



ACTION FOR A HEALTHY PLANET



March 6, 2026

**SUBMITTED VIA EMAIL**

Chair Hopkins and Board of Directors  
Bay Area Air District  
375 Beale Street, Suite 600  
San Francisco, CA 94105  
Email: [clerkoftheboard@baaqmd.gov](mailto:clerkoftheboard@baaqmd.gov)

**Re: Urging No Delay to Rule 9-6 Implementation and Support for Common-Sense Flexibility Measures to Ensure its Success**

Dear Chair Hopkins and Members of the Board of Directors:

We write as a coalition deeply concerned by the suggestions heard at the February 11<sup>th</sup> Stationary Source Committee that life-saving Zero-NOx rules for water heaters, Rule 9-6, could once again be stalled. These standards represent the next logical step toward Zero-NOx and include a deliberate three-year onramp to allow preparation and market adjustment. Further delay would not protect residents—it would unnecessarily prolong exposure to harmful pollution and undermine regulatory certainty at the very moment the market needs clear signals to accelerate the adoption of cleaner alternatives in homes and businesses.

The Board allowed nearly four years to prepare for the first phase of implementation—January 1, 2027. This lengthy timeframe enabled the development of measures to ensure fair, equitable, and effective implementation of the rules. For the past year, staff have engaged with multiple stakeholders to devise “flexibility measures” to address the toughest implementation challenges.

During this time, our organizations actively engaged throughout this process, whether through the Implementation Working Group or workshops on flexibility measures.

It is for this reason that we were troubled to hear further calls for delay. Delay will only serve to perpetuate the status quo, continuing to harm already overburdened communities by maintaining these pollution sources, which are known to contribute to disparate health outcomes and poor regional air quality. The core principle behind the rule remains the same—the Bay Area must address the nearly 3,700 tons of NO<sub>x</sub> emitted annually by these appliances, reduce PM 2.5 in communities of color, and prevent up to 85 premature deaths per year.<sup>1</sup> The Board understood this when the rules were passed in 2023, and the flexibility measures they instructed staff to create were intended to ensure timely implementation stayed on track. Staff has done just that, presenting robust flexibility proposals to the board that would support the on-time implementation of the rules.

We urge you to stay the course and keep this rule on track so that the first phase of implementation can start on January 1, 2027. It is essential that both 9-6 and 9-4 stay on course to start the much-needed transition away from polluting appliances to zero NO<sub>x</sub>. In this letter, we provide further insight into why the timely implementation of these rules is imperative to improve public health and regional air quality.

### **I. Timely Implementation of these Rules is Needed to Protect Public Health, Ensure Needed Emission Reductions, and Keep Strong Market Signals to Lower Costs.**

In 2023, when amendments to Rules 9-4 and 9-6 were passed, the Board had the foresight to build in a three-year implementation process that would allow staff and key stakeholders to study the impacts of the rule and prepare for the most challenging scenarios before the first wave of compliance is triggered on January 1, 2027. This nearly four-year lead-up to implementation has allowed staff to convene targeted working groups to address issues such as workforce preparedness, equity concerns, and technical feasibility. At the end of 2024, staff also provided the Board with a checkpoint report, which identified the more challenging scenarios for rule implementation. At this meeting, the Board directed staff to pursue targeted flexibility measures to address those concerns. Staff have now done just that and have returned with proposed flexibility measures that allow rule implementation to move forward.

The air district must keep its timeline, particularly because most cases will fall outside the limited exemptions needed for flexibility. The success of the rules hinges on a broad range of actors aligning policies to support this transition, including local program administrators, building owners, and policymakers.

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<sup>1</sup> Bay Area Air District Staff Presentation, Stationary Source Committee (February 11, 2026), Slides 3-4. [https://www.baaqmd.gov/~media/files/board-of-directors/2026/ssc\\_presentations\\_021126\\_op-pdf.pdf?rev=bfb97c7a58c045d8a323c153c0034df0&sc\\_lang=en](https://www.baaqmd.gov/~media/files/board-of-directors/2026/ssc_presentations_021126_op-pdf.pdf?rev=bfb97c7a58c045d8a323c153c0034df0&sc_lang=en).

