

California Environmental Quality Act (CEQA)

NOTICE OF DETERMINATION

TO: Interested Parties **FROM: Bay Area Air Quality
Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
Contact: Andrea Anderson
415-749-4974**

Lead Agency and Entity Carrying Out Project:

Bay Area Air Quality Management District
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(415) 749-4934

Lead Agency Contact: Andrea Anderson, aanderson@baaqmd.gov or (415)-749-4974

Subject: FILING OF NOTICE OF DETERMINATION PURSUANT TO SECTION 21152 OF THE PUBLIC RESOURCES CODE AND CEQA GUIDELINES SECTION 15094

Project Title: REGULATION 11-18: REDUCTION OF RISK FROM AIR TOXIC EMISSIONS AT EXISTING FACILITIES (STATE CLEARINGHOUSE NUMBER 2016102043)

Public Agency Approving Project (Lead Agency): Bay Area Air Quality Management District (Air District)

Project Location: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, southwestern Solano, and southern Sonoma counties

Project Description: Air District Regulation 11, Rule 18: Reduction of Risk from Air Toxic Emissions at Existing Facilities (Rule 11-18) was adopted by the Air District on November 14, 2017 to address facilities whose emissions of toxic air contaminants (TACs) pose an elevated risk to nearby residents and workers. The purpose of Rule 11-18 is to prioritize existing facilities with the highest health impacts across the Bay Area and require them to reduce those impacts. Rule 11-18 requires existing facilities with health risks above specified risk action level thresholds to either reduce those health risks below the Rule's risk action thresholds or implement Best Available Retrofit Control Technology for Toxics on all significant sources of health risks.

When Rule 11-18 was adopted, a Recirculated Final Environmental Impact Report (RFEIR) was prepared and certified for the project, which found that the project would have significant impacts in the areas of air quality, greenhouse gases, hazards and hazardous materials, and water supply. At that time, the Air District adopted findings pursuant to CEQA Guidelines section 15091 and a statement of overriding considerations.

The Air District has now amended Rule 11-18 in an effort to address delays in rule implementation. Several

amendments address Health Risk Assessment (HRA) procedures, including: (1) requiring facilities to prepare preliminary HRAs using Air District-approved modeling protocols; (2) formalizing the current practice of holding a public comment period on the preliminary HRA concurrent with the existing 90-day comment period for the facility; and (3) outlining what happens when additional testing or emissions data may affect the facility's HRA results and Risk Action Level status.

Amendments are also made to Risk Reduction Plans (RRP) procedures, including (1) revising the terminology and timeline associated with the district's review of draft RRs prior to public comment; and (2) clarifying the circumstances under which extensions to the implementation of an RRP or risk reduction measure may be granted.

The Air District has also adopted related amendments to the Implementation Procedures associated with Rule 11-18 and has adopted an Addendum and Mitigation Monitoring and Reporting Program pursuant to CEQA to implement the mitigation measures in the RFEIR.

Agency Determination: On June 3, 2026, the Air District's Board of Directors adopted the rule amendments described above and determined that the modifications to Rule 11-18 do not meet any of the conditions in CEQA Section 21166 and CEQA Guidelines Section 15162 requiring preparation of a subsequent or supplemental EIR. Specifically, the amendments are procedural and logistical and are not expected to change the environmental impacts of Rule 11-18 as those impacts were analyzed in the RFEIR.

Location of Addendum and Supporting Documentation: Copies of the Addendum, amended rule, Staff Report, RFEIR, and certain other relevant documents are available on the Air District's website at www.baaqmd.gov/ruledev. Physical copies of the Addendum and all supporting documentation for this project, including the RFEIR and record of project approval, are available for public review at Air District headquarters at 375 Beale Street, Suite 600, San Francisco, CA 94105.

