



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

AGENDA: 16

Public Hearing on Proposed Amendments to Rules 2-1 and 2-5

**Board of Directors Special Meeting
December 15, 2021**

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Presentation Outcome



- Provide information on the proposed amendments to two rules within the Permitting Regulation (amendments to Rules 2-1 and 2-5)

Presentation Outline



- Background
- Rule development process and engagement
- Proposed amendments
- Impacts of proposed amendments
- Comments and responses
- Recommendations

Presentation Requested Action



- Consider adoption of proposed amendments to Regulation 2, Rule 1: General Requirements and Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants
- Consider adoption of Negative Declaration pursuant to the California Environmental Quality Act (CEQA)

Background



- Air District commitment to evaluate its permitting process to address air pollution in areas overburdened by environmental & health stressors
- Community-led effort to update Air District's Permitting Program



1

Regulation 2, Rule 1: General Requirements
Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants

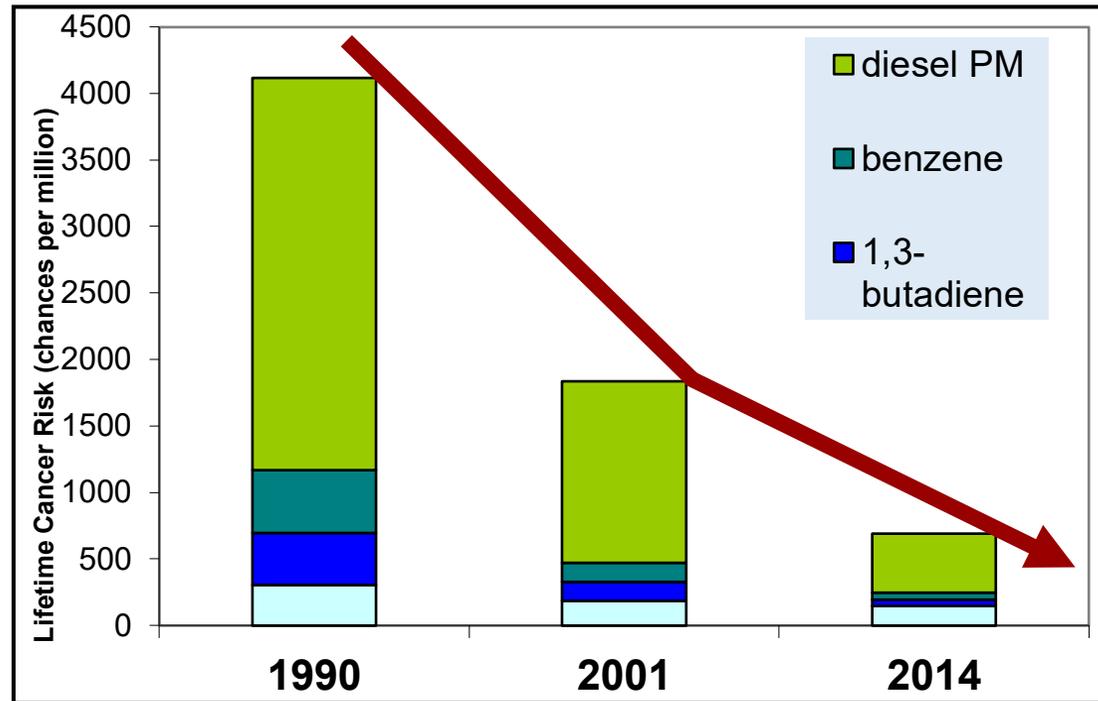
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Air District commits to continued community engagement and development of amendments of Rules & Regulations to address community concerns

