



October 31, 2003

Ms. Janet Glasgow
Principal Air Quality Specialist
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
compliance@baaqmd.gov

RE: Comments on Draft Complaint Guidelines

Dear Ms. Glasgow:

The Air Issues and Regulations (AIR) Committee is a coalition of San Francisco Bay Area Publicly Owned Treatment Works working cooperatively to address air quality issues. The AIR Committee has over 20 member agencies, including large metropolitan facilities such as East Bay Municipal Utility District, the City and County of San Francisco, Central Contra Costa Sanitary District, and the City of San Jose. Together, AIR Committee member agencies treat over ninety percent of the municipal wastewater in the Bay Area, and we have been active in many BAAQMD rule-making activities and policy discussions. We have taken an proactive role in addressing air quality and odor complaints throughout the years, and we appreciate this opportunity to comment on your draft Complaint Guidelines.

We have reviewed the proposed Complaint Guidelines and have evaluated potential impacts upon our member organizations. As public agencies dedicated to protecting public health and the environment and to being good neighbors in the community, our members are supportive of your efforts to efficiently and consistently address air quality and odor complaints from the public. Our concerns are primarily related to the logistics of implementation. These concerns are outlined below.

- Page 2, First bullet: The District's attempt to provide for language diversity would seem difficult to implement unless the District's essential public outreach documents are provided to the public or various ethnic communities and associations in the appropriate non-English language. It is also suggested that the inspectors carry cards printed in several languages enabling contact with the District's language interpretation service.
- Page 4, Section E: The guidelines state that "all petitioners may be considered as individual complainants, based on the outcome of the investigation." Please define the investigation approach for petitions. Some petitions may be received by the District long after an odor event occurred, and therefore the confirmation process for petition complaints should take

that into account. We also recommend that for the purposes of Regulation 7 applicability, each petition be considered only 1 complaint. If this provision is implemented as it is currently written, one petition could trigger Regulation 7. We further recommend that for establishing nuisance violation, petitioners not be considered separate complainants if they live or work in a common location.

- Page 5, Section 2: Several POTW processes, including digestion, are biological systems. Because of their biological nature, it may require a significant amount of time to correct an upset that may be causing odor. We request that provisions be instituted so that if such processes are cited as an odor source, listed and noticed to abate, we have adequate time to make the corrections before additional odor complaints are considered. We urge that these types of plant upsets should be treated as one incident and multiple complaints during this time period not be added to tallies for public nuisance determinations or Regulation 7 thresholds. This provision could be included in "Complaint Types Requiring Specialized Processing."
- Page 8, Section G, Line 1: Is "a Manager" referred to Enforcement Section? Please specify.
- Page 9, C: We are very much in support of the District's intention to investigate complaints as an impartial party and wish to commend you on including this language in the document.
- Page 10: Throughout the document and in particular on Page 10, the guidelines are established for inspector to follow up with the complainant. However, there are no procedures outlined to route the gathered information back to alleged source facility except by a letter in Exhibit 5, which could be too late. This documented information can be useful for facilities in resolving complaints as well as promoting communication and cooperation. Information regarding time, date, characterization of odors(s) and any alleged health impacts should be provided to facilities that are being considered as possible sources of odors at the time of investigation.
- Page 11, Section C.6: "Symptoms felt by the person" should be rephrased to "Symptoms alleged."
- Page 11, Section C.7: Please define the term "fall-out." In addition, photographs should be used to document "fall-out" where it is alleged.
- Page 12, Section E: In light of recent focus on security at water and wastewater treatment facilities, we recommend that any inspector wishing to come onsite at a facility produce picture identification and qualifications at the facility at the time of inspection.
- Page 13, Section E.3: Extent of inspection and authority of the Air District needs to be defined. Certain equipment locations may not be accessible due to reasons such as safety.
- Page 13, Section F: We support the policy that a complaint must be confirmed by detecting the odor/air contaminant release and tracing it to its source, as is outlined on page 13. However, we are concerned that allowing any "inspector or another employee of the District" to confirm the complaint may not provide consistency in confirmation and response. We would like to stress that training of inspectors on detection of odors and air

emissions is critical to ensure consistency. Allowing a complaint to be confirmed by an inspector's "personal observation" or if an inspector is "reasonably assured that the contaminant detected is the same as alleged by the complainant," places a great responsibility on the inspector and their capacity to be objective. Therefore, it is imperative that each inspector be trained and given the proper tools so that they can act with objectivity, scientific basis, and consistency.

- Page 17, Section c: If a violation can be based on one complaint only, we suggest that that complaint should be well-documented and photographed by both the complainant and the District inspector. We are further concerned about the ability of the District to act "without documentation, based on repeat occurrences." This allows for considerable discretion on the part of District staff, and may lead to inconsistency in determination of violations.
- Page 17, Section c.i: How was the number of confirmed complaints necessary to define a violation determined? Due to the high population density of the Bay Area, we recommend that a higher number of complainants be necessary to establish violation based on daily complaints. We support the provision that a number of the complaints be confirmed in the presence of an inspector.
- Page 18, Section ii: POTWs often develop emissions or odor data in an effort to be proactive in controlling potential problems. We fear that POTWs would be less likely to develop odor contours and similar information if there were a possibility that the data could be used against them to confirm a complaint. We therefore recommend that a provision be included to ensure that data or information developed by a public agency that is the alleged source of a complaint not be used against that public agency in establishing a violation.
- Page 18, Section iii. This third criterion, whereby the "weight of facts and evidence demonstrates that the public has been impacted over time" once again seems quite subjective. This criterion allows a notice of violation to be issued based solely on the judgement of an inspector that there have been public impacts over time, without any standards for proof. We ask that this "other impact-based" criterion be either eliminated or further defined so that we can be assured of consistent determination of violations.
- Page 18, Section 5.A: This section refers only to complaints and not specified confirmed complaints. Does this mean that confirmed complaints are not necessary in order for Regulation 7 to apply?
- Page 21, Section 6: It would be beneficial for the alleged source facility to receive copies of filled-out forms, which appear as exhibits 1 to 3. These copies could be amended so that they do not identify the complainant.

We appreciate the opportunity to comment on these draft guidelines. In addition to the Bay Area AIR Committee members who reviewed the document, this letter includes comments from POTWs around the state who recognized the statewide significance of the implementation of this complaints policy.

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We in the Bay Area POTW community would like to meet with you to go over our comments and explore ways in which we can work together for the benefit of everyone in reducing and responding to odor and air quality complaints. Please contact Jackie Kepke at (510) 587-7545 regarding your interest and availability for such a meeting. We look forward to working with you as this policy takes shape. Please contact Jackie Kepke or me at (408) 945-5322 with any questions or comments. Thank you for your consideration.

Sincerely,

John Gibbs
Chair, Air Issues and Regulations Committee