



February 29, 2024

Alexander Sohn
Senior Air Quality Engineer
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105

SUBJECT: COMMENTS ON CONCEPTS FOR AMENDMENTS TO REGULATION 11-18

Via email: Rule11-18@baaqmd.gov

Dear Alexander Sohn:

The Bay Area Clean Water Agencies Air Issues and Regulations Committee (BACWA AIR) appreciates the opportunity to comment on Potential Concepts to Rule 11-18 Amendments, as presented in the BAAQMD document released December 29, 2023. 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. The AIR Committee is a coalition of SF Bay Area POTWs working cooperatively to address air quality and climate change issues, under the guidance of BACWA.

Our comments on the proposed concepts to rule amendments are as follows:

Requiring facilities above a specified risk threshold to reduce risk to the extent feasible prior to the 5-year deadline established in the Risk Reduction Plan is not feasible

As outlined in a [letter](#) submitted in 2017 to BAAQMD, implementing a capital improvement project at a POTW requires at least six years for its planning, design, and construction since it must go through its own public process and Board approval at each stage. Project planning, scheduling, financial planning, environmental review, funding, pre-design, design, construction permitting, bid and award, and ultimately construction is a lengthy and involved process, which cannot be completed in an accelerated time frame.

Allowing early application of Risk Reduction Levels to facilities located in overburdened communities fails to make use of new emissions data resulting from the Pooled Emissions study required by CARB

POTWs were originally identified as Phase II facilities, which has a specific timeline associated

with them regardless of the community within which they are located. This categorization is providing POTWs the ability to participate in a statewide Pooled Emissions Study (driven by CARB's updated reporting requirements) that has the objectives of determining which air toxics are present at POTWs and in what quantities, so that an emission factor for each air toxic can be determined by calendar year 2027. This effort will be performed in close coordination with POTWs, Air District staff (including the California Air Pollution Control Officers' Association), CARB staff, and source test specialists to complete it in time for expanded monitoring and reporting beginning in 2028. BACWA continues to engage BAAQMD staff in this process.

Combining the facility review period and public comment period does not allow facility review prior to public review

While not unique to POTWs, this approach is concerning. BACWA is concerned about this proposed change because POTWs are complex facilities. Based on permit applications, refinement in descriptions of processes and operations are often necessary to appropriately convey what is happening at the facility. However, by combining the facility review and public comment periods, the public will likely review and comment on a document that is either incomplete or requires further refinement to correctly represent the facility. Knowing this step will need to be done and proposing that it be done as part of a combined facility review and public comment period will result in increased (and possibly unwarranted) alarm from the public that is better managed if these two steps are kept separate and in sequence. Allowing the facility to review the document prior to public comment provides the opportunity to address misunderstandings of POTW operations (which is common by nature of the treatment stages) and correctly communicate facility operations and the associated risk. Keeping these steps in sequence not only avoids public confusion (by avoiding the distribution of incomplete information), but it also preserves public confidence in the process.

BAAQMD review of HRAs should be performed by staff or consultants who are familiar with POTW processes

Section 4.2 of the draft Implementation Procedures discusses the possibility of outside contractors or consultants being used to conduct Health Risk Assessments (HRAs). However, it is unclear how that will be implemented. If this approach is accepted, BACWA strongly encourages prioritizing consultants having experience in the respective sector. For example, POTWs across the Bay Area have similar treatment processes and objectives. Having a prescreened shortlist of consultants who are familiar with wastewater treatment processes is critical for performing consistent and accurate HRAs. It will also be key for the BAAQMD to present its requirements and parameters for HRAs to be acceptable to BAAQMD. To address BAAQMD's concerns regarding potential conflict of interest (COI), independent contractors can sign COI disclosures to disclose existing contracts with the agencies. This would help improve transparency. We also note that allowing the BACWA Title V agencies to perform their own HRAs will help streamline the HRAs and speed up implementation by reducing BAAQMD's workload.

Thank you again for the opportunity to provide feedback on the concept amendments to the implementation of Rule 11-18. BACWA is BAAQMD's partner in protecting the Bay Area's public health and environment, and we ask that BAAQMD staff work collaboratively with BACWA to address the above-listed concerns. BACWA also looks forward to participating in the stakeholder engagement process as outlined in Rule 11-18's draft Implementation Procedures.

BACWA Comment Letter on Regulatory Concepts for Amendments to Rule 11-18

We would be happy to discuss any questions regarding these comments. Please contact me at LFono@bacwa.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Lorien Fono", with a stylized flourish at the end.

Lorien Fono
BACWA Executive Director

Attachment: LETTER REPORT TO BAAQMD SUMMARIZING THE POTW PLANNING PROCESS AND CONSIDERATIONS WITH REGARD TO PROPOSED RULE 11-18 (April 4, 2017)

Cc: BACWA Executive Board
Nohemy Revilla, BACWA AIR Committee Co-Chair
Jason Nettleton, BACWA AIR Committee Co-Chair
Courtney Mizutani, BACWA AIR Committee Supporting Consultant
Ray David, BACWA AIR Committee Supporting Consultant
Sarah Deslauriers, BACWA AIR Committee Supporting Consultant