



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS REGULAR MEETING

March 20, 2013

A meeting of the Bay Area Air Quality Management District Board of Directors will be held at 9:45 a.m. in the 7th Floor Board Room at the Air District Headquarters, 939 Ellis Street, San Francisco, California.

Questions About an Agenda Item

The name, telephone number and e-mail of the appropriate staff Person to contact for additional information or to resolve concerns is listed for each agenda item.

Meeting Procedures

The public meeting of the Air District Board of Directors begins at 9:45 a.m. The Board of Directors generally will consider items in the order listed on the agenda. However, any item may be considered in any order.

After action on any agenda item not requiring a public hearing, the Board may reconsider or amend the item at any time during the meeting.

This meeting will be webcast. To see the webcast, please visit <http://www.baaqmd.gov/The-Air-District/Board-of-Directors/Agendas-and-Minutes.aspx> at the time of the meeting.

Public Comment Procedures

Persons wishing to make public comment must fill out a Public Comment Card indicating their name and the number of the agenda item on which they wish to speak, or that they intend to address the Board on matters not on the Agenda for the meeting.

Public Comment on Non-Agenda Matters, Pursuant to Government Code Section 54954.3 For the first round of public comment on non-agenda matters at the beginning of the agenda, ten persons selected by a drawing by the Clerk of the Boards from among the Public Comment Cards indicating they wish to speak on matters not on the agenda for the meeting will have three minutes each to address the Board on matters not on the agenda. For this first round of public comments on non-agenda matters, all Public Comment Cards must be submitted in person to the Clerk of the Boards at the location of the meeting and prior to commencement of the meeting. The remainder of the speakers wishing to address the Board on non-agenda matters will be heard at the end of the agenda, and each will be allowed three minutes to address the Board at that time.

Members of the Board may engage only in very brief dialogue regarding non-agenda matters, and may refer issues raised to District staff for handling. In addition, the Chairperson may refer issues raised to appropriate Board Committees to be placed on a future agenda for discussion.

Public Comment on Agenda Items After the initial public comment on non-agenda matters, the public may comment on each item on the agenda as the item is taken up. Public Comment Cards for items on the agenda must be submitted in person to the Clerk of the Boards at the location of the meeting and prior to the Board taking up the particular item. Where an item was moved from the Consent Calendar to an Action item, no speaker who has already spoken on that item will be entitled to speak to that item again.

Up to ten (10) speakers may speak for three minutes on each item on the Agenda. If there are more than ten persons interested in speaking on an item on the agenda, the Chairperson or other Board Member presiding at the meeting may limit the public comment for all speakers to fewer than three minutes per speaker, or make other rules to ensure that all speakers have an equal opportunity to be heard. Speakers are permitted to yield their time to one other speaker; however no one speaker shall have more than six minutes. The Chairperson or other Board Member presiding at the meeting may, with the consent of persons representing both sides of an issue, allocate a block of time (not to exceed six minutes) to each side to present their issue.

BOARD OF DIRECTORS REGULAR MEETING AGENDA

WEDNESDAY
MARCH 20, 2013
9:45 A.M.

BOARD ROOM
7TH FLOOR

CALL TO ORDER

Opening Comments
Roll Call
Pledge of Allegiance

Chairperson, Ash Kalra
Clerk of the Boards

PUBLIC COMMENT ON NON-AGENDA MATTERS

Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3

For the first round of public comment on non-agenda matters at the beginning of the agenda, ten persons selected by a drawing by the Clerk of the Boards from among the Public Comment Cards indicating they wish to speak on matters not on the agenda for the meeting will have three minutes each to address the Board on matters not on the agenda. For this first round of public comments on non-agenda matters, all Public Comment Cards must be submitted in person to the Clerk of the Board at the location of the meeting and prior to commencement of the meeting.

CONSENT CALENDAR (ITEMS 1 –6)

Staff/Phone (415) 749-

1. Minutes of the Board of Directors Regular Meeting of March 6, 2013

Clerk of the Boards/5073

2. Board Communications Received from March 6, 2013 through March 19, 2013

J. Broadbent/5052

jbroadbent@baaqmd.gov

A list of communications directed to the Board of Directors received by the Air District from March 6, 2013 through March 19, 2013, if any, will be at each Board Member's place.

3. Notice of Violations Issued and Settlements in Excess of \$10,000 in February 2013

B. Bunger/4920

bbunger@baaqmd.gov

In accordance with Resolution No. 2012-08, the Board of Directors will receive a list of all Notices of Violation issued, and all settlements for amounts in excess of \$10,000 during the month of February 2013.

4. Referral of Proposed Budget for Fiscal Year Ending (FYE) 2014 to the Budget and Finance Committee

J. Broadbent/5052

jbroadbent@baaqmd.gov

Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures, and in compliance with Health and Safety Code Section 40276, the Board shall refer the proposed budget for FYE 2014 to the Budget and Finance Committee for review and consideration.

5. Contractor Selection for the Development of a Plug-In Electric Vehicle (PEV) Readiness Plan for the Monterey Bay Area

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Board of Directors will consider selecting the Monterey Bay Unified Air Pollution Control District to develop a Plug-In Electric Vehicle Readiness Plan for the Monterey Bay Area and authorization for the Executive Officer/APCO to enter into all agreements necessary for the development of the Monterey Bay Area PEV Readiness Plan.

6. Set a Public Hearing for April 17, 2013 to Consider Adoption of proposed Regulation 12, Rule 13: Foundry and Forging Operations; Regulation 6, Rule 4: Metal Recycling and Shredding Operations; Amendments to Regulation 2, Rule 1: Permits, General Requirements and approval of a California Environmental Quality Act (CEQA) Negative Declaration

J. Broadbent/5052

jbroadbent@baaqmd.gov

At the April 17, 2013 meeting, the Board of Directors will consider adoption of two new rules: Regulation 12, Rule 13: Foundry and Forging Operations; Regulation 6, Rule 4: Metal Recycling and Shredding Operations; amendments to Regulation 2, Rule 1: Permits, General Requirements and adoption of a California Environmental Quality Act (CEQA) Negative Declaration.

COMMITTEE REPORTS AND RECOMMENDATIONS

7. Report of the **Personnel Committee** Meeting of March 11, 2013

CHAIR: B. Wagenknecht

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Committee may recommend Board of Directors' approval of the following items:

1. *Approve appointment of Gilbert Bendix, principal member, and Nicolas van Haeften, alternate member, for the professional engineer category, to the Air District's Hearing Board; and*
2. *Approve appointment of Peter Chiu, principal member, and Lisa Thompson, alternate member, for the medical profession category, to the Air District's Hearing Board.*

8. Report of the **Legislative Committee** Meeting of March 14, 2013

CHAIR: T. Bates

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Committee recommends Board of Directors' approval of the following items:

- A) *The following positions on the following bills:*

1. AB 8 Perea & Skinner: Support
2. SB 11 Pavley & Rubio: Support; and
3. SB 691 Hancock: Sponsor.

B) *The following positions on the following bills:*

1. AB 794 Gorell: Oppose
2. AB 818 Blumenfield: Oppose
3. AB 866 Lindner: Oppose
4. AB 953 Ammiano: Support
5. AB 1077 Muratsuchi: Support
6. AB 1193 Ting: Support in concept
7. SB 454 Corbett: Support in concept
8. SB 621 Gaines: Oppose
9. SB 736 Wright: Oppose
10. SB 760 Wright: Oppose; and
11. SB 792 DeSaulnier: No position.

9. Report of the **Climate Protection Committee** Meeting of March 14, 2013

CHAIR: J. Avalos

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Committee may recommend Board of Directors' approval of the following items:

Greenhouse Gas Reduction Grant Program Project Components:

1. Allocate an additional up to \$435,907 in Greenhouse Gas Reduction Grant Program (GGRGP) derived funds;
2. Approve the addition of 17 GGRGP contingency project components listed in Attachment C; and
3. Authorize the Executive Officer/APCO to execute all contracts and contingencies to expend the funding for the recommended GGRGP contingency project components listed in Attachment C.

10. Report of the **Stationary Source Committee** Meeting of March 18, 2013

CHAIR: J. Gioia

J. Broadbent/5052

jbroadbent@baaqmd.gov

PRESENTATION

11. Overview of the 2012/2013 Wood Smoke Reduction Program

J. Broadbent/5052
jbroadbent@baaqmd.gov

Staff will provide an overview of the 2012/2013 Wood Smoke Reduction Program.

CLOSED SESSION

12. **PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS - (Government Code Section 54957 and 54957.6)**

Pursuant to Government Code Section 54957 and 54957.6, the Board will meet in closed session to discuss the performance evaluation of the Executive Officer conducted at the March 11, 2013 meeting of the Personnel Committee.

OPEN SESSION

PUBLIC COMMENT ON NON-AGENDA MATTERS

Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3

Speakers who did not have the opportunity to address the Board in the first round of comments on non-agenda matters will be allowed three minutes each to address the Board on non-agenda matters.

BOARD MEMBERS' COMMENTS

Any member of the Board, or its staff, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)

OTHER BUSINESS

13. Report of the Executive Officer/APCO
14. Chairperson's Report
15. Time and Place of Next Meeting is Wednesday, April 3, 2013, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.
16. Adjournment

CONTACT THE CLERK OF THE BOARDS
939 ELLIS STREET SF, CA 94109

(415) 749-5073
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities. Notification to the Executive Office should be given at least 3 working days prior to the date of the meeting so that arrangements can be made accordingly.

Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all, members of the body to which this Agenda relates shall be made available at the Air District's headquarters at 939 Ellis Street, San Francisco, CA 94109, at the time such writing is made available to all, or a majority of all, members of that body.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109

FOR QUESTIONS PLEASE CALL (415) 749-4963

EXECUTIVE OFFICE: MONTHLY CALENDAR OF DISTRICT MEETINGS

MARCH 2013

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Executive Committee <i>(Meets on the 3rd Monday of each Month)</i> - CANCELLED	Monday	18	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Stationary Source Committee <i>(Meets on the 3rd Monday of each Month)</i>	Monday	18	9:30 a.m.	Board Room
Board of Directors Special Meeting as the Sole Member of the Bay Area Clean Air Foundation	Wednesday	20	9:45 a.m.	Board Room
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	20	9:45 a.m.	Board Room
Board of Directors Public Outreach Committee <i>(At the Call of the Chair)</i>	Thursday	21	9:30 a.m.	4th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets on the 4th Wednesday of each Month)</i>	Wednesday	27	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee <i>(Meets on the 4th Thursday of each Month)</i>	Thursday	28	9:30 a.m.	4 th Floor Conf. Room

APRIL 2013

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	3	9:45 a.m.	Board Room
Advisory Council Regular Meeting <i>(Meets on the 2nd Wednesday of each Month)</i>	Wednesday	10	9:00 a.m.	Board Room
Board of Directors Executive Committee <i>(Meets on the 3rd Monday of each Month)</i>	Monday	15	9:30 a.m.	4 th Floor Conf. Room

April 2013 Calendar Continued on Next Page

APRIL 2013

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Stationary Source Committee <i>(Meets on the 3rd Monday of each Month)</i>	Monday	15	10:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	17	9:45 a.m.	Board Room
Board of Directors Budget & Finance Committee <i>(Meets on the 4th Wednesday of each Month)</i>	Wednesday	24	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee <i>(Meets on the 4th Thursday of each Month)</i>	Thursday	25	9:30 a.m.	4 th Floor Conf. Room

MAY 2013

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	1	9:45 a.m.	Board Room
Advisory Council Regular Meeting <i>(Meets on the 2nd Wednesday of each Month)</i>	Wednesday	8	9:00 a.m.	Board Room
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	15	9:45 a.m.	Board Room
Board of Directors Executive Committee <i>(Meets on the 3rd Monday of each Month)</i>	Monday	20	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Stationary Source Committee <i>(Meets on the 3rd Monday of each Month)</i>	Monday	20	10:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets on the 4th Wednesday of each Month)</i>	Wednesday	22	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee <i>(Meets on the 4th Thursday of each Month)</i>	Thursday	23	9:30 a.m.	4 th Floor Conf. Room

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 11, 2013

Re: Minutes of the Board of Directors Regular Meeting of March 6, 2013

RECOMMENDED ACTION

Approve the attached draft minutes of the Board of Directors Regular Meeting of March 6, 2013.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Regular Meeting of March 6, 2013.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Ana Sandoval

Attachment

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
(415) 749-5073

Board of Directors Regular Meeting
Wednesday, March 6, 2013

DRAFT MINUTES

CALL TO ORDER

Chairperson Ash Kalra called the meeting to order at 9:51 a.m.

ROLL CALL

Present: Chairperson Ash Kalra; Vice Chairperson Nate Miley; and Directors John Avalos, Tom Bates, Teresa Barrett, Scott Haggerty, David E. Hudson, Eric Mar, Jan Pepper, Mary Piepho, Mark Ross, Tim Sbranti, Jim Spering and Ken Yeager.

Absent: Secretary Carole Groom and Directors Susan Adams, John Gioia, Carol L. Klatt, Liz Kniss, Edwin M. Lee, Brad Wagenknecht and Shirlee Zane.

PLEDGE OF ALLEGIANCE

Chairperson Kalra led the Pledge of Allegiance.

OPENING COMMENTS: None.

OATH OF OFFICE/SWEARING-IN OF NEW BOARD OF DIRECTORS:

Directors Barrett and Pepper took the oath of office.

PUBLIC COMMENT ON NON-AGENDA MATTERS:

Gary Latshaw addressed the Board to request the Air District take a stance on the Keystone XL Pipeline project and to recommend Board review of a recent study by Dr. Daniel M. Stout II of the United States Environmental Protection Agency.

Tim Brand addressed the Board to request the implementation of stricter emissions standards applicable to the operations of the Lehigh cement facility.

NOTED PRESENT: Director Sbranti was noted present at 10:02 a.m.

Joel Masser addressed the Board regarding the feasibility of stricter emission standards applicable to the operations of the Lehigh cement facility.

Jeanne Quock addressed the Board to request assistance with the unmitigated emissions from her neighbor's back-up diesel generator. Chairperson Kalra directed staff to follow up with Ms. Quock.

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), said the drafting of regulations regarding back-up diesel generators is already underway and the report relative to the Lehigh facility is currently under review by staff.

CONSENT CALENDAR (ITEMS 1 – 7)

- 1. Minutes of the Board of Directors Regular Meeting of February 6, 2013;**
- 2. Board Communications Received from February 6, 2013, through March 5, 2013;**
- 3. Air District Personnel on Out-of-State Business Travel;**
- 4. Notice of Violations Issued and Settlements in Excess of \$10,000 in January 2013;**
- 5. Quarterly Report of Executive Office and Division Activities;**
- 6. Consider Approval of Hiring Recommendation at Step E of Salary Range 156M for the Director of Engineering Position; and**
- 7. Consider Authorizing Expenditures for the My Air Online Program.**

Board Comments: None.

Public Comments: None.

Board Action: Director Mar made a motion to approve Consent Calendar Items 1, 2, 3, 4, 5, 6 and 7; Director Bates seconded; and the motion was unanimously approved without objection.

COMMITTEE REPORTS AND RECOMMENDATIONS

- 8. Report of the Personnel Committee Meeting of February 11, 2013**
Committee Chairperson Wagenknecht (read by Director Mar)

The Personnel Committee met on Monday, February 11, 2013, and approved the minutes of November 8, 2012.

The Personnel Committee met in closed session to conduct a performance evaluation of the District Counsel with no reportable action. The Personnel Committee Chair will brief the Board on the evaluation during today's closed session.

The next meeting of the Personnel Committee is at the call of the Chair.

Board Comments: None.

Public Comments: None.

Board Action:

Director Mar made a motion to approve the report of the Personnel Committee; Director Hudson seconded; and the motion was unanimously approved without objection.

9. Report of the Mobile Source Committee Meeting of February 21, 2013

Committee Chairperson Haggerty

The Mobile Source Committee met on Thursday, February 21, 2013, and approved the minutes of January 24, 2013.

The Mobile Source Committee then reviewed projects with proposed grant awards over \$100,000 and recommends Board approval of two projects, one that will replace one off-road diesel-powered loader in Sonoma County and another that will replace four pieces of marine equipment operating on a tug boat in Contra Costa County, and authorization for the Executive Officer/APCO to enter into agreements for those projects.

The Mobile Source Committee then received an overview of Air District Grant Programs, including a six-year history of grant funding expenditures, a summary of 2012 grant funding allocations, emissions reductions figures and expenditures by County, 2013 funding projections, and upcoming opportunities and challenges for the grant program.

The Committee also reviewed the Funding for Fiscal Year Ending 2013 Transportation Fund for Clean Air Regional (TFCA) Fund Shuttle Projects and recommends the Board:

1. Modify Policy 28 to increase TFCA cost-effectiveness maximum limit to \$500,000/ton for pilot shuttle projects located in Community Air Risk Evaluation areas and increase the time period for which a project in those areas can maintain “pilot” status from two years to three years;
2. Award the Oakland “B” shuttle the amount of \$177,302 and San Francisco 82X shuttle the amount of \$147,950 for last-mile commute connection service; and
3. Award funding and authorize the Executive Officer/APCO to enter into agreements for 6 Projects: 12R09, 12R10, 12R11, 12R17, 12R18 and 12R19.

The next meeting of the Committee is on Thursday, March 28, 2013, at 9:30 a.m.

Board Action:

Director Haggerty made a motion to approve the report and recommendations of the Mobile Source Committee and Director Piepho seconded.

Public Comments:

Maisha Everhart, Senior Policy Advisor for Intergovernmental Affairs, Office of the Mayor, City of Oakland, read the letter from Mayor Jean Quan, Council President Pro Tem Rebecca D. Kaplan and Councilmember Lynette G. McElhaney, City of Oakland, dated March 6, 2013, in support of continued funding of City of Oakland, Broadway “B” project.

Zach Seal, Economic & Workforce Development, City of Oakland, addressed the Board in support of continued funding of City of Oakland, Broadway “B” project.

Board Comments:

Director Bates commended the City of Oakland for its efforts on this project, said the term definitions are in need of refinement and urged the Bay Area Regional Transit to get involved in funding projects of this type.

Director Piepho commended the City of Oakland for its efforts on this project and urged the parties to consider a minimal fare of approximately \$0.25 to help offset the operational costs.

Board Action:

The motion was unanimously approved without objection.

Director Ross asked if the recent closure of a business involved in the truck fleet modernization will have an impact on Air District projects, which questions were answered by Mr. Broadbent.

10. Report of the Executive Committee Meeting of February 25, 2013

Chairperson Kalra

The Executive Committee met on Monday, February 25, 2013, and approved the minutes of December 17, 2012.

The Executive Committee received from Christian Colline, P.E., Vice-Chairperson of the Hearing Board, the Quarterly Report of the Hearing Board for October through December 2012, including summaries of the cases and fees collected.

The Executive Committee considered the staff presentation Remote Participation Protocol for Committee Meetings, including current protocol, a proposal for consideration and next steps. The Executive Committee recommends the Board approve a remote participation protocol for select committee meetings, as follows:

1. Allow remote participation by committee members for all committee meetings held in the Air District Headquarters 4th floor Conference Room at 939 Ellis Street in San Francisco, with the exception of Executive Committee and Personnel Committee meetings;
2. The Committee Chair, Vice-Chair or member who will facilitate the meeting must participate in person;
3. Any remote participation for committee meetings will occur only via video-conferencing at identified and secured locations; and
4. Video-conferencing locations will be made available for committee meetings upon direction of the Executive Officer/APCO or by request by one or more members of the committee; provided the location(s) is/are available and all legal noticing requirements can be met.

The Executive Committee considered the staff presentation 390 Main Acquisition Status and Financing, including overviews of the site location, floor plans and shared space, components for

disposition of 939 Ellis, comparisons of the annual costs for each building, a detailed review of the financing principles and next steps. The Executive Committee recommends, with the concurrence of the Budget and Finance Committee, that the Board authorize the Executive Officer/APCO to complete necessary documents to finance the purchase of the Air District portion of 390 Main Street, San Francisco, CA under the terms of the Principles of Financing presented to the committee. Completed documents will be presented to the Board for final approval at a subsequent meeting.

The next meeting of the Executive Committee is Monday, April 15, 2013, at 9:30 a.m.

Board Action:

Director Piepho made a motion to approve the report and recommendations of the Executive Committee and Director Sbranti seconded.

Board Comments:

Director Ross mentioned the option of staff addressing the issue of entitlements in order to add pre-sale value to the property at 939 Ellis Street.

Director Sbranti echoed the option mentioned by Director Ross and asked for information on the process of identifying additional remote participation locations, which process was discussed by the Board.

Public Comments: None.

Board Action:

The motion was unanimously approved without objection.

11. Report of the Budget and Finance Committee Meeting of January 23, 2013

Committee Chairperson Groom (read by Director Miley)

The Budget and Finance Committee met on Wednesday, February 26, 2013, and approved the minutes of October 24, 2012, and January 23, 2013.

The Budget and Finance Committee considered the staff presentation 390 Main Acquisition Status and Financing, including overviews of the site location, floor plans and shared space, components for disposition of 939 Ellis, comparisons of the annual costs for each building, a detailed review of the financing principles and next steps. The Budget and Finance Committee recommends, with the concurrence of the Executive Committee, that the Board of Directors authorize the Executive Officer/APCO to complete necessary documents to finance the purchase of the Air District portion of 390 Main Street, San Francisco, CA under the terms of the Principles of Financing presented to the committee. Completed documents will be presented to the Board for final approval at a subsequent meeting.

The next meeting of the Budget and Finance Committee is Wednesday, March 27, 2013, at 9:30 a.m.

Board Comments: None.

Public Comments: None.

Board Action:

Director Miley made a motion to approve the report and recommendations of the Budget and Finance Committee; Director Piepho seconded; and the motion was unanimously approved without objection.

PRESENTATION

12. Update on Joint Regional Agency Co-Location at 390 Main Street

Jeff McKay, Deputy APCO, gave the staff presentation 390 Main Acquisition Status and Financing, including overviews of the site location, floor plans and shared space, components for disposition of 939 Ellis, comparisons of the annual costs for each building, a detailed review of the financing principles, next steps and recommendations.

Director Hudson asked, regarding slide #21, BAAQMD 390 Main Financing Principles, whether the interest rate for the first five years is 1.4 or 3.2%, which question was answered by Mr. McKay.

Mr. McKay concluded the presentation.

Board Comments:

Director Ross asked about the plan in the event that one or more 390 Main Street building owners decide to sell their portion, which questions were answered by Brian Bunger, District Counsel.

Director Hudson clarified and corrected his comments made in the Budget and Finance Committee meeting on February 26, 2013.

Director Sbranti asked about 390 Main Street sale restrictions, which questions were answered by Mr. Bunger.

Director Pepper asked about increases in Operating Expenses of \$13 per square foot, which questions were answered by Messrs. Bunger and McKay.

Director Hudson encouraged staff to constantly reevaluate plans with an eye to maximizing the benefits of co-habitation.

Director Barrett asked, regarding slides #16, Building Purchase 390 Main Street Original Assumptions in 2011, and #17, Building Purchase 390 Main Street February 2013 Assumptions, for an explanation of the change in square footage from 62,500 to 75,000, which question was answered by Mr. McKay.

Steve Heminger, Executive Director, Metropolitan Transportation Commission (MTC), addressed the Board regarding the budget for, status of, and cost to date of renovation work, to commend Air District staff on their collaborative efforts, and to share his experience of agency co-tenancy under the terms of a condominium agreement.

Director Piepho stated San Francisco was not the ideal location.

Director Ross asked about the current value of the property at 390 Main Street, the likelihood of a sale, and whether involving the State of California in the purchase would eliminate the barrier perceived by the San Francisco Bay Conservation and Development Commission, which questions were answered by Mr. Heminger.

Director Pepper asked about the current tenants and remaining space available, which questions were answered by Mr. Heminger.

Director Bates asked about the tenancy timeline, which questions were answered by Mr. Heminger.

Director Miley echoed the comment of Director Piepho.

Public Comments: None.

Board Action:

Director Piepho made a motion, seconded by Director Spring, to authorize the Executive Officer/APCO to complete necessary documents to finance the purchase of the Air District portion of 390 Main Street, San Francisco, CA under the terms of the Principles of Financing presented to the Board. Completed documents will be presented to the Board for final approval at a subsequent meeting.

The motion was unanimously approved without objection.

PUBLIC COMMENT ON NON-AGENDA MATTERS:

Andy Katz, Breathe California, addressed the Board to direct its attention to a recent report from his organization regarding Emissions Control Options for Lehigh Hanson Cement Plant, to commend the collaborative work done in the wake of the Chevron refinery incident in August 2012, to express gratitude for the flexibility found in the application of the TFCA grants and to commend Director Yeager for his years of service at the California Air Resources Board.

CLOSED SESSION

The Board adjourned to Closed Session at 11:31 a.m.

13. EXISTING LITIGATION (Government Code Section 54956.9(a))

Pursuant to Government Code Section 54956.9(a), a need existed for the Board to meet in closed session with legal counsel to consider the following cases:

California Building Industry Association v. Bay Area AQMD, Alameda County Superior Court, Case No. RG-10548693; California Court of Appeal, First Appellate District, Case No. A135335.

14. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957 and 54957.6)

Pursuant to Government Code Sections 54957 and 54957.6, the Board met in closed session to discuss the performance evaluation of the District Counsel conducted at the Personnel Committee meeting on February 11, 2013.

OPEN SESSION

The Board resumed Open Session at 11:57 a.m. with no reportable action on either item.

BOARD MEMBERS' COMMENTS:

Director Haggerty asked for clarification on the current remote participation policy, which was provided by Messrs. Broadbent and Bunger. Director Haggerty asked that telephonic participation at Committee meetings be re-visited as a component of the policy at some later date.

Director Piepho echoed the comment by Director Haggerty.

Director Bates echoed the comment by Director Haggerty and suggested it be considered while planning the new building at 390 Main Street.

Chairperson Kalra echoed the comments of Director Bates.

Director Piepho urged staff to continue efforts to engage the public and to lead in the area of innovative solutions, a sentiment echoed by Chairperson Kalra.

Director Haggerty asked if Alameda County had been contacted regarding its identification as a remote participation location, which question was answered by Ana Sandoval, Manager, Executive Operations/Policy Advisor.

OTHER BUSINESS

15. Report of the Executive Officer/APCO:

Mr. Broadbent presented an update on the Winter PM_{2.5} Season.

16. Chairperson's Report:

Chairperson Kalra congratulated Director Gioia on his reappointment to the Board and gave notice of the Board Special Meeting as the Sole Member of the Bay Area Clean Air Foundation on March 20, 2013, at 9:45 a.m.

17. Time and Place of Next Meeting: Wednesday, March 20, 2013, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

18. Adjournment: The Board meeting adjourned at 12:12 p.m.

Sean Gallagher
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 4, 2013

Re: Board Communications Received from March 6, 2013 through March 19, 2013

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

A list of communications directed to the Board of Directors received by the Air District from March 6, 2013 through March 19, 2013, if any, will be at each Board Member's place at the March 20, 2013 Board meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Maricela Martinez
Reviewed by: Ana Sandoval

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 12, 2013

Re: Notices of Violation Issued and Settlements in Excess of \$10,000 in February 2013

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

In accordance with Resolution No. 2012-08, attached to this Memorandum is a listing of all Notices of Violation issued, and all settlements for amounts in excess of \$10,000 during the calendar month prior to this report.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The amounts of civil penalties collected are included in the Air District's general fund budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian C. Bunger

Attachments

NOTICES OF VIOLATION ISSUED

The following Notice(s) of Violation were issued in February 2013:

Alameda						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Arya Campbell & Erik Webber	V7510	Hayward	A53034A	2/19/13	6-3-301	Wood smoke violation
Earthgrains Baking Companies, Inc	A0532	Oakland	A51248A	2/14/13	2-1-307	RCA#06F64/06F65 denied (PC#19934,item#7)
Evergreen Oil, Inc	A1190	Newark	A49096A	2/11/13	2-1-307	NOx emissions, ST#NTV-1191
Owens-Brockway Glass Container Inc	A0030	Oakland	A51247A	2/6/13	6-1-302	breakdown denial (RCA 06G43 & 06G42)
PE Berkeley, Inc	B1326	Berkeley	A52054A	2/1/13	2-6-307	TitleV semi-annual report submitted late

Contra Costa						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Arco Bulk Terminal	J2193	Richmond	A52222A	2/11/13	8-33-305	CT#206360, failure to meet year round decay rate
Chevron Inc	A0072	Richmond	A52175A	2/21/13	2-1-307	Permit Condition 00438, part 3
Chevron Products Company	A0010	Richmond	A52440A	2/26/13	8-2-301	emissions from 8/06/12 fire >15lbs & 300 ppm
Chevron Products Company	A0010	Richmond	A52440B	2/26/13	8-18-301	open ended line

Chevron Products Company	A0010	Richmond	A52441A	2/26/13	2-6-307	PC#18656, part 5
Chevron Products Company	A0010	Richmond	A52441B	2/26/13	6-1-301	8/06/12 fire caused emissions >Ringelman1
Chevron Products Company	A0010	Richmond	A52442A	2/26/13	5-301	8/06/12 fire caused flaring which ignited 2 grass fires
John & Jennifer Spencer	V7411	Orinda	A53015A	2/8/13	6-3-301	Wood smoke violation
Phillips 66 Company - San Francisco Refinery	A0016	Rodeo	A52359A	2/6/13	2-6-307	Ruptured roof seam (< 95% efficiency)
Phillips 66 Company - San Francisco Refinery	A0016	Rodeo	A52359B	2/6/13	8-5-306	Ruptured roof seam (< 95% efficiency)
Phillips 66 Company - San Francisco Refinery	A0016	Rodeo	A52359C	2/6/13	8-5-306	Tank patch not gas-tight (> 100 ppm)
Resident	V7361	Richmond	A52951A	2/7/13	6-3-301	Wood smoke violation
Resident	V7506	Martinez	A53031A	2/11/13	6-3-301	Wood smoke violation
Resident	V7507	Lafayette	A53032A	2/14/13	6-3-301	Wood smoke violation
Shell Martinez Refinery	A0011	Martinez	A52629A	2/7/13	10	Internal LDAR voluntary Audit 4th QTR 2012
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A52486A	2/13/13	1-522.4	(06G39) late reporting INOP monitor
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A52487A	2/7/13	9-2-301	(06G04) H2S>60ppb/3min, 30ppb/60min

Tesoro Refining & Marketing Company LLC	B2758	Martinez	A52488A	2/13/13	2-6-307	(06G56) ammonia inject >1800lbs/rolling24
Trilby Dupont	V7420	El Sobrante	A53021A	2/8/13	6-3-301	Wood smoke violation
West Contra Costa County Landfill	A1840	Richmond	A52174A	2/19/13	8-34-501	Gap in temperature and flow rate recording

Marin						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Glenn & Isabel Craft	V7494	San Geronimo	A52825A	2/1/13	6-3-301	Wood smoke violation
Resident	V7367	Forest Knolls	A53004A	2/7/13	6-3-301	Wood smoke violation
Resident	V7368	Forest Knolls	A53005A	2/7/13	6-3-301	Wood smoke violation
Resident	V7497	Mill Valley	A53006A	2/7/13	6-3-301	Wood smoke violation
Resident	V7369	Nicasio	A53007A	2/7/13	6-3-301	Wood smoke violation
Resident	V7370	Point Reyes Station	A53008A	2/7/13	6-3-301	Wood smoke violation
Resident	V7498	Bolinas	A53026A	2/8/13	6-3-301	Wood smoke violation

Napa						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Clover Flat Resource & Recovery Park	B1247	Calistoga	A52978A	2/6/13	8-34-301.1	gas collection system not operating continuously
Gary & Donna Costa Trust	V7376	Calistoga	A53010A	2/7/13	6-3-301	Wood smoke violation
Michael Pattullo	V7409	Napa	A53014A	2/5/13	6-3-301	Wood smoke violation
Resident	V7359	Angwin	A52950A	2/7/13	6-3-301	Wood smoke violation

San Francisco						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
San Francisco, City & County, PUC	A4116	San Francisco	A52139A	2/20/13	2-1-307	violation permit condition

San Mateo						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Compass Transportation	V0383	South San Francisco	A35577A	2/7/13	13 CCR 2485	LIC_CA CP75928
Raymond & C. Martini	V7353	Half Moon Bay	A52949A	2/7/13	6-3-301	Wood smoke violation
San Francisco International Airport	A1784	San Francisco	A52286A	2/15/13	2-6-307	permit condition #18329, H2S in digester gas >2,250 ppm

Scott & Amy Hublou	V7499	Redwood City	A53027A	2/8/13	6-3-301	Wood smoke violation
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Santa Clara						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Babbitt Bearing Co Inc	A4019	San Jose	A26684A	2/8/13	2-1-307	ID #06471-2c/17CCR- 93102.9d2; Lab #12023 Sfc Tension 54 > 45 dynes/cm
Maxim Integrated Products, Incorporated	B1696	San Jose	A52012A	2/25/13	2-1-307	Source Test Number NTV- 1188 Permit Cond #18523 Sub Sec. 3
Resident	V7377	Palo Alto	A53011A	2/7/13	6-3-301	Wood smoke violation

Sonoma						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Deborah Chandler	V7421	Santa Rosa	A53022A	2/8/13	6-3-301	Wood smoke violation
Dorothy Olsen	V7504	Sebastopol	A53030A	2/8/13	6-3-301	Wood smoke violation
Earl Horner Vineyard	V7425	Sonoma	A52505A	2/19/13	5-301	12'x20'x3' - tree stumps, wood, palm clippings, vineyard pruning
Gerald Roybal & Audrey Ng	V7419	Sebastopol	A53020A	2/8/13	6-3-301	Wood smoke violation
Gerardo Tapia & Maria Virelas	V7417	Santa Rosa	A53018A	2/8/13	6-3-301	Wood smoke violation
Kerry & Megan Bearg	V7423	Santa Rosa	A53024A	2/8/13	6-3-301	Wood smoke violation

Randy & Carrie Watson	V7287	Rohnert Park	A52859A	2/5/13	6-3-301	Wood smoke violation
Resident	V7364	Sonoma	A53002A	2/7/13	6-3-301	Wood smoke violation
Resident	V7365	Sonoma	A53003A	2/7/13	6-3-301	Wood smoke violation
Resident	V7375	Sebastopol	A53009A	2/7/13	6-3-301	Wood smoke violation
Resident	V7378	Santa Rosa	A53012A	2/7/13	6-3-301	Wood smoke violation
Resident	V7379	Santa Rosa	A53013A	2/7/13	6-3-301	Wood smoke violation
Resident	V7415	Santa Rosa	A53016A	2/8/13	6-3-301	Wood smoke violation
Resident	V7418	Graton	A53019A	2/8/13	6-3-301	Wood smoke violation
Resident	V7422	Windsor	A53023A	2/8/13	6-3-301	Wood smoke violation
Resident	V7424	Sebastopol	A53025A	2/8/13	6-3-301	Wood smoke violation
Resident	V7500	Santa Rosa	A53028A	2/8/13	6-3-301	Wood smoke violation
Resident	V7501	Santa Rosa	A53029A	2/8/13	6-3-301	Wood smoke violation
Timothy & Heidi Delatorre	V7416	Santa Rosa	A53017A	2/8/13	6-3-301	Wood smoke violation

District Wide						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
KAG West, LLC	N1032	West Sacramento	A52224A	2/20/13	8-33-305	ST#13073, failure to meet year round decay rate

SETTLEMENTS FOR \$10,000 OR MORE REACHED

The following settlement(s) for \$10,000 or more were completed in January and February 2013:

- 1) On January 29, 2013, the District reached a settlement with West Contra Costa Landfill for \$13,500, regarding the allegations contained in the following 7 Notices of Violation:

NOV #	Issuance Date	Occurrence Date	Regulation	Comments from Enforcement
A51207A	4/27/10	4/27/10	1-523.3	Late reporting of parametric excursion
A51300A	4/9/12	12/14/11	2-6-307	PC#20754, episode# 06C74
A51300B	4/9/12	12/14/11	1-523.3	PC#20754, episode# 06C74
A51352A	6/4/10	1/1/08	2-6-307	Exceeded throughput limit for condition 23354, part 2
A51353A	6/15/10	6/15/10	8-34-303	Four surface leaks >500ppm
A51354A	6/24/10	3/15/10	2-6-307	Engine cylinder temp out of compliance with cond 17812, part 10
A52160A	5/8/12	5/15/11	2-6-307	P/C 05771 temperature limit not met
A52161A	5/8/12	5/14/11	2-6-307	P/C 05771 temperature limit not met

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 11, 2013

Re: Referral of Proposed Budget for Fiscal Year Ending (FYE) 2014 to the Budget &
Finance Committee

RECOMMENDED ACTION

Refer proposed operating budget for FYE 2014 to the Budget and Finance Committee for review and consideration.

BACKGROUND

Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures and in compliance with Health and Safety Code Section 40276, the Executive Officer/APCO requests that the Board of Directors refer the proposed budget for FYE 2014 to the Budget and Finance Committee for review and consideration.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: David Glasser
Reviewed by: Jack M. Colbourn

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 6, 2013

Re: Contractor Selection for the Development of a Plug-in Electric Vehicle Readiness
Plan for the Monterey Bay Area

RECOMMENDATION

Recommend the Board of Directors:

1. Approve the selection of the Monterey Bay Unified Air Pollution Control District (MBUAPCD) as contractor for the facilitation and development of a plug-in electric vehicle (PEV) readiness plan for the Monterey Bay Area.
2. Authorize the Executive Officer/APCO to enter into all agreements necessary for the development of the Monterey Bay Area PEV readiness plan.

BACKGROUND

Recognizing the potential of PEV's to be an important technology in terms of reducing emissions, the Air District has taken an active role in preparing the region for accelerated PEV adoption. The Air District applied for and was awarded federal and state grants to conduct PEV readiness planning in the San Francisco Bay Area. Given the Air District's leadership in this area, Monterey Bay Area stakeholders partnered with the Air District to also apply for funds to develop a PEV readiness plan for their region.

As authorized by the Air District's Board of Directors on November 2, 2011, the Air District is the recipient and fiscal agent of California Energy Commission (CEC) grant number ARV 11-003 in the amount of \$200,000 to produce a regional PEV readiness plan for the Monterey Bay Area. An agreement for this funding was executed on July 27, 2012, between the Air District and CEC with a term running through May 15, 2014.

The Air District's Administrative Code Division II Fiscal Policies and Procedures Section 4.3 Contract Limitations requires Board of Directors approval for the Air Pollution Control Officer to execute contracts in excess of \$70,000.

The Air District wishes to enter into an agreement with the Monterey Bay Unified Air Pollution Control District (MBUAPCD) in the amount of \$190,018 to conduct the work under this grant

award. The remaining grant amount, \$9,982, is budgeted for Air District staff time for administering the Monterey Bay grant.

DISCUSSION

During the past six months, Air District staff has been in discussions with a Monterey project team to identify an organizational structure for local governments and private partners in that region capable of completing the PEV readiness plan work required by CEC. Based on those discussions, MBUAPCD is now assuming the lead role for the plan's preparation. Therefore, on December 19, 2012, MBUAPCD received approval from its Board of Directors to execute an agreement with the Air District to facilitate the development of a plan to accelerate PEV adoption in the Monterey Bay Area in conjunction with the partners listed in Table 1:

Table 1 - Composition and Roles of MBEVA PEV Planning Team

Prime- and Sub-Contractors	Role	CEC Funds
MBUAPCD	Administration, Analysis and Plan Development	\$ 15,018
Association of Monterey Bay Area Governments	Analysis and Update GIS Data	\$ 25,000
Electric Vehicle Communities Alliance	Research and Plan Development	\$ 90,000
Ecology Action	Outreach Program Development	\$ 60,000
Total Contract Cost		\$ 190,018

BUDGET CONSIDERATION / FINANCIAL IMPACT

None. Funds from CEC grant ARV 11-003, in the amount of \$9,982, will provide funding to the Air District for administration.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Linda Hui and Karen Schkolnick
Reviewed by: Damian Breen

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: February 28, 2013

Re: Set a Public Hearing for April 17, 2013 to Consider Proposed Regulation 12, Rule 13: Foundry and Forging Operations; Regulation 6, Rule 4: Metal Recycling and Shredding Operations; Amendments to Regulation 2, Rule 1: Permits, General Requirements; and Approval of a CEQA Negative Declaration

RECOMMENDED ACTION

Set a Public Hearing for April 17, 2013 to consider adoption of a two new rules, Regulation 12: Miscellaneous Standards of Performance, Rule 13: Foundry and Forging Operations; Regulation 6: Particulate Matter, Rule 4: Metal Recycling and Shredding Operations; amendments to Regulation 2: Permits, Rule 1: General Requirements; and approval of a California Environmental Quality Act (CEQA) Negative Declaration.

BACKGROUND

Control Measure SSM-1 in the 2010 Clean Air Plan considered reductions in fine particulate matter (PM), toxic compounds and odor emissions from metal melting facilities. There are about 20 metal production facilities in the Bay Area that melt and cast metals (foundries) or heat treat metals (forges). These facilities are sources of emissions of PM (including metals identified as toxic air contaminants) and odorous substances. During the investigation of metal melting facilities, it was determined that there are also three large-scale metal recycling facilities in the Bay Area that are also sources of emissions of PM. While process emissions of both PM and odorous substances are highly regulated and significantly reduced, fugitive emissions of these pollutants remain a significant fraction of the total emissions from these facilities.

DISCUSSION

The proposed rules would require these facilities to develop emissions minimization plans that would detail how each facility would reduce fugitive emissions of PM and odorous substances. The plans would focus on operations and activities at the facilities that are the sources of these pollutants. Once drafted, the plans would be released for public review and comment, staff recommendations, and APCO approval; and in the future, periodically updated.

Adoption of these two proposed new rules would reduce fugitive emissions of PM from foundries, forges, and metal recycling facilities including shredding operations; and also reduce emissions of odorous substances from foundry operations. The proposed rules are crafted to promote continuous improvement through periodic updates of the plans and through technology sharing inherent in the public comment period and District review and approval of the plans. These proposals avoid duplication of existing rules and standards by focusing on fugitive emissions that are not fully regulated or controlled.

RULE DEVELOPMENT PROCESS

Regulation 12, Rule 13 and Regulation 6, Rule 4 were developed through a lengthy process that began in 2010 and included visits to, and meetings with representatives of, foundries, forges and metal recycling facilities; representatives of communities near these facilities; industry trade groups including the California Metals Coalition, the Institute of Scrap Recycling Industries and the American Foundry Society; binding resin manufacturers; environmental consultants; representatives of other agencies; and District staff from every division.

Staff conducted two sets of public workshops on drafts of the proposed rules: on an initial draft on the evening of July 27, 2011 at the MTC Auditorium in Oakland, CA and the afternoon of July 28, 2011 at the Redwood Shores Library in Redwood City, CA; and on subsequent drafts on the evening of July 11, 2012 and the afternoon of July 12, 2012 at these same two locations. Over 200 persons attended the 2011 workshops and approximately 25 attended the 2012 workshops. Staff gave presentations to the Stationary Source Committee on the rule development process on April 12, 2010, March 3, 2011, September 29, 2011 and March 18, 2013.

Pursuant to the California Environmental Quality Act (Public Resources Code § 21000 et seq.), an initial study for the proposed rules has been conducted, concluding that the proposed rules would not have significant adverse environmental impacts. Notice is hereby given that the District intends to approve a negative declaration for the rules pursuant to Public Resources Code section 21080(c) and CEQA Guidelines section 15070 et seq.

A public hearing notice; copies of proposed Regulation 12, Rule 13: Foundry and Forging Operations; proposed Regulation 6, Rule 4: Metal Recycling and Shredding Operations; proposed amendments to Regulation 2, Rule 1: Permits, General Requirements; the CEQA initial study and Negative Declaration; a socioeconomic analysis; and a staff report are available by request and have been posted on the District's website at http://www.baaqmd.gov/pln/ruledev/regulatory_public_hearings.htm.

BUDGET CONSIDERATIONS/FINANCIAL IMPACTS

None. Current Air District resources are sufficient to implement the proposed rules.

Respectfully submitted,

Jack P. Broadbent
Executive Officer / Air Pollution Control Officer

Prepared by: Victor Douglas
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 11, 2013

Re: Report of the Personnel Committee Meeting of March 11, 2013

RECOMMENDED ACTION

The Personnel Committee recommends Board of Directors' approval of the following items:

- A) None; receive and file.
- B) Appointment to the Air District Hearing Board of:
 - 1. Gilbert Bendix, principal member, and Nicolas van Haefen, alternate member, for the professional engineer category, effective March 21, 2013; and
 - 2. Peter Chiu, principal member, and Lisa Thompson, alternate member, for the medical profession category, effective April 15, 2013.