Local jurisdictions are already working to implement measures to assist their constituents, including those being developed by the City of San Francisco. The success of the rules depends on continued coordination among these key actors, and maintaining the timeline set four years ago will prevent momentum from being lost. The rule's success also rests upon market transformation through a strong and stable market signal—by definition, delays and uncertain compliance dates create market uncertainty by muddying that critical market signal at the heart of these rules' theory of change.

Any significant delay right before the start of the first compliance period would undermine the collective efforts made so far. It would discourage ongoing alignment and preparation for these critical regulations. Even short delays could have a cascading effect, leading to further setbacks in other areas of 9-4 and 9-6, which have tiered compliance dates over the next several years. Even discussion of delays can reduce confidence in the Air District's commitment to the rules and motivate key stakeholders to treat compliance dates and the rules themselves as unsettled moving targets, thereby stalling action.

Manufacturers, distributors, and installers throughout the region have been preparing for the 2027 implementation date. Further delaying the rule would only erode the trust of these market actors and waste years of work to help the market adjust and deliver the products and services Bay Area residents will need to make this necessary transition. If the concern remains affordability, the rule is the solution. The demand for cleaner appliances is growing, but rules will accelerate the market transition and lower prices.

Importantly, calls to stall the entire rule on grounds that a full and immediate transition may be challenging for economically disadvantaged communities are counterintuitive and ultimately harmful. Delaying the rule does not protect those communities; it prolongs their exposure.

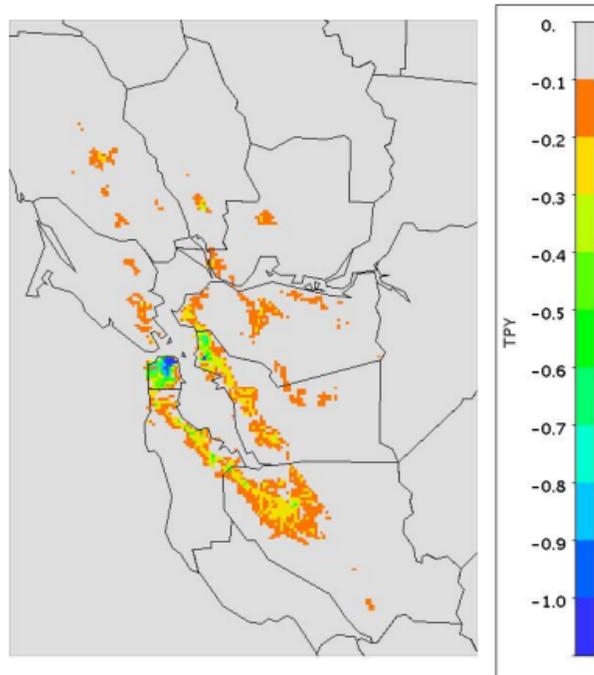
This rule addresses air pollution across the region. As staff have analyzed and presented, outdoor venting of most current appliances meaningfully contributes to NO<sub>x</sub> emissions, which in turn contribute to secondary PM<sub>2.5</sub> across most residential areas of the Bay Area.<sup>2</sup> That pollution does not respect borders or remain confined to wealthier neighborhoods. Instead, these emissions contribute to cumulative burdens in communities that are already overexposed and under-resourced to make the transition immediately on their own in some cases.

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<sup>2</sup> Final Staff Report—Proposed Amendments to Building Appliance Rules- Regulation 9, Rule 4: Nitrogen Oxides from Fan Type Residential Central Furnaces and Rule 6: Nitrogen Oxides Emissions from Natural Gas-Fired Boilers and Water Heaters, p. 28. [https://www.baaqmd.gov/~media/dotgov/files/rules/reg-9-rule-4-nitrogen-oxides-from-fan-type-residential-central-furnaces/2021-amendments/documents/20230307\\_fsr\\_rules0904and0906-pdf.pdf?la=en](https://www.baaqmd.gov/~media/dotgov/files/rules/reg-9-rule-4-nitrogen-oxides-from-fan-type-residential-central-furnaces/2021-amendments/documents/20230307_fsr_rules0904and0906-pdf.pdf?la=en).

