

Recommendations for Siting New Projects Near Existing Sources that Emit Odors and Toxic Air Contaminants

Background and Need

The California Supreme Court decision in the case of *California Building Industry Association v. Bay Area Air Quality Management District (2015) 62 Cal. 4th 369* clarified that the California Environmental Quality Act (CEQA) does not require lead agencies to analyze the impact of existing environmental conditions on a project's future users or residents unless the project will exacerbate the existing environmental hazards or conditions. This limits the CEQA analysis of impacts from existing sources that emit odors and toxic air contaminants on new receptors from a proposed development project, unless the situation is specifically required to be analyzed by statute (such as a school). While existing sources that emit odors and toxic air contaminants may not be considered a CEQA impact, local jurisdictions have the authority to protect the public health, safety and welfare of their communities through their police powers.¹ To address potential public health impacts, the Sacramento Metropolitan Air Quality Management District (District) recommends that proposed developments that will expose receptors to existing sources that emit odors and toxic air contaminants be analyzed and exposure reduced as part of the lead agency's planning process.

Although the District has no land use authority,² the District does have the authority to prevent discharges that may cause injury, detriment, nuisance or annoyance to the public.³ It is far better to avoid these situations by analyzing the potential for exposure before authorizing the construction of facilities near existing sources of odors or toxics. Therefore, the District recommends the following actions to assist lead agencies in analyzing and reducing exposure to existing sources of odors and toxic air contaminants.

Parameters regarding odors and toxic air contaminants outlined in the District's [Guide to Air Quality Assessment in Sacramento County](#) should be covered by the analysis. Odors are discussed in chapter 7 and toxic air contaminants are discussed in chapter 5.

Odors

The lead agency should identify the following parameters to determine if an existing odor source will impact new receptors from a proposed development project:

¹ California Constitution, Article XI, Section 7

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS§ionNum=SEC.%207.&article=XI)

² California Health & Safety Code §41015

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=41015)

³ California Health & Safety Code §41700, District Rule 402

(<http://www.airquality.org/ProgramCoordination/Documents/rule402.pdf>)

Recommendations for Siting New Projects Near Existing Sources that Emit Odors and Toxic Air Contaminants

- Odor sources (type of facility) in the vicinity of the proposed project
- Intensity and timing of odor emissions
- Complaint history of existing odor sources
- Complaint history of similar odor sources in other air districts
- Meteorology (wind direction)
- Buffer distances between odor sources and proposed project
- Odor reduction measures currently employed and potential new measures

The lead agency should collaborate with the District, the existing odor source facility operator and the proponent of the project that is proposing to site new receptors near the existing odor source to determine the most efficient and cost effective method to reduce odor exposure to the new receptors. Chapter 7 of the [Guide to Air Quality Assessment in Sacramento County](#) contains a list of control measures for common odor sources.

Toxic Air Contaminants – Stationary Sources

The lead agency should consider the following to determine if new receptors from a proposed development project will be exposed to toxic air contaminants from an existing stationary source:

- Sources that emit toxic air contaminants within ½ mile of the proposed project (common examples are gas stations and crematories)
- Level of emissions from the existing sources
- If a health risk assessment (HRA) was conducted by the District for near-by sources that emit toxic air contaminants, consider the HRA findings on:
 - Cancer risk levels
 - Hazard index levels
 - Health risk assessment results
- Meteorology (wind direction)
- Buffer distances between the sources of toxic air contaminants and the proposed project
- Reduction measures currently employed and potential new measures

The lead agency should collaborate with the District, the existing stationary source operator and the proponent of the project that is proposing to site new receptors near the existing toxic air contaminant source to determine the most efficient and

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cost effective method to reduce toxic air contaminant exposure to the new receptors.

Toxic Air Contaminants – Roadways and Railways

Freeways, heavily traveled roadways, and locomotive railways may pose a health risk to nearby receptors from toxic air contaminants, such as diesel particulate matter (DPM) and total organic gases (TOG), emitted by motor vehicles and locomotives. The Mobile Sources Air Toxics Protocol (MSAT Protocol) provides guidance to local land use jurisdictions on assessing and disclosing potential cancer risk from DPM and TOG and PM_{2.5} concentrations from major roadways and locomotive railways. The MSAT Protocol includes a risk mapping tool, a guidance document, and a detailed methodology document, and is complemented by an exposure reduction measures guidance. The lead agency should refer to the MSAT Protocol's mapping tool to determine if there is an increased risk, disclose the results, and require appropriate exposure reduction measures. The MSAT Protocol can be accessed on the District's website: <http://www.airquality.org/Residents/CEQA-Land-Use-Planning/Mobile-Sources-Air-Toxics-Protocol>

Identifying Existing Sources that Emit Odors and Toxic Air Contaminants

The District recommends a few strategies for lead agencies to identify existing sources that emit odors and toxic air contaminants in the vicinity of a new proposed project.

Existing odor sources are generally well known in the community. Lead agencies can submit a public records request to the District to identify odor source complaints the District may have received in the vicinity of the project. For more information on the public records request process, visit the District's website: <http://www.airquality.org/Residents/Public-Records-Requests>.

The District has an internet mapping tool that shows all the permitted locations in Sacramento County. <http://www.airquality.org/businesses/permits-registration-programs/permitted-locations>.

The California Air Resources Board (CARB) provides a search tool to look up emissions from facilities in California. The tool can be accessed on CARB's website: <https://www.arb.ca.gov/app/emsinv/facinfo/facinfo.php>.

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Contact for More Information

Questions on existing sources that emit odors and toxic air contaminants specific to a new proposed project can be directed to the following District staff assigned by jurisdiction.

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