



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

**Regulatory Concepts for  
Amendments to  
Regulation 11: Hazardous  
Pollutants,  
Rule 18: Reduction of Risk from  
Air Toxic Emissions at Existing  
Facilities**

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# Regulatory Concepts for Amendments to Regulation 11: Hazardous Pollutants, Rule 18: Reduction of Risk from Air Toxic Emissions at Existing Facilities

## 1. Background

Regulation 11: Hazardous Pollutants, Rule 18: Reduction of Risk from Air Toxic Emissions at Existing Facilities (Rule 11-18) was adopted by the Bay Area Air Quality Management District (“BAAQMD” or “Air District”) in 2017 to address facilities whose emissions of toxic air contaminants result in a significant risk to nearby residents and workers. The purpose of Rule 11-18 is to focus on existing facilities causing the highest health impacts across the Bay Area and require these facilities to reduce those impacts.

Concerns were raised by committee members and environmental groups at multiple Stationary Source and Climate Impact Committee meetings and by community members at AB 617 Community Steering Committee meetings regarding delays in rule implementation and risk reduction progress, including delays in the finalization of health risk assessments (HRA) and Risk Reduction Plan (RRP) development, submission, and approvals. Air District staff are evaluating potential amendments to Rule 11-18 that may help expedite the emissions inventory review (a crucial step in developing HRAs), HRA, and RRP approval steps, as well as other changes that may improve implementation of this rule.

## 2. Purpose

The main purpose of this concept paper is to identify potential rule amendment concepts that would expedite implementation of Rule 11-18. The concepts include potential amendment items to streamline the review and approval processes associated with emissions inventories, HRAs, and RRP. In addition, the Air District will consider amendment items that will allow greater transparency on the progress of the implementation of the rule for the affected facilities and community. Lastly, the Air District will consider feedback from the affected stakeholders and community members during the rule amendment process. Further details on these concepts are provided below in Section 4.

## 3. Regulatory Context

The Air District’s existing Air Toxics Program currently includes four primary components.

- 1) Assessment and reduction of health risks from existing facilities via the Air Toxics “Hot Spots” program (also known as the “AB 2588 Program”)
- 2) Review of new and modified sources of toxic air contaminant (TAC) emissions for permitted sources per Air District Regulation 2, Rule 5 (“New Source Review of Toxic Air Contaminants”)
- 3) Assessment and reduction of health risks from existing facilities via Air District Rule 11-18

- 4) Implementation of stationary source control measures as required via California Airborne Toxic Control Measures (ATCM) and National Emission Standards for Hazardous Air Pollutants (NESHAPs)

#### AB 2588 - Air Toxics “Hot Spots” Program

Rule 11-18 currently works in conjunction with the Air Toxics “Hot Spots” program to address risk from existing facilities. The program is also referred to as the "AB 2588 Program" (named after the Air Toxics "Hot Spots" Information and Assessment Act) which was enacted in 1987 by California Air Resources Board (CARB).

The program focuses on addressing risk from stationary sources that emit TACs. It requires rounds of toxic emissions inventory development, assessment of risk, and, in the case of facilities that exceed risk levels established by local air districts, notification of exposed individuals and risk reduction plans. The program also requires toxics inventory updates every four years and the payment of fees by facilities to support Air District and CARB inventory efforts.

Under the Hot Spots Act, the Air District established public notification risk levels at 10 in a million for cancer risk and 1.0 for chronic and acute hazard indices. Facilities that exceed this notification risk level are required to notify all exposed persons with either a letter to individual neighbors or with newspaper notification. For mandatory risk reduction, Air District policy set the risk action levels at 100 in a million for cancer risk and 10 for chronic and acute hazard indices. Currently, there are no facilities that exceed the mandatory risk reduction level in the Bay Area basin.

#### Air District Regulation 2, Rule 5 – New Source Review of Toxic Air Contaminants

The Air District adopted its Air Toxics New Source Review (NSR) program in 1987. In 2005, the Air District codified the procedures and policies of the Air Toxics NSR Program by adopting a new Air District rule – Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants (Rule 2-5). Rule 2-5 limits project risks to 6 in a million cancer risk for projects located within Overburdened Communities, to 10 in a million for cancer risk for projects located elsewhere, and to 1.0 for chronic and acute hazard indices for all new or modified permitted sources in the project. In addition, any new or modified source with an individual source risk that exceeds cancer risk of 1 in a million or 0.2 for chronic hazard indices is required to install Best Available Control Technology for Toxics (TBACT). New or modified sources applying for an air permit must comply with the health risk requirements in this rule prior to construction. Moreover, Rule 2-1 contains public noticing requirements for projects located in Overburdened Communities that are subject to Rule 2-5 health risk assessment requirements.

#### Air District Regulation 11, Rule 18 – Hazardous Pollutants: Reduction of Risk from Air Toxic Emissions at Existing Facilities

The Air District adopted Air District Regulation 11, Rule 18 (Rule 11-18) in 2017 to reduce health risk from existing facilities. Rule 11-18 requires any existing facilities that exceed the risk action levels, which are cancer risk of 10 in a million and/or 1 for chronic and acute hazard indices, to either 1) reduce facility-wide health risk level below all risk action levels or 2) install Best Available Retrofit Control Technology for Toxics (TBARCT) on all Significant Sources, which is defined as any source that exceed cancer risk of 1 in a million or 0.2 for chronic or acute hazard indices. The risk action level in Rule 11-18 is significantly lower than the mandatory risk reduction level in AB 2588 Program. Rule 11-18 affects approximately 400 facilities throughout the Bay Area.