Substantial delay would therefore undermine regional air quality progress and perpetuate disproportionate health harms in the very communities invoked as a justification for postponement. If the rule is stalled for everyone, for any length of time, it is disadvantaged communities in the East Bay and inland counties that will continue bearing a disproportionate share of the pollution burden.

**Figure 5-7**  
**Map of the PM<sub>2.5</sub> emissions difference between the modeled control and base cases**



We therefore urge you to stay the course and resist any calls to delay this rule any further. Flexibility measures will ensure disadvantaged communities have the option to transition on a timeline that aligns with the needed resource development, while allowing 9-6 to go into effect on time at the start of next year.

## **II. Support should be there to help Disadvantaged Communities.**

During both the Implementation Working Group and the development of the flexibility measures concept, we repeatedly heard that the Air District must do more to support disadvantaged communities in making this essential transition to a Zero-NOx future for building appliances. We agree and encourage the Board to seek additional funding for targeted support for those who will need financial assistance to make this transition as the market adjusts.

But incentives alone will not remedy the resource gap across communities. As stated, rule implementation must proceed as originally planned so that manufacturers, retailers, and installers prioritize the right products, and supply helps ease cost over time. That is why limited exemptions, with financial support to make compliance *voluntary* for economically disadvantaged households, make the most sense.

With the general compliance framework kept on track, time-limited low-income household exemptions will provide additional time to ease into this transition for those who need it without substantially undermining the rule's intended impact on the region. In many cases, targeted and robust incentive programs can still help many low-income families make this transition, even during the interim *voluntary compliance* period they will have available.

In 2024, SPUR issued a report analyzing the incremental cost gap between gas and heat pump equipment for low-income residents after they receive support through incentives, and found that in most parts of the Bay Area, a qualifying resident could buy compliant equipment for less than a non-compliant gas-fired water heater.<sup>3</sup> Funds analyzed included those from the TECH Clean California Rebate Program, the Golden State Rebate Vouchers offering vouchers of \$700 to \$900, and funding from local municipal utilities and Community Choice Aggregators.<sup>4</sup> Even though much has changed in the world of subsidies since then, SPUR found that stacking of available local and state rebates can still make heat pump water heaters less expensive than their NOx-emitting alternatives for Bay Area residents in most cases.<sup>5</sup>

SPUR further analyzed two scenarios—one in which the TECH Clean California Rebate program is stacked with other state rebate programs and local incentives, and another in which TECH Clean California Rebates are no longer available. What they found is that after all incentives are considered, HPWH can be bought and installed for less than gas equipment for both low-income residents and everyone else with access to incentive funding. The difference is substantial—with savings of up to \$2,505 for income-qualified residents and \$364 for all other households who take advantage of available incentives.<sup>6</sup> Without the TECH Clean California Rebates, HPWH may be higher, but local initiatives and other state rebates will keep the cost difference between \$1,000 to \$2,000, depending on eligibility. Additional funding from other programs, including the Air District, could help bridge that gap and ensure a more geographically balanced distribution of incentives across the Bay Area.

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<sup>3</sup> SPUR. *Closing the Electrification Affordability Gap*. February 26, 2024. <https://www.spur.org/publications/spur-report/2024-02-26/closing-electrification-affordability-gap>.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Sam Fishman, *Equitably Transitioning to Clean Water Heating in the Bay Area: State of Play for 2026*. SPUR, December 15, 2025. <https://www.spur.org/news/2025-12-15/equitably-transitioning-clean-water-heating-bay-area-state-play-2026>.