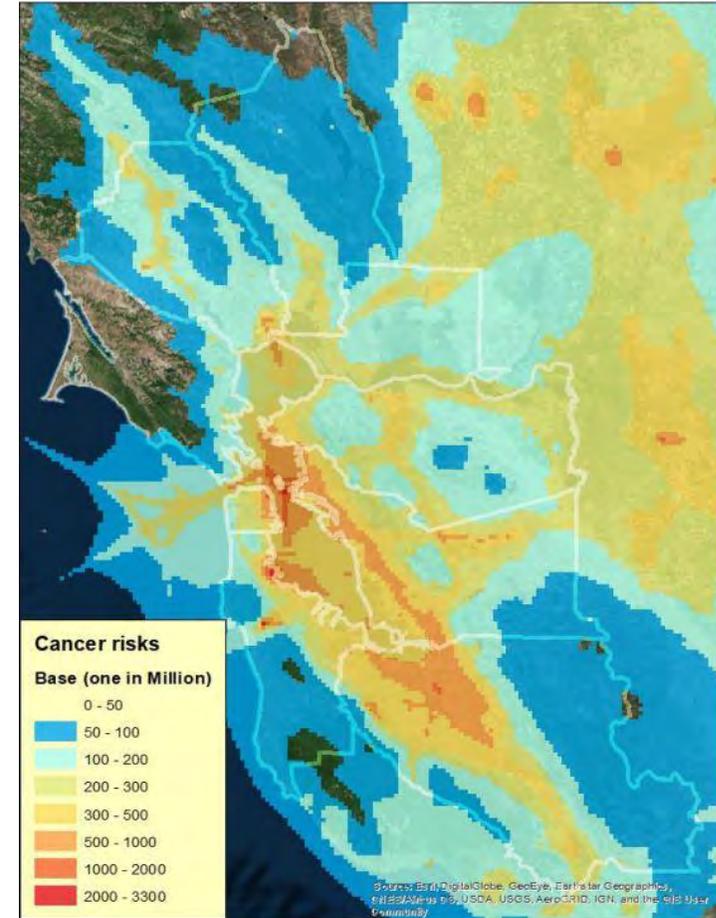
Background: Exposure



- Air quality improving overall, but air pollution exposure varies at the local level.



