



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

BOARD OF DIRECTORS  
STATIONARY SOURCE AND CLIMATE IMPACTS COMMITTEE

COMMITTEE MEMBERS

JOHN BAUTERS – CO-CHAIR  
TERESA BARRETT – VICE CHAIR  
JOHN GIOIA  
ERIN HANNIGAN  
DAVINA HURT  
MARK ROSS

KAREN MITCHOFF – CO-CHAIR  
RICH CONSTANTINE  
CAROLE GROOM  
DAVID HAUBERT  
TYRONE JUE

**THIS MEETING WILL BE CONDUCTED UNDER PROCEDURES AUTHORIZED BY  
EXECUTIVE ORDER N-29-20 ISSUED BY  
GOVERNOR GAVIN NEWSOM**

- **THE PUBLIC MAY OBSERVE THIS MEETING THROUGH THE WEBCAST BY  
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**MONDAY  
JUNE 21, 2021  
9:00 A.M.**

## **AGENDA**

### **1. CALL TO ORDER - ROLL CALL**

#### **PLEDGE OF ALLEGIANCE**

#### **PUBLIC MEETING PROCEDURE**

*The Committee Co-Chair shall call the meeting to order, and the Clerk of the Boards shall take roll of the Committee members.*

*This meeting will be webcast. To see the webcast, please visit [www.baaqmd.gov/bodagendas](http://www.baaqmd.gov/bodagendas) at the time of the meeting. Closed captioning may contain errors and omissions and are not certified for their content or form.*

***Public Comment on Agenda Items** The public may comment on each item on the agenda as the item is taken up. Members of the public who wish to speak on matters on the agenda for the meeting, will have three minutes each to address the Committee. No speaker who has already spoken on that item will be entitled to speak to that item again.*

**Staff/Phone (415) 749-**

### **CONSENT CALENDAR (ITEM 2)**

### **2. APPROVAL OF THE MINUTES OF MAY 17, 2021**

**Clerk of the Boards/5073**

*The Committee will consider approving the draft minutes of the Stationary Source and Climate Impacts Committee meeting of May 17, 2021.*

### **END OF CONSENT CALENDAR**

### **REGULAR AGENDA (ITEMS 3-4)**

### **3. FACILITY RISK REDUCTION PROGRAM: REGULATION 11, RULE 18 (RULE 11-18) IMPLEMENTATION UPDATE**

**C. Allen/4702**

**[callen@baaqmd.gov](mailto:callen@baaqmd.gov)**

*The Committee will receive an update on the implementation of Rule 11-18, Facility Risk Reduction Program.*

4. **IMPROVING THE RULE DEVELOPMENT PROCESS**

G. Nudd/4786  
[gnudd@baaqmd.gov](mailto:gnudd@baaqmd.gov)

*The Committee will receive an update on the Air District's Rule Development Process.*

**END OF REGULAR AGENDA**

5. **PUBLIC COMMENT ON NON-AGENDA MATTERS**

*Members of the public who wish to speak on matters not on the agenda for the meeting, will have three minutes each to address the Committee.*

6. **COMMITTEE MEMBER COMMENTS**

*Any member of the Committee, or its staff, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)*

7. **TIME AND PLACE OF NEXT MEETING**

*Monday, July 19, 2021, at 9:00 a.m., via webcast pursuant to procedures authorized by Executive Order N-29-20 issued by Governor Gavin Newsom.*

8. **ADJOURNMENT**

*The Committee meeting shall be adjourned by the Committee Co-Chair.*

## **CONTACT:**

**MANAGER, EXECUTIVE OPERATIONS**  
**375 BEALE STREET, SAN FRANCISCO, CA 94105**  
[vjohnson@baaqmd.gov](mailto:vjohnson@baaqmd.gov)

**(415) 749-4941**  
**FAX: (415) 928-8560**  
**BAAQMD homepage:**  
[www.baaqmd.gov](http://www.baaqmd.gov)

- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all, members of the body to which this Agenda relates shall be made available at the Air District's offices at 375 Beale Street, Suite 600, San Francisco, CA 94105, at the time such writing is made available to all, or a majority of all, members of that body.

