



February 11, 2022

Subject: Adopting resolution language for rules 9-4 and 9-6 regarding emissions from furnaces and water heaters.

Dear Chair Mitchoff, Board Members, and Executive Officer Broadbent:

The 59 individuals and organizations signed below write in support of an equitable transition to a clean-energy economy in the Bay Area and beyond. We applaud the Bay Area Air Quality Management District for the leadership it has shown in the rulemakings to limit Nitrogen Oxide (NOx) emissions from furnaces (Rule 9-4), as well as water heaters and boilers (Rule 9-6). These efforts will be a milestone in the globe's momentous efforts to decarbonize before the worst impacts of climate change are locked in.

To ensure that the proposed rules proceed on schedule and produce equitable outcomes, we urge the Air District to lead a broad, multi-stakeholder effort with two working groups to ensure an equitable transition to zero emission space and water heating.

One of the working groups will be a Program Design Working Group to identify objectives for an equitable transition to zero emission appliances and an Affordability Working Group that develops programs and policies to enable an equitable transition. The two groups should inform each other's work and should not be siloed.

The remainder of this letter includes the following:

- I. Support for proposed zero-NOx standards
- II. The need for the Air District to lead on an equitable transition
- III. Suggested language for an adopting resolution on an equitable transition process

I. We Applaud the Air District's Proposed Zero-NO_x Standards

Staff has proposed that specified types of appliances will comply with a zero-NOx standard at point-of-sale. The proposed compliance dates for the zero-NOx standards are 2027 for small water heaters; 2029 for furnaces; and 2031 for large water heaters.¹ At present the zero-NOx standard can only be met with electric-powered appliances, so the zero-NOx standard is likely to accelerate the transition from gas to electric appliances.²

Phasing out the sale of NOx-emitting furnaces, water heaters and boilers represents a historic step in the Bay Area's progress toward a cleaner, more prosperous, and just region. Fossil fuels burned in residential buildings emit more NOx in the Bay Area than light duty passenger vehicles.³ These emissions are a major contributor to the Bay Area's ongoing failure to meet state and federal standards for ozone, and California standards for fine particulate matter.⁴ These pollutants are harmful to human health, and have the greatest impact on predominantly low-income communities of color who, because of systemic oppression, already experience the greatest cumulative environmental health burdens. These communities are also harmed the most by climate change-related disasters such as extreme heat, sea level rise, flooding, and wildfire smoke.

We also support staff's effort to identify the equity considerations in moving toward zero emission space and water heating, and to address these considerations as well as other factors such as market readiness in interim reports prior to the zero-NOx compliance dates. **However, we urge the Board not to treat the interim reports as opportunities to delay compliance. Hints that the compliance dates are flexible undermines the purpose of the rules, which is to drive necessary technological and market change with a firm regulatory deadline.**

¹ Small water heaters refers to tank water heaters with a rated heat input capacity of up to 75,000 BTU/hour. "Large water heaters" refers to boilers, tank water heaters, and instantaneous water heaters with a rated heat input capacity of 75,001 to 2,000,000 BTU/Hour.

² Bay Area Air Quality Management District (BAAQMD). "Rules 9-4 and 9-6 Building Appliances." Accessed November 9, 2021.

<https://www.baaqmd.gov/rules-and-compliance/rule-development/building-appliances>.

³ Bay Area Air Quality Management District (BAAQMD). "Workshop Report: Draft Amendments to Building Appliance Rules," September 2021. Figure 1.

<https://www.baaqmd.gov/rules-and-compliance/rule-development/building-appliances>.

⁴ Bay Area Air Quality Management District (BAAQMD). "Air Quality Standards and Attainment Status." Accessed December 10, 2021.

<https://www.baaqmd.gov/about-air-quality/research-and-data/air-quality-standards-and-attainment-status>.

II. The need for the Air District to lead on an equitable transition

Our region may not be ready for an equitable transition on schedule, without the Air District taking an active role to lead the charge. Much of the power to enable an equitable transition is held by entities other than the Air District - ranging from cities, counties, government agencies, and energy utilities with access to funding, permitting bodies with authority over the soft costs of zero emission appliances, private market actors who control the supply chain, and civic leaders with the trust of their communities. To meet the timeline state and regional climate targets require, the Air District needs to be a regional convener and organize these parties.

