



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## BOARD OF DIRECTORS REGULAR MEETING

April 16, 2014

A meeting of the Bay Area Air Quality Management District Board of Directors will be held at 9:45 a.m. in the 7<sup>th</sup> 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  
APRIL 16, 2014  
9:45 A.M.

BOARD ROOM  
7TH FLOOR

## CALL TO ORDER

Chairperson, Nate Miley

1. **Opening Comments**  
**Roll Call**  
**Pledge of Allegiance**

*The Chair shall call the meeting to order and make opening comments. The Clerk of the Boards shall take roll of the Board members. The Chair shall lead the Pledge of Allegiance.*

## PUBLIC COMMENT ON NON-AGENDA MATTERS

2. **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.*

## PROCLAMATION/AWARD

3. *The Board of Directors will recognize Ann Flemer, Deputy Director of the Metropolitan Transportation Commission, on the occasion of her retirement after 32 years of service and for her commitment to improving Air Quality in the Bay Area.*

## CONSENT CALENDAR (ITEMS 4 – 8)

Staff/Phone (415) 749-

4. Minutes of the Directors Regular Meeting of April 2, 2014

Clerk of the Boards/5073

*The Board of Directors will consider approving the draft minutes of the Board of Directors Regular Meeting of April 2, 2014.*

5. Board Communications Received from April 2, 2014 through April 15, 2014

J. Broadbent/5052

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*A copy of communications directed to the Board of Directors received by the Air District from April 2, 2014 through April 15, 2014, if any, will be at each Board Member's place.*

6. Air District Personnel on Out-of-State Business Travel J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*In accordance with Section 5.4 (b) of the Air District's Administrative Code, Fiscal Policies and Procedures Section, the Board is notified of Air District personnel, if any, who have traveled on business out-of-state in the preceding month.*

7. Notice of Violations Issued and Settlements in Excess of \$10,000 in March 2014 B. Bunger/4797  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@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 March 2014.*

8. Notice of Proposed Amendments to the Air District's Administrative Code, Division III: Personnel Policies and Procedures, Section 2 Equal Employment Opportunity Plan, Section 2.3 Discrimination Complaint Procedure J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*At its next meeting, the Board of Directors will consider proposed amendments to the District's Administrative Code, Division III: Personnel Policies and Procedures, Section 2 Equal Employment Opportunity Policy, Section 2.3 Discrimination Complaint Procedure.*

## **COMMITTEE REPORT**

9. Report of the **Legislative Committee** Meeting of April 3, 2014 J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)  
**CHAIR: T. Bates**

*The Committee recommends that the Board of Directors' approve the following items as indicated below:*

**A) Consideration of New Bills. The following positions on the following bills:**

- 1) AB 1696 Wieckowski: Support if amended;
- 2) AB 1907 Ridley-Thomas: Support;
- 3) AB 2027 Logue: Oppose;
- 4) AB 2050 Quirk: Support and seek amendments;
- 5) AB 2202 Logue: Oppose unless amended;
- 6) SB 1125 Pavley: Support;
- 7) SB 1204 Lara: Support if amended;
- 8) SB 1371 Leno: Support; and

9) SB 1415 Hill: Support.

**B) Update on 2013 Bills. The following positions on the following bills:**

1) SB 792 DeSaulnier: Oppose unless amended; and

2) AB 1330 Perez: Oppose unless amended.

**PUBLIC HEARING**

10. Public Hearing to Receive Testimony on Proposed Amendments to Air District Regulation 3: Fees

J. Broadbent/5052

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Board of Directors will receive testimony on proposed amendments to Air District Regulation 3: Fees. The final public hearing and consideration of adoption of the proposed amendments is set for June 4, 2014.*

**PRESENTATION**

11. Community Air Risk Evaluation (CARE) Program Summary Report

J. Broadbent/5052

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Air District staff will brief the Board of Directors on the CARE Program Summary Report, which documents findings and accomplishments of the CARE Program since its launch in 2004.*

**CLOSED SESSION**

12. **EXISTING LITIGATION (Government Code Section 54956.9(a))**

*Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with legal counsel to consider the following case(s):*

**Communities for a Better Environment, et al. v. Bay Area AQMD, et al.,** San Francisco County Superior Court, Case No. CPF-14-513557.

**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

*The Executive Officer/APCO will provide the Board of Directors a report of recent and upcoming activities.*

14. Chairperson's Report

*The Chair will provide the Board of Directors a report of recent and upcoming activities.*

15. Time and Place of Next Meeting: *Wednesday, May 7, 2014, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.*

16. Adjournment

*The Board meeting shall be adjourned by the Board Chair.*

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

**(415) 749-5073  
FAX: (415) 928-8560  
BAAQMD homepage:  
[www.baaqmd.gov](http://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) 749-5016 or (415) 749-4941**

**EXECUTIVE OFFICE:  
 MONTHLY CALENDAR OF AIR DISTRICT MEETINGS**

**APRIL 2014**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room
<b>Ad Hoc Building Committee</b> <i>(At the Call of the Chair)</i>	Wednesday	16	Immediately following the Regular Board meeting	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Executive Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month) - CANCELLED</i>	Monday	21	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets Quarterly At the Call of the Chair)</i>	Monday	21	9:30 a.m.	Board Room
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets on the 4<sup>th</sup> Wednesday of each Month)</i>	Wednesday	23	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
				<b><u>VIDEOCONFERENCE LOCATION:</u></b>  Santa Rosa Junior College Doyle Room 4243 1501 Mendocino Avenue Santa Rosa, CA 95401
<b>Board of Directors Mobile Source Committee</b> <i>(Meets on the 4<sup>th</sup> Thursday of each Month)</i>	Thursday	24	9:30 a.m.	Board Room

## MAY 2014

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	7	9:45 a.m.	Board Room
<b>Advisory Council Regular Meeting</b> <i>(Meets on the 2<sup>nd</sup> Wednesday of each Month)</i>	Wednesday	14	9:00 a.m.	Board Room
<b>Board of Directors Climate Protection Committee</b> <i>(Meets 3<sup>rd</sup> Thursday of every other month)</i>	Thursday	15	9:30 a.m.	Board Room
<b>Board of Directors Executive Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i>	Monday	19	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets Quarterly at the Call of the Chair)</i>	Monday	19	10:30 a.m.	Board Room
<b>Special Board of Directors Meeting -Budget Hearing</b> <i>(At the Call of the Chair)</i>	Wednesday	21	9:45 a.m.	Board Room
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	21	9:45 a.m.	Board Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets on the 4<sup>th</sup> Thursday of each Month)</i>	Thursday	22	9:30 a.m.	Board Room
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets on the 4<sup>th</sup> Wednesday of each Month)</i>	Wednesday	28	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

## JUNE 2014

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	4	9:45 a.m.	Board Room
<b>Advisory Council Regular Meeting</b> <i>(Meets on the 2<sup>nd</sup> Wednesday of each Month)</i>	Wednesday	11	9:00 a.m.	Board Room
<b>Board of Directors Executive Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i>	Monday	16	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets Quarterly at the Call of the Chair)</i>	Monday	16	10:30 a.m.	Board Room
<b>Board of Directors Regular Meeting</b> <i>(Meets on the 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	18	9:45 a.m.	Board Room
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets on the 4<sup>th</sup> Wednesday of each Month)</i>	Wednesday	25	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> <i>(Meets on the 4<sup>th</sup> Thursday of each Month)</i>	Thursday	26	9:30 a.m.	Board Room



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Nate Miley and Members  
of the Board of Directors

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

Date: April 3, 2014

Re: Minutes of the Board of Directors Regular Meeting of April 2, 2014

RECOMMENDED ACTION

Approve the attached draft minutes of the Board of Directors Regular Meeting of April 2, 2014.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Regular Meeting of April 2, 2014.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Sean Gallagher  
Reviewed by: Rex Sanders

Attachments

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

Board of Directors Regular Meeting  
Wednesday, April 2, 2014

## **DRAFT MINUTES**

**CALL TO ORDER:** Chairperson Nate Miley called the meeting to order at 10:05 a.m.

**1. OPENING COMMENTS:** None.

**2. ROLL CALL:**

Present: Chairperson Nate Miley; Vice-Chairperson Carole Groom; and Directors Susan Adams, John Avalos, Teresa Barrett, Tom Bates, Cindy Chavez, John Gioia, Scott Haggerty, David Hudson, Ash Kalra, Roger Kim (on behalf of Edwin Lee), Carol L. Klatt, Liz Kniss, Jan Pepper, Mary Piepho, Mark Ross, Jim Spering and Brad Wagenknecht.