Bay Area Cancer Risk Historical Trends

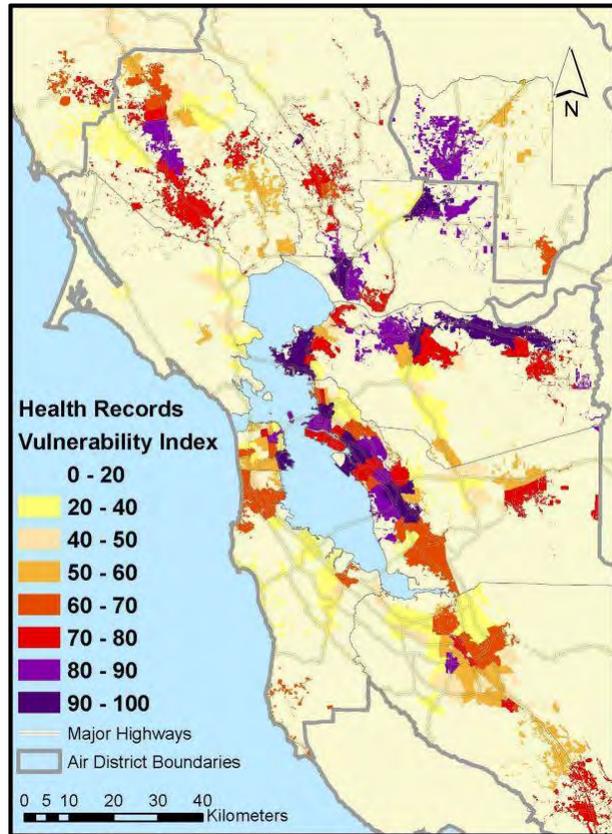


Cancer Risk, 2016

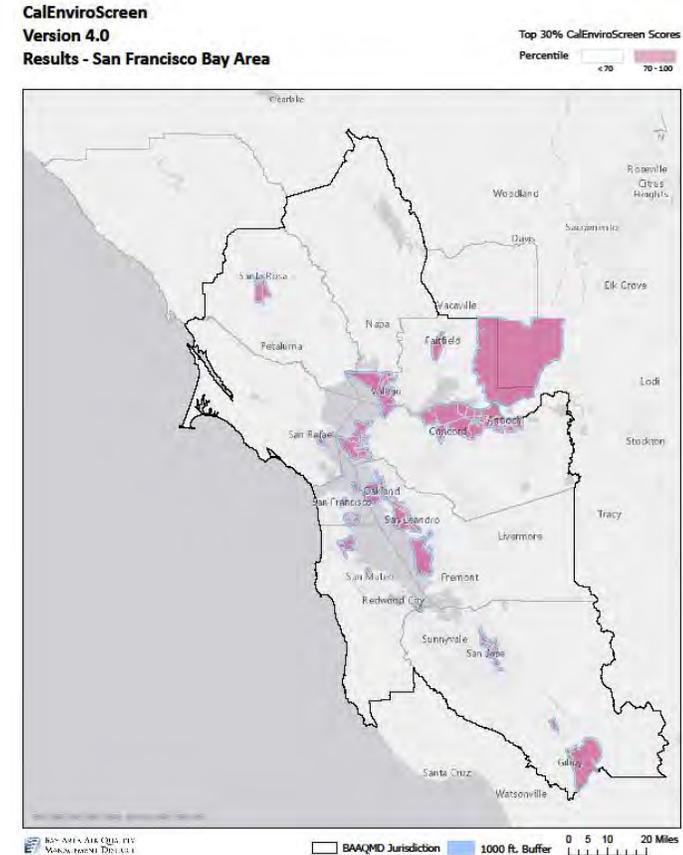
Background: Vulnerability



- Areas with poor air quality also tend to have higher community health vulnerability.



Bay Area CARE Health Vulnerability Index, 2018



CalEnviroScreen 4.0 (2021)

Rule Development Process and Engagement



- Staff met internally and with community advocacy organizations to develop potential concepts and hear recommendations on how the permitting process could be more health protective
- Potential concepts to amend the Permitting Regulation presented at workshop in **May 2021** to receive public feedback
- Draft amendments to Rules 2-1 and 2-5 presented at workshop in **August 2021** to receive public feedback
- Proposed amendments to Rules 2-1 and 2-5 released in **October 2021** for public review and comment

Proposed Amendments to Rules 2-1 and 2-5



Increasing health protections in Overburdened Communities

- 1 Overburdened Community Defined
- 2 More stringent cancer risk limit in Overburdened Communities
- 3 Enhanced Public Notifications
- 4 Update Gasoline Dispensing Facilities Health Risk Screening Guidelines
- 5 Permit Review Timelines

Rule 2-1 Proposed Amendments



Regulation 2, Rule 1: General Requirements (Rule 2-1)

- ① Overburdened Community Definition: census tract $\geq 70^{\text{th}}$ percentile CalEnviroScreen Version 4.0 or within 1,000 feet of any such tract
- ② Enhanced notification for projects within Overburdened Communities

Rule 2-1 Proposed Amendments (cont.)



Regulation 2, Rule 1: General Requirements (Rule 2-1)

- 3 Extend permit **application completeness review** from **21** days to:
- **30** days for routine applications
 - **60** days for complex applications

Extend Permit **application review period** from **49** days:

- **90** days for routine applications
- **180** days for complex applications

APPLICATION COMPLETENESS
REVIEW

APPLICATION REVIEW

FINAL ACTION ON
APPLICATION

Rule 2-5 Proposed Amendments (cont.)



Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants (Rule 2-5)

- ① Extend lookback period in the project definition from **3** → **5** years
- Essential Public Service **defined** to mean
 - A police or fire fighting facility
 - A hospital or other medical emergency facility; or
 - A building designated as an emergency shelter location
- ③ More stringent **cancer risk limit** of 6 in one million in Overburdened Communities

Rule 2-5 Proposed Amendments (cont.)



Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants (Rule 2-5)

- ④ Updates to **Table 2-5-1**: new and revised Health Effects Values adopted by Office of Environmental Health Hazard Assessment (OEHHA), draft acute trigger levels for consistency with Rule 11-18
- ⑤ Other housekeeping and clean up of redundant rule language

Gasoline Dispensing Facilities

-  Update Air District Health Risk Assessment (HRA) Guidelines to reflect use of 2015 OEHHA HRA Guidelines for gas stations
2015

Costs and Socioeconomic Impacts



↑ **\$ Significant** impacts expected when costs exceed **10%** of net income

➔ Scenarios at low, medium and high control cost

On **average**, no significant impacts

➔ **Significant** impacts for the following at **highest** control cost scenarios:

Internal Combustion Engines

- Nursing and Residential Care Facilities
- Residential Buildings
- Telecommunications

Soil Vapor Extraction

- Commercial Building Lessors
- Remediation Businesses

Foundry Facilities

- Metal Casting Facilities

Environmental Impacts



- California Environmental Quality Act (CEQA)
- Analysis found no significant adverse environmental impacts
- CEQA Initial Study and Notice of Intent to Adopt Negative Declaration

CEQA PUBLIC COMMENT

No comments on CEQA Initial Study

Statutory Findings



- Before adopting, amending, or repealing a rule the Board of Directors must make findings of **necessity, authority, clarity, consistency, non-duplication and reference** (California H&SC Section 40727)
 - Necessity – H&SC Section 40727(b)(1)
 - Authority – H&SC Section 40727(b)(2)
 - Clarity – H&SC Section 40727(b)(3)
 - Consistency – H&SC Section 40727(b)(4)
 - Non-duplication – H&SC Section 40727(b)(5)
 - Reference – H&SC Section 40727(b)(6)

Air District Impacts



- Implementation of proposed amendments will require additional full-time equivalents (FTE) staff resources
 - Engineering: 8 additional FTEs
 - Meteorology and Measurement: 3 additional FTEs
 - Compliance and Enforcement: 1 additional FTE

- Consideration in future amendments to Regulation 3: Fees

Comment Themes and Responses



PUBLIC COMMENT PERIOD

OCTOBER 19 – NOVEMBER 18

4

Written Comments

- EXEMPTIONS
- CEQA
- PERMIT REVIEW TIMELINES
- SUBREGIONAL STANDARDS
- ENHANCED NOTIFICATIONS
- ESSENTIAL PUBLIC SERVICES
- CLARIFICATIONS