BACKGROUND

The Committee met on Monday, March 11, 2013.

The Committee:

- A) Met in Closed Session regarding Public Employee Performance Evaluation of the Executive Officer/Air Pollution Control Officer, with no reportable action; and
- B) Conducted Interviews and Considered Recommending Board of Directors Approval of Candidates for Appointment to the Air District's Hearing Board.

There is no staff report for the Closed Session item.

Attached are the staff reports presented in the Committee packet.

Chairperson Brad Wagenknecht will provide an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS:

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Ana Sandoval

Attachment

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Brad Wagenknecht and Members
of the Personnel Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 4, 2013

Re: Conduct Interviews and Consider Recommending Board of Directors Approval
of Candidates for Appointment to the Air District's Hearing Board

RECOMMENDED ACTION:

Conduct interviews and consider recommending Board of Directors' approval of candidates for appointment to the Air District's Hearing Board.

BACKGROUND:

Pursuant to Section 40800 of the California Health and Safety Code the Air District is required to maintain one or more hearing boards consisting of five principal members each, appointed by the Air District Board. The Air District Board may also appoint one alternate for each member. Further, Section 40801 requires that the board member categories consist of one member admitted to the practice of law in this state, one member who is a professional engineer registered as such, one member from the medical profession whose specialized skills, training, or interests are in the fields of environmental medicine, community medicine, or occupational/toxicological medicine, and two public members. These sections of the California Health and Safety Code are attached for your reference.

DISCUSSION:

The terms of the two principal Hearing Board members in the professional engineer and medical profession categories will expire on March 6, 2013 and April 14, 2013 respectively. Both incumbents have served their maximum terms. Staff initiated a recruitment effort to fill the positions. After extensive recruitment and outreach efforts, staff received a total of 13 applications, including 2 incumbents who are currently serving as alternates and have expressed interest in serving as the principal member. Should the Committee select the alternate incumbent as the principal member, the Personnel Committee will also need to select a candidate to serve as the alternate member.

Staff have assessed the candidates' experience and education relative to the position(s) for which the candidates applied and have selected candidates with the most relevant qualifications to interview with the Personnel Committee.

Interviews of the candidates will occur during the Personnel Committee meeting. The length of each interview will be approximately fifteen minutes. The application materials of the candidates will be provided to you via email for your review.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Rex Sanders
Reviewed by: Jack M. Colbourn

Attachment

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 6, 2013

Re: Report of the Legislative Committee Meeting of March 14, 2013

RECOMMENDED ACTION

The Legislative Committee recommends Board of Directors' approval of the following items:

A) The following positions on the following bills:

1. AB 8 Perea & Skinner: Support
2. SB 11 Pavley & Rubio: Support; and
3. SB 691 Hancock: Sponsor.

B) The following positions on the following bills:

1. AB 794 Gorell: Oppose
2. AB 818 Blumenfield: Oppose
3. AB 866 Lindner: Oppose
4. AB 953 Ammiano: Support
5. AB 1077 Muratsuchi: Support
6. AB 1193 Ting: Support in concept
7. SB 454 Corbett: Support in concept
8. SB 621 Gaines: Oppose
9. SB 736 Wright: Oppose
10. SB 760 Wright: Oppose; and
11. SB 792 DeSaulnier: No position.

C) Action postponed until the next Committee meeting.

BACKGROUND

The Committee met on Thursday, March 14, 2013. The Committee received the following reports:

A) Update on Air District Legislative Initiatives

B) Consideration of New Bills

C) Proposed Delegation Visit to Sacramento

Attached are the staff reports that were presented to the Committee.

Chairperson Tom Bates will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

A) None.

B) As discussed in the individual analyses, some of the bills considered might have positive effects on the Air District's budget, and some might have negative effects.

C) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Approved by: Ana Sandoval

Attachments

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Tom Bates and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 5, 2013

Re: Update on Air District Legislative Initiatives

RECOMMENDED ACTION:

None; informational item.

BACKGROUND

In December of 2012, the District adopted a legislative agenda for 2013 with two primary components. One part was passing legislation to reauthorize critical air quality funding programs due to expire in the next several years, including the Carl Moyer and AB 923 (named the Mobile Source Incentive Fund in the Bay Area) programs. These grant programs are administered by the District, and cut emissions by cleaning up older, highly polluting diesel engines, typically in schoolbuses, ships, trucks, off-road equipment, or agricultural engines. The second part was to sponsor legislation in response to the August 6, 2012 fire at the Chevron Richmond refinery, which would discourage major violations by allowing higher penalties for one-day incidents that disrupt communities.

DISCUSSION

Senator Loni Hancock is authoring SB 791 to address the District's concerns about currently inadequate statutory deterrence for one-day violations that harm entire communities. A copy of the bill is attached. The District is being joined by Breathe California as a cosponsor of this measure. Senator Hancock is being joined by Assembly member Nancy Skinner and Senators Jerry Hill, Mark Leno, and Mark DeSaulnier as principal coauthors, with Senator Ricardo Lara as a coauthor. The bill cannot be heard in policy committee before March 22nd, and staff expects it to be double-referred to the Senate Environmental Quality and Judiciary Committees.

There are two currently identical bills in print that would reauthorize the Carl Moyer and AB 923 programs, the AB 118 programs, and make changes to the Clean Fuel Outlet regulation (an ARB regulation affecting how refueling infrastructure for the initial fuel cell vehicles is funded). These are AB 8 (authored by Assembly members Henry Perea and Nancy Skinner), and SB 11 (authored by Senators Fran Pavley and the recently-resigned Michael Rubio). The District is part of a large and very diverse coalition supporting these bills, which are cosponsored by CAPCOA (the state association of air districts), the American Lung Association, and CalSTART (a nonprofit representing

clean transportation companies). Both measures are likely to be heard in their first policy committee later in March or in early April, and both have been double-referred to two policy committees. AB 8 is referred to the Assembly Transportation and Natural Resources Committees, and SB 11 is referred to the Senate Transportation and Environmental Quality Committees. Both bills are urgency measures, and thus require a super-majority vote.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison
Reviewed by: Jean Roggenkamp

Attachments: Assembly Bill No. 8
Senate Bill No. 11
Senate Bill No. 691

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

Assembly Bill No. 8**Introduced by Assembly Members Perea and Skinner**

December 3, 2012

An act to amend Sections 41081, 44060.5, 44225, 44229, 44275, 44280, 44281, 44282, 44283, 44287, 44299.1, and 44299.2 of, and to add Sections 43018.9, 43867.5, and 43867.6 to, the Health and Safety Code, to amend Sections 42885 and 42889 of the Public Resources Code, and to amend Sections 9250.1, 9250.2, 9261.1, and 9853.6 of the Vehicle Code, relating to vehicular air pollution, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 8, as introduced, Perea. Alternative fuel and vehicle technologies: funding programs.

(1) Existing law establishes the Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Commission (commission), to provide to specified entities, upon appropriation by the Legislature, grants, loans, loan guarantees, revolving loans, or other appropriate measures, for the development and deployment of innovative technologies that would transform California's fuel and vehicle types to help attain the state's climate change goals. Existing law specifies that only certain projects or programs are eligible for funding, including block grants administered by public entities or not-for-profit technology entities for multiple projects, education and program promotion within California, and development of alternative and renewable fuel and vehicle technology centers. Existing law requires the commission to develop and adopt an investment plan to determine priorities and opportunities for the program.

This bill would provide that the State Air Resources Board (state board), until January 1, 2024, has no authority to enforce any element of its existing clean fuels outlet regulation or other regulation that requires or has the effect of requiring any person to construct, operate, or provide funding for the construction or operation of any publicly available hydrogen fueling station. The bill would require the state board to aggregate and make available to the public, no later than January 1, 2014, and every two years thereafter, the number of vehicles that automobile manufacturers project to be sold or leased, as reported to the state board. The bill would require the commission to allocate \$20 million each fiscal year, as specified, and up to \$20 million each fiscal year thereafter, as specified, for purposes of achieving a hydrogen fueling network sufficient to provide convenient fueling to vehicle owners, and expand that network as necessary to support a growing market for vehicles requiring hydrogen fuel, until there are at least 100 publicly available hydrogen fueling stations. The bill, on or before December 31, 2015, and annually thereafter, would require the commission and the state board to

jointly review and report on the progress toward establishing a hydrogen fueling network that provides the coverage and capacity to fuel vehicles requiring hydrogen fuel that are being placed into operation in the state, as specified. The bill would authorize the commission to design grants, loan incentive programs, revolving loan programs, and other forms of financial assistance, as specified, for purposes of assisting in the implementation of these provisions. The bill, no later than July 1, 2013, would require the state board and air districts to jointly convene working groups to evaluate the specified policies and goals of specified programs.

(2) Existing law requires the commission, in partnership with the state board, to develop and adopt a state plan to increase the use of alternative transportation fuels.

This bill would require the commission and the state board, among other things, to coordinate efforts to measure the progress of alternative fuels use. The bill would require the commission, in consultation with the state board, on or before November 1, 2014, to update a specified economic analysis. The bill would require the commission and the state board, to evaluate how the use of new and existing investment programs could be used to increase the state alternative transportation fuels use, and evaluate how the impact of federal fuel policies and existing state policies will help increase the use of alternative transportation fuels in the state. The bill would require the commission and the state board, on or before November 1, 2015, and every 2 years thereafter, to report in the integrated energy policy report, as specified, the status of the state alternative transportation fuels use, as specified, and make specified evaluations. The bill would require the state board to include a finding on the effect of proposed regulations on state alternative transportation fuels use.

(3) Existing law, until January 1, 2016, increases vehicle registration fees, vessel registration fees, and specified service fees for identification plates by a specified amount. Existing law requires the revenue generated by the increase in those fees to be deposited in the Alternative and Renewable Fuel and Vehicle Technology Fund, and either the Air Quality Improvement Fund or the Enhanced Fleet Modernization Subaccount, as provided.

Existing law, until January 1, 2016, imposes on certain vehicles a smog abatement fee of \$20, and requires a specified amount of this fee to be deposited in the Air Quality Improvement Fund and in the Alternative and Renewable Fuel and Vehicle Technology Fund.

This bill would extend those fees in the amounts required to make these deposits into the Alternative and Renewable Fuel and Vehicle Technology Fund, the Air Quality Improvement Fund, and the Enhanced Fleet Modernization Subaccount until January 1, 2024, at which time the fees would be reduced by those amounts.

(4) Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer program), which is administered by the state board, to provide grants to offset the incremental cost of eligible projects that reduce emissions of air pollutants from sources in the state and for funding a fueling infrastructure demonstration program and technology development efforts. Existing law, beginning January 1, 2015, limits the Carl Moyer program to funding projects that reduce emissions of oxides of nitrogen (NO_x).

This bill would extend the current authorization for the Carl Moyer program to fund a broader range of projects that reduce emissions until January 1, 2024, and would make other conforming changes in that regard.

(5) Existing law authorizes the district board of the Sacramento Metropolitan Air Quality Management District to adopt a surcharge on motor vehicle registration fees applicable to all motor vehicles registered in the counties within that district. Existing

law, until January 1, 2015, raises the limit on the amount of that surcharge from \$4 to \$6 for a motor vehicle whose registration expires on or after December 31, 1990, and requires that \$2 of the surcharge be used to implement the Carl Moyer program, as specified. Beginning January 1, 2015, existing law returns the surcharge limit to its previous amount of \$4.

This bill would extend the \$6 limitation on the surcharge until January 1, 2024, with the limit returning to \$4 beginning on that date.

(6) Existing law authorizes each air pollution control and air quality management district (district) that has been designated a state nonattainment area by the state board for any motor vehicle air pollutant, except the Sacramento Air Quality Management District, to levy a surcharge on the registration fees for every motor vehicle registered in that district, as specified by the governing body of the district. Existing law requires the Department of Motor Vehicles to collect that surcharge if requested by a district, and requires the department, after deducting its administrative costs, to distribute the revenues to the districts. Existing law, until January 1, 2015, raises the limit on the amount of that surcharge from \$4 to \$6 and requires that \$2 of the surcharge be used to implement the Carl Moyer program, as specified. Beginning January 1, 2015, existing law returns the surcharge limit to its previous amount of \$4.

This bill would extend the \$6 limitation on the surcharge until January 1, 2024, with the limit returning to \$4 beginning on that date.

(7) Existing law imposes, until January 1, 2015, a California tire fee of \$1.75 per tire on every person who purchases a new tire, with the revenues generated to be allocated for prescribed purposes related to disposal and use of used tires. Existing law requires that \$0.75 per tire on which the fee is imposed, be deposited in the Air Pollution Control Fund, these moneys to be available upon appropriation by the Legislature for use by the state board and districts for specified purposes. Existing law reduces the tire fee to \$0.75 per tire on and after January 1, 2015.

This bill would, on January 1, 2015, instead increase the limit on the tire fee to \$1.50 per tire until January 1, 2024, and reduce the limit to \$0.75 per tire on and after January 1, 2024.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

P5 1

SECTION 1.

Section 41081 of the *Health and Safety Code*, as
2 amended by Section 1.5 of Chapter 216 of the Statutes of 2011, is
3 amended to read:

4

41081.

(a) Subject to Article 3.7 (commencing with Section
5 553720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the
6 Government Code, or with the approval of the board of supervisors
7 of each county included, in whole or in part, within the Sacramento
8 district, the Sacramento district board may adopt a surcharge on
9 the motor vehicle registration fees applicable to all motor vehicles
10 registered in those counties within the Sacramento district whose

11boards of supervisors have adopted a resolution approving the
12surcharge. The surcharge shall be collected by the Department of
13Motor Vehicles and, after deducting the department's
14administrative costs, the remaining funds shall be transferred to
15the Sacramento district. Prior to the adoption of any surcharge
16pursuant to this subdivision, the district board shall make a finding
17that any funds allocated to the district as a result of the adoption
18of a county transportation sales and use tax are insufficient to carry
19out the purposes of this chapter.

20(b) The surcharge shall not exceed six dollars (\$6).

21(c) After consulting with the Department of Motor Vehicles on
22the feasibility thereof, the Sacramento district board may provide,
23in the surcharge adopted pursuant to subdivision (a), to exempt
24from all or part of the surcharge any category of low-emission
25motor vehicle.

26(d) Funds received by the Sacramento district pursuant to this
27section shall be used by that district as follows:

28(1) The revenues resulting from the first four dollars (\$4) of
29each surcharge shall be used to implement reductions in emissions
30from vehicular sources, including, but not limited to, a clean fuels
31program and motor vehicle use reduction measures.

32(2) The revenues resulting from the next two dollars (\$2) of
33each surcharge shall be used to implement the following programs
34that achieve emission reductions from vehicular sources and
35off-road engines, to the extent that the district determines the
36program remediates air pollution harms created by motor vehicles
37on which the surcharge is imposed:

P6 1(A) Projects eligible for grants under the Carl Moyer Memorial
2Air Quality Standards Attainment Program (Chapter 9
3(commencing with Section 44275) of Part 5).

4(B) The new purchase, retrofit, repower, or add-on of equipment
5for previously unregulated agricultural sources of air pollution, as
6defined in Section 39011.5, within the Sacramento district, for a
7minimum of three years from the date of adoption of an applicable
8rule or standard, or until the compliance date of that rule or
9standard, whichever is later, if the state board has determined that
10the rule or standard complies with Sections 40913, 40914, and
1141503.1, after which period of time, a new purchase, retrofit,
12repower, or add-on of equipment shall not be funded pursuant to
13this chapter. The district shall follow any guidelines developed
14under subdivision (a) of Section 44287 for awarding grants under
15this program.

16(C) The purchase of new, or retrofit of emissions control
17equipment for existing, schoolbuses pursuant to the
18Lower-Emission School Bus Program adopted by the state board.

19(D) An accelerated vehicle retirement or repair program that is
20adopted by the state board pursuant to authority granted hereafter
21by the Legislature by statute.

22(E) The replacement of onboard natural gas fuel tanks on
23schoolbuses owned by a school district that are 14 years or older,

24not to exceed twenty thousand dollars (\$20,000) per bus, pursuant
25to the Lower-Emission School Bus Program adopted by the state
26board.

27(F) The enhancement of deteriorating natural gas fueling
28dispensers of fueling infrastructure operated by a school district
29with a one-time funding amount not to exceed five hundred dollars
30(\$500) per dispenser, pursuant to the Lower-Emission School Bus
31Program adopted by the state board.

32(e) Not more than 5 percent of the funds collected pursuant to
33this section shall be used by the district for administrative expenses.

34(f) A project funded by the program shall not be used for credit
35under any state or federal emissions averaging, banking, or trading
36program. An emission reduction generated by the program shall
37not be used as marketable emission reduction credits or to offset
38any emission reduction obligation of any person or entity. Projects
39involving new engines that would otherwise generate marketable
40credits under state or federal averaging, banking, and trading
P7 1programs shall include transfer of credits to the engine end user
2and retirement of those credits toward reducing air emissions in
3order to qualify for funding under the program. A purchase of a
4low-emission vehicle or of equipment pursuant to a corporate or
5a controlling board's policy, but not otherwise required by law,
6shall generate surplus emissions reductions and may be funded by
7the program.

8(g) This section shall remain in effect only until January 1, ~~begin delete~~
~~2015end delete~~
9~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
10that is enacted before January 1, ~~begin delete 2015end delete~~ ~~begin insert~~
~~2024end insert~~, deletes or extends
11that date.

12

SEC. 2.

Section 41081 of the *Health and Safety Code*, as added
13by Section 2.5 of Chapter 707 of the Statutes of 2004, is amended
14to read:

15

41081.

(a) Subject to Article 3.7 (commencing with Section
1653720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the
17Government Code, or with the approval of the board of supervisors
18of each county included, in whole or in part, within the Sacramento
19district, the Sacramento district board may adopt a surcharge on
20the motor vehicle registration fees applicable to all motor vehicles
21registered in those counties within the Sacramento district whose
22boards of supervisors have adopted a resolution approving the
23surcharge. The surcharge shall be collected by the Department of
24Motor Vehicles and, after deducting the department's
25administrative costs, the remaining funds shall be transferred to
26the Sacramento district. Prior to the adoption of any surcharge

27pursuant to this subdivision, the district board shall make a finding
28that any funds allocated to the district as a result of the adoption
29of a county transportation sales and use tax are insufficient to carry
30out the purposes of this chapter.

31(b) The surcharge shall not exceed two dollars (\$2) for each
32motor vehicle whose registration expires on or after December 31,
331989, and prior to December 31, 1990. For each motor vehicle
34whose registration expires on or after December 31, 1990, the
35surcharge shall not exceed four dollars (\$4).

36(c) After consulting with the Department of Motor Vehicles on
37the feasibility thereof, the Sacramento district board may provide,
38in the surcharge adopted pursuant to subdivision (a), to exempt
39from all or part of the surcharge any category of low-emission
40motor vehicle.

P8 1(d) Funds received by the Sacramento district pursuant to this
2section shall be used to implement the strategy with respect to the
3reduction in emissions from vehicular sources, including, but not
4limited to, a clean fuels program and motor vehicle use reduction
5measures. Not more than 5 percent of the funds collected pursuant
6to this section shall be used by the district for administrative
7expenses.

8(e) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~
9*begin insert 2024end insert.*

10

SEC. 3.

Section 43018.9 is added to the *Health and Safety*
11*Code*, to read:

12

43018.9.

(a) For purposes of this section, the following terms
13have the following meanings:

14(1) "Commission" means the State Energy Resources
15Conservation and Development Commission.

16(2) "Publicly available hydrogen fueling station" means the
17equipment used to store and dispense hydrogen fuel to vehicles
18according to industry codes and standards that is open to the public.

19(b) (1) Notwithstanding any other law, the state board shall
20have no authority to enforce any element of its existing clean fuels
21outlet regulation or of any other regulation that requires or has the
22effect of requiring that any person construct, operate, or provide
23funding for the construction or operation of any publicly available
24hydrogen fueling station.

25(2) This subdivision shall become inoperative on January 1,
262024.

27(c) The state board shall aggregate and make available to the
28public no later than January 1, 2014, and every two years thereafter,
29the number of vehicles that automobile manufacturers project to
30be sold or leased, as reported to the state board pursuant to Section
312303(a) of Title 13 of the California Code of Regulations.

32(d) (1) The commission shall allocate twenty million dollars
33(\$20,000,000) each fiscal year, beginning July 1, 2013, through
34June 30, 2016, and up to twenty million dollars (\$20,000,000) each
35fiscal year thereafter, not to exceed 20 percent of moneys
36appropriated by the Legislature from the Alternative and
37Renewable Fuel and Vehicle Technology Fund, established
38pursuant to Section 44273, for purposes of achieving a hydrogen
39fueling network sufficient to provide convenient fueling to vehicle
40owners, and expand that network as necessary to support a growing
P9 1market for vehicles requiring hydrogen fuel, until there are at least
2100 publicly available hydrogen fueling stations.

3(2) Based on the results of the review set forth in paragraph (4),
4the commission may defer allocating the moneys set forth in
5paragraph (1) as needed to keep the number of fueling stations
6matched to the fueling needs of the vehicles.

7(3) Notwithstanding paragraph (1), once the commission
8 determines, in consultation with the state board, that the private
9sector is establishing publicly available hydrogen fueling stations
10without the need for government support, the commission may
11cease providing funding for those stations.

12(4) On or before December 31, 2015, and annually thereafter,
13the commission and the state board shall jointly review and report
14on progress toward establishing a hydrogen fueling network that
15provides the coverage and capacity to fuel vehicles requiring
16hydrogen fuel that are being placed into operation in the state. The
17commission and the state board shall consider the following,
18including but not limited to, the available plans of automobile
19manufacturers to deploy fuel cell vehicles in California and their
20progress toward achieving those plans, the rate of hydrogen fuel
21cell deployment, the length of time required to permit and construct
22hydrogen fueling stations, the coverage and capacity of the existing
23hydrogen fueling station network, and the amount and timing of
24growth in the fueling network to ensure fuel is available to these
25vehicles. The review shall also determine the remaining cost and
26timing to establish a network of 100 publicly available hydrogen
27fueling stations and whether funding from the Alternative and
28Renewable Fuel and Vehicle Technology Program remains
29necessary to achieve this goal.

30(e) To assist in the implementation of this section and maximize
31the ability to deploy fueling infrastructure as rapidly as possible
32with the assistance of private capital, the commission may design
33grants, loan incentive programs, revolving loan programs, and
34other forms of financial assistance. The commission also may enter
35into an agreement with the Treasurer to provide financial assistance
36to further the purposes of this section.

37(f) Funds appropriated to the commission for the purposes of
38this section shall be available for encumbrance by the commission
39for up to four years from the date of the appropriation and for
P10 1liquidation up to four years after expiration of the deadline to
2encumber.

3(g) Notwithstanding any other law, the state board, in
4consultation with air districts, no later than July 1, 2013, shall
5convene working groups to evaluate the policies and goals
6contained within the Carl Moyer Memorial Air Quality Standards
7Attainment Program, pursuant to Section 44280, and Assembly
8Bill 923 (Chapter 707 of the Statutes of 2004).

9

SEC. 4.

Section 43867.5 is added to the *Health and Safety*
10*Code*, to read:

11

43867.5.

The Legislature finds and declares all of the following:

12(a) The state overwhelmingly relies on a single source of fuel,
13petroleum, for its transportation needs, and nearly one-half of that
14petroleum comes from overseas. This overreliance on petroleum
15leaves residents vulnerable to supply interruptions and price
16instabilities, and it leaves consumers with essentially no options
17for alternative transportation fuels.

18(b) Residents spend over twenty billion dollars
19(\$20,000,000,000) each year on petroleum fuel imports,
20representing a significant missed economic opportunity.

21(c) It is in the interest of the state to increase alternative fuels
22usage to reduce fuel price volatility, improve environmental quality
23and transportation energy security, and demonstrate the state's
24continued leadership in reducing greenhouse gas emissions.

25(d) The State Alternative Fuels Plan, which was adopted by the
26state board and the State Energy Resources Conservation and
27Development Commission pursuant to Section 43866, outlined
28specific strategies and targets that would increase the use of
29alternative and nonpetroleum fuels. The strategy set a moderate
30growth goal of 26 percent penetration for alternative fuel use in
31on-road and off-road vehicles by 2022. In 2007, alternative fuels
32accounted for less than 5 percent of the transportation sector's
33consumption.

34(e) Therefore, it is in the interest of the state to evaluate progress
35toward increasing alternative fuels usage.

36

SEC. 5.

Section 43867.6 is added to the *Health and Safety*
37*Code*, to read:

38

43867.6.

(a) In order to measure the progress of alternative
39fuels use for on-road and off-road vehicles in the state, it is the
40intent of the Legislature that the state board and the State Energy
P11 Resources Conservation and Development Commission shall
2update the analysis of the state alternative transportation fuels use
3described in this section.

4(b) The state board and the State Energy Resources Conservation
5and Development Commission shall coordinate efforts to
6implement this article.

7(c) On or before November 1, 2014, the state board and the
8State Energy Resources Conservation and Development
9Commission shall update the economic analysis used in developing
10and reviewing state board regulations to include a range of
11petroleum and alternative fuel prices to more accurately assess the
12future cost of petroleum-based and alternative fuels.

13(d) The State Energy Resources Conservation and Development
14Commission, in consultation with the state board, shall do all of
15the following:

16(1) Evaluate how the use of new and existing investment
17programs could be used to increase the state alternative
18transportation fuels use.

19(2) Evaluate how the impact of federal fuel policies and existing
20state policies will help increase the use of alternative transportation
21fuels in the state.

22(e) On or before November 1, 2015, and every two years
23thereafter consistent with and reported within the integrated energy
24policy report, pursuant to Section 25302 of the Public Resources
25Code, the state board and the State Energy Resources Conservation
26and Development Commission shall report on the status of the
27state alternative transportation fuels use analysis pursuant to
28subdivision (a) and make the evaluations required in subdivision
29(d). The report shall include details as to the quantities of
30alternative fuels used in the state during the preceding years in
31absolute terms and as a percentage of the state's overall
32transportation fuel mix.

33(f) As part of developing relevant new and amended regulations,
34the state board shall include a finding on the effect of proposed
35regulations on the state alternative transportation fuels use.

36(g) This section shall be implemented consistent with the
37environmental, public health, and sustainability considerations
38included in Sections 44271 and 44272. Further, this section does
39not preempt the California Global Warming Solutions Act of 2006
P12 1(Division 25.5 (commencing with Section 38500)) or the programs
2and policies implemented pursuant to that act.

3(h) The state board and the State Energy Resources Conservation
4and Development Commission, in studying the state alternative
5transportation fuels use, shall seek to measure all of the following:

6(1) In-state job creation through the continued development of
7an alternative fuels industry in the state.

8(2) Economic vulnerability of residents to future costly
9petroleum fuel price spikes by the use of either petroleum fuels or
10alternative fuels and vehicles.

11(3) Alternative fuel market penetration in nonattainment areas.

12(4) Increases in access to the supply of alternative fuels and
13alternative fuel vehicles for all residents and barriers to that supply.

14

SEC. 6.

Section 44060.5 of the *Health and Safety Code* is amended to read:

44060.5.

(a) Beginning July 1, 2008, the smog abatement fee described in ~~begin insert subdivision (d) of~~ Section 44060 shall be increased by eight dollars (\$8).

(b) Revenues generated by the increase described in this section shall be distributed as follows:

(1) The revenues generated by four dollars (\$4) shall be deposited in the Air Quality Improvement Fund created by Section 4274.5.

(2) The revenues generated by four dollars (\$4) shall be deposited in the Alternative and Renewable Fuel and Vehicle Technology Fund created by Section 44273.

(c) This section shall remain in effect only until January 1, ~~begin delete 2016 end delete~~ ~~begin insert 2024 end insert~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~begin delete 2016 end delete~~ ~~begin insert 2024 end insert~~, deletes or extends that date.

SEC. 7.

Section 44225 of the *Health and Safety Code*, as amended by Section 3 of Chapter 707 of the Statutes of 2004, is amended to read:

44225.

A district may increase the fee established under Section 44223 to up to six dollars (\$6). A district may increase the fee only if the following conditions are met:

(a) A resolution providing for both the fee increase and a corresponding program for expenditure of the increased fees for the reduction of air pollution from motor vehicles pursuant to, and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of, the California Clean Air Act of 1988 is adopted and approved by the governing board of the district.

(b) In districts with nonelected officials on their governing boards, the resolution shall be adopted and approved by both a majority of the governing board and a majority of the board members who are elected officials.

(c) An increase in fees established pursuant to this section shall become effective on either April 1 or October 1, as provided in the resolution adopted by the board pursuant to subdivision (a).

(d) This section shall remain in effect only until January 1, ~~begin delete 2015 end delete~~

12~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,

13that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends

14 that date.

15

SEC. 8.

Section 44225 of the *Health and Safety Code*, as added
16by Section 3.5 of Chapter 707 of the Statutes of 2004, is amended
17to read:

18

44225.

On and after April 1, 1992, a district may increase the
19fee established under Section 44223 to up to four dollars (\$4). A
20district may increase the fee only if the following conditions are
21met:

22(a) A resolution providing for both the fee increase and a
23corresponding program for expenditure of the increased fees for
24the reduction of air pollution from motor vehicles pursuant to, and
25for related planning, monitoring, enforcement, and technical studies
26necessary for the implementation of, the California Clean Air Act
27of 1988 is adopted and approved by the governing board of the
28district.

29(b) In districts with nonelected officials on their governing
30boards, the resolution shall be adopted and approved by both a
31majority of the governing board and a majority of the board
32members who are elected officials.

33(c) An increase in fees established pursuant to this section shall
34become effective on either April 1 or October 1, as provided in
35the resolution adopted by the board pursuant to subdivision (a).

36(d) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

37~~begin insert 2024end insert~~.

38

SEC. 9.

Section 44229 of the *Health and Safety Code*, as
39amended by Section 2.5 of Chapter 216 of the Statutes of 2011, is
40amended to read:

P14 1

44229.

(a) After deducting all administrative costs it incurs
2through collection of fees pursuant to Section 44227, the
3Department of Motor Vehicles shall distribute the revenues to
4districts, which shall use the revenues resulting from the first four
5dollars (\$4) of each fee imposed to reduce air pollution from motor
6vehicles and to carry out related planning, monitoring, enforcement,
7and technical studies necessary for implementation of the California
8Clean Air Act of 1988. Fees collected by the Department of Motor
9Vehicles pursuant to this chapter shall be distributed to districts

10based upon the amount of fees collected from motor vehicles
11registered within each district.

12(b) Notwithstanding~~begin delete the provisions of end delete~~ Sections
44241 and 44243,

13a district shall use the revenues resulting from the next two dollars
14(\$2) of each fee imposed pursuant to Section 44227 to implement
15the following programs that the district determines remediate air
16pollution harms created by motor vehicles on which the surcharge
17is imposed:

18(1) Projects eligible for grants under the Carl Moyer Memorial
19Air Quality Standards Attainment Program (Chapter 9
20(commencing with Section 44275) of Part 5).

21(2) The new purchase, retrofit, repower, or add-on equipment
22for previously unregulated agricultural sources of air pollution, as
23defined in Section 39011.5, for a minimum of three years from
24the date of adoption of an applicable rule or standard, or until the
25compliance date of that rule or standard, whichever is later, if the
26state board has determined that the rule or standard complies with
27Sections 40913, 40914, and 41503.1, after which period of time,
28a new purchase, retrofit, repower, or add-on of equipment shall
29not be funded pursuant to this chapter. The districts shall follow
30any guidelines developed under subdivision (a) of Section 44287
31for awarding grants under this program.

32(3) The purchase of new, or retrofit of emissions control
33equipment for existing, schoolbuses pursuant to the
34Lower-Emission School Bus Program adopted by the state board.

35(4) An accelerated vehicle retirement or repair program that is
36adopted by the state board pursuant to authority granted hereafter
37by the Legislature by statute.

38(5) The replacement of onboard natural gas fuel tanks on
39schoolbuses owned by a school district that are 14 years or older,
40not to exceed twenty thousand dollars (\$20,000) per bus, pursuant
P15 1to the Lower-Emission School Bus Program adopted by the state
2board.

3(6) The enhancement of deteriorating natural gas fueling
4dispensers of fueling infrastructure operated by a school district
5with a one-time funding amount not to exceed five hundred dollars
6(\$500) per dispenser, pursuant to the Lower-Emission School Bus
7Program adopted by the state board.

8(c) The Department of Motor Vehicles may annually expend
9not more than 1 percent of the fees collected pursuant to Section
1044227 on administrative costs.

11(d) A project funded by the program shall not be used for credit
12under any state or federal emissions averaging, banking, or trading
13program. An emission reduction generated by the program shall
14not be used as marketable emission reduction credits or to offset
15any emission reduction obligation of any person or entity. Projects
16involving new engines that would otherwise generate marketable
17credits under state or federal averaging, banking, and trading
18programs shall include transfer of credits to the engine end user

19and retirement of those credits toward reducing air emissions in
20order to qualify for funding under the program. A purchase of a
21low-emission vehicle or of equipment pursuant to a corporate or
22a controlling board's policy, but not otherwise required by law,
23shall generate surplus emissions reductions and may be funded by
24the program.

25(e) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~
26~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,

27that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
28that date.

29

SEC. 10.

Section 44229 of the *Health and Safety Code*, as
30added by Section 4.5 of Chapter 707 of the Statutes of 2004, is
31amended to read:

32

44229.

(a) After deducting all administrative costs it incurs
33through collection of fees pursuant to Section 44227, the
34Department of Motor Vehicles shall distribute the revenues to
35districts which shall use the fees to reduce air pollution from motor
36vehicles and to carry out related planning, monitoring, enforcement,
37and technical studies necessary for implementation of the California
38Clean Air Act of 1988. Fees collected by the Department of Motor
39Vehicles pursuant to this chapter shall be distributed to districts
P16 1based upon the amount of fees collected from motor vehicles
2registered within each district.

3(b) The Department of Motor Vehicles may annually expend
4not more than the following percentages of the fees collected
5 pursuant to Section 44227 on administrative costs:

6(1) During the first year after the operative date of this chapter,
7not more than 5 percent of the fees collected may be used for
8administrative costs.

9(2) During the second year after the operative date of this
10chapter, not more than 3 percent of the fees collected may be used
11for administrative costs.

12(3) During any year subsequent to the second year after the
13operative date of this chapter, not more than 1 percent of the fees
14collected may be used for administrative costs.

15(c) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

16~~begin insert 2024end insert~~.

17

SEC. 11.

Section 44275 of the *Health and Safety Code*, as
18amended by Section 5 of Chapter 707 of the Statutes of 2004, is
19amended to read:

20

44275.

(a) As used in this chapter, the following terms have
21the following meanings:

22(1) "Advisory board" means the Carl Moyer Program Advisory
23Board created by Section 44297.

24(2) "Btu" means British thermal unit.

25(3) "Commission" means the State Energy Resources
26Conservation and Development Commission.

27(4) "Cost-effectiveness" means dollars provided to a project
28pursuant to subdivision (d) of Section 44283 for each ton of
29covered emission reduction attributed to a project or to the program
30as a whole. In calculating cost-effectiveness, one-time grants of
31funds made at the beginning of a project shall be annualized using
32a time value of public funds or discount rate determined for each
33project by the state board, taking into account the interest rate on
34bonds, interest earned by state funds, and other factors as
35determined appropriate by the state board. Cost-effectiveness shall
36be calculated by dividing annualized costs by average annual
37emissions reduction. The state board, in consultation with the
38districts and concerned members of the public, shall establish
39appropriate cost effective limits for oxides of nitrogen, particulate
40matter, and reactive organic gases and a reasonable system for
P17 1comparing the cost-effectiveness of proposed projects as described
2in subdivision (a) of Section 44283.

3(5) "Covered emissions" include emissions of oxides of nitrogen,
4particulate matter, and reactive organic gases from any covered
5source.

6(6) "Covered engine" includes any internal combustion engine
7or electric motor and drive powering a covered source.

8(7) "Covered source" includes onroad vehicles offroad
9nonrecreational equipment and vehicles, locomotives, diesel marine
10vessels, agricultural sources of air pollution, as defined in Section
1139011.5, and, as determined by the state board, other high-emitting
12engine categories.

13(8) "Covered vehicle" includes any vehicle or piece of
14equipment powered by a covered engine.

15(9) "District" means a county air pollution control district or an
16air quality management district.

17(10) "Fund" means the Carl Moyer Memorial Air Quality
18Standards Attainment Trust Fund created by Section 44299.

19(11) "Mobile Source Air Pollution Reduction Review
20Committee" means the Mobile Source Air Pollution Reduction
21Review Committee created by Section 44244.

22(12) "Incremental cost" means the cost of the project less a
23baseline cost that would otherwise be incurred by the applicant in
24the normal course of business. Incremental costs may include
25added lease or fuel costs pursuant to Section 44283 as well as
26incremental capital costs.

27(13) "New very low emission vehicle" means a heavy-duty
28vehicle that qualifies as a very low emission vehicle when it is a
29new vehicle, where new vehicle has the same meaning as defined
30in Section 430 of the Vehicle Code, or that is modified with the
31approval and warranty of the original equipment manufacturer to
32qualify as a very low emission vehicle within 12 months of delivery
33to an owner for private or commercial use.

34(14) "NO_x" means oxides of nitrogen.

35(15) "Program" means the Carl Moyer Memorial Air Quality
36Standards Attainment Program created by subdivision (a) of
37Section 44280.

38(16) "Repower" means replacing an engine with a different
39engine. The term repower, as used in this chapter, generally refers
40to replacing an older, uncontrolled engine with a new,
P18 1emissions-certified engine, although replacing an older
2emissions-certified engine with a newer engine certified to lower
3emissions standards may be eligible for funding under this program.

4(17) "Retrofit" means making modifications to the engine and
5fuel system such that the retrofitted engine does not have the same
6specifications as the original engine.

7(18) "Very low emission vehicle" means a heavy-duty vehicle
8with emissions significantly lower than otherwise applicable
9baseline emission standards or uncontrolled emission levels
10pursuant to Section 44282.

11(b) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~

12~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,

13that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends

14that date.

15

SEC. 12.

Section 44275 of the *Health and Safety Code*, as
16added by Section 5.5 of Chapter 707 of the Statutes of 2004, is
17amended to read:

18

44275.

(a) As used in this chapter, the following terms have
19the following meaning:

20(1) "Advisory board" means the Carl Moyer Program Advisory
21Board created by Section 44297.

22(2) "Btu" means British thermal unit.

23(3) "Commission" means the State Energy Resources
24Conservation and Development Commission.

25(4) "Cost-effectiveness" means dollars provided to a project
26pursuant to subdivision (d) of Section 44283 for each ton of NO_x
27 reduction attributed to a project or to the program as a whole. In
28calculating cost-effectiveness, one-time grants of funds made at
29the beginning of a project shall be annualized using a time value

30of public funds or discount rate determined for each project by the
31state board, taking into account the interest rate on bonds, interest
32earned by state funds, and other factors as determined appropriate
33by the state board. Cost-effectiveness shall be calculated by
34dividing annualized costs by average annual emissions reduction
35of NO_x in this state.

36(5) "Covered engine" includes any internal combustion engine
37or electric motor and drive powering a covered source.

38(6) "Covered source" includes onroad vehicles of 14,000 pounds
39GVWR or greater, offroad nonrecreational equipment and vehicles,
40locomotives, diesel marine vessels, stationary agricultural engines,
P19 1and, as determined by the state board, other high-emitting diesel
2engine categories.

3(7) "Covered vehicle" includes any vehicle or piece of
4equipment powered by a covered engine.

5(8) "District" means a county air pollution control district or an
6air quality management district.

7(9) "Fund" means the Carl Moyer Memorial Air Quality
8Standards Attainment Trust Fund created by Section 44299.

9(10) "Mobile Source Air Pollution Reduction Review
10Committee" means the Mobile Source Air Pollution Reduction
11Review Committee created by Section 44244.

12(11) "Incremental cost" means the cost of the project less a
13baseline cost that would otherwise be incurred by the applicant in
14the normal course of business. Incremental costs may include
15added lease or fuel costs pursuant to Section 44283 as well as
16incremental capital costs.

17(12) "New very low emission vehicle" means a vehicle that
18qualifies as a very low emission vehicle when it is a new vehicle,
19where new vehicle has the same meaning as defined in Section
20430 of the Vehicle Code, or that is modified with the approval and
21warranty of the original equipment manufacturer to qualify as a
22very low emission vehicle within 12 months of delivery to an
23owner for private or commercial use.

24(13) "NO_x" means oxides of nitrogen.

25(14) "Program" means the Carl Moyer Memorial Air Quality
26Standards Attainment Program created by subdivision (a) of
27Section 44280.

28(15) "Repower" means replacing an engine with a different
29engine. The term repower, as used in this chapter, generally refers
30to replacing an older, uncontrolled engine with a new,
31emissions-certified engine, although replacing an older
32emissions-certified engine with a newer engine certified to lower
33emissions standards may be eligible for funding under this program.

34(16) "Retrofit" means making modifications to the engine and
35fuel system such that the retrofitted engine does not have the same
36specifications as the original engine.

37(17) "Very low emission vehicle" means a vehicle with
38emissions significantly lower than otherwise applicable baseline

39emission standards or uncontrolled emission levels pursuant to
40Section 44282.

P20 1(b) This section shall become operative on January 1,~~begin delete~~
~~2015end delete~~
2~~begin insert 2024end insert~~.

3

SEC. 13.

Section 44280 of the *Health and Safety Code*, as
4amended by Section 6 of Chapter 707 of the Statutes of 2004, is
5amended to read:

6

44280.

(a) There is hereby created the Carl Moyer Memorial
7Air Quality Standards Attainment Program. The program shall be
8administered by the state board in accordance with this chapter.
9The administration of the program may be delegated to the districts.

10(b) The program shall provide grants to offset the incremental
11cost of projects that reduce covered emissions from covered sources
12in California. Eligibility for grant awards shall be determined by
13the state board, in consultation with the districts, in accordance
14with this chapter.

15(c) The program shall also provide funding for a fueling
16infrastructure demonstration program and for technology
17development efforts that are expected to result in commercially
18available technologies in the near-term that would improve the
19ability of the program to achieve its goals. The infrastructure
20demonstration and technology development portions of the program
21shall be managed by the commission, in consultation with the state
22board.

23(d) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~
24~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
25that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
26that date.

27

SEC. 14.

Section 44280 of the *Health and Safety Code*, as
28added by Section 6.5 of Chapter 707 of the Statutes of 2004, is
29amended to read:

30

44280.

(a) There is hereby created the Carl Moyer Memorial
31Air Quality Standards Attainment Program. The program shall be
32administered by the state board in accordance with this chapter.
33The administration of the program may be delegated to the districts.

34(b) The program shall provide grants to offset the incremental
35cost of projects that reduce emissions of NO_x from covered sources
36in California. Eligibility for grant awards shall be determined by

37the state board, in consultation with the districts, in accordance
38with this chapter.

39(c) The program shall also provide funding for a fueling
40infrastructure demonstration program and for technology
P21 1development efforts that are expected to result in commercially
2available technologies in the near-term that would improve the
3ability of the program to achieve its goals. The infrastructure
4demonstration and technology development portions of the program
5shall be managed by the commission, in consultation with the state
6board.

7(d) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

8*begin insert 2024end insert.*

9

SEC. 15.

Section 44281 of the *Health and Safety Code*, as
10amended by Section 7 of Chapter 707 of the Statutes of 2004, is
11amended to read:

12

44281.

(a) Eligible projects include, but are not limited to, any
13of the following:

14(1) Purchase of new very low or zero-emission covered vehicles
15or covered heavy-duty engines.

16(2) Emission-reducing retrofit of covered engines, or
17replacement of old engines powering covered sources with newer
18engines certified to more stringent emissions standards than the
19engine being replaced, or with electric motors or drives.

20(3) Purchase and use of emission-reducing add-on equipment
21that has been verified by the state board for covered vehicles.

22(4) Development and demonstration of practical, low-emission
23retrofit technologies, repower options, and advanced technologies
24for covered engines and vehicles with very low emissions of oxides
25of nitrogen.

26(5) Light- and medium-duty vehicle projects in compliance with
27guidelines adopted by the state board pursuant to Title 13 of the
28California Code of Regulations.