Date Received for Filing

Andrea Anderson
Regulatory Development Division
Bay Area Air Quality Management District

Date



State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



CEQA Filing Fee No Effect Determination Form

Date Submitted: March 30, 2017

Applicant Name: Bay Area Air Quality Management District

Applicant Address: 375 Beale Street, Suite 600, San Francisco, CA 94105

Project Name: Adoption of Regulation 11, Rule 18 or Regulation 12, Rule 16 or both

CEQA Lead Agency: Bay Area Air Quality Management District

CEQA Document Type: Environmental Impact Report

SCH Number and/or local agency ID Number: 2016102043

Project Location: Nine Bay Area counties, which includes all of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara counties, and the southern portions of Solano and Sonoma counties.

Brief Project Description: This project involves the adoption of either or both of the following air pollution rules by the Bay Area Air Quality Management District (BAAQMD).

Rule 11-18 – Toxic Risk Reduction Rule. Rule 11-18, as drafted by BAAQMD staff, would ensure that emissions of toxic air contaminants (TACs) from existing facilities do not pose an unacceptable health risk to people living and working nearby. The rule would use the most up-to-date assumptions about the risk of compounds and would require facilities that pose a site-wide health risk in excess of the risk action level threshold of ten per million cancer risk or 1.0 hazard index for both chronic and acute risk to reduce that risk below the threshold through the implementation of a risk reduction plan approved by BAAQMD or demonstrate that all significant sources of toxic emissions are controlled by Best Available Retrofit Control Technology for Toxics (TBARCT); a significant source of toxic emission is one that poses a health risk of 1.0 per million cancer risk or 0.2 hazard index. The rule would be implemented in four phases based on either a facility's priority score or the toxic emissions source.

Rule 12-16 – Refinery Emissions Caps Rule. Rule 12-16 reflects a policy recommendation from Communities for a Better Environment (CBE) and their associated organizations (henceforth called "CBE"). The rule, as proposed by CBE, would limit the emissions of climate pollutants and three criteria pollutants: greenhouse gases (GHGs), particulate matter (PM), oxides of nitrogen (NOx), and sulfur dioxide (SO₂) from petroleum refineries and three associated facilities. The rule would establish facility-wide emissions limits for the covered pollutants at each of the affected facilities to ensure that each facility does not increase emissions due to changes in operation, crude or product slates; or increases in production. Each facility emissions limits would be set at the maximum-annual emissions reported for that facility in the period from 2011 through 2015 with an additional allowance or "threshold factor" of seven percent over the maximum annual emission rate for each pollutant.

Describe clearly why the project has no effect on fish and wildlife: The following conditions are discussed in the draft EIR and Initial Study (included in Appendix A of the draft EIR).

- The project would not result in or have the potential to result in harm, harassment, or take of any fish and/or wildlife species.
- The project would not result in or have the potential to result in direct or indirect destruction, ground disturbance, or other modification of any habitat that may support fish and/or wildlife species.
- The project would not result in or have the potential to result in the removal of vegetation with potential to support wildlife.
- The project would not result in or have the potential to result in noise, vibration, dust, light, pollution, or an alteration in water quality that may affect fish and/or wildlife directly or from a distance.
- The project would not result in or have the potential to result in any interference with the movement of any fish and/or wildlife species.

Determination: Based on a review of the Project as proposed, the California Department of Fish and Wildlife has determined that for purposes of the assessment of CEQA filing fees [F&G Code 711.4(c)] the project has no potential effect on fish, wildlife and habitat and the project as described does not require payment of a CEQA filing fee. This determination does not in any way imply that the project is exempt from CEQA and does not determine the significance of any potential project effects evaluated pursuant to CEQA.

Please retain this original determination for your records; you are required to file a copy of this determination with the County Clerk after your project is approved and at the time of filing of the CEQA lead agency's Notice of Determination (NOD). If you do not file a copy of this determination with the County Clerk at the time of filing of the NOD, the appropriate CEQA filing fee will be due and payable.

Without a valid No Effect Determination Form or proof of fee payment, the project will not be operative, vested, or final, and any local permits issued for the project will be invalid, pursuant to Fish and Game Code Section 711.4(c)(3).

CDFW Approval By: Scott Wilson Date: April 5, 2017
Scott Wilson
Regional Manager
Bay Delta Region