Martinez, California
June 26, 2017

Mr. Greg Stone
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, Ca 94105

Subject: Comments on Proposed Amendments to Regulations 2-1, 2-2, and 2-6

Dear Mr. Stone:

Thank you for the outreach the District conducted with the workshops provided in various bay area communities to introduce proposed amendments the following regulations, Regulation 2, Rule 1 – General Requirements, Rule 2 – New Source Review (Permitting), and Rule 6 – Major Facility Review (Title V).

I attended the workshop in conducted in Martinez, and provided verbal questions and comments during that workshop. I found the interaction very helpful, with good discussion. Some of the comments made at the Workshop are incorporated herein for the District's consideration with this set of proposed rule amendments.

I had understood based on BAAQMD comments made during that workshop that the workshop was to have been webcast and taped. I recently learned that this was not the case. The interaction and comments made by representatives from smaller businesses that also are affected by the proposed regulations were valid and demanded additional attention. I hope that the District collected good notes during that meeting so that those comments could be considered and incorporated into comments in the revised Staff Report and changes made to proposed amendments in the next draft. I would appreciate the District's comment on the methodology it uses to collect and respond to comments made during the District workshops.

EPA Requirements The primary purpose for reopening the NSR rule amendments (Reg. 2-1 and 2-2) is to address the EPA's directive to address certain areas of the 2012 amendments that they determined did not meet the federal regulatory requirements. During the Martinez Workshop the District agreed that this is the primary reason that Reg. 2 was reopened. The EPA's request has a very firm deadline for compliance by the District. I recall this was 18 months from the EPA's formal determination, or early 2018. Backing up, this places the final approval for the rule amendments by the District in late September 2017 (final amendment approximately 2 months from today) to give other agencies the opportunity to

review and comment with those changes prior to sending those changes to the EPA for their review and approval. This sets the timeframe for finalization of the co-changes to these rules, and provides little time to consider comments and make amendments for more complex portions of proposed rule amendments.

I do not understand why the District chose to muddy-the-waters with co-amendments that have no set timeline for approval. Some of the other proposed rule amendments are much more complex and demand more discussion, review, and comment prior to adoption. These should be tabled for additional review for consideration during a later amendment cycle. Please comment on the risks to the District of not meeting the EPA's deadline.

Significant Crude Slate Change The proposed co-amendment involving Crude Slate is very technical. It affects all three proposed rule amendments. This item demands significantly more review and analysis and discussion of unintended consequences before any proposed rule language is even considered. Refineries are 24/7 operations that operate for long periods between maintenance outages. It is a complex and very integrated operation. When unanticipated raw material supply events occur, facilities must quickly procure alternate raw material supplies to maintain steady operations.

Refinery output is based on demand for its product. An interruption in transportation fuel supply can quickly affect many business, industries, and supply of consumer staples supplies throughout the state and the region. This may be one reason why CARB requested that Gasoline Dispensing Facilities (GDF's) are excluded from requirements Reg. 2-5 amendments (New Source Review of Toxic Air Contaminants), and why GDF's are proposed for the later phases of Health Risk Assessments required by the yet-to-be-adopted Rule 11-18 (Reduction of Risk from Air Toxic Emissions at Existing Facilities). CARB wanted to ensure that distribution of transportation fuels was not affected by the proposed rule amendments.

Though it has been suggested that a change in crude slate would adversely impact refinery emissions, to my knowledge there has not been an actual case that has been analyzed to show the likelihood of a quantifiable impact, if any adverse health impact would occur, or even where a de Minimis line may be drawn. This needs to be done. The deadline for the first year of refinery emissions inventory required by Regulation 12-15 is soon due. This should provide a starting point for the District to review potential refinery emissions impacts.

I ask that the District bifurcate this section of the proposed amendments to allow the necessary time for additional review and analysis. New rulemaking requires responsible vetting, especially for rules that are as complex and have potential unintended consequences. Accurate data needs to be complied and more thorough discussion and investigation pursued to make a proper assessment of need or

parameters to achieve goals and avoid unintended consequences or unnecessary complexity. It is not necessary to push through this sensitive section of the rule at this time. Please comment.