Here are some ways that the Air District can align existing funding and explore additional funds to help in this transition:

- Community Benefits Funds- the agency’s Community Investments Office should conduct targeted outreach and grant support to low-income households meeting the thresholds set in the final flexibility measures the Board adopts this fall. Working with community advisory councils, communities will be able to educate themselves on the importance of these rules to regional air pollution goals and the long-term savings possible through conversion to heat pump water heaters, and determine whether this technology fits their priorities. These funds can then be used to support the direct installation of low-income heat pump water heaters in these communities.
- Fees—The Air District has authority to “adopt, by regulation, a schedule of fees to be assessed on areawide or indirect sources of emissions which are regulated, but for which permits are not issued, by the district to recover the costs of district programs related to these sources” [Health & Saf. Code, § 42311\(g\)](#). The Air District has been enforcing these measures for decades, with incremental stringency on NOx emissions, culminating in Zero-NOx today. These fees can and should still go toward “recovering the costs of district programs related to these sources,” which may include new incentive funding the District makes available to meet the air quality and public health goals of the rules. We urge the District to explore using these fees to effectuate those objectives.
- Other Statewide and Local Incentives. The Air District should continue to identify and advocate for funding through state and local incentive programs that align with rules 9-4 and 9-6. Several incentives are available or forthcoming from various state and local programs. These include:
  - Home Electrification and Appliance Rebates (HEEHRA), Home Efficiency Rebates (HOMES);
  - California Energy Commission (CEC) Equitable Building Decarb (EBD)
  - Pacific Gas & Electric (PG&E) Golden State Rebates and Energy Savings Assistance (ESA)
  - Community Choice Aggregators (Clean Power SF, MCE, Peninsula Clean Energy, San Jose Clean Energy, Silicon Valley Clean Energy)
  - Municipal Public Utilities (Alameda, Palo Alto)
  - Senate Bill 1221 Pilots
  - Approximately \$38 Million annualized benefits across larger and smaller geographic areas for multiple measures and appliances.<sup>7</sup>

The District also has several models it has now successfully designed and implemented to replace older, polluting technology with newer, zero-emission or cleaner versions that comply with the latest rules. We strongly encourage the Board to look beyond the Rules division to other

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<sup>7</sup> See Bay Area Air District Staff, Presentation to Stationary Source Committee, February 11, 2026 (slide 10).

programs like the Air District Community Program, which has successfully launched the **Bay Area Air District’s Vehicle Buy Back Program**<sup>8</sup> and recently announced its **Pilot Commercial Electric Lawn and Garden Equipment Exchange Program**.<sup>9</sup> These programs demonstrate the viability of incentivizing residents to replace older technology with cleaner, greener alternatives. The same approach could prove beneficial in switching out NOx-emitting water heaters with Zero-NOx versions. Such a program should target economically disadvantaged households in frontline communities and help with the average upfront incremental cost of installing a new rule-compliant HPWH.

While there are multiple levers the Air District can pull to help support this transition equitably, the lack of incentives should never be used as a pretext to delay the rule. The exemptions woven into the flexibility measures will allow low-income homeowners to ease into compliance over a longer period. But the option to comply should be made available, and incentive dollars will help support the transition for additional homes and get closer to the intended benefits of the rule in terms of air pollution reduction and decreased health disparities sooner.

### **III. Defining “Economically Disadvantaged” should Identify those Most in Need without Being Overly Intrusive or Complicated.**

We strongly support providing exemptions to Bay Area residents for whom immediate compliance with the Zero-NOx rule would add to an already significant housing cost burden. We also agree that the exemption should be targeted to those who need it the most.

The definition of “low-income” households qualifying for this exemption should be the most straightforward, least intrusive, easiest to oversee administratively, and any threshold set should reflect the high cost of living in the Bay Area—a region where households with incomes not considered low in other regions may still struggle to make ends meet.<sup>10</sup>

To that end, of the options staff presented at Stationary Source, Option B, with a focus on 80% Area Median Income as the threshold, offers the most efficient and least intrusive way to provide flexibility to those populations that need it most. As staff noted during their presentation, the percentage of the population that might be eligible under the 80% AMI proposal is estimated at 20%. Even at a modestly higher level than the more strenuous eligibility criteria, Option B remains the easiest, with the least friction, and offers the best path to ensuring equitable and efficient implementation of this rule.

