DRAFT PROPOSED NEW RULE 67.26 – COMMERCIAL CHARBROILING OPERATIONS & CORRESPONDING DRAFT PROPOSED AMENDMENTS TO RULES 11, 12, AND 40

RESPONSE TO COMMENTS REPORT

The San Diego County Air Pollution Control District (District) held a virtual public workshop on December 4, 2024, to discuss and receive input on draft proposed new Rule 67.26 (Commercial Charbroiling Operations), and corresponding draft proposed amendments to Rule 11 (Exemptions from Rule 10 Permit Requirements), Rule 12 (Registration of Specified Equipment), and Rule 40 (Permit and Other Fees). A meeting notice was mailed to over 270 owners or operators of facilities potentially subject to draft proposed new Rule 67.26 in San Diego County. An electronic meeting notice was sent to over 1,500 owners or operators of food facilities and industry association members. A meeting notice was also posted on the District's website, on social media, and distributed to interested parties via the District's electronic mail service. The District also prepared an informational video in English and Spanish, which provided background data to help the public understand proposed new Rule 67.26 requirements. The videos were posted on the District's website along with the workshop notice and corresponding documents. The video was also presented (virtually) to the Portside Community Steering Committee (CSC) on November 19, 2024, and to the International Border CSC (in person) on November 20, 2024. Moreover, the District collaborated with the Department of Environmental Health and Quality (DEHQ) and the Food, Water, and Housing Division (FHD) of San Diego County to distribute a survey to potential subject facilities via their electronic messaging system, which included information about a proposed new rule. The District anticipates the DEHQ/FHD to also deliver this report to all food facilities via their electronic messaging system.

The virtual workshop was attended by 12 people, which included four District staff. A summary of the comments and District responses from the virtual workshop, each CSC meeting, and submitted written comments are provided below:

1. PUBLIC COMMENT

Some parts of San Diego County have many fast-food facilities, which are likely to operate a chain-driven charbroiler. How many of the potential subject facilities are in the International Border and Portside vicinities?

DISTRICT RESPONSE

The District presented maps at the virtual workshop showing potential facilities subject to proposed new Rule 67.26 located in San Diego County, including the International Border and Portside communities. The District estimates approximately five of these facilities are in the Portside community and three facilities are in the International Border community. The maps can be found within the virtual workshop presentation slides (see Slide 18):

https://www.sdapcd.org/content/dam/sdapcd/documents/rules/rule-workshops/120424/R67.26-Workshop-Presentation.pdf.

2. PUBLIC COMMENT

Will training be required for restaurant employees to operate charbroiling equipment with an installed emission control device?

DISTRICT RESPONSE

Potentially. Catalytic oxidizers must be periodically cleaned, properly maintained and operated in accordance with manufacturer's recommendations to effectively remove particulate matter (PM) and volatile organic compound (VOC) emissions. Proposed new Rule 67.26 would require owners/operators of chain-driven charbroilers to ensure their equipment is maintained according to manufacturer's specifications. This could require the owners/operators to either train specific restaurant employees in how to maintain the device, or to hire a specially trained company to periodically maintain the device.

3. PUBLIC COMMENT

What is the life expectancy of a commercial charbroiler and emission control device?

DISTRICT RESPONSE

Life expectancy for a commercial chain-driven charbroiler is typically 25 years on average, while the life expectancy for a typical emission control device (i.e., catalytic oxidizer) is about 5 to 10 years, depending on the model. However, lack of proper cleaning and maintenance according to manufacturer's recommendations could shorten the equipment's useful life.

4. PUBLIC COMMENT

What is the average cost of a catalytic oxidizer for a commercial chain-driven charbroiler?

DISTRICT RESPONSE

Based on information available to the District, the average cost of a catalytic oxidizer typically ranges between $3,000 and $5,000, depending on the size and model. Additional installation costs and other indirect costs may also apply to retrofitting equipment.

5. PUBLIC COMMENT

Staff believes there are approximately 200 facilities potentially subject to proposed new Rule 67.26. Where are these located in San Diego County?

DISTRICT RESPONSE

See District Response to Comment #1.

6. PUBLIC COMMENT

If proposed new Rule 67.26 is adopted, would owners/operators that already operate an existing commercial chain-driven charbroiler with a catalytic oxidizer already installed, need to first have the equipment inspected by the District, and then need to apply and pay for an annual registration?

DISTRICT RESPONSE

If the rule is adopted as proposed by the Governing Board, an owner or operator of an existing chain-driven charbroiler with a catalytic oxidizer that meets the proposed cooking limit of 415 lbs./week, will need to apply for either a registration or permit to operate pursuant to Compliance Schedule in Section (j) of the proposed rule. If the commercial chain-driven charbroiler and catalytic oxidizer combination is certified by South Coast Air Quality Management District, the owner/operator would apply for a registration to the District. Conversely, if the commercial chain-driven charbroiler is installed with any other non-certified emission control device, owners/operators would need to apply for a permit to operate. Registered or permitted commercial chain-driven charbroilers would be subject to annual compliance inspections by the District, owners/operators would pay an annual operating fee pursuant to proposed amended Rule 40(e)(2)(ii) and emissions fee pursuant to proposed amended Rule 40(e)(2)(iv). Charbroiling operations that do not have a permit or registration are also subject to inspections to verify compliance with District rules.

