



May 28, 2021

Jacob Finkle
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
ELECTRONIC SUBMITTAL to: jfinkle@baaqmd.gov

SUBJECT: BAY AREA CLEAN WATER AGENCIES COMMENTS ON THE PROPOSED REGULATION 2 AMENDMENTS

Dear Mr. Finkle:

The Bay Area Clean Water Agencies (BACWA) appreciates the opportunity to provide sector feedback in response to requests related to the proposed Regulation 2 amendments. 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 supportive of BAAQMD's mission to improve air quality and promote environmental justice in the region. As such, our members work diligently to manage emissions from our facilities while performing an essential public service. POTWs assess each system improvement in close coordination with BAAQMD staff to determine the appropriate considerations that need to be accounted for in their planning to remain in compliance and responsibly invest ratepayer funds.

The proposed amendments to Regulation 2 intend to make the air toxics permitting rule more stringent for stationary sources (specifically, for sources that emit diesel particulate matter and facilities triggering new source review), as well as enhance public notification and analysis requirements. The proposed amendments, however, do not take into account the substantial risk reduction that will be realized in the next few years through the implementation of existing or recently updated regulations, including BAAQMD Rule 11-18 and the Air Resources Board's AB 2588 Hot Spots Program and AB 617 Criteria Pollutant and Toxic Air Contaminant Reporting (CTR) regulations.

As part of the implementation of AB 617 regulations (and considering the updates to the AB 2588 Hot Spots Program compound list), wastewater agencies across the Bay Area and the entire state will perform an extensive characterization of emissions from wastewater treatment plant processes to identify emission types, sources and potential for risk. We estimate the study will cost on the order of \$10 million statewide. The results of the emissions characterization will be critical for determining future emission reductions at wastewater treatment plants.

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Additionally, the Office of Environmental Health Hazard Assessment (OEHHA) recently revised the methods used to determine risk from facility emissions by updating risk factors and revising risk assessment modeling guidelines to reflect current data and methods. The updates made by OEHHA will make risk assessments significantly more stringent. Risk reductions will likely occur through the incorporation of OEHHA factors and modeling methods to the same extent as reducing the risk threshold using the existing health risk assessment methodology. Adding a reduced risk threshold in Regulation 2 in addition to implementing the new OEHHA risk assessment methodology would reduce allowable emissions to an unnecessarily stringent limit that could have great impact on existing essential organizations like POTWs.

Given the regulations already in place in combination with the updated risk calculation methods now required for health risk assessments, we believe the desired risk reductions to impacted communities will be achieved without the proposed changes to Regulation 2. In fact, making Regulation 2 more stringent could slow or eliminate projects that would otherwise reduce risks by imposing impossible conditions on new sources. For example, if more stringent risk levels are imposed on a facility when installing a new emergency generator to replace an older one, it is conceivable that a cleaner generator could exceed the updated risk levels. An unintended consequence of reducing risk levels, when taken in totality with other District permitting rules, is that the incentive to replace old equipment proactively is taken away. Such unintended consequences should be considered before making any changes to Regulation 2.

Finally, we want to highlight that stationary sources covered under Regulation 2 represent only six percent of the risk as presented in BAAQMD's concept paper. Efforts to reduce risk in our communities need to focus on the remaining 94 percent, the majority of which are associated with motor vehicle emissions. The Air Resources Board is already developing regulations to electrify vehicles to reduce (and possibly eliminate) those emissions and the resulting risk. We support BAAQMD efforts to accelerate the transition to cleaner mobile sources as an effective strategy for achieving significant risk reduction.

In summary, BACWA respectfully requests:

1. The Air District continue with implementation of existing regulations, including BAAQMD Rule 11-18 and the Air Resources Board's AB 2588 Hot Spots Program and AB 617 Criteria Pollutant and Toxic Contaminant Reporting regulations without any change to Regulation 2.
2. The Air District incorporate the updated OEHHA factors and modeling methods in District-sponsored health risk assessments and assess the effects of the updated methods.
3. The Air District participate in the statewide POTW emissions characterization study that is being conducted as part of compliance with the AB 617 CTR regulations recently approved by the Air Resources Board.
4. The Air District focus on accelerating the transition to cleaner mobile sources as an effective strategy for achieving significant risk reduction.

Implementation of these requests will achieve the results desired for the Regulation 2 revision while reducing unintended consequences and burdens on the regulated community. 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. Please contact me with any questions at lfono@bacwa.org.

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Sincerely,

A handwritten signature in black ink that reads "Lorien Fono". The signature is fluid and cursive, with a long horizontal stroke at the end.

Lorien Fono
BACWA Executive Director

Cc: Jack Broadbent, 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