## Stationary Source Control Measures

Under the Toxics Air Contaminant Identification and Control (AB 1807) program, CARB is responsible for developing and adopting airborne toxic control measures (ATCM) to reduce emissions of TACs from specific industrial sources and sectors, such as stationary diesel engines or perchloroethylene from dry cleaning operations.

National Emission Standards for Hazardous Air Pollutants (NESHAPs), developed by U.S. EPA in accordance with Title III of the 1990 federal Clean Air Act Amendments, are also considered ATCMs in California. These rules generally focus on larger “major source” facilities and require that emissions be reduced by requiring sources to meet Maximum Achievable Control Technology (MACT). The focus of recent NESHAP development has shifted to rules that apply to smaller “area source” facilities. Under State law, the Air District must ensure that all permitted sources meet MACT Standards, or rules that are at least as stringent.

## 4. Rule 11-18 Amendment Concepts

These rule amendment concepts focus on items that would streamline and expedite the implementation of Rule 11-18. Potential rule amendment concepts are provided in the table below. As the Air District receives comments and input during the public comment period, the Air District will evaluate the feedback received from affected facilities, community members, and other stakeholders for incorporation into further rule development efforts.

**Table 1 – Potential Rule Amendment Concepts for Rule 11-18**

Potential Rule Amendment Item	Description
Require facilities above certain risk threshold to reduce risk to the extent feasible prior to 5-year deadline for the RRP	This concept would add an interim requirement for facilities that exceed a certain risk threshold and that are required to submit an RRP to reduce risk to the extent feasible prior to the 5-year deadline. The intent of this amendment is to add a risk reduction goal prior to the 5-year deadline to ensure these facilities are making progress in the implementation of the risk reduction prior to RRP deadline.
Allow early application of Risk Action Levels to facilities located in Overburdened Communities	This concept would amend the rule to include “Overburdened Community” and “AB 617 Community” as specific examples of a “Priority Community” as defined in the rule. This amendment concept would provide further clarity and examples of areas in which the HRA can be prioritized and utilize the provision in the existing rule for early application of the risk action level.
Limit facility extensions for RRP implementation	This amendment concept would limit the circumstances for which an RRP extension can be granted, such that the extension only applies to the affected source or project to avoid unnecessary delays for implementation of the entire RRP.

Combine the Facility Review Period and Public Comment Period into a single comment period	The withdrawn Implementation Procedure document included a 90 day-review period for the facility after the preliminary HRA had been completed and a 45-day public comment period after the draft HRA was completed. This amendment concept would combine the two separate review periods into a single comment period open to both facilities and the general public.
Require affected facilities to submit HRAs to the Air District for review	Currently, the Air District is generally responsible for preparing the HRAs for the facilities subject to Rule 11-18. Under this rule amendment concept, the rule would require the facilities to perform and prepare HRAs for their facility and submit the HRAs to the Air District for review and approval. These requirements would be similar to CARB's AB 2588 Hotspot Program and South Coast Air Quality Management District's (SCAQMD) Rule 1402, and are expected to expedite the implementation of Rule 11-18.
Allow early voluntary submission of RRP	This rule amendment concept would add a provision that allows voluntary submission of a facility RRP without an HRA. SCAQMD Rule 1402 has a voluntary submission provision that allows facilities that are likely to exceed the risk action level to submit a RRP without an HRA.
Include provisions from Rule 11-18 Implementation Procedure document to the rule	The Air District will evaluate whether certain provisions within the Rule 11-18 Implementation Procedure document should be added to the rule language to eliminate ambiguity associated with Rule 11-18 requirements.
Consider amending the procedures associated with the Technical Dispute Resolution Committee (TDRC) process in the Rule 11-18 Implementation Procedure document	The Air District will evaluate and potentially amend the TDRC process presented in the Implementation Procedure document to add specificity and structure to the dispute resolution process that may occur during the implementation of Rule 11-18.

## 5. Affected Industries

The rule affects a wide range of commercial, industrial, and municipal facilities including data centers, petroleum refineries, chemical plants, wastewater treatment facilities, foundries, forges, landfill operations, hospitals, crematoriums, power plants, colleges and universities, military facilities and installations, and airline operations. These facilities operate a wide variety of sources of toxic emissions, including diesel-fueled internal combustion engines, wastewater treatment operations, combustion sources, evaporative and fugitive emissions, etc. Air District staff will perform analysis of the potential impact on affected facilities during the rule amendment process.

## 6. Anticipated Rule Development Schedule and Next Steps

The Air District is currently soliciting feedback on these initial rule amendment concepts and will

continue public outreach efforts through the first or second quarter of 2024. After receiving and considering input on the rule amendment concepts, the Air District anticipates commencing with the rulemaking process for Rule 11-18 amendments in mid-2024. Further rule development activity is anticipated to include the preparation of draft amendments, a public comment period, and public engagement. Air District staff would then continue to further develop and evaluate the rule amendments in preparation of presenting final proposed rule amendments and additional analyses and materials for consideration by the Air District Board of Directors.