Absent: Secretary Eric Mar; and Directors Tim Sbranti (resigned) and Shirlee Zane.

**PLEDGE OF ALLEGIANCE:** Chairperson Miley led the Pledge of Allegiance.

**3. PUBLIC COMMENT ON NON-AGENDA MATTERS:**

There were no requests for public comment.

### **CONSENT CALENDAR (ITEMS 4 – 6)**

- 4. Minutes of the Board of Directors (Board) Regular Meeting of March 19, 2014;**
- 5. Board Communications Received from March 19, 2014 through April 1, 2014; and**
- 6. Authorization to Approve Changes to Website Projects.**

Board Comments: None.

Public Comments: There were no requests for public comment.

### **Board Action:**

Director Hudson made a motion to approve Consent Calendar Items 4 through 6, inclusive; Director Wagenknecht seconded; and the motion carried by the following vote of the Board:

**AYES:** Adams, Avalos, Barrett, Bates, Chavez, Gioia, Groom, Haggerty, Hudson, Kalra, Kim, Klatt, Kniss, Miley, Pepper, Ross, Spering and Wagenknecht.

NOES: None.

ABSTAIN: None.

ABSENT: Mar, Piepho, Sbranti and Zane.

**CLOSED SESSION**

The Board adjourned to Closed Session at 10:08 a.m.

**7. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
(Government Code Section 54956.9(d)(2)) (Agenda Item # 11 taken out of order)**

Pursuant to Government Code Section 54956.9(d)(2), the Board met in closed session to discuss with legal counsel the significant exposure to litigation in one potential case.

**8. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8) (Agenda Item # 12 taken out of order)**

Pursuant to Government Code Section 54956.8, the Board met in closed session to confer with real property negotiators to discuss the disposition and leaseback of real property as follows:

Property: 939 Ellis Street, San Francisco, CA

Air District Negotiators: Jack P. Broadbent, Executive Officer/Air Pollution Control Officer (APCO)  
Jeffrey McKay, Deputy APCO (DAPCO)  
Tom Christian, Cassidy Turley  
Ric Russell, Cassidy Turley

Negotiating Parties: Columbia Pacific Real Estate Fund I, L.P.

Under Negotiation: Price and Terms

**OPEN SESSION**

The Board resumed Open Session at 10:22 a.m. with no reportable action.

**COMMITTEE REPORTS AND RECOMMENDATIONS**

**9. Report of the Climate Protection Committee (CPC) Meeting of March 20, 2014 (Agenda Item # 7)  
Committee Chairperson Avalos**

Director Avalos introduced the topic and Jean Roggenkamp, DAPCO, who introduced the topic further and Henry Hilken, Director of Planning, Rules and Research, who gave the staff presentation *10-Point Climate Action Work Program* (Work Program) through slide 9, *Revisions to Work Program*, including background, summaries of and revisions to the Work Program, outreach meetings,

stakeholders, and outreach results. Mr. Broadbent gave the staff presentation at slide 10, *Estimated Resource Needs*. Mr. Hilken concluded the staff presentation, including next steps and recommendation.

Board Comments:

The Board and staff discussed the Work Program, including the level of local government attendance at public workshops; estimated resource needs; proposed fee increases in support; Air District regulatory authority relative to greenhouse gases (GHG); the history of GHG fees in the Bay Area; when and as what agenda item the Board will consider approval of the four staff positions requested in support; the importance of the work completed, continued public outreach and of deliverables as a result; whether the work will integrate with related work or create more for local government staffs; the importance of focusing on Bay Area targets and of including reforestation, carbon sequestration, and black carbon reductions; the climate science foundation for the established targets; the lack of a national policy on this and related topics, unlike other countries of the world; and the importance of working towards scientifically established, not politics-driven, targets.

Director Pepper asked that directors be notified of future workshops held in their home counties.

Director Avalos gave the Chair Report as follows:

The CPC met on Thursday, March 20, 2014, and approved the minutes of December 9, 2013.

The CPC received the staff presentation *10-Point Climate Action Work Program*, including background, summaries of outreach and its results, revisions to the Work Program, estimated Air District resource needs, next steps and recommendations. Based on this discussion, the CPC recommends that the Board adopt the Work Program, dated March 13, 2014, as attached to the staff report and amended as follows:

- Page 1, opening paragraph: insert “2014 and” immediately before “2015”;
- Page 1, #2. Update GHG Inventory and Forecasting: replace “2035” with “a mid-term year” and replace “2014 Clean Air Plan” with “2015 Clean Air Plan”; and
- Page 2, #6. Initiate Rule Development, bullet 1: Replace with “Integrate GHG emissions reduction into the Air District’s permitting program to facilitate GHG reductions consistent with California’s cap and trade program and other federal and state provisions.”

The final proposed Work Program, reflecting the CPC’s recommended revisions, is included as Attachment 1 to this report in the Board agenda packet.

The CPC then received an informational staff presentation, *California Cap and Trade Program Revenue Allocation Overview*, including background; reviews of the State’s investment plan, impacted communities, proposed State budget, impacts on Bay Area; as well as challenges and next steps.

The CPC also received the staff presentation *Assembly Bill (AB) 32 Scoping Plan Update*, which provided an overview of the Air Resources Board's current efforts to update the AB 32 Scoping Plan and how this update may inform Air District climate protection activities.

The next meeting of the CPC is Thursday, May 15, 2014, at 9:30 a.m.

Board Action:

Director Avalos made a motion, seconded by Director Adams, to approve the recommendations of the CPC.

Public Comments:

Jeff Dorian, 350 Bay Area, addressed the Board in support of the adoption of the Work Program.

Patti Weisselberg, Families for Clean Air (FCA), addressed the Board in support of the adoption of the Work Program.

Aaron Reaven, 350 Bay Area, addressed the Board in support of the adoption of the Work Program.

Jed Holtzman, 350 Bay Area, addressed the Board in support of the adoption of the Work Program.

Jess Dervin-Ackerman, Sierra Club, addressed the Board in support of the adoption of the Work Program.

Board Action (continued):

The motion carried by the following vote of the Board:

AYES: Adams, Avalos, Barrett, Bates, Chavez, Gioia, Groom, Haggerty, Hudson, Kalra, Kim, Klatt, Kniss, Miley, Pepper, Ross, Spering and Wagenknecht.

NOES: None.

ABSTAIN: None.

ABSENT: Mar, Piepho, Sbranti and Zane.

**10. Report of the Personnel Committee (PC) Meeting of March 24, 2014 (Agenda Item # 8)**  
Committee Chairperson Wagenknecht

The PC met on Monday, March 24, 2014, and approved the minutes of January 13, 2014.

The PC received the staff presentation *Strategic Staffing Plan Update*, including a background on current staffing levels, strategic staffing principles, staffing considerations, vacancies being filled in fiscal year ending (FYE) 2015, climate program staffing, staffing levels in FYE 2015, and next steps. The PC then received the Advisory Council (Council) Interview summary material for the vacant agriculture category seat, conducted interviews of applicants, and recommends Board approval of the

appointment of Frank Imhof to the Air District's Council for a term expiring December 31, 2014. The PC also recommends Board approval of incumbent reappointments of Hearing Board (HB) Members Terry A. Trumbull and Julio A. Magalhães to the regular public member positions and HB Alternate Members Michael F. McGowan and Barbara Toole O'Neil to the alternate public member positions for three-year terms.

The PC then heard and denied an appeal of the Executive Officer/APCO decision on a complaint of alleged violation of the Air District's Equal Employment Opportunity Policy by a finding that the allegations in the complaint lacked merit.

The next meeting of the PC is at the call of the Chair.

Board Action:

Director Wagenknecht made a motion to approve the recommendations of the PC.

Mr. Broadbent gave the staff presentation, *Strategic Staffing Plan Update*, including a background on current staffing levels, strategic staffing principles, staffing considerations, vacancies being filled in FYE 2015, climate program staffing, staffing levels in FYE 2015, and next steps.

