

Re: DRAFT Project Description for Draft BAAQMD Regulation 12, Rule 16: Petroleum Refining Facility-Wide Emissions Limits & Draft BAAQMD Regulation 11, Rule 18: Reduction of Risk from Air Toxic Emissions at Existing Facilities

From: Charles Davidson; Hercules CA

9 Sept 2016

BAAQMD staff are past due on their committed schedule to release the Notice of Preparation (NOP) for the EIR. The NOP was due on August 19th and is still not completed.

BAAQMD has released some preliminary, scoping information on the EIR, which is merely a *notice* for the upcoming Notice of Preparation (NOP), but not the actual NOP. Thus, BAAQMD is likely already behind schedule on the entire Caps/HRA fusion EIR process.

My written comment pertains to a singular, fundamental problem with the BAAQMD board's decision of July 20th to produce a fusion EIR for two separate rule making processes. An inevitable rule making problem will arise, at an early time point, not because of any illegality of the two-rule analysis method of the proposed fusion EIR, per se, but because of the very different nature of these two particular rules and most importantly, the vastly disparate time framework of how these rules will play out in the real world.

Specifically, an EIR that fuses the Refinery Emissions Cap Proposal (Rule 12-16) with the Health Risk Assessment (HRA Rule 11-18) will hamper BAAQMD staff's capability to produce a valid EIR for either rule. These impediments, once investigated, should force an eventual separation of the fused Cap/HRA EIR into two separate, dedicated EIRs. The inherent conflicts with these two particular rule making processes being placed within the same EIR, should soon become obvious and should cause their separation into two EIRs, that will acknowledge the technically disparate, yet public health-relatedness of these two essentially different rule-making processes.

The conflicts that will arise in a fusion EIR are:

1) **Time Sensitivity for Caps:** For Rule 12-16, the fused EIR process will make the refinery-wide Emissions Cap a technical impossibility due to the *extreme time-sensitivity* of impending, (mostly) *already approved* Bay Area-related heavy crude refinery infrastructure projects.

2) **Complexity:** The refinery emissions caps Rule 12-16 regards, primarily, the baseline issue of feedstock-related GHG's and its impact on other pollutants at the five Bay Area refineries and is based on existing scientific data already available to BAAQMD staff.

In contrast to the immediate need for a Caps evaluation, the HRA Rule 11-18 is a valid, though monumental and longer-term task which will require separate analysis for over 1000 different industrial emissions locations, often having many different pollution sources and potential leaks, especially for refineries that might have hundreds of point sources.

3) **Long-Term HRA Study:** In contrast to the emissions cap proposal, an HRA is a long-term, i.e. *longitudinal study* that goes on for many years or decades, at a minimum over five years for any chronic condition, just to get data, much less for data evaluation. The classic HRA study is the Framingham Mass. Cardiac Study that began in 1947 and continues in an expanded form today. Thus, if one relies merely upon using a HRA as a disease risk indicator, the basic fact of a HRA is that only after many years would an increase in a particular pollutant become an HRA-documented public health issue and only then would BAAQMD be able to initiate best-available retrofit emissions control (equipment) changes in order to decrease pollutant emissions of that particular type.

Although the HRA is necessary project for BAAQMD and is a potential endeavor supported by the entire environmental community (involved with this particular public BAAQMD discussion), in the context of the binary Cap/HRA fusion EIR, the HRA is a distraction from answering pertinent public health and scientific issues regarding the efficacy and criticality of refinery emissions caps.

Indicating the strong need for the Caps Proposal to be evaluated within the context of a separate, dedicated EIR, is the urgency of not running out the clock on the physical possibility of GHG emissions caps. A separate Caps EIR would acknowledge - or refute – the growing body of scientific studies

on tar sands refining, especially regarding evidence of its vastly increased capacity for causing more pollution than any other global crude. (See: the 2015 Carnegie Endowment study: Know Your Oil: Towards a Global Climate-Oil Index.)

Thus, the NOP should acknowledge the weakness of the fusion aspect of the Caps/HRA fusion EIR and indicate the need for two separate EIRs. Importantly, the emissions cap proposal/EIR should be the first EIR of the two to be completed and should be completed in a manner consistent with BAAQMD's stated schedule for emissions cap evaluation, within the same published time schedule as the fusion EIR.

It must be stressed that the scenario for a delay on Rule 12-16 and an evaluation of caps are, foremost, a concern within the realm of public health. To list these health concerns, we know that:

- 1) Refining tar sands generates increase levels of PM2.5 and heavy metals which adhere to petroleum coke, which is the primary cause for particulate matter emissions, which causes asthma and may contribute to cancer.**
- 2) PetCoke is produced from heavy crude refining and is burned by the ton in all refinery FCCs and the Carbon Plants PetCoke kilns.**
- 3) BAAQMD itself has admitted the difficulty in reducing refinery PM2.5, which has mostly risen steadily, in conjunction with rising GHGs.**
- 4) The American Lung Association has given the Bay Area a D-rating for air quality.**
- 5) Per CalEnviroScreen, a joint CalEPA/OEHHA project, each of Contra Costa's three fence-line refinery communities, Richmond, Rodeo and Martinez, have been deemed as scoring higher in pollution and lower in income than the rest of the Bay Area for a combined pollution-and-income cumulative impact score.**

What is novel and significant from a public health viewpoint is that the Caps Proposal is novel, as it includes refinery GHG emission level limits, which is relevant in terms of both PM2.5 control and is a cost-effective method to control other refinery co-pollutants.

A prompt EIR rule-making process for 12-16 would help to clarify issues for a proposed follow-up HRA rule-making process, in terms of different potential future toxic emissions scenarios. Finally, a first-completed Caps Rule 12-16 EIR evaluation would facilitate subsequent HRA modeling of potential pollutant risks, both with and without caps.