

Addendum to:

**Initial Study/Negative Declaration for the
Amendments to Bay Area Air Quality
Management District Regulation 9, Rule 7:
Nitrogen Oxides and Carbon Monoxide from
Industrial, Institutional, and Commercial Boilers,
Steam Generators and Process Heaters**

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Addendum to CEQA Initial Study / Negative Declaration for
Amendments to Regulation 9, Rule 7: *Nitrogen Oxides and Carbon Monoxide from
Industrial, Institutional and Commercial Boilers, Steam generators and Process Heaters*

I. INTRODUCTION

On July 30, 2008, the Board of Directors of the Bay Area Air Quality Management District (the “Air District” or “District”) adopted amendments to District *Regulation 9: Inorganic Gaseous Pollutants, Rule 7: Nitrogen Oxides and Carbon Monoxide from Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters* (“the 2008 Amendments”) and an Initial Study / Negative Declaration concerning the Amendments (the “Negative Declaration”) pursuant to the California Environmental Quality Act (CEQA). Subsequent to the adoption of the 2008 Amendments and the Negative Declaration, the Air District discovered that certain changes to the 2008 Amendments, primarily to compliance dates, are necessary in order to give full effect to its intent in adopting the amendments. These changes to the 2008 Amendments and their effect on the Negative Declaration are the subject of this Addendum. Each of these changes either constitutes a minor technical change to the 2008 Amendments, does not alter any conclusion stated in the Negative Declaration, or both.

II. BACKGROUND

i. The Intent of the 2008 Amendments

The intent of the Air District in adopting the 2008 Amendments to District *Regulation 9: Inorganic Gaseous Pollutants, Rule 7: Nitrogen Oxides and Carbon Monoxide from Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters* (“Regulation 9-7”) was to reduce the emission of nitrogen oxides (NO_x) in the District by requiring the use of existing and generally available low-NO_x technology in new, replacement and existing boilers, steam generators and process heaters (“heaters”).

The 2008 Amendments updated the Regulation 9-7 NO_x emissions requirements for large commercial heaters, and also expanded Regulation 9-7 to apply to natural gas and LPG-fired heaters rated greater than 2 million to less than 10 million BTU/hr (MM BTU/hr), devices the District had not previously regulated. The 2008 Amendments also included new energy efficiency requirements intended to mitigate the possibility of increased greenhouse gas (GHG) emissions caused by reduced overall efficiency as a result of implementing NO_x controls.

In expanding Regulation 9-7 to apply to smaller natural gas-fired heaters rated greater than 2 million to less than 10 MM BTU/hr, the District extended the rule to a large number of previously-unregulated people and sources. As a result, the District sought to minimize the cost and complexity of demonstrating compliance with the Rule in two ways. First, the 2008 Amendments allowed the owners of heaters rated greater than 2 million to less than 10 MM BTU/hr to register the devices with the District, instead

undergoing a more expensive full permitting process. Second, the 2008 Amendments required manufacturers to certify their heaters for compliance with the new requirements before offering them for sale within the District. This latter approach partially shifted the burden of understanding and complying with Regulation 9-7 requirements from the smaller heater operators to the manufacturers.

ii. Developments Subsequent to Adoption of the 2008 Amendments

On January 1, 2011, the new emission limits for heaters fired with natural gas or LPG and rated greater than 2 to 5 MM BTU/hr went into effect, along with the requirement that only pre-certified heaters in this size range be sold in the District. For devices rated greater than 5 to less than 10 MM BTU/hr, the emissions limits and certification requirement will go into effect on January 1, 2012. No manufacturer has applied to certify a heater model in either size range. However, heaters in both size ranges that comply with Regulation 9-7 requirements are available within the District. As a result, persons who must purchase a new heater to comply with the new emission limits of the 2008 Amendments cannot do so and also comply with the requirement to install only a pre-certified device.

Also, since the adoption of the 2008 amendments, the District discovered the need to provide a number of minor corrections and clarifications to Regulation 9-7.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS

The California Environmental Quality Act (CEQA) Guidelines, allow “[a]n addendum to an adopted negative declaration [to] be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.” (14 CCR 15164(b).)

Section 15162, subdivision (a), of the CEQA Guidelines establishes the following circumstances that would require the preparation of a subsequent EIR:

- Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

- The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

IV. IMPACT OF THE PROPOSED CHANGES TO THE 2008 AMENDMENTS ON THE AIR DISTRICT'S CEQA ANALYSIS

i. The Negative Declaration for the 2008 Amendments

The Board of Directors of the Air District adopted the Negative Declaration for the 2008 Amendments on July 30, 2008. The Negative Declaration evaluated the potential impacts of the 2008 Amendments, and concluded the amendments would result in no significant adverse impact.

The primary impact of the 2008 Amendments that the Negative Declaration identified was a beneficial impact, specifically, that the 2008 Amendments would have a positive impact on air quality by reducing emissions of NO_x and particulate matter (PM) in the Bay Area. NO_x is a precursor to the formation of smog. In addition, NO_x can convert into ammonium nitrate, forming PM.

As the Negative Declaration identified no significant adverse impact that might result from the 2008 Amendments, no mitigation measure was necessary and the Negative Declaration did not provide for any.

ii. The Proposed Changes to the 2008 Amendments and Their Effect on the Analysis in the Negative Declaration

None of the proposed changes to the 2008 Amendments implicate any of the conditions listed in Section 15162, subdivision (a), of the CEQA Guidelines. In addition, many of the changes are only minor technical changes to the 2008 Amendments.

The District proposes to extend the emissions limitations compliance dates until January 1, 2013 for heaters rated greater than 2 million to less than 10 MM BTU/hr, and to extend the certification dates until January 1, 2012. Also, in order to facilitate certification, the District proposes to allow additional test methods, including U.S. EPA and CARB methods, for measurement of emission rates. Finally, the District proposes to make a number of minor technical corrections and clarifications to Regulation 9-7.

The proposed extension of new NO_x emission limits by either one or two years (for heaters rated greater than 2 to 5 MM BTU/hr, and heaters rated greater than 5 to less than 10 MM BTU/hr, respectively) to January 1, 2013 would not create a significant adverse impact on the environment, nor would it affect the analysis or conclusions in the Negative Declaration. Its only impact would be at most to delay slightly the beneficial reductions of NO_x and PM emissions that will result from the 2008 amendments. Furthermore, a compliance survey by the District has revealed a high level of non-compliance for heaters rated greater than 2 million to less than 10 MM BTU/hr, so the delay in the compliance date will delay reductions of NO_x emissions by less than the one or two year extension would indicate.

Likewise, neither the proposed changes to the pre-certification program for new heaters rated greater than 2 million to less than 10 MM BTU/hr, including the allowance of additional test methods, nor the minor corrections and clarifications proposed to Regulation 9-7 would affect the analysis or conclusions of the Negative Declaration. Each of these proposed changes constitutes a minor technical change to the 2008 amendments that would not cause any significant adverse impact on the environment.

V. CONCLUSION

The proposed changes to the 2008 amendments do not require any revision to the findings made in the 2008 Negative Declaration and will not cause or contribute to any significant adverse environmental impact. As a result, the Addendum to the Negative Declaration is appropriate to satisfy the CEQA requirements for environmental review of the proposed changes to the 2008 amendments.

An addendum need not be circulated for public review. (14 CCR § 15164(c).) However, this Addendum will be made available to the public prior to the public hearing in which the Board of Directors of the Air District considers the proposed amendments to Regulation 9-7 and this Addendum for adoption.