Board Action (continued):

Director Hudson seconded the motion to approve the recommendations of the PC.

Board Comments:

The Board and staff discussed the proposed staffing levels in FYE 2015 as compared to historic levels and how service levels have been maintained with a significantly reduced staff; the importance of maintaining the pace of permit processing; hiring and Air District goal setting that reflects the public being served; public feedback regarding Air District processes and responsiveness; and the importance of maintaining a timely enforcement cycle.

Public Comments: There were no requests for public comment.

Board Action (continued):

The motion carried by the following vote of the Board:

AYES: Adams, Avalos, Barrett, Bates, Chavez, Gioia, Groom, Haggerty, Hudson, Kalra, Kim, Klatt, Kniss, Miley, Pepper, Ross, Spering and Wagenknecht.

NOES: None.

ABSTAIN: None.

ABSENT: Mar, Piepho, Sbranti and Zane.

**11. Report of the Budget and Finance Committee (BFC) Meeting of March 26, 2014 (Agenda Item # 9)**  
Committee Chairperson Groom

The BFC met on Wednesday, March 26, 2014, and approved the minutes of January 22, 2014.

The BFC received and discussed the staff presentation *Proposed Amendments to Regulation 3: Fees*, including an overview of revenue sources in the FYE 2013 Budget, an explanation of current cost recovery policy, trends in cost cutting, proposed changes to fee schedules, GHG fees, impacts on small businesses, a fee comparison with South Coast Air Quality Management District, public comments and the rule development schedule.

The BFC then received and discussed the staff presentation *Proposed Budget for FYE 2015*. The BFC reviewed revenue projections for FYE 2014; overviews of the proposed budget, general fund revenue sources, and general fund expenditures for FYE 2015; a status report on fees; trends in cost cutting from FYE 2010 through 2015; unfunded liabilities; personnel costs; strategic staffing plans; a comparison of retirement contributions and salaries; and a review of Air District reserve funds and designations. The proposed budget is balanced, without the use of reserves, includes the filling of nineteen vacant staff positions, and increases the Other Post-Employment Benefits contribution for the agency to \$3 million.

The next meeting of the BFC is Wednesday, April 23, 2014, at 9:30 a.m.

Board Comments: None.

Public Comments: There were no requests for public comment.

Board Action: None; receive and file.

**PRESENTATION**

**12. Overview of the 2013/2014 Wood Smoke Reduction Program (Agenda Item # 10)**

Mr. Broadbent introduced the topic and Eric Stevenson, Director of Technical Services, who gave the staff presentation *Overview of the 2013-2014 Winter Spare the Air Season* through slide 10, *Air Monitoring Network*, including fine particulate matter reduction benefits and seasons; meteorology and progress; highest air quality readings from November 2013 through February 2014; regional particulate matter movement and contributions; local lessons; and air monitoring network.

The Board and staff discussed, at slide 5, *Highest Air Quality Readings – November 2013 through February 2014*, the geographic distribution of exceedences.

Director Haggerty requested a map of the areas in exceedence.

Mr. Stevenson continued the presentation and introduced Wayne Kino, Director of Compliance and Enforcement, who gave the staff presentation through slide 13, *Enforcement Practices*, including wood smoke enforcement statistics as well as enforcement highlights and practices.

Mr. Kino introduced Lisa Fasano, Communications Officer, who gave the staff presentation through slide 18, *Results*, including outreach messaging, regional outreach, media coverage, and social media.

Mr. Stevenson concluded the staff presentation, including lessons learned and statewide issues.

Board Comments:

The Board and staff discussed the need to elevate this discussion to the national level, particularly in light of the promotion of wood-fueled fires on the East Coast in the aftermath of their particularly cold winter; whether staff has discussed with PG&E the viability of an extension of natural gas service to the San Geronimo Valley in Marin County; the commendable progress made relative to a difficult subject matter; the need for a more concerted public outreach effort, particularly during the off season; the state of technology enabling cleaner wood burning; the acceptable use of wood pellet-burning stoves; the need to develop additional solutions for those that are financially hard hit during long cold spells when Spare the Air Alerts are called; the ambient air quality in Beijing and Shanghai in comparison; the commendable connection being made between cigarette and wood smoke in outreach materials; the advantages and disadvantages of electric heating; the overall effectiveness of the campaign; the need for dialogue with PG&E about enhancing other sustainability-minded programs; the importance of polling the public on Air District outreach efforts and reporting the results to the Board; Air District enforcement practices; the details of how door-to-door outreach is conducted; whether options exist for physically covering unused fireplaces and an Air District program to incentivize their installation.

Director Bates requested a copy of the “missed you” slip that is left at residences that do not answer the door during door-to-door outreach.

Public Comments:

Tracey Gant, FCA, submitted a video for playback, addressed the Board to provide introductory remarks relative to the same, and then played the video in support of the Air District Wood Smoke Reduction Program.

Director Ross asked that a copy of the video be provided to all of the Board members via email.

Board Comments (continued):

The Board and staff discussed the existence of similar programs in other regions throughout the country.

Board Action: None; receive and file.

**13. PUBLIC COMMENT ON NON-AGENDA MATTERS (Agenda Item # 11):**

There were no requests for public comment.

**14. BOARD MEMBERS’ COMMENTS (Agenda Item # 12):**

The Board and staff discussed Director Sbranti’s continued presence on the Board.



**OTHER BUSINESS**

**15. Report of the Executive Officer/APCO:** None.

**16. Chairperson's Report:**

Chairperson Miley reported out those directors who have expressed an interest in attending the 2014 Annual Air & Waste Management Conference in Long Beach, California, and notified them that staff will be in touch regarding arrangements.

**17. Time and Place of Next Meeting:**

Wednesday, April 16, 2014, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

**18. Adjournment:** The Board meeting adjourned at 12:19 p.m.

Sean Gallagher  
Clerk of the Boards

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Nate Miley and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 3, 2014

Re: Board Communications Received from April 2, 2014 through April 15, 2014

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Copies of communications directed to the Board of Directors received by the Air District from April 2, 2014 through April 15, 2014, if any, will be at each Board Member's place at the April 16, 2014 Board meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Maricela Martinez  
Reviewed by: Rex Sanders

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chair Nate Miley and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 16, 2014

Re: Air District Personnel on Out-of-State Business Travel

RECOMMENDED ACTION:

None; receive and file.

BACKGROUND

In accordance with Section 5.4 (b) of the Air District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified of Air District personnel who have traveled on out-of-state business.

The report covers the out-of-state business travel for the month of March 2014. The monthly out-of-state business travel report is presented in the month following travel completion.

DISCUSSION

No out-of-state business travel activities occurred in the month of March 2014.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Stephanie Osaze  
Reviewed by: Jeff McKay

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Nate Miley and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 9, 2014

Re: Notice of Violations Issued and Settlements in Excess of \$10,000 in March 2014

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. Bungler

Attachments

**NOTICES OF VIOLATION ISSUED**

The following Notice(s) of Violation were issued in March 2014:

<b>Alameda</b>						
<b>Site Name</b>	<b>Site #</b>	<b>City</b>	<b>NOV #</b>	<b>Issuance Date</b>	<b>Regulation</b>	<b>Comments</b>
City of Alameda, Maint Serv Center	A3194	Alameda	A47548A	3/5/14	CCR95470 B3	Failure to submit Annual Rept.
City of Oakland , Envr Scvs Division	B4291	Oakland	A47549A	3/10/14	9-7-307	9-7-307.3 (2) 12.6 MMBTU/hr Boilers, NOx > 15 ppm
East Bay Municipal Utility District	A0591	Oakland	A47546A	3/17/14	2-6-307	Dev. #3792, P/O Cond. 18860, part 1
Turk Island Solid Waste Disposal Site	A3256	Union City	A53207A	3/3/14	CCR	Incomplete Annual Report for CCR Title 17 95470(b)(3)

