

## **BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

### **RESOLUTION No. 2021-12**

#### **A Resolution of the Board of Directors of the Bay Area Air Quality Management District Certifying that the Air District's Nonattainment New Source Review Permitting Program Meets Federal Requirements for the Implementation of the 2015 Ozone National Ambient Air Quality Standards**

WHEREAS, the Bay Area Air Quality Management District (Air District) is the regulatory entity designated under applicable laws to implement the requirements of the federal Clean Air Act (CAA) with respect to stationary sources of air pollution within the San Francisco Bay Area;

WHEREAS, under the CAA, the United States Environmental Protection Agency (EPA) has established National Ambient Air Quality Standards for specified criteria air pollutants that must be met in all areas of the United States;

WHEREAS, EPA designates areas within the United States as being in "attainment" or "nonattainment" of each National Ambient Air Quality Standard;

WHEREAS, if EPA designates an area as being nonattainment for a particular standard, the relevant regulatory entity charged with implementing the CAA must implement certain requirements designed to bring the area into attainment;

WHEREAS, one of these requirements applicable in nonattainment areas is to adopt and implement a permitting program for new and modified major sources of nonattainment pollutants, which is known as the "Nonattainment New Source Review" permitting program;

WHEREAS, EPA has established National Ambient Air Quality Standards for ozone, which EPA updated most recently in 2015;

WHEREAS, EPA has designated the San Francisco Bay Area as being nonattainment for the 2015 ozone National Ambient Air Quality Standards;

WHEREAS, as a result of this nonattainment designation, the Air District is required to have a Nonattainment New Source Review permitting program for major sources of ozone-forming precursor pollutants that meets the minimum standards specified by EPA under the federal CAA;

WHEREAS, the Air District is required to submit its Nonattainment New Source Review permitting program for inclusion within California's CAA State Implementation Plan no later than 36 months after the effective date of the San Francisco Bay Area's designation as nonattainment;

WHEREAS, the Air District already has a Nonattainment New Source Review permitting program for stationary sources that emit ozone precursors, which the Air District has adopted to meet requirements for other ozone air quality standards;

WHEREAS, the Air District's existing Nonattainment New Source Review permitting program is contained in three rules in Regulation 2: Regulation 2, Rule 1 (Permits-General Requirements); Regulation 2, Rule 2 (Permits-New Source Review); and Regulation 2, Rule 4 (Permits-Emissions Banking);

WHEREAS, this existing Non-Attainment New Source Review permitting program meets all of the requirements applicable under federal regulations with respect to the 2015 ozone National Ambient Air Quality Standards, so the Air District does not need to make any changes to its existing program as a result of being designated nonattainment for the 2015 ozone National Ambient Air Quality Standards;

WHEREAS, given that the Air District does not need to make any changes to its Non-Attainment New Source Review permitting, all the Air District needs to do is submit a certification to EPA that its existing program complies with all of the requirements applicable under federal regulations with respect to the 2015 ozone National Ambient Air Quality Standards;

WHEREAS, Air District staff have undertaken a comprehensive review and analysis of the Air District's existing Non-Attainment New Source Review permitting program to demonstrate how it complies with all of EPA's requirements, as set forth in detail in the attached "Certification that the Bay Area Air Quality Management District's Existing NNSR Program Addresses the 2015 Ozone NAAQS SIP Requirements Rule," which is attached hereto and incorporated herein by reference (hereinafter, "Certification");

WHEREAS, the Air District Board of Directors has reviewed the Certification and concurs with staff's analysis and conclusion that the Air District's existing Non-Attainment New Source Review permitting program meets all of the requirements applicable under federal regulations with respect to the 2015 ozone National Ambient Air Quality Standards;

WHEREAS, the Air District Board of Directors convened a public meeting on September 1, 2021, to consider adopting the Certification and certifying that the existing Non-Attainment New Source Review permitting program meets all requirements of all applicable under federal regulations with respect to the 2015 ozone National Ambient Air Quality Standards;

WHEREAS, the public hearing was properly noticed in accordance with all applicable provisions of law, with notice provided at least 30 days before the public hearing;

WHEREAS, the public notice included publication in three local newspapers of general circulation within the Bay Area, publication on the Air District's website, and emailing to a list of interested parties maintained by Air District staff to receive such notices;

WHEREAS, the public notice included information about the proposed certification, information on where and when the public hearing would take place and how to participate, and an invitation to submit comments on the proposed certification;

WHEREAS, based on the analysis of the Air District's existing Nonattainment New Source Review permitting program as set forth in the attached Certification, and upon consideration of any public comment received on the proposed Certification, the Board of Directors concurs with staff's determination that the existing Non-Attainment New Source Review permitting program

meets all requirements of all applicable under federal regulations with respect to the 2015 ozone National Ambient Air Quality Standards;

WHEREAS, the Board of Directors has authority to do acts necessary and proper to execute the powers and duties granted to, and imposed upon, the Air District pursuant to sections 40701 and 40702 of the California Health & Safety Code;

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 Certification set forth in the Attachment hereto, and certifies that the Air District's existing Non-Attainment New Source Review permitting program meets all requirements of all applicable under federal regulations with respect to the 2015 ozone National Ambient Air Quality Standards.

BE IT FURTHER RESOLVED that the Board of Directors directs staff to submit this Certification to the California Air Resources Board (CARB) with a request that CARB formally submit the Certification to EPA for inclusion in the California State Implementation Plan.

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 DIRECTOR HUDSON, seconded by DIRECTOR ABE-KOGA, on the 1st day of SEPTEMBER, 2021 by the following vote of the Board:

**AYES:** Margaret Abe-Koga, Teresa Barrett, David Canepa, Cindy Chavez, Rich Constantine, John Gioia, David Haubert, David Hopkins, David Hudson, Davina Hurt, Tyrone Jue, Nate Miley, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Shamann Walton, Lori Wilson.

**NOES:** None

**ABSTAIN:** None

**ABSENT:** John Bauters, Pauline Russo Cutter, Carole Groom, Erin Hannigan, Myrna Melgar, Brad Wagenknecht.

  
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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