Feedback Requested/Prompt



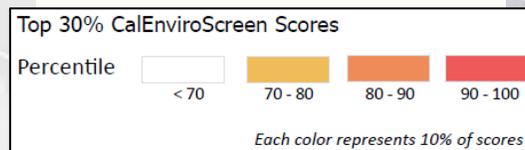
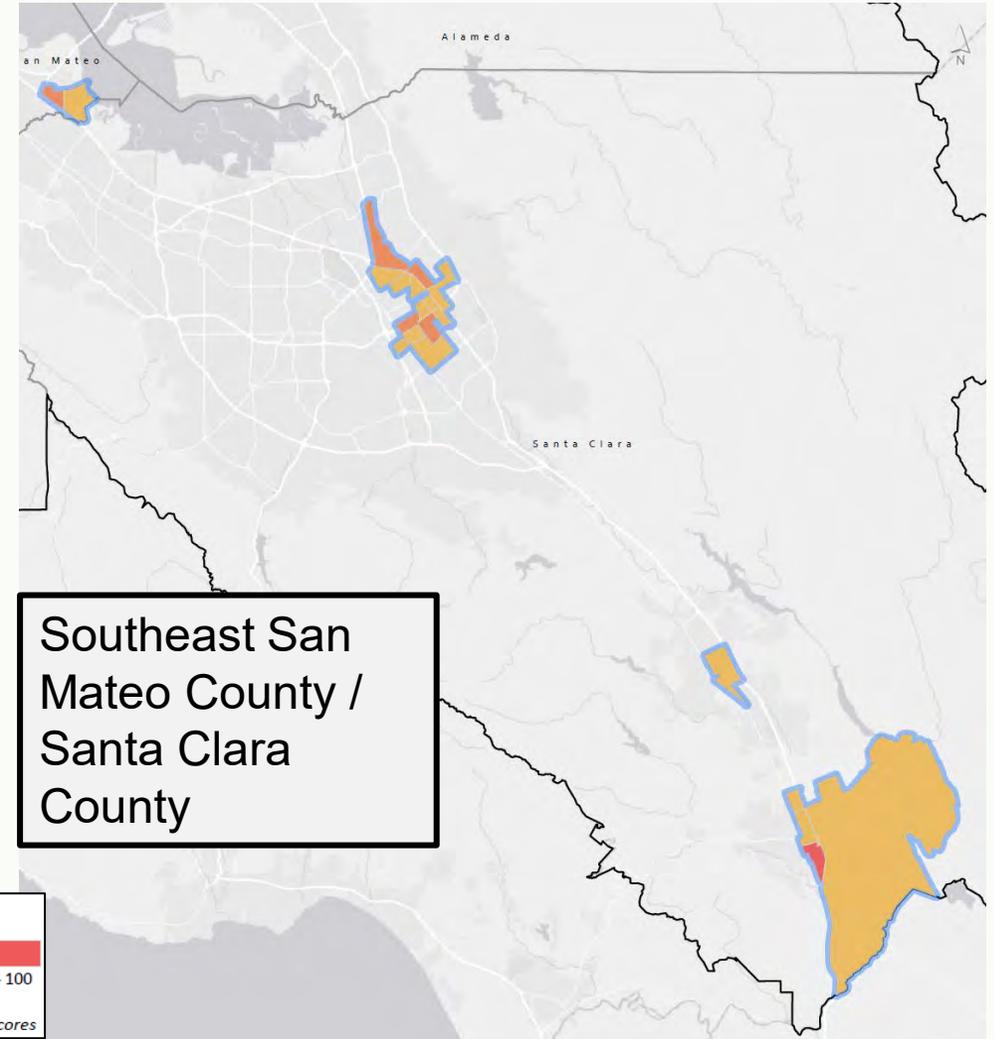
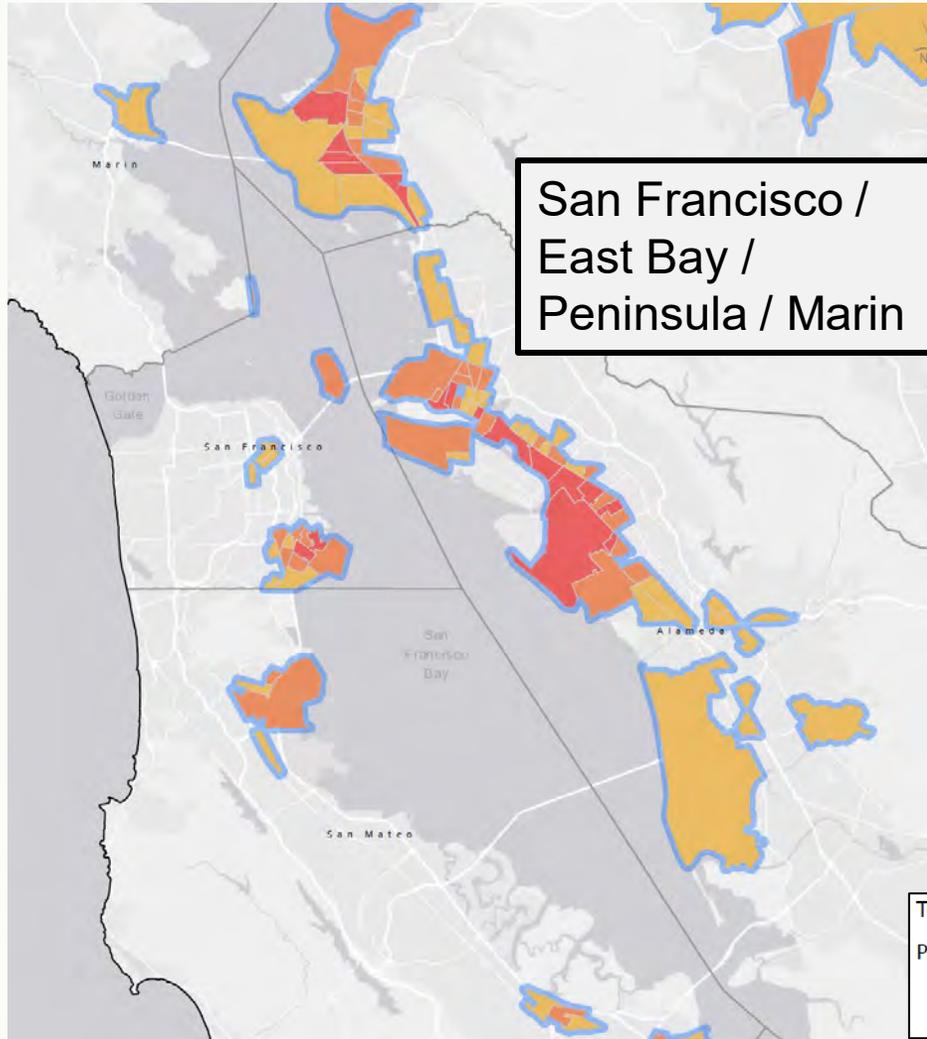
1. Recommend adoption of proposed amendments to Regulation 2, Rule 1: General Requirements and Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants
2. Recommend adoption of a Negative Declaration pursuant to CEQA