29(b) No project shall be funded under this chapter after the
30compliance date required by any local, state, or federal statute,
31rule, regulation, memoranda of agreement or understanding, or
32other legally binding document, except that an otherwise qualified
33project may be funded even if the State Implementation Plan
34assumes that the change in equipment, vehicles, or operations will
35occur, if the change is not required by the compliance date of a
36statute, regulation, or other legally binding document in effect as
37of the date the grant is awarded. No project funded by the program
38shall be used for credit under any state or federal emissions
39averaging, banking, or trading program. No emission reduction
40generated by the program shall be used as marketable emission
P22 1reduction credits or to offset any emission reduction obligation of

2any person or entity. Projects involving new engines that would
3otherwise generate marketable credits under state or federal
4averaging, banking, and trading programs shall include transfer
5of credits to the engine end user and retirement of those credits
6toward reducing air emissions in order to qualify for funding under
7the program. A purchase of a low-emission vehicle or of equipment
8pursuant to a corporate or a controlling board's policy, but not
9otherwise required by law, shall generate surplus emissions
10reductions and may be funded by the program.

11(c) The program may also provide funding toward installation
12of fueling or electrification infrastructure as provided in Section
1344284.

14(d) Eligible applicants may be any individual, company, or
15public agency that owns one or more covered vehicles that operate
16primarily within California or otherwise contribute substantially
17to the NO_x, PM or ROG emissions inventory in California.

18(e) It is the intent of the Legislature that all emission reductions
19generated by this chapter shall contribute to public health by
20reducing, for the life of the vehicle being funded, the total amount
21of emissions in California.

22(f) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~
23~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
24that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
25that date.

26

SEC. 16.

Section 44281 of the *Health and Safety Code*, as
27added by Section 7.5 of Chapter 707 of the Statutes of 2004, is
28amended to read:

29

44281.

(a) Eligible projects are any of the following:

30(1) Purchase of new very low or zero-emission covered vehicles
31or covered engines.

32(2) Emission-reducing retrofit of covered engines, or
33replacement of old engines powering covered sources with newer
34engines certified to more stringent emissions standards than the
35engine being replaced, or with electric motors or drives.

36(3) Purchase and use of emission-reducing add-on equipment
37for covered vehicles.

38(4) Development and demonstration of practical, low-emission
39retrofit technologies, repower options, and advanced technologies
P23 1for covered engines and vehicles with very low emissions of oxides
2of nitrogen.

3(b) No new purchase, retrofit, repower, or add-on equipment
4shall be funded under this chapter if it is required by any local,
5state, or federal statute, rule, regulation, memoranda of agreement

6or understanding, or other legally binding document, except that
7an otherwise qualified project may be funded even if the State
8Implementation Plan assumes that the change in equipment,
9vehicles, or operations will occur, if the change is not required by
10a statute, regulation, or other legally binding document in effect
11as of the date the grant is awarded. No project funded by the
12program shall be used for credit under any state or federal
13emissions averaging, banking, or trading program. No emission
14reduction generated by the program shall be used as marketable
15emission reduction credits or to offset any emission reduction
16obligation of any entity. Projects involving new engines that would
17otherwise generate marketable credits under state or federal
18averaging, banking, and trading programs shall include transfer
19of credits to the engine end user and retirement of those credits
20toward reducing air emissions in order to qualify for funding under
21the program. A purchase of a low-emission vehicle or of equipment
22pursuant to a corporate or a controlling board's policy, but not
23otherwise required by law, shall generate surplus emissions
24reductions and may be funded by the program.

25(c) The program may also provide funding toward installation
26of fueling or electrification infrastructure as provided in Section
2744284.

28(d) Eligible applicants may be any individual, company, or
29public agency that owns one or more covered vehicles that operate
30primarily within California or otherwise contribute substantially
31to the NO_x emissions inventory in California.

32(e) It is the intent of the Legislature that all emission reductions
33generated by this chapter shall contribute to public health by
34reducing, for the life of the vehicle being funded, the total amount
35of emissions in California.

36(f) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~begin insert 2024end insert.

37

SEC. 17.

Section 44282 of the *Health and Safety Code*, as
38amended by Section 8 of Chapter 707 of the Statutes of 2004, is
39amended to read:

P24 1

44282.

The following criteria apply to all projects to be funded
2through the program except for projects funded through the
3Advanced Technology Account and the Infrastructure
4Demonstration Program:

5(a) The state board may establish project criteria, including
6minimum project life for source categories, in the guidelines
7described in Section 44287. For previously unregulated source
8categories, project criteria shall consider the timing of newly
9established regulatory requirements.

10(b) To be eligible, projects shall meet the cost-effectiveness per
11ton of covered emissions reduced requirements of Section 44283.

12(c) To be eligible, retrofits, repowers, and installation of add-on
13equipment for covered vehicles shall be performed, or new covered
14vehicles delivered to the end user, or covered vehicles scrapped
15on or after the date the program is implemented.

16(d) Retrofit technologies, new engines, and new vehicles shall
17be certified for sale or under experimental permit for operation in
18California.

19(e) Repower projects that replace older, uncontrolled engines
20with new, emissions-certified engines or that replace
21emissions-certified engines with new engines certified to a more
22stringent NO_x emissions standard are approvable subject to the
23other applicable selection criteria. The state board shall determine
24appropriate baseline emission levels for the uncontrolled engines
25being replaced.

26(f) For heavy-duty-vehicle projects, retrofit and add-on
27equipment projects shall document a NO_x or PM emission
28reduction of at least 25 percent and no increase in other covered
29emissions compared to the applicable baseline emissions accepted
30by the state board for that engine year and application. The state
31board shall determine appropriate baseline emission levels.
32Acceptable documentation shall be defined by the state board.
33After study of available emission reduction technologies and after
34public notice and comment, the state board may revise the
35minimum percentage emission reduction criterion for retrofits and
36add-on equipment provided for in this section to improve the ability
37of the program to achieve its goals.

38(g) (1) For heavy-duty-vehicle projects involving the purchase
39of new very low or zero-emission vehicles, engines shall be
P25 1certified to an optional low NO_x emissions standard established
2by the state board, except as provided for in paragraph (2).

3(2) For heavy-duty-vehicle projects involving the purchase of
4new very low or zero-emission covered vehicles for which no
5optional low NO_x emission standards are available, documentation
6shall be provided showing that the low or zero-emission engine
7emits not more than 70 percent of the NO_x or NO_x plus
8hydrocarbon emissions of a new engine certified to the applicable
9baseline NO_x or NO_x plus hydrocarbon emission standard for that
10engine and meets applicable particulate standards. The state board
11shall specify the documentation required. If no baseline emission
12standard exists for new vehicles in a particular category, the state
13board shall determine an appropriate baseline emission level for
14comparison.

15(h) For projects other than heavy-duty-vehicle projects, the state
16board shall determine appropriate criteria under the provisions of
17Section 44287.

18(i) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~
19~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
20that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~

2024end insert, deletes or extends

that date.

22

SEC. 18.

Section 44282 of the *Health and Safety Code*, as added by Section 8.5 of Chapter 707 of the Statutes of 2004, is amended to read:

25

44282.

The following criteria apply to all projects to be funded through the program except for projects funded through the Advanced Technology Account and the Infrastructure Demonstration Program:

(a) Except for projects involving marine vessels, 75 percent or more of vehicle miles traveled or hours of operation shall be projected to be in California for at least five years following the grant award. Projects involving marine vessels and engines shall be limited to those that spend enough time operating in California air basins over the lifetime of the project to meet the cost-effectiveness criteria based on NO_x reductions in California, as provided in Section 44283.

(b) To be eligible, projects shall meet cost-effectiveness per ton of NO_x reduced requirements of Section 44283.

(c) To be eligible, retrofits, repowers, and installation of add-on equipment for covered vehicles shall be performed, or new covered vehicles delivered to the end user, on or after the date the program is implemented.

(d) Retrofit technologies, new engines, and new vehicles shall be certified for sale or under experimental permit for operation in California.

(e) Repower projects that replace older, uncontrolled engines with new, emissions-certified engines or that replace emissions-certified engines with new engines certified to a more stringent NO_x emissions standard are approvable subject to the other applicable selection criteria. The state board shall determine appropriate baseline emission levels for the uncontrolled engines being replaced.

(f) Retrofit and add-on equipment projects shall document a NO_x emission reduction of at least 25 percent and no increase in particulate emissions compared to the applicable baseline emissions accepted by the state board for that engine year and application. The state board shall determine appropriate baseline emission levels. Acceptable documentation shall be defined by the state board. After study of available emission reduction technologies and after public notice and comment, the state board may revise the minimum percentage NO_x reduction criterion for retrofits and add-on equipment provided for in this section to improve the ability of the program to achieve its goals.

(g) (1) For projects involving the purchase of new very low or zero-emission vehicles, engines shall be certified to an optional

26low NO_x emissions standard established by the state board, except
27as provided for in paragraph (2).

28(2) For projects involving the purchase of new very low or
29zero-emission covered vehicles for which no optional low NO_x
30 emission standards are available, documentation shall be provided
31showing that the low or zero-emission engine emits not more than
3270 percent of the NO_x or NO_x plus hydrocarbon emissions of a
33new engine certified to the applicable baseline NO_x or NO_x plus
34hydrocarbon emission standard for that engine and meets applicable
35particulate standards. The state board shall specify the
36documentation required. If no baseline emission standard exists
37for new vehicles in a particular category, the state board shall
38determine an appropriate baseline emission level for comparison.

39(h) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

40~~begin insert 2024end insert.~~

P27 1

SEC. 19.

Section 44283 of the *Health and Safety Code*, as
2amended by Section 1 of Chapter 571 of the Statutes of 2010, is
3amended to read:

4

44283.

(a) Grants shall not be made for projects with a
5cost-effectiveness, calculated in accordance with this section, of
6more than thirteen thousand six hundred dollars (\$13,600) per ton
7of NO_x reduced in California or a higher value that reflects state
8consumer price index adjustments on or after January 1, 2006, as
9determined by the state board. For projects obtaining reactive
10organic gas and particulate matter reductions, the state board shall
11determine appropriate adjustment factors to calculate a weighted
12cost-effectiveness.

13(b) Only covered emission reductions occurring in this state
14shall be included in the cost-effectiveness determination. The
15extent to which emissions generated at sea contribute to air quality
16in California nonattainment areas shall be incorporated into these
17methodologies based on a reasonable assessment of currently
18available information and modeling assumptions.

19(c) The state board shall develop protocols for calculating the
20surplus covered emission reductions in California from
21representative project types over the life of the project.

22(d) The cost of the covered emission reduction is the amount
23of the grant from the program, including matching funds provided
24pursuant to subdivision (e) of Section 44287, plus any other state
25funds, or funds under the district's budget authority or fiduciary
26control, provided toward the project, not including funds described
27in paragraphs (1) and (2) of subdivision (a) of Section 44287.2.
28The state board shall establish reasonable methodologies for
29evaluating project cost-effectiveness, consistent with the definition
30contained in paragraph (4) of subdivision (a) of Section 44275,

31and with accepted methods, taking into account a fair and
32reasonable discount rate or time value of public funds.

33(e) A grant shall not be made that, net of taxes, provides the
34applicant with funds in excess of the incremental cost of the project.
35Incremental lease costs may be capitalized according to guidelines
36adopted by the state board so that these incremental costs may be
37offset by a one-time grant award.

38(f) Funds under a district's budget authority or fiduciary control
39may be used to pay for the incremental cost of liquid or gaseous
40fuel, other than standard gasoline or diesel, which is integral to a
P28 1covered emission reducing technology that is part of a project
2receiving grant funding under the program. The fuel shall be
3approved for sale by the state board. The incremental fuel cost
4over the expected lifetime of the vehicle may be offset by the
5district if the project as a whole, including the incremental fuel
6cost, meets all of the requirements of this chapter, including the
7maximum allowed cost-effectiveness. The state board shall develop
8an appropriate methodology for converting incremental fuel costs
9over the vehicle lifetime into an initial cost for the purposes of
10determining project cost-effectiveness. Incremental fuel costs shall
11not be included in project costs for fuels dispensed from any facility
12that was funded, in whole or in part, from the fund.

13(g) For purposes of determining any grant amount pursuant to
14this chapter, the incremental cost of any new purchase, retrofit,
15repower, or add-on equipment shall be reduced by the value of
16any current financial incentive that directly reduces the project
17price, including any tax credits or deductions, grants, or other
18public financial assistance, not including funds described in
19paragraphs (1) and (2) of subdivision (a) of Section 44287.2.
20 Project proponents applying for funding shall be required to state
21in their application any other public financial assistance to the
22project.

23(h) For projects that would repower offroad equipment by
24replacing uncontrolled diesel engines with new, certified diesel
25engines, the state board may establish maximum grant award
26amounts per repower. A repower project shall also be subject to
27the incremental cost maximum pursuant to subdivision (e).

28(i) After study of available emission reduction technologies and
29costs and after public notice and comment, the state board may
30reduce the values of the maximum grant award criteria stated in
31this section to improve the ability of the program to achieve its
32goals. Every year the state board shall adjust the maximum
33cost-effectiveness amount established in subdivision (a) and any
34per-project maximum set by the state board pursuant to subdivision
35 (h) to account for inflation.

36(j) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~
37~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
38that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~

2024end insert, deletes or extends

that date.

P29 1

SEC. 20.

Section 44283 of the *Health and Safety Code*, as amended by Section 2 of Chapter 571 of the Statutes of 2010, is amended to read:

4

44283.

(a) Grants shall not be made for projects with a cost-effectiveness, calculated in accordance with this section, of more than twelve thousand dollars (\$12,000) per ton of NO_x reduced in California or a higher value that reflects state consumer price index adjustments on or after January 1, ~~begin delete 2015end delete~~begin insert 2024end insert, as determined by the state board.

(b) Only NO_x reductions occurring in this state shall be included in the cost-effectiveness determination. The extent to which emissions generated at sea contribute to air quality in California nonattainment areas shall be incorporated into these methodologies based on a reasonable assessment of currently available information and modeling assumptions.

(c) The state board shall develop protocols for calculating the surplus NO_x reductions in California from representative project types over the life of the project.

(d) The cost of the NO_x reduction is the amount of the grant from the program, including matching funds provided pursuant to subdivision (e) of Section 44287, plus any other state funds, or funds under the district's budget authority or fiduciary control, provided toward the project, not including funds described in paragraphs (1) and (2) of subdivision (a) of Section 44287.2. The state board shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with the definition contained in paragraph (4) of subdivision (a) of Section 44275, and with accepted methods, taking into account a fair and reasonable discount rate or time value of public funds.

(e) A grant shall not be made that, net of taxes, provides the applicant with funds in excess of the incremental cost of the project. Incremental lease costs may be capitalized according to guidelines adopted by the state board so that these incremental costs may be offset by a one-time grant award.

(f) Funds under a district's budget authority or fiduciary control may be used to pay for the incremental cost of liquid or gaseous fuel, other than standard gasoline or diesel, which is integral to a NO_x reducing technology that is part of a project receiving grant funding under the program. The fuel shall be approved for sale by the state board. The incremental fuel cost over the expected lifetime of the vehicle may be offset by the district if the project as a whole, including the incremental fuel cost, meets all of the requirements of this chapter, including the maximum allowed cost-effectiveness.

4The state board shall develop an appropriate methodology for
5converting incremental fuel costs over the vehicle lifetime into an
6initial cost for the purposes of determining project
7cost-effectiveness. Incremental fuel costs shall not be included in
8project costs for fuels dispensed from any facility that was funded,
9in whole or in part, from the fund.

10(g) For purposes of determining any grant amount pursuant to
11this chapter, the incremental cost of any new purchase, retrofit,
12repower, or add-on equipment shall be reduced by the value of
13any current financial incentive that directly reduces the project
14price, including any tax credits or deductions, grants, or other
15public financial assistance, not including funds described in
16paragraphs (1) and (2) of subdivision (a) of Section 44287.2.
17Project proponents applying for funding shall be required to state
18in their application any other public financial assistance to the
19project.

20(h) For projects that would repower offroad equipment by
21replacing uncontrolled diesel engines with new, certified diesel
22engines, the state board may establish maximum grant award
23amounts per repower. A repower project shall also be subject to
24the incremental cost maximum pursuant to subdivision (e).

25(i) After study of available emission reduction technologies and
26costs and after public notice and comment, the state board may
27reduce the values of the maximum grant award criteria stated in
28this section to improve the ability of the program to achieve its
29goals. Every year the state board shall adjust the maximum
30cost-effectiveness amount established in subdivision (a) and any
31per-project maximum set by the state board pursuant to subdivision
32(h) to account for inflation.

33(j) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~begin insert 2024end insert.

34

SEC. 21.

Section 44287 of the *Health and Safety Code*, as
35amended by Section 10 of Chapter 707 of the Statutes of 2004, is
36amended to read:

37

44287.

(a) The state board shall establish or update grant
38criteria and guidelines consistent with this chapter for covered
39vehicle projects as soon as practicable, but not later than January
401, 2006. The adoption of guidelines is exempt from the rulemaking
P31 1provisions of the Administrative Procedure Act, Chapter 3.5
2(commencing with Section 11340) of Part 1 of Division 3 of Title
32 of the Government Code. The state board shall solicit input and
4comment from the districts during the development of the criteria
5and guidelines and shall make every effort to develop criteria and
6guidelines that are compatible with existing district programs that
7are also consistent with this chapter. Guidelines shall include
8protocols to calculate project cost-effectiveness. The grant criteria

9and guidelines shall include safeguards to ensure that the project
10generates surplus emissions reductions. Guidelines shall enable
11and encourage districts to cofund projects that provide emissions
12reductions in more than one district. The state board shall make
13draft criteria and guidelines available to the public 45 days before
14final adoption, and shall hold at least one public meeting to
15consider public comments before final adoption. The state board
16may develop separate guidelines and criteria for the different types
17of eligible projects described in subdivision (a) of Section 44281.

18(b) The state board, in consultation with the participating
19districts, may propose revisions to the criteria and guidelines
20established pursuant to subdivision (a) as necessary to improve
21the ability of the program to achieve its goals. A proposed revision
22shall be made available to the public 45 days before final adoption
23of the revision and the state board shall hold at least one public
24meeting to consider public comments before final adoption of the
25revision.

26(c) The state board shall reserve funds for, and disburse funds
27to, districts from the fund for administration pursuant to this section
28and Section 44299.1.

29(d) The state board shall develop guidelines for a district to
30follow in applying for the reservation of funds, in accordance with
31this chapter. It is the intent of the Legislature that district
32administration of any reserved funds be in accordance with the
33project selection criteria specified in Sections 44281, 44282, and
3444283 and all other provisions of this chapter. The guidelines shall
35be established and published by the state board as soon as
36practicable, but not later than January 1, 2006.

37(e) Funds shall be reserved by the state board for administration
38by a district that adopts an eligible program pursuant to this chapter
39and offers matching funds at a ratio of one dollar (\$1) of matching
40funds committed by the district or the Mobile Source Air Pollution
P32 1Reduction Review Committee for every two dollars (\$2) committed
2from the fund. Funds available to the Mobile Source Air Pollution
3Reduction Review Committee may be counted as matching funds
4for projects in the South Coast Air Basin only if the committee
5approves the use of these funds for matching purposes. Matching
6funds may be any funds under the district's budget authority that
7are committed to be expended in accordance with the program.
8Funds committed by a port authority or a local government, in
9cooperation with a district, to be expended in accordance with the
10program may also be counted as district matching funds. Matching
11funds provided by a port authority or a local government may not
12exceed 30 percent of the total required matching funds in any
13district that applies for more than three hundred thousand dollars
14 (\$300,000) of the state board funds. Only a district, or a port
15authority or a local government teamed with a district, may provide
16matching funds.

17(f) The state board may adjust the ratio of matching funds
18described in subdivision (e), if it determines that an adjustment is

19necessary in order to maximize the use of, or the air quality benefits
20provided by, the program, based on a consideration of the financial
21resources of the district.

22(g) Notwithstanding subdivision (e), a district need not provide
23matching funds for state board funds allocated to the district for
24program outreach activities pursuant to paragraph (4) of subdivision
25(a) of Section 44299.1.

26(h) A district may include within its matching funds a reasonable
27estimate of direct or in-kind costs for assistance in providing
28program outreach and application evaluation. In-kind and direct
29matching funds shall not exceed 15 percent of the total matching
30funds offered by a district. A district may also include within its
31matching funds any money spent on or after February 25, 1999,
32that would have qualified as matching funds but were not
33previously claimed as matching funds.

34(i) A district desiring a reservation of funds shall apply to the
35state board following the application guidelines established
36pursuant to this section. The state board shall approve or disapprove
37a district application not later than 60 days after receipt. Upon
38approval of any district application, the state board shall
39simultaneously approve a reservation of funding for that district
P33 1to administer. Reserved funds shall be disbursed to the district so
2that funding of a district-approved project is not impeded.

3(j) Notwithstanding any other provision of this chapter, districts
4and the Mobile Source Air Pollution Reduction Review Committee
5shall not use funds collected pursuant to Section 41081 or Chapter
67 (commencing with Section 44220), or pursuant to Section
79250.11 of the Vehicle Code, as matching funds to fund a project
8with stationary or portable engines, locomotives, or marine vessels.

9(k) Any funds reserved for a district pursuant to this section are
10available to the district for a period of not more than two years
11from the time of reservation. Funds not expended by June 30 of
12the second calendar year following the date of the reservation shall
13revert back to the state board as of that June 30, and shall be
14deposited in the Covered Vehicle Account established pursuant to
15Section 44299. The funds may then be redirected based on
16applications to the fund. Regardless of any reversion of funds back
17to the state board, the district may continue to request other
18reservations of funds for local administration. Each reservation of
19funds shall be accounted for separately, and unused funds from
20each application shall revert back to the state board as specified
21in this subdivision.

22(l) The state board shall specify a date each year when district
23applications are due. If the eligible applications received in any
24year oversubscribe the available funds, the state board shall reserve
25funds on an allocation basis, pursuant to Section 44299.2. The
26state board may accept a district application after the due date for
27a period of months specified by the state board. Funds may be
28reserved in response to those applications, in accordance with this

chapter, out of funds remaining after the original reservation of funds for the year.

31(m) Guidelines for a district application shall require information from an applicant district to the extent necessary to meet the requirements of this chapter, but shall otherwise minimize the information required of a district.

35(n) A district application shall be reviewed by the state board immediately upon receipt. If the state board determines that an application is incomplete, the applicant shall be notified within 10 working days with an explanation of what is missing from the application. A completed application fulfilling the criteria shall be approved as soon as practicable, but not later than 60 working days after receipt.

3(o) The commission, in consultation with the districts, shall establish project approval criteria and guidelines for infrastructure projects consistent with Section 44284 as soon as practicable, but not later than February 15, 2000. The commission shall make draft criteria and guidelines available to the public 45 days before final adoption, and shall hold at least one public meeting to consider public comments before final adoption.

10(p) The commission, in consultation with the participating districts, may propose revisions to the criteria and guidelines established pursuant to subdivision (o) as necessary to improve the ability of the program to achieve its goals. A revision may be proposed at any time, or may be proposed in response to a finding made in the annual report on the program published by the state board pursuant to Section 44295. A proposed revision shall be made available to the public 45 days before final adoption of the revision and the commission shall hold at least one public meeting to consider public comments before final adoption of the revision.

20(q) Unclaimed funds will be allocated by the state board in accordance with Section 44299.2.

22(r) This section shall remain in effect only until January 1, ~~begin delete 2015end delete~~ begin insert 2024end insert, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~begin delete 2015end delete~~ begin insert 2024end insert, deletes or extends that date.

26

SEC. 22.

Section 44287 of the *Health and Safety Code*, as added by Section 10.5 of Chapter 707 of the Statutes of 2004, is amended to read:

29

44287.

(a) The state board shall establish grant criteria and guidelines consistent with this chapter for covered vehicle projects as soon as practicable, but not later than January 1, 2000. The adoption of guidelines is exempt from the rulemaking provisions

33of the Administrative Procedure Act, Chapter 3.5 (commencing
34with Section 11340) of Part 1 of Division 3 of Title 2 of the
35Government Code. The state board shall solicit input and comment
36from the districts during the development of the criteria and
37guidelines and shall make every effort to develop criteria and
38guidelines that are compatible with existing district programs that
39are also consistent with this chapter. Guidelines shall include
40protocols to calculate project cost-effectiveness. The grant criteria
P35 1and guidelines shall include safeguards to ensure that the project
2generates surplus emissions reductions. Guidelines shall enable
3and encourage districts to cofund projects that provide emissions
4reductions in more than one district. The state board shall make
5draft criteria and guidelines available to the public 45 days before
6final adoption, and shall hold at least one public meeting to
7consider public comments before final adoption.

8(b) The state board, in consultation with the participating
9districts, may propose revisions to the criteria and guidelines
10established pursuant to subdivision (a) as necessary to improve
11the ability of the program to achieve its goals. A proposed revision
12shall be made available to the public 45 days before final adoption
13of the revision and the state board shall hold at least one public
14meeting to consider public comments before final adoption of the
15revision.

16(c) The state board shall reserve funds for, and disburse funds
17to, districts from the fund for administration pursuant to this section
18and Section 44299.1.

19(d) The state board shall develop guidelines for a district to
20follow in applying for the reservation of funds, in accordance with
21this chapter. It is the intent of the Legislature that district
22administration of any reserved funds be in accordance with the
23project selection criteria specified in Sections 44281, 44282, and
2444283 and all other provisions of this chapter. The guidelines shall
25be established and published by the state board as soon as
26practicable, but not later than January 1, 2000.

27(e) Funds shall be reserved by the state board for administration
28by a district that adopts an eligible program pursuant to this chapter
29and offers matching funds at a ratio of one dollar (\$1) of matching
30funds committed by the district or the Mobile Source Air Pollution
31Reduction Review Committee for every two dollars (\$2) committed
32from the fund. Funds available to the Mobile Source Air Pollution
33Reduction Review Committee may be counted as matching funds
34for projects in the South Coast Air Basin only if the committee
35approves the use of these funds for matching purposes. Matching
36funds may be any funds under the district's budget authority that
37are committed to be expended in accordance with the program.
38Funds committed by a port authority or a local government, in
39cooperation with a district, to be expended in accordance with the
40program may also be counted as district matching funds. Matching
P36 1funds provided by a port authority or a local government may not
2exceed 30 percent of the total required matching funds in any

3district that applies for more than three hundred thousand dollars
4(\$300,000) of the state board funds. Only a district, or a port
5authority or a local government teamed with a district, may provide
6matching funds.

7(f) The state board may adjust the ratio of matching funds
8described in subdivision (e), if it determines that an adjustment is
9necessary in order to maximize the use of, or the air quality benefits
10provided by, the program, based on a consideration of the financial
11resources of the district.

12(g) Notwithstanding subdivision (e), a district need not provide
13matching funds for state board funds allocated to the district for
14program outreach activities pursuant to paragraph (4) of subdivision
15(a) of Section 44299.1.

16(h) A district may include within its matching funds a reasonable
17estimate of direct or in-kind costs for assistance in providing
18program outreach and application evaluation. In-kind and direct
19matching funds shall not exceed 15 percent of the total matching
20funds offered by a district. A district may also include within its
21matching funds any money spent on or after February 25, 1999,
22that would have qualified as matching funds but were not
23previously claimed as matching funds.

24(i) A district desiring a reservation of funds shall apply to the
25state board following the application guidelines established
26pursuant to this section. The state board shall approve or disapprove
27a district application not later than 60 days after receipt. Upon
28approval of any district application, the state board shall
29simultaneously approve a reservation of funding for that district
30to administer. Reserved funds shall be disbursed to the district so
31that funding of a district-approved project is not impeded.

32(j) Notwithstanding any other provision of this chapter, districts
33and the Mobile Source Air Pollution Reduction Review Committee
34shall not use funds collected pursuant to Section 41081 or Chapter
357 (commencing with Section 44220), or pursuant to Section
369250.11 of the Vehicle Code, as matching funds to fund a project
37with stationary or portable engines, locomotives, or marine vessels.

38(k) Any funds reserved for a district pursuant to this section are
39available to the district for a period of not more than two years
40from the time of reservation. Funds not expended by June 30 of
P37 1the second calendar year following the date of the reservation shall
2revert back to the state board as of that June 30, and shall be
3deposited in the Covered Vehicle Account established pursuant to
4Section 44299. The funds may then be redirected based on
5applications to the fund. Regardless of any reversion of funds back
6to the state board, the district may continue to request other
7reservations of funds for local administration. Each reservation of
8funds shall be accounted for separately, and unused funds from
9each application shall revert back to the state board as specified
10in this subdivision.

11(l) The state board shall specify a date each year when district
12applications are due. If the eligible applications received in any

13year oversubscribe the available funds, the state board shall reserve
14funds on an allocation basis, pursuant to subdivision (b) of Section
1544299.1. The state board may accept a district application after
16the due date for a period of months specified by the state board.
17Funds may be reserved in response to those applications, in
18accordance with this chapter, out of funds remaining after the
19original reservation of funds for the year.

20(m) Guidelines for a district application shall require information
21from an applicant district to the extent necessary to meet the
22requirements of this chapter, but shall otherwise minimize the
23information required of a district.

24(n) A district application shall be reviewed by the state board
25immediately upon receipt. If the state board determines that an
26application is incomplete, the applicant shall be notified within 10
27working days with an explanation of what is missing from the
28application. A completed application fulfilling the criteria shall be
29approved as soon as practicable, but not later than 60 working days
30after receipt.

31(o) The state board, in consultation with the districts, shall
32establish project approval criteria and guidelines for infrastructure
33projects consistent with Section 44284 as soon as practicable, but
34not later than February 15, 2000. The commission shall make draft
35criteria and guidelines available to the public 45 days before final
36adoption, and shall hold at least one public meeting to consider
37public comments before final adoption.

38(p) The state board, in consultation with the participating
39districts, may propose revisions to the criteria and guidelines
40established pursuant to subdivision (o) as necessary to improve
P38 1the ability of the program to achieve its goals. A revision may be
2proposed at any time, or may be proposed in response to a finding
3made in the annual report on the program published by the state
4board pursuant to Section 44295. A proposed revision shall be
5made available to the public 45 days before final adoption of the
6revision and the commission shall hold at least one public meeting
7to consider public comments before final adoption of the revision.

8(q) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

9~~begin insert 2024end insert.~~

10

SEC. 23.

Section 44299.1 of the *Health and Safety Code*, as
11amended by Section 3 of Chapter 627 of the Statutes of 2006, is
12 amended to read:

13

44299.1.

(a) To ensure that emission reductions are obtained
14as needed from pollution sources, any money deposited in or
15appropriated to the fund shall be segregated and administered as
16follows:

17(1) Not more than 2 percent of the moneys in the fund shall be
18allocated to program support and outreach costs incurred by the
19state board and the commission directly associated with
20implementing the program pursuant to this chapter. These funds
21shall be allocated to the state board and the commission in
22proportion to total program funds administered by the state board
23and the commission.

24(2) Not more than 2 percent of the moneys in the fund shall be
25allocated to direct program outreach activities. The state board
26may use these funds for program outreach contracts or may allocate
27outreach funds to participating air districts in proportion to each
28district's allocation from the Covered Vehicle Account. The state
29board shall report on the use of outreach funds in their reports to
30the Legislature pursuant to Section 44295.

31(3) The balance shall be deposited in the Covered Vehicle
32Account to be expended to offset added costs of new very low or
33zero-emission vehicle technologies, and emission reducing
34repowers, retrofits, and add-on equipment for covered vehicles
35and engines, and other projects specified in Section 44281.

36(b) Funds in the Covered Vehicle Account shall be allocated to
37a district that submits an eligible application to the state board
38pursuant to Section 44287. The state board shall determine the
39maximum amount of annual funding from the Covered Vehicle
40Account that each district may receive. This determination shall
P39 1be based on the population in each district as well as the relative
2importance of obtaining covered emission reductions in each
3district, specifically through the program.

4(c) Not more than 5 percent of the moneys allocated pursuant
5to this chapter to a district with a population of one million or more
6may be used by the district for indirect costs of implementation of
7the program, including outreach costs that are subject to the
8limitation in paragraph (2) of subdivision (a).

9(d) Not more than 10 percent of the moneys allocated pursuant
10to this chapter to a district with a population of less than one
11million may be used by the district for indirect costs of
12implementation of the program, including outreach costs that are
13subject to the limitation in paragraph (2) of subdivision (a).

14(e) This section shall remain in effect only until January 1, ~~begin delete~~
~~2015end delete~~
15~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
16that is enacted before January 1, ~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
17that date.

18

SEC. 24.

Section 44299.1 of the *Health and Safety Code*, as
19added by Section 11.5 of Chapter 707 of the Statutes of 2004, is
20amended to read:

21

44299.1.

(a) To ensure that emission reductions are obtained
needed from pollution sources, any money deposited in or
appropriated to the fund shall be segregated and administered as
follows:

(1) Ten percent, not to exceed two million dollars (\$2,000,000),
shall be allocated to the Infrastructure Demonstration Project to
be used pursuant to Section 44284.

(2) Ten percent shall be deposited in the Advanced Technology
Account to be used to support research, development,
demonstration, and commercialization of advanced low-emission
technologies for covered sources that show promise of contributing
to the goals of the program.

(3) Not more than 2 percent of the moneys in the fund shall be
allocated to program support and outreach costs incurred by the
state board and the commission directly associated with
implementing the program pursuant to this chapter. These funds
shall be allocated to the state board and the commission in
proportion to total program funds administered by the state board
and the commission.

(4) Not more than 2 percent of the moneys in the fund shall be
allocated to direct program outreach activities. The state board
may use these funds for program outreach contracts or may allocate
outreach funds to participating air districts in proportion to each
district's allocation from the Covered Vehicle Account. The state
board shall report on the use of outreach funds in their reports to
the Legislature pursuant to Section 44295.

(5) The balance shall be deposited in the Covered Vehicle
Account to be expended to offset added costs of new very low or
zero-emission vehicle technologies, and emission reducing
repowers, retrofits, and add-on equipment for covered vehicles
and engines.

(b) Funds in the Covered Vehicle Account shall be allocated to
a district that submits an eligible application to the state board
pursuant to Section 44287. The state board shall determine the
maximum amount of annual funding from the Covered Vehicle
Account that each district may receive. This determination shall
be based on the population in each district as well as the relative
importance of obtaining NO_x reductions in each district,
specifically through the program.

(c) This section shall become operative on January 1, ~~begin delete 2015end~~
~~delete~~

~~begin insert 2024end insert.~~

23

SEC. 25.

Section 44299.2 of the *Health and Safety Code* is
amended to read:

25

44299.2.

Funds shall be allocated to local air pollution control
26and air quality management districts, and shall be subject to
27administrative terms and conditions as follows:

28(a) Available funds shall be distributed to districts taking into
29consideration the population of the area, the severity of the air
30quality problems experienced by the population, and the historical
31allocation of the Carl Moyer Memorial Air Quality Standards
32Attainment Trust Fund, except that the south coast district shall
33be allocated a percentage of the total funds available to districts
34that is proportional to the percentage of the total state population
35residing within the jurisdictional boundaries of that district. For
36the purposes of this subdivision, population shall be determined
37by the state board based on the most recent data provided by the
38Department of Finance. The allocation to the south coast district
39shall be subtracted from the total funds available to districts. Each
40district, except the south coast district, shall be awarded a minimum
P41 1 allocation of two hundred thousand dollars (\$200,000), and the
2 remainder, which shall be known as the "allocation amount," shall
3 be allocated to all districts as follows:

4(1) The state board shall distribute 35 percent of the allocation
5amount to the districts in proportion to the percentage of the total
6residual state population that resides within each district's
7boundaries. For purposes of this paragraph, "total residual state
8population" means the total state population, less the total
9population that resides within the south coast district.

10(2) The state board shall distribute 35 percent of the allocation
11amount to the districts in proportion to the severity of the air quality
12problems to which each district's population is exposed. The
13severity of the exposure shall be calculated as follows:

14(A) Each district shall be awarded severity points based on the
15district's attainment designation and classification, as most recently
16promulgated by the federal Environmental Protection Agency for
17the National Ambient Air Quality Standard for ozone averaged
18over eight hours, as follows:

19(i) A district that is designated attainment for the federal
20eight-hour ozone standard shall be awarded one point.

21(ii) A district that is designated nonattainment for the federal
22eight-hour ozone standard shall be awarded severity points based
23on classification. Two points shall be awarded for transitional,
24basic, or marginal classifications, three points for moderate
25classification, four points for serious classification, five points for
26severe classification, six points for severe-17 classification, and
27seven points for extreme classification.

28(B) Each district shall be awarded severity points based on the
29annual diesel particulate emissions in the air basin, as determined
30by the state board. One point shall be awarded to the district, in
31increments, for each 1,000 tons of diesel particulate emissions. In
32making this determination, 0 to 999 tons shall be awarded no
33points, 1,000 to 1,999 tons shall be awarded one point, 2,000 to
342,999 tons shall be awarded two points, and so forth. If a district

35encompasses more than one air basin, the air basin with the greatest
36diesel particulate emissions shall be used to determine the points
37awarded to the district. The San Diego County Air Pollution
38Control District and the Imperial County Air Pollution Control
39District shall be awarded one additional point each to account for
40annual diesel particulate emissions transported from Mexico.

P42 1(C) The points awarded under subparagraphs (A) and (B), shall
2be added together for each district, and the total shall be multiplied
3by the population residing within the district boundaries, to yield
4the local air quality exposure index.

5(D) The local air quality exposure index for each district shall
6be summed together to yield a total state exposure index. Funds
7shall be allocated under this paragraph to each district in proportion
8to its local air quality exposure index divided by the total state
9exposure index.

10(3) The state board shall distribute 30 percent of the allocation
11amount to the districts in proportion to the allocation of funds from
12the Carl Moyer Memorial Air Quality Standards Attainment Trust
13Fund, as follows:

14(A) Because each district is awarded a minimum allocation
15pursuant to subdivision (a), there shall be no additional minimum
16allocation from the Carl Moyer historical allocation funds. The
17total amount allocated in this way shall be subtracted from total
18funding previously awarded to the district under the Carl Moyer
19Memorial Air Quality Standards Attainment Program, and the
20remainder, which shall be known as directed funds, shall be
21allocated pursuant to subparagraph (B).

22(B) Each district with a population that is greater than or equal
23to 1 percent of the state's population shall receive an additional
24allocation based on the population of the district and the district's
25relative share of emission reduction commitments in the State
26Implementation Plan to attain the National Ambient Air Quality
27Standard for ozone averaged over one hour. This additional
28 allocation shall be calculated as a percentage share of the directed
29funds for each district, derived using a ratio of each district's share
30amount to the base amount, which shall be calculated as follows:

31(i) The base amount shall be the total Carl Moyer program funds
32allocated by the state board to the districts in the 2002-03 fiscal
33year, less the total of the funds allocated through the minimum
34allocation to each district in the 2002-03 fiscal year.

35(ii) The share amount shall be the allocation that each district
36received in the 2002-03 fiscal year, not including the minimum
37allocation. There shall be one share amount for each district.

38(iii) The percentage share shall be calculated for each district
39by dividing the district's share amount by the base amount, and
P43 1multiplying the result by the total directed funds available under
2this subparagraph.

3(b) Funds shall be distributed as expeditiously as reasonably
4practicable, and a report of the distribution shall be made available
5to the public.

6(c) All funds allocated pursuant to this section shall be expended
7as provided in the guidelines adopted pursuant to Section 44287
8within two years from the date of allocation. Funds not expended
9within the two years shall be returned to the Covered Vehicle
10Account within 60 days and shall be subject to further allocation
11as follows:

12(1) Within 30 days of the deadline to return funds, the state
13board shall notify the districts of the total amount of returned funds
14available for reallocation, and shall list those districts that request
15supplemental funds from the reallocation and that are able to
16expend those funds within one year.

17(2) Within 90 days of the deadline to return funds, the state
18board shall allocate the returned funds to the districts listed
19pursuant to paragraph (1).

20(3) All supplemental funds distributed under this subdivision
21shall be expended consistent with the Carl Moyer Air Quality
22Standards Attainment Program within one year of the date of
23supplemental allocation. Funds not expended within one year shall
24be returned to the Covered Vehicle Account and shall be distributed
25at the discretion of the state board to districts, taking into
26consideration of each district's ability to expeditiously utilize the
27remaining funds consistent with the Carl Moyer Air Quality
28Standards Attainment Program.

29(d) This section shall remain in effect only until January 1, ~~begin delete~~
~~2015end delete~~
30~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
31that is enacted before January 1, ~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
32that date.

33

SEC. 26.

Section 42885 of the *Public Resources Code*, as
34amended by Section 55 of Chapter 77 of the Statutes of 2006, is
35amended to read:

36

42885.

(a) For purposes of this section, "California tire fee"
37means the fee imposed pursuant to this section.

38(b) (1) ~~begin deleteA end delete~~~~begin insertBefore January 1, 2015, a end~~
~~insert~~person who purchases a

39new tire, as defined in subdivision (g), shall pay a California tire
40fee of one dollar and seventy-five cents (\$1.75) per tire.

~~begin insert~~

P44 1(2) On and after January 1, 2015, a person who purchases a
2new tire, as defined in subdivision (g), shall pay a California tire
3fee of one dollar and fifty cents (\$1.50) per tire.

~~end insertbegin delete~~

4(2)

~~end delete~~

5~~begin insert(3)end insert~~ The retail seller shall charge the retail purchaser
the amount
6of the California tire fee as a charge that is separate from, and not
7included in, any other fee, charge, or other amount paid by the
8retail purchaser.

~~begin delete~~

~~9(3)~~

~~end delete~~

10~~begin insert(4)end insert~~ The retail seller shall collect the California tire fee
from the
11retail purchaser at the time of sale and may retain 11/2 percent of
12the fee as reimbursement for any costs associated with the
13collection of the fee. The retail seller shall remit the remainder to
14the state on a quarterly schedule for deposit in the California Tire
15Recycling Management Fund, which is hereby created in the State
16Treasury.

17(c) The board, or its agent authorized pursuant to Section 42882,
18shall be reimbursed for its costs of collection, auditing, and making
19refunds associated with the California Tire Recycling Management
20Fund, but not to exceed 3 percent of the total annual revenue
21deposited in the fund.

22(d) The California tire fee imposed pursuant to subdivision (b)
23shall be separately stated by the retail seller on the invoice given
24to the customer at the time of sale. Any other disposal or
25transaction fee charged by the retail seller related to the tire
26purchase shall be identified separately from the California tire fee.

27(e) A person or business who knowingly, or with reckless
28disregard, makes a false statement or representation in a document
29used to comply with this section is liable for a civil penalty for
30each violation or, for continuing violations, for each day that the
31violation continues. Liability under this section may be imposed
32in a civil action and shall not exceed twenty-five thousand dollars
33(\$25,000) for each violation.

34(f) In addition to the civil penalty that may be imposed pursuant
35to subdivision (e), the board may impose an administrative penalty
36in an amount not to exceed five thousand dollars (\$5,000) for each
37violation of a separate provision or, for continuing violations, for
38each day that the violation continues, on a person who intentionally
39or negligently violates a permit, rule, regulation, standard, or
40requirement issued or adopted pursuant to this chapter. The board
P45 shall adopt regulations that specify the amount of the administrative
2penalty and the procedure for imposing an administrative penalty
3pursuant to this subdivision.

4(g) For purposes of this section, "new tire" means a pneumatic
5or solid tire intended for use with on-road or off-road motor
6vehicles, motorized equipment, construction equipment, or farm
7equipment that is sold separately from the motorized equipment,
8or a new tire sold with a new or used motor vehicle, as defined in
9Section 42803.5, including the spare tire, construction equipment,

10or farm equipment. "New tire" does not include retreaded, reused,
11or recycled tires.

12(h) The California tire fee shall not be imposed on a tire sold
13with, or sold separately for use on, any of the following:

14(1) A self-propelled wheelchair.

15(2) A motorized tricycle or motorized quadricycle, as defined
16in Section 407 of the Vehicle Code.

17(3) A vehicle that is similar to a motorized tricycle or motorized
18quadricycle and is designed to be operated by a person who, by
19reason of the person's physical disability, is otherwise unable to
20move about as a pedestrian.

21(i) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~

22~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,

23that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends

24that date.

25

SEC. 27.

Section 42885 of the *Public Resources Code*, as added
26by Section 13.5 of Chapter 707 of the Statutes of 2004, is amended
27to read:

28

42885.

