

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

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

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

Toxic Air Contaminants – Roadways and Railways

Freeways, heavily traveled roadways, and railways may pose a health risk to nearby receptors from toxic air contaminants, such as diesel particulate matter, emitted by motor vehicles and locomotives. Currently, the District provides specific guidance for assessing potential cancer risks for land uses proposed within 500 feet of freeways and heavily traveled roadways ([Recommended Protocol for Evaluating the Location of Sensitive Land Uses Adjacent to Major Roadways](#)); and railway guidance is being developed. The lead agency should disclose the results of the assessment and require appropriate exposure reduction measures, such as site redesign and HVAC filters that specifically reduce exhaust penetration into the building envelope.

The District recommends the following reduction measures be considered for proposed projects near existing freeways, heavily traveled roadways, and railways:

- Locate receptors the farthest distance from the source as feasible.
- Provide vegetative barriers between the source and receptors.⁴
- Install HVAC systems capable of at least MERV 13⁵ in each proposed building.
 - The ventilation systems installed should be properly maintained, following standard practices, and as specified by the manufacturer.
 - A fixed notice should be placed on the filter compartment door of each ventilation unit advising that MERV 13 (or greater) filters shall be used.

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.

⁴ More information on vegetative barriers can be found in the U.S. EPA's July 2016 [Recommendations for Constructing Roadside Vegetation Barriers to Improve Near-Road Air Quality](#).

⁵ Minimum Efficiency Reporting Value. Current code requires only MERV 6.

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

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 California Air Resources Board (CARB) developed an internet-based mapping tool that shows sources of air pollution. The Community Health Air Pollution Information System (CHAPIS) tool can be accessed on CARB's website: <http://www.arb.ca.gov/ch/chapis1/chapis1.htm>.

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.

<i>STAFF</i>	<i>PHONE</i>	<i>E-MAIL</i>	<i>JURISDICTION</i>
Paul Philley	916-874-4882	pphilley@airquality.org	CEQA and Land Use Program Coordinator
Teri Duarte	916-874-4816	tduarte@airquality.org	City of Sacramento
Rachel Dubose	916-874-4876	rdubose@airquality.org	County of Sacramento, City of Citrus Heights
J.J. Hurley	916-874-2694	jhurley@airquality.org	City of Sacramento, City of Folsom
Karen Huss	916-874-4881	khuss@airquality.org	City of Galt
Charlene McGhee	916-874-4883	cmcghee@airquality.org	County of Sacramento, City of Elk Grove
Molly Wright	916-874-4207	mwright@airquality.org	City of Rancho Cordova