### **Accessibility and Non-Discrimination Policy**

The Bay Area Air Quality Management District (Air District) does not discriminate on the basis of race, national origin, ethnic group identification, ancestry, religion, age, sex, sexual orientation, gender identity, gender expression, color, genetic information, medical condition, or mental or physical disability, or any other attribute or belief protected by law.

It is the Air District's policy to provide fair and equal access to the benefits of a program or activity administered by Air District. The Air District will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activity offered or conducted by the Air District. Members of the public who believe they or others were unlawfully denied full and equal access to an Air District program or activity may file a discrimination complaint under this policy. This non-discrimination policy also applies to other people or entities affiliated with Air District, including contractors or grantees that the Air District utilizes to provide benefits and services to members of the public.

Auxiliary aids and services including, for example, qualified interpreters and/or listening devices, to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the benefits, activities, programs and services will be provided by the Air District in a timely manner and in such a way as to protect the privacy and independence of the individual. Please contact the Non-Discrimination Coordinator identified below at least three days in advance of a meeting so that arrangements can be made accordingly.

If you believe discrimination has occurred with respect to an Air District program or activity, you may contact the Non-Discrimination Coordinator identified below or visit our website at [www.baaqmd.gov/accessibility](http://www.baaqmd.gov/accessibility) to learn how and where to file a complaint of discrimination.

Questions regarding this Policy should be directed to the Air District's Non-Discrimination Coordinator, Terri Levels, at (415) 749-4667 or by email at [tlevels@baaqmd.gov](mailto:tlevels@baaqmd.gov).

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

375 BEALE STREET, SAN FRANCISCO, CA 94105

FOR QUESTIONS PLEASE CALL (415) 749-4941

## EXECUTIVE OFFICE:

### MONTHLY CALENDAR OF AIR DISTRICT MEETINGS

#### JUNE 2021

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Meeting	Wednesday	16	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Legislative Committee - CANCELLED	Wednesday	16	1:00 p.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Stationary Source and Climate Impacts Committee	Monday	21	9:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Mobile Source and Climate Impacts Committee	Thursday	24	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20

#### JULY 2021

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Community Equity, Health and Justice Committee	Thursday	1	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Special Meeting as the Sole Member of the Bay Area Clean Air Foundation	Wednesday	7	9:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Meeting	Wednesday	7	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Stationary Source and Climate Impacts Committee	Monday	19	9:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Special Meeting as the Sole Member of the Bay Area Clean Air Foundation – CANCELLED & RESCHEDULED TO WEDNESDAY, JULY 7, 2021 at 9:00 A.M.	Wednesday	21	9:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Special Meeting	Wednesday	21	8:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Administration Committee – CANCELLED	Wednesday	21	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Legislative Committee - CANCELLED	Wednesday	21	1:00 p.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Mobile Source and Climate Impacts Committee	Thursday	22	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairpersons John Bauters and Karen Mitchoff, and Members  
of the Stationary Source and Climate Impacts Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: June 8, 2021

Re: Approval of the Minutes of May 17, 2021

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RECOMMENDED ACTION

Approve the attached draft minutes of the Stationary Source and Climate Impacts Committee (Committee) meeting of May 17, 2021.

DISCUSSION

Attached for your review and approval are the draft minutes of the Stationary Source and Climate Impacts Committee meeting of May 17, 2021.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Marcy Hiratzka  
Reviewed by: Vanessa Johnson

Attachment 2A: Draft Minutes of the Stationary Source and Climate Impacts Committee Meeting of May 17, 2021

# AGENDA: 2A – ATTACHMENT

Draft Minutes – Stationary Source and Climate Impacts Committee Meeting of May 17, 2021

Bay Area Air Quality Management District  
375 Beale Street, Suite 600  
San Francisco, California 94105  
(415) 749-5073

## DRAFT MINUTES

Summary of Board of Directors  
Stationary Source and Climate Impacts Committee Meeting  
Monday, May 17, 2021

**This meeting was conducted under procedures authorized by executive order N-29-20 issued by Governor Gavin Newsom. Members of the Committee participated by teleconference.**

### 1. CALL TO ORDER – ROLL CALL

Stationary Source and Climate Impacts Committee (Committee) Co-Chairperson John Bauters called the meeting to order at 9:00 a.m.