<b>Contra Costa</b>						
<b>Site Name</b>	<b>Site #</b>	<b>City</b>	<b>NOV #</b>	<b>Issuance Date</b>	<b>Regulation</b>	<b>Comments</b>
Air Liquide Large Industries US LP	B7419	Rodeo	A52970A	3/4/14	2-6-307	Deviation 3787, CO emissions over P/C 23179 limits
Air Liquide Large Industries US LP	B7419	Rodeo	A53244A	3/18/14	2-6-307	Excess ID-06K08; CO > 10 ppm & 9.1 lbs/hr
Air Liquide Large Industries US LP	B7419	Rodeo	A53245A	3/18/14	2-6-307	Excess ID-06J01; Monitor used wrong calibration gas & indicated excess reported late
Air Liquide Large Industries US LP	B7419	Rodeo	A53245B	3/18/14	1-523.3	Excess ID-06J01; Monitor used wrong calibration gas & indicated excess reported late
Crow Canyon Country Club Estates	W4804	San Ramon	A53090A	3/10/14	5-301	Inadvertent illegal burning

AGENDA: 7

Oak View Memorial Park	A2320	Antioch	A53161A	3/13/14	2-1-307	S#2. Temperature fell below 1500 F
Phillips 66 Company - San Francisco Refinery	A0016	Rodeo	A52971A	3/25/14	8-8-302.6	S324 unable to be repaired within 7 days
Shell Martinez Refinery	A0011	Martinez	A52644A	3/13/14	8-5-306	Ruptured tank D#3705 E06M17
Shell Martinez Refinery	A0011	Martinez	A52644B	3/13/14	10	10-40CFR NSPS sub kb 60.112b Ruptured tank D#3705 E06M17
Shell Martinez Refinery	A0011	Martinez	A52646A	3/6/14	9-9-301	NOx excess at Cogen #1 linked E06N28
Shell Martinez Refinery	A0011	Martinez	A52647A	3/6/14	8-8-302.6	Late repair on leaking API PVV
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A47093A	3/13/14	8-18-301	Tag# 36864 DIB Sample Station 500 ppm open-ended line

<b>San Francisco</b>						
<b>Site Name</b>	<b>Site #</b>	<b>City</b>	<b>NOV #</b>	<b>Issuance Date</b>	<b>Regulation</b>	<b>Comments</b>
Four Seasons Hotel San Francisco	B5560	San Francisco	A47547A	3/4/14	9-7-307	Reg 9-7-307.3 (2) Cleaver Brooks Boilers, 16.3 mm >15ppm NOx

<b>San Mateo</b>						
<b>Site Name</b>	<b>Site #</b>	<b>City</b>	<b>NOV #</b>	<b>Issuance Date</b>	<b>Regulation</b>	<b>Comments</b>
Spirit HD Colma CA, LP	A5897	Colma	A52145A	3/12/14	CCR	CCR Title 17 95470(b)(3) Failure to submit annual report
Tedesco Oil Production	A5281	Half Moon Bay	A52299A	3/25/14	2-1-301	No A/C to replace tanks

<b>Santa Clara</b>						
<b>Site Name</b>	<b>Site #</b>	<b>City</b>	<b>NOV #</b>	<b>Issuance Date</b>	<b>Regulation</b>	<b>Comments</b>
Chevron Products Company	A0049	San Jose	A26687A	3/3/14	8-33-309.5	ST #14125 P/V >3000ppmv and not vapor leak free
Equilon Enterprises LLC-San Jose Terminal	A0064	San Jose	A26688A	3/20/14	8-5-322.1	Denied Breakdown RCA #06h50 & EV Docket #3643; Missing section of 2 seals
Equilon Enterprises LLC-San Jose Terminal	A0064	San Jose	A26688B	3/20/14	8-5-402.1	Denied Breakdown RCA #06h50 & EV Docket #3643; Missing section of 2 seals
Northrop Grumman Systems Corporation	B0861	Sunnyvale	A51094A	3/3/14	2-1-307	2 citations for 3 CEM excesses RCA ID 06L68, 06L69, 06L70
Northrop Grumman Systems Corporation	B0861	Sunnyvale	A51094B	3/3/14	1-522.7	2 citations for 3 CEM excesses RCA ID 06L68, 06L69, 06L70

<b>Sonoma</b>						
<b>Site Name</b>	<b>Site #</b>	<b>City</b>	<b>NOV #</b>	<b>Issuance Date</b>	<b>Regulation</b>	<b>Comments</b>
City of Santa Rosa Wastewater Treatment	A1403	Santa Rosa	A52521A	3/4/14	2-6-307	Failure to submit 10 day/30 day deviation report
Hunt And Behrens, Inc	A1889	Petaluma	A52522A	3/5/14	9-7-403	Failure to Demonstrate Initial Compliance-Emissions on a Boiler

**SETTLEMENTS FOR \$10,000 OR MORE REACHED**

There were 2 settlement(s) for \$10,000 or more completed in March 2014.

- 1) On March 5, 2014, the District reached a settlement with SFPP, L.P., Kinder Morgan Energy Partners, L.P. for \$68,000, regarding the allegations contained in the following 4 Notices of Violation:

<b>NOV #</b>	<b>Issuance Date</b>	<b>Occurrence Date</b>	<b>Regulation</b>	<b>Comments from Enforcement</b>
A52279A	10/1/12	3/29/12	8-5-320.3	Breakdown #06E53; 30-day report insufficient information
A52291A	5/10/13	12/27/08	2-6-426	2-6-426.2 annual compliance certifications not submitted
A52483A	11/14/12	8/15/12	8-5-304	8-5-304.4 06G41 - product on roof
A52484A	11/16/12	8/7/12	8-5-321.1	(06G30) hole in primary fab, graph 2nd seal
A52484B	11/16/12	8/7/12	8-5-322.5	(06G30) hole in primary fab, graph 2nd seal

- 2) On March 26, 2014, the District reached a settlement with Valero Refining Company for \$183,000, regarding the allegations contained in the following 7 Notices of Violation:

<b>NOV#</b>	<b>Issuance Date</b>	<b>Occurrence Date</b>	<b>Regulation</b>	<b>Comments from Enforcement</b>
A51434A	2/28/11	12/9/10	2-6-307	Main stack emission greater than 40.0 lbs/hr
A51450A	2/28/11	12/3/10	2-6-307	Failure to operate 4 of 5 ESPs per P/C 19466 pt5
A51828A	6/21/11	12/1/10	6-1-302	Opacity excess > ring 1 (excess 05X19)
A51829A	6/21/11	12/3/10	6-1-302	Opacity excess > Ring1 (excess #05X32)
A51830A	6/29/11	12/1/10	2-6-307	Failure to meet P/C #22949 part 12 (05X23&24)
A51831A	6/29/11	12/4/10	2-6-307	Failure to meet permit condition 22949 part 3
A51840A	8/17/11	12/9/10	2-6-307	H2S 3hr & 24hr limits exceeded (05X40 & 05X41)
A51840B	8/17/11	12/9/10	10	H2S 3hr & 24hr limits exceeded (05X40 & 05X41)



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

## Memorandum

To: Chairperson Nate Miley and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 6, 20143

Re: Notice of Proposed Amendments to the Air District's Administrative Code, Division  
III: Personnel Policies and Procedures, Section 2 Equal Employment Opportunity  
Plan, Section 2.3 Discrimination Complaint Procedure

**RECOMMENDED ACTION:**

This item constitutes notice that at its next meeting the Board of Directors will consider proposed amendments to the District's Administrative Code, Division III: Personnel Policies and Procedures, Section 2 Equal Employment Opportunity Policy, Section 2.3 Discrimination Complaint Procedure.

**BACKGROUND**

The Air District's Administrative Code contains an Equal Employment Opportunity Policy, which affirms the Board of Directors' commitment to provide "equal employment opportunities for all persons to be recruited, employed, placed, selected for training, trained, evaluated, promoted, demoted, laid off, terminated, compensated, assigned work and otherwise treated without regard to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age or sexual orientation." Among other things, the Administrative Code provides for the Air District to have an Equal Employment Opportunity Plan to implement the policy expressed in the Administrative Code. The Administrative Code charges the Executive Officer/Air Pollution Control Officer with overall responsibility to the Board for actions by staff to implement the Plan and the policy expressed in the Administrative Code.