BACK UP SLIDES



**BACK UP SLIDES
BEGIN**

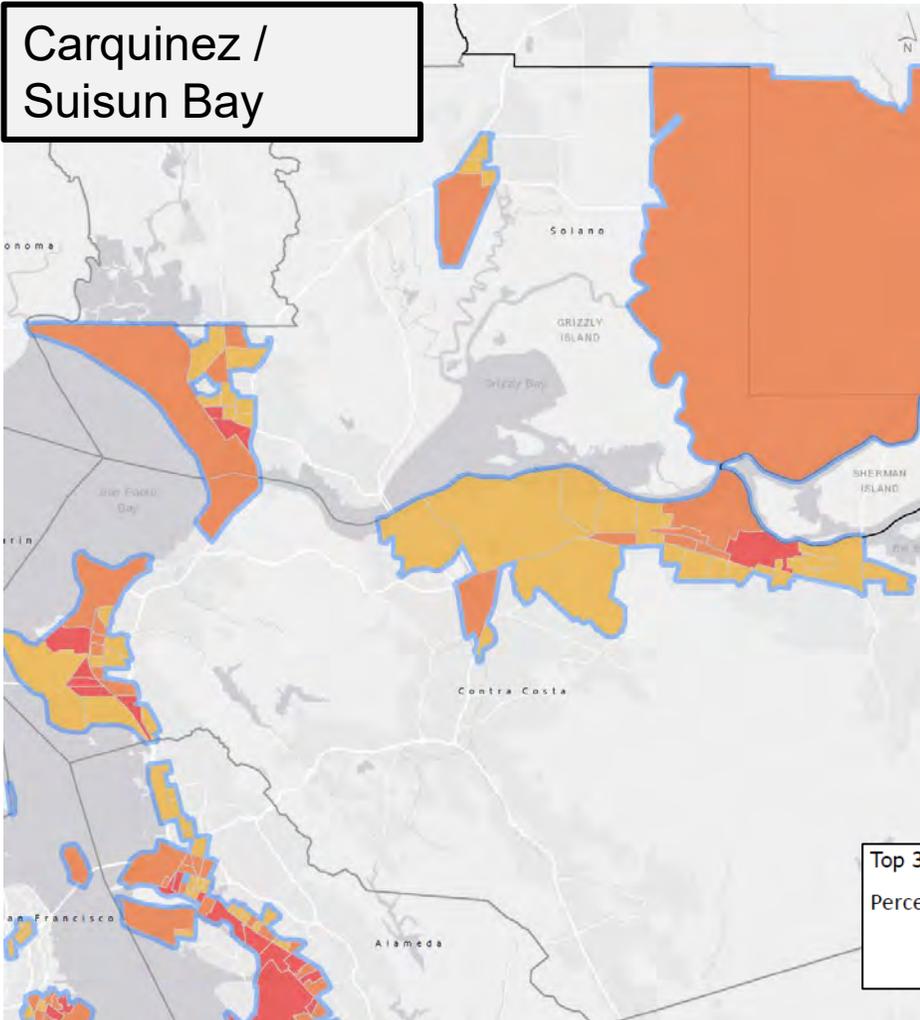
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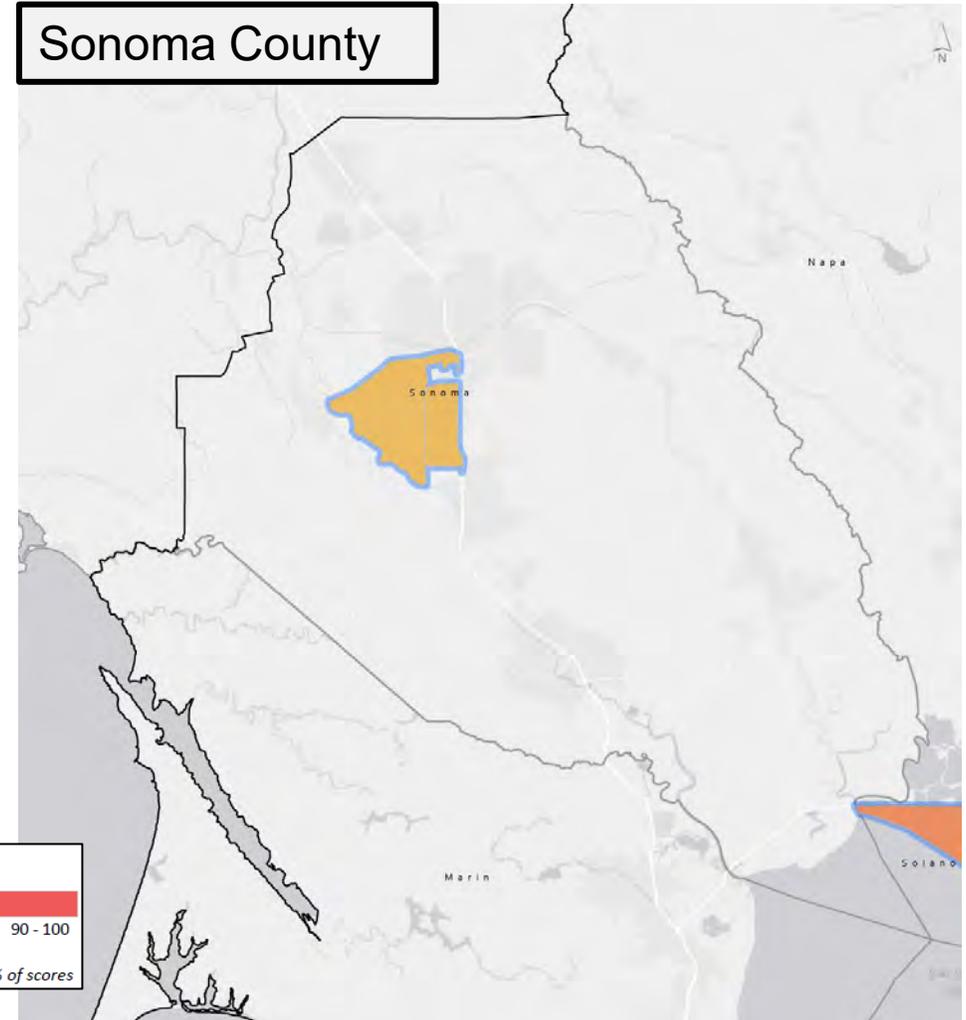
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Carquinez /
Suisun Bay



Sonoma County

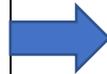


Public Comments & Responses



California Council for Environmental and Economic Balance (CCEEB)

Environmental Law and Justice Clinic at Golden Gate University School of Law



Illingworth & Rodkin, Inc.

