

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. 2021-10

**A Resolution of the Board of Directors of the
Bay Area Air Quality Management District
Amending District Regulation 6, Rule 5: Particulate Emissions from Refinery
Fluidized Catalytic Cracking Units**

WHEREAS, public hearings have 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 (“Air District” or “District”) has determined that a need exists to amend District rules and regulations by adopting amendments to Regulation 6, Rule 5: Particulate Emissions from Refinery Fluidized Catalytic Cracking Units, as set forth in Attachment A hereto (“Proposed Amendments”);

WHEREAS, the Board of Directors of the Air District obtains its authority to adopt, amend or repeal rules and regulations from Sections 40000, 40001, 40702, and 40725 through 40728.5, of the California Health & Safety Code;

WHEREAS, the Board of Directors of the Air District has determined that the Proposed Amendments are written and displayed so that their meaning can be easily understood by the persons directly affected by the rule;

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

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

WHEREAS, the Board of Directors of the Air 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), and § 40702 (rulemaking actions that are necessary and proper to execute the powers and duties granted to it);

WHEREAS, pursuant to California State Law AB 617, the Air District on December 19, 2018 adopted an Expedited Schedule for Best Available Retrofit Control Technology Implementation Schedule (“Expedited BARCT Schedule”) describing and setting a schedule for adoption of certain rules;

WHEREAS, among the rules scheduled for adoption in the Expedited BARCT Schedule was amendments to Regulation 6, Rule 5 intended to reduce particulate matter from Fluidized Catalytic Cracking Units at Bay Area refineries;

WHEREAS, adoption of the Expedited BARCT Schedule was deemed a CEQA “project” and was evaluated in an Environmental Impact Report certified by the Board of Directors on December 19, 2018;

WHEREAS, the Air District prepared initial draft amendments, published them for comment, and held an online workshop on February 4, 2021, to discuss the draft amendments with interested parties and the public;

WHEREAS, Air District staff discussed concepts for possible amendments to Regulation 6, Rule 5 with the Stationary Source Committee of the Board of Directors on June 17, 2020, July 29, 2020, October 1, 2020, December 17, 2020, and March 15, 2021;

WHEREAS, on March 30, 2021, Air District staff revised the draft amendments based on comments received during and after the February 4, 2021 workshop and published the revised draft amendments for comment in advance of the public hearing to consider adoption of amendments to Regulation 6, Rule 5;

WHEREAS, on March 30, 2021, the Air District transmitted the text of the draft amendments to California Air Resources Board;

WHEREAS, on or before March 30, 2021, Air District staff published in newspapers and distributed and published on the District’s website notice of a public hearing to be held on June 2, 2021 to consider adoption of the draft amendments, and the notice included a request for public comments and input on the draft amendments;

WHEREAS, the Board of Directors of the Air District held a public hearing on June, 2 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, Air District staff has prepared and presented to the Board of Directors a detailed Staff Report and a Response to Comments document regarding the Proposed Amendments, which have been considered by this Board and is incorporated herein by reference;

WHEREAS, the Board of Directors finds and determines that the Proposed Amendments are considered a “project” pursuant to the California Environmental Quality Act (“CEQA”) (Public Resources Code § 21000 *et seq.*);

WHEREAS, the Air District is the CEQA lead agency for this project pursuant to CEQA Guidelines § 15050 (14 California Code of Regulations (“CCR”) § 15050);

WHEREAS, the 2018 BARCT Schedule EIR addressed in detail the impacts of two approaches for controlling particulate matter emissions at Fluidized Catalytic Cracking Units at petroleum oil refineries, including the approach codified in the Proposed Amendments;

WHEREAS, the 2018 BARCT Schedule EIR found that the approach to controlling particulate matter emissions at Fluidized Catalytic Cracking Units in the Proposed Amendments would result in air quality impacts associated with the construction of air pollution control equipment would be potentially significant after mitigation and cumulatively considerable, and that water demand impacts from the operation of air pollution control equipment were found to be potentially significant after mitigation and cumulatively considerable;

WHEREAS, the Board of Directors finds that the 2018 BARCT Schedule EIR continues to be an adequate analysis of impacts as required under CEQA, including the assessment that adoption of the Proposed Amendments will result in significant environmental impacts after mitigation and be cumulatively considerable;

WHEREAS, the Board of Directors, in adopting the 2018 BARCT Schedule EIR, also adopted a Statement of Overriding Considerations explaining why the significant and unavoidable impacts to air quality during construction and from increases in water demand are acceptable because the public health and air quality benefits from the Expedited BARCT Schedule outweigh these significant unavoidable impacts;

WHEREAS, the Board of Directors continues to rely on both the 2018 BARCT Schedule EIR and the December 19, 2018, Statement of Overriding Considerations in support of adoption of the Proposed Amendments;

WHEREAS, the Board of Directors, pursuant to the requirements of Health & Safety Code § 40728.5, has actively considered the socioeconomic impacts of the Proposed Amendments and has reviewed and considered the "Socioeconomic Impact Analysis: Proposed Amendments to Regulation 6, Rule 5: Particulate Emissions from Refinery Fluidized Catalytic Cracking Units," prepared for the Air District by Applied Development Economics of Walnut Creek, California, which concludes that the Proposed Amendments will potentially have a significant economic impact on affected facilities, but that economic impacts could likely be mitigated to less than significant levels;

WHEREAS, the Board of Directors, pursuant to the requirements of Health & Safety Code § 40728.5, has made a good faith effort to minimize adverse socioeconomic impacts of the Proposed Amendments;

WHEREAS, the Board of Directors, pursuant to the requirements of Health & Safety Code § 40920.6, has actively considered the incremental cost-effectiveness of the Proposed Amendments in meeting emission reduction goals under the California Clean Air Act as set forth in the Staff Report, and finds and determines that there are no incrementally more cost-effective potential control options that would achieve the emission reduction objectives of the Proposed Amendments;

WHEREAS, the Air District has prepared, pursuant to the requirements of Health & Safety Code § 40727.2, a written analysis of federal, state, and District requirements applicable to this source category and has found that the Proposed Amendments would not be conflict with any federal, state, or other Air District rules, and the Board of Directors has agreed with these findings;

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 Hiratzka, Clerk of the Boards;

WHEREAS, Air District staff recommends adoption of the Proposed Amendments;

WHEREAS, the Board of Directors concurs with Air District staff's recommendations and desires to adopt the Proposed Amendments;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District does hereby adopt the Proposed Amendments, pursuant to the authority granted by law, as set forth in Attachment A hereto, and discussed in the Staff Report (including Appendices) with instructions to Air District 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 SECRETARY BAUTERS, seconded by DIRECTOR WALTON, on the 21 st day of July, 2021, by the following vote of the Board:

AYES: Margaret Abe-Koga, Teresa Barrett, John Bauters, Cindy Chavez, Rich Constantine, Pauline Russo Cutter, John Gioia, Carole Groom, Erin Hannigan, David Haubert, Lynda Hopkins, Davina Hurt, Tyrone Jue, Myrna Melgar, Nate Miley, Rob Rennie, Katie Rice, Shamann Walton, Lori Wilson.

NOES: David Canepa, David Hudson, Mark Ross.

ABSENT: Vice Chair Mitchoff, Brad Wagenknecht.

ABSTAIN: None.



Cindy Chavez
Chairperson of the Board of Directors

ATTEST:



John J. Bauters
Secretary of the Board of Directors