



Date: October 28, 2021

Attn: Jennifer Elwell

The Bay Area Air Quality Managing District (BAAQMD) is accepting comments to the workshop materials regarding the amendments to Regulation 9, Rule 4: *Nitrogen Oxides from Natural Gas-Fired Residential and Commercial Furnaces* (Rule 9-4), and Regulation 9, Rule 6: *Nitrogen Oxides Emissions from Natural Gas-Fired Boilers and Water Heaters* (Rule 9-6). East Bay Community Energy (EBCE) supports the amendments and offer the following recommendations:

- Define commercial and non-residential use applied in Rule 9-4 for consistency purposes;
- Accelerate adoption of the zero-NOx standard in benefit of Environmental Justice (EJ) communities currently experiencing poor air quality and healthcare inaccessibility; and
- Provide additional discretionary interim reports every 2-3 years, adapting to the quickly changing market and technology landscape

INTRODUCTION

EBCE is a Joint Powers Authority formed on December 1, 2016 pursuant to California Government Code §§ 6500 et. seq. by the County of Alameda and the City of Tracy.¹ The Commission certified EBCE's Implementation Plan on November 8, 2017. EBCE began service

¹ EBCE serves the following cities: Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, Union City, and the City of Tracy.



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to Alameda County businesses and municipalities in June 2018 and residential customers in November 2018. EBCE is currently one of the largest Community Choice Aggregators (CCAs) in the state. Approximately 170,000 of EBCE’s customers—nearly a quarter of our customer base—are low-income households that qualify for California Alternate Rates for Energy (CARE), Family Electric Rate Assistance Program (FERA) programs, and reside in census tracts designated by CalEPA as disadvantaged communities (DACs). Many of these communities experience detrimental impacts of environmental pollution, including NOx emissions, which pose heightened health and other safety risks for the residents. Adoption of these amendments will promote health and environmental benefits by ensuring a reduction of harmful pollutants from being released into the atmosphere.

EBCE is engaged in outreach campaigns and programs to mitigate health risks and economic burdens. For example, EBCE’s induction cooking rebate program helps to replace natural gas cooking appliances with induction cooktops. In our efforts to equitably distribute the benefits of electrification such as reducing greenhouse gases (GHGs), NOx, and particulate matter, the recently proposed amendments to Rules 9-4 and 9-6 are critical to advance clean, just energy transitions.

COMMENTS

a. Define commercial and non-residential use applied in Rule 9-4 for consistency purposes.

Section 9-4-301 introduces a zero NOx standard applicable to residential and commercial stationary natural gas fired furnaces. Additional measures such as Section 9-4-301.3 directs that persons or manufacturers are not to sell stationary natural gas-fired furnaces after January 1, 2029, including installations for non-residential use. Throughout the draft

amendment, terms such as “commercial” and “non-residential” are used interchangeably, which can lead to confusion among manufacturers, architects, engineers, and code officials. Additionally, different city officials and building code professionals have varied interpretations as to what constitutes as commercial vs. non-residential. For example, mixed-use buildings where the first floor is multi-use, and the second for residential purposes, may warrant further clarity as to how this building type would apply to the new standards. Without clarity, building professionals such as developers, architects, engineers, and manufacturers can file a petition for exemption or variance, causing further disruption to promoting clean building appliances. For consistent purposes, BAAQMD should further define these terms, ensuring ease in implementing the amended policies.

- b. Accelerate adoption of the zero-NOx standard in benefit of Environmental Justice (EJ) communities currently experiencing poor air quality and healthcare inaccessibility.*

Standards outlined in Section 9-4-301 direct that stationary natural gas-fired furnaces emitting more than 14 nanograms of nitrogen oxides (NO₂) should not be manufactured after July 1, 2023. Furthermore, any stationary natural gas-fired furnace emitting more than 0 nanograms of NO₂ should not be manufactured after January 2029. Furthermore, in Section 9-6-301.5 natural gas-fired storage tank water heaters cannot be offered for sale after January 1, 2027. This means that a zero-NOx policy will be implemented no earlier than 2027, which is too late due to the dire climate change impacts communities face today and going forward. Due to the accumulating impacts of poor air quality, many of our communities, especially EJ communities face disproportionate amounts of NOx emitted by natural gas combustion right now. As presented in the October 7, 2021 workshop,

residential natural gas combustion emits 3,978 tons of NOx emissions as compared to passenger vehicles emitting 3,464 tons.² Compounding sources of NOx emissions exacerbate socioeconomic, health, and environmental problems to communities both underfunded and under-resourced. BAAQMD should accelerate the adoption of a zero-NOx standard to help alleviate health, financial, and other hardships that these communities are experiencing due to continued air pollution.

c. Provide additional discretionary interim reports every 2-3 years adapting to the quickly changing market and technology landscape.

As drafted in Section 9-6-404, the adoption of the zero-NOx standard is to occur over a 10-year horizon to facilitate technology development, market availability, and economic accessibility, with one interim report to be compiled for consideration by no later than two years prior to the zero-NOx compliance dates. To enable BAAQMD and the Board of Directors the opportunities to take appropriate actions to quickly changing landscape of technology, market, and accessibility, additional interim reports every several years seem appropriate and reasonable. For instance, EBCE recommends that BAAQMD file reports every 2-3 years within the 10-year horizon, ensuring that market and technology changes are captured in the implementable plans.

² https://www.baaqmd.gov/~media/dotgov/files/rules/reg-9-rule-4-nitrogen-oxides-from-fan-type-residential-central-furnaces/2021-amendments/documents/20211007_wspt_rules0904and0906-pdf.pdf?la=en&rev=6c3e9a954dbe4386b85e9bef96a6bd6c

CONCLUSION

EBCE supports amendments to Regulation 9 Rules 4 and 6 and commends the staff at BAAQMD for their efforts in synthesizing cleaner, equitable, and achievable objectives. EBCE is looking forward to the rules' completion and would be happy to provide additional input as appropriate.

Respectfully submitted,

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