

CALIFORNIA METALS COALITION

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October 16, 2017

Mr. Victor Douglas
Bay Area Air Quality Management District (BAAQMD)
375 Beale Street
San Francisco, CA 94015
Sent via email: vdouglas@baaqmd.gov

RE: Metalworking Industry October 2017 Proposed Rule (PR) 11-18 Comments

The California Metals Coalition (CMC) appreciates the opportunity to submit written comments regarding the Bay Area Air Quality Management District's (BAAQMD) Proposed Rule 11-18: *Reduction of Risk from Air Toxic Emissions at Existing Facilities*.

California is home to approximately 3,000 metalworking facilities, employing over 100,000 Californians with middle-class manufacturing jobs and health benefits. 8 out of 10 employees in the metalworking sector are considered ethnic minorities or reside in disadvantaged communities.

California metal manufacturers use recycled metal to make parts for clean energy technologies, electric cars, biotech apparatuses, medical devices, aerospace products, national defense items, agriculture, infrastructure, construction machinery, household appliances, food processing and storage, movement of water, and millions of other products wanted by society.

Comment #1: PR 11-18 will Eliminate 10,000 Jobs and \$2 Billion in Economic Activity

The 19-page economic report states that PR 11-18 will conservatively eliminate 10,000 middle class jobs over a 10-year period. Jobs lost in the manufacturing sector will be replaced by lower wage jobs in the service sector. This means less opportunity for Bay Area working families. For the metalworking sector, we would be losing hundreds of union jobs.

Comment #2: September 29, 2017 Socioeconomic Assessment is Extremely Weak

The 19-page socioeconomic assessment is predominantly a regurgitation of readily available data about the number of facilities, estimated employment numbers, and potential emissions. For the BAAQMD Board of Directors to deem this study complete is highly objectionable.

- On page 13, the author states, “Since **it is not possible** at this time in the Rule process to determine the compliance measures and **specific costs** associated with particular facilities, BAE has developed a methodology to estimate the costs based on available information from BAAQMD on types of measures and a range of costs by type of facility.” This statement clearly demonstrates the shortcomings of the report.
- On Page 12, Table 6 **does not include** many of the required changes needed at a metal melting or metal recycling facility. It is heavily weighted towards backup engines/generators and refineries. Some of the additional items that need to be included are: (1) Total Facility Enclosures (\$750,000-\$10,000,000), (2) Individual Process Enclosures (\$300,000-\$2,000,000), (3) Multiple baghouses (estimated \$2,000,000 x number of baghouses), (4) Additional Source Testing (\$150,000), (5) Negative Air (\$300,000-\$2,500,000), (6) localized emission control such as downdraft tables (\$20,000/unit), and (7) retrofitting grandfathered sources (\$500,000-\$6,000,000).
- On page 17, Table 8 is overly optimistic to state that the worst case scenario is the loss of 1,105 jobs. This **scenario of job loss can be attributed to the metal sector alone**, especially if just a couple impacted companies close their doors.

Comment #3: Allow for Binding Facility Changes Prior to a Final HRA

The HRA modeling conducted by the BAAQMD will be based on a specific set of data points and facility assumptions. Some CMC members may be in the middle of facility upgrades, or prepared to conduct facility upgrades that will further reduce their risk. The overall goal is to get below the nation-leading proposed risk level of 10 in 1 million.

PR 11-18 must allow for facilities to make binding commitments for facility upgrades prior to the BAAQMD completing its HRA report. Binding commitments for the metals industry can be done through Rule 12-13 and 6-4. The BAAQMD-approved plans are enforceable, but have to go through a review process. PR 11-18 must clearly allow for binding facility changes to be counted prior to the BAAQMD HRA. This will result in facilities reducing their risks to the lowest levels, which is the goal of this rule.

Comment #4: BAAQMD Proactive Approach to Zoning and Public Health

Nearly all CMC members have occupied industrial areas of the Bay Area long before the construction of parks, schools, residences, hospitals, or businesses with sensitive receptors. CMC has countless

situations where metal facilities acquire a new neighbor, and the new neighbor is a sensitive receptor.

As an example, one of our light industrial metal working members in the Bay Area made a \$10 million equipment investment in his company only to have a swimming school, day care, and restaurant approved by the city and built within 300 feet.

CMC challenges the BAAQMD to become a stronger advocate for public health by getting directly involved in city planning decisions. The current approach is not effective, especially if the BAAQMD is relying on advisories. This advocacy will require the use of BAAQMD's many lobbyists in Sacramento to create the necessary change for our future.