Present: Committee Co-Chairpersons John Bauters and Karen Mitchoff; Vice Chairperson Teresa Barrett; and Directors Rich Constantine, John Gioia, Erin Hannigan, David Haubert, Davina Hurt, Tyrone Jue, and Mark Ross.

Absent: Carole Groom.

Also Present: None.

### 2. APPROVAL OF THE MINUTES OF APRIL 19, 2021

#### Public Comments

No requests received.

#### Committee Comments

None.

#### Committee Action

Director Hannigan made a motion, seconded by Co-Chair Mitchoff, to approve the Minutes of April 19, 2021; and the motion carried by the following vote of the Committee:

AYES: Barrett, Bauters, Gioia, Hannigan, Haubert, Hurt, Jue, Mitchoff, Ross.  
NOES: None.  
ABSTAIN: None.  
ABSENT: Constantine, Groom.

### **3. UPDATE ON LAND USE, CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), AND AIR DISTRICT PERMITS**

Henry Hilken, Director of Planning and Climate Protection, and Alfonso Borja Jr., Supervising Air Quality Engineer, gave the staff presentation *Land Use, California Environmental Quality Act (CEQA), and Permitting*, including: outcome; requested action; outline; local land use planning; Air District goals for local land use planning; Air District role; Air District CEQA guidelines update; outline; purpose of Permitting Program; and New Source Review (NSR) – overview, key permit criteria, key review elements, and permitting process.

#### Public Comments

Public comments were given by Steve Nadel, Sunflower Alliance; and Jed Holtzman, 350 Bay Area.

NOTED PRESENT: Director Constantine was noted present at 9:30 a.m.

#### Committee Comments

The Committee and staff discussed the anticipated timeline for the Air District’s CEQA Thresholds and Guidelines, and how they might be used by cities and counties; the suggestion that the Air District play a greater role in land use planning for siting new facilities that could produce new pollution; the suggestion that the Air District submits letters with recommended model policies and proposed land use conditions on city and county projects, especially regarding general plan policies, which are required to have environmental justice, health, and sustainability principles; and whether Regulation 2, Rule 1 (Permits: General Requirements) and Regulation 2, Rule 2 (Permits: New Source Review) will address cost effectiveness.

#### Committee Action

None; receive and file.

### **4. PROPOSED CONCEPTS TO AMEND THE PERMITTING REGULATION**

Jacob Finkle, Senior Air Quality Specialist, gave the staff presentation *Proposed Concepts to Amend the Permitting Regulation*, including: outcome; outline; requested action; background - exposure and vulnerability; initial rule development concepts; May 12, 2021, concepts workshop discussion and feedback; tentative timeline; and feedback requested/prompt.

#### Public Comments

Public comments were given by Jed Holtzman, 350 Bay Area; and Steve Nadel, Sunflower Alliance.

#### Committee Comments

The Committee and staff discussed what more stringent cancer risk and exposure-based limits might be, and whether the Air District would create stricter limits for overburdened communities versus non-overburdened communities; how to get communities engaged in this topic and whether the Air District feels that public workshop attendees represented all counties and areas of the Air District’s jurisdiction; the status of Air District-sponsored legislation to expand Air District authority over indirect sources; the South Coast Air Quality Management District’s Warehouse Indirect Source Rule and how a similar



rule can be accomplished in the Bay Area; Air District staff’s opinion on the environmental justice community’s request that the Air District suspends permits in overburdened communities until new regulations are adopted; how often CalEnviroScreen data is updated; the anticipated timeline for staff’s priorities from the rule development concepts to amend the Air District’s permitting regulation; whether the Air District has authority over underground gas storage tanks; the request for a comparison of Air District Particulate Matter (PM) and Toxic Air Contaminants regulations with those of other comparable California air districts; and how much time it would take to conduct a review of PM in communities that are overburdened by high levels of pollution or community health vulnerability.