(a) For purposes of this section, "California tire fee"
29means the fee imposed pursuant to this section.

30(b) (1) Every person who purchases a new tire, as defined in
31subdivision (g), shall pay a California tire fee of seventy-five cents
32(\$0.75) per tire.

33(2) The retail seller shall charge the retail purchaser the amount
34of the California tire fee as a charge that is separate from, and not
35included in, any other fee, charge, or other amount paid by the
36retail purchaser.

37(3) The retail seller shall collect the California tire fee from the
38retail purchaser at the time of sale and may retain 3 percent of the
39fee as reimbursement for any costs associated with the collection
40of the fee. The retail seller shall remit the remainder to the state
P46 1on a quarterly schedule for deposit in the California Tire Recycling
2Management Fund, which is hereby created in the State Treasury.

3(c) The board, or its agent authorized pursuant to Section 42882,
4shall be reimbursed for its costs of collection, auditing, and making
5refunds associated with the California Tire Recycling Management
6Fund, but not to exceed 3 percent of the total annual revenue
7deposited in the fund.

8(d) The California tire fee imposed pursuant to subdivision~~begin delete~~
~~(a)end delete~~

9~~begin insert (b)end insert~~ shall be separately stated by the retail seller on the
invoice

10given to the customer at the time of sale. Any other disposal or

11transaction fee charged by the retail seller related to the tire
12purchase shall be identified separately from the California tire fee.

13(e) Any person or business who knowingly, or with reckless
14disregard, makes any false statement or representation in any
15document used to comply with this section is liable for a civil
16penalty for each violation or, for continuing violations, for each
17day that the violation continues. Liability under this section may
18be imposed in a civil action and shall not exceed twenty-five
19thousand dollars (\$25,000) for each violation.

20(f) In addition to the civil penalty that may be imposed pursuant
21to subdivision (e), the board may impose an administrative penalty
22in an amount not to exceed five thousand dollars (\$5,000) for each
23violation of a separate provision or, for continuing violations, for
24each day that the violation continues, on any person who
25intentionally or negligently violates any permit, rule, regulation,
26standard, or requirement issued or adopted pursuant to this chapter.
27The board shall adopt regulations that specify the amount of the
28administrative penalty and the procedure for imposing an
29administrative penalty pursuant to this subdivision.

30(g) For purposes of this section, "new tire" means a pneumatic
31or solid tire intended for use with on-road or off-road motor
32vehicles, motorized equipment, construction equipment, or farm
33equipment that is sold separately from the motorized equipment,
34or a new tire sold with a new or used motor vehicle, as defined in
35Section 42803.5, including the spare tire, construction equipment,
36or farm equipment. "New tire" does not include retreaded, reused,
37or recycled tires.

38(h) The California tire fee may not be imposed on any tire sold
39with, or sold separately for use on, any of the following:

40(1) Any self-propelled wheelchair.

P47 1(2) Any motorized tricycle or motorized quadricycle, as defined
2in Section 407 of the Vehicle Code.

3(3) Any vehicle that is similar to a motorized tricycle or
4motorized quadricycle and is designed to be operated by a person
5who, by reason of the person's physical disability, is otherwise
6unable to move about as a pedestrian.

7(i) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~begin insert 2024end insert.

8

SEC. 28.

Section 42889 of the *Public Resources Code*, as
9amended by Section 3 of Chapter 333 of the Statutes of 2009, is
10amended to read:

11

42889.

(a) Commencing January 1, 2005, of the moneys
12collected pursuant to Section 42885, an amount equal to
13seventy-five cents (\$0.75) per tire on which the fee is imposed
14shall be transferred by the State Board of Equalization to the Air
15Pollution Control Fund. The state board shall expend those moneys,

16or allocate those moneys to the districts for expenditure, to fund
17programs and projects that mitigate or remediate air pollution
18caused by tires in the state, to the extent that the state board or the
19applicable district determines that the program or project
20remediates air pollution harms created by tires upon which the fee
21described in Section 42885 is imposed.

22(b) The remaining moneys collected pursuant to Section 42885
23shall be used to fund the waste tire program, and shall be
24appropriated to the board in the annual Budget Act in a manner
25consistent with the five-year plan adopted and updated by the
26board. These moneys shall be expended for the payment of refunds
27under this chapter and for the following purposes:

28(1) To pay the administrative overhead cost of this chapter, not
29to exceed 6 percent of the total revenue deposited in the fund
30annually, or an amount otherwise specified in the annual Budget
31Act.

32(2) To pay the costs of administration associated with collection,
33making refunds, and auditing revenues in the fund, not to exceed
343 percent of the total revenue deposited in the fund, as provided
35in subdivision (c) of Section 42885.

36(3) To pay the costs associated with operating the tire recycling
37program specified in Article 3 (commencing with Section 42870).

38(4) To pay the costs associated with the development and
39enforcement of regulations relating to the storage of waste tires
40and used tires. The board shall consider designating a city, county,
P48 1or city and county as the enforcement authority of regulations
2relating to the storage of waste tires and used tires, as provided in
3subdivision (c) of Section 42850, and regulations relating to the
4hauling of waste and used tires, as provided in subdivision (b) of
5Section 42963. If the board designates a local entity for that
6purpose, the board shall provide sufficient, stable, and
7noncompetitive funding to that entity for that purpose, based on
8available resources, as provided in the five-year plan adopted and
9updated as provided in subdivision (a) of Section 42885.5. The
10board may consider and create, as appropriate, financial incentives
11for citizens who report the illegal hauling or disposal of waste tires
12as a means of enhancing local and statewide waste tire and used
13tire enforcement programs.

14(5) To pay the costs of cleanup, abatement, removal, or other
15remedial action related to waste tire stockpiles throughout the state,
16including all approved costs incurred by other public agencies
17involved in these activities by contract with the board. Not less
18than six million five hundred thousand dollars (\$6,500,000) shall
19be expended by the board during each of the following fiscal years
20for this purpose: 2001-02 to 2006-07, inclusive.

21(6) To make studies and conduct research directed at promoting
22and developing alternatives to the landfill disposal of waste tires.

23(7) To assist in developing markets and new technologies for
24used tires and waste tires. The board's expenditure of funds for
25purposes of this subdivision shall reflect the priorities for waste

26management practices specified in subdivision (a) of Section
2740051.

28(8) To pay the costs associated with implementing and operating
29a waste tire and used tire hauler program and manifest system
30pursuant to Chapter 19 (commencing with Section 42950).

31(9) To pay the costs to create and maintain an emergency
32reserve, which shall not exceed one million dollars (\$1,000,000).

33(10) To pay the costs of cleanup, abatement, or other remedial
34action related to the disposal of waste tires in implementing and
35operating the Farm and Ranch Solid Waste Cleanup and Abatement
36Grant Program established pursuant to Chapter 2.5 (commencing
37with Section 48100) of Part 7.

38(11) To fund border region activities specified in paragraph (8)
39of subdivision (b) of Section 42885.5.

P49 1(c) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~

2~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute

3that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends

4that date.

5

SEC. 29.

Section 42889 of the *Public Resources Code*, as
6amended by Section 4 of Chapter 333 of the Statutes of 2009, is
7amended to read:

8

42889.

Funding for the waste tire program shall be appropriated
9to the board in the annual Budget Act. The moneys in the fund
10shall be expended for the payment of refunds under this chapter
11and for the following purposes:

12(a) To pay the administrative overhead cost of this chapter, not
13to exceed 5 percent of the total revenue deposited in the fund
14annually, or an amount otherwise specified in the annual Budget
15Act.

16(b) To pay the costs of administration associated with collection,
17making refunds, and auditing revenues in the fund, not to exceed
183 percent of the total revenue deposited in the fund, as provided
19in subdivision (b) of Section 42885.

20(c) To pay the costs associated with operating the tire recycling
21program specified in Article 3 (commencing with Section 42870).

22(d) To pay the costs associated with the development and
23enforcement of regulations relating to the storage of waste tires
24and used tires. The board shall consider designating a city, county,
25or city and county as the enforcement authority of regulations
26relating to the storage of waste tires and used tires, as provided in
27subdivision (c) of Section 42850, and regulations relating to the
28hauling of waste and used tires, as provided in subdivision (b) of
29Section 42963. If the board designates a local entity for that

30purpose, the board shall provide sufficient, stable, and
31noncompetitive funding to that entity for that purpose, based on
32available resources, as provided in the five-year plan adopted and
33updated as provided in subdivision (a) of Section 42885.5. The
34board may consider and create, as appropriate, financial incentives
35for citizens who report the illegal hauling or disposal of waste tires
36as a means of enhancing local and statewide waste tire and used
37tire enforcement programs.

38(e) To pay the costs of cleanup, abatement, removal, or other
39remedial action related to waste tire stockpiles throughout the state,
40including all approved costs incurred by other public agencies
P50 involved in these activities by contract with the board. Not less
2than six million five hundred thousand dollars (\$6,500,000) shall
3be expended by the board during each of the following fiscal years
4for this purpose: 2001-02 to 2006-07, inclusive.

5(f) To fund border region activities specified in paragraph (8)
6of subdivision (b) of Section 42885.5.

7(g) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~
8~~begin insert 2024end insert~~.

9

SEC. 30.

Section 9250.1 of the *Vehicle Code* is amended to
10read:

11

9250.1.

(a) Beginning July 1, 2008, the fee described in Section
129250 shall be increased by three dollars (\$3).

13(b) Two dollars (\$2) of the increase shall be deposited into the
14Alternative and Renewable Fuel and Vehicle Technology Fund
15created by Section 44273 of the Health and Safety Code, and one
16dollar (\$1) shall be deposited into the Enhanced Fleet
17Modernization Subaccount created by Section 44126 of the Health
18and Safety Code.

19(c) This section shall remain in effect only until January 1,~~begin delete~~
~~2016end delete~~
20~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
21that is enacted before January 1,~~begin delete 2016end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
22that date.

23

SEC. 31.

Section 9250.2 of the *Vehicle Code*, as amended by
24Section 15 of Chapter 707 of the Statutes of 2004, is amended to
25read:

26

9250.2.

(a) The department, if requested by the Sacramento
27Metropolitan Air Quality Management District pursuant to Section

2841081 of the Health and Safety Code, shall impose and collect a
29surcharge on the registration fees for every motor vehicle registered
30in that district, not to exceed the amount of six dollars (\$6), as
31specified by the governing body of that district.

32(b) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~

33~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,

34that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends

35that date.

36

SEC. 32.

Section 9250.2 of the *Vehicle Code*, as added by
37Section 15.5 of Chapter 707 of the Statutes of 2004, is amended
38to read:

39

9250.2.

(a) The department, if requested by the Sacramento
40Metropolitan Air Quality Management District pursuant to Section
P51 141081 of the Health and Safety Code, shall impose and collect a
2surcharge on the registration fees for every motor vehicle registered
3in that district, not to exceed either of the following amounts,
4whichever is applicable, as specified by the governing body of that
5district:

6(1) For each motor vehicle registered in that district whose
7registration expires on or after December 31, 1989, and prior to
8December 31, 1990, two dollars (\$2).

9(2) For each motor vehicle registered in that district whose
10registration expires on or after December 31, 1990, not to exceed
11four dollars (\$4).

12(b) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

13~~begin insert 2024end insert~~.

14

SEC. 33.

Section 9261.1 of the *Vehicle Code* is amended to
15read:

16

9261.1.

(a) Beginning July 1, 2008, the fee described in Section
179261, as adjusted pursuant to Section 1678, shall be increased by
18five dollars (\$5).

19(b) Two dollars and 50 cents (\$2.50) of the increase shall be
20deposited into the Alternative and Renewable Fuel and Vehicle
21Technology Fund created by Section 44273 of the Health and
22Safety Code, and two dollars and fifty cents (\$2.50) shall be
23deposited into the Air Quality Improvement Fund created by
24Section 44274.5 of the Health and Safety Code.

25(c) This section shall remain in effect only until January 1,~~begin delete~~
~~2016end delete~~
26~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
27that is enacted before January 1,~~begin delete 2016end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
28that date.

29

SEC. 34.

Section 9853.6 of the *Vehicle Code* is amended to
30read:

31

9853.6.

(a) (1) Beginning July 1, 2008, the fee described in
32paragraph (1) of subdivision (b) of Section 9853 shall be increased
33by ten dollars (\$10).

34(2) Five dollars (\$5) of the increase shall be deposited into the
35Alternative and Renewable Fuel and Vehicle Technology Fund
36created by Section 44273 of the Health and Safety Code and five
37dollars (\$5) shall be deposited into the Air Quality Improvement
38Fund created by Section 44274.5 of the Health and Safety Code.

P52 1(b) (1) Beginning July 1, 2008, the fee described in paragraph
2(2) of subdivision (b) of Section 9853 shall be increased by twenty
3dollars (\$20).

4(2) Ten dollars (\$10) of the increase shall be deposited into the
5Alternative and Renewable Fuel and Vehicle Technology Fund
6created by Section 44273 of the Health and Safety Code and ten
7dollars (\$10) shall be deposited into the Air Quality Improvement
8Fund created by Section 44274.5 of the Health and Safety Code.

9(c) This section shall remain in effect only until January 1,~~begin delete~~
~~2016end delete~~
10~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
11that is enacted before January 1,~~begin delete 2016end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
12that date.

13

SEC. 35.

This act is an urgency statute necessary for the
14immediate preservation of the public peace, health, or safety within
15the meaning of Article IV of the Constitution and shall go into
16immediate effect. The facts constituting the necessity are:

17To ensure stable funding for programs to reduce air pollution
18for the protection of the public health and safety, it is necessary
19for this measure to take effect immediately.

Senate Bill No. 11

**Introduced by Senators Pavley and Rubio
(Principal coauthor: Senator Hill)**

December 3, 2012

An act to amend Sections 41081, 44060.5, 44225, 44229, 44275, 44280, 44281, 44282, 44283, 44287, 44299.1, and 44299.2 of, and to add Sections 43018.9, 43867.5, and 43867.6 to, the Health and Safety Code, to amend Sections 42885 and 42889 of the Public Resources Code, and to amend Sections 9250.1, 9250.2, 9261.1, and 9853.6 of the Vehicle Code, relating to vehicular air pollution, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 11, as introduced, Pavley. Alternative fuel and vehicle technologies: funding programs.

(1) Existing law establishes the Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Commission (commission), to provide to specified entities, upon appropriation by the Legislature, grants, loans, loan guarantees, revolving loans, or other appropriate measures, for the development and deployment of innovative technologies that would transform California's fuel and vehicle types to help attain the state's climate change goals. Existing law specifies that only certain projects or programs are eligible for funding, including block grants administered by public entities or not-for-profit technology entities for multiple projects, education and program promotion within California, and development of alternative and renewable fuel and vehicle technology centers. Existing law requires the commission to develop and adopt an investment plan to determine priorities and opportunities for the program.

This bill would provide that the State Air Resources Board (state board), until January 1, 2024, has no authority to enforce any element of its existing clean fuels outlet regulation or other regulation that requires or has the effect of requiring any person to construct, operate, or provide funding for the construction or operation of any publicly available hydrogen fueling station. The bill would require the state board to aggregate and make available to the public, no later than January 1, 2014, and every two years thereafter, the number of vehicles that automobile manufacturers project to be sold or leased, as reported to the state board. The bill would require the commission to allocate \$20 million each fiscal year, as specified, and up to \$20 million each fiscal year thereafter, as specified, for purposes of achieving a hydrogen fueling network sufficient to provide convenient fueling to vehicle owners, and expand that network as necessary to support a growing market for vehicles requiring hydrogen fuel, until there are at least 100 publicly available hydrogen fueling stations. The bill, on or before December 31, 2015, and annually thereafter, would require the commission and the state board to jointly review and report on the progress toward establishing a hydrogen fueling

network that provides the coverage and capacity to fuel vehicles requiring hydrogen fuel that are being placed into operation in the state, as specified. The bill would authorize the commission to design grants, loan incentive programs, revolving loan programs, and other forms of financial assistance, as specified, for purposes of assisting in the implementation of these provisions. The bill, no later than July 1, 2013, would require the state board and air districts to jointly convene working groups to evaluate the specified policies and goals of specified programs.

(2) Existing law requires the commission, in partnership with the state board, to develop and adopt a state plan to increase the use of alternative transportation fuels.

This bill would require the commission and the state board, among other things, to coordinate efforts to measure the progress of alternative fuels use. The bill would require the commission, in consultation with the state board, on or before November 1, 2014, to update a specified economic analysis. The bill would require the commission and the state board, to evaluate how the use of new and existing investment programs could be used to increase the state alternative transportation fuels use, and evaluate how the impact of federal fuel policies and existing state policies will help increase the use of alternative transportation fuels in the state. The bill would require the commission and the state board, on or before November 1, 2015, and every 2 years thereafter, to report in the integrated energy policy report, as specified, the status of the state alternative transportation fuels use, as specified, and make specified evaluations. The bill would require the state board to include a finding on the effect of proposed regulations on state alternative transportation fuels use.

(3) Existing law, until January 1, 2016, increases vehicle registration fees, vessel registration fees, and specified service fees for identification plates by a specified amount. Existing law requires the revenue generated by the increase in those fees to be deposited in the Alternative and Renewable Fuel and Vehicle Technology Fund, and either the Air Quality Improvement Fund or the Enhanced Fleet Modernization Subaccount, as provided.

Existing law, until January 1, 2016, imposes on certain vehicles a smog abatement fee of \$20, and requires a specified amount of this fee to be deposited in the Air Quality Improvement Fund and in the Alternative and Renewable Fuel and Vehicle Technology Fund.

This bill would extend those fees in the amounts required to make these deposits into the Alternative and Renewable Fuel and Vehicle Technology Fund, the Air Quality Improvement Fund, and the Enhanced Fleet Modernization Subaccount until January 1, 2024, at which time the fees would be reduced by those amounts.

(4) Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer program), which is administered by the state board, to provide grants to offset the incremental cost of eligible projects that reduce emissions of air pollutants from sources in the state and for funding a fueling infrastructure demonstration program and technology development efforts. Existing law, beginning January 1, 2015, limits the Carl Moyer program to funding projects that reduce emissions of oxides of nitrogen (NO_x).

This bill would extend the current authorization for the Carl Moyer program to fund a broader range of projects that reduce emissions until January 1, 2024, and would make other conforming changes in that regard.

(5) Existing law authorizes the district board of the Sacramento Metropolitan Air Quality Management District to adopt a surcharge on motor vehicle registration fees applicable to all motor vehicles registered in the counties within that district. Existing law, until January 1, 2015, raises the limit on the amount of that surcharge from \$4 to

\$6 for a motor vehicle whose registration expires on or after December 31, 1990, and requires that \$2 of the surcharge be used to implement the Carl Moyer program, as specified. Beginning January 1, 2015, existing law returns the surcharge limit to its previous amount of \$4.

This bill would extend the \$6 limitation on the surcharge until January 1, 2024, with the limit returning to \$4 beginning on that date.

(6) Existing law authorizes each air pollution control and air quality management district (district) that has been designated a state nonattainment area by the state board for any motor vehicle air pollutant, except the Sacramento Air Quality Management District, to levy a surcharge on the registration fees for every motor vehicle registered in that district, as specified by the governing body of the district. Existing law requires the Department of Motor Vehicles to collect that surcharge if requested by a district, and requires the department, after deducting its administrative costs, to distribute the revenues to the districts. Existing law, until January 1, 2015, raises the limit on the amount of that surcharge from \$4 to \$6 and requires that \$2 of the surcharge be used to implement the Carl Moyer program, as specified. Beginning January 1, 2015, existing law returns the surcharge limit to its previous amount of \$4.

This bill would extend the \$6 limitation on the surcharge until January 1, 2024, with the limit returning to \$4 beginning on that date.

(7) Existing law imposes, until January 1, 2015, a California tire fee of \$1.75 per tire on every person who purchases a new tire, with the revenues generated to be allocated for prescribed purposes related to disposal and use of used tires. Existing law requires that \$0.75 per tire on which the fee is imposed, be deposited in the Air Pollution Control Fund, these moneys to be available upon appropriation by the Legislature for use by the state board and districts for specified purposes. Existing law reduces the tire fee to \$0.75 per tire on and after January 1, 2015.

This bill would, on January 1, 2015, instead increase the tire fee to \$1.50 per tire until January 1, 2024, and reduce the tire fee to \$0.75 per tire on and after January 1, 2024.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

P5 1

SECTION 1.

Section 41081 of the *Health and Safety Code*, as
2 amended by Section 1.5 of Chapter 216 of the Statutes of 2011, is
3 amended to read:

4

41081.

(a) Subject to Article 3.7 (commencing with Section
5 553720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the
6 Government Code, or with the approval of the board of supervisors
7 of each county included, in whole or in part, within the Sacramento
8 district, the Sacramento district board may adopt a surcharge on
9 the motor vehicle registration fees applicable to all motor vehicles
10 registered in those counties within the Sacramento district whose
11 boards of supervisors have adopted a resolution approving the

12surcharge. The surcharge shall be collected by the Department of
13Motor Vehicles and, after deducting the department's
14administrative costs, the remaining funds shall be transferred to
15the Sacramento district. Prior to the adoption of any surcharge
16pursuant to this subdivision, the district board shall make a finding
17that any funds allocated to the district as a result of the adoption
18of a county transportation sales and use tax are insufficient to carry
19out the purposes of this chapter.

20(b) The surcharge shall not exceed six dollars (\$6).

21(c) After consulting with the Department of Motor Vehicles on
22the feasibility thereof, the Sacramento district board may provide,
23in the surcharge adopted pursuant to subdivision (a), to exempt
24from all or part of the surcharge any category of low-emission
25motor vehicle.

26(d) Funds received by the Sacramento district pursuant to this
27section shall be used by that district as follows:

28(1) The revenues resulting from the first four dollars (\$4) of
29each surcharge shall be used to implement reductions in emissions
30from vehicular sources, including, but not limited to, a clean fuels
31program and motor vehicle use reduction measures.

32(2) The revenues resulting from the next two dollars (\$2) of
33each surcharge shall be used to implement the following programs
34that achieve emission reductions from vehicular sources and
35off-road engines, to the extent that the district determines the
36program remediates air pollution harms created by motor vehicles
37on which the surcharge is imposed:

P6 1(A) Projects eligible for grants under the Carl Moyer Memorial
2Air Quality Standards Attainment Program (Chapter 9
3(commencing with Section 44275) of Part 5).

4(B) The new purchase, retrofit, repower, or add-on of equipment
5for previously unregulated agricultural sources of air pollution, as
6defined in Section 39011.5, within the Sacramento district, for a
7minimum of three years from the date of adoption of an applicable
8rule or standard, or until the compliance date of that rule or
9standard, whichever is later, if the state board has determined that
10the rule or standard complies with Sections 40913, 40914, and
1141503.1, after which period of time, a new purchase, retrofit,
12repower, or add-on of equipment shall not be funded pursuant to
13this chapter. The district shall follow any guidelines developed
14under subdivision (a) of Section 44287 for awarding grants under
15this program.

16(C) The purchase of new, or retrofit of emissions control
17equipment for existing, schoolbuses pursuant to the
18Lower-Emission School Bus Program adopted by the state board.

19(D) An accelerated vehicle retirement or repair program that is
20adopted by the state board pursuant to authority granted hereafter
21by the Legislature by statute.

22(E) The replacement of onboard natural gas fuel tanks on
23schoolbuses owned by a school district that are 14 years or older,
24not to exceed twenty thousand dollars (\$20,000) per bus, pursuant

25to the Lower-Emission School Bus Program adopted by the state
26board.

27(F) The enhancement of deteriorating natural gas fueling
28dispensers of fueling infrastructure operated by a school district
29with a one-time funding amount not to exceed five hundred dollars
30(\$500) per dispenser, pursuant to the Lower-Emission School Bus
31Program adopted by the state board.

32(e) Not more than 5 percent of the funds collected pursuant to
33this section shall be used by the district for administrative expenses.

34(f) A project funded by the program shall not be used for credit
35under any state or federal emissions averaging, banking, or trading
36program. An emission reduction generated by the program shall
37not be used as marketable emission reduction credits or to offset
38any emission reduction obligation of any person or entity. Projects
39involving new engines that would otherwise generate marketable
40credits under state or federal averaging, banking, and trading
P7 1programs shall include transfer of credits to the engine end user
2and retirement of those credits toward reducing air emissions in
3order to qualify for funding under the program. A purchase of a
4low-emission vehicle or of equipment pursuant to a corporate or
5a controlling board's policy, but not otherwise required by law,
6shall generate surplus emissions reductions and may be funded by
7the program.

8(g) This section shall remain in effect only until January 1, ~~begin delete~~
~~2015end delete~~
9~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
10that is enacted before January 1, ~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
11that date.

12

SEC. 2.

Section 41081 of the *Health and Safety Code*, as added
13by Section 2.5 of Chapter 707 of the Statutes of 2004, is amended
14to read:

15

41081.

(a) Subject to Article 3.7 (commencing with Section
1653720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the
17Government Code, or with the approval of the board of supervisors
18of each county included, in whole or in part, within the Sacramento
19district, the Sacramento district board may adopt a surcharge on
20the motor vehicle registration fees applicable to all motor vehicles
21registered in those counties within the Sacramento district whose
22boards of supervisors have adopted a resolution approving the
23surcharge. The surcharge shall be collected by the Department of
24Motor Vehicles and, after deducting the department's
25administrative costs, the remaining funds shall be transferred to
26the Sacramento district. Prior to the adoption of any surcharge
27pursuant to this subdivision, the district board shall make a finding

28that any funds allocated to the district as a result of the adoption
29of a county transportation sales and use tax are insufficient to carry
30out the purposes of this chapter.

31(b) The surcharge shall not exceed two dollars (\$2) for each
32motor vehicle whose registration expires on or after December 31,
331989, and prior to December 31, 1990. For each motor vehicle
34whose registration expires on or after December 31, 1990, the
35surcharge shall not exceed four dollars (\$4).

36(c) After consulting with the Department of Motor Vehicles on
37the feasibility thereof, the Sacramento district board may provide,
38in the surcharge adopted pursuant to subdivision (a), to exempt
39from all or part of the surcharge any category of low-emission
40motor vehicle.

P8 1(d) Funds received by the Sacramento district pursuant to this
2section shall be used to implement the strategy with respect to the
3reduction in emissions from vehicular sources, including, but not
4limited to, a clean fuels program and motor vehicle use reduction
5measures. Not more than 5 percent of the funds collected pursuant
6to this section shall be used by the district for administrative
7expenses.

8(e) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

9~~begin insert 2024end insert.~~

10

SEC. 3.

Section 43018.9 is added to the *Health and Safety*
11Code, to read:

12

43018.9.

(a) For purposes of this section, the following terms
13have the following meanings:

14(1) "Commission" means the State Energy Resources
15Conservation and Development Commission.

16(2) "Publicly available hydrogen fueling station" means the
17equipment used to store and dispense hydrogen fuel to vehicles
18according to industry codes and standards that is open to the public.

19(b) (1) Notwithstanding any other law, the state board shall
20have no authority to enforce any element of its existing clean fuels
21outlet regulation or of any other regulation that requires or has the
22effect of requiring that any person construct, operate, or provide
23funding for the construction or operation of any publicly available
24hydrogen fueling station.

25(2) This subdivision shall become inoperative on January 1,
262024.

27(c) The state board shall aggregate and make available to the
28public no later than January 1, 2014, and every two years thereafter,
29the number of vehicles that automobile manufacturers project to
30be sold or leased, as reported to the state board pursuant to Section
312303(a) of Title 13 of the California Code of Regulations.

32(d) (1) The commission shall allocate twenty million dollars
33(\$20,000,000) each fiscal year, beginning July 1, 2013, through
34June 30, 2016, and up to twenty million dollars (\$20,000,000) each
35fiscal year thereafter, not to exceed 20 percent of moneys
36appropriated by the Legislature from the Alternative and
37Renewable Fuel and Vehicle Technology Fund, established
38pursuant to Section 44273, for purposes of achieving a hydrogen
39fueling network sufficient to provide convenient fueling to vehicle
40owners, and expand that network as necessary to support a growing
P9 1market for vehicles requiring hydrogen fuel, until there are at least
2100 publicly available hydrogen fueling stations.

3(2) Based on the results of the review set forth in paragraph (4),
4the commission may defer allocating the moneys set forth in
5paragraph (1) as needed to keep the number of fueling stations
6matched to the fueling needs of the vehicles.

7(3) Notwithstanding paragraph (1), once the commission
8 determines, in consultation with the state board, that the private
9sector is establishing publicly available hydrogen fueling stations
10without the need for government support, the commission may
11cease providing funding for those stations.

12(4) On or before December 31, 2015, and annually thereafter,
13the commission and the state board shall jointly review and report
14on progress toward establishing a hydrogen fueling network that
15provides the coverage and capacity to fuel vehicles requiring
16hydrogen fuel that are being placed into operation in the state. The
17commission and the state board shall consider the following,
18including but not limited to, the available plans of automobile
19manufacturers to deploy fuel cell vehicles in California and their
20progress toward achieving those plans, the rate of hydrogen fuel
21cell deployment, the length of time required to permit and construct
22hydrogen fueling stations, the coverage and capacity of the existing
23hydrogen fueling station network, and the amount and timing of
24growth in the fueling network to ensure fuel is available to these
25vehicles. The review shall also determine the remaining cost and
26timing to establish a network of 100 publicly available hydrogen
27fueling stations and whether funding from the Alternative and
28Renewable Fuel and Vehicle Technology Program remains
29necessary to achieve this goal.

30(e) To assist in the implementation of this section and maximize
31the ability to deploy fueling infrastructure as rapidly as possible
32with the assistance of private capital, the commission may design
33grants, loan incentive programs, revolving loan programs, and
34other forms of financial assistance. The commission also may enter
35into an agreement with the Treasurer to provide financial assistance
36to further the purposes of this section.

37(f) Funds appropriated to the commission for the purposes of
38this section shall be available for encumbrance by the commission
39for up to four years from the date of the appropriation and for
P10 1liquidation up to four years after expiration of the deadline to
2encumber.

3(g) Notwithstanding any other law, the state board, in
4consultation with air districts, no later than July 1, 2013, shall
5convene working groups to evaluate the policies and goals
6contained within the Carl Moyer Memorial Air Quality Standards
7Attainment Program, pursuant to Section 44280, and Assembly
8Bill 923 (Chapter 707 of the Statutes of 2004).

9

SEC. 4.

Section 43867.5 is added to the *Health and Safety*
10*Code*, to read:

11

43867.5.

The Legislature finds and declares all of the following:

12(a) The state overwhelmingly relies on a single source of fuel,
13petroleum, for its transportation needs, and nearly one-half of that
14petroleum comes from overseas. This overreliance on petroleum
15leaves residents vulnerable to supply interruptions and price
16instabilities, and it leaves consumers with essentially no options
17for alternative transportation fuels.

18(b) Residents spend over twenty billion dollars
19(\$20,000,000,000) each year on petroleum fuel imports,
20representing a significant missed economic opportunity.

21(c) It is in the interest of the state to increase alternative fuels
22usage to reduce fuel price volatility, improve environmental quality
23and transportation energy security, and demonstrate the state's
24continued leadership in reducing greenhouse gas emissions.

25(d) The State Alternative Fuels Plan, which was adopted by the
26state board and the State Energy Resources Conservation and
27Development Commission pursuant to Section 43866, outlined
28specific strategies and targets that would increase the use of
29alternative and nonpetroleum fuels. The strategy set a moderate
30growth goal of 26 percent penetration for alternative fuel use in
31on-road and off-road vehicles by 2022. In 2007, alternative fuels
32accounted for less than 5 percent of the transportation sector's
33consumption.

34(e) Therefore, it is in the interest of the state to evaluate progress
35toward increasing alternative fuels usage.

36

SEC. 5.

Section 43867.6 is added to the *Health and Safety*
37*Code*, to read:

38

43867.6.

(a) In order to measure the progress of alternative
39fuels use for on-road and off-road vehicles in the state, it is the
40intent of the Legislature that the state board and the State Energy
P11 Resources Conservation and Development Commission shall
2update the analysis of the state alternative transportation fuels use
3described in this section.

4(b) The state board and the State Energy Resources Conservation
5and Development Commission shall coordinate efforts to
6implement this article.

7(c) On or before November 1, 2014, the state board and the
8State Energy Resources Conservation and Development
9Commission shall update the economic analysis used in developing
10and reviewing state board regulations to include a range of
11petroleum and alternative fuel prices to more accurately assess the
12future cost of petroleum based and alternative fuels.

13(d) The State Energy Resources Conservation and Development
14Commission, in consultation with the state board, shall do all of
15the following:

16(1) Evaluate how the use of new and existing investment
17programs could be used to increase the state alternative
18transportation fuels use.

19(2) Evaluate how the impact of federal fuel policies and existing
20state policies will help increase the use of alternative transportation
21fuels in the state.

22(e) On or before November 1, 2015, and every two years
23thereafter consistent with and reported within the integrated energy
24policy report, pursuant to Section 25302 of the Public Resources
25Code, the state board and the State Energy Resources Conservation
26and Development Commission shall report on the status of the
27state alternative transportation fuels use analysis pursuant to
28subdivision (a) and make the evaluations required in subdivision
29(d). The report shall include details as to the quantities of
30alternative fuels used in the state during the preceding years in
31absolute terms and as a percentage of the state's overall
32transportation fuel mix.

33(f) As part of developing relevant new and amended regulations,
34the state board shall include a finding on the effect of proposed
35regulations on the state alternative transportation fuels use.

36(g) This section shall be implemented consistent with the
37environmental, public health, and sustainability considerations
38included in Sections 44271 and 44272. Further, this section does
39not preempt the California Global Warming Solutions Act of 2006
P12 1(Division 25.5 (commencing with Section 38500)) or the programs
2and policies implemented pursuant to that act.

3(h) The state board and the State Energy Resources Conservation
4and Development Commission, in studying the state alternative
5transportation fuels use, shall seek to measure all of the following:

6(1) In-state job creation through the continued development of
7an alternative fuels industry in the state.

8(2) Economic vulnerability of residents to future costly
9petroleum fuel price spikes by the use of either petroleum fuels or
10alternative fuels and vehicles.

11(3) Alternative fuel market penetration in nonattainment areas.

12(4) Increases in access to the supply of alternative fuels and
13alternative fuel vehicles for all residents and barriers to that supply.

14

SEC. 6.

Section 44060.5 of the *Health and Safety Code* is amended to read:

44060.5.

(a) Beginning July 1, 2008, the smog abatement fee described in ~~begin insert subdivision (d) of~~ Section 44060 shall be increased by eight dollars (\$8).

(b) Revenues generated by the increase described in this section shall be distributed as follows:

(1) The revenues generated by four dollars (\$4) shall be deposited in the Air Quality Improvement Fund created by Section 4274.5.

(2) The revenues generated by four dollars (\$4) shall be deposited in the Alternative and Renewable Fuel and Vehicle Technology Fund created by Section 44273.

(c) This section shall remain in effect only until January 1, ~~begin delete 2016 end delete~~ ~~begin insert 2024 end insert~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~begin delete 2016 end delete~~ ~~begin insert 2024 end insert~~, deletes or extends that date.

SEC. 7.

Section 44225 of the *Health and Safety Code*, as amended by Section 3 of Chapter 707 of the Statutes of 2004, is amended to read:

44225.

A district may increase the fee established under Section 44223 to up to six dollars (\$6). A district may increase the fee only if the following conditions are met:

(a) A resolution providing for both the fee increase and a corresponding program for expenditure of the increased fees for the reduction of air pollution from motor vehicles pursuant to, and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of, the California Clean Air Act of 1988 is adopted and approved by the governing board of the district.

(b) In districts with nonelected officials on their governing boards, the resolution shall be adopted and approved by both a majority of the governing board and a majority of the board members who are elected officials.

(c) An increase in fees established pursuant to this section shall become effective on either April 1 or October 1, as provided in the resolution adopted by the board pursuant to subdivision (a).

(d) This section shall remain in effect only until January 1, ~~begin delete 2015 end delete~~

12~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,

13that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends

14 that date.

15

SEC. 8.

Section 44225 of the *Health and Safety Code*, as added
16by Section 3.5 of Chapter 707 of the Statutes of 2004, is amended
17to read:

18

44225.

On and after April 1, 1992, a district may increase the
19fee established under Section 44223 to up to four dollars (\$4). A
20district may increase the fee only if the following conditions are
21met:

22(a) A resolution providing for both the fee increase and a
23corresponding program for expenditure of the increased fees for
24the reduction of air pollution from motor vehicles pursuant to, and
25for related planning, monitoring, enforcement, and technical studies
26necessary for the implementation of, the California Clean Air Act
27of 1988 is adopted and approved by the governing board of the
28district.

29(b) In districts with nonelected officials on their governing
30boards, the resolution shall be adopted and approved by both a
31majority of the governing board and a majority of the board
32members who are elected officials.

33(c) An increase in fees established pursuant to this section shall
34become effective on either April 1 or October 1, as provided in
35the resolution adopted by the board pursuant to subdivision (a).

36(d) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

37~~begin insert 2024end insert~~.

38

SEC. 9.

Section 44229 of the *Health and Safety Code*, as
39amended by Section 2.5 of Chapter 216 of the Statutes of 2011, is
40amended to read:

P14 1

44229.

(a) After deducting all administrative costs it incurs
2through collection of fees pursuant to Section 44227, the
3Department of Motor Vehicles shall distribute the revenues to
4districts, which shall use the revenues resulting from the first four
5dollars (\$4) of each fee imposed to reduce air pollution from motor
6vehicles and to carry out related planning, monitoring, enforcement,
7and technical studies necessary for implementation of the California
8Clean Air Act of 1988. Fees collected by the Department of Motor
9Vehicles pursuant to this chapter shall be distributed to districts

10based upon the amount of fees collected from motor vehicles
11registered within each district.

12(b) Notwithstanding~~begin delete the provisions of end delete~~ Sections
44241 and 44243,

13a district shall use the revenues resulting from the next two dollars
14(\$2) of each fee imposed pursuant to Section 44227 to implement
15the following programs that the district determines remediate air
16pollution harms created by motor vehicles on which the surcharge
17is imposed:

18(1) Projects eligible for grants under the Carl Moyer Memorial
19Air Quality Standards Attainment Program (Chapter 9
20(commencing with Section 44275) of Part 5).

21(2) The new purchase, retrofit, repower, or add-on equipment
22for previously unregulated agricultural sources of air pollution, as
23defined in Section 39011.5, for a minimum of three years from
24the date of adoption of an applicable rule or standard, or until the
25compliance date of that rule or standard, whichever is later, if the
26state board has determined that the rule or standard complies with
27Sections 40913, 40914, and 41503.1, after which period of time,
28a new purchase, retrofit, repower, or add-on of equipment shall
29not be funded pursuant to this chapter. The districts shall follow
30any guidelines developed under subdivision (a) of Section 44287
31for awarding grants under this program.

32(3) The purchase of new, or retrofit of emissions control
33equipment for existing, schoolbuses pursuant to the
34Lower-Emission School Bus Program adopted by the state board.

35(4) An accelerated vehicle retirement or repair program that is
36adopted by the state board pursuant to authority granted hereafter
37by the Legislature by statute.

38(5) The replacement of onboard natural gas fuel tanks on
39schoolbuses owned by a school district that are 14 years or older,
40not to exceed twenty thousand dollars (\$20,000) per bus, pursuant
P15 1to the Lower-Emission School Bus Program adopted by the state
2board.

3(6) The enhancement of deteriorating natural gas fueling
4dispensers of fueling infrastructure operated by a school district
5with a one-time funding amount not to exceed five hundred dollars
6(\$500) per dispenser, pursuant to the Lower-Emission School Bus
7Program adopted by the state board.

8(c) The Department of Motor Vehicles may annually expend
9not more than 1 percent of the fees collected pursuant to Section
1044227 on administrative costs.

11(d) A project funded by the program shall not be used for credit
12under any state or federal emissions averaging, banking, or trading
13program. An emission reduction generated by the program shall
14not be used as marketable emission reduction credits or to offset
15any emission reduction obligation of any person or entity. Projects
16involving new engines that would otherwise generate marketable
17credits under state or federal averaging, banking, and trading
18programs shall include transfer of credits to the engine end user

19and retirement of those credits toward reducing air emissions in
20order to qualify for funding under the program. A purchase of a
21low-emission vehicle or of equipment pursuant to a corporate or
22a controlling board's policy, but not otherwise required by law,
23shall generate surplus emissions reductions and may be funded by
24the program.

25(e) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~
26~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,

27that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
28that date.

29

SEC. 10.

Section 44229 of the *Health and Safety Code*, as
30added by Section 4.5 of Chapter 707 of the Statutes of 2004, is
31amended to read:

32

44229.

(a) After deducting all administrative costs it incurs
33through collection of fees pursuant to Section 44227, the
34Department of Motor Vehicles shall distribute the revenues to
35districts which shall use the fees to reduce air pollution from motor
36vehicles and to carry out related planning, monitoring, enforcement,
37and technical studies necessary for implementation of the California
38Clean Air Act of 1988. Fees collected by the Department of Motor
39Vehicles pursuant to this chapter shall be distributed to districts
P16 1based upon the amount of fees collected from motor vehicles
2registered within each district.

3(b) The Department of Motor Vehicles may annually expend
4not more than the following percentages of the fees collected
5 pursuant to Section 44227 on administrative costs:

6(1) During the first year after the operative date of this chapter,
7not more than 5 percent of the fees collected may be used for
8administrative costs.

9(2) During the second year after the operative date of this
10chapter, not more than 3 percent of the fees collected may be used
11for administrative costs.

12(3) During any year subsequent to the second year after the
13operative date of this chapter, not more than 1 percent of the fees
14collected may be used for administrative costs.

15(c) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

16~~begin insert 2024end insert~~.

17

SEC. 11.

Section 44275 of the *Health and Safety Code*, as
18amended by Section 5 of Chapter 707 of the Statutes of 2004, is
19amended to read:

20

44275.

(a) As used in this chapter, the following terms have
21the following meanings:

22(1) "Advisory board" means the Carl Moyer Program Advisory
23Board created by Section 44297.

24(2) "Btu" means British thermal unit.

25(3) "Commission" means the State Energy Resources
26Conservation and Development Commission.

27(4) "Cost-effectiveness" means dollars provided to a project
28pursuant to subdivision (d) of Section 44283 for each ton of
29covered emission reduction attributed to a project or to the program
30as a whole. In calculating cost-effectiveness, one-time grants of
31funds made at the beginning of a project shall be annualized using
32a time value of public funds or discount rate determined for each
33project by the state board, taking into account the interest rate on
34bonds, interest earned by state funds, and other factors as
35determined appropriate by the state board. Cost-effectiveness shall
36be calculated by dividing annualized costs by average annual
37emissions reduction. The state board, in consultation with the
38districts and concerned members of the public, shall establish
39appropriate cost-effective limits for oxides of nitrogen, particulate
40matter, and reactive organic gases and a reasonable system for
P17 1comparing the cost-effectiveness of proposed projects as described
2in subdivision (a) of Section 44283.

3(5) "Covered emissions" include emissions of oxides of nitrogen,
4particulate matter, and reactive organic gases from any covered
5source.

6(6) "Covered engine" includes any internal combustion engine
7or electric motor and drive powering a covered source.

8(7) "Covered source" includes onroad vehicles offroad
9nonrecreational equipment and vehicles, locomotives, diesel marine
10vessels, agricultural sources of air pollution, as defined in Section
1139011.5, and, as determined by the state board, other high-emitting
12engine categories.

13(8) "Covered vehicle" includes any vehicle or piece of
14equipment powered by a covered engine.

15(9) "District" means a county air pollution control district or an
16air quality management district.

17(10) "Fund" means the Carl Moyer Memorial Air Quality
18Standards Attainment Trust Fund created by Section 44299.

19(11) "Mobile Source Air Pollution Reduction Review
20Committee" means the Mobile Source Air Pollution Reduction
21Review Committee created by Section 44244.

22(12) "Incremental cost" means the cost of the project less a
23baseline cost that would otherwise be incurred by the applicant in
24the normal course of business. Incremental costs may include
25added lease or fuel costs pursuant to Section 44283 as well as
26incremental capital costs.

27(13) "New very low emission vehicle" means a heavy-duty
28vehicle that qualifies as a very low emission vehicle when it is a
29new vehicle, where new vehicle has the same meaning as defined
30in Section 430 of the Vehicle Code, or that is modified with the
31approval and warranty of the original equipment manufacturer to
32qualify as a very low emission vehicle within 12 months of delivery
33to an owner for private or commercial use.