Comment #5: Legislature and Governor Puts CARB in Lead on Defining TBARCT

AB 617 (Garcia-D) was signed into law on July 26, 2017. AB 617 received bi-partisan support from the Legislature, as well as the state's leading environmental and business groups.

AB 617 requires the California Air Resources Board (CARB) to establish and maintain a statewide clearinghouse that identifies the best available control technology, best available retrofit control technology for criteria air pollutants, and related technologies for the control of toxic air contaminants. PR 11-18 must wait for guidance of state law when defining TBARCT.

Comment #6: Expanding the definition of Unreasonable Economic Burden

CMC greatly appreciates the BAAQMD staff offering definition "11-18-227 Unreasonable Economic Burden." CMC suggests that the definition should also reflect the following: (1) **Confidentiality.** California businesses compete with businesses across the US and around the world. The profitability of a company will be used against them by their competitors if it becomes public. (2) **Economic Downturn.** As seen with the recent "Great Recession," profitability is volatile and unpredictable. PR 11-18 must allow for the facility to put on hold commitments to PR 11-18 when future rule requirements exceed 10% of profits. Without an ongoing assessment, definition 11-18-227 is just a one-time snap shot. (3) **Does Annualized Capital Costs Assume the Business Can Get a Loan?** It is unclear if the annualized capital cost assessment assumes the facility can get a loan and spread the cost over multiple years (ex: 20 year loan). Capital costs are measured against the profitability of the new equipment. This is especially true when pursuing a loan for new equipment. If PR 11-18 requires a \$5 million investment, and this investment does not produce profit, then the facility will not likely be able to get a loan and amortize this investment over a multi-year period. In this example, the \$5 million investment will be measured against a single year profitability. Definition 11-18-227 should state that the Capitol costs are measured against a single year profitability unless a loan against the equipment (and not a business line of credit).

Comment #7: The Definition of Toxic Air Contaminant is a Moving Target

The current definition of “Toxic Air Contaminant or TAC” is an open-ended definition and blindly relies on the Office of Environmental Health Hazard Assessment (OEHHA) without any review or feedback from stakeholders. CMC suggests using existing rule 2-5-222, which clearly states: “Toxic Air Contaminant or TAC: An air pollutant that may cause or contribute to an increase in mortality or in serious illness or that may pose a present or potential hazard to human health. For the purposes of this rule, TACs consist of the substances listed in {Table 2-5-1}.”

Comment #8: Review for Accuracy of Preliminary HRA

HRAs are highly technical and complex. They include hundreds of data points and assumptions entered into computerized risk modeling programs. Any factual errors found during the review of a preliminary HRA must be corrected by the APCO before the HRA is finalized. If not, the public could be provided with inaccurate and misleading information. The facility owner/operator must be given the opportunity to thoroughly review the numerous calculations and assumptions that are included within a preliminary HRA. CMC recommends that the review process, prior to APCO finalizing the HRA, be revised as follows:

11-18-403 Notification of HRA Results and Submission of Plan: {The APCO shall} provide the facility owner/operator with a copy of the preliminary HRA. The {facility owner/operator shall be given 90 days to review and comment on the preliminary HRA}. After taking into account any comments from a facility on preliminary HRA results {and correcting factual errors}, the APCO shall notify a facility owner/operator when a final APCO-approved HRA indicates a facility health risk exceeds one or more of the risk action levels set forth in Section 11-18-218 and provide the facility owner/operator with a copy of the {final APCO-approved} HRA. Within 180 days of notification, the facility owner/operator shall submit a draft Risk Reduction Plan to the APCO that complies with Section 11-18-404


Comment #9: What are the Calculable Emission Reductions in PR 11-18?

California’s metalworking industry is arguably the most environmentally advanced facilities in the world. Metalworking businesses that choose to operate in California have made advances at their facilities far beyond their competition.

PR 11-18 is a multi-billion dollar proposal that puts tens of thousands of families at risk. What are the measurable emission reductions linked to PR 11-18? Are there any risk of leakage if the facilities leave California and move to a border location (ex: Nevada, Mexico)?

CMC looks forward to receiving feedback on its enclosed comments, and finding quick, science-based solutions for communities in the Bay Area.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jim', with a horizontal line extending to the right.

James Simonelli
Executive Director

cc: BAAQMD Board of Directors