### Committee Action

While this item did not require action, the Committee gave staff direction supporting the following rule development concepts to amend the Air District’s permitting regulation:

- ***Develop a more stringent cancer risk limit for overburdened communities.*** The Committee would like to see the updated cancer risk limit be less than ten in a million. While several Board members present wished to apply the updated risk limit to the entire Bay Area, versus to just overburdened areas, the consensus of the Board members present did not seek this.
- ***Require enhanced noticing and analysis of potential impacts from Toxic Air Contaminants in overburdened communities.*** The Committee requested a slide at a future presentation to address the anticipated timeline for a New Source Review of *Particulate Matter*, as Toxic Air Contaminants are already being addressed.
- ***Update the risk assessment procedures for gas station permitting.***
- ***Evaluate exposure-based limits for fine particulate matter emissions; and***
- The Committee would like to see a comparison between Particulate Matter and Toxic Air Contaminants regulations of the Air District and those of other comparable California air districts.
- The Committee supported the proposed timelines presented by staff.

## **5. PUBLIC COMMENT ON NON-AGENDA MATTERS**

No requests received.

## **6. COMMITTEE MEMBER COMMENTS**

None.

## **7. TIME AND PLACE OF NEXT MEETING**

Monday, June 21, 2021 at 9:00 a.m., via webcast pursuant to procedures authorized by Executive Order N-29-20 issued by Governor Gavin Newsom.

## **8. ADJOURNMENT**

The meeting adjourned at 1:03 p.m.

Marcy Hiratzka  
Clerk of the Boards

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

## Memorandum

To: Chairpersons John Bauters and Karen Mitchoff, and Members  
of the Stationary Source and Climate Impacts Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: June 7, 2021

Re: Facility Risk Reduction Program: Regulation 11, Rule 18 (Rule 11-18)  
Implementation Update

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**RECOMMENDED ACTION**

None; receive and file.

**BACKGROUND**

During the last 30 years, the Air District and our partner agencies have reduced the ambient cancer risk due to toxic air contaminants by more than 80%. However, the current ambient cancer risk of about 600 in a million is still too high, and some Air District communities have disproportionately higher health risks compared to other communities. The Air District is using all tools available to reduce Bay Area health risks and, especially, health risk disparities in overburdened communities.

The Air District's Facility Risk Reduction Program focuses on stationary sources at existing facilities. It seeks to identify facilities that pose elevated health risks to nearby residents and workers due to toxic emissions from stationary sources, and it requires risk reductions for facilities and sources with elevated health risks. Since many facilities with high health risks are located in overburdened communities, this program should help to reduce health risk disparities in overburdened communities.

The Facility Risk Reduction Program is implemented through Regulation 11, Rule 18 (or Rule 11-18): "Reduction of Risk from Air Toxic Emissions at Existing Facilities." Rule 11-18 requires that existing facilities either:

- (a) reduce all health risks from stationary sources below the rule's risk action levels, or
- (b) install best available retrofit control technology for toxics (TBARCT) on all significant sources of health risks.

Rule 11-18 contains the most stringent risk action levels in the nation for existing facilities located in urban areas. Effective January 1, 2020, the final risk action levels for facility health impacts are:

- cancer risk of 10 in a million,
- non-cancer chronic hazard index of 1.0, and
- non-cancer acute hazard index of 1.0.

## DISCUSSION

The Air District will provide an overview of the Rule 11-18 requirements and the implementation process and will describe the facilities affected by this rule. The implementation process includes:

- (1) screening facilities to identify those that require a facility-wide health risk assessment (HRA),
- (2) collecting and validating emission inventories and other input data required for the HRA,
- (3) conducting and approving HRAs,
- (4) reviewing and approving risk reduction plans (RRPs), and
- (5) implementing and verifying risk reductions.

Facilities are screened on a routine basis using the facility's prioritization score. Any facility with a prioritization score greater than 10 will require a comprehensive facility wide HRA. Phase I facilities have the highest potential for elevated health risks and have a prioritization score greater than 250. The remaining sites with a prioritization score greater than 10 are Phase II facilities. Based on the most recent screening assessment, the Air District has 34 Phase I facilities and 290 Phase II facilities.

