one of them* (Marathon, in Martinez). Despite its FCCU emitting (conservatively, as this data is self-reported) 190 tons/year of PM<sub>10</sub>, and despite this being 228% the emissions of the FCCU that has already undergone retrofitting, the Air District proposes leaving this unit—and local air quality in Martinez and surrounding communities—as is. At another of the three units (Chevron, in Richmond), the proposed emission limit is expected to reduce FCCU emissions by only one-third, even though the controls previously implemented by a nearby facility (Valero, in Benicia) achieved much greater reductions. The Air District is essentially saying there isn't much of a problem here. Bay Area residents in these communities and others disagree strongly.

**The proposed PM<sub>10</sub> emission limit appears under-protective, given that available controls demonstrated in practice at other sites have achieved significantly lower concentrations. The draft amendments must be revised to reflect the best health protections that are available and demonstrated.** The agency's reluctance to set a tighter standard condemns frontline communities—and the disproportionately vulnerable around the region—to additional cancer, lung disease, heart disease, dementia, and early death. If Bay Area residents cannot count on the Air District to implement the existing “Best Available” control in a straightforward manner, how can they ever count on the agency to implement conscientiously the many proactive, forward-thinking regulations it has already adopted, planned, or promised?

### Conclusion

The Air District has a critical, life-or-death mandate to fulfill, and in this context the draft amendments as proposed fall short. The multi-billion-dollar refining industry's economic health relies on externalizing respiratory, cardiovascular, and other health problems, cancer, and early death—costs of its economic activity—onto its neighbors so they may convert more of their revenue into profit. Those neighbors are your constituents, and they are disproportionately from communities of color and low-income communities.

In order to match its actions with its words—as represented in the Board of Directors' recent “Resolution Condemning Racism and Injustice and Affirming Commitment to Diversity, Equity, Access and Inclusion” and subsequent conversation by directors, the Air District must do better. It can start here by:

- Committing to conduct its own baseline measurements at every refinery and present those data publicly, in time to be included as a key part of the discussion leading up to final draft amendments to the rule this fall/winter;
- Revising the draft rule amendments to make clear that the Air District will test, measure, and assess ongoing compliance with these new proposed standards, as well as the existing mandates of Rule 6-5; and
- Revising the draft rule amendments to include a lower PM<sub>10</sub> emission limit that will firmly ensure that Bay Area residents receive the benefits of the best available controls on these heavily polluting sources.

Your regulation merely seeks to internalize some small fraction of the economic externalities the refining industry has been offloading for generations. This represents millions of dollars of profits to them over the last decades, and real lives of our friends, loved ones, and neighbors shortened and ended over the same time. As you know, any introductory economics class relates that free market capitalism only exists when externalities are eliminated.

Thank you for carrying out the most important work in the Bay Area—keeping people healthy so we have the opportunity to thrive.

Sincere regards, on behalf of thousands of 350 Bay Area members,

Jed Holtzman  
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