



Western States Petroleum Association
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Guy Bjerke
Manager, Bay Area Region & State Safety Issues

VIA ELECTRONIC MAIL

October 26, 2012

Ms. Carol Lee
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109

RE: Comments on Proposed Amendments to Regulation 2 – New Source Review and Title V Permitting Programs

Dear Ms. Lee:

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, Washington and Hawaii. 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 provide these comments on the proposed amendments to Regulation 2.

Over the past nine months we have submitted three comment letters addressing our concerns and questions about the District's effort to incorporate Particulate Matter (PM) 2.5 and Greenhouse Gases (GHG) into Regulation 2 rules regarding New Source Review (NSR) and Title V Permits. We appreciate the District's efforts to respond to those comments and the Technical Workgroup meetings your staff organized last summer to address our questions about intent and future implementation of the Regulation.

Unfortunately WSPA members continue to have several "policy" and "procedural" concerns about the proposed amendments, consistent with our previous letters and communications, and ask the District to carefully consider these prior to seeking final approval by your Board of Directors on November 7. These issues are the ones we raised in our meeting with you and the California Council for Environmental and Economic Balance (CCEEB) earlier this week.

Regulation Re-organization

1. The proposed amendments do more than incorporate PM 2.5 and GHG into Regulation 2. They re-organize the regulation while adding new requirements and that is making it difficult for

those in the regulated community to determine how the proposed changes would impact future projects. **The District should hold at least one additional Technical Workgroup meeting prior to final adoption of the amendments to demonstrate how projects would proceed through the revised regulatory process using sample permits/projects, flowcharts, etc.**

Federal Backstop

2. The District is proposing two definitions of “modification” – the District’s and EPA’s (the Federal Backstop) – meaning almost all new projects will need to be analyzed twice, using different methods and keeping two sets of books going forward. We agree with the District’s earlier determination that your definition is at least as stringent as the EPA’s. **The District should adopt a single definition of modification and encourage EPA to find it in compliance with the Clean Air Act.**

Modeling Requirement

3. The proposed air quality impact modeling requirement for nonattainment pollutants should be excluded from the proposed amendments. While the existing Prevention of Significant Deterioration (PSD) modeling requirement for attainment pollutants works satisfactorily in practice, it applies only to projects that are PSD major modifications. The new requirement would apply to many more projects, substantially increasing permitting burdens. **The District should not impose modeling requirements more stringent than required by federal regulations.**

We are also concerned about the District’s response to a number of questions about the interpretation of the proposed amendments - that the District will handle them on a “case by case” basis or the interpretation will be clarified by future workshops or revisions to the District’s Permit Handbook. **Regulations should provide a clear roadmap for permit applicants and leaving implementation details to discussions after the proposed amendments are adopted creates enormous uncertainty.**

The District has time to get this right. The end of year deadline to satisfy EPA is not hard and fast. Other air districts, including the SCAQMD, have already informed EPA they will be late in including PM 2.5 in their New Source Review.

We appreciate your consideration of these comments. If you have any questions, please contact me at (925) 826-5354 or (925) 681-8206 (mobile).

Sincerely,



Guy Bjerke
Manager, Bay Area Region & State Safety Issues

c. Alexander “Sandy” Crockett, Assistant Counsel
Jim Karas, Director of Engineering
Greg Stone, Manager – Air Quality Engineer