For each facility that is required to have a facility wide HRA, the Air District notifies the site about their Rule 11-18 requirements, collects all input data needed for the HRA, and conducts a thorough engineering review and update of the facility's toxic emission inventory, emission release parameters, and other HRA input data. A preliminary HRA is then conducted using this updated emission inventory and HRA input data. Once the Air District completes an HRA, the preliminary HRA is provided to the facility for a 90 day-comment period. After responding to facility comments, the draft HRA is posted on the website for a public comment period. The Air-District will respond to public comments before finalizing the HRA and determining the Rule 11-18 risk reduction requirements.

Initially, the review and approval processes above were expected to take about 18 months per facility. However, the data review process for some Phase I facilities, including the Bay Area's petroleum refineries, has been taking longer than anticipated due to delays in completing toxic emission inventory updates and competing staff priorities. In some cases, the Air District's engineering review uncovered data gaps, inconsistencies, and errors in the toxic emission inventory that must be resolved before completing the HRA. In addition, some facilities have been conducting source tests and other on-site measurements to improve their emissions inventories. Several sites have also requested authorities to construct for process changes or abatement devices that will reduce health impacts in their communities. The staff reviewing

these permit applications is also the staff that is reviewing the emission inventories. These unanticipated issues have resulted in additional review time to ensure we have the most complete and correct toxic emission inventories. The initial review time estimate also did not consider the additional time necessary for conducting public workshops.

The Air District has completed emission inventory updates for 20 of the 34 Phase I facilities and has completed nine (9) preliminary HRAs. For the preliminary HRAs, six (6) have been sent to sites for comment and three (3) are under-going final internal review. The Air District has also posted 3 HRAs for public comment.

On May 7, 2021, the Air District co-hosted a public workshop with Communities for a Better Environment (CBE) to present the draft HRA results for AB&I Foundry located in Oakland, CA. There were about 145 participants at this workshop. CBE members reported on the history of the area that led to housing in this industrial area and shared their personal health experiences resulting from air pollution and odors in this area. The Air District presented the draft HRA results for AB&I Foundry. Facility health impacts are 46 in a million-cancer risk, 1.6 chronic hazard index, and 5.8 acute hazard index. Since these health risks exceed Rule 11-18 risk action levels, our draft conclusion is that Rule 11-18 will require that AB&I Foundry reduce their health risks. Comments on the draft HRA were collected through June 8, 2021. All comments will be considered before this HRA is finalized.

The majority of the cancer risk is coming from uncontrolled pipe casting operations that emit hexavalent chromium, a toxic metal. Most of the non-cancer health impacts are coming from mold casting operations, which are also the main source of odors from this facility. During the workshop, commenters expressed serious concerns about the elevated level of cancer risk and odors near AB&I Foundry. Commenters were upset by length of time allowed by the rule for final implementation of risk reduction measures and asked the Air District to do more to reduce their exposure to health risks in the interim. Many commenters asked the Air District to shut the facility down. AB&I has completed a number of process and physical changes that have reduced toxic emissions from this facility. They have replaced mold binders with less toxic materials, added baghouses to control toxic metals, installed wind breaks and enclosures and improved housekeeping to reduce fugitive emissions. The Air District is continuing to work with AB&I to reduce odors and health impacts as quickly as possible. AB&I has announced that they plan to shut down the mold casting operations next year and that they plan to control the pipe casting machines by 2023, which is about 4 years sooner than the expected Rule 11-18 due date.

Staff has completed the updated inventory for 20 facilities and plans to complete the preliminary HRAs for these facilities by the end of the year. Preliminary HRAs for all 34 Phase I sites, draft HRAs for 24 sites, and final HRAs for 20 sites should be completed by the end of 2022. The remaining draft and final HRAs will be completed in 2023. The Air District is also developing procedures and other guidance as we prepare to move into the risk reduction stages for Phase I facilities. Staff estimates that about half (17) of the Phase I facilities will be required to submit risk reduction plans.

Meanwhile, the Air District will start the data collection process for Phase II facilities. Data collection for the Phase II facilities will be phased in over several years starting with facilities that have a prioritization score greater than 100. These facilities include wastewater treatment plants, landfills, concrete batch plants, energy plants, manufacturing operations, hospitals, universities, and crematories.

