

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**RESOLUTION NO. 2021-16**

**A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending Regulation 3: Fees; Regulation 6: Particulate Matter; Regulation 8: Organic Compounds; Regulation 9: Inorganic Gaseous Pollutants; Regulation 11: Hazardous Pollutants; and Regulation 12: Miscellaneous Standards of Performance**

**RECITALS**

WHEREAS, a public hearing has been properly noticed in accordance with the provisions of Health & Safety Code § 40725;

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District has determined that a need exists to amend the District's rules and regulations by adopting amendments to Regulation 3: Fees; Regulation 6: Particulate Matter; Regulation 8: Organic Compounds; Regulation 9: Inorganic Gaseous Pollutants; Regulation 11: Hazardous Pollutants; and Regulation 12: Miscellaneous Standards of Performance, as set forth in Attachment A hereto ("Proposed Amendments");

WHEREAS, the purpose of the Proposed Amendments is to ensure that District rules that currently apply to petroleum refineries continue to apply to the same refineries in the event any is modified to process non-petroleum feedstocks;

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District obtains its authority to adopt, amend or repeal rules and regulations from §§ 40000, 40001, 40702, 40725 through 40728.5, 41512.7, 42311, and 42311.2, of the California Health & Safety Code;

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District has determined that the Proposed Amendments are written or displayed so that its meaning can be easily understood by the persons directly affected by the rule;

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District has determined that the Proposed Amendments are in harmony with and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations;

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District has determined that the Proposed Amendments do not impose the same requirements as any existing state or federal regulation, and is necessary and proper to execute the power and duties granted to, and imposed upon, the District;

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District, by adopting the Proposed Amendments, is implementing, interpreting or making specific the provisions of Health & Safety Code § 40001 (rules to achieve ambient air quality standards), § 40702 (rulemaking actions that are necessary and proper to execute the powers and duties granted to it) and § 42311 (fees for district programs);

WHEREAS, on July 19, 2021, District staff discussed the Proposed Amendments with the Stationary Source Committee of the Board of Directors of the Bay Area Air Quality Management District;

WHEREAS, on September 13, 2021, District staff met with representatives from the affected facilities to discuss and solicit input on the Proposed Amendments;

WHEREAS, on September 21, 2021, the District transmitted the text of the Proposed Amendments to California Air Resources Board;

WHEREAS, on or before September 28, 2021, District staff published in newspapers and distributed and published on the District's website a request for public comments and input on the Proposed Amendments;

WHEREAS, the Board of Directors of the Air District held a public hearing on November 3, 2021, to consider the Proposed Amendments in accordance with all provisions of law ("Public Hearing");

WHEREAS, at the Public Hearing, the subject matter of the Proposed Amendments was discussed with interested persons in accordance with all provisions of law;

WHEREAS, District staff has prepared and presented to this Board a detailed Staff Report and a Response to Comments document regarding the Proposed Amendments, which Staff Report has been considered by this Board and is incorporated herein by reference;

WHEREAS, District staff has evaluated the Proposed Amendments and has determined that the proposed rulemaking project is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15301, Class 1 (negligible or no expansion of an existing use) and CEQA Guidelines Section 15061(b)(3) (the common sense exemption) because the Proposed Amendments will merely effectuate the original intent of the amended rules and because it is certain the project will not have a significant effect on the environment;

WHEREAS, District staff has determined that a socioeconomic analysis of the Proposed Amendments pursuant to Health & Safety Code section 40728.5 is not required because the amendments will not significantly affect air quality or emissions limitations within the meaning of that section;

WHEREAS, District staff has determined that an incremental cost-effectiveness analysis of the Proposed Amendments pursuant to Health & Safety Code section 40920.6 is not required because the amendments do not impose best available retrofit control requirements;

WHEREAS, the documents and other materials that constitute the record of proceedings on which this rulemaking project is based are located at the Bay Area Air Quality Management District, 375 Beale Street, San Francisco, 94105, and the custodian for these documents is Marcy Hiratza, Clerk of the Boards;

WHEREAS, District staff recommends adoption of the Proposed Amendments;

and

WHEREAS, the Board of Directors concurs with District staff's recommendations and desires to adopt the Proposed Amendments as described above and set forth in Attachment A hereto.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District does hereby adopt, pursuant to the authority granted by law, the Proposed Amendments as set forth in Attachment A hereto, and discussed in the Staff Report (including Appendices), with instructions to staff to correct any typographical or formatting errors before final publication of the Proposed Amendments.

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of \_\_\_\_\_, seconded by \_\_\_\_\_, on the 3<sup>rd</sup> day of NOVEMEER 2021, by the following vote of the Board:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Cindy Chavez  
Chairperson of the Board of Directors

ATTEST:

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John J. Bauters  
Secretary of the Board of Directors