Tesla

- ✓ 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

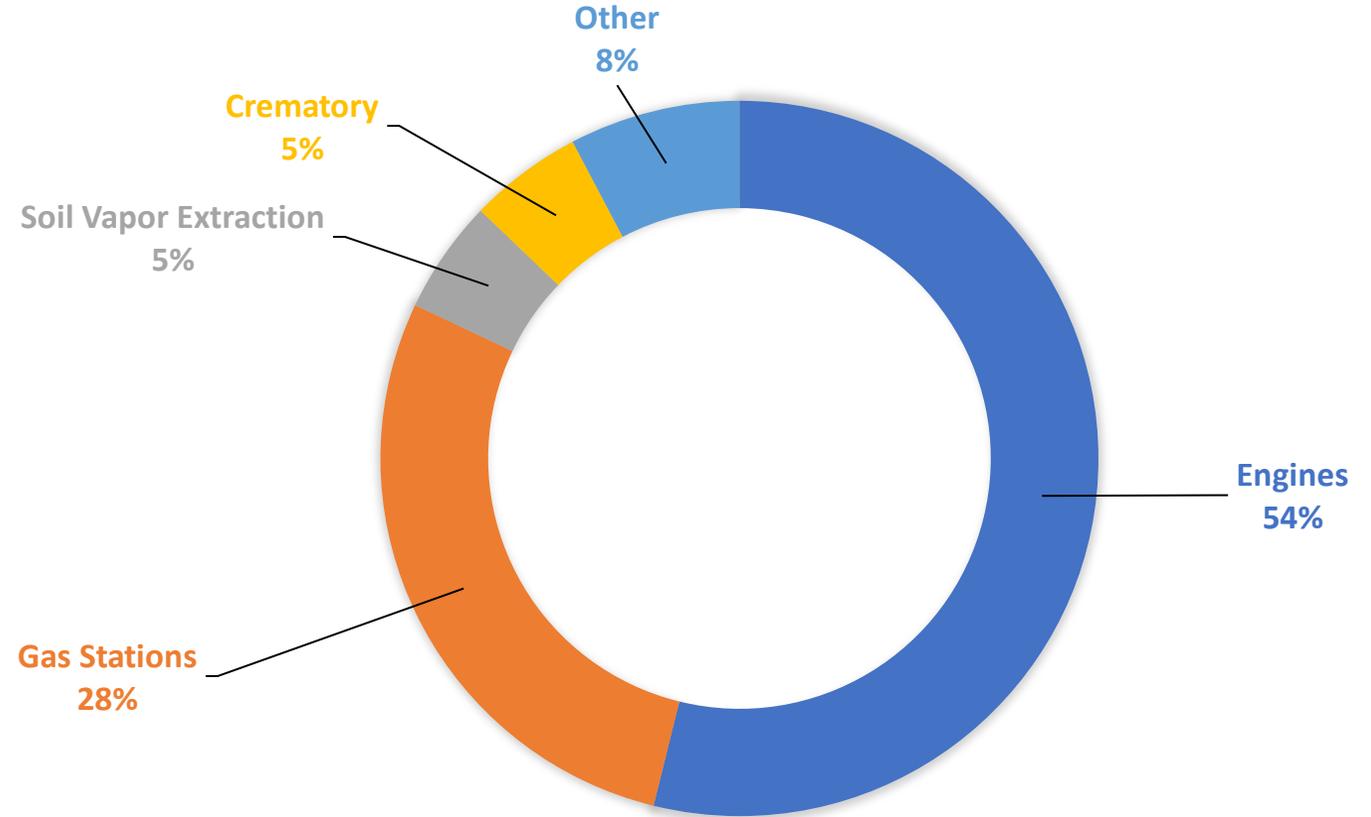
Rule 2-5: Potentially Impacted Projects



“LOOKBACK ANALYSIS”

Percentage of Cancer Risk Assessments by Project Type

Projects with Cancer Risk of **6-10** in One Million in Overburdened Communities between **February 2017 - February 2021**



Health benefits from cleaner sources

Potential  of **business & services**

Costs and Socioeconomic Impacts



Gasoline Dispensing Facilities – “Lookback Analysis”

Maximum control technology is already required

Additional controls by limiting throughput

Cancer Risk Impacts

➔ 2 facilities impacted and would have had to reduce throughput
↓ **\$183,000 / year**

HRA Guideline Impacts

➔ 1 facility impacted and would have had to reduce throughput
↓ **\$16,000 / year**