Overall, the implementation schedule for Phase I facilities has been delayed by about six to nine months. During the second and third quarter of 2020, the Air District received several COVID 19 related permit applications for crematories that were approaching their maximum permitted limits due to the pandemic. Several staff that are working on Rule 11-18 HRAs are also our crematory experts. We shifted staff priorities to respond to these crematory permit applications and several other important new source review applications regarding Bayview/Hunters Point projects and Schnitzer Steel's proposed Thermal Oxidizer to control organic emission excesses at that facility. Modeling staff also spent time investigating several permit reform concepts. The emission inventory improvements mentioned earlier, high priority new source review activities, and rule development work have resulted in delayed implementation of Rule 11-18. It is critical that Engineering hire the additional staff promised in the budget to keep this program on track.

The projected schedule in June 2020 had not anticipated conducting public workshops on the HRA results. Holding public workshops adds several additional months to the timeline for any individual facility to prepare, announce, and conduct the workshop, hold extended comment periods, and respond to a larger volume of comments. This additional workshop time for the refineries and other large facilities has been factored into our current projected timeline.

#### BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Carol Allen and Pam Leong  
Reviewed by: Damian Breen

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairpersons John Bauters and Karen Mitchoff, and Members of the Stationary Source and Climate Impacts Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: May 7, 2021

Re: Improving the Rule Development Process

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RECOMMENDED ACTION

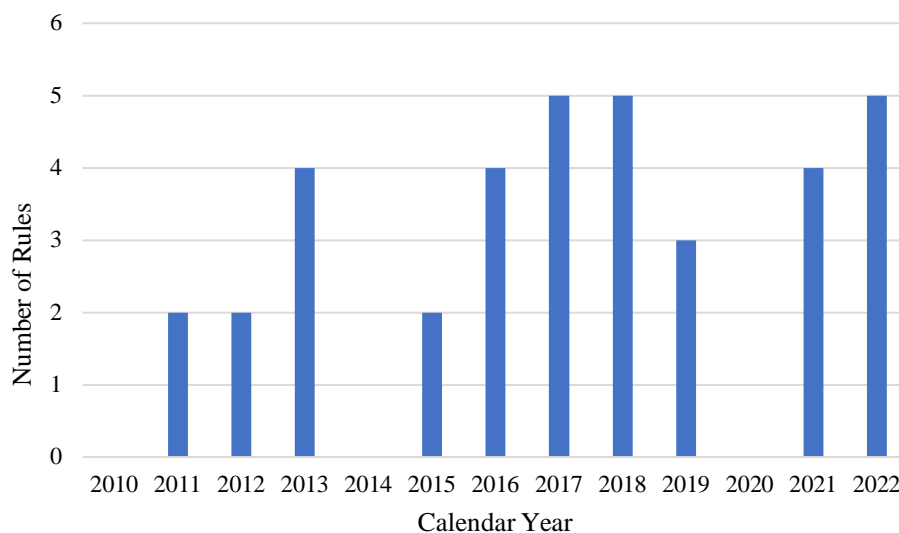
None; receive and file.

BACKGROUND

The Bay Area Air Quality Management District recognizes that changes need to be made to the rule development process to improve transparency with the Board of Directors (Board), advocates, and the regulated community. Changes also need to be made to ensure a more predictable and regular rule development schedule.

Over the past 10 years, the process has been highly uneven. This is due to both external factors, such as the requirement to develop an accelerated Best Available Retrofit Control Technology (BARCT) schedule under Assembly Bill (AB) 617, and internal factors, such as changing policy priorities, retirements, and competing needs for staff resources.

Figure 1: Rules Adopted and Proposed Since 2010



The urgent needs to address the climate crisis, risks of Particulate Matter (PM) pollution, and environmental injustice challenges the staff and the Board to develop an aggressive and sustainable rule development process.