The Administrative Code also provides procedures for lodging complaints regarding implementation of the policy and Plan. The complaint procedure involves a written complaint to the Equal Employment Opportunity Officer. If the Equal Employment Opportunity Officer determines that the complaint has merit, it is forwarded to the Executive Officer/Air Pollution Control Officer for appropriate action. If the decision of the Equal Employment Opportunity Officer is that the complaint does not have merit, that decision may be appealed to the Executive Officer/Air Pollution Control Officer for decision.

The Administrative Code presently provides that if a complainant is not satisfied with the decision of the Executive Officer/Air Pollution Control Officer, that decision can be appealed to the Personnel Committee of the Board of Directors. However, the Board of Directors has no direct role in the recruitment, employment, placement, selection for training, training, evaluation,

promotion, demotion, lay off, termination, compensation, assignment of work, or other treatment of Air District employees. As a result, there is no direct relief that can be provided to the appellants in such appeals.

For these reasons, staff is recommending that the Board of Directors approve amendments eliminating the appeal to the Personnel Committee, as well as correcting minor spelling errors in the current text of Section 2. Employees dissatisfied with the Executive Officer/Air Pollution Control Officer's decision still have other opportunities outside the Air District administrative process to raise such concerns. The amendments to the appeal process have been discussed with the leadership of the Bay Area Air Quality Management District Employee Association, who expressed no concern with the proposed changes.

### DISCUSSION

Administrative Code Section 14.1, Amendments Mechanism, requires the noticing of proposed amendments at a preceding meeting of the Board of Directors before adoption can take place.

The proposed amendments to the Administrative Code are attached for your review and consideration.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Brian C. Bunger  
Reviewed by: Rex Sanders

Attachment

## DIVISION III PERSONNEL POLICIES & PROCEDURES

### SECTION 2      **EQUAL EMPLOYMENT OPPORTUNITY POLICY** (Revised 10/5/11)

The Board of Directors of the Bay Area Air Quality Management District affirms its policy to provide equal employment opportunities for all persons to be recruited, employed, placed, selected for training, trained, evaluated, promoted, demoted, laid off, terminated, compensated, assigned work and otherwise treated without regard to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age or sexual orientation.

The District is committed to maintaining a meaningful Equal Employment Opportunity Plan. It is the ~~responsibility~~ responsibility of the Human Resources Office, under the direction of the Director of Administrative Services and under the general ~~direction~~ direction of the Executive Officer/Air Pollution Control Officer, to ensure the spirit and intent of the Equal Employment Opportunity Plan is carried out.

#### **2.1      OBJECTIVES. (Revised 10/5/11)**

- (a) The District will insure that each employee and applicant is afforded an equal opportunity in all aspects of the employment process without regard to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age or sexual orientation.
- (b) The District will analyze its work force and the population of the Bay Area.
- (c) The District will focus its equal opportunity efforts on ~~enhanced~~ enhanced outreach and training programs.
- (d) The District will establish and administer programs for employment, training and promotion of all employees without regard to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age or sexual orientation.
- (e) The District will be responsible for Equal Employment Opportunity Plan and designate an Equal Employment Opportunity Officer.
- (f) The District is committed to making a good faith effort to successfully achieve Equal Employment Opportunity.
- (g) Sexual harassment is contrary to basic standards of conduct between individuals and is prohibited by EEOC regulations. The District will therefore insure that the workplace is free from sexual harassment. Sexual harassment is defined in EEOC regulations, and includes, but is not limited to, the following: unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when such conduct is made explicitly or implicitly a term or condition of employment, is used as a basis for employment decisions, or has the purpose or effect of interfering with work performance or creating an otherwise offensive working environment.
- (h) The District will insure that no qualified person will be discriminated against on the basis of a disability. All qualified persons that can perform the essential functions of the job, with or without reasonable accommodation that does not create "undue hardship" for the District, shall be provided an equal opportunity for employment and promotion. All terms used in this section are defined in the regulations implementing the Federal Americans with Disabilities Act.

**2.2 RESPONSIBILITY FOR EQUAL EMPLOYMENT OPPORTUNITY. (Revised 10/5/11)**

- (a) The Air Pollution Control Officer of the District has the overall responsibility to the Board of Directors for actions by the staff in planning, coordinating, implementing, evaluating and reporting on all phases of the Equal Employment Opportunity Plan.
- (b) The responsibilities of the Equal Employment Opportunity Officer are listed in the Equal Employment Opportunity Plan.

**2.3 DISCRIMINATION COMPLAINT PROCEDURE (Revised 10/5/11; \_\_\_\_\_)**

Unlawful discrimination refers to discrimination based on race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age, or sexual orientation.

An employee or group of employees who believes an incident involving a violation of the District's equal employment opportunity policy has arisen, may submit the complaint (in writing) to the Equal Employment Opportunity Officer.

- STEP 1 The written complaint must be received by the Equal Employment Opportunity Officer within 30 days of the alleged discrimination and must specify the particulars of the alleged discrimination, including specific acts and/or statements. Although the specific act must have occurred within 30 days, supplementary or background information supporting the complaint may be included. If a complaint is received in an incomplete form, the Equal Employment Opportunity Officer will advise the complainant that help in its preparation can be arranged. A group of employees filing at the same time must allege acts of similar nature to be considered for class action.
- STEP 2 The Equal Employment Opportunity Officer will evaluate the complaint and, if necessary, conduct an investigation.
- STEP 3 Discrimination complaints found by the Equal Employment Opportunity Officer to be valid will be forwarded to the APCO for appropriate action. Complaints found by the Equal Employment Opportunity Officer to be invalid may be appealed to the APCO within ten (10) working days of the Equal Employment Opportunity Officer's decision. Any complaint decision forwarded or appealed to the APCO shall be acted upon within ten (10) working days of receipt. ~~If the employee is not satisfied with the action of the APCO, the employee may request the complaint be heard by the Personnel Committee of the Board of Directors. The employee will submit the complaint to the Personnel Committee within fifteen (15) working days of the action of the APCO.~~

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
Memorandum

To: Chairperson Nate Miley and Members  
of the Board of Directors

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

Date: April 3, 2014

Re: Report of the Legislative Committee Meeting of April 3, 2014

**RECOMMENDED ACTION**

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

A) Consideration of New Bills. The following positions on the following bills:

- 1) AB 1696 Wieckowski: Support if amended;
- 2) AB 1907 Ridley-Thomas: Support;
- 3) AB 2027 Logue: Oppose;
- 4) AB 2050 Quirk: Support and seek amendments;
- 5) AB 2202 Logue: Oppose unless amended;
- 6) SB 1125 Pavley: Support;
- 7) SB 1204 Lara: Support if amended;
- 8) SB 1371 Leno: Support; and
- 9) SB 1415 Hill: Support.

B) Update on 2013 Bills. The following positions on the following bills:

- 1) SB 792 DeSaulnier: Oppose unless amended; and
- 2) AB 1330 Perez: Oppose unless amended.

## BACKGROUND

The Committee met on Thursday, April 3, 2014 and considered the following reports:

- A) Consideration of New Bills; and
- B) Update on 2013 Bills.

Attached are the staff reports that were presented in the Committee packet.

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

## BUDGET CONSIDERATION/FINANCIAL IMPACTS

- A) No direct impacts, with the exception of Senate Bill (SB) 1415. SB 1415 would have minor direct cost savings to the district of \$5,000 to \$7,000 annually, and potentially larger indirect savings.
- B) As discussed in the analyses contained in the committee staff report and attached here, 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: Sean Gallagher  
Approved by: Rex Sanders

Attachments

AGENDA: 4

**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 24, 2014

Re: Consideration of New Bills

RECOMMENDED ACTION

The Committee will discuss new bills, and recommend the Board adopt positions on some of them.

DISCUSSION

The California Legislature responded to its February 24, 2014 deadline by introducing several thousand new bills. The bills with fiscal implications for the state have to clear their policy committees in their house of origin by May 2, 2014 while non-fiscal bills have an additional week. Thus, policy committee hearings in April feature full agendas. Staff have made a list of measures with air quality implications, which is attached (“BAAQMD Bill Discussion List). A smaller subset of this longer list with recommended positions for the Committee to consider are discussed below. Copies of each of the bills in the table below are attached.

