

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION No. 2023 – 09

A Resolution of the Board of Directors of the Bay Area Air Quality Management District Directing Staff to Submit Regulation 9, Rule 4 (Nitrogen Oxides from Natural-Gas Fired Furnaces) and Regulation 9, Rule 6 (Nitrogen Oxides Emissions from Natural Gas-Fired Boilers and Water Heaters) to CARB and EPA For Inclusion in the State Implementation Plan

RECITALS

WHEREAS, on March 15, 2023, after proper public notice and comment, thorough deliberation, and preparation and certification of an Environmental Impact Report, the Board of Directors of the Bay Area Air Quality Management District adopted amendments to Regulation 9, Rule 4 (Nitrogen Oxides from Natural Gas-Fired Furnaces) (“Rule 9-4”) and Regulation 9, Rule 6 (Nitrogen Oxides Emissions from Natural Gas-Fired Boilers and Water Heaters) (“Rule 9-6”) (collectively referred to herein as the “Amendments”);

WHEREAS, the Amendments include both groundbreaking zero-nitrogen oxides (“NOx”) emissions standards for natural-gas fired space and water heating appliances with future compliance dates ranging from 2027-2031, and a near-term ultra-low NOx emissions standard for natural-gas fired water heaters;

WHEREAS, in accordance with Health & Safety Code Section 40727, and based on substantial evidence presented at the March 15, 2023 hearing and described in the Staff Report and other documentation considered by the Board of Directors, the Board of Directors of the Bay Area Air Quality Management District found and determined that the Amendments are necessary; that the District has the authority to adopt the Amendments; that the Amendments are clearly written and displayed; that the Amendments are consistent with other legal requirements; that the Amendments are not impermissibly duplicative of existing regulatory requirements; and that the Amendments will implement specific provisions of law;

WHEREAS, emissions from natural-gas fired space and water heating appliances generate a substantial portion of NOx emissions in the Bay Area, approximately 4,267 tons of NOx per year in 2018, which is estimated to surpass the NOx emissions of passenger vehicles in the Bay Area;

WHEREAS, exposure to NOx and their atmospheric reaction products can greatly impact health, resulting in irritation of airways in the human respiratory system, aggravation and development of respiratory diseases, particularly asthma, hospital admissions and visits to emergency rooms;

WHEREAS, NOx reacts with other chemicals in the air to form both secondary fine particulate matter and ozone, and both of these pollutants are also harmful when inhaled, contribute to regional air pollution, and have been linked to a broad range of adverse health effects, including premature mortality, adverse respiratory health effects, cardiovascular diseases, impacts to cognitive function, and cancer;

WHEREAS, staff has estimated that implementation of the Amendments would achieve NO_x emissions reductions of approximately 3,236 tons per year;

WHEREAS, staff has estimated through modeling that the Amendments may result in a mean modeled decrease in 24-hour PM_{2.5} of -0.68 µg/m³ when observations indicated 24-hour PM_{2.5} was at least 30 µg/m³;

WHEREAS, the full record documents and other materials supporting the Board of Directors' March 15, 2023 adoption of the Amendments is maintained and available for public review at the headquarters of the Bay Area Air Quality Management District at 375 Beale Street, Suite 600, San Francisco, CA 94105, and that the custodian for these documents and other materials is Marcy Hiratzka, Clerk of the Boards;

WHEREAS, the United States Environmental Protection Agency ("EPA") has established the national ambient air quality standards for specified criteria air pollutants;

WHEREAS, the federal Clean Air Act requires the states to develop a plan to attain and maintain the national ambient air quality standards for each area that is designated nonattainment;

WHEREAS, California's plan is collectively referred to as the State Implementation Plan, and it includes, among other things, local air district rules and regulations that are necessary to attain and maintain the national ambient air quality standards;

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

WHEREAS, the Bay Area is not currently designated in attainment of the national ambient air quality standards for fine particulate matter (PM_{2.5} 24 hour) and ozone (8 hour);

WHEREAS, EPA has proposed its intention to strengthen the national ambient air quality standard for fine particulate matter; Air District staff anticipates the need to submit a particulate matter attainment plan in response to this new standard once it is finalized; and the particulate matter reductions achieved through adoption of the Amendments would help the Air District to attain any new standard;