7. PUBLIC COMMENT

Does the quantity of meat cooked on a chain-driven charbroiler need to be recorded daily or weekly?

DISTRICT RESPONSE

Proposed new Rule 67.26 requires weekly and annual records to be maintained for the amount of meat cooked, for each commercial chain-driven charbroiler. These records are required to be retained on the restaurant premises for a period of at least five years and made available for District inspection upon request.

8. PUBLIC COMMENT

If a chain-driven charbroiler is currently being used to cook meat below the proposed weekly limit of 415 lbs. for cooked meat, is the owner/operator still required to apply for a registration or permit to operate and keep records of the amount of cooked meat?

DISTRICT RESPONSE

A registration or permit to operate is only required for chain-driven charbroilers that meet the proposed cooking limit of 415 lbs. per week of meat; such units will require the installation of catalytic oxidizer or alternative emission control. However, record keeping requirements are proposed to apply to all owners/operators of any commercial chain-driven charbroiler in San Diego County, regardless of the amount of meat cooked per week. This includes limited use, seasonal use, and low-emitting chain-driven charbroilers that are claiming exemptions in proposed new Rule 67.26. Charbroiling operations that do not have a permit or registration are also subject to inspections to verify compliance with District rules.

9. PUBLIC COMMENT

Where will owners/operators submit records and documentation required for chain-driven charbroilers? Will facilities need to keep these records readily accessible?

DISTRICT RESPONSE

Limited and seasonal use chain-driven charbroilers would not be required to submit cooking operation records to the District. However, these owners/operators would still need to maintain records and any related documentation for any meat cooked for possible inspection and review by the District. Owners/operators of low-emitting chain-driven charbroilers and any chain-driven charbroilers that are subject to emission control requirements would submit records to the District when applying for a registration or permit to operate, and as required by the District upon request and/or during annual compliance inspections.

10. PUBLIC COMMENT

Can facilities subject to proposed new Rule 67.26 use their existing point of sale (POS) system to pull required record keeping data for the District, or is physical/paper record keeping required?

DISTRICT RESPONSE

Proposed new Rule 67.26 allows either physical and/or electronic documentation of the amount and type of meat cooked (weekly and annually) on each chain-driven charbroiler. So long as the POS system tracks this information to the extent required by the proposed rule, such documentation would be acceptable.

11. PUBLIC COMMENT

Is an electric impinger chain-driven/conveyor oven subject to proposed new Rule 67.26?

DISTRICT RESPONSE

No. Electric impinger chain-driven/conveyor ovens are not included within the definition of a chain-driven charbroiler, as defined in proposed new Rule 67.26, and thus are not subject to any proposed new requirements.

12. PUBLIC COMMENT

How did the District set the proposed 415 lbs. per week and 21,580 lbs. per year cooking limits found within proposed new Rule 67.26? Also, can the District share the estimated emission calculation analysis?

DISTRICT RESPONSE

The District will include additional information and an analysis of the proposed cooking limits, as well as baseline and potential emission reductions associated with the proposed new rule, within the final staff report prior to the Governing Board's consideration.

13. PUBLIC COMMENT

The definition of "meat" in proposed new Rule 67.26 includes plant-based meat. Does the District have separate formulas and emission calculations for each type of meat, including plant-based products?

DISTRICT RESPONSE

Estimated uncontrolled emissions from chain-driven charbroilers were calculated using South Coast Air Quality Management District's emission factor for ¼ lb cooked hamburger (beef) meat at 21% fat content. No emission factors are available for plant-based meat. Thus, for the purposes of proposed new Rule 67.26, all "meat" cooked using a chain-driven charbroiler is assumed to be cooked hamburger (beef) meat.

14. PUBLIC COMMENT

Will owners/operators who already operate a chain-driven charbroiler with an emission control device already installed, need to replace it with a catalytic oxidizer or alternative emission control device that meets the minimum control efficiency required in the proposed new rule?