One positive trend this year is that there are fewer measures proposed to end, weaken or delay air quality regulations. Also, the Governor has proposed to direct \$850 million of proceeds from cap-and-trade auction revenues into various programs, including clean transportation, sustainable communities, energy efficiency, clean energy, loan repayment, and more. Not surprisingly, there are a host of bills that have been introduced that also involve how to spend cap-and-trade revenues. However, it seems clear that cap-and-trade expenditures will be decided via the budget process, rather than in non-budget bills.

BILL AND AUTHOR	SUBJECT	STAFF RECOMMENDATION
AB 1696 Wieckowski	Adds parking spaces with charging stations to the list of advanced technology benefits to be added to state parking lots	Support if amended
AB 1907 Ridley-Thomas	Requires natural gas sold as a transportation fuel in CA to be measured in gasoline or diesel gallon equivalents	Support

AB 2027 Logue	Prohibits ARB from collecting emissions data from AB 32 sources twice	Oppose
AB 2050 Quirk	Authorizes ARB to establish, with Scoping Plan Advisory Panel, greenhouse gas reduction goals beyond 2020, and extending to 2050	Support and seek amendments
AB 2202 Logue	Exempts fuel marketers from ARB cap-and-trade regulations	Oppose unless amended
SB 1125 Pavley	Requires ARB to develop emission-reduction targets beyond 2020	Support
SB 1204 Lara	California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program	Support if amended
SB 1371 Leno	Requires the PUC to establish a Methane Leakage Abatement program	Support
SB 1415 Hill	Modernizes BAAQMD Advisory Council	Support

## ANALYSES

**AB 1696** is authored by Assemblymember Bob Wieckowski (D-Fremont), and is intended to increase electric vehicle charging infrastructure. The District has long supported and funded charging infrastructure, as this helps accomplish our goal of increasing electric vehicle acquisition and use. Existing law requires the state to develop and implement advanced technology vehicle parking incentive programs in state-owned public parking, including park-and-ride lots. This specifically includes “preferential spaces” and “fueling infrastructure” for clean vehicles, including electric and plug-in vehicles. As currently drafted, the bill would add “parking spaces with charging stations for plug-in hybrid and electric vehicles” to the existing statutory incentives. The author’s staff has indicated that this language is preliminary, and they are contemplating amendments, and have expressed interest in the perspective and support of the District.

Given our experience with charging infrastructure, we want to ensure that public chargers are able to be used by as many vehicles as possible. Additionally, one issue that has been discouraging jurisdictions from installing charging infrastructure recently, and certainly increasing costs, is the issue of whether the chargers are required to be compliance with the Americans with Disabilities Act (ADA). ADA compliance often means that a given parking space is not adequately sized for charger installation, and adjacent spaces must be sacrificed if a charger is to be installed. Air District staff recommends that the bill (which has amendments planned) is also amended to help address these two goals, and thus is recommending a “**Support if amended**” position.

**AB 1907** is authored by Assemblymember Sebastian Ridley-Thomas (D-Los Angeles), and is sponsored by the California Natural Gas Vehicle Coalition. It deals with how natural gas sold as a transportation fuel is to be measured. Natural gas is primarily methane, which at atmospheric temperature and pressure is a gas, instead of a liquid fuel. Currently, compressed



natural gas is dispensed in ‘gasoline gallon equivalents’ or GGE’s. One GGE contains the energy equivalent of a gallon of gasoline. The National Conference of Weights and Measures has proposed that natural gas be sold in units of kilograms instead. The District encourages purchase and use of natural gas vehicles for the air quality benefits these vehicles provide. One significant long-term economic advantage they offer is a lower price of fuel for every mile driven compared to either gasoline or diesel equivalent vehicles. But it is much harder for potential purchasers and current users to see their fuel price savings when the fuel is sold in units with which they are not familiar. This bill avoids this potential problem, helps encourage natural gas as a cleaner transportation fuel, and reduces instability in this emerging market. Air District staff is recommending a “**Support**” position.

**AB 2027** is authored by Assemblymember Dan Logue (R-Marysville). It makes changes in the reporting requirements that regulated sources face under the Air Resources Board’s (ARB) climate program established under AB 32. Regulated sources report emissions of greenhouse gases (GHG’s) annually under the mandatory reporting rule, and a small number of these also report quarterly under the Low Carbon Fuel Standard. These reporting requirements were the result of a regulatory process that involved extensive outreach to industry, and a concerted effort to make reporting emissions as easy as possible for those subject to the reporting requirements. Unfortunately, some regulated entities failed to report their emissions, despite several requests to do so from the ARB. They are now the subject of a pending ARB enforcement action. The effect of this bill would be to eliminate the enforcement case. But fundamentally, staff believes that both reporting requirements are needed, not duplicative, and that this bill sets a dangerous precedent of weakening the state’s primary law controlling greenhouse gas emissions. Air District staff recommends an “**Oppose**” position.

The appropriately-named **AB 2050**, authored by Assemblymember Bill Quirk (D-Hayward), addresses GHG reductions beyond 2020. Under AB 32, California is to cut GHG emissions to 1990 levels by 2020. There are not additional emission reduction targets explicitly given for later years. This bill would address that by creating a Scoping Plan Advisory Panel to provide advice to ARB on setting a target for additional reductions by 2050 and intermediate goals. At this point, California is projected to achieve the 2020 goal, assuming no major regulatory delays or weakening. Staff thinks the intention of this bill, to consider appropriate goals for later year reductions, is sound. That said, the structure for providing those goals seems unnecessarily complex. More significantly, waiting until the start of 2019 to propose those goals (which is how the current bill is crafted) does not leave enough time for regulated entities to react to them. Air District staff recommends a “**Support and seek amendments**” position, with amendments to simplify the goal-setting process and accelerate it by several years.

**AB 2202** is authored by Assemblymember Dan Logue (R-Marysville). It would exempt independent fuel marketers with less than \$10 billion in annual revenues from ARB’s cap-and-trade program established under AB 32. There are several justifications for the bill provided by the author and the California Independent Oil Marketers Association. They claim these companies will have substantial compliance costs, that they lack the financial means and sophistication to comply, and that the regulation will result in a lack of competition in the fuels marketplace. Fundamentally, staff believes that this bill undermines the regulatory requirements of AB 32. The independent fuel marketers had their opportunity when ARB was

drafting the regulation to make their case in an open, public process which had to consider economic consequences as to why they should be exempted. To exempt them at this late date would simply encourage other regulated entities to also seek legislative exemption. Then the costs are unfairly ratcheted up on the fewer number of entities who remain regulated, and the reductions lessen, and the program is jeopardized. Air District staff recommends an “**Oppose**” position.

**SB 1125** is authored by Senator Fran Pavley (D-Agoura Hills). Like AB 2050, it also would address GHG emissions beyond 2020. SB 1125 would have ARB, in an open public process, develop a report recommending reduction targets and a timetable beyond 2020. The reductions would be for both GHG’s and short-lived climate pollutants, and the report would be submitted to the Legislature and Governor at the start of 2016. Air District staff recommends a “**Support**” position.

**SB 1204** is authored by Senator Ricardo Lara (D-Bell Gardens). It is intended to cut emissions from heavy-duty diesel engines, particularly those used in goods movement and buses. The author is concerned that the low-income communities he represents near the Southern California ports and adjacent to the I-710 are subjected to high levels of diesel exhaust. The bill would create the California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program, funding development, demonstration, and deployment of zero and near-zero technologies. Funding would come from cap-and-trade revenues. The program would be administered by the ARB, in conjunction with the Energy Commission. No mention in the bill is made of local air districts, despite the critical role they play in administering similar existing funding programs. Air District staff recommends a “**Support if amended**” position. The amendments sought would increase the role of air districts, and ensure that funds are fairly distributed between different regions of the state subjected to high levels of diesel exhaust.

**SB 1371** is authored by Senator Mark Leno (D-San Francisco), and addresses methane leaks from utility pipelines. It is an extension of his Natural Gas Pipeline Safety Act of 2011. Recent studies with authors at Stanford University and Lawrence Berkeley Laboratories indicate that pipeline methane leakage is substantially greater than previously thought. Because of the potency of methane as a greenhouse gas, this has major implications for strategies to address climate change. It also has repercussions for public safety, as high concentrations of methane from leaking pipes can explode with deadly consequences, as in the San Bruno fire of 2010. The bill would have the Public Utilities Commission initiate and oversee a comprehensive new effort to find and fix pipeline leaks, for both safety and environmental reasons. The bill is supported by a coalition of labor and environmental organizations. Air District staff recommends a “**Support**” position.

