February 23, 2021

Mr. Damian Breen
BAAQMD
375 Beale Street, Suite 600
San Francisco, CA 94105
ELECTRONIC SUBMITTAL to: dbreen@baaqmd.gov

SUBJECT: RESPONSE TO BAAQMD 12/22/20 BACT DETERMINATION FOR DIESEL BACK-UP ENGINES GREATER THAN OR EQUAL TO 1,000 BHP

Dear Mr. Breen:

The Bay Area Clean Water Agencies (BACWA) is submitting this letter to provide sector feedback on the December 22, 2020 approval of the Best Available Control Technology determination for diesel back-up engines greater than or equal to 1,000 bhp. BACWA is a joint powers agency whose members own and operate publicly owned wastewater treatment works (POTWs) that collectively provide sanitary services to over 7.1 million people in the nine-county San Francisco Bay (SF Bay) Area. BACWA members are public agencies, governed by elected officials and managed by professionals who protect the environment and public health. We have an active committee structure with our Air Issues and Regulations (BACWA AIR) Committee charged with working cooperatively with regulators to address air quality and climate change issues.

As public agencies and fellow environmental stewards, POTWs are committed to the protection of public health and the environment in support of BAAQMD's mission to improve air quality in the region. As such, POTWs assess each system improvement in close coordination with BAAQMD staff to determine the appropriate considerations (technical, spatial, financial) that need to be accounted for in their plans to remain in compliance. The planning of capital projects to meet regulatory requirements is a multi-year effort that entails an involved process for acquiring funds. In most cases, the timeline associated with identifying, planning, designing, and constructing a capital project is longer than three years (often from three to ten years depending on the scope).

Our primary concern is that the Air District is not following its own internal procedures and rules as specified in BAAQMD Rules 2-2-301, 2-2-414, and 2-1-409, in its application of this new BACT determination. We understand that Rule 2-2-301 sets the BACT requirements for new and/or modified sources, relying on the BACT/TBACT Workbook for reference to technologies that satisfy the BACT requirements. Rule 2-2-414 then states and requires that the "APCO shall publish and periodically update the BACT/TBACT Workbook specifying BACT requirements for permitted sources," which will then be "determined for a source on a case-by-case basis, using the workbook as a guidance document" understanding that this document is what regulated facilities use as the basis for their careful planning and designs. Finally, Rule 2-1-409 states that "regulations or standards in force on the date an application is declared by the APCO to be

complete" will govern. However, the regulations and standards "in force" at the time of at least two of our members' applications being deemed complete did not reflect the new BACT determination (this includes the BACT/TBACT Workbook), nor was the new BACT determination discussed or published in any manner during the months of the application process, which is the very purpose of Rule 2-1-409.

Defining BACT simply based on existing installations (regardless of whether those installations have provided data to determine they are fully "achieved-in-practice" for essential public services), announcing it as BACT on December 22, 2020 with no prior publication or discussion (as applications were being deemed complete), and allowing it to be retroactively required for applications deemed complete beginning January 2020 (after many months of careful design and communications with the BAAQMD permitting staff), is very concerning since it essentially states that any equipment that has been under Air District review for many months and deemed complete could be subject to a new set of requirements, regardless of the Rules and without consideration of the core function the BACT/TBACT Workbook has in the planning and design of facilities.

Beyond the concern over the regulatory process, BACWA is also concerned the advanced technology used in Tier 4 emergency diesel generators is prone to failure during an extended emergency – for example, when the generator senses the urea level being depleted it triggers an automatic shutdown, which is an anticipated condition during a PG&E Public Safety Power Shutoff event or other emergency situation where the grid power is unavailable for days at a time. Accordingly, we do not have confidence in the new BACT determination being "achieved-in-practice" without the data supporting the determination.[1]

Additionally, we know the South Coast Air Quality Management District (SCAQMD) has permitted a Tier 4 emergency diesel generator at a hospital and permitting staff agreed that merely installing such a device did not prove it was "achieved-in-practice." The SCAQMD required the generator to be run for an extended duration to verify the unit would function as intended. It has been several years and, to our knowledge, SCAQMD has not yet completed this determination. BACWA recommends that BAAQMD coordinate with SCAQMD and other air districts to determine whether this technology has truly been "achieved-in-practice" for the unique nature of POTWs and other essential public services that must function reliably in any emergency.

Therefore, BACWA respectfully requests:

1. Essential public services, including POTWs, be exempt from implementing the BACT determination retroactively and until proof of operational reliability of Tier 4 engines in a prolonged emergency event is available.
2. The Air District collect and provide operational proof that the BACT determination for diesel back-up engines greater than or equal to 1,000 bhp ensures operational reliability of Tier 4 engines during actual prolonged (i.e., greater than 200 hours) emergency situations (to be deemed "achieved-in-practice").
3. An explanation of the District's application of Rules 2-2-301, 2-2-414, and 2-1-409. The

[1] "Achieved-In-Practice" applies to the most effective emission controls already in use or the most stringent emission limit achieved in the field for the type and capacity of equipment comprising the source under review and operating under similar conditions. The new BACT for emergency diesel engines has not been proven to be achieved-in-practice to date, and would not be better classified as "technologically feasible."

regulations and guidance "in force" did not include the new BACT determination at the time various member applications were deemed complete in 2020 (i.e., prior to December 22, 2020 and with no notification prior to that date as the determination was being discussed by staff). Backdating the application of a new BACT determination is unprecedented and essential public services need to understand how to interpret Rules and the use of the BACT/TBACT Workbook for future planning purposes.

4. Work with other air districts, including SCAQMD, to develop an achievable and reliable BACT standard for essential public services.

We would like to discuss our feedback with Air District leadership and answer any questions regarding the information we provided. We will coordinate a meeting within the next week. We also look forward to participating in the webinar you will be hosting in March. Please contact me with any questions at lfono@bacwa.org.

Sincerely,

Lorien Fono
BACWA Executive Director

Cc: Jack Broadbent, BAAQMD
Nicholas Maiden, BAAQMD
Pamela Leong, BAAQMD
Greg Nudd, BAAQMD
BACWA Executive Board
Nohemy Revilla, BACWA AIR Committee Co-Chair
Randy Schmidt, BACWA AIR Committee Co-Chair
Courtney Mizutani, BACWA AIR Committee Support
Sarah Deslauriers, BACWA AIR Committee Support