Greenhouse Gas GHG is not a traditional 'pollutant' with local impacts, but a global issue. Facilities that have multiple sources are already regulated in multiple categories, many overlapping. These EXISTING regulations indirectly control GHG emissions locally. Because the Bay Area is one of the most highly regulated, we already produce products in a more environmentally conscious manner than many facilities nationwide, and certainly globally. There is generally no BACT for GHG emissions. Pushing combustion outside the bay area or offshore does nothing to curb GHG emissions, and will likely increase that footprint. I support of sound regulations that retains industry locally for products that we use. Co-benefits should be considered in any proposed regulation. Lowering the GHG threshold to 25,000 MT/yr could have the opposite impact from that it is attempting to address, and push those emissions outside the District's jurisdiction. It is strongly suggested that permitting language is provided to allow the applicant creative ways to reduce the GHG impact that may be contrary to current rule language. To allow time for this additional discussion, the GHG changes can also easily be bifurcated to allow engagement of creative alternatives. Please comment.

Business Comments Some of the businesses that attended the Martinez Workshop commented that the District's continued rules amendments are 'almost suffocating businesses based on the regulations. If facilities modernize, what is the payoff?' Businesses may be constrained by multiple media – some may not be the multiple layers of air regulations, but perhaps water regulations or other manufacturing product compliance requirement. Without regulatory certainty, businesses will be less inclined to continue to choose to modernize and may move out of the area and/or cease operation. Each business has a co-benefit on another. That is certainly not good for this economy which requires a variety of good paying jobs that are near housing, minimizing drive time and associated mobile source emissions. These businesses contribute heartily to our society and are needed to supply goods and services that we use in our everyday lives. It is important to listen to these businesses and to find ways to continue to allow modernization and business certainty.

District regulations also affect municipality compliance. Their compliance costs are all of our costs because the municipalities use our tax dollars. It is important that the cost of compliance is accurately reflected in each rule amendment consideration.

Modernization Modernization promotes efficiency. However, the current permitting rules place high hurdles on modernization that impacts many businesses that may choose to invest in modernization. During the 2012 Reg. 2 rule amendments, there was much discussion regarding maintaining the ability to use the EPA's rules when

assessing emissions when choosing to modernize. An example is below. This was rejected by the District citing 'no-backsliding' requirements. I believe this to be an oversite. Any rule that places draconian hurdles on voluntary modernization projects runs counter to the District and CARB's mission, which is to promote viable ways for businesses and industry to choose to modernize and reduce emissions. Being supportive of any emissions reductions strategy is not backsliding, but being proactive and thoughtful in approach. This affects Section 2-2-605. I encourage ways to improve the rules to allow for this progressive activity. Please comment.

District NSR Rule Example:

> Owner has a 1968 Chevy Impala which has no modern efficiencies or emissions controls. Owner drives the vehicle intermittently. This includes times when it is garaged (0 mph), city driving (35 mph), highway driving (55 mph), and periodic passing (75 mph). Over a 3-year period, the owner averages driving 4 days/week, 25 miles per hour. Owner needs to retain the ability to periodically drive 75 mph. Owner is considering installing a modern engine in 1968 Chevy Impala which is more efficient and includes emissions controls as part of the design. Owner plans to drive basically the same as with the current engine. However, in order to install and operate the Impala with the new engine, owner will be required to install a speed-limiter, limiting the Impala's maximum speed to 25 miles per hour at any time. Because owner periodically drives 55 to 75 mph on the highways, and also needs to drive this speed for safety reasons, owner has chosen not to modernize the Impala. No efficiencies are realized.

EPA's NSR Rule Alternative Example:

> Owner's driving habits are the same as before. Owner chooses to use the EPA's rule to replace the engine and maintain Impala compliance. Owner's driving habits will not markedly change. Owner agrees to monitor driving frequency and speed after new, more efficient and lower emitting engine has been installed, to verify that driving habits remain similar to those using the older engine without the modern efficiencies and emissions controls. Owner retains the ability to drive periodically at 75 mph. Owner invests in the 1968 Impala modern engine and multiple efficiencies are realized.

Thank you for the opportunity to comment. Thank you, also for the effort the District personnel expend to engage with the communities of the bay area, to provide factual information, and to engage with businesses to understand the real issues when considering rules that are effective, fair, factual, and that address real impacts, while maintaining the viability of the bay area economy.

Sincerely,

Susan K. Gustofson, P.E.