34(14) "NO_x" means oxides of nitrogen.

35(15) "Program" means the Carl Moyer Memorial Air Quality
36Standards Attainment Program created by subdivision (a) of
37Section 44280.

38(16) "Repower" means replacing an engine with a different
39engine. The term repower, as used in this chapter, generally refers
40to replacing an older, uncontrolled engine with a new,
P18 1emissions-certified engine, although replacing an older
2emissions-certified engine with a newer engine certified to lower
3emissions standards may be eligible for funding under this program.

4(17) "Retrofit" means making modifications to the engine and
5fuel system such that the retrofitted engine does not have the same
6specifications as the original engine.

7(18) "Very low emission vehicle" means a heavy-duty vehicle
8with emissions significantly lower than otherwise applicable
9baseline emission standards or uncontrolled emission levels
10pursuant to Section 44282.

11(b) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~

12~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,

13that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends

14that date.

15

SEC. 12.

Section 44275 of the *Health and Safety Code*, as
16added by Section 5.5 of Chapter 707 of the Statutes of 2004, is
17amended to read:

18

44275.

(a) As used in this chapter, the following terms have
19the following meaning:

20(1) "Advisory board" means the Carl Moyer Program Advisory
21Board created by Section 44297.

22(2) "Btu" means British thermal unit.

23(3) "Commission" means the State Energy Resources
24Conservation and Development Commission.

25(4) "Cost-effectiveness" means dollars provided to a project
26pursuant to subdivision (d) of Section 44283 for each ton of NO_x
27 reduction attributed to a project or to the program as a whole. In
28calculating cost-effectiveness, one-time grants of funds made at
29the beginning of a project shall be annualized using a time value

30of public funds or discount rate determined for each project by the
31state board, taking into account the interest rate on bonds, interest
32earned by state funds, and other factors as determined appropriate
33by the state board. Cost-effectiveness shall be calculated by
34dividing annualized costs by average annual emissions reduction
35of NO_x in this state.

36(5) "Covered engine" includes any internal combustion engine
37or electric motor and drive powering a covered source.

38(6) "Covered source" includes onroad vehicles of 14,000 pounds
39GVWR or greater, offroad nonrecreational equipment and vehicles,
40locomotives, diesel marine vessels, stationary agricultural engines,
P19 1and, as determined by the state board, other high-emitting diesel
2engine categories.

3(7) "Covered vehicle" includes any vehicle or piece of
4equipment powered by a covered engine.

5(8) "District" means a county air pollution control district or an
6air quality management district.

7(9) "Fund" means the Carl Moyer Memorial Air Quality
8Standards Attainment Trust Fund created by Section 44299.

9(10) "Mobile Source Air Pollution Reduction Review
10Committee" means the Mobile Source Air Pollution Reduction
11Review Committee created by Section 44244.

12(11) "Incremental cost" means the cost of the project less a
13baseline cost that would otherwise be incurred by the applicant in
14the normal course of business. Incremental costs may include
15added lease or fuel costs pursuant to Section 44283 as well as
16incremental capital costs.

17(12) "New very low emission vehicle" means a vehicle that
18qualifies as a very low emission vehicle when it is a new vehicle,
19where new vehicle has the same meaning as defined in Section
20430 of the Vehicle Code, or that is modified with the approval and
21warranty of the original equipment manufacturer to qualify as a
22very low emission vehicle within 12 months of delivery to an
23owner for private or commercial use.

24(13) "NO_x" means oxides of nitrogen.

25(14) "Program" means the Carl Moyer Memorial Air Quality
26Standards Attainment Program created by subdivision (a) of
27Section 44280.

28(15) "Repower" means replacing an engine with a different
29engine. The term repower, as used in this chapter, generally refers
30to replacing an older, uncontrolled engine with a new,
31emissions-certified engine, although replacing an older
32emissions-certified engine with a newer engine certified to lower
33emissions standards may be eligible for funding under this program.

34(16) "Retrofit" means making modifications to the engine and
35fuel system such that the retrofitted engine does not have the same
36specifications as the original engine.

37(17) "Very low emission vehicle" means a vehicle with
38emissions significantly lower than otherwise applicable baseline

39emission standards or uncontrolled emission levels pursuant to
40Section 44282.

P20 1(b) This section shall become operative on January 1,~~begin delete~~
~~2015end delete~~
2~~begin insert 2024end insert~~.

3

SEC. 13.

Section 44280 of the *Health and Safety Code*, as
4amended by Section 6 of Chapter 707 of the Statutes of 2004, is
5amended to read:

6

44280.

(a) There is hereby created the Carl Moyer Memorial
7Air Quality Standards Attainment Program. The program shall be
8administered by the state board in accordance with this chapter.
9The administration of the program may be delegated to the districts.

10(b) The program shall provide grants to offset the incremental
11cost of projects that reduce covered emissions from covered sources
12in California. Eligibility for grant awards shall be determined by
13the state board, in consultation with the districts, in accordance
14with this chapter.

15(c) The program shall also provide funding for a fueling
16infrastructure demonstration program and for technology
17development efforts that are expected to result in commercially
18available technologies in the near-term that would improve the
19ability of the program to achieve its goals. The infrastructure
20demonstration and technology development portions of the program
21shall be managed by the commission, in consultation with the state
22board.

23(d) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~
24~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
25that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
26that date.

27

SEC. 14.

Section 44280 of the *Health and Safety Code*, as
28added by Section 6.5 of Chapter 707 of the Statutes of 2004, is
29amended to read:

30

44280.

(a) There is hereby created the Carl Moyer Memorial
31Air Quality Standards Attainment Program. The program shall be
32administered by the state board in accordance with this chapter.
33The administration of the program may be delegated to the districts.

34(b) The program shall provide grants to offset the incremental
35cost of projects that reduce emissions of NO_x from covered sources
36in California. Eligibility for grant awards shall be determined by

37the state board, in consultation with the districts, in accordance
38with this chapter.

39(c) The program shall also provide funding for a fueling
40infrastructure demonstration program and for technology
P21 1development efforts that are expected to result in commercially
2available technologies in the near-term that would improve the
3ability of the program to achieve its goals. The infrastructure
4demonstration and technology development portions of the program
5shall be managed by the commission, in consultation with the state
6board.

7(d) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

8*begin insert 2024end insert.*

9

SEC. 15.

Section 44281 of the *Health and Safety Code*, as
10amended by Section 7 of Chapter 707 of the Statutes of 2004, is
11amended to read:

12

44281.

(a) Eligible projects include, but are not limited to, any
13of the following:

14(1) Purchase of new very low or zero-emission covered vehicles
15or covered heavy-duty engines.

16(2) Emission-reducing retrofit of covered engines, or
17replacement of old engines powering covered sources with newer
18engines certified to more stringent emissions standards than the
19engine being replaced, or with electric motors or drives.

20(3) Purchase and use of emission-reducing add-on equipment
21that has been verified by the state board for covered vehicles.

22(4) Development and demonstration of practical, low-emission
23retrofit technologies, repower options, and advanced technologies
24for covered engines and vehicles with very low emissions of oxides
25of nitrogen.

26(5) Light- and medium-duty vehicle projects in compliance with
27guidelines adopted by the state board pursuant to Title 13 of the
28California Code of Regulations.

29(b) No project shall be funded under this chapter after the
30compliance date required by any local, state, or federal statute,
31rule, regulation, memoranda of agreement or understanding, or
32other legally binding document, except that an otherwise qualified
33project may be funded even if the State Implementation Plan
34assumes that the change in equipment, vehicles, or operations will
35occur, if the change is not required by the compliance date of a
36statute, regulation, or other legally binding document in effect as
37of the date the grant is awarded. No project funded by the program
38shall be used for credit under any state or federal emissions
39averaging, banking, or trading program. No emission reduction
40generated by the program shall be used as marketable emission
P22 1reduction credits or to offset any emission reduction obligation of

2any person or entity. Projects involving new engines that would
3otherwise generate marketable credits under state or federal
4averaging, banking, and trading programs shall include transfer
5of credits to the engine end user and retirement of those credits
6toward reducing air emissions in order to qualify for funding under
7the program. A purchase of a low-emission vehicle or of equipment
8pursuant to a corporate or a controlling board's policy, but not
9otherwise required by law, shall generate surplus emissions
10reductions and may be funded by the program.

11(c) The program may also provide funding toward installation
12of fueling or electrification infrastructure as provided in Section
1344284.

14(d) Eligible applicants may be any individual, company, or
15public agency that owns one or more covered vehicles that operate
16primarily within California or otherwise contribute substantially
17to the NO_x, PM or ROG emissions inventory in California.

18(e) It is the intent of the Legislature that all emission reductions
19generated by this chapter shall contribute to public health by
20reducing, for the life of the vehicle being funded, the total amount
21of emissions in California.

22(f) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~
23~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
24that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
25that date.

26

SEC. 16.

Section 44281 of the *Health and Safety Code*, as
27added by Section 7.5 of Chapter 707 of the Statutes of 2004, is
28amended to read:

29

44281.

(a) Eligible projects are any of the following:

30(1) Purchase of new very low or zero-emission covered vehicles
31or covered engines.

32(2) Emission-reducing retrofit of covered engines, or
33replacement of old engines powering covered sources with newer
34engines certified to more stringent emissions standards than the
35engine being replaced, or with electric motors or drives.

36(3) Purchase and use of emission-reducing add-on equipment
37for covered vehicles.

38(4) Development and demonstration of practical, low-emission
39retrofit technologies, repower options, and advanced technologies
P23 1for covered engines and vehicles with very low emissions of oxides
2of nitrogen.

3(b) No new purchase, retrofit, repower, or add-on equipment
4shall be funded under this chapter if it is required by any local,
5state, or federal statute, rule, regulation, memoranda of agreement

6or understanding, or other legally binding document, except that
7an otherwise qualified project may be funded even if the State
8Implementation Plan assumes that the change in equipment,
9vehicles, or operations will occur, if the change is not required by
10a statute, regulation, or other legally binding document in effect
11as of the date the grant is awarded. No project funded by the
12program shall be used for credit under any state or federal
13emissions averaging, banking, or trading program. No emission
14reduction generated by the program shall be used as marketable
15emission reduction credits or to offset any emission reduction
16obligation of any entity. Projects involving new engines that would
17otherwise generate marketable credits under state or federal
18averaging, banking, and trading programs shall include transfer
19of credits to the engine end user and retirement of those credits
20toward reducing air emissions in order to qualify for funding under
21the program. A purchase of a low-emission vehicle or of equipment
22pursuant to a corporate or a controlling board's policy, but not
23otherwise required by law, shall generate surplus emissions
24reductions and may be funded by the program.

25(c) The program may also provide funding toward installation
26of fueling or electrification infrastructure as provided in Section
2744284.

28(d) Eligible applicants may be any individual, company, or
29public agency that owns one or more covered vehicles that operate
30primarily within California or otherwise contribute substantially
31to the NO_x emissions inventory in California.

32(e) It is the intent of the Legislature that all emission reductions
33generated by this chapter shall contribute to public health by
34reducing, for the life of the vehicle being funded, the total amount
35of emissions in California.

36(f) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~begin insert 2024end insert.

37

SEC. 17.

Section 44282 of the *Health and Safety Code*, as
38amended by Section 8 of Chapter 707 of the Statutes of 2004, is
39amended to read:

P24 1

44282.

The following criteria apply to all projects to be funded
2through the program except for projects funded through the
3Advanced Technology Account and the Infrastructure
4Demonstration Program:

5(a) The state board may establish project criteria, including
6minimum project life for source categories, in the guidelines
7described in Section 44287. For previously unregulated source
8categories, project criteria shall consider the timing of newly
9established regulatory requirements.

10(b) To be eligible, projects shall meet the cost-effectiveness per
11ton of covered emissions reduced requirements of Section 44283.

12(c) To be eligible, retrofits, repowers, and installation of add-on
13equipment for covered vehicles shall be performed, or new covered
14vehicles delivered to the end user, or covered vehicles scrapped
15on or after the date the program is implemented.

16(d) Retrofit technologies, new engines, and new vehicles shall
17be certified for sale or under experimental permit for operation in
18California.

19(e) Repower projects that replace older, uncontrolled engines
20with new, emissions-certified engines or that replace
21emissions-certified engines with new engines certified to a more
22stringent NO_x emissions standard are approvable subject to the
23other applicable selection criteria. The state board shall determine
24appropriate baseline emission levels for the uncontrolled engines
25being replaced.

26(f) For heavy-duty-vehicle projects, retrofit and add-on
27equipment projects shall document a NO_x or PM emission
28reduction of at least 25 percent and no increase in other covered
29emissions compared to the applicable baseline emissions accepted
30by the state board for that engine year and application. The state
31board shall determine appropriate baseline emission levels.
32Acceptable documentation shall be defined by the state board.
33After study of available emission reduction technologies and after
34public notice and comment, the state board may revise the
35minimum percentage emission reduction criterion for retrofits and
36add-on equipment provided for in this section to improve the ability
37of the program to achieve its goals.

38(g) (1) For heavy-duty-vehicle projects involving the purchase
39of new very low or zero-emission vehicles, engines shall be
P25 1certified to an optional low NO_x emissions standard established
2by the state board, except as provided for in paragraph (2).

3(2) For heavy-duty-vehicle projects involving the purchase of
4new very low or zero-emission covered vehicles for which no
5optional low NO_x emission standards are available, documentation
6shall be provided showing that the low or zero-emission engine
7emits not more than 70 percent of the NO_x or NO_x plus
8hydrocarbon emissions of a new engine certified to the applicable
9baseline NO_x or NO_x plus hydrocarbon emission standard for that
10engine and meets applicable particulate standards. The state board
11shall specify the documentation required. If no baseline emission
12standard exists for new vehicles in a particular category, the state
13board shall determine an appropriate baseline emission level for
14comparison.

15(h) For projects other than heavy-duty-vehicle projects, the state
16board shall determine appropriate criteria under the provisions of
17Section 44287.

18(i) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~
19~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
20that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~

2024end insert, deletes or extends

that date.

22

SEC. 18.

Section 44282 of the *Health and Safety Code*, as added by Section 8.5 of Chapter 707 of the Statutes of 2004, is amended to read:

25

44282.

The following criteria apply to all projects to be funded through the program except for projects funded through the Advanced Technology Account and the Infrastructure Demonstration Program:

(a) Except for projects involving marine vessels, 75 percent or more of vehicle miles traveled or hours of operation shall be projected to be in California for at least five years following the grant award. Projects involving marine vessels and engines shall be limited to those that spend enough time operating in California air basins over the lifetime of the project to meet the cost-effectiveness criteria based on NO_x reductions in California, as provided in Section 44283.

(b) To be eligible, projects shall meet cost-effectiveness per ton of NO_x reduced requirements of Section 44283.

(c) To be eligible, retrofits, repowers, and installation of add-on equipment for covered vehicles shall be performed, or new covered vehicles delivered to the end user, on or after the date the program is implemented.

(d) Retrofit technologies, new engines, and new vehicles shall be certified for sale or under experimental permit for operation in California.

(e) Repower projects that replace older, uncontrolled engines with new, emissions-certified engines or that replace emissions-certified engines with new engines certified to a more stringent NO_x emissions standard are approvable subject to the other applicable selection criteria. The state board shall determine appropriate baseline emission levels for the uncontrolled engines being replaced.

(f) Retrofit and add-on equipment projects shall document a NO_x emission reduction of at least 25 percent and no increase in particulate emissions compared to the applicable baseline emissions accepted by the state board for that engine year and application. The state board shall determine appropriate baseline emission levels. Acceptable documentation shall be defined by the state board. After study of available emission reduction technologies and after public notice and comment, the state board may revise the minimum percentage NO_x reduction criterion for retrofits and add-on equipment provided for in this section to improve the ability of the program to achieve its goals.

(g) (1) For projects involving the purchase of new very low or zero-emission vehicles, engines shall be certified to an optional

26low NO_x emissions standard established by the state board, except
27as provided for in paragraph (2).

28(2) For projects involving the purchase of new very low or
29zero-emission covered vehicles for which no optional low NO_x
30 emission standards are available, documentation shall be provided
31showing that the low or zero-emission engine emits not more than
3270 percent of the NO_x or NO_x plus hydrocarbon emissions of a
33new engine certified to the applicable baseline NO_x or NO_x plus
34hydrocarbon emission standard for that engine and meets applicable
35particulate standards. The state board shall specify the
36documentation required. If no baseline emission standard exists
37for new vehicles in a particular category, the state board shall
38determine an appropriate baseline emission level for comparison.

39(h) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

40~~begin insert 2024end insert.~~

P27 1

SEC. 19.

Section 44283 of the *Health and Safety Code*, as
2amended by Section 1 of Chapter 571 of the Statutes of 2010, is
3amended to read:

4

44283.

(a) Grants shall not be made for projects with a
5cost-effectiveness, calculated in accordance with this section, of
6more than thirteen thousand six hundred dollars (\$13,600) per ton
7of NO_x reduced in California or a higher value that reflects state
8consumer price index adjustments on or after January 1, 2006, as
9determined by the state board. For projects obtaining reactive
10organic gas and particulate matter reductions, the state board shall
11determine appropriate adjustment factors to calculate a weighted
12cost-effectiveness.

13(b) Only covered emission reductions occurring in this state
14shall be included in the cost-effectiveness determination. The
15extent to which emissions generated at sea contribute to air quality
16in California nonattainment areas shall be incorporated into these
17methodologies based on a reasonable assessment of currently
18available information and modeling assumptions.

19(c) The state board shall develop protocols for calculating the
20surplus covered emission reductions in California from
21representative project types over the life of the project.

22(d) The cost of the covered emission reduction is the amount
23of the grant from the program, including matching funds provided
24pursuant to subdivision (e) of Section 44287, plus any other state
25funds, or funds under the district's budget authority or fiduciary
26control, provided toward the project, not including funds described
27in paragraphs (1) and (2) of subdivision (a) of Section 44287.2.
28The state board shall establish reasonable methodologies for
29evaluating project cost-effectiveness, consistent with the definition
30contained in paragraph (4) of subdivision (a) of Section 44275,

31and with accepted methods, taking into account a fair and
32reasonable discount rate or time value of public funds.

33(e) A grant shall not be made that, net of taxes, provides the
34applicant with funds in excess of the incremental cost of the project.
35Incremental lease costs may be capitalized according to guidelines
36adopted by the state board so that these incremental costs may be
37offset by a one-time grant award.

38(f) Funds under a district's budget authority or fiduciary control
39may be used to pay for the incremental cost of liquid or gaseous
40fuel, other than standard gasoline or diesel, which is integral to a
P28 1covered emission reducing technology that is part of a project
2receiving grant funding under the program. The fuel shall be
3approved for sale by the state board. The incremental fuel cost
4over the expected lifetime of the vehicle may be offset by the
5district if the project as a whole, including the incremental fuel
6cost, meets all of the requirements of this chapter, including the
7maximum allowed cost-effectiveness. The state board shall develop
8an appropriate methodology for converting incremental fuel costs
9over the vehicle lifetime into an initial cost for the purposes of
10determining project cost-effectiveness. Incremental fuel costs shall
11not be included in project costs for fuels dispensed from any facility
12that was funded, in whole or in part, from the fund.

13(g) For purposes of determining any grant amount pursuant to
14this chapter, the incremental cost of any new purchase, retrofit,
15repower, or add-on equipment shall be reduced by the value of
16any current financial incentive that directly reduces the project
17price, including any tax credits or deductions, grants, or other
18public financial assistance, not including funds described in
19paragraphs (1) and (2) of subdivision (a) of Section 44287.2.
20 Project proponents applying for funding shall be required to state
21in their application any other public financial assistance to the
22project.

23(h) For projects that would repower offroad equipment by
24replacing uncontrolled diesel engines with new, certified diesel
25engines, the state board may establish maximum grant award
26amounts per repower. A repower project shall also be subject to
27the incremental cost maximum pursuant to subdivision (e).

28(i) After study of available emission reduction technologies and
29costs and after public notice and comment, the state board may
30reduce the values of the maximum grant award criteria stated in
31this section to improve the ability of the program to achieve its
32goals. Every year the state board shall adjust the maximum
33cost-effectiveness amount established in subdivision (a) and any
34per-project maximum set by the state board pursuant to subdivision
35 (h) to account for inflation.

36(j) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~
37~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
38that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~

2024end insert, deletes or extends

that date.

P29 1

SEC. 20.

Section 44283 of the *Health and Safety Code*, as amended by Section 2 of Chapter 571 of the Statutes of 2010, is amended to read:

4

44283.

(a) Grants shall not be made for projects with a cost-effectiveness, calculated in accordance with this section, of more than twelve thousand dollars (\$12,000) per ton of NO_x reduced in California or a higher value that reflects state consumer price index adjustments on or after January 1, ~~begin delete 2015end delete~~begin insert 2024end insert, as determined by the state board.

(b) Only NO_x reductions occurring in this state shall be included in the cost-effectiveness determination. The extent to which emissions generated at sea contribute to air quality in California nonattainment areas shall be incorporated into these methodologies based on a reasonable assessment of currently available information and modeling assumptions.

(c) The state board shall develop protocols for calculating the surplus NO_x reductions in California from representative project types over the life of the project.

(d) The cost of the NO_x reduction is the amount of the grant from the program, including matching funds provided pursuant to subdivision (e) of Section 44287, plus any other state funds, or funds under the district's budget authority or fiduciary control, provided toward the project, not including funds described in paragraphs (1) and (2) of subdivision (a) of Section 44287.2. The state board shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with the definition contained in paragraph (4) of subdivision (a) of Section 44275, and with accepted methods, taking into account a fair and reasonable discount rate or time value of public funds.

(e) A grant shall not be made that, net of taxes, provides the applicant with funds in excess of the incremental cost of the project. Incremental lease costs may be capitalized according to guidelines adopted by the state board so that these incremental costs may be offset by a one-time grant award.

(f) Funds under a district's budget authority or fiduciary control may be used to pay for the incremental cost of liquid or gaseous fuel, other than standard gasoline or diesel, which is integral to a NO_x reducing technology that is part of a project receiving grant funding under the program. The fuel shall be approved for sale by the state board. The incremental fuel cost over the expected lifetime of the vehicle may be offset by the district if the project as a whole, including the incremental fuel cost, meets all of the requirements of this chapter, including the maximum allowed cost-effectiveness.

4The state board shall develop an appropriate methodology for
5converting incremental fuel costs over the vehicle lifetime into an
6initial cost for the purposes of determining project
7cost-effectiveness. Incremental fuel costs shall not be included in
8 project costs for fuels dispensed from any facility that was funded,
9in whole or in part, from the fund.

10(g) For purposes of determining any grant amount pursuant to
11this chapter, the incremental cost of any new purchase, retrofit,
12repower, or add-on equipment shall be reduced by the value of
13any current financial incentive that directly reduces the project
14price, including any tax credits or deductions, grants, or other
15public financial assistance, not including funds described in
16paragraphs (1) and (2) of subdivision (a) of Section 44287.2.
17Project proponents applying for funding shall be required to state
18in their application any other public financial assistance to the
19project.

20(h) For projects that would repower offroad equipment by
21replacing uncontrolled diesel engines with new, certified diesel
22engines, the state board may establish maximum grant award
23amounts per repower. A repower project shall also be subject to
24the incremental cost maximum pursuant to subdivision (e).

25(i) After study of available emission reduction technologies and
26costs and after public notice and comment, the state board may
27reduce the values of the maximum grant award criteria stated in
28this section to improve the ability of the program to achieve its
29goals. Every year the state board shall adjust the maximum
30cost-effectiveness amount established in subdivision (a) and any
31per-project maximum set by the state board pursuant to subdivision
32(h) to account for inflation.

33(j) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~begin insert 2024end insert.

34

SEC. 21.

Section 44287 of the *Health and Safety Code*, as
35amended by Section 10 of Chapter 707 of the Statutes of 2004, is
36amended to read:

37

44287.

(a) The state board shall establish or update grant
38criteria and guidelines consistent with this chapter for covered
39vehicle projects as soon as practicable, but not later than January
401, 2006. The adoption of guidelines is exempt from the rulemaking
P31 1provisions of the Administrative Procedure Act, Chapter 3.5
2(commencing with Section 11340) of Part 1 of Division 3 of Title
32 of the Government Code. The state board shall solicit input and
4comment from the districts during the development of the criteria
5and guidelines and shall make every effort to develop criteria and
6guidelines that are compatible with existing district programs that
7are also consistent with this chapter. Guidelines shall include
8protocols to calculate project cost-effectiveness. The grant criteria

9and guidelines shall include safeguards to ensure that the project
10generates surplus emissions reductions. Guidelines shall enable
11and encourage districts to cofund projects that provide emissions
12reductions in more than one district. The state board shall make
13draft criteria and guidelines available to the public 45 days before
14final adoption, and shall hold at least one public meeting to
15consider public comments before final adoption. The state board
16may develop separate guidelines and criteria for the different types
17of eligible projects described in subdivision (a) of Section 44281.

18(b) The state board, in consultation with the participating
19districts, may propose revisions to the criteria and guidelines
20established pursuant to subdivision (a) as necessary to improve
21the ability of the program to achieve its goals. A proposed revision
22shall be made available to the public 45 days before final adoption
23of the revision and the state board shall hold at least one public
24meeting to consider public comments before final adoption of the
25revision.

26(c) The state board shall reserve funds for, and disburse funds
27to, districts from the fund for administration pursuant to this section
28and Section 44299.1.

29(d) The state board shall develop guidelines for a district to
30follow in applying for the reservation of funds, in accordance with
31this chapter. It is the intent of the Legislature that district
32administration of any reserved funds be in accordance with the
33project selection criteria specified in Sections 44281, 44282, and
3444283 and all other provisions of this chapter. The guidelines shall
35be established and published by the state board as soon as
36practicable, but not later than January 1, 2006.

37(e) Funds shall be reserved by the state board for administration
38by a district that adopts an eligible program pursuant to this chapter
39and offers matching funds at a ratio of one dollar (\$1) of matching
40funds committed by the district or the Mobile Source Air Pollution
P32 1Reduction Review Committee for every two dollars (\$2) committed
2from the fund. Funds available to the Mobile Source Air Pollution
3Reduction Review Committee may be counted as matching funds
4for projects in the South Coast Air Basin only if the committee
5approves the use of these funds for matching purposes. Matching
6funds may be any funds under the district's budget authority that
7are committed to be expended in accordance with the program.
8Funds committed by a port authority or a local government, in
9cooperation with a district, to be expended in accordance with the
10program may also be counted as district matching funds. Matching
11funds provided by a port authority or a local government may not
12exceed 30 percent of the total required matching funds in any
13district that applies for more than three hundred thousand dollars
14 (\$300,000) of the state board funds. Only a district, or a port
15authority or a local government teamed with a district, may provide
16matching funds.

17(f) The state board may adjust the ratio of matching funds
18described in subdivision (e), if it determines that an adjustment is

19necessary in order to maximize the use of, or the air quality benefits
20provided by, the program, based on a consideration of the financial
21resources of the district.

22(g) Notwithstanding subdivision (e), a district need not provide
23matching funds for state board funds allocated to the district for
24program outreach activities pursuant to paragraph (4) of subdivision
25(a) of Section 44299.1.

26(h) A district may include within its matching funds a reasonable
27estimate of direct or in-kind costs for assistance in providing
28program outreach and application evaluation. In-kind and direct
29matching funds shall not exceed 15 percent of the total matching
30funds offered by a district. A district may also include within its
31matching funds any money spent on or after February 25, 1999,
32that would have qualified as matching funds but were not
33previously claimed as matching funds.

34(i) A district desiring a reservation of funds shall apply to the
35state board following the application guidelines established
36pursuant to this section. The state board shall approve or disapprove
37a district application not later than 60 days after receipt. Upon
38approval of any district application, the state board shall
39simultaneously approve a reservation of funding for that district
P33 1to administer. Reserved funds shall be disbursed to the district so
2that funding of a district-approved project is not impeded.

3(j) Notwithstanding any other provision of this chapter, districts
4and the Mobile Source Air Pollution Reduction Review Committee
5shall not use funds collected pursuant to Section 41081 or Chapter
67 (commencing with Section 44220), or pursuant to Section
79250.11 of the Vehicle Code, as matching funds to fund a project
8with stationary or portable engines, locomotives, or marine vessels.

9(k) Any funds reserved for a district pursuant to this section are
10available to the district for a period of not more than two years
11from the time of reservation. Funds not expended by June 30 of
12the second calendar year following the date of the reservation shall
13revert back to the state board as of that June 30, and shall be
14deposited in the Covered Vehicle Account established pursuant to
15Section 44299. The funds may then be redirected based on
16applications to the fund. Regardless of any reversion of funds back
17to the state board, the district may continue to request other
18reservations of funds for local administration. Each reservation of
19funds shall be accounted for separately, and unused funds from
20each application shall revert back to the state board as specified
21in this subdivision.

22(l) The state board shall specify a date each year when district
23applications are due. If the eligible applications received in any
24year oversubscribe the available funds, the state board shall reserve
25funds on an allocation basis, pursuant to Section 44299.2. The
26state board may accept a district application after the due date for
27a period of months specified by the state board. Funds may be
28reserved in response to those applications, in accordance with this

chapter, out of funds remaining after the original reservation of funds for the year.

31(m) Guidelines for a district application shall require information from an applicant district to the extent necessary to meet the requirements of this chapter, but shall otherwise minimize the information required of a district.

35(n) A district application shall be reviewed by the state board immediately upon receipt. If the state board determines that an application is incomplete, the applicant shall be notified within 10 working days with an explanation of what is missing from the application. A completed application fulfilling the criteria shall be approved as soon as practicable, but not later than 60 working days after receipt.

3(o) The commission, in consultation with the districts, shall establish project approval criteria and guidelines for infrastructure projects consistent with Section 44284 as soon as practicable, but not later than February 15, 2000. The commission shall make draft criteria and guidelines available to the public 45 days before final adoption, and shall hold at least one public meeting to consider public comments before final adoption.

10(p) The commission, in consultation with the participating districts, may propose revisions to the criteria and guidelines established pursuant to subdivision (o) as necessary to improve the ability of the program to achieve its goals. A revision may be proposed at any time, or may be proposed in response to a finding made in the annual report on the program published by the state board pursuant to Section 44295. A proposed revision shall be made available to the public 45 days before final adoption of the revision and the commission shall hold at least one public meeting to consider public comments before final adoption of the revision.

20(q) Unclaimed funds will be allocated by the state board in accordance with Section 44299.2.

22(r) This section shall remain in effect only until January 1, ~~begin delete 2015end delete~~ begin insert 2024end insert, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~begin delete 2015end delete~~ begin insert 2024end insert, deletes or extends that date.

26

SEC. 22.

Section 44287 of the *Health and Safety Code*, as added by Section 10.5 of Chapter 707 of the Statutes of 2004, is amended to read:

29

44287.

(a) The state board shall establish grant criteria and guidelines consistent with this chapter for covered vehicle projects as soon as practicable, but not later than January 1, 2000. The adoption of guidelines is exempt from the rulemaking provisions

33of the Administrative Procedure Act, Chapter 3.5 (commencing
34with Section 11340) of Part 1 of Division 3 of Title 2 of the
35Government Code. The state board shall solicit input and comment
36from the districts during the development of the criteria and
37guidelines and shall make every effort to develop criteria and
38guidelines that are compatible with existing district programs that
39are also consistent with this chapter. Guidelines shall include
40protocols to calculate project cost-effectiveness. The grant criteria
P35 1and guidelines shall include safeguards to ensure that the project
2generates surplus emissions reductions. Guidelines shall enable
3and encourage districts to cofund projects that provide emissions
4reductions in more than one district. The state board shall make
5draft criteria and guidelines available to the public 45 days before
6final adoption, and shall hold at least one public meeting to
7consider public comments before final adoption.

8(b) The state board, in consultation with the participating
9districts, may propose revisions to the criteria and guidelines
10established pursuant to subdivision (a) as necessary to improve
11the ability of the program to achieve its goals. A proposed revision
12shall be made available to the public 45 days before final adoption
13of the revision and the state board shall hold at least one public
14meeting to consider public comments before final adoption of the
15revision.

16(c) The state board shall reserve funds for, and disburse funds
17to, districts from the fund for administration pursuant to this section
18and Section 44299.1.

19(d) The state board shall develop guidelines for a district to
20follow in applying for the reservation of funds, in accordance with
21this chapter. It is the intent of the Legislature that district
22administration of any reserved funds be in accordance with the
23project selection criteria specified in Sections 44281, 44282, and
2444283 and all other provisions of this chapter. The guidelines shall
25be established and published by the state board as soon as
26practicable, but not later than January 1, 2000.

27(e) Funds shall be reserved by the state board for administration
28by a district that adopts an eligible program pursuant to this chapter
29and offers matching funds at a ratio of one dollar (\$1) of matching
30funds committed by the district or the Mobile Source Air Pollution
31Reduction Review Committee for every two dollars (\$2) committed
32from the fund. Funds available to the Mobile Source Air Pollution
33Reduction Review Committee may be counted as matching funds
34for projects in the South Coast Air Basin only if the committee
35approves the use of these funds for matching purposes. Matching
36funds may be any funds under the district's budget authority that
37are committed to be expended in accordance with the program.
38Funds committed by a port authority or a local government, in
39cooperation with a district, to be expended in accordance with the
40program may also be counted as district matching funds. Matching
P36 1funds provided by a port authority or a local government may not
2exceed 30 percent of the total required matching funds in any

3district that applies for more than three hundred thousand dollars
4(\$300,000) of the state board funds. Only a district, or a port
5authority or a local government teamed with a district, may provide
6matching funds.

7(f) The state board may adjust the ratio of matching funds
8described in subdivision (e), if it determines that an adjustment is
9necessary in order to maximize the use of, or the air quality benefits
10provided by, the program, based on a consideration of the financial
11resources of the district.

12(g) Notwithstanding subdivision (e), a district need not provide
13matching funds for state board funds allocated to the district for
14program outreach activities pursuant to paragraph (4) of subdivision
15(a) of Section 44299.1.

16(h) A district may include within its matching funds a reasonable
17estimate of direct or in-kind costs for assistance in providing
18program outreach and application evaluation. In-kind and direct
19matching funds shall not exceed 15 percent of the total matching
20funds offered by a district. A district may also include within its
21matching funds any money spent on or after February 25, 1999,
22that would have qualified as matching funds but were not
23previously claimed as matching funds.

24(i) A district desiring a reservation of funds shall apply to the
25state board following the application guidelines established
26pursuant to this section. The state board shall approve or disapprove
27a district application not later than 60 days after receipt. Upon
28approval of any district application, the state board shall
29simultaneously approve a reservation of funding for that district
30to administer. Reserved funds shall be disbursed to the district so
31that funding of a district-approved project is not impeded.

32(j) Notwithstanding any other provision of this chapter, districts
33and the Mobile Source Air Pollution Reduction Review Committee
34shall not use funds collected pursuant to Section 41081 or Chapter
357 (commencing with Section 44220), or pursuant to Section
369250.11 of the Vehicle Code, as matching funds to fund a project
37with stationary or portable engines, locomotives, or marine vessels.

38(k) Any funds reserved for a district pursuant to this section are
39available to the district for a period of not more than two years
40from the time of reservation. Funds not expended by June 30 of
P37 1the second calendar year following the date of the reservation shall
2revert back to the state board as of that June 30, and shall be
3deposited in the Covered Vehicle Account established pursuant to
4Section 44299. The funds may then be redirected based on
5applications to the fund. Regardless of any reversion of funds back
6to the state board, the district may continue to request other
7reservations of funds for local administration. Each reservation of
8funds shall be accounted for separately, and unused funds from
9each application shall revert back to the state board as specified
10in this subdivision.

11(l) The state board shall specify a date each year when district
12applications are due. If the eligible applications received in any

13year oversubscribe the available funds, the state board shall reserve
14funds on an allocation basis, pursuant to subdivision (b) of Section
1544299.1. The state board may accept a district application after
16the due date for a period of months specified by the state board.
17Funds may be reserved in response to those applications, in
18accordance with this chapter, out of funds remaining after the
19original reservation of funds for the year.

20(m) Guidelines for a district application shall require information
21from an applicant district to the extent necessary to meet the
22requirements of this chapter, but shall otherwise minimize the
23information required of a district.

24(n) A district application shall be reviewed by the state board
25immediately upon receipt. If the state board determines that an
26application is incomplete, the applicant shall be notified within 10
27working days with an explanation of what is missing from the
28application. A completed application fulfilling the criteria shall be
29approved as soon as practicable, but not later than 60 working days
30after receipt.

31(o) The state board, in consultation with the districts, shall
32establish project approval criteria and guidelines for infrastructure
33projects consistent with Section 44284 as soon as practicable, but
34not later than February 15, 2000. The commission shall make draft
35criteria and guidelines available to the public 45 days before final
36adoption, and shall hold at least one public meeting to consider
37public comments before final adoption.

38(p) The state board, in consultation with the participating
39districts, may propose revisions to the criteria and guidelines
40established pursuant to subdivision (o) as necessary to improve
P38 1the ability of the program to achieve its goals. A revision may be
2proposed at any time, or may be proposed in response to a finding
3made in the annual report on the program published by the state
4board pursuant to Section 44295. A proposed revision shall be
5made available to the public 45 days before final adoption of the
6revision and the commission shall hold at least one public meeting
7to consider public comments before final adoption of the revision.

8(q) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

9~~begin insert 2024end insert.~~

10

SEC. 23.

Section 44299.1 of the *Health and Safety Code*, as
11amended by Section 3 of Chapter 627 of the Statutes of 2006, is
12 amended to read:

13

44299.1.

(a) To ensure that emission reductions are obtained
14as needed from pollution sources, any money deposited in or
15appropriated to the fund shall be segregated and administered as
16follows:

17(1) Not more than 2 percent of the moneys in the fund shall be
18allocated to program support and outreach costs incurred by the
19state board and the commission directly associated with
20implementing the program pursuant to this chapter. These funds
21shall be allocated to the state board and the commission in
22proportion to total program funds administered by the state board
23and the commission.

24(2) Not more than 2 percent of the moneys in the fund shall be
25allocated to direct program outreach activities. The state board
26may use these funds for program outreach contracts or may allocate
27outreach funds to participating air districts in proportion to each
28district's allocation from the Covered Vehicle Account. The state
29board shall report on the use of outreach funds in their reports to
30the Legislature pursuant to Section 44295.

31(3) The balance shall be deposited in the Covered Vehicle
32Account to be expended to offset added costs of new very low or
33zero-emission vehicle technologies, and emission reducing
34repowers, retrofits, and add-on equipment for covered vehicles
35and engines, and other projects specified in Section 44281.

36(b) Funds in the Covered Vehicle Account shall be allocated to
37a district that submits an eligible application to the state board
38pursuant to Section 44287. The state board shall determine the
39maximum amount of annual funding from the Covered Vehicle
40Account that each district may receive. This determination shall
P39 1be based on the population in each district as well as the relative
2importance of obtaining covered emission reductions in each
3district, specifically through the program.

4(c) Not more than 5 percent of the moneys allocated pursuant
5to this chapter to a district with a population of one million or more
6may be used by the district for indirect costs of implementation of
7the program, including outreach costs that are subject to the
8limitation in paragraph (2) of subdivision (a).

9(d) Not more than 10 percent of the moneys allocated pursuant
10to this chapter to a district with a population of less than one
11million may be used by the district for indirect costs of
12implementation of the program, including outreach costs that are
13subject to the limitation in paragraph (2) of subdivision (a).

14(e) This section shall remain in effect only until January 1, ~~begin delete~~
~~2015end delete~~
15~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
16that is enacted before January 1, ~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
17that date.

18

SEC. 24.

Section 44299.1 of the *Health and Safety Code*, as
19added by Section 11.5 of Chapter 707 of the Statutes of 2004, is
20amended to read:

21

44299.1.

(a) To ensure that emission reductions are obtained
needed from pollution sources, any money deposited in or
appropriated to the fund shall be segregated and administered as
follows:

(1) Ten percent, not to exceed two million dollars (\$2,000,000),
shall be allocated to the Infrastructure Demonstration Project to
be used pursuant to Section 44284.

(2) Ten percent shall be deposited in the Advanced Technology
Account to be used to support research, development,
demonstration, and commercialization of advanced low-emission
technologies for covered sources that show promise of contributing
to the goals of the program.

(3) Not more than 2 percent of the moneys in the fund shall be
allocated to program support and outreach costs incurred by the
state board and the commission directly associated with
implementing the program pursuant to this chapter. These funds
shall be allocated to the state board and the commission in
proportion to total program funds administered by the state board
and the commission.

(4) Not more than 2 percent of the moneys in the fund shall be
allocated to direct program outreach activities. The state board
may use these funds for program outreach contracts or may allocate
outreach funds to participating air districts in proportion to each
district's allocation from the Covered Vehicle Account. The state
board shall report on the use of outreach funds in their reports to
the Legislature pursuant to Section 44295.

(5) The balance shall be deposited in the Covered Vehicle
Account to be expended to offset added costs of new very low or
zero-emission vehicle technologies, and emission reducing
repowers, retrofits, and add-on equipment for covered vehicles
and engines.

(b) Funds in the Covered Vehicle Account shall be allocated to
a district that submits an eligible application to the state board
pursuant to Section 44287. The state board shall determine the
maximum amount of annual funding from the Covered Vehicle
Account that each district may receive. This determination shall
be based on the population in each district as well as the relative
importance of obtaining NO_x reductions in each district,
specifically through the program.

(c) This section shall become operative on January 1, ~~begin delete 2015end~~
~~delete~~

~~begin insert 2024end insert.~~

23

SEC. 25.

Section 44299.2 of the *Health and Safety Code* is
amended to read:

25

44299.2.

Funds shall be allocated to local air pollution control
26and air quality management districts, and shall be subject to
27administrative terms and conditions as follows:

28(a) Available funds shall be distributed to districts taking into
29consideration the population of the area, the severity of the air
30quality problems experienced by the population, and the historical
31allocation of the Carl Moyer Memorial Air Quality Standards
32Attainment Trust Fund, except that the south coast district shall
33be allocated a percentage of the total funds available to districts
34that is proportional to the percentage of the total state population
35residing within the jurisdictional boundaries of that district. For
36the purposes of this subdivision, population shall be determined
37by the state board based on the most recent data provided by the
38Department of Finance. The allocation to the south coast district
39shall be subtracted from the total funds available to districts. Each
40district, except the south coast district, shall be awarded a minimum
P41 1 allocation of two hundred thousand dollars (\$200,000), and the
2 remainder, which shall be known as the "allocation amount," shall
3 be allocated to all districts as follows:

4(1) The state board shall distribute 35 percent of the allocation
5amount to the districts in proportion to the percentage of the total
6residual state population that resides within each district's
7boundaries. For purposes of this paragraph, "total residual state
8population" means the total state population, less the total
9population that resides within the south coast district.

10(2) The state board shall distribute 35 percent of the allocation
11amount to the districts in proportion to the severity of the air quality
12problems to which each district's population is exposed. The
13severity of the exposure shall be calculated as follows:

14(A) Each district shall be awarded severity points based on the
15district's attainment designation and classification, as most recently
16promulgated by the federal Environmental Protection Agency for
17the National Ambient Air Quality Standard for ozone averaged
18over eight hours, as follows:

19(i) A district that is designated attainment for the federal
20eight-hour ozone standard shall be awarded one point.

21(ii) A district that is designated nonattainment for the federal
22eight-hour ozone standard shall be awarded severity points based
23on classification. Two points shall be awarded for transitional,
24basic, or marginal classifications, three points for moderate
25classification, four points for serious classification, five points for
26severe classification, six points for severe-17 classification, and
27seven points for extreme classification.

28(B) Each district shall be awarded severity points based on the
29annual diesel particulate emissions in the air basin, as determined
30by the state board. One point shall be awarded to the district, in
31increments, for each 1,000 tons of diesel particulate emissions. In
32making this determination, 0 to 999 tons shall be awarded no
33points, 1,000 to 1,999 tons shall be awarded one point, 2,000 to
342,999 tons shall be awarded two points, and so forth. If a district

35encompasses more than one air basin, the air basin with the greatest
36diesel particulate emissions shall be used to determine the points
37awarded to the district. The San Diego County Air Pollution
38Control District and the Imperial County Air Pollution Control
39District shall be awarded one additional point each to account for
40annual diesel particulate emissions transported from Mexico.

P42 1(C) The points awarded under subparagraphs (A) and (B), shall
2be added together for each district, and the total shall be multiplied
3by the population residing within the district boundaries, to yield
4the local air quality exposure index.