WHEREAS, in the Staff Report prepared for and presented at the March 15, 2023, Air District staff recommended that, if adopted by the Board of Directors, the Amendments be submitted to the California Air Resources Board ("CARB"), with a request that CARB submit the Amendments to EPA for inclusion in the State Implementation Plan to reduce emissions of NO_x to attain and maintain the national ambient air quality standards promulgated by EPA, and proposed to be strengthened by EPA, to protect public health and the environment;

WHEREAS, on April 5, 2023, and again on April 27, 2023, Air District staff notified the public regarding the Board of Directors' upcoming consideration of submittal of the recently adopted Amendments to CARB and EPA for inclusion in the State Implementation Plan, requested public comments, and announced a public hearing on the matter to be scheduled on or after June 21, 2023;

WHEREAS, the public notice included publication on the Air District's website and emailing to a list of interested parties maintained by Air District staff to receive such notice, as well as to persons who commented on the Air District's March 15, 2023 consideration of the Amendments and chose to receive future communications from the Air District regarding the Amendments;

WHEREAS, the Air District received eight comments on submission of the Amendments to CARB and EPA for inclusion in the State Implementation Plan, some of which are supportive and others which are opposed, and has carefully reviewed these comments;

WHEREAS, Air District staff have prepared summaries of the comments received and staff's responses in a Response to Comments document, which has been considered by the Board of Directors and is incorporated herein by reference;

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District held a public hearing on June 21, 2023, which was properly noticed in accordance with all applicable provisions of law, with notice provided at least 30 days before the public hearing, to consider submission of the Amendments to CARB and EPA for inclusion in the State Implementation Plan;

WHEREAS, at the public hearing, the matter of submitting the Amendments to CARB and EPA for inclusion in the State Implementation Plan was discussed with interested persons in accordance with all provisions of law;

WHEREAS, Air District staff has recommended that the Board of Directors submit the Amendments to CARB, with a request that CARB submit the Amendments to EPA for inclusion in the State Implementation Plan to reduce emissions of NOx to attain and maintain the national ambient air quality standards promulgated by EPA, and proposed to be strengthened by EPA, to protect public health and the environment;

WHEREAS, the Board of Directors concurs with the recommendation of Air District staff regarding submission of the Amendments to CARB, with a request that CARB submit the Amendments to EPA for inclusion in the State Implementation Plan to reduce emission of NOx to attain and maintain the national ambient air quality standards promulgated by EPA, and proposed to be strengthened by EPA, to protect public health and the environment.

RESOLUTION

NOW THEREFORE, based on the above recitals, which are true and correct and are incorporated herein by reference, and on all of the information provided in the rulemaking record for the Amendments, including but not limited to the public comments received and staff's responses thereto and all of the information presented at the public hearings on March 15, 2023 and June 21, 2023, the Board of Directors of the Bay Area Air Quality Management District hereby resolves as follows:

BE IT RESOLVED, that the Board of Directors does hereby direct Staff to submit the Amendments to CARB, with a request that CARB submit the Amendments to EPA for inclusion in the State Implementation Plan.

BE IT FURTHER RESOLVED that the Board of Directors does hereby direct Staff to work cooperatively with CARB and EPA, and respond to all related requests for information, to ensure inclusion of the Amendments in the 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 CHAIR BAUTERS, seconded by SECRETARY HOPKINS, on the 21st day of JUNE, 2023, by the following vote of the Board:

AYES: MARGARET ABE-KOGA, BRIAN BARNACLE, JOHN J. BAUTERS, KEN CARLSON, NOELIA CORZO, JOELLE GALLAGHER, JOHN GIOIA, JUAN GONZALEZ, ERIN HANNIGAN, LYNDA HOPKINS, DAVID HUDSON, DAVINA HURT, TYRONE JUE, OTTO LEE, SERGIO LOPEZ, MYRNA MELGAR, NATE MILEY, MARK ROSS, VICKI VEENKER.

NOES: RAY MUELLER, STEVE YOUNG.


ABSTAIN: NONE.

ABSENT: DAVID HAUBERT, KATIE RICE, SHAMANN WALTON.

ATTEST:



John J. Bauters
Chair of the Board of Directors



Lynda Hopkins
Secretary of the Board of Directors