To ensure that the proposed rules proceed on schedule and produce equitable outcomes, we urge the Air District to lead a broad, multi-stakeholder effort to ensure an equitable transition to zero emission space and water heating, and include language in the adopting resolution to direct staff to carry out this process.

III. Suggested Language for an Adopting Resolution on An Equitable Transition Process

We respectfully recommend that the Board use the following language in their adopting resolution to direct staff to carry out this process:

Staff shall convene two working groups within 6 months of rule passage: one Program Design Working Group and one Affordability Working Group. The Program Design Working Group and Affordability Working Group have different scopes of work but shall coordinate their efforts.

The Program Design Working Group shall include people who represent equity, sustainability, and economic concerns, including community, workforce, and nonprofit stakeholders. Those not employed by for-profit companies or the government shall be offered a meaningful stipend that enables serious and sustained engagement with the Working Group.

The Program Design Working Group can be a subcommittee of the Air District's Community Advisory Council. The Program Design Working Group can include representatives not on the Community Advisory Council as needed.

The Program Design Working Group shall be responsible for identifying the objectives and indicators of an equitable transition to zero-NOx furnaces and water heaters at point of sale. The objectives of an equitable transition should include, but are not limited to, the following: affordable upfront costs, affordable energy costs, anti-displacement and renter protections, workforce development, and necessary upgrades for housing. The Program Design Working Group shall identify community-based organizations that can partner with the Air District to reach environmental justice and other low-income communities.

The Program Design Working Group shall make recommendations on whether there should be an exemption process for certain buildings no less than 4 months before an interim report is due (16 months before planned rule compliance).

The Affordability Working Group shall be composed of the government agencies and energy providers that are responsible for developing programs to fund equitable adoption of zero emission appliances and for the permitting processes that contribute to the soft costs of zero emission appliances. These entities include, but are not limited to: California Public Utilities Commission, California Energy Commission, California Air Resources Board, BayREN, municipal utilities, CCAs, representatives of city and county governments, and PG&E.

The Affordability Working Group shall be responsible for aligning public entities and energy providers to achieve the objectives and indicators of an equitable transition, as defined by the Community Advisory Group, including, but not limited to:

1. Assessing financial need for low-income households and below-market-rate (BMR) landlords to undertake necessary upgrades, and coordinate budgets across entities to meet that need;
2. Designing environmental financing and subsidy programs targeted at low-income customers and BMR rental housing;
3. Build renter protections and anti-displacement measures into financing and subsidy programs;
4. Promoting infrastructure upgrades to support zero emission appliance adoption (e.g., electric-ready) in the Bay Area's building stock;
5. Encouraging the adoption of efficient zero emission technologies that use less power and avoid the need for service upsizing; and
6. Reducing the time and cost of acquiring permits and energy service upgrades that contribute to soft costs for zero emission appliances.

Staff shall prepare an annual report starting in 2023 for the Program Design Working Group, Affordability Working Group, and Air District Board or designated committee of the Board to review progress on objectives and indicators. The report will include information on how the technologies, prices, bills, financing, and availability have changed, and what staff in collaboration with other agencies has been able to achieve in group purchases, incentive programs, direct install programs, low-income assistance programs to accelerate the implementation date.

The Board or a designated committee of the Board shall have the opportunity to discuss the annual report and whether conditions are suitable to accelerate the implementation date for zero-NOx appliances at point of sale.

At least two years prior to the compliance date, staff shall publish a guide on best practices to help city and county governments on how to mitigate the potential impact of energy upgrade costs on renters in their jurisdiction.

The two working groups shall be dissolved no later than when compliance dates have gone into effect for all three appliance types (furnaces, small water heaters and large water heaters/boilers), or as soon as 2029 based upon a decision by the Board.

We thank the Air District Board and Staff for the opportunity to comment. We are deeply supportive of the efforts the Air District is making to clean the Bay Area's air and mitigate the disastrous effects of climate change. If you have any questions for us, please reach out to Laura Feinstein at SPUR at lfeinstein@spur.org.

Sincerely,

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	*Organizations listed for informational purposes only