5(D) The local air quality exposure index for each district shall
6be summed together to yield a total state exposure index. Funds
7shall be allocated under this paragraph to each district in proportion
8to its local air quality exposure index divided by the total state
9exposure index.

10(3) The state board shall distribute 30 percent of the allocation
11amount to the districts in proportion to the allocation of funds from
12the Carl Moyer Memorial Air Quality Standards Attainment Trust
13Fund, as follows:

14(A) Because each district is awarded a minimum allocation
15pursuant to subdivision (a), there shall be no additional minimum
16allocation from the Carl Moyer historical allocation funds. The
17total amount allocated in this way shall be subtracted from total
18funding previously awarded to the district under the Carl Moyer
19Memorial Air Quality Standards Attainment Program, and the
20remainder, which shall be known as directed funds, shall be
21allocated pursuant to subparagraph (B).

22(B) Each district with a population that is greater than or equal
23to 1 percent of the state's population shall receive an additional
24allocation based on the population of the district and the district's
25relative share of emission reduction commitments in the State
26Implementation Plan to attain the National Ambient Air Quality
27Standard for ozone averaged over one hour. This additional
28 allocation shall be calculated as a percentage share of the directed
29funds for each district, derived using a ratio of each district's share
30amount to the base amount, which shall be calculated as follows:

31(i) The base amount shall be the total Carl Moyer program funds
32allocated by the state board to the districts in the 2002-03 fiscal
33year, less the total of the funds allocated through the minimum
34allocation to each district in the 2002-03 fiscal year.

35(ii) The share amount shall be the allocation that each district
36received in the 2002-03 fiscal year, not including the minimum
37allocation. There shall be one share amount for each district.

38(iii) The percentage share shall be calculated for each district
39by dividing the district's share amount by the base amount, and
P43 1multiplying the result by the total directed funds available under
2this subparagraph.

3(b) Funds shall be distributed as expeditiously as reasonably
4practicable, and a report of the distribution shall be made available
5to the public.

6(c) All funds allocated pursuant to this section shall be expended
7as provided in the guidelines adopted pursuant to Section 44287
8within two years from the date of allocation. Funds not expended
9within the two years shall be returned to the Covered Vehicle
10Account within 60 days and shall be subject to further allocation
11as follows:

12(1) Within 30 days of the deadline to return funds, the state
13board shall notify the districts of the total amount of returned funds
14available for reallocation, and shall list those districts that request
15supplemental funds from the reallocation and that are able to
16expend those funds within one year.

17(2) Within 90 days of the deadline to return funds, the state
18board shall allocate the returned funds to the districts listed
19pursuant to paragraph (1).

20(3) All supplemental funds distributed under this subdivision
21shall be expended consistent with the Carl Moyer Air Quality
22Standards Attainment Program within one year of the date of
23supplemental allocation. Funds not expended within one year shall
24be returned to the Covered Vehicle Account and shall be distributed
25at the discretion of the state board to districts, taking into
26consideration of each district's ability to expeditiously utilize the
27remaining funds consistent with the Carl Moyer Air Quality
28Standards Attainment Program.

29(d) This section shall remain in effect only until January 1, ~~begin delete~~
~~2015end delete~~
30~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
31that is enacted before January 1, ~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
32that date.

33

SEC. 26.

Section 42885 of the *Public Resources Code*, as
34amended by Section 55 of Chapter 77 of the Statutes of 2006, is
35amended to read:

36

42885.

(a) For purposes of this section, "California tire fee"
37means the fee imposed pursuant to this section.

38(b) (1) ~~begin deleteA end delete~~~~begin insertBefore January 1, 2015, a end~~
~~insert~~person who purchases a

39new tire, as defined in subdivision (g), shall pay a California tire
40fee of one dollar and seventy-five cents (\$1.75) per tire.

~~begin insert~~

P44 1(2) On and after January 1, 2015, a person who purchases a
2new tire, as defined in subdivision (g), shall pay a California tire
3fee of one dollar and fifty cents (\$1.50) per tire.

~~end insertbegin delete~~

4(2)

~~end delete~~

5~~begin insert(3)end insert~~ The retail seller shall charge the retail purchaser
the amount
6of the California tire fee as a charge that is separate from, and not
7included in, any other fee, charge, or other amount paid by the
8retail purchaser.

~~begin delete~~

~~9(3)~~

~~end delete~~

10~~begin insert(4)end insert~~ The retail seller shall collect the California tire fee
from the
11retail purchaser at the time of sale and may retain 11/2 percent of
12the fee as reimbursement for any costs associated with the
13collection of the fee. The retail seller shall remit the remainder to
14the state on a quarterly schedule for deposit in the California Tire
15Recycling Management Fund, which is hereby created in the State
16Treasury.

17(c) The board, or its agent authorized pursuant to Section 42882,
18shall be reimbursed for its costs of collection, auditing, and making
19refunds associated with the California Tire Recycling Management
20Fund, but not to exceed 3 percent of the total annual revenue
21deposited in the fund.

22(d) The California tire fee imposed pursuant to subdivision (b)
23shall be separately stated by the retail seller on the invoice given
24to the customer at the time of sale. Any other disposal or
25transaction fee charged by the retail seller related to the tire
26purchase shall be identified separately from the California tire fee.

27(e) A person or business who knowingly, or with reckless
28disregard, makes a false statement or representation in a document
29used to comply with this section is liable for a civil penalty for
30each violation or, for continuing violations, for each day that the
31violation continues. Liability under this section may be imposed
32in a civil action and shall not exceed twenty-five thousand dollars
33(\$25,000) for each violation.

34(f) In addition to the civil penalty that may be imposed pursuant
35to subdivision (e), the board may impose an administrative penalty
36in an amount not to exceed five thousand dollars (\$5,000) for each
37violation of a separate provision or, for continuing violations, for
38each day that the violation continues, on a person who intentionally
39or negligently violates a permit, rule, regulation, standard, or
40requirement issued or adopted pursuant to this chapter. The board
P45 shall adopt regulations that specify the amount of the administrative
2penalty and the procedure for imposing an administrative penalty
3pursuant to this subdivision.

4(g) For purposes of this section, "new tire" means a pneumatic
5or solid tire intended for use with on-road or off-road motor
6vehicles, motorized equipment, construction equipment, or farm
7equipment that is sold separately from the motorized equipment,
8or a new tire sold with a new or used motor vehicle, as defined in
9Section 42803.5, including the spare tire, construction equipment,

10or farm equipment. "New tire" does not include retreaded, reused,
11or recycled tires.

12(h) The California tire fee shall not be imposed on a tire sold
13with, or sold separately for use on, any of the following:

14(1) A self-propelled wheelchair.

15(2) A motorized tricycle or motorized quadricycle, as defined
16in Section 407 of the Vehicle Code.

17(3) A vehicle that is similar to a motorized tricycle or motorized
18quadricycle and is designed to be operated by a person who, by
19reason of the person's physical disability, is otherwise unable to
20move about as a pedestrian.

21(i) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~

22~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,

23that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends

24that date.

25

SEC. 27.

Section 42885 of the *Public Resources Code*, as added
26by Section 13.5 of Chapter 707 of the Statutes of 2004, is amended
27to read:

28

42885.

(a) For purposes of this section, "California tire fee"
29means the fee imposed pursuant to this section.

30(b) (1) Every person who purchases a new tire, as defined in
31subdivision (g), shall pay a California tire fee of seventy-five cents
32(\$0.75) per tire.

33(2) The retail seller shall charge the retail purchaser the amount
34of the California tire fee as a charge that is separate from, and not
35included in, any other fee, charge, or other amount paid by the
36retail purchaser.

37(3) The retail seller shall collect the California tire fee from the
38retail purchaser at the time of sale and may retain 3 percent of the
39fee as reimbursement for any costs associated with the collection
40of the fee. The retail seller shall remit the remainder to the state
P46 1on a quarterly schedule for deposit in the California Tire Recycling
2Management Fund, which is hereby created in the State Treasury.

3(c) The board, or its agent authorized pursuant to Section 42882,
4shall be reimbursed for its costs of collection, auditing, and making
5refunds associated with the California Tire Recycling Management
6Fund, but not to exceed 3 percent of the total annual revenue
7deposited in the fund.

8(d) The California tire fee imposed pursuant to subdivision~~begin delete~~
~~(a)end delete~~

9~~begin insert (b)end insert~~ shall be separately stated by the retail seller on the
invoice

10given to the customer at the time of sale. Any other disposal or

11transaction fee charged by the retail seller related to the tire
12purchase shall be identified separately from the California tire fee.

13(e) Any person or business who knowingly, or with reckless
14disregard, makes any false statement or representation in any
15document used to comply with this section is liable for a civil
16penalty for each violation or, for continuing violations, for each
17day that the violation continues. Liability under this section may
18be imposed in a civil action and shall not exceed twenty-five
19thousand dollars (\$25,000) for each violation.

20(f) In addition to the civil penalty that may be imposed pursuant
21to subdivision (e), the board may impose an administrative penalty
22in an amount not to exceed five thousand dollars (\$5,000) for each
23violation of a separate provision or, for continuing violations, for
24each day that the violation continues, on any person who
25intentionally or negligently violates any permit, rule, regulation,
26standard, or requirement issued or adopted pursuant to this chapter.
27The board shall adopt regulations that specify the amount of the
28administrative penalty and the procedure for imposing an
29administrative penalty pursuant to this subdivision.

30(g) For purposes of this section, "new tire" means a pneumatic
31or solid tire intended for use with on-road or off-road motor
32vehicles, motorized equipment, construction equipment, or farm
33equipment that is sold separately from the motorized equipment,
34or a new tire sold with a new or used motor vehicle, as defined in
35Section 42803.5, including the spare tire, construction equipment,
36or farm equipment. "New tire" does not include retreaded, reused,
37or recycled tires.

38(h) The California tire fee may not be imposed on any tire sold
39with, or sold separately for use on, any of the following:

40(1) Any self-propelled wheelchair.

P47 1(2) Any motorized tricycle or motorized quadricycle, as defined
2in Section 407 of the Vehicle Code.

3(3) Any vehicle that is similar to a motorized tricycle or
4motorized quadricycle and is designed to be operated by a person
5who, by reason of the person's physical disability, is otherwise
6unable to move about as a pedestrian.

7(i) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~begin insert 2024end insert.

8

SEC. 28.

Section 42889 of the *Public Resources Code*, as
9amended by Section 3 of Chapter 333 of the Statutes of 2009, is
10amended to read:

11

42889.

(a) Commencing January 1, 2005, of the moneys
12collected pursuant to Section 42885, an amount equal to
13seventy-five cents (\$0.75) per tire on which the fee is imposed
14shall be transferred by the State Board of Equalization to the Air
15Pollution Control Fund. The state board shall expend those moneys,

16or allocate those moneys to the districts for expenditure, to fund
17programs and projects that mitigate or remediate air pollution
18caused by tires in the state, to the extent that the state board or the
19applicable district determines that the program or project
20remediates air pollution harms created by tires upon which the fee
21described in Section 42885 is imposed.

22(b) The remaining moneys collected pursuant to Section 42885
23shall be used to fund the waste tire program, and shall be
24appropriated to the board in the annual Budget Act in a manner
25consistent with the five-year plan adopted and updated by the
26board. These moneys shall be expended for the payment of refunds
27under this chapter and for the following purposes:

28(1) To pay the administrative overhead cost of this chapter, not
29to exceed 6 percent of the total revenue deposited in the fund
30annually, or an amount otherwise specified in the annual Budget
31Act.

32(2) To pay the costs of administration associated with collection,
33making refunds, and auditing revenues in the fund, not to exceed
343 percent of the total revenue deposited in the fund, as provided
35in subdivision (c) of Section 42885.

36(3) To pay the costs associated with operating the tire recycling
37program specified in Article 3 (commencing with Section 42870).

38(4) To pay the costs associated with the development and
39enforcement of regulations relating to the storage of waste tires
40and used tires. The board shall consider designating a city, county,
P48 1or city and county as the enforcement authority of regulations
2relating to the storage of waste tires and used tires, as provided in
3subdivision (c) of Section 42850, and regulations relating to the
4hauling of waste and used tires, as provided in subdivision (b) of
5Section 42963. If the board designates a local entity for that
6purpose, the board shall provide sufficient, stable, and
7noncompetitive funding to that entity for that purpose, based on
8available resources, as provided in the five-year plan adopted and
9updated as provided in subdivision (a) of Section 42885.5. The
10board may consider and create, as appropriate, financial incentives
11for citizens who report the illegal hauling or disposal of waste tires
12as a means of enhancing local and statewide waste tire and used
13tire enforcement programs.

14(5) To pay the costs of cleanup, abatement, removal, or other
15remedial action related to waste tire stockpiles throughout the state,
16including all approved costs incurred by other public agencies
17involved in these activities by contract with the board. Not less
18than six million five hundred thousand dollars (\$6,500,000) shall
19be expended by the board during each of the following fiscal years
20for this purpose: 2001-02 to 2006-07, inclusive.

21(6) To make studies and conduct research directed at promoting
22and developing alternatives to the landfill disposal of waste tires.

23(7) To assist in developing markets and new technologies for
24used tires and waste tires. The board's expenditure of funds for
25purposes of this subdivision shall reflect the priorities for waste

26management practices specified in subdivision (a) of Section
2740051.

28(8) To pay the costs associated with implementing and operating
29a waste tire and used tire hauler program and manifest system
30pursuant to Chapter 19 (commencing with Section 42950).

31(9) To pay the costs to create and maintain an emergency
32reserve, which shall not exceed one million dollars (\$1,000,000).

33(10) To pay the costs of cleanup, abatement, or other remedial
34action related to the disposal of waste tires in implementing and
35operating the Farm and Ranch Solid Waste Cleanup and Abatement
36Grant Program established pursuant to Chapter 2.5 (commencing
37with Section 48100) of Part 7.

38(11) To fund border region activities specified in paragraph (8)
39of subdivision (b) of Section 42885.5.

P49 1(c) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~

2~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute

3that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends

4that date.

5

SEC. 29.

Section 42889 of the *Public Resources Code*, as
6amended by Section 4 of Chapter 333 of the Statutes of 2009, is
7amended to read:

8

42889.

Funding for the waste tire program shall be appropriated
9to the board in the annual Budget Act. The moneys in the fund
10shall be expended for the payment of refunds under this chapter
11and for the following purposes:

12(a) To pay the administrative overhead cost of this chapter, not
13to exceed 5 percent of the total revenue deposited in the fund
14annually, or an amount otherwise specified in the annual Budget
15Act.

16(b) To pay the costs of administration associated with collection,
17making refunds, and auditing revenues in the fund, not to exceed
183 percent of the total revenue deposited in the fund, as provided
19in subdivision (b) of Section 42885.

20(c) To pay the costs associated with operating the tire recycling
21program specified in Article 3 (commencing with Section 42870).

22(d) To pay the costs associated with the development and
23enforcement of regulations relating to the storage of waste tires
24and used tires. The board shall consider designating a city, county,
25or city and county as the enforcement authority of regulations
26relating to the storage of waste tires and used tires, as provided in
27subdivision (c) of Section 42850, and regulations relating to the
28hauling of waste and used tires, as provided in subdivision (b) of
29Section 42963. If the board designates a local entity for that

30purpose, the board shall provide sufficient, stable, and
31noncompetitive funding to that entity for that purpose, based on
32available resources, as provided in the five-year plan adopted and
33updated as provided in subdivision (a) of Section 42885.5. The
34board may consider and create, as appropriate, financial incentives
35for citizens who report the illegal hauling or disposal of waste tires
36as a means of enhancing local and statewide waste tire and used
37tire enforcement programs.

38(e) To pay the costs of cleanup, abatement, removal, or other
39remedial action related to waste tire stockpiles throughout the state,
40including all approved costs incurred by other public agencies
P50 involved in these activities by contract with the board. Not less
2than six million five hundred thousand dollars (\$6,500,000) shall
3be expended by the board during each of the following fiscal years
4for this purpose: 2001-02 to 2006-07, inclusive.

5(f) To fund border region activities specified in paragraph (8)
6of subdivision (b) of Section 42885.5.

7(g) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~
8~~begin insert 2024end insert~~.

9

SEC. 30.

Section 9250.1 of the *Vehicle Code* is amended to
10read:

11

9250.1.

(a) Beginning July 1, 2008, the fee described in Section
129250 shall be increased by three dollars (\$3).

13(b) Two dollars (\$2) of the increase shall be deposited into the
14Alternative and Renewable Fuel and Vehicle Technology Fund
15created by Section 44273 of the Health and Safety Code, and one
16dollar (\$1) shall be deposited into the Enhanced Fleet
17Modernization Subaccount created by Section 44126 of the Health
18and Safety Code.

19(c) This section shall remain in effect only until January 1,~~begin delete~~
~~2016end delete~~
20~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,
21that is enacted before January 1,~~begin delete 2016end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends
22that date.

23

SEC. 31.

Section 9250.2 of the *Vehicle Code*, as amended by
24Section 15 of Chapter 707 of the Statutes of 2004, is amended to
25read:

26

9250.2.

(a) The department, if requested by the Sacramento
27Metropolitan Air Quality Management District pursuant to Section

2841081 of the Health and Safety Code, shall impose and collect a
29surcharge on the registration fees for every motor vehicle registered
30in that district, not to exceed the amount of six dollars (\$6), as
31specified by the governing body of that district.

32(b) This section shall remain in effect only until January 1,~~begin delete~~
~~2015end delete~~

33~~begin insert 2024end insert~~, and as of that date is repealed, unless a later
enacted statute,

34that is enacted before January 1,~~begin delete 2015end delete~~~~begin insert~~
~~2024end insert~~, deletes or extends

35that date.

36

SEC. 32.

Section 9250.2 of the *Vehicle Code*, as added by
37Section 15.5 of Chapter 707 of the Statutes of 2004, is amended
38to read:

39

9250.2.

(a) The department, if requested by the Sacramento
40Metropolitan Air Quality Management District pursuant to Section
P51 141081 of the Health and Safety Code, shall impose and collect a
2surcharge on the registration fees for every motor vehicle registered
3in that district, not to exceed either of the following amounts,
4whichever is applicable, as specified by the governing body of that
5district:

6(1) For each motor vehicle registered in that district whose
7registration expires on or after December 31, 1989, and prior to
8December 31, 1990, two dollars (\$2).

9(2) For each motor vehicle registered in that district whose
10registration expires on or after December 31, 1990, not to exceed
11four dollars (\$4).

12(b) This section shall become operative on January 1,~~begin delete 2015end~~
~~delete~~

13~~begin insert 2024end insert~~.

14

SEC. 33.

Section 9261.1 of the *Vehicle Code* is amended to
15read:

16

9261.1.

(a) Beginning July 1, 2008, the fee described in Section
179261, as adjusted pursuant to Section 1678, shall be increased by
18five dollars (\$5).

19(b) Two dollars and fifty cents (\$2.50) of the increase shall be
20deposited into the Alternative and Renewable Fuel and Vehicle
21Technology Fund created by Section 44273 of the Health and
22Safety Code, and two dollars and fifty cents (\$2.50) shall be
23deposited into the Air Quality Improvement Fund created by
24Section 44274.5 of the Health and Safety Code.

25(c) This section shall remain in effect only until January 1,~~begin delete~~
~~2016end delete~~begin insert end insert
26begin insert 2024end insert, and as of that date is repealed, unless a later
enacted statute,
27that is enacted before January 1,~~begin delete 2016end delete~~begin insert
2024end insert, deletes or extends
28that date.

29

SEC. 34.

Section 9853.6 of the *Vehicle Code* is amended to
30read:

31

9853.6.

(a) (1) Beginning July 1, 2008, the fee described in
32paragraph (1) of subdivision (b) of Section 9853 shall be increased
33by ten dollars (\$10).

34(2) Five dollars (\$5) of the increase shall be deposited into the
35Alternative and Renewable Fuel and Vehicle Technology Fund
36created by Section 44273 of the Health and Safety Code and five
37dollars (\$5) shall be deposited into the Air Quality Improvement
38Fund created by Section 44274.5 of the Health and Safety Code.

P52 1(b) (1) Beginning July 1, 2008, the fee described in paragraph
2(2) of subdivision (b) of Section 9853 shall be increased by twenty
3dollars (\$20).

4(2) Ten dollars (\$10) of the increase shall be deposited into the
5Alternative and Renewable Fuel and Vehicle Technology Fund
6created by Section 44273 of the Health and Safety Code and ten
7dollars (\$10) shall be deposited into the Air Quality Improvement
8Fund created by Section 44274.5 of the Health and Safety Code.

9(c) This section shall remain in effect only until January 1,~~begin delete~~
~~2016end delete~~
10begin insert 2024end insert, and as of that date is repealed, unless a later
enacted statute,
11that is enacted before January 1,~~begin delete 2016end delete~~begin insert
2024end insert, deletes or extends
12that date.

13

SEC. 35.

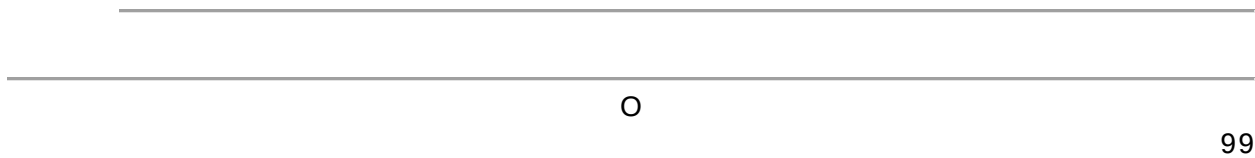
This act is an urgency statute necessary for the
14immediate preservation of the public peace, health, or safety within
15the meaning of Article IV of the Constitution and shall go into
16immediate effect. The facts constituting the necessity are:

17To ensure stable funding for programs to reduce air pollution
18for the protection of the public health and safety, it is necessary
19for this measure to take effect immediately.

CORRECTIONS:

Heading--Authors--Lines 1 and 3.

Text--Pages 11, 16, and 15.



Senate Bill No. 691

Introduced by Senator Hancock
(Principal coauthors: Senators DeSaulnier, Hill, and Leno)
 (Principal coauthor: Assembly Member Skinner)
(Coauthor: Senator Lara)

February 22, 2013

An act to amend Sections 41700, 42400.7, 42402, 42402.1, 42402.2, 42402.3, and 42403 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 691, as introduced, Hancock. Nonvehicular air pollution control: penalties.

Existing law, commencing January 1, 2014, prohibits a person from discharging from nonvehicular sources air contaminants or other materials that cause injury, detriment, nuisance, or annoyance to the public, or that endanger the comfort, repose, health, or safety of the public, or that cause injury or damage to business or property, as specified. Under existing law, a person who violates this provision is guilty of a misdemeanor, as specified, and is strictly liable for a civil penalty of not more than \$10,000, unless that person alleges by affirmative defense and establishes that the act was not the result of intentional or negligent conduct, in which case that person is strictly liable for a civil penalty of not more than \$1,000. A person who violates this provision and who acts negligently, knowingly, willfully and intentionally, or with reckless disregard, is liable for a civil penalty in a greater amount, as specified.

This bill would require, unless the original penalties prescribed are greater, that on the initial date of a violation of this provision, a person is liable for a civil penalty of not more than \$10,000, unless the violation results from a discharge from a Title V source, in which case the civil penalty is not more than \$100,000. This bill would require that the recovery of a civil penalty under these provisions precludes prosecution of a misdemeanor for the same offense.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

P2 1

SECTION 1.

Section 41700 of the *Health and Safety Code*, as added by Section 2 of Chapter 411 of the Statutes of 2010, is amended to read:

4

41700.

(a) Except as otherwise provided in Section 41705, a person shall not discharge from any source whatsoever quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property.

begin insert

11(b) (1) A penalty described in subdivision (c) shall apply on the initial date a violation of subdivision (a) occurs, unless a penalty prescribed in Section 42402, 42402.1, 42402.2, or 42402.3 is greater, in which case the greater penalty shall apply.

end insert
begin insert

15(2) If a violation of subdivision (a) continues to occur after the initial date of violation, the penalty described in Section 42402, 42402.1, 42402.2, or 42402.3 shall apply to those subsequent days.

end insert
begin insert

18(c) (1) Except as provided in paragraph (2), a person who violates subdivision (a) is liable for a civil penalty of not more than ten thousand dollars (\$10,000).

end insert
begin insert

21(2) A person who violates subdivision (a), which results in a discharge from a Title V source, is liable for a civil penalty of not more than one hundred thousand dollars (\$100,000).

end insert
begin delete

24(b)

end delete

25
begin insert(d)end insert This section shall become operative on January 1, 2014.

26

SEC. 2.

Section 42400.7 of the *Health and Safety Code* is amended to read:

28

42400.7.

(a) The recovery of civil penalties pursuant to Section 2939674,begin insert 41700,end insert 42401, 42402, 42402.1, 42402.2, 42402.3, or

3042402.4 precludes prosecution under Section 42400, 42400.1, 3142400.2, 42400.3, 42400.3.5, or 42400.4 for the same offense.

P3 1When a district refers a violation to a prosecuting agency, the filing 2of a criminal complaint is grounds requiring the dismissal of any 3civil action brought pursuant to this article for the same offense.

4(b) If the pending civil action described in subdivision (a) 5includes a request for injunctive relief, that portion of the civil 6action shall not be dismissed upon the filing of a criminal complaint 7for the same offense.

8

SEC. 3.

Section 42402 of the *Health and Safety Code* is
amended to read:

10

42402.

(a) Except as provided in Sections ~~begin insert 41700, end insert~~ 42402.1,
42402.2, 42402.3, and 42402.4, ~~begin delete any end delete~~ ~~begin insert a end~~
~~insert~~ person who violates this

12 ~~part, begin delete any end delete~~ ~~begin insert a end insert~~ order issued
pursuant to Section 42316, or ~~begin delete any end delete~~ ~~begin insert a end~~
~~insert~~ rule,

13 regulation, permit, or order of a district, including a district hearing
14 board, or of the state board issued pursuant to Part 1 (commencing
15 with Section 39000) to Part 4 (commencing with Section 41500),
16 inclusive, is strictly liable for a civil penalty of not more than one
17 thousand dollars (\$1,000).

18 (b) (1) ~~begin delete Any end delete~~ ~~begin insert A end insert~~ person who
violates ~~begin delete any provision of end delete~~ this part,

19 ~~begin delete any end delete~~ ~~begin insert a end insert~~ order issued pursuant to
Section 42316, or ~~begin delete any end delete~~ ~~begin insert a end insert~~ rule,
20 regulation, permit or order of a district, including a district hearing
21 board, or of the state board issued pursuant to Part 1 (commencing
22 with Section 39000) to Part 4 (commencing with Section 41500),
23 inclusive, is strictly liable for a civil penalty of not more than ten
24 thousand dollars (\$10,000).

25 (2) (A) If a civil penalty in excess of one thousand dollars
26 (\$1,000) for each day in which a violation occurs is sought, there
27 is no liability under this subdivision if the person accused of the
28 violation alleges by affirmative defense and establishes that the
29 violation was caused by an act that was not the result of intentional
30 nor negligent conduct.

31 (B) Subparagraph (A) shall not apply to a violation of federally
32 enforceable requirements that occur at a Title V source in a district
33 in which a Title V permit program has been fully approved.

34 (C) Subparagraph (A) does not apply to a person who is
35 determined to have violated an annual facility emissions cap
36 established pursuant to a market based incentive program adopted
37 by a district pursuant to subdivision (b) of Section 39616.

38 (c) ~~begin delete Any end delete~~ ~~begin insert A end insert~~ person who owns or
operates ~~begin delete any end delete~~ ~~begin insert a end insert~~ source of air
39 contaminants in violation of Section 41700 that causes actual
40 injury, as defined in subdivision (d) of Section 42400, to the health
P4 1 and safety of a considerable number of persons or the public, is
2 liable for a civil penalty of not more than fifteen thousand dollars
3 (\$15,000).

4 (d) Each day during any portion of which a violation occurs is
5 a separate offense.

6

SEC. 4.

Section 42402.1 of the *Health and Safety Code* is
7 amended to read:

8

42402.1.

(a) ~~begin deleteAny end delete~~begin insertExcept as provided in Section 41700, a end insert

9person who negligently emits an air contaminant in violation of
10this part or~~begin delete anyend delete~~begin insert aend insert rule,
regulation, permit, or order of the state board
11or of a district, including a district hearing board, pertaining to
12emission regulations or limitations is liable for a civil penalty of
13not more than twenty-five thousand dollars (\$25,000).

14(b) ~~begin deleteAny end delete~~begin insertA end insertperson who
negligently emits an air contaminant in
15violation of Section 41700 that causes great bodily injury, as
16defined by Section 12022.7 of the Penal Code, to~~begin delete anyend delete~~begin insert aend insert person or
17that causes the death of~~begin delete anyend delete~~begin insert aend insert
person, is liable for a civil penalty
18of not more than one hundred thousand dollars (\$100,000).

19(c) Each day during~~begin delete anyend delete~~begin insert aend insert
portion of which a violation occurs
20is a separate offense.

21

SEC. 5.

Section 42402.2 of the *Health and Safety Code* is
22amended to read:

23

42402.2.

(a) ~~begin deleteAny end delete~~begin insertExcept as provided in Section 41700, a end insert

24person who emits an air contaminant in violation of~~begin delete anyend delete~~begin insert aend insert provision
25of this part, or ~~begin delete anyend delete~~begin insert anend insert order,
rule, regulation, or permit of the state
26board or of a district, including a district hearing board, pertaining
27to emission regulations or limitations, and who knew of the
28emission and failed to take corrective action, as defined in
29subdivision (b) of Section 42400.2, within a reasonable period of
30time under the circumstances, is liable for a civil penalty of not
31more than forty thousand dollars (\$40,000).

32(b) ~~begin deleteAny end delete~~begin insertA end insertperson who owns or
operates~~begin delete anyend delete~~begin insert aend insert source of air
33contaminants in violation of Section 41700 that causes great bodily
34injury, as defined by Section 12022.7 of the Penal Code, to~~begin delete anyend delete~~begin insert aend insert
35 person or that causes the death of~~begin delete anyend delete~~begin insert aend insert person, and who knew of
36the emission and failed to take corrective action, as defined in
37subdivision (b) of Section 42400.2, within a reasonable period of
38time under the circumstances, is liable for a civil penalty not to
39exceed two hundred fifty thousand dollars (\$250,000).

P5 1(c) Each day during~~begin delete anyend delete~~begin insert aend insert
portion of which a violation occurs
2is a separate offense.

3

SEC. 6.

Section 42402.3 of the *Health and Safety Code* is
4amended to read:

5

42402.3.

(a) ~~begin deleteAny end delete~~begin insertExcept as provided in Section
41700, a end insert

6person who willfully and intentionally emits an air contaminant

7in violation of this part or~~begin delete anyend delete~~begin insert aend insert
rule, regulation, permit, or order

8of the state board, or of a district, including a district hearing board,

9pertaining to emission regulations or limitations, is liable for a

10civil penalty of not more than seventy-five thousand dollars

11(\$75,000).

12(b) ~~begin deleteAny end delete~~begin insertA end insertperson who willfully
and intentionally, or with

13reckless disregard for the risk of great bodily injury, as defined by

14Section 12022.7 of the Penal Code, to, or death of,~~begin delete anyend~~
~~delete~~begin insert aend insert person,

15emits an air contaminant in violation of Section 41700 that results

16in an unreasonable risk of great bodily injury to, or death of,~~begin delete~~
~~anyend delete~~

17begin insert aend insert person, is liable for a civil penalty of not more than
one hundred

18twenty-five thousand dollars (\$125,000). If the violator is a

19corporation, the maximum penalty may be up to five hundred

20thousand dollars (\$500,000).

21(c) ~~begin deleteAny end delete~~begin insertA end insertperson who willfully
and intentionally, or with

22reckless disregard for the risk of great bodily injury, as defined by

23Section 12022.7 of the Penal Code, to, or death of,~~begin delete anyend~~
~~delete~~begin insert aend insert person,

24emits an air contaminant in violation of Section 41700 that causes

25great bodily injury, as defined by Section 12022.7 of the Penal

26Code, to~~begin delete anyend delete~~begin insert aend insert person or that
causes the death of~~begin delete anyend delete~~begin insert aend insert person,
is

27liable for a civil penalty of not more than two hundred fifty

28thousand dollars (\$250,000). If the violator is a corporation, the

29maximum penalty may be up to one million dollars (\$1,000,000).

30(d) Each day during~~begin delete anyend delete~~begin insert aend insert
portion of which a violation occurs

31is a separate offense.

32

SEC. 7.

Section 42403 of the *Health and Safety Code* is amended to read:

34

42403.

(a) The civil penalties prescribed in Sections 39674, ~~begin insert 41700, end insert~~ 42401, 42402, 42402.1, 42402.2, and 42402.3 shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by ~~begin delete any end delete~~ ~~begin insert a end insert~~ district attorney, or by the attorney for ~~begin delete any end delete~~ ~~begin insert the end insert~~ district in which the violation occurs in ~~begin delete any end delete~~ ~~begin insert a end insert~~ court of competent jurisdiction.

P6 1(b) In determining the amount assessed, the court, or in reaching ~~begin delete any end delete~~ ~~begin insert a end insert~~ settlement, the district, shall take into consideration all relevant circumstances, including, but not limited to, the following:

- 4(1) The extent of harm caused by the violation.
- 5(2) The nature and persistence of the violation.
- 6(3) The length of time over which the violation occurs.
- 7(4) The frequency of past violations.
- 8(5) The record of maintenance.
- 9(6) The unproven or innovative nature of the control equipment.
- 10(7) ~~begin delete Any end delete~~ ~~begin insert An end insert~~ action taken by the defendant, including the nature, extent, and time of response of the cleanup and construction undertaken, to mitigate the violation.
- 13(8) The financial burden to the defendant.

AGENDA: 5

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Tom Bates and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 5, 2013

Re: Consideration of New Bills

RECOMMENDED ACTION:

The Committee will discuss new bills, and consider recommending positions on them to the Board.

BACKGROUND

The 120 members of the Legislature responded to their February 22nd bill introduction deadline with well over 2,200 new bills. Staff have reviewed these, and are bringing the most significant to the Committee for its consideration. Generally, bills have to be in print for 30 days before they can have their first hearing. This means that many of the measures discussed below will be heard in their first policy committees in late March and April.

DISCUSSION

Staff has reviewed a lengthy list of bills with potential air quality implications. Staff is bringing a small selection of these measures to the Committee for your discussion, as noted in the table below. Staff may present additional measures for the Committee to consider, as more information becomes available from author's offices and sponsors between the date of the preparation of this memorandum and the Committee's meeting. Also, staff will distribute the longer list of all air quality bills at the Committee's meeting on March 14, 2013.

BILL AND AUTHOR	SUBJECT	STAFF RECOMMENDATION
AB 8 Perea & Skinner	Reauthorizes Moyer/923, AB 118 incentive funding programs, and makes changes to Clean Fuel Outlet regulation.	Support
AB 794 Gorell	Would exempt from CEQA composting projects and landfill green energy projects.	Oppose
AB 818 Blumenfield	Allows city attorneys to enforce stationary source air pollution regulations.	Oppose
AB 866 Lindner	Significantly increases state agency requirements prior to enacting regulations.	Oppose
AB 953 Ammiano	Changes CEQA law to effectively overturn the <i>Ballona Wetlands</i> appellate decision.	Support
AB 1077 Muratsuchi	Establishes parity in sales tax and vehicle license fees paid for alternative fuel vehicles and their gasoline counterparts.	Support
AB 1193 Ting	States legislative intent to allow local governments the same flexibility in designing bike lanes as they have when designing local streets and roads.	Support in concept
SB 11 Pavley & Rubio	Reauthorizes Moyer/923, AB 118 incentive funding programs, and makes changes to Clean Fuel Outlet regulation.	Support
SB 454 Corbett	Electric Vehicle Charging Stations Open Access Act.	Support in concept
SB 621 Gaines	Extends compliance dates for In-use Heavy Duty Diesel Fueled Vehicle regulation by 5 years.	Oppose
SB 691 Hancock	Increases air penalty ceilings for one-day community-disrupting violations.	Sponsor
SB 736 Wright	Limits air district fee authority for power plant modifications that increase thermal efficiency.	Oppose
SB 760 Wright	Limits regulatory and penalty authority of air districts with emission reduction credit programs over power plants.	Oppose
SB 792 DeSaulnier	Assigns new tasks to the Joint Policy Committee with respect to ABAG, BAAQMD, BATA, BCDC, and MTC.	No staff recommendation

ANALYSES

AB 8 and SB 11 are authored by Assembly members Henry Perea (D-Fresno) and Nancy Skinner (D-Berkeley), and Senators Fran Pavley (D-Santa Monica) and Michael Rubio (D-Fresno), respectively. These identical bills would extend funding for critical air quality programs that are due to expire in the next few years. These programs include the tire fee portion of the Carl Moyer program, the \$2 vehicle registration fee surcharge authorized to be imposed by air districts under AB 923, as well as the AB 118 program. Moyer and AB 923 essentially fund the cleanup of dirty diesel engines in use today, while AB 118 is more focused on developing and funding the clean transportation technologies of the future. The bill also makes changes to an Air Resources Board regulation dealing with the provision of fueling stations for fuel cell vehicles (the Clean Fuel Outlet regulation). Passage of these measures is a critical part of the District's 2013 legislative agenda, and staff is recommending a “**Support**” position.

AB 794 is authored by Assembly member Jeff Gorell (D-Camarillo), and would exempt certain types of projects from CEQA (the California Environmental Quality Act). The bill stipulates that CEQA would not apply to composting projects or to projects that use landfill or organic waste to generate renewable green energy. The premise of this measure is that these types of projects have significant net overall environmental benefits, and thus should not be subject to project-specific environmental review.

Unfortunately, our experience in both permitting such projects and in responding to complaints about them is that in practice their environmental advantages and disadvantages are more complex and vary depending on the specific circumstances of the individual project. Composting operations can have significant emissions of organic compounds directly from the windrows of material, as well as significant emissions of fine particulate from shredding the material and from equipment driving on the dirt adjacent to the rows of material. Landfill waste-to-energy projects typically burn methane produced by anaerobic decomposition to produce electricity. Methane is a very potent greenhouse gas. Combustion of methane produces pollutants including NO_x, a precursor to ozone and fine particulate matter. While landfill gas to energy projects may have energy and greenhouse gas benefits, analyses of such projects should also consider other potential air quality impacts. In addition, depending on the efficiency of the engines burning the methane, net greenhouse gas emissions in certain circumstances can actually be higher from landfill energy projects than from projects using flares to burn that methane, even factoring in emissions from the replacement power generation. Finally, siting of these operations away or downwind from adjacent communities is critical to avoiding perpetual odors. While we support responsible composting and landfill energy projects, a blanket CEQA exemption is bad policy. Staff recommends an “**Oppose**” position on AB 794.

AB 818 is authored by Assembly member Bob Blumenfield (D-Van Nuys), and is identical to last year's AB 260, which the District opposed. The bill would allow certain city attorneys to enforce civil violations of stationary source and other non-vehicular air quality regulations. Currently, violations of these regulations can only be enforced by District attorneys or the Attorney General. City attorneys do not write air regulations, and do not have experience working with or enforcing them. These code sections are today appropriately overseen by environmental attorneys with air quality expertise,

representing air districts and the ARB, who are expert at understanding the nuances and details of our own regulations. City attorney prosecution of these violations would preclude prosecution by District attorneys. At least in theory, this bill could allow city attorneys to either under-prosecute violations of politically favored companies, or to unfairly penalize politically disfavored companies. It could also be used by cash-strapped cities to inappropriately over-penalize violators simply to increase city revenues. Consistent with the Board's position on last year's bill, staff recommends an “**Oppose**” position on AB 818.

AB 866 is authored by Assembly member Eric Linder (R-Corona), and puts in place a host of requirements on new state regulations, including air quality regulations from the ARB. The author believes that the unelected state bureaucracy is largely to blame for California's slumping economic climate, and that the businesses that still remain in the state are substantially over-regulated. The bill would increase the economic analyses required by state agencies prior to implementing new regulations, and would require significant new outreach to affected parties both earlier in the process and more extensively than previously. The net effect of this bill will reduce the ability of agencies to implement new regulations, and make the development of new regulations more costly, more cumbersome, and less likely. Given the critical importance of ARB's regulatory efforts to clean air in California, staff is recommending an “**Oppose**” position.

AB 953 is authored by Assembly member Tom Ammiano (D-San Francisco), and is sponsored by the Planning and Conservation League and the Sierra Club. It is one of a number of measures this year that would make changes to CEQA. In effect, it would overturn a 2011 appellate court decision (the *Ballona Wetlands* decision) that found that CEQA does not require a lead agency to evaluate the impact of the environment on a project. This decision has a potential positive effect on the District's efforts to protect residents of projects near freeways with many trucks from exposures to high levels of diesel particulate in that it would clarify that under CEQA, lead agencies should examine all of the effects of a project, including those related to bringing people into contact with risks and hazards. Staff is recommending a “**Support**” position.

AB 1077 is authored by Assembly member Al Muratsuchi (D-Torrance), and is sponsored by the California Electric Transportation Coalition. It is designed to make alternative fuel vehicles more attractive to consumers by reducing initial fees and taxes. Many alternative vehicles have comparable gasoline-fueled models from the same manufacturer. For example, the 2013 Ford Focus is available in either an all-electric version (with major clean air benefits) or a gasoline version. The manufacturer's suggested retail price of the electric version is \$39,200, while the comparable gasoline version is over \$15,000 less. However, California offers a direct rebate to the consumer of \$2,500 for battery electrics, and the federal government offers a tax credit of \$7,500. So the effective price of the electric Focus is \$29,200, prior to any discounted pricing from Ford itself. But the consumer will pay sales tax and a license fee based on the higher \$39,200. This bill would instead change that so the consumer pays tax and fees based on the \$29,200 effective price, which increases demand for these earlier clean vehicles. Because increasing market penetration of alternative fueled vehicles is essential to our clean air goals, staff is recommending a “**Support**” position.

AB 1193 is authored by Assembly member Philip Ting (D-San Francisco). The bill currently states legislative intent, and the author is working with the California Bicycle Coalition on final language. His goal is to address a statutory disparity that local jurisdictions face when they want to install new bikeways to encourage today's drivers to become tomorrow's bicyclists. Currently, local jurisdictions can only install bikeways that meet Caltrans design standards, which many local planners and those in the bicycling community feel are somewhat dated and overly prescriptive given the diversity of local jurisdictions situations and needs. It is only bikeways that face this level of regulation. Local jurisdictions have far more latitude in designing local streets and roads. This bill will encourage more bikeway installation. This cuts automobile emissions, and thus staff is recommending a **"Support in concept"** position.

SB 454 is authored by Senators Ellen Corbett (D-San Leandro), and is titled the Electric Vehicle Charging Stations Open Access Act. The author's goal is to increase electric vehicle purchase and use by making it easier for vehicle owners to be able to charge their vehicles, thus reducing range anxiety. This is a goal the District shares and we have invested significant resources into encouraging purchase and use of these vehicles. The critical portion of the bill would make an electric vehicle charging station installed in a public parking space available for use by any member of the public. The staff recommendation of **"Support in concept"** is based on this portion of the bill. Given the District's role in funding public electric vehicle infrastructure, we fully support this requirement. The bill does contain other language, such as encouraging uniformity in signage for charging stations, and specifying payment options for use of chargers, and more. On these issues, staff is neutral.

SB 621 is authored by Senator Ted Gaines (R-El Dorado Hills). It would significantly delay implementation of one of ARB's primary regulations to cut diesel particulate and oxides of nitrogen emissions from heavy-duty vehicles in California. Specifically, it would extend by five years all compliance dates in the on-road heavy-duty diesel regulation, which affects trucks, buses, and school buses. This regulation is a centerpiece of California's efforts to reduce exposure to toxic diesel particulate, and has been strongly supported by the District. The bill would significantly increase diesel exposures, be unfair to fleets and vehicle owners that have invested in early compliance, and be unfair to manufacturers of clean technology that have made business decisions based on the dates in the regulation. Staff recommends an **"Oppose"** position.

SB 691 is authored by Senator Loni Hancock (D-Berkeley), and is co-sponsored by the District. This is a key part of both the District's 2013 legislative agenda, and our adopted workplan in response to the August 6, 2012 fire at the Chevron refinery in Richmond. The bill would allow higher penalty ceilings for one-day violations that affect a considerable number of persons, and it received significant press attention in the week after it was introduced. Breathe California is co-sponsoring the bill with the District. The bill is expected to be referred to both the Environmental Quality and Judiciary Committees in the Senate. Staff recommends the formal adoption of a **"Support"** position at this time.

