



January 7, 2021

Jack Broadbent
Bay Area Air Quality Management District
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ELECTRONIC SUBMITTAL to: jbroadbent@baaqmd.gov

SUBJECT: BAY AREA CLEAN WATER AGENCIES CLARIFICATION OF
COMMENTS ON THE PROPOSED REGULATION 2 AMENDMENTS
DELIVERED DURING THE DECEMBER 15th PUBLIC HEARING

Dear Mr. Broadbent:

The Bay Area Clean Water Agencies (BACWA) appreciated the opportunity to provide sector feedback on the draft Regulation 2 amendments during the public hearing held December 15th. 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 human health. BACWA would like to clarify some points from the December 15th hearing that may have been misinterpreted by staff and Board members.

POTWs' core mission is to protect public and environmental health, through improving water quality, as well as complying with air quality regulations. We are enthusiastic partners in BAAQMD's goals related to environmental justice and acknowledge that many of our facilities are located in communities that are historically and disproportionately burdened by pollution. As such, our members work diligently to manage emissions from our facilities while performing an *essential public service* by collecting and treating municipal wastewater. POTWs are continuously upgrading facilities to provide better and more reliable water quality, and we assess each system improvement in close coordination with BAAQMD staff to remain in compliance with air regulations while responsibly investing ratepayer funds.

Our comments provided during the December 15th hearing on Regulation 2 amendments may have been misinterpreted, and we want to clarify them for the record and for consideration by BAAQMD staff and its Board.

POTWs are NOT requesting an exemption to the limits in the amended Regulation, but we are recommending that POTWs be correctly and consistently defined as *Essential Public Services* across all BAAQMD regulations.

BAAQMD previously established a definition for "Essential Public Service" in Regulation 9, Rule 8 as follows:

9-8-233 Essential Public Service:

233.1 A sewage treatment facility, and associated collection system, which is

publicly owned and operated;
233.2 Water treatment and delivery operations;
233.3 Public transit;
233.4 Police or fire fighting facility;
233.5 Airport runway lights; or
233.6 Hospital or other medical emergency facility.

However, in the amendments to Regulation 2, there was a new definition for “Essential Public Services”:

A police or firefighting facility, a hospital or other medical emergency facility, or a building designated as an emergency shelter location.

This new definition excludes POTWs. We feel strongly that the definition provided in BAAQMD Regulation 9, Rule 8, should be consistent across all BAAQMD regulations. If there are to be rule-specific exemptions (or carve-outs) for special types of first responders, there should be a new definition provided for those (e.g., “Emergency Services”).

Essential public service is not simply a label. Because POTWs provide essential services (vital to life and performing emergency services) that cannot be shut down, POTWs are different from many of BAAQMD's other permittees. The Board recognized this when adopting the resolution that directs the formation of a workgroup consisting of BAAQMD staff and POTW representatives. BACWA eagerly anticipates the launch of this workgroup, which will guide the implementation of Regulation 2 and address other issues related to toxic air contaminant reduction at POTWs, as well as future rule development. BACWA also strongly supports an increase in BAAQMD staffing to help relieve and prevent future POTW permit application backlogs that jeopardize continuity of our essential public services. We are looking forward to working more closely with BAAQMD on these issues.

We appreciate this and upcoming opportunities to provide our comments and would be happy to meet to answer any questions you may have. Please contact me at lfono@bacwa.org.

Sincerely,



Lorien Fono
BACWA Executive Director

Cc: Jack Broadbent, BAAQMD
Greg Nudd, BAAQMD
Damian Breen, BAAQMD
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