DISTRICT RESPONSE

The District appreciates the comment. To account for this situation, staff added the following new subsections (d)(2)(i) and (d)(2)(ii) to proposed new Rule 67.26, to address owners/operators that may currently operate existing chain-driven charbroilers with already installed non-certified catalytic oxidizer or alternative emission control devices/systems. Owner/operators with such equipment would still be required to obtain a registration or permit to operate as applicable. This language supersedes language that was within the workshop draft of the proposed rule. See language below:

> *(i) New non-certified catalytic oxidizer(s) or alternative emission control device(s) shall meet minimum control efficiency required in this rule for particulate matter and VOC emissions.*
>
> *(ii) Existing non-certified catalytic oxidizer(s) or alternative emission control device(s), not including grease filters, that do not meet the minimum control efficiency required for particulate matter and VOC emissions, may elect to maintain that emission control device for the duration of its functional life not to exceed seven (7) years from (date of adoption). At such time, owners and operators may elect to either replace the existing control device with a catalytic oxidizer or any alternative emission control device that meets minimum control efficiency.*

15. DISTRICT COMMENT

To further clarify the emission limitations for facilities utilizing the low-emitting chain driven charbroiler exemption, the District is proposing the following amendment to Section (b)(4).

> "(4) The provisions of Sections (d), (e), (f), and (g) of this rule shall not apply to any person who installs, owns, or operates a low-emitting chain-driven charbroiler that emits less than 0.50 pound per day (or 3.5 pounds per week) of particulate matter and 0.15 pound per day (1.1 pounds per week) of VOCs, if both of the following conditions are met:"

16. DISTRICT COMMENT

Minor administrative/clarifying edits are proposed throughout the post-workshop draft of proposed new Rule 67.26, as documented by underline and strike-through formatting.

17. PUBLIC COMMENT

Rule 11 currently exempts ceramics kiln from permit requirements. The exemption should be removed.

DISTRICT RESPONSE

The comment received is beyond the scope of the proposed amendments applicable to the consideration of proposed new Rule 67.26.

18. PUBLIC COMMENT

Retrofitting existing restaurant equipment with emission controls can be prohibitively expensive and could be technologically infeasible. Additionally, installation of emission control devices might require structural, electrical, or water-line modifications that may not always be possible.

DISTRICT RESPONSE

The District acknowledges that the cost to retrofit/install an emission control device (typically a catalytic oxidizer) on a chain-driven charbroiler will range depending on the age, model, and configuration of the chain-driven charbroiler. Older chain-driven charbroilers may require more retrofitting activities. However, catalytic oxidizers should be feasible to install in most settings, as the emission control technology has been in use in many other air districts for chain-driven charbroilers in California for decades. Costs related to catalytic oxidizers typically include the catalyst purchase and installation, which in rare cases may require adjustments to the fire-suppression system, hood modification, or air balancing. Updated estimated retrofit costs will be described in greater detail within the cost-effectiveness section of the final staff report.

19. PUBLIC COMMENT

The existing footprint of a facility may not have the necessary space or structural support for the control unit. As such, installing an emission control device may require the restaurant to temporarily shut down, resulting in loss of employee wages and revenue. Furthermore, the cost of a brand-new chain-driven charbroiler, emission control device, installation, potential facility renovation, annual maintenance and record keeping may cost a restaurant close to $100,000.

DISTRICT RESPONSE

Though individual situations will vary, the District believes most typical installations of a catalytic oxidizer on a chain-driven charbroiler will not result in the need for significant additional space or structural support modifications. Furthermore, the installation of such devices can likely be scheduled at the owner's/operator's discretion at a time that would minimize any temporary shutdown periods or possible lost wages, such as when the restaurant is closed for business overnight or during annual maintenance of the charbroiler itself. The District recognizes that if the owner/operator opts to install a more complicated emission control system other than a catalytic oxidizer, structural adjustments may be necessary, which might result in higher costs and more downtime for the restaurant. Based on recent findings, a new commercial chain-driven charbroiler ranges between $15,000 and $30,000, depending on size, model, and if catalytic oxidizer is already

integrated. As noted in District Response to Comment #18, installation of a catalytic oxidizer generally does not require modifying the existing footprint of a facility but may require minor adjustments to the ventilation hood system. While minimal weekly maintenance is required for catalytic oxidizers, annual operating and maintenance costs for ventilation hood systems may decrease, since the emissions going into the ventilations systems would be cleaner.

20. PUBLIC COMMENT

Regular maintenance of emission control devices is critical to ensure control effectiveness. Maintenance requires specially trained staff that may not be accessible to all restaurants and cleaning can be a complex process, once again, requiring specially trained staff.

DISTRICT RESPONSE

Similar to other equipment, the District recommends that all owners/operators follow manufacturer recommendations in regards to regular maintenance of any installed emission control device, whether such maintenance is being conducted internally or through specially trained staff. While typical emission control devices (i.e., catalytic oxidizers) should only require general washing, the District recognizes that more complicated emission control systems may require employees and/or specially trained staff to operate and/or maintain its control efficiency.

21. CALIFORNIA AIR RESOURCES BOARD (CARB) COMMENT

CARB has no official comments at this time.

22. ENVIRONMENTAL PROTECTION AGENCY (EPA) COMMENT

EPA has no official comments at this time.

NC:MS:jlm
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