SB 736 is authored by Senator Rod Wright (D-Inglewood). It would prevent air districts from assessing fees for transferring emission reduction credits (ERCs) from their internal offset accounts or banks to power plants that modify their facility to increase thermal

efficiency while not increasing generating capacity. While such projects might appear to be environmentally beneficial, if offsets are required the project would be increasing emissions. Under state law, districts are allowed to recover their costs associated with evaluating, issuing, and renewing permits for stationary sources such as power plants. By not allowing districts to recover their costs associated with power plant permit modifications, this bill would undermine our New Source Review program and stationary source permitting authority more generally. Given that a project that would increase thermal efficiency would reduce operating costs for the generator, this bill seems particularly misguided. Staff recommends an “**Oppose**” position.

SB 760 is also authored by Senator Rod Wright (D-Inglewood), and it also deals with power plants. Most emission reduction credits are generated by the permanent shutdown of permitted equipment. To offset their emissions, new stationary sources of air pollution in an air basin (or existing facilities that plan to increase emissions) must secure ERCs prior to commencing operation, typically from permitted facilities that are permanently closed. This bill essentially would allow closed facilities, who secured extremely valuable ERCs at the time of permanent closure, to later open and resume polluting without penalty. The bill would also prevent districts from acting to close or shut down such facilities that get brought back into operation without following district regulations.

If SB 760 were enacted, California law would be in direct contradiction to the federal Clean Air Act. It would create a huge financial incentive for power plants to close down and then re-open. This would increase financial gain for power plant operators, while simultaneously increasing air pollution, harming public health, and breaking federal law. Staff recommends an “**Oppose**” position.

SB 792 is authored by Senator Mark DeSaulnier (D-Walnut Creek), and continues his legislative efforts to improve regional governance in the Bay Area. The bill would affect the District, the Metropolitan Transportation Commission, the Bay Area Toll Authority, the Association of Bay Area Governments, and the Bay Conservation and Development Commission.

This year’s bill would have the Joint Policy Committee (JPC) prepare a regional organization plan, which would include consolidation of such things as legal services, personnel, electronic data and communications systems, public information and outreach, modeling, intergovernmental relations, and more. Savings from this consolidation would go to the JPC. The JPC would have public hearings throughout the region, and the final consolidation would occur no later than June 30, 2015. Also, regional planning requirements for each of the entities would be integrated into a comprehensive regional plan. Additionally, the JPC would develop public outreach policies governing the scheduling and meetings of the regional entities and their committees. Also, by January of 2014, the JPC would review the policies, plans, and regulations of the regional entities, including for consistency with SB 375. The JPC would also appoint an economic competitiveness advisory committee, which would help it adopt policies to include economic development in the plans of the regional entities. Lastly, the JPC would establish a website describing its activities.

Staff have met with Senator DeSaulnier and discussed the bill, and are bringing it to the Committee for its consideration without a staff recommendation.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

As discussed in the analyses above, some of the bills considered might have positive effects on the District's budget, and some might have negative effects.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison
Reviewed by: Jean Roggenkamp

Attachments: Assembly Bill No. 794
Assembly Bill No. 818
Assembly Bill No. 866
Assembly Bill No. 953
Assembly Bill No. 1077
Assembly Bill No. 1193
Senate Bill No. 454
Senate Bill No. 621
Senate Bill No. 736
Senate Bill No. 760
Senate Bill No. 792

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

Assembly Bill No. 794**Introduced by Assembly Member Gorell**

February 21, 2013

An act to add Section 21080.34 to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 794, as introduced, Gorell. Environmental quality: California Environmental Quality Act: exemption: use of landfill and organic waste.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA exempts specified projects from its requirements.

This bill would exempt from the requirements of CEQA a project that takes landfill materials or organic waste and converts them into renewable green energy if the lead agency finds that the project will result in a net reduction in greenhouse gas emissions or support sustainable agriculture. The bill would exempt from the requirements of CEQA a project that uses biological processes to convert organic waste streams into nonchemical soil fertility products that support renewable and reusable cultivation and viability. Because a lead agency would be required to determine whether a project is exempt under those provisions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

P2 1

SECTION 1.

Section 21080.34 is added to the *Public Resources*
Code, to read:

21080.34.

(a) This division does not apply to a project that
takes landfill materials or organic waste and converts them into
renewable green energy if the lead agency finds that the project
will result in the net reduction in greenhouse gas emissions
furthering the goals of the California Global Warming Solutions
Act of 2006 (Division 25.5 (commencing with Section 38500) of
the Health and Safety Code).

(b) This division does not apply to a project that uses natural
biological processes to convert organic waste streams into
nonchemical soil fertility products that support renewable and
reusable cultivation and viability.

SEC. 2.

No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
a local agency or school district has the authority to levy service
charges, fees, or assessments sufficient to pay for the program or
level of service mandated by this act, within the meaning of Section
17556 of the Government Code.

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

Assembly Bill No. 818**Introduced by Assembly Member Blumenfield**

February 21, 2013

An act to amend Sections 42403, 42403.5, and 42405 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 818, as introduced, Blumenfield. Air pollution control: penalties.

Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law also designates the state board as the state agency with the primary responsibility for the control of vehicular air pollution and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law requires specified civil penalties be assessed and recovered in a civil action for specified violations to be brought by the Attorney General, by any district attorney, or by the attorney for any air pollution control or air quality management district in which the violation occurs. Existing law requires, if the action for civil penalties resulting from specified violations is brought by a district attorney or by an attorney for a district, the entire amount of the penalty collected be paid to the treasurer of the district on whose behalf judgment was entered.

This bill would require any city attorney of a city having a population in excess of 750,000, any city attorney of a city and county, or a city prosecutor in any city with a full-time city prosecutor, with the consent of the district attorney, to recover specified civil penalties in a civil action for specified violations. The bill would require, if the action for civil penalties resulting from specified violations is brought by a district attorney, an attorney for a district, a city attorney of a city having a population in excess of 750,000, a city attorney of a city and county, or a city prosecutor in any city with a full-time city prosecutor, with the consent of the district attorney, the entire amount of the penalty collected be paid to the treasurer of the city, county, or city and county in addition to the district on whose behalf judgment was entered.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

P2 1

SECTION 1.

Section 42403 of the *Health and Safety Code* is
2amended to read:

3

42403.

(a) The civil penalties prescribed in Sections 39674, 442401, 42402, 42402.1, 42402.2, ~~begin delete and end delete~~ 42402.3 begin insert, and 42402.4 end insert shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney ~~begin delete General, end delete~~ begin insert General; end insert by any district ~~begin delete attorney, end delete~~ begin insert attorney; by any city attorney of a city having a population in excess of 750,000; by any city attorney of a city and county; by a city prosecutor in any city with a full-time city prosecutor, with the consent of the district attorney; end insert or by the attorney for any district in which the violation occurs in any court of competent jurisdiction.

(b) In determining the amount assessed, the court, or in reaching any settlement, the district, shall take into consideration all relevant circumstances, including, but not limited to, the following:

- 16(1) The extent of harm caused by the violation.
- 17(2) The nature and persistence of the violation.
- 18(3) The length of time over which the violation occurs.
- 19(4) The frequency of past violations.
- 20(5) The record of maintenance.
- 21(6) The unproven or innovative nature of the control equipment.
- 22(7) Any action taken by the defendant, including the nature, extent, and time of response of the cleanup and construction undertaken, to mitigate the violation.
- 25(8) The financial burden to the defendant.

26

SEC. 2.

Section 42403.5 of the *Health and Safety Code* is amended to read:

P3 1

42403.5.

(a) Notwithstanding Section 42407, any violation of Section 41700 resulting from the engine of any diesel-powered bus while idling shall subject the owner to civil penalties assessed under this article, which may be recovered pursuant to Section 42403 by the Attorney ~~begin delete General, end delete~~ begin insert General; end insert by any district ~~begin delete attorney, end delete~~ begin insert attorney; by any city attorney of a city having a population in excess of 750,000; by any city attorney of a city and county; by a city prosecutor in any city with a full-time city prosecutor, with the consent of the district attorney; end insert or by the attorney for any district in which the violation occurs in any court of competent jurisdiction.

(b) There is no liability under subdivision (a) if the person accused of the violation establishes by affirmative defense that the extent of the harm caused does not exceed the benefit accrued to bus passengers as a result of idling the engine.

16

SEC. 3.

Section 42405 of the *Health and Safety Code* is
17 amended to read:

18

42405.

In an action brought pursuant to Section 42403 by the
19 Attorney General on behalf of a district, one-half of the penalty
20 collected shall be paid to the treasurer of the district on whose
21 behalf judgment was entered, and one-half of the penalty collected
22 shall be paid to the ~~begin delete State end delete~~ Treasurer for deposit in the
General Fund.

23 If the action is brought by the Attorney General on behalf of the
24 state board, the entire penalty collected shall be paid to the ~~begin delete~~
~~State end delete~~
25 Treasurer for deposit in the General Fund.

26 If the action is brought by a district attorney begin insert; by any city
attorney
27 of a city having a population in excess of 750,000; by any city
28 attorney of a city and county; by a city prosecutor in any city with
29 a full-time city prosecutor, with the consent of the district attorney; end insert
30 or by an attorney for a district, the entire amount of the penalty
31 collected shall be paid to the treasurer of the begin insert city, county, city
and
32 county, or end insert district on whose behalf judgment was entered.

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

Assembly Bill No. 866**Introduced by Assembly Member Linder**

February 21, 2013

An act to amend Sections 11342.548, 11346.3, 11346.45, and 11349.1 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 866, as introduced, Linder. Regulations.

(1) The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies, and for review of those regulatory actions by the Office of Administrative Law. The act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of the regulation by preparing an economic impact analysis. The act defines a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals in an amount exceeding \$50,000,000. Existing law requires an agency proposing to adopt, amend, or repeal a major regulation to also prepare a standardized regulatory impact analysis.

This bill would instead define a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals in an amount exceeding \$15,000,000.

This bill would modify the requirements that an adopting agency must meet when preparing the economic impact analysis and the standardized regulatory impact analysis.

(2) The act requires that state agencies proposing to adopt regulations, prior to publication of the notice of proposed action, involve parties that would be subject to the proposed regulations in public discussions regarding those proposed regulations, when the proposed regulations involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period. The act also provides that these requirements are not subject to judicial review or a specified review by the office.

This bill would instead make that requirement applicable to all proposed regulations. The bill would repeal the provisions that exempt these requirements from judicial review and review by the office. The bill would require the office to return the regulation to the agency if the agency does not comply with these requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1.

The Legislature finds and declares all of the following:

3(a) Robust jobs and economic growth are the key to repairing California's chronic budget problems and generating adequate revenues to fund vital programs like education, infrastructure, and public safety.

7(b) California's jobs, business, and economic climate have been in dire straits for several years, resulting in higher unemployment, and a reduction in the number of businesses, small businesses in particular, operating in the state and concomitant decline in state revenues.

12(c) California's regulatory burdens are often cited as one of the main causes of stagnant job and economic growth and why many businesses decide to expand in other states instead of California. In fact, in 2011 CEO magazine ranked California last among states where companies prefer to do business for the seventh straight year.

18(d) A large part of the problem is that too much authority over the California economy and jobs climate has been ceded to the unelected state bureaucracy. Regulations adopted by state agencies often impose unnecessary burdens on California's economic and jobs climate at a time when California can least afford to discourage economic and job growth.

3(e) Today, instead of using due diligence in analyzing the economic impacts of proposed regulations, state agencies often merely fill out a four-page economic questionnaire that provides little more than one-word answers and checked-off boxes and is devoid of supporting data. On top of that, this information is not currently required to be made available to the public.

9(f) More sunshine and public input is needed in the regulatory rulemaking process. Those subject to regulations are often in the best position to determine the actual costs of regulations, and also to identify equally effective but less burdensome alternatives.

13(g) Additionally, the connection between those that adopt laws and those that implement them has been eroded. Stronger and more direct oversight of the regulatory rulemaking process by the Legislature, as the body conferring authority to adopt regulations, will improve the regulatory rulemaking process.

18(h) It is not the intent of this act to unduly impede the regulatory rulemaking process. It is rather to provide greater sunshine and public participation in the fastest-growing area of government and to develop the most thoughtful, economically efficient, and least burdensome regulations on jobs and businesses when carrying out the intent of authorizing statutes.

24(i) Under this act, if a state agency has sufficiently involved the public in the rulemaking process and conducted a thorough analysis of a regulation's economic impacts, this act should have no adverse effect on the regulatory rulemaking process.

28(j) Further, the purpose of this act is not to prevent or postpone
29the adoption of any particular type of regulation or regulations but
30simply to ensure that accurate and honest information about a
31proposed regulation's true economic impact is prepared and made
32available to the public and the legislative and executive branches
33of government.

34

SEC. 2.

Section 11342.548 of the *Government Code* is amended
35to read:

36

11342.548.

"Major regulation" means any proposed adoption,
37amendment, or repeal of a regulation subject to review by the
38Office of Administrative Law pursuant to Article 6 (commencing
39with Section 11349) that will have an economic impact on
40California business enterprises and individuals in an amount
P4 1exceeding~~begin delete fiftyend delete~~begin insert fifteenend insert million
dollars~~begin delete (\$50,000,000),end delete~~begin insert (\$15,000,000),end
insert

2 as estimated by the~~begin delete agency.end delete~~begin insert agency in the
economic impact analysis

3prepared pursuant to Section 11346.3.end insert

4

SEC. 3.

Section 11346.3 of the *Government Code* is amended
5to read:

6

11346.3.

(a) State agencies proposing to adopt, amend, or
7repeal any administrative regulation shall assess the potential for
8adverse economic impact on California business enterprises and
9individuals, avoiding the imposition of unnecessary or unreasonable
10regulations or reporting, recordkeeping, or compliance
11requirements. For purposes of this subdivision, assessing the
12potential for adverse economic impact shall require agencies, when
13proposing to adopt, amend, or repeal a regulation, to adhere to the
14following requirements, to the extent that these requirements do
15not conflict with other state or federal laws:

16(1) The proposed adoption, amendment, or repeal of a regulation
17shall be based on adequate information concerning the need for,
18and consequences of, proposed governmental action.

19(2) The state agency,~~begin delete prior toend delete~~begin insert beforeend
insert submitting a proposal to

20adopt, amend, or repeal a regulation to the office, shall consider
21the proposal's impact on business, with consideration of industries
22affected including the ability of California businesses to compete
23with businesses in other states. For purposes of evaluating the
24impact on the ability of California businesses to compete with

25 businesses in other states, an agency shall consider, but not be
26 limited to, information supplied by interested parties.

27 (3) An economic ~~assessment~~ *begin insert analysis end insert* prepared pursuant to this
28 subdivision for a proposed regulation that is not a major regulation
29 or that is a major regulation proposed ~~begin delete prior to end delete~~ *begin insert before end insert* November
30 1, ~~begin delete 2013 end delete~~ *begin insert 2014 end insert*, shall be
prepared ~~begin delete in accordance with end delete~~ *begin insert pursuant to end insert*

31 subdivision (b). An economic ~~assessment~~ *begin insert analysis end insert* prepared
32 pursuant to this subdivision for a major regulation proposed on or
33 after November 1, ~~begin delete 2013 end delete~~ *begin insert 2014 end insert*,
shall be prepared ~~begin delete in accordance~~
34 ~~with end delete~~ *begin insert pursuant to end insert* subdivision (c), and shall be
included in the initial
35 statement of reasons as required by Section 11346.2.

36 (b) (1) All state agencies proposing to adopt, amend, or repeal
37 a regulation that is not a major regulation or that is a major
38 regulation proposed ~~begin delete prior to end delete~~ *begin insert before end insert* November 1, ~~begin delete 2013 end delete~~ *begin insert 2014 end insert*,
shall

39 prepare an economic impact ~~assessment~~ *begin insert analysis end insert* that ~~begin delete assesses~~
P5—1 ~~whether and to what extent it will affect end delete~~ *begin insert meets all of end insert* the ~~begin delete following: end delete~~
2 *begin insert following requirements: end insert*

3 (A) *begin insert Estimates the total actual costs of compliance for affected*
4 *small businesses, large businesses, and other parties subject to*
5 *the regulation or group of regulations. end insert* The ~~begin delete creation or~~
~~elimination end delete~~

6 *begin insert economic impact analysis shall, at a minimum, estimate the*
7 *costs end insert*

8 ~~begin delete jobs within end delete~~ *begin insert individual compliance for a*
representative small

9 ~~business, large business, and other party subject to end insert~~ the ~~begin delete~~
~~state. end delete~~

10 *begin insert regulation as well as the cumulative statewide cost of*
compliance. end insert

11 (B) ~~begin delete The creation end delete~~ *begin insert If an agency declares*
that it is not aware end insert of

12 ~~begin delete new businesses end delete~~ *begin insert any cost impact that a*
representative small

13 ~~business, large business, end insert~~ or *begin insert other party subject to end insert* the ~~begin delete~~
~~elimination end delete~~

14 *begin insert regulation would incur in compliance with the regulation, or*
group end insert

15 ~~begin delete existing businesses within end delete~~ *begin insert regulations*
authorized by end insert the ~~begin delete~~ ~~state. end delete~~

15begin insert same statute, the economic impact analysis shall include an
express

16statement to that effect as well as a detailed statement describing
17how a small business, large business, or other party subject to the
18regulation could comply with the regulation or group of regulations
19without incurring cost.end insert

20(C) ~~begin delete The expansionend delete~~begin insert If an economic
impact analysis prepared
21pursuant to this section finds that the cumulative statewide costend insert
22 of~~begin delete businesses currently doing business withinend delete~~begin
insert compliance of any

23regulation, or group of regulations authorized byend insert the~~begin delete~~
state.end deletebegin insert same

24statute, exceeds fifteen million dollars (\$15,000,000) then the
25regulation or group of regulations shall be deemed to be a major
26regulation. If reasonable doubt exists as to whether the cumulative
27statewide cost of compliance of any regulation or group of
28regulations authorized by the same statute exceeds fifteen million
29dollars (\$15,000,000), the doubt shall be resolved in favor of
30finding that the regulation or group of regulations authorized by
31the same statute qualifies as a major regulation.end insert
begin insert

32(D) Each economic impact analysis that an agency prepares
33shall be maintained in the agency's records and shall be made
34available to the office and the Governor's Office of Planning and
35Research, the Director of Finance, the Legislative Analyst, the
36State Auditor, the Controller, the President pro Tempore of the
37Senate, the Minority Floor Leader of the Senate, the Speaker of
38the Assembly, the Minority Floor Leader of the Assembly, and the
39chair and ranking minority party member of the appropriate fiscal
P6 1and policy committees of the Senate and the Assembly, upon
2request.

end insertbegin insert

3(E) An adopting agency shall prepare a standardized regulatory
4impact analysis for any regulation that the agency determines is
5a major regulation.

end insert~~begin delete~~

6(D) The

end delete

7begin insert(F)end insertbegin insert end insertbegin insertEach economic
impact analysis shall assess theend insert benefits of

8the regulation to the health and welfare of California residents,
9worker safety, and the state's environment.

10(2) This subdivision~~begin delete doesend delete~~begin insert shallend insert
not apply to the University of

11California, the Hastings College of the Law, or the Fair Political
12Practices Commission.

13(3) Information required from state agencies for the purpose of
14completing the assessment may come from existing state
15publications.

16(c) (1) Each state agency proposing to adopt, amend, or repeal
17a major regulation on or after November 1,~~begin delete 2013end delete~~begin
insert 2014end insert, shall

18prepare a standardized regulatory impact~~begin delete analysisend~~
~~delete~~begin insert assessmentend insert in

19the manner prescribed by the Department of Finance pursuant to
20Section 11346.36. The standardized regulatory impact analysis

21shall~~begin delete addressend delete~~begin insert containend insert all of the
following:

begin insert

22(A) A detailed estimate, in both the short term and long term,
23of the average individual cost of compliance for small businesses,
24large businesses, and other parties subject to the major regulation.
end insertbegin insert

25(B) A detailed estimate, in both the short term and long term,
26of the cumulative statewide cost of compliance with the major
27regulation for small businesses, large businesses, and other parties.
end insertbegin insert

28(C) A detailed distributional assessment that evaluates, in both
29the short term and long term, how certain industries, income
30groups, and geographic regions are likely to experience benefits
31or costs as a consequence of the major regulation.
end insertbegin delete

~~32(A) The~~
~~end delete~~

33~~begin insert(D)end insertbegin insert end insertbegin insert~~A detailed
estimate of the short-term and long-termend insert creation
34or elimination of jobsbegin delete withinend deletebegin insert in individual
35 sectors as a result ofend insert
~~thebegin delete state.end delete~~begin insert major regulation.end insert
begin insert

36(E) A detailed estimate, in both the short term and long term,
37of the potential for economic leakage as a result of the major
38regulation in which economic activity is relocated from California
39to another state or country.
end insertbegin delete

~~40(B) The creation~~
~~end delete~~

P7 1~~begin insert (F)end insertbegin insert end insertbegin insert~~A detailed
estimate, in both the short term and long term,end insert
2 ~~ofbegin delete newend deletebegin insert the impact on the ability of~~
~~Californiaend insert businessesbegin delete orend deletebegin insert to~~
3compete with businesses in other states and California's ability
4to attract businesses to locate inend insert thebegin delete elimination of
existing
5businesses withinend deletebegin insert state as a result ofend insert thebegin
~~delete state.end delete~~begin insert major regulation.end insert
begin insert

6(G) A detailed estimate, in both the short term and long term,
7of the effects on excise tax, sales and use tax, income tax,

8corporation tax, and other tax revenue to the General Fund, and
9fee revenues to special funds, as a result of the major regulation
10and changes in economic activity as a result of the major
11regulation.

~~end insert~~~~begin delete~~

~~12(C) The competitive advantages~~

~~end delete~~

~~13~~~~begin insert (H)~~~~end insert~~~~begin insert end insert~~~~begin insertA precise~~
~~statement enumerating the benefits, in both the~~

~~14short term and long term, anticipated from the major regulation,~~

~~15including the benefits~~~~end insert or~~~~begin delete disadvantages for businesses~~
~~currently~~

~~16doing business within the state.~~~~end delete~~~~begin insert goals provided in the~~
~~authorizing~~

~~17statutes. Where applicable, the statement shall include the failures~~

~~18in private markets or public institutions that warrant the proposed~~

~~19major regulation, in a manner consistent with the guidelines~~

~~20published by the federal Office of Management and Budget in~~

~~21OMB Circular No. A-94, Revised.~~~~end insert~~

~~begin delete~~

~~22 (D) The increase~~

~~end delete~~

~~23~~~~begin insert (I)~~~~end insert~~~~begin insert end insert~~~~begin insertAn identification~~
~~of each technical, theoretical, and empirical~~

~~24study, report,~~~~end insert or~~~~begin delete decrease of investment~~~~end~~
~~delete~~~~begin insert similar document, if any,~~

~~25upon which the agency relies~~~~end insert in~~~~begin insert proposing~~~~end insert~~
~~the~~~~begin delete state.~~~~end delete~~~~begin insert major~~

~~26regulation.~~~~end insert~~

~~begin delete~~

~~27(E) The incentives for innovation in products, materials, or~~

~~28processes.~~

~~end delete~~~~begin insert~~

~~29(J) A copy of the economic impact analysis prepared pursuant~~

~~30to subdivision (b).~~

~~end insert~~~~begin delete~~

~~31(F) The~~

~~end delete~~

~~32~~~~begin insert (K)~~~~end insert~~~~begin insert end insert~~~~begin insertA description of~~
~~the~~~~end insert benefits of the~~~~begin delete regulations,~~~~end delete~~~~begin insert~~
~~regulation,~~~~end insert~~

~~33 including, but not limited to, benefits to the health, safety, and~~

~~34welfare of California residents, worker safety, and the state's~~

~~35environment and quality of life, among any other benefits identified~~

~~36by the agency.~~

~~37(2) This subdivision shall not apply to the University of~~

~~38California, the Hastings College of the Law, or the Fair Political~~

~~39Practices Commission.~~

~~P8 1(3) Information required from state agencies for the purpose of~~

~~2completing the~~~~begin delete analysis~~~~end delete~~~~begin insert assessment~~~~end~~

insert may be derived from existing
state, federal, or academic publications.

4(d) Any administrative regulation adopted on or after January 51, 1993, that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

9(e) Analyses conducted pursuant to this section are intended to provide agencies and the public with tools to determine whether the regulatory proposal is an efficient and effective means of implementing the policy decisions enacted in statute or by other provisions of law in the least burdensome manner. Regulatory impact analyses shall inform the agencies and the public of the economic consequences of regulatory choices, not reassess statutory policy. The baseline for the regulatory analysis shall be the most cost-effective set of regulatory measures that are equally effective in achieving the purpose of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation.

22(f) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, ~~begin delete 2013end delete~~ begin insert 2014end insert, and that has prepared a standardized regulatory impact ~~begin delete analysisend delete~~ begin insert assessmentend insert pursuant to subdivision (c), shall submit that ~~begin delete analysisend delete~~ begin insert assessmentend insert to the Department of Finance upon completion. The department shall comment, within 30 days of receiving ~~begin delete that analysis,end delete~~ begin insert the assessment,end insert on the extent to which the ~~begin delete analysisend delete~~ begin insert assessmentend insert adheres to the regulations adopted pursuant to Section 11346.36. Upon receiving the comments from the department, the agency may update its analysis to reflect any comments received from the department and shall summarize the comments and the response of the agency along with a statement of the results of the updated analysis for the statement required by paragraph (10) of subdivision 35(a) of Section 11346.5.

36

SEC. 4.

Section 11346.45 of the *Government Code* is amended
to read:

38

11346.45.

(a) In order to increase public participation and improve the quality of regulations, state agencies proposing to adopt regulations shall, ~~begin delete prior toend delete~~ begin insert beforeend insert publication of the notice

P9 1required by Section 11346.5, involve parties who would be subject

2to the proposed regulations in public discussions regarding those
3proposed~~begin delete regulations, when the proposed regulations involve~~
4complex proposals or a large number of proposals that cannot
5easily be reviewed during the comment period.~~end delete~~begin insert
regulations.end insert

6(b) This section~~begin delete doesend delete~~begin insert shallend insert not
apply to a state agency in any
7instance where that state agency is required to implement federal
8law and regulations for which there is little or no discretion on the
9part of the state to vary.

10(c) If the agency does not or cannot comply with~~begin delete theend~~
~~delete~~begin delete provisions
11~~ofend delete~~ subdivision (a), it shall state the reasons for noncompliance with
12reasonable specificity in the rulemaking record.
~~begin delete end delete~~begin delete

13~~(d) The provisions of this section shall not be subject to judicial~~
14~~review or to the provisions of Section 11349.1.~~
~~end delete~~begin delete end delete

15

SEC. 5.

Section 11349.1 of the *Government Code* is amended
16to read:

17

11349.1.

(a) The office shall review all regulations adopted,
18amended, or repealed pursuant to the procedure specified in Article
195 (commencing with Section 11346) and submitted to it for
20publication in the California Code of Regulations Supplement and
21for transmittal to the Secretary of State and make determinations
22using all of the following standards:

23(1) Necessity.

24(2) Authority.

25(3) Clarity.

26(4) Consistency.

27(5) Reference.

28(6) Nonduplication.

29In reviewing regulations pursuant to this section, the office shall
30restrict its review to the regulation and the record of the rulemaking
31proceeding. The office shall approve the regulation or order of
32repeal if it complies with the standards set forth in this section and
33with this chapter.

34(b) In reviewing proposed regulations for the criteria in
35subdivision (a), the office may consider the clarity of the proposed
36regulation in the context of related regulations already in existence.

37(c) The office shall adopt regulations governing the procedures
38it uses in reviewing regulations submitted to it. The regulations
39shall provide for an orderly review and shall specify the methods,
40standards, presumptions, and principles the office uses, and the
P10 1limitations it observes, in reviewing regulations to establish
2compliance with the standards specified in subdivision (a). The

3regulations adopted by the office shall ensure that it does not
4substitute its judgment for that of the rulemaking agency as
5expressed in the substantive content of adopted regulations.

6(d) The office shall return any regulation subject to this chapter
7to the adopting agency if any of the following occur:

8(1) The adopting agency has not prepared the estimate required
9by paragraph (6) of subdivision (a) of Section 11346.5 and has not
10included the data used and calculations made and the summary
11report of the estimate in the file of the rulemaking.

12(2) The *begin insert adoptingend insert* agency has not complied with
Section 11346.3.

13“Noncompliance” means that the agency failed to complete the
14economic impact assessment or standardized regulatory impact
15analysis required by Section 11346.3 or failed to include the
16assessment or analysis in the file of the rulemaking proceeding as
17required by Section 11347.3.

18(3) The adopting agency has prepared the estimate required by
19paragraph (6) of subdivision (a) of Section 11346.5, the estimate
20indicates that the regulation will result in a cost to local agencies
21or school districts that is required to be reimbursed under Part 7
22(commencing with Section 17500) of Division 4, and the adopting
23agency fails to do any of the following:

24(A) Cite an item in the Budget Act for the fiscal year in which
25the regulation will go into effect as the source from which the
26Controller may pay the claims of local agencies or school districts.

27(B) Cite an accompanying bill appropriating funds as the source
28from which the Controller may pay the claims of local agencies
29or school districts.

30(C) Attach a letter or other documentation from the Department
31of Finance which states that the Department of Finance has
32approved a request by the agency that funds be included in the
33Budget Bill for the next following fiscal year to reimburse local
34agencies or school districts for the costs mandated by the
35regulation.

36(D) Attach a letter or other documentation from the Department
37of Finance which states that the Department of Finance has
38authorized the augmentation of the amount available for
39expenditure under the agency's appropriation in the Budget Act
40which is for reimbursement pursuant to Part 7 (commencing with
P11 1Section 17500) of Division 4 to local agencies or school districts
2from the unencumbered balances of other appropriations in the
3Budget Act and that this augmentation is sufficient to reimburse
4local agencies or school districts for their costs mandated by the
5regulation.

6(4) The proposed regulation conflicts with an existing state
7regulation and the agency has not identified the manner in which
8the conflict may be resolved.

9(5) The *begin insert adoptingend insert* agency did not make the alternatives
10determination as required by paragraph (4) of subdivision (a) of
11Section 11346.9.

begin insert

12(6) The adopting agency did not comply with Section 11346.10.

end insert

13(e) The office shall notify the Department of Finance of all
14regulations returned pursuant to subdivision (d).

15(f) The office shall return a rulemaking file to the submitting
16agency if the file does not comply with subdivisions (a) and (b)
17of Section 11347.3. Within three state working days of the receipt
18of a rulemaking file, the office shall notify the submitting agency
19of any deficiency identified. If no notice of deficiency is mailed
20to the adopting agency within that time, a rulemaking file shall be
21deemed submitted as of the date of its original receipt by the office.
22A rulemaking file shall not be deemed submitted until each
23deficiency identified under this subdivision has been corrected.

24(g) Notwithstanding any other law, return of the regulation to
25the adopting agency by the office pursuant to this section is the
26exclusive remedy for a failure to comply with subdivision (c) of
27Section 11346.3 or paragraph (10) of subdivision (a) of Section
28 11346.5.

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

Assembly Bill No. 953**Introduced by Assembly Member Ammiano**

February 22, 2013

An act to amend Sections 21060.5, 21068, and 21100 of the Public Resources Code, relating to the California Environmental Quality Act.

LEGISLATIVE COUNSEL'S DIGEST

AB 953, as introduced, Ammiano. California Environmental Quality Act.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA defines "environment" and "significant effect on the environment" for its purposes. CEQA requires the EIR to include a detailed statement setting forth specified facts.

This bill would revise those definitions, as specified. This bill would additionally require the lead agency to include in the EIR a detailed statement on any significant effects that may result from locating the proposed project near, or attracting people to, existing or reasonably foreseeable natural hazards or adverse environmental conditions. Because the lead agency would be required to undertake this additional consideration, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

P2 1

SECTION 1.

Section 21060.5 of the *Public Resources Code*

2 is amended to read:

3

21060.5.

"Environment" means the physical conditions~~begin delete whichend delete~~
4~~begin insert thatend insert~~ exist within the area~~begin delete whichend delete~~
5~~deletebegin insert thatend insert~~ will be affected by a proposed
6project, including land, air, water, minerals, flora, fauna, noise,
7objects of historic or aesthetic significance~~begin insert, as well as the health~~
8~~and safety of people affected by the physical conditions at the~~
9~~location of a projectend insert~~.

9

SEC. 2.

Section 21068 of the *Public Resources Code* is
10amended to read:

11

21068.

"Significant effect on the environment" means a
12substantial, or potentially substantial, adverse change in the
13environment.~~begin insert "Significant effect on the environment" includes~~
14~~exposure of people, either directly or indirectly, to a substantial~~
15~~existing or reasonably foreseeable natural hazard or adverse~~
16~~condition of the environment.end insert~~

17

SEC. 3.

Section 21100 of the *Public Resources Code* is
18amended to read:

19

21100.

(a) All lead agencies shall prepare, or cause to be
20prepared by contract, and certify the completion of, an
21environmental impact report on any project which they propose
22to carry out or approve that may have a significant effect on the
23environment. Whenever feasible, a standard format shall be used
24for environmental impact reports.

25(b) The environmental impact report shall include a detailed
26statement setting forth all of the following:

27(1) All significant effects on the environment of the proposed
28project.

P3 1(2) In a separate section:

2(A) Any significant effect on the environment that cannot be
3avoided if the project is implemented.

4(B) Any significant effect on the environment that would be
5irreversible if the project is implemented.

6(3) Mitigation measures proposed to minimize significant effects
7on the environment, including, but not limited to, measures to
8reduce the wasteful, inefficient, and unnecessary consumption of
9energy.

10(4) Alternatives to the proposed project.

11(5) The growth-inducing impact of the proposed project.

begin insert

12(6) Any significant effects that may result from locating the
13proposed project near, or attracting people to, existing or
14reasonably foreseeable natural hazards or adverse environmental
15conditions.

end insert

16(c) The report shall also contain a statement briefly indicating
17the reasons for determining that various effects on the environment
18of a project are not significant and consequently have not been
19discussed in detail in the environmental impact report.

20(d) For purposes of this section, any significant effect on the
21environment shall be limited to substantial, or potentially
22substantial, adverse changes in physical conditions~~begin delete whichend~~
~~delete~~begin insert thatend insert

23 exist within the area as defined in Section 21060.5.

24(e) Previously approved land use documents, including, but not
25limited to, general plans, specific plans, and local coastal plans,
26may be used in cumulative impact analysis.

27

SEC. 4.

No reimbursement is required by this act pursuant to
28Section 6 of Article XIII B of the California Constitution because
29a local agency or school district has the authority to levy service
30charges, fees, or assessments sufficient to pay for the program or
31level of service mandated by this act, within the meaning of Section
3217556 of the Government Code.

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

Assembly Bill No. 1077**Introduced by Assembly Member Muratsuchi**

February 22, 2013

An act to add and repeal Sections 6011.3, 6012.4, and 10759.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1077, as introduced, Muratsuchi. Sales and use taxes: vehicle license fee: exclusion: alternative fuel motor vehicles.

Existing laws impose state sales and use taxes on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The Sales and Use Tax Law defines the terms "gross receipts" and "sales price."

This bill would, on and after January 1, 2014, and before January 1, 2022, exclude from the terms "gross receipts" and "sales price" the amount of the incremental cost, as defined, included in the sales price of a new alternative fuel motor vehicle.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.

This bill would specify that this exclusion does not apply to local sales and use taxes and transactions and use taxes.

The Vehicle License Fee Law provides that the annual amount of the license fee for any vehicle is 0.65% of the market value of the vehicle, as specified. That law provides for the determination of the market value of any vehicle, for reclassification to increase the market value of a vehicle, and for the exemption of certain vehicles from the imposition of the license fee.

This bill would, on and after January 1, 2014, and before January 1, 2022, for purposes of determining the vehicle license fee, exempts from the determination of market value the incremental costs, as defined, that are incurred in the purchase of a new motor vehicle propelled by alternative fuel.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

P2 1

SECTION 1.

Legislature finds and declares:

2(a) There is a wide disparity in fees levied on owners of light-,
3medium-, and heavy-duty vehicles operated on alternative fuels
4when compared to those same taxes and fees levied on owners of
5comparable gasoline and diesel fuel vehicles.

6(b) In some cases, the fees on alternative fuel vehicles are more
7than twice as much as those for conventional fuel vehicles.

8(c) The disparity in fees exists even though the alternative fuel
9vehicle may look identical to the conventional fuel vehicle and
10provide the same or lesser utility to the individual owner.

11(d) The existing California vehicle license fee on motor vehicles
12that operate on alternative fuels is higher than for comparable
13conventional fuel vehicles because alternative fuel vehicles
14generally have higher sales prices. The higher sales prices are
15largely due to the fact that these vehicles are produced in extremely
16low volumes (many assembled by hand), such that their production
17has not achieved the economies of scale that would significantly
18reduce their cost; and they use many new advanced materials and
19technologies that also have not yet achieved economies of scale,
20and therefore have a temporarily greater cost to consumers.

P3 1(e) The higher sales prices for these alternative fuel vehicles
2are expected to be a short-term, temporary situation because prices
3are expected to decline significantly to competitive levels as
4volume increases. If this does not occur, these vehicles may never
5be competitive, and automakers would likely withdraw them from
6the market. The current vehicle license fee does not reflect these
7temporary, short-term pricing situations. Instead it intrinsically,
8but incorrectly, assumes that these short-term higher prices reflect
9true long-term market value of the vehicles.

10(f) Alternative fuel vehicles provide benefits to California
11citizens that are external to, or not reflected in, their cost to the
12purchaser. These benefits include: increasing our national
13independence from foreign energy sources; providing more
14transportation choices for consumers and businesses, thus reducing
15our economic vulnerability to sudden fuel price increases caused
16by external or internal events; reducing air pollutants, climate
17change pollutants, and toxic emissions from mobile sources;
18reducing future pressures for additional environmental controls
19on existing and new businesses and industries in California; and
20creating new advanced transportation technology jobs and
21industries in California.

22(g) It is the public policy of the State of California, the federal
23government, and many local governments, to encourage the
24development and use of alternative fuel vehicles, for the purpose
25of providing the benefits described above to all California citizens.

26(h) Existing vehicle license fee calculations, as they relate to
27the determination of market value of alternative fuel vehicles, do
28not reflect the critical short-term pricing issues described above,

29nor the external benefits that accrue to all California citizens.
30Additionally, these existing fees act as a significant disincentive
31to potential purchasers of alternative fuel vehicles, and as such,
32are contrary to existing public policies at all levels of government.

33(i) It is the intent of the Legislature to equalize the vehicle
34license fee between alternative fuel vehicles and conventional fuel
35vehicles for a period of eight years, beginning January 1, 2014,
36and ending December 31, 2021. During this time period it is the
37intent of the Legislature that the incremental or differential cost
38between an alternative fuel vehicle and a comparable conventional
39fuel vehicle, as determined by the State Energy Resources
P4 1Conservation and Development Commission, should be exempt
2from the vehicle license fee.

3

SEC. 2.

Section 6011.3 is added to the *Revenue and Taxation*
4Code, to read:

5

6011.3.

(a) Notwithstanding Section 6011 or any other law,
6on and after January 1, 2014, and before January 1, 2022, "sales
7price" from the sale of a new alternative fuel motor vehicle shall
8not include the amount of the incremental cost.

9(b) For purposes of this section, all of the following shall apply:

10(1) "Alternative fuel vehicle" means a motor vehicle subject to
11registration under the Vehicle Code that operates some or all of
12the time on a fuel other than gasoline or diesel.

13(2) "Incremental cost" means the amount equal to the reasonable
14difference between the cost of the new alternative fuel motor
15vehicle and the cost of a comparable gasoline or diesel fuel vehicle.
16This amount shall constitute the maximum incremental cost for
17purposes of the exclusion in subdivision (a), and shall be reduced,
18as appropriate, in accordance with the actual sales price of the
19vehicle.

20(3) "Motor vehicle" means "motor vehicle" as defined by
21Section 415 of the Vehicle Code.

22(c) The actual incremental cost shall be stated in the contract
23for sale or lease with the purchaser, and shall be reported to the
24board quarterly.

25(d) Notwithstanding any provision of the Bradley-Burns
26Uniform Local Sales and Use Tax Law (Part 1.5 (commencing
27with Section 7200)) or the Transactions and Use Tax Law (Part
281.6 (commencing with Section 7251)), the exclusion established
29by this section shall not apply with respect to any tax levied by a
30county, city, or district pursuant to, or in accordance with, either
31of those laws.

32(e) This section shall be repealed on January 1, 2022.

33

SEC. 3.

Section 6012.4 is added to the *Revenue and Taxation*
Code, to read:

35

6012.4.

(a) Notwithstanding Section 6012 or any other law,
on and after January 1, 2014, and before January 1, 2022, “gross
receipts” from the sale of a new alternative fuel motor vehicle shall
not include the amount of the incremental cost.

(b) For purposes of this section, all of the following shall apply:

P5 1(1) “Alternative fuel vehicle” means a motor vehicle subject to
registration under the Vehicle Code that operates some or all of
the time on a fuel other than gasoline or diesel.

4(2) “Incremental cost” means the amount equal to as the
reasonable difference between the cost of the new alternative fuel
motor vehicle and the cost of a comparable gasoline or diesel fuel
vehicle. This amount shall constitute the maximum incremental
cost for purposes of the exclusion in subdivision (a), and shall be
reduced, as appropriate, in accordance with the actual sales price
of the vehicle.

11(3) “Motor vehicle” means “motor vehicle” as defined by
Section 415 of the Vehicle Code.

13(c) The actual incremental cost shall be stated in the contract
for sale or lease with the purchaser, and shall be reported to the
board quarterly.

16(d) Notwithstanding any provision of the Bradley-Burns
Uniform Local Sales and Use Tax Law (Part 1.5 (commencing
with Section 7200)) or the Transactions and Use Tax Law (Part
191.6 (commencing with Section 7251)), the exclusion established
by this section shall not apply with respect to any tax levied by a
county, city, or district pursuant to, or in accordance with, either
of those laws.

23(e) This section shall be repealed on January 1, 2022.

24

SEC. 4.

Section 10759.5 is added to the *Revenue and Taxation*
Code, to read:

26

10759.5.

(a) For purposes of determining the vehicle license
fee imposed by this part, there are exempted from the determination
of market value, the incremental cost of a new motor vehicle
propelled by alternative fuels. This exemption shall apply to the
subsequent payments of the vehicle license fee.

(b) For purposes of this section, the following shall apply:

32(1) “Incremental cost” means the amount equal to the reasonable
difference between the cost of the motor vehicle defined in
subdivision (a) and the cost of a comparable gasoline or diesel fuel
vehicle. This amount shall constitute the maximum incremental
cost for purposes of the exemption in subdivision (a), and shall be
reduced, as appropriate, in accordance with the actual sales price

38of the vehicle. The actual incremental cost shall be stated in the
39contract for sale or lease with the purchaser.

P6 1(2) "Motor vehicle propelled by alternative fuels" means a motor
2vehicle that operates some or all of the time on a fuel other than
3gasoline or diesel.

4(c) This section shall become operative on January 1, 2014, and
5shall remain in effect only until January 1, 2022, and as of that
6date is repealed.

7

SEC. 5.

This act provides for a tax levy within the meaning of
8Article IV of the Constitution and shall go into immediate effect.

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

Assembly Bill No. 1193**Introduced by Assembly Member Ting**

February 22, 2013

An act relating to bikeways.

LEGISLATIVE COUNSEL'S DIGEST

AB 1193, as introduced, Ting. Bikeways.

Existing law requires the Department of Transportation, in cooperation with county and city governments, to establish minimum safety design criteria for the planning and construction of bikeways, and authorizes cities, counties, and local agencies to establish bikeways. Existing law requires all city, county, regional, and other local agencies responsible for the development or operation of bikeways or roadways where bicycle travel is permitted to utilize all minimum safety design criteria and uniform specifications and symbols for signs, markers, and traffic control devices established pursuant to specified provisions of existing law. Existing law authorizes a city or county to prepare a bicycle transportation plan with specified required elements for these purposes.