**SB 1415** is authored by Senator Jerry Hill (D-San Mateo), who sat on the District’s Board of Directors and served as Chair. It modernizes the District’s Advisory Council. The statutory language establishing the Advisory Council and its makeup was written in 1955, and except for some minor revisions in 1975, has never been updated. Today, the District is required by federal and state law to address a far wider set of issues than it handled at its inception. SB 1415 addresses this issue in a number of ways. First, it allows experts in climate change and the health impacts of air pollution to serve on the Advisory Council. Second, it requires those

serving to have skills and expertise in air pollution, climate change, or the health impacts of air pollution. Under current law, it is only preferable that the members have air pollution skill and experience. Third, it eliminates the archaic categorical representation of members, which will allow the Board to select the best and most qualified applicants to serve. Fourth, it requires that the members chosen have a diversity of perspective, expertise, and background. Air District staff recommends a “**Support**” position.

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.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No direct impacts, with the exception of SB 1415. SB 1415 would have minor direct cost savings to the district of \$5,000 to \$7,000 annually, and potentially larger indirect savings.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Tom Addison  
Reviewed by: Jean Roggenkamp

Attachments: Assembly Bill 1696  
Assembly Bill 1907  
Assembly Bill 2027  
Assembly Bill 2050  
Assembly Bill 2202  
Assembly Bill 1125  
Assembly Bill 1204  
Assembly Bill 1371  
Assembly Bill 1415  
Bill List

**ASSEMBLY BILL**

**No. 1696**

---

---

**Introduced by Assembly Member Wieckowski**

February 13, 2014

---

---

An act to amend Section 25722.9 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1696, as introduced, Wieckowski. Energy: alternatively fueled vehicles: incentives.

Existing law requires the Department of General Services and Department of Transportation to develop and implement advanced technology vehicle parking incentive programs in specified parking facilities to provide incentives for the purchase and use of alternatively fueled vehicles in the state and lists exemplars of those incentives.

This bill would expressly list parking spaces with charging stations for plug-in hybrid and electric vehicles as an exemplar of the incentives.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 25722.9 of the Public Resources Code  
2 is amended to read:  
3 25722.9. (a) For purposes of this section, “alternatively fueled  
4 vehicles” means light-, medium-, and heavy-duty vehicles that  
5 reduce petroleum usage and related emissions by using advanced  
6 technologies and fuels, including, but not limited to, hybrid, plug-in  
7 hybrid, battery electric, natural gas, or fuel cell vehicles and

1 including those vehicles described in Section 5205.5 of the Vehicle  
2 Code.

3 (b) The Department of General Services and the Department of  
4 Transportation shall develop and implement advanced technology  
5 vehicle parking incentive programs, to the extent feasible, in public  
6 parking facilities of 50 spaces or more operated by the Department  
7 of General Services and park-and-ride lots owned and operated  
8 by the Department of Transportation to ~~incentivize~~ *provide*  
9 *incentives for* the purchase and use of alternatively fueled vehicles  
10 in the state. These programs shall provide meaningful, tangible  
11 benefits for drivers of alternatively fueled vehicles. These  
12 incentives may include *parking spaces with charging stations for*  
13 *plug-in hybrid and electric vehicles*, preferential spaces, reduced  
14 fees, and fueling infrastructure for alternatively fueled vehicles  
15 that use these parking facilities or park-and-ride lots.

**ASSEMBLY BILL**

**No. 1907**

---

---

**Introduced by Assembly Member Ridley-Thomas**

February 19, 2014

---

---

An act to amend Sections 13404 and 13470 of the Business and Professions Code, and to amend Section 8651.6 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1907, as introduced, Ridley-Thomas. Use fuel tax: natural gas: gallon equivalent.

Existing law regulates the sale, offer for sale, or advertisement for sale, at retail to the general public of petroleum products, including liquefied natural gas and compressed natural gas for use only as a motor vehicle fuel, as specified.

This bill would require compressed natural gas sold at retail to the public for use as a motor vehicle fuel to be sold in a gasoline gallon equivalent that is equal to 126.67 cubic feet of compressed natural gas, measured at the standard pressure and temperature, as specified, and would require liquefied natural gas to be sold in a diesel gallon equivalent that is equal to 6.06 pounds of liquefied natural gas. This bill would prohibit a person from selling at retail any compressed natural gas or liquid natural gas for use as motor fuel from any place of business in this state unless there is displayed and labeled on the dispensing apparatus in a conspicuous place "Gasoline gallon equivalent" or "Diesel gallon equivalent," respectively.

The Use Fuel Tax Law imposes an excise tax upon natural gas at the rate of \$0.07 for each 100 cubic feet, or 5.66 pounds, of compressed

natural gas used, measured at standard pressure and temperature, and at a rate of \$0.06 for each gallon of liquid natural gas used.

This bill would, on and after January 1, 2015, instead of using only a cubic foot measurement, impose an excise upon natural gas at the rate of \$0.0875 for each 126.67 cubic feet, or 5.66 pounds, of compressed natural gas used, measured at standard pressure and temperature, and instead of using a gallon measurement, at a rate of \$0.1017 for each 6.06 pounds of liquid natural gas used.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 13404 of the Business and Professions  
2 Code is amended to read:

3 13404. (a) The sale of compressed natural gas by persons  
4 who sell compressed natural gas at retail to the public for use only  
5 as a motor vehicle fuel, and who are exempted from public utility  
6 status by subdivision (f) of Section 216 of the Public Utilities Code,  
7 is a sale of a motor fuel for the purposes of this chapter.

8 (b) *Compressed natural gas sold at retail to the public for use*  
9 *as a motor vehicle fuel shall be sold in a gasoline gallon equivalent*  
10 *that shall be equal to 126.67 cubic feet, or 5.66 pounds, of*  
11 *compressed natural gas, measured at the standard pressure and*  
12 *temperature, described in Section 8615 of the Revenue and*  
13 *Taxation Code.*

14 (c) *Liquefied natural gas sold at retail to the public for use as*  
15 *a motor vehicle fuel shall be sold in a diesel gallon equivalent that*  
16 *shall be equal to 6.06 pounds of liquefied natural gas.*

17 SEC. 2. Section 13470 of the Business and Professions Code  
18 is amended to read:

19 13470. ~~No~~(a) A person shall *not* sell at retail to the general  
20 public, any motor fuel from any place of business in this state  
21 unless there is displayed on the dispensing apparatus in a  
22 conspicuous place at least one sign or price indicator showing the  
23 actual total price per gallon or liter of all motor fuel sold therefrom.  
24 The actual total price per gallon, or liter, shall include fuel taxes  
25 and all sales taxes.

26 (b) (1) *A person shall not sell at retail to the general public,*  
27 *any compressed natural gas for use as a motor fuel from any place*

1 *of business in this state unless there is displayed and labeled on*  
2 *the dispensing apparatus in a conspicuous place “Gasoline gallon*  
3 *equivalent.”*

4 *(2) A person shall not sell at retail to the general public, any*  
5 *liquefied natural gas for use as a motor fuel from any place of*  
6 *business in this state unless there is displayed and labeled on the*  
7 *dispensing apparatus in a conspicuous place “Diesel gallon*  
8 *equivalent.*

9 ~~When~~

10 *(c) When a discount for cash is offered from a dispenser*  
11 *computing only at the credit price, at least one sign or label shall*  
12 *be conspicuously displayed on the dispenser indicating that the*  
13 *dispenser is computing at the credit price and indicating the amount*  
14 *of the discount per gallon or liter in letters and numerals not less*  
15 *than one-half inch high.*

16 ~~¶~~

17 *(d) If motor fuel is sold by the liter, the word “liter” shall be*  
18 *conspicuously displayed on the side of the dispensing apparatus*  
19 *from which service can be made.*