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<sup>8</sup> <https://www.baaqmd.gov/funding-and-incentives/residents/vehicle-buy-back-program>

<sup>9</sup> <https://www.baaqmd.gov/funding-and-incentives/public-agencies/lawn-and-garden>

<sup>10</sup> See, Letter from Sam Fishman, et al., to Air District Staff, Re: Response to Affordability and Availability Concepts for Rule 9-6, (November 24, 2025); [https://www.baaqmd.gov/~media/dotgov/files/rules/reg-9-rule-4-nitrogen-oxides-from-fan-type-residential-central-furnaces/2021-amendments/comments/20251208\\_baca-pdf.pdf?rev=eb1bc5c940d64a6c93bfff287b2c5697&sc\\_lang=en](https://www.baaqmd.gov/~media/dotgov/files/rules/reg-9-rule-4-nitrogen-oxides-from-fan-type-residential-central-furnaces/2021-amendments/comments/20251208_baca-pdf.pdf?rev=eb1bc5c940d64a6c93bfff287b2c5697&sc_lang=en)

We also encourage categorical qualification for this exemption if a consumer is already eligible for CARE or SNAP, which use similar eligibility thresholds. This further eliminates administrative burdens on the agency and verification burdens on eligible participants.

We note that while this flexibility may be essential at the start of compliance, it may not be necessary in the long term. The goal should still be to help low-income households transition to Zero-NOx and not be left behind by the rest of the region. The Air District should therefore adopt built-in checkpoints to assess technological development and cost levels over time and determine whether the exemption will remain effective and necessary. As the market improves and incentives are made available, fewer households should need this exemption, and the full implementation of the rule could be possible.

#### **IV. Support for Tenant Protections Can Help Further Address Equity.**

We recognize that the flexibility provided through exemptions for disadvantaged households will primarily help low-income homeowners rather than renters, who comprise a large share of low-income households in the Bay Area. Yet the same equity framework guiding this transition should likewise motivate the Air District to explore ways it can support the advancement of meaningful protections for renters to ensure they are not disproportionately burdened.

Supplying hot water to a rental unit falls squarely in the landlord's duty to maintain habitability under California Civil Code § 1941.1. Still, some landlords might take the opportunity to make accommodating upgrades to push for a no-fault eviction or to pass the cost of compliance onto tenants through a capital improvement claim. This is something many of our organizations seek to address locally and at the state level, as it is a real challenge to affordable housing preservation, irrespective of these rules.

While the Air District does not have authority over landlord-tenant arrangements, it can publicly support stronger protections statewide and in local jurisdictions considering strengthening their own anti-displacement ordinances. The importance of these rules to the region's air quality and health cannot be overstated. The Air District can educate local and state decision-makers on how to ensure that the rules succeed without displacing the very population they are intended to relieve.

Where the District may have greater leverage is in using its own incentive programs to support the transition. To the extent that funding programs administered by the District are made available to rental housing providers, it should condition receipt of such funding on an agreement to keep existing tenants in place unless evicting for cause, and not to seek pass-through rent increases if the funds are used to fulfill needed capital improvements.

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## **V. Conclusion.**

Strong support for economically disadvantaged communities is both the right thing to do and essential to the region's success with this life-saving transition. Targeted incentives, financing tools, and practical flexibility measures can ensure that households who need additional time or assistance are not left behind. We fully support developing such measures.

That support, however, must be paired with moving forward on the rule itself. The flexibility provisions under consideration are designed to provide an off-ramp where necessary, without halting progress for everyone. A wholesale delay would undercut the public health benefits of the rule and send the wrong signal to the market at the worst possible moment.

This rule has been years in the making. Residents, manufacturers, installers, and retailers all benefit from regulatory certainty and from a clear path forward. The Board identified that path nearly three years ago, with a graduated implementation approach. Now is the time to fulfill that plan, while strengthening the support that will ensure an equitable transition.

We urge you to stay the course, keep to the implementation schedule, and finalize practical flexibility measures that will allow the rule to succeed.

Sincerely,

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*[Additional Signatories on Next Page]*

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