**DISCUSSION**

There is a large batch of rule development projects in process now. Table 1 below shows the anticipated dates for Board hearings for the next 12 months:

**Table 1: Rule Development Projects in Process**

June 2021	Rule 6-5: Refinery Fluid Catalytic Crackers (AB 617 BARCT)
Nov 2021	Rule 13-5: Hydrogen Plants Regulation 1: Definition of Refinery (close potential loopholes)
Dec 2021	Rule 2-5: Toxic New Source Review (stricter permitting in impacted communities)
Feb 2022	Rule 9-4: Residential Furnaces Rule 9-6: Gas-Fired Water Heaters (setting zero emission standard)
Mar 2022	Rule 8-8: Petroleum Wastewater Treating (AB 617 BARCT)
Q2 2022	Rule 8-5: Organic Liquid Storage Leaks (AB 617 BARCT) Rule 8-18: Refinery Heavy Liquids Leaks (AB 617 BARCT)

Note that the projections for December 2021 and 2022 assume particular policy outcomes for certain rule development projects that are still in the workshop phase. These estimated completion dates would need to be re-evaluated if the Board, considering public input, directs staff to take a different direction on these rules.

**Strategic Actions:**

Staff will work with environmental and community advocates, the regulated community, and the Board to make structural changes to the rule development process to improve transparency and predictability and to ensure an aggressive yet sustainable rulemaking schedule. Staff intends to have these changes in place before the end of 2021.

Staff recommends making two key changes to the rule development process to enable this improvement:

1. Develop detailed White Papers before initiating rulemaking

Substantial technical analysis should be conducted prior to beginning a rule development effort. Past Air District practice was to do this work in the development of the Clean Air Plan. But that model hasn't been sufficiently agile to adjust to changing conditions. This is especially true as the Bay Area leads in new, innovative regulatory approaches to address issues like climate and environmental justice. These white papers would sometimes result in new rule making project or they may point to different policy interventions.

2. Public process to prioritize rulemaking efforts

Staff has compiled a list of many possible rulemaking efforts, as shown in Table 2 below, to address a wide range of policy issues. Some of these are covered in the Clean Air Plan, others arose from the West Oakland Community Action Plan, from analysis on other rulemaking projects, or from experience in implementing existing rules.

**Table 2: Potential Sources for Rulemaking**

<b>Source/Rule Under Review</b>	<b>Considerations</b>
Rule 9-13: Portland Cement Manufacturing	AB 617 BARCT – must be completed by end of 2023
Rule 9-14: Petroleum Coke Calcining Operations	AB 617 BARCT – must be completed by end of 2023
Construction & Concrete Batch Plants (i.e., dust)	West Oakland Community Action Plan (WOCAP) Further Study Measure (no timeline); reduces particulate matter in impacted communities
Rule 13-4: Sewage Treatment & Anaerobic Digestion	WOCAP #72 (development: 2020, action: 2021)
Rule 8-45: Autobody Repair	WOCAP #71 (development: 2023, action: 2024)
Rule 12-13: Foundry & Forging Operations	WOCAP #68 (development: 2024)
Rule 6-4: Metal Recycling & Shredding Operations	WOCAP #68 (development: 2024)
Rule 6-2: Commercial Cooking Equipment	WOCAP #87 (incentives or regulation – no timeline); reduces particulate matter, air toxics in impacted communities
Rule 6-3: Wood Burning Devices	WOCAP Further Study Measure (no timeline); reduces particulate matter, air toxics in impacted communities
Rule 9-7: Boilers, Steam Generators, & Process Heaters	Similar rules addressing NOx from furnaces and water heaters are scheduled for Board consideration in 2022
Regulation 2: Permitting (Rules 2-1 & 2-2: Particulate Matter in New Source Review)	Proposed amendments to Regulation 2 will be considered by the Board in 2021, but current amendments do not focus on particulate matter

A more public process, with Board guidance, would be helpful in determining staff priorities and also provide more transparency into the policy, timing, and resource trade-offs that must be considered. Potential prioritization criteria could include items such as potential for exposure reduction, regional/local emissions contribution, feasibility (cost, available control technologies, etc.), pollutant type, level of community concern, and source characteristics (location, number, etc.). Staff will work towards compiling potential criteria for public discussion later this summer/early fall.



### 3. Setting a General Rule Development Target

It may be helpful to set a goal for the number of rule development projects to be completed in a year. That goal should consider the level of complexity in the rules as highly complex and/or controversial rules require more time and resources. The mix of rules and the available resources will determine what's sustainable over time. Staff suggests that the Committee revisit this topic in early-2022, after the above processes have been implemented to determine if a goal for rulemaking projects should be instituted as part of the budget process.

#### BUDGET CONSIDERATIONS/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

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