This bill would declare the Legislature's intent to enact subsequent legislation that would authorize all city, county, regional, and other local agencies responsible for the development or operation of bikeways or roadways to exercise the same discretion in the design of their bikeways that they exercise in the design of local streets, roads, and highways.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

P2 1

SECTION 1.

The Legislature finds and declares the following:

2(a) Statutory provisions impose on local agencies a mandate to follow obsolete standards for the design of bikeways, while they permit the application of industry standards for the design of local streets, roads, and highways.

6(b) It is the intent of the Legislature to enact subsequent legislation that would authorize all city, county, regional, and other local agencies responsible for the development or operation of bikeways or roadways to exercise the same discretion in the design

10of their bikeways that they exercise in the design of local streets,
11roads, and highways.

Senate Bill No. 454

Introduced by Senator CorbettFebruary 21, 2013

An act to add Chapter 8.7 (commencing with Section 44268) of Part 5 of Division 26 of the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 454, as introduced, Corbett. Air resources: electric vehicle charging stations.

Existing law establishes the Alternative and Renewable Fuel and Vehicle Technology Program, administered by the State Energy Resources Conservation and Development Commission (Energy Commission), that authorizes, among other things, upon appropriation by the Legislature, a grant program to provide funding for homeowners who purchase a plug-in electric vehicle to offset costs associated with modifying electrical sources that includes a residential plug-in electric vehicle charging station.

Existing law also creates a grant program for the purchase and lease of zero-emission vehicles, as defined, in the state, to be developed and administered by the State Air Resources Board, in conjunction with the Energy Commission. The program provides grants to specified recipients in an amount equal to 90% of the incremental cost above \$1,000 of an eligible new zero-emission light-duty car or truck, as defined.

This bill would create the Electric Vehicle Charging Stations Open Access Act that would require, among other things, that an electric vehicle charging station that is installed in a public parking space be made available for use by the general public. The bill would provide that persons desiring to use the electric vehicle charging station shall not be required to pay a subscription fee in order to use the station, and shall not be required to obtain membership in any club, association, or organization as a condition of using the station. The bill would also authorize an electric vehicle charging station to require additional out-of-network charges if those charges are disclosed to the public. The bill would require an electric vehicle charging station to provide one or more specified options of payment to the general public and would strongly encourage owners of electric vehicle charging stations in public parking spaces to clearly mark their charging stations with Department of Transportation approved signage at the station and at the entrance to the parking area or facility where the station is located.

The bill would require all electric vehicle charging stations in public parking spaces that provide electricity for a fee or monthly subscription to disclose to the public and the State Energy Resources Conservation and Development Commission the station's geographic location, including specific location in the parking lot or garage if applicable, accepted methods of payment, the amount of the fees or monthly subscription charged, any additional charges to nonmembers or out-of-network charges, and how a consumer can find out if the charging station is available. The bill would authorize the commission to provide this information to the National Renewable Energy Laboratory or other

governmental entities for the purposes of compiling it and providing the information to the public.

The bill would also require the commission, on or after January 1, 2015, to adopt interoperability standards for network roaming payment methods for electric vehicle charging stations, and would require, if the commission adopts standards, all electric vehicle charging stations to meet those standards within one year. The bill would require the Department of Consumer Affairs to maintain a toll-free telephone number and e-mail address to collect complaints about electric vehicle charging stations from electric vehicle owners or drivers. The bill would authorize the department to respond to consumer complaints and would require the department to summarize those complaints by number and type of complaint and make the summary available to the public.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

P2 1

SECTION 1.

The Legislature finds and declares all of the
2following:

P3 1(a) California is the nation's largest market for cars and
2light-duty trucks.

3(b) The transportation sector is the biggest contributor to
4California's greenhouse gas emissions and accounts for
5approximately 40 percent of these emissions.

6(c) California should encourage the development and success
7of zero-emission vehicles to protect the environment, stimulate
8economic growth, and improve the quality of life in the state.

9(d) In order to reach the goal of 1.5 million electric drive
10vehicles in California by 2025, electric vehicle (EV) consumers
11need confidence that they can access a robust network of EV
12charging stations. Any EV driver should be able to access any
13publicly available charging station, regardless of the system
14provider.

15(e) EV consumers and drivers need to be able to find the stations
16and know how much they cost so that electricity can become a
17reliable commodity as a transportation fuel. Consumers will gain
18confidence from fuel pricing transparency and learn the key
19advantage of a fuel which costs the equivalent of less than \$1 per
20gallon of gasoline.

21(f) It is the intent of the Legislature to promote a positive driving
22experience to assist in the widespread deployment of electric
23vehicles.

24

SEC. 2.

Chapter 8.7 (commencing with Section 44268) is added
25to Part 5 of Division 26 of the *Health and Safety Code*, to read:

26

27CHAPTER 8.7. ELECTRIC VEHICLE CHARGING STATIONS OPEN
28ACCESS ACT

29

30

44268.

As used in this chapter, the following definitions shall
31apply:

32(a) "Battery" means an electrochemical energy storage system
33powered directly by electrical current.

34(b) "Battery charging station" means an electric component
35assembly or cluster of component assemblies designed specifically
36to charge batteries within electric vehicles.

37(c) "Electric vehicle" means a vehicle that uses an electric motor
38for all or part of the motive power of the vehicle, including battery
39electric, plug-in hybrid electric, or plug-in fuel cell vehicle.

P4 1(d) "Electric vehicle charging station" means any public parking
2space located together with a battery charging station that supplies
3electricity for the purpose of recharging electric vehicles by
4permitting the transfer of electric energy to a battery or other
5storage device in an electric vehicle. An electric vehicle charging
6station may include several charge points simultaneously
7connecting several electric vehicles to the station and any related
8equipment needed to facilitate charging plug-in electric vehicles.

9(e) "Interoperability standards" means the ability for a member
10of one electric charging station network to use another network.

11(f) "Network roaming" means the act of a member of one
12electric charging station network using a charging station that is
13outside of the member's network with his or her network account
14information.

15(g) "Public parking space" means a parking space that is
16available to the general public and does not include a parking space
17that is part of, or connected to, a residence or for exclusive use of
18employees. Public parking spaces include, but are not limited to,
19onstreet parking, parking spaces at places of employment, office
20buildings, schools, hotels, airports, shopping centers, or restaurants.
21Nothing in this article limits the ability of the owner or lessor of
22the parking space from restricting use of the parking space.

23

44268.2.

(a) An electric vehicle charging station that is
24installed in a public parking space shall be made available for use
25by the general public. Persons desiring to use the electric vehicle
26charging station shall not be required to pay a subscription fee in
27order to use the station, and shall not be required to obtain
28membership in any club, association, or organization as a condition
29of using the station. An electric vehicle charging station may
30require additional out-of-network charges if those charges are
31disclosed to the public. An electric vehicle charging station shall
32provide one or more of the following options of payment to the
33general public:

34(1) Pay directly via credit card.

35(2) Pay over the phone through a toll-free telephone number
36established and displayed on the charging station.

37(3) Pay through a network roaming arrangement.

38(b) All electric vehicle charging stations in public parking spaces
39that provide electricity for a fee or monthly subscription shall
40disclose to the public and the State Energy Resources Conservation
P5 1and Development Commission the station's geographic location,
2including specific location in the parking lot or garage if applicable,
3accepted methods of payment, the amount of the fees or monthly
4subscription charged, any additional charges to nonmembers or
5out-of-network charges, and how a consumer can find out if the
6charging station is available. The commission may provide this
7information to the National Renewable Energy Laboratory or other
8governmental entities for the purposes of compiling it and
9providing the information to the public.

10(c) Owners of electric vehicle charging stations in public parking
11spaces are strongly encouraged to clearly mark their charging
12stations with Department of Transportation approved signage at
13the station, and at the entrance to the parking area or facility where
14they are located.

15(d) On or after January 1, 2015, the commission may adopt
16interoperability standards for network roaming payment methods
17for electric vehicle charging stations. If the commission adopts
18standards, all electric vehicle charging stations shall meet those
19standards within one year. The commission may adopt standards
20promulgated by an outside authoritative body.

21(e) The Department of Consumer Affairs shall maintain a
22toll-free telephone number and e-mail address to collect consumer
23complaints about electric vehicle charging stations from electric
24vehicle owners or drivers. The department may respond to
25complaints. The department shall summarize the complaints by
26number and type of complaint and make the summary available
27to the public.

Senate Bill No. 621**Introduced by Senator Gaines**

February 22, 2013

An act to add Section 43018.3 to the Health and Safety Code, relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 621, as introduced, Gaines. Vehicular air pollution: exemption: low-use vehicles: nonprofit organizations.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants, including standards for off-road and nonvehicle engine categories.

This bill would require the state board to amend a specified regulation relating to the emissions restrictions of diesel particulate matter, oxides of nitrogen, and other criteria pollutants from in-use, diesel-fueled vehicles to extend by 5 years various compliance dates applicable to those vehicles.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

P1 1

SECTION 1.

Section 43018.3 is added to the *Health and Safety Code*, to read:

P2 1

43018.3.

The state board shall amend Section 2025 of Article 24.5 of Chapter 1 of Division 3 of Title 13 of the California Code of Regulations to extend by five years all compliance dates, including dates in generally applied schedules and in phase-in options, exemptions, and delays, for requirements applicable to all vehicles covered by that regulation.

Senate Bill No. 736**Introduced by Senator Wright**

February 22, 2013

An act to add Section 41513.6 to the Health and Safety Code, relating to nonvehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 736, as introduced, Wright. Electrical generation facility: upgrades: permit fees. Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control and air quality management districts (districts) with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law authorizes the board of each air pollution control and air quality management district to establish a permit system that requires a person that uses certain types of equipment that may cause the emission of air contaminants to obtain a permit.

This bill would prohibit a district from assessing a permit modification fee on the operator or owner of a electrical generation facility that participates in a specified emission offset transfer when a modification of the electrical generation facility results in increased thermal efficiency for the electrical generating units and does not increase the gross generating capacity. By imposing new duties on districts, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

P2 1

SECTION 1.

Section 41513.6 is added to the *Health and Safety Code*, to read:

3

41513.6.

A district shall not assess a permit modification fee
4on the operator or owner of an electrical generation facility that
5participates in the transfer of an emissions offset from a district's
6internal emissions offset account when the modification of the
7electrical generation facility results in increased thermal efficiency
8for the electrical generating units and does not increase the gross
9generating capacity.

10

SEC. 2.

If the Commission on State Mandates determines
11that this act contains costs mandated by the state, reimbursement
12to local agencies and school districts for those costs shall be made
13pursuant to Part 7 (commencing with Section 17500) of Division
144 of Title 2 of the Government Code.

Senate Bill No. 760**Introduced by Senator Wright**

February 22, 2013

An act to add Section 40709.8 to the Health and Safety Code, relating to nonvehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 760, as introduced, Wright. Electrical generation facility: emission reduction credits.

Existing law requires every air pollution control and air quality management district board to establish a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants to be banked prior to use to offset future increases in emissions. Existing law designates the State Air Resources Board as the responsible agency for the preparation of the state implementation plan required by the federal Clean Air Act.

This bill would prohibit every air pollution control and air quality management district that has established an emission reduction credit program, as specified, from imposing any conditions to shut down or destroy existing equipment that may be currently operating, not operating, or retired at an electrical generation facility that applies for an emission reduction credit. The bill would authorize the owner or operator of equipment that has been retired and that is subsequently activated for purposes of upgrading or repowering the electrical generation facility to be subject to fines but would prohibit that owner or operator from being subject to any penalty. By imposing new duties on air pollution control and air quality management districts, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

P2 1

SECTION 1.

Section 40709.8 is added to the *Health and Safety Code*, to read:

3

40709.8.

(a) Notwithstanding any other law, a district that has established a system pursuant to Section 40709 by which reductions in emissions may be banked or otherwise credited to offset future increases in the emissions of air contaminants, or which utilizes a calculation method that enables internal emission reductions to be credited against increases in emissions, shall not impose any conditions to shut down or destroy existing equipment that may be currently operating, not operating, or retired at an electrical generation facility that applies for an emission reduction credit.

(b) The owner or operator of equipment that has been retired pursuant to subdivision (a) that is subsequently activated for purposes of upgrading or repowering the electrical generation facility may be subject to fines but shall not be subject to any penalty.

17

SEC. 2.

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 214 of Title 2 of the Government Code.

Senate Bill No. 792

Introduced by Senator DeSaulnierFebruary 22, 2013

An act to add Sections 66537, 66537.1, 66537.2, 66537.3, 66537.4, 66537.5, and 66537.6 to the Government Code, relating to planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 792, as introduced, DeSaulnier. Regional entities: Bay Area.

Existing law creates the Metropolitan Transportation Commission, the Bay Area Toll Authority, the Bay Area Air Quality Management District, and the San Francisco Bay Conservation and Development Commission, with various powers and duties relative to all or a portion of the 9-county San Francisco Bay Area region with respect to transportation, air quality, and environmental planning, as specified. Another regional entity, the Association of Bay Area Governments, is created as a joint powers agency comprised of cities and counties under existing law with regional planning responsibilities. Existing law provides for a joint policy committee of certain regional entities in this 9-county area to collaborate on regional coordination. Existing law requires regional transportation planning agencies, as part of the regional transportation plan in urban areas, to develop a sustainable communities strategy pursuant to Senate Bill 375 of the 2007-08 Regular Session coordinating transportation, land use, and air quality planning, with specified objectives.

This bill would require the joint policy committee to prepare a regional organization plan for the affected regional entities. The organization plan would include a plan for consolidating certain functions that are common to the regional entities and reducing overhead costs. The bill would require the joint policy committee to hold at least one public hearing in each county of the region and to adopt a final plan by June 30, 2015. The bill would also require the joint policy committee to develop and adopt public community outreach programs and to maintain an Internet Web site. The bill would require the joint policy committee to conduct a review of the policies and plans, and associated regulations, of each regional entity, including an assessment of the consistency of the policies, plans, and regulations among the regional entities with the requirements of Senate Bill 375 of the 2007-08 Regular Session. The bill would provide that the joint policy committee shall be responsible for ensuring that the sustainable communities strategy for the region integrates transportation, land use, and air quality management consistent with that legislation. The bill would also require the joint policy committee to appoint an advisory committee on economic competitiveness with specified members from the business community to adopt goals and policies related to the inclusion of economic development opportunities in the plans of the regional entities. By imposing new duties on the joint policy committee, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

P2 1

SECTION 1.

Section 66537 is added to the *Government Code*,
2to read:

3

66537.

For purposes of Sections 66537.1 to 66537.5, inclusive,
4the following definitions shall apply:

5(a) "Region" means the area encompassed by the Counties of
6Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo,
7Santa Clara, Solano, and Sonoma.

8(b) "Regional entities" means the Metropolitan Transportation
9Commission, including any joint exercise of powers agencies that
10include the commission as a member agency; the Bay Area Toll
11Authority; the Bay Area Air Quality Management District; the San
P3 1Francisco Bay Conservation and Development Commission; and
2the Association of Bay Area Governments.

3

SEC. 2.

Section 66537.1 is added to the *Government Code*, to
4read:

5

66537.1.

(a) The joint policy committee shall prepare a
6regional organization plan. The joint policy committee shall adopt
7goals and policies to govern the preparation of the plan. Among
8the goals shall be a statement as to the expected reduction in the
9cost of overhead and in the operation and management of the
10regional entities. All cost saving shall be directed to the joint policy
11committee's general fund. In addition, goals shall be adopted for
12integrating the regional planning requirements for the regional
13plans of each regional entity into a comprehensive regional plan.

14(b) The regional organization plan shall include a plan for
15consolidating the functions that are common to the regional entities,
16including, but not limited to, personnel and human resources,
17budget and financial services, electronic data and communications
18systems, legal services, contracting and procurement of goods and
19services, public information and outreach services,
20intergovernmental relations, transportation, land use, economic,

21and related forecasting models, and other related activities.
22Consideration shall be given to ensuring that there are common
23personnel classifications where appropriate among the regional
24entities, and the consolidation of other functions or activities, as
25deemed feasible, that will further the mission of the joint policy
26committee and will reduce redundancy. The plan shall be updated
27as determined by the joint policy committee.

28(c) On or before December 31, 2014, the staff shall submit to
29the joint policy committee a draft regional organization plan. The
30joint policy committee shall hold at least one public hearing in
31each county of the region to receive public comment. A final plan
32shall thereafter be adopted for implementation on or before June
3330, 2015.

34

SEC. 3.

Section 66537.2 is added to the *Government Code*, to
35read:

36

66537.2.

The joint policy committee shall develop and adopt
37public and community outreach policies to govern the scheduling
38of joint policy committee meetings, the meetings of regional
39entities, the meetings of standing committees, and meetings of ad
40hoc or other temporary committees. In developing the policies,
P4 1the joint policy committee shall ensure that outreach programs
2will utilize all available communication technologies, including
3webcasting and social media, print, radio, and television. The joint
4policy committee shall also establish policies for the holding
5workshops of the joint policy committee and the regional entities
6in the cities and counties of the region. The joint policy committee
7shall provide an opportunity for the public to comment on the draft
8and the final recommended policies. The policies shall be adopted
9on or before October 31, 2014.

10

SEC. 4.

Section 66537.3 is added to the *Government Code*, to
11read:

12

66537.3.

The joint policy committee shall maintain an Internet
13Web site containing relevant information pertaining to the joint
14policy committee's activities.

15

SEC. 5.

Section 66537.4 is added to the *Government Code*, to
16read:

17

66537.4.

The joint policy committee shall be subject to the
18Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)
19of Part 1 of Division 2 of Title 5).

20

SEC. 6.

Section 66537.5 is added to the *Government Code*, to
21read:

22

66537.5.

(a) Beginning on January 1, 2014, the joint policy
23committee shall review the policies and plans, and associated
24regulations, of each regional entity. The review shall include an
25assessment of the consistency of the policies, plans, and regulations
26among the regional entities with the requirements of Senate Bill
27375 of the 2007-08 Regular Session. The joint policy committee
28shall issue a consistency report describing the findings of this
29review. The joint policy committee shall hold public and
30community hearings in accordance with its public outreach policies
31regarding the draft consistency findings. The findings of the
32consistency review shall be used in fulfilling the joint policy
33committee's regional planning responsibilities.

34(b) The joint policy committee shall be responsible for ensuring
35that the sustainable communities strategy for the region integrates
36transportation, land use, and air quality management consistent
37with the requirements of Senate Bill 375 of the 2007-08 Regular
38Session.

39

SEC. 7.

Section 66537.6 is added to the *Government Code*, to
40read:

P5 1

66537.6.

(a) The joint policy committee shall appoint an
2advisory committee on economic competitiveness with members
3from the business community, including representatives of small
4businesses, technology and manufacturing sectors, community
5colleges, public and private universities, labor, local governments,
6and other organizations involved with the private economy.

7(b) The joint policy committee, in consultation with the advisory
8committee, shall adopt goals and policies related to the inclusion
9of economic development opportunities in the plans of the regional
10entities. The goals and policies shall also promote amenities that
11are special to the region and contribute to the region's quality of
12life.

13

SEC. 8.

If the Commission on State Mandates determines
14that this act contains costs mandated by the state, reimbursement
15to local agencies and school districts for those costs shall be made

16pursuant to Part 7 (commencing with Section 17500) of Division
174 of Title 2 of the Government Code.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Tom Bates and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 6, 2013

Re: Proposed Delegation Visit to Sacramento

RECOMMENDED ACTION:

Decide whether and when to schedule such a visit.

DISCUSSION

At the last meeting of the Legislative Committee, Board Chair Kalra raised the possibility of staff organizing a visit of Committee members to Sacramento, to advocate for legislative positions adopted by the District. After further discussion, two possible days that work for the Chair's schedule and the legislative schedule would be April 10th or 11th. To comply with the Brown Act, not more than four Committee members could participate simultaneously in such a visit.

As of the date of preparation of this memo, virtually none of the bills important to the District have their hearings scheduled yet. However, those dates in April will be before some (but not all) of the policy committee hearings in the house of origin of these bills, and likely before any of their fiscal hearings. April 10, 2013, will have most members in Sacramento all day, while April 11, 2013, will have most members at the Capitol in the morning, and leaving for their districts in the afternoon.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison
Reviewed by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 15, 2013

Re: Report of the Climate Protection Committee Meeting of March 14, 2013

RECOMMENDED ACTION

A consensus of the Climate Protection Committee members present supports Board of Directors' approval of the following items:

A) Greenhouse Gas Reduction Grant Program Project Components:

- 1) Allocate an additional up to \$435,907 in Greenhouse Gas Reduction Grant Program (GGRGP) derived funds;
- 2) Approve the addition of 17 GGRGP contingency project components listed in Attachment C; and
- 3) Authorize the Executive Officer/APCO to execute all contracts and contingencies to expend the funding for the recommended GGRGP contingency project components listed in Attachment C.

B) None; receive and file.

C) None; receive and file.

BACKGROUND

The Committee met on Thursday, March 14, 2013. The Committee received and considered the following reports:

- A) Consideration of Approval of Greenhouse Gas Reduction Grant Program Project Components;
- B) Letter of Understanding Between California Air Resources Board and California Air Pollution Control Officer's Association (CAPCOA) Regarding Coordination and Collaboration on Climate Change; and

C) CAPCOA Greenhouse Gas Reduction Exchange.

Attached are the staff reports that were presented in the Committee packet.

Chairperson John Avalos will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

A) None. Through the GGRGP, the Air District will distribute “pass-through” funds to public entities on a reimbursement basis. Administrative and audit costs for the program are provided by the funding source.

B) None.

C) None. Staff resources are currently included in the Fiscal Year End 2013 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Ana Sandoval

Attachments

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Avalos and Members
of the Climate Protection Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 7, 2013

Re: Consideration of Approval of Greenhouse Gas Reduction Grant Program Project
Components

RECOMMENDED ACTION

Recommend Board of Directors:

1. Allocate an additional up to \$435,907 in Greenhouse Gas Reduction Grant Program (GGRGP) derived funds;
2. Approve the addition of 17 GGRGP contingency project components listed in Attachment C; and
3. Authorize the Executive Officer/APCO to execute all contracts and contingencies to expend the funding for the recommended GGRGP contingency project components listed in Attachment C.

BACKGROUND

On September 10, 2007, the Attorney General of California (AG) entered into a Settlement Agreement with ConocoPhillips Company (Conoco) to resolve a dispute regarding the environmental impact of greenhouse gas (GHG) emissions (primarily carbon dioxide) from the Clean Fuels Expansion Project at Conoco's refinery in Rodeo, California. On November 24, 2008, the AG and the Air District entered into a Memorandum of Understanding (MOU) delineating the Air District's authority to administer a GHG emission reduction grant program using funds from the Settlement Agreement. The Air District received \$4,443,025 from Conoco by June 1, 2009.

On June 2, 2010, the Air District's Board of Directors (Board) approved the allocation of \$4 million for 55 energy efficiency and renewable energy project components (components) in Rodeo, Hercules, Crockett, and Pinole, under the Greenhouse Gas Reduction Grant Program (GGRGP). The Board also approved a contingency list containing six additional components totaling \$3,148,556. As part of this report, the Committee will receive an update on the progress made to date and a recommendation for allocating remaining funds and expanding the contingency list.

DISCUSSION

Results of GGRGP

To date, out of the 55 Board-approved components, 25 components have been completed at a cost of \$2,130,000.95. Two contingency-list components totaling \$109,038 have also been completed. A listing of these 27 components is located in Attachment A. An additional 11 Board-approved components are currently in the process of being completed by July 31, 2013. A listing of these components is located in Attachment B. Out of the remaining 19 Board-approved components, 16 have been cancelled by the project sponsor, two have been completed by the project sponsor at no cost to the Air District, and one was incorporated and completed as part of another Board-approved project component.

In addition to these projects, staff is currently in the process of reallocating \$957,333.05 in GGRGP funds from components that were either cancelled (\$850,100) or completed under budget (\$107,233.05) to the remaining two components from the original contingency list.

Expansion of Contingency List and Allocation of Program Funds

In addition to the \$4 million in GGRPR funding that was allocated by the Board in June 2010, staff is recommending Board approval of the allocation of up to \$435,907 in additional GGRGP-derived funds. These funds include \$200,000 in contingency funds that were not included in the original Board allocation, \$135,907 in interest that has accrued on the total funds received to date, and an additional up to \$100,000 that is estimated to accrue in interest over the next up to three years.

In order to ensure that these funds are expended, staff is also recommending expanding the contingency list by adding 17 eligible components that were received as part of the initial solicitation for this program but were not previously recommended for award. These components met all GGRGP requirements but scored lower in terms of cost-effectiveness than the components the Board initially approved. The proposed revised contingency list that includes these components and their cost-effectiveness is provided in Attachment C.

If the Board approves the inclusion of these components into the contingency list, staff proposes to offer funds to the highest ranking components on the revised contingency list until all currently available funds and any interest accrued are exhausted.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None. Through the GGRGP, the Air District will distribute “pass-through” funds to public entities on a reimbursement basis. Administrative and audit costs for the program are provided by the funding source.

Respectfully submitted,

Jack P. Broadbent
Executive Director/APCO

Prepared by: Avra Goldman
Reviewed by: Karen Schkolnick

Attachment A: GGRGP Completed Project Components
Attachment B: Active GGRGP Project Components
Attachment C: Project Components Remaining from Original Contingency List and
Components Proposed for Inclusion

Attachment A: GGRGP Completed Project Components

Component Number	Project Sponsor	Building	Project Component	Actual Cost-Effectiveness	Project Component Cost	Original Award Amount	Final Award Amount
Originally Approved Components:							
09GHG03.2	The City of Pinole	City Hall	Replace boilers	Pending final review*	\$37,956.00	\$37,120.00	\$37,120.00
09GHG03.4	The City of Pinole	City Hall	HVAC controls	Pending final review*	\$84,950.00	\$79,236.00	\$79,236.00
09GHG05.1	The City of Pinole	Youth Center	Install fluorescent light fixtures	\$173.98	\$1,965.59	\$1,176.00	\$999.60
09GHG07.2	The City of Pinole	Senior Center	Install fluorescent light fixtures	\$45.04	\$4,098.71	\$1,742.00	\$1,478.31
09GHG07.3	The City of Pinole	Senior Center	Install high efficiency water heater	\$305.09	\$12,817.37	\$12,309.00	\$10,462.65
09GHG09.1	Contra Costa County	Rodeo Senior Citizen Club	Install fluorescent light fixtures	\$284.99	\$5,908.68	\$3,993.00	\$3,992.87
09GHG10.5	Crockett-Carquinez Fire Protection District	Station 78	Replace boilers	Pending final review*	\$38,895.00	\$16,784.00	\$16,784.00
09GHG11.1	John Swett Unified School District	John Swett High School	Replace heating food holding cabinets	\$124.05	\$6,398.00	\$5,798.00	\$4,903.89
09GHG11.2	John Swett Unified School District	John Swett High School	Install fluorescent light fixtures	\$194.35	\$5,868.00	\$4,368.00	\$4,368.00
09GHG11.3	John Swett Unified School District	John Swett High School	Install lamps, ballasts, and occupancy controls	\$193.68	\$34,232.00	\$23,654.00	\$23,654.00
09GHG11.5	John Swett Unified School District	John Swett High School	Replace single pane with double	\$498.68	\$504,458.00	\$498,169.00	\$498,169.00
09GHG12.1	John Swett Unified School District	Carquinez Middle School	Replace fluorescent lamps and ballasts	\$177.03	\$24,559.56	\$16,610.00	\$16,610.00
09GHG14.1	Rodeo Sanitary District	Rodeo Sanitary District	Install fluorescent light fixtures	\$239.56	\$21,065.79	\$21,066.00	\$19,424.00
09GHG14.3	Rodeo Sanitary District	Rodeo Sanitary District	Install Variable Speed Blower	Pending final review*	\$222,679.70	\$146,422.00	\$146,422.00
09GHG15.1	Rodeo-Hercules Fire District	Station 75	Vending Machine Controller	\$36.58	\$175.00	\$85.00	\$85.00
09GHG15.2	Rodeo-Hercules Fire District	Station 75	Install fluorescent light fixtures	\$125.29	\$2,246.58	\$1,351.00	\$1,148.32
09GHG15.3	Rodeo-Hercules Fire District	Station 75	Gas Fired Water Heater	\$74.83	\$5,019.00	\$3,019.00	\$3,019.00
09GHG16.1	Rodeo-Hercules Fire District	Station 76	Vending Machine Controller-cool	\$36.58	\$175.00	\$85.00	\$85.00
09GHG16.2	Rodeo-Hercules Fire District	Station 76	Install fluorescent light fixtures	\$76.30	\$6,103.32	\$2,606.00	\$2,215.10
09GHG16.3	Rodeo-Hercules Fire District	Station 76	Install Window film	\$82.04	\$1,117.05	\$884.00	\$751.40
09GHG16.4	Rodeo-Hercules Fire District	Station 76	Install high efficiency central water heater	\$289.77	\$5,019.00	\$4,810.00	\$4,810.00
09GHG20.1	West Contra Costa Unified School District	Hercules Middle-High School	Install fluorescent light fixtures	Pending final review*	\$61,320.93	\$25,980.00	\$25,980.00
09GHG20.2	West Contra Costa Unified School District	Hercules Middle-High School	Solar panels	Pending final review*	\$2,181,667.00	\$1,302,682.00	\$1,205,664.81
09GHG22.1	Housing Authority of the County of Contra Costa	Administration Building	Install attic and/or roof/ceiling insulation	Pending final review*	\$23,996.00	\$22,529.00	\$22,529.00
09GHG22.2	Housing Authority of the County of Contra Costa	Administration Building	Vending Machine Controller	Pending final review*	\$179.00	\$89.00	\$89.00
TOTAL:						\$2,232,567.00	\$2,130,000.95
Components from Contingency List:							
09GHG15.4	Rodeo-Hercules Fire District	Station 75	Solar Panels	\$ 532.81	\$39,675.00	\$36,075.00	\$36,075.00
09GHG16.5	Rodeo-Hercules Fire District	Station 76	Solar Panels	\$ 518.69	\$83,463.00	\$72,963.00	\$72,963.00
TOTAL:						\$109,038.00	\$109,038.00

*These components are currently undergoing final evaluation; estimated cost-effectiveness for each component was \$507.21/ton or less.

Attachment B: Active GGRGP Project Components

Component Number	Project Sponsor	Building	Project Component	Estimated Cost-Effectiveness	Project Component Cost	Grant Award	Scheduled Completion Date
09GHG03.3	The City of Pinole	City Hall	Solar panels	\$369	\$327,757.00	\$162,308.00	7/1/2013
09GHG04.1	The City of Pinole	Swim Center	Pool Pump	\$200	\$17,653.68	\$15,270.00	7/1/2013
09GHG04.2	The City of Pinole	Swim Center	Install pool heater	\$455	\$64,842.10	\$41,248.00	7/1/2013
09GHG04.3	The City of Pinole	Swim Center	Solar panels	\$455	\$340,344.00	\$207,423.00	7/1/2013
09GHG05.2	The City of Pinole	Youth Center	Solar panels	\$466	\$175,391.00	\$110,768.00	7/1/2013
09GHG07.4	The City of Pinole	Senior Center	Solar panels	\$407	\$289,956.00	\$159,911.00	7/1/2013
09GHG10.1	Crockett-Carquinez Fire Protection District	Station 78	Replace food service equipment	\$13	\$160.00	\$70.00	7/1/2013
09GHG10.2	Crockett-Carquinez Fire Protection District	Station 78	Install fluorescent light fixtures	\$161	\$3,384.81	\$1,894.00	7/1/2013
09GHG10.3	Crockett-Carquinez Fire Protection District	Station 78	Install high efficiency central water heater	\$70	\$3,785.40	\$2,186.00	7/1/2013
09GHG10.4	Crockett-Carquinez Fire Protection District	Station 78	Replace food service equipment	\$398	\$494.99	\$445.00	7/1/2013
09GHG10.6	Crockett-Carquinez Fire Protection District	Station 78	Solar panels	\$494	\$140,980.00	\$102,105.00	7/1/2013

TOTAL: \$ 803,628

Attachment C: Project Components Remaining from Original Contingency List and Components Proposed for Inclusion

Project Number	Project Sponsor	Building	Project Component	Grant Request Amount	Estimated Cost Effectiveness	Project Component Cost
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Project Components Remaining on the Original Contingency List:

09GHG08	Contra Costa County	Employment and Human Services Building	Install solar panels	\$1,155,074	\$556	\$1,635,098
09GHG08	Contra Costa County	Employment and Human Services Building	Install fluorescent light fixtures	\$43,993	\$586	\$47,460

Proposed Additional Components for Contingency List:

09GHG01	City of Hercules	Library	Install solar panels	\$598,178	\$625	\$808,178
09GHG24	Crockett Community Services District	Crockett Community Center	Replace windows & front doors	\$92,809	\$756	\$93,470
09GHG02	City of Hercules	City Hall	Install solar panels	\$408,000	\$786	\$418,000
09GHG12	John Swett Unified School District	Carquinez Middle School	Install double pane windows	\$354,380	\$852	\$357,000
09GHG21	West Contra Costa Unified School District	Pinole Valley High School	Install fluorescent light fixtures	\$707,149	\$876	\$741,809
09GHG22	Contra Costa Housing Authority	Administration Building	Install solar panels	\$343,717	\$900	\$360,935
09GHG08	Contra Costa County	Employment and Human Services Building	Upgrade air handling units	\$378,885	\$904	\$392,791
09GHG21	West Contra Costa Unified School District	Pinole Valley High School	Install LED light fixtures	\$191,522	\$1,070	\$198,552
09GHG10	Crocket-Carquinez Fire District	Station 78	Replace food service equipment (refrigerators-3)	\$1,635	\$1,658	\$3,510
09GHG15	Rodeo-Hercules Fire District	Station 75	Replace dishwasher	\$360	\$1,687	\$510
09GHG08	Contra Costa County	Employment and Human Services Building	Upgrade air-powered system to electric	\$53,902	\$1,855	\$54,456
09GHG13	John Swett Unified School District	Rodeo Hills Elementary School	Install "cool roof"	\$239,500	\$2,030	\$239,500
09GHG17	West Contra Costa Unified School District	Collins Elementary School	Install fluorescent light fixtures	\$250,273	\$2,535	\$251,698
09GHG18	West Contra Costa Unified School District	Ellerhorst Elementary School	Install "cool roof"	\$137,757	\$2,867	\$187,757
09GHG22	Contra Costa Housing Authority	Administration Building	Install dual glazed windows	\$44,403	\$2,882	\$44,600
09GHG19	West Contra Costa Unified School District	Steward Elementary School	Install "cool roof"	\$121,757	\$2,906	\$166,757
09GHG12	John Swett Unified School District	Carquinez Middle School	Replace boilers	\$728,452	\$2,937	\$730,794

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Avalos and Members
of the Climate Protection Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 27, 2013

Re: Letter of Understanding between California Air Resources Board (ARB) and
California Air Pollution Control Officers Association (CAPCOA) Regarding
Coordination and Collaboration on Climate Change

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The adoption of AB 32, the California Global Warming Solutions Act of 2006, initiated a process for the California Air Resources Board (ARB) to develop and adopt a Scoping Plan, regulations and programs to reduce statewide greenhouse gas (GHG) emissions to 1990 levels by 2020. ARB adopted the Scoping Plan, numerous regulations and programs to meet the requirements of AB 32. Many of the ARB regulations and programs to reduce GHG emissions affect stationary sources regulated by the air districts throughout California. The air districts, through the California Air Pollution Control Officers Association (CAPCOA), worked with ARB to identify ways to assist ARB and to avoid conflicts given that both ARB and the air districts are now regulating stationary sources, albeit for different air pollutants. A *Letter of Understanding* is the result of that work.

DISCUSSION

In January 2013, CAPCOA and ARB signed a *Letter of Understanding for Coordination and Collaboration between ARB and CAPCOA on Climate Change*. This *Letter of Understanding* recognizes that improved coordination and collaboration between the air districts and ARB will strengthen the climate program while maximizing the benefits in terms of air quality and public health. The *Letter of Understanding* acknowledges areas where air districts are already playing a leadership role on climate related activities, including but not limited to:

- Development of protocols for carbon offsets
- Mandatory reporting of GHG emissions
- Regulation implementation
- CEQA assistance to cities and counties

The *Letter of Understanding* also identifies key additional opportunities for collaboration including:

- Cap and Trade compliance offsets
- AB 32 Scoping Plan update
- Adaptive management
- Program implementation assessments
- Data management coordination

The *Letter of Understanding* is a good step forward. Progress on the coordination and collaboration outlined in the *Letter of Understanding* will be assessed during periodic meetings between the CAPCOA Board of Directors and ARB management.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jean Roggenkamp
Reviewed by: Jack P. Broadbent

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Avalos and Members
of the Climate Protection Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 28, 2013

Re: California Air Pollution Control Officers Association (CAPCOA) Greenhouse Gas
Reduction Exchange

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In early 2012, Air District staff began participating in discussions with other air districts on the development of an exchange, coordinated by the California Air Pollution Control Officers Association (CAPCOA), to match buyers and sellers of greenhouse gas (GHG) reduction credits. The primary intent of the CAPCOA GHG Reduction Exchange (Rx) is to promote and stimulate the development of GHG offsite mitigation projects in the Bay Area and California.

DISCUSSION

In 2010, the State of California updated the State CEQA Guidelines to address analysis of GHG emissions in environmental review of land use projects. In the same year, the Air District updated its own CEQA Guidelines to provide further clarification and guidance on how to assess and mitigate the impacts of GHG emissions in land use projects in the Bay Area. As a result, project developers and lead agencies have been including analysis of GHG emissions impacts in environmental review documents. In some cases, project developers and lead agencies have sought to reduce potentially significant GHG emissions impacts from projects through off-site mitigation. However, no framework currently exists for facilitating localized offsite GHG mitigation projects.

Air District staff has been working closely with staff from other air districts to develop the CAPCOA GHG Rx, which will provide opportunities for investment in local (Bay Area and California) GHG reduction projects for lead agencies and/or project developers seeking off-site mitigation. To date, development of the CAPCOA GHG Rx has included development of a software platform, criteria for project protocol development, a credit tracking system, administrative guidelines, and other materials to support participation in the program.

Staff will brief the Committee on the status and development of the CAPCOA GHG Reduction Exchange.

BUDGET CONSIDERATION/ FINANCIAL IMPACT

None. Staff resources are currently included in the Fiscal Year End 2013 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Abby Young
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 6, 2013

Re: Report of the Stationary Source Committee Meeting of March 18, 2013

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Committee will meet on Monday, March 18, 2013. The Committee will receive the following reports:

- A) Update on Work Plan for Action Items Related to Accidental Releases from Industrial Facilities; and
- B) Proposed Regulation 12, Rule 13: Foundry and Forging Operations and Regulation 6, Rule 4: Metal Recycling and Shredding Operations.

Attached are the staff reports that will be presented in the Committee packet.

Chairperson John Gioia will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None.
- B) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Ana Sandoval

Attachments

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 6, 2013

Re: Status Report on Implementation of Work Plan for Action Items Related to
Accidental Releases from Industrial Facilities

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On August 6, 2012, a substantial fire resulted from a hydrocarbon leak at the Crude Unit #4 at the Chevron Richmond Refinery. The fire resulted in a large plume of black smoke at the Crude Unit and continuous visible emissions from a nearby flare. The Contra Costa County Health Department issued a community warning and ordered a shelter-in-place that lasted for approximately five hours in Richmond, San Pablo and North Richmond.

At the September 10, 2012 Special Meeting of the Board of Directors, Air District staff provided a summary of the Air District's response to the August 6, 2012 Chevron Richmond Refinery incident. Staff from Contra Costa County and the U.S. Chemical Safety Board also provided summaries of their agency's response to the incident.

At the October 17, 2012 meeting of the Board of Directors, the Board approved staff's *Work Plan for Action Items Related to Accidental Releases from Industrial Facilities* (Work Plan) that included seven key actions:

1. **Investigation.** Continue the investigation of the Chevron Richmond Refinery incident, in coordination with other agencies involved, into violations of applicable air quality requirements in order to take appropriate enforcement action;
2. **Procedures.** Review and update the Air District's incident response procedures;
3. **Air Quality Monitoring.** Evaluate enhancements to the Air District's air quality monitoring capabilities, including convening experts to provide input on monitoring options;
4. **Rule Development.** Expedite development of a rule that would track air emissions at refineries over time, require preparation of emission reduction plans for emission

increases above trigger levels, and require additional community air monitoring at refineries;

5. **Community Outreach.** Evaluate enhancements to community outreach during and after incidents to provide additional services to the public;
6. **Legislation.** Sponsor legislation that would provide the Air District with the authority to collect more substantial penalties that would provide industry with additional incentives to take proactive measures to avoid accidental releases; and
7. **Resource Needs.** Evaluate the Air District's needed incident response resources, and develop amendments to the Air District's fee regulation to recover the costs of these resources.

At the December 5, 2012 Special Board of Directors meeting, staff provided an update on implementation of the Work Plan.

DISCUSSION

At the March 18 Stationary Source Committee meeting, Air District staff will provide the Committee with an update on implementation of the Work Plan.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Air District staff is developing amendments to Regulation 3: Fees to recover costs associated with the Work Plan.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 28, 2013

Re: Proposed Regulation 12, Rule 13: Foundry and Forging Operations and Proposed
Regulation 6, Rule 4: Metal Recycling and Shredding Operations

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Control Measure SSM-1 in the 2010 Clean Air Plan considered reductions in fine particulate matter (PM), toxic compounds and odor emissions from metal melting facilities. There are about 20 metal production facilities in the Bay Area that either melt or cast metals (foundries) or heat treat metals (forges). These facilities are sources of emissions of PM (including metals identified as toxic air contaminants) and odorous substances. During the investigation of metal melting facilities, it was determined that there are also three large-scale metal recycling facilities in the Bay Area that are also sources of emissions of PM. While process emissions of both PM and odorous substances are highly regulated and significantly reduced, fugitive emissions of these pollutants remain a significant fraction of the total emissions from these facilities.

Staff has developed two regulatory proposals to address fugitive emissions from metal production and metal recycling facilities: Regulation 12, Rule 13: Foundry and Forging Operations; and Regulation 6, Rule 4: Metal Recycling and Shredding Operations. A public hearing on these proposed rules is scheduled for April 17, 2013.

DISCUSSION

The proposed rules would require these facilities to develop emissions minimization plans that would detail how each facility would reduce fugitive emissions of PM and odorous substances. The plans would focus on operations and activities at the facilities that are the sources of these pollutants. Once drafted, the plans would be released for public review and comment, staff recommendations, and APCO approval; and in the future, periodically updated.

Adoption of these two proposed new rules would reduce fugitive emissions of PM from foundries, forges, and metal recycling including shredding operations; and also reduce emissions of odorous substances from foundry operations. The proposed rules are crafted to promote continuous improvement through periodic updates of the plans and through technology sharing

inherent in the public comment period and Air District staff review and approval of the plans. These proposals avoid duplication of existing rules and standards by focusing on fugitive emissions that are not fully regulated or controlled.

At your committee meeting, staff will provide information on:

- Background on metal production and recycling operations in the Bay Area;
- Overview of the current regulatory proposals;
- Rulemaking process and brief summary of public comments on the proposal; and
- Next steps in the regulatory process.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Victor Douglas
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ash Kalra and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 1, 2013

Re: Overview of the 2012/2013 Wood Smoke Reduction Program

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Fine particulate matter (PM_{2.5}) is the most significant air pollutant in the Bay Area, especially during the winter months, according to the Air District's 2010 Clean Air Plan. The Air District records the highest levels of PM_{2.5} November through February. In the winter, more than 30% of PM_{2.5} air pollution is attributed to wood burning from the estimated 1.4 million fireplaces and other wood-burning devices in the Bay Area.

On July 9, 2008 the Board of Directors adopted Regulation 6-3: Wood-burning Devices to protect Bay Area residents from the public health impacts of wood smoke pollution. The rule bans wood burning during *Winter Spare the Air Alerts*, limits excess visible smoke, prohibits burning garbage, restricts the sale and installation of non-EPA certified wood burning devices, and requires labeling on firewood and solid fuels sold within the Air District. The *Winter Spare the Air* season ran from November 1, 2012 through February 28, 2013.

DISCUSSION

The Air District's air monitoring data show concentrations of PM_{2.5} have decreased over time. Staff believe there is strong evidence that implementation of the wood burning rule is playing a major role. Staff will present these findings, including how enforcement actions and public outreach contribute to the public's understanding of how reducing wood smoke positively affects their health.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Eric Stevenson
Reviewed by: Lisa Fasano/Barbara Coler