20 SEC. 3. Section 8651.6 of the Revenue and Taxation Code is  
21 amended to read:

22 8651.6. *(a) (1) Notwithstanding the provisions of Sections*  
23 *8651 and 8651.5, on or after January 1, 1971, and before January*  
24 *1, 2015, the excise tax imposed upon natural gas shall be at the*  
25 *rate of seven cents (\$0.07) for each 100 cubic feet of compressed*  
26 *natural gas used, measured at standard pressure and temperature,*  
27 *and at a rate of six cents (\$0.06) for each gallon of liquid natural*  
28 *gas used.* ~~AH~~

29 *(2) Notwithstanding the provisions of Sections 8651 and 8651.5,*  
30 *on or after January 1, 2015, an excise tax imposed upon natural*  
31 *gas shall be imposed as follows:*

32 *(A) The rate of eight and seventy-five hundredths cents (\$0.0875)*  
33 *for each 126.67 cubic feet, or 5.66 pounds, of compressed natural*  
34 *gas used, measured at standard pressure and temperature.*

35 *(B) The rate of ten and seventeen hundredth cents (\$0.1017)*  
36 *for each 6.06 pounds of liquid natural gas used.*

37 *(b) (1) All references in this code to Section 8651 shall, with*  
38 *respect to the rate imposed upon natural gas on or after January 1,*  
39 *1971, also refer to this section.* ~~Neither~~



1     (2) (A) *Neither* the tax imposed by this section nor the tax  
2 imposed by Section 8651 shall apply to the use of compressed  
3 natural gas or liquid natural gas used in a vehicle during any period  
4 of time for which the owner or operator of the vehicle has paid the  
5 annual flat rate fuel tax as provided in Section 8651.7.  
6     (B) *To the extent that an owner or operator has provided written*  
7 *representation to a fuel seller that the owner or operator has*  
8 *prepaid the annual flat rate fuel tax as provided in Section 8651.7,*  
9 *the owner or operator shall be solely responsible for the taxes due*  
10 *under this part and the fuel seller shall not be liable for collecting*  
11 *and remitting those taxes.*

O

**ASSEMBLY BILL**

**No. 2027**

---

---

**Introduced by Assembly Member Logue**

February 20, 2014

---

---

An act to amend Sections 38530 and 38580 of the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

AB 2027, as introduced, Logue. California Global Warming Solutions Act of 2006: reporting and verification: violations.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program.

This bill would require the state board to utilize the greenhouse gas emissions data submitted in reports as part of the Low-Carbon Fuel Standard regulation in lieu of requiring the submission of the same greenhouse gas emissions data pursuant to the Mandatory Reporting of Greenhouse Gas Emissions regulation. The bill, commencing January 1, 2015, would prohibit the state board from requiring a regulated entity to report the same greenhouse gas emissions data in more than one program adopted pursuant to the act. The bill, commencing January 1, 2015, would require it not be a violation of any rule, regulation, order, emission limitation, emissions reduction measure, or other measure adopted by the state board if a regulated entity did not submit greenhouse gas emissions data pursuant to a rule, regulation, order, emission limitation, emissions reduction measure, or other measure if the state board already possessed that greenhouse gas emissions data pursuant

to another rule, regulation, order, emission limitation, emissions reduction measure, or other measure.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 38530 of the Health and Safety Code is  
2 amended to read:

3 38530. (a) On or before January 1, 2008, the state board shall  
4 adopt regulations to require the reporting and verification of  
5 statewide greenhouse gas emissions and to monitor and enforce  
6 compliance with this program.

7 (b) The regulations shall do all of the following:

8 (1) Require the monitoring and annual reporting of greenhouse  
9 gas emissions from greenhouse gas ~~emission~~ *emissions* sources  
10 beginning with the sources or categories of sources that contribute  
11 the most to statewide emissions.

12 (2) Account for greenhouse gas emissions from all electricity  
13 consumed in the state, including transmission and distribution line  
14 losses from electricity generated within the state or imported from  
15 outside the state. This requirement applies to all retail sellers of  
16 electricity, including load-serving entities as defined in subdivision  
17 (j) of Section 380 of the Public Utilities Code and local publicly  
18 owned electric utilities as defined in Section ~~9604~~ 224.3 of the  
19 Public Utilities Code.

20 (3) Where appropriate and to the maximum extent feasible,  
21 incorporate the standards and protocols developed by the *former*  
22 California Climate Action Registry, established pursuant to *the*  
23 *former* Chapter 6 (commencing with Section 42800) of Part 4 of  
24 Division 26. Entities that voluntarily participated in the California  
25 Climate Action Registry prior to December 31, 2006, and have  
26 developed a greenhouse gas ~~emission~~ *emissions* reporting ~~program~~,  
27 *program* shall not be required to significantly alter their reporting  
28 or verification program except as necessary to ensure that reporting  
29 is complete and verifiable for the purposes of compliance with this  
30 division as determined by the state board.

31 (4) Ensure rigorous and consistent accounting of emissions, and  
32 provide reporting tools and formats to ensure collection of  
33 necessary data.

1 (5) Ensure that greenhouse gas—~~emission~~ *emissions* sources  
2 maintain comprehensive records of all reported greenhouse gas  
3 emissions.

4 (c) The state board shall do ~~both~~ *all* of the following:

5 (1) Periodically review and update its emission reporting  
6 requirements, as necessary.

7 (2) Review existing and proposed international, federal, and  
8 state greenhouse gas—~~emission~~ *emissions* reporting programs and  
9 make reasonable efforts to promote consistency among the  
10 programs established pursuant to this part and other programs, and  
11 to streamline reporting requirements on greenhouse gas—~~emission~~  
12 *emissions* sources.

13 (3) *Utilize the greenhouse gas emissions data submitted in*  
14 *reports as part of the Low-Carbon Fuel Standard regulations*  
15 *(Subarticle 7 (commencing with Section 95480) of Article 4 of*  
16 *Subchapter 10 of Chapter 1 of Division 3 of Title 17 of the*  
17 *California Code of Regulations) in lieu of requiring the submission*  
18 *of the same greenhouse gas emissions data pursuant to the*  
19 *Mandatory Reporting of Greenhouse Gas Emissions regulation*  
20 *(Subarticle 1 (commencing with Section 95101) of Article 2 of*  
21 *Subchapter 10 of Chapter 1 of Division 3 of Title 17 of the*  
22 *California Code of Regulations).*

23 (d) *Commencing January 1, 2015, the state board shall not*  
24 *require a regulated entity to report greenhouse gas emissions data*  
25 *in more than one program adopted pursuant to this division.*

26 SEC. 2. Section 38580 of the Health and Safety Code is  
27 amended to read:

28 38580. (a) The state board shall monitor compliance with and  
29 enforce any rule, regulation, order, emission limitation, emissions  
30 reduction measure, or market-based compliance mechanism  
31 adopted by the state board pursuant to this division.

32 (b) (1) ~~Any~~ *A* violation of any rule, regulation, order, emission  
33 limitation, emissions reduction measure, or other measure adopted  
34 by the state board pursuant to this division may be enjoined  
35 pursuant to Section 41513, and the violation is subject to those  
36 penalties set forth in Article 3 (commencing with Section 42400)  
37 of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with  
38 Section 43025) of Part 5 of, Division 26.

39 (2) ~~Any~~ *A* violation of any rule, regulation, order, emission  
40 limitation, emissions reduction measure, or other measure adopted

1 by the state board pursuant to this division shall be deemed to  
2 result in an emission of an air contaminant for the purposes of the  
3 penalty provisions of Article 3 (commencing with Section 42400)  
4 of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with  
5 Section 43025) of Part 5 of, Division 26.

6 (3) The state board may develop a method to convert a violation  
7 of any rule, regulation, order, emission limitation, or other  
8 emissions reduction measure adopted by the state board pursuant  
9 to this division into the number of days in violation, where  
10 appropriate, for the purposes of the penalty provisions of Article  
11 3 (commencing with Section 42400) of Chapter 4 of Part 4 of, and  
12 Chapter 1.5 (commencing with Section 43025) of Part 5 of,  
13 Division 26.

14 (c) Section 42407 and subdivision (i) of Section 42410 shall  
15 not apply to this part.

16 (d) *Commencing January 1, 2015, it shall not be a violation of*  
17 *any rule, regulation, order, emission limitation, emissions*  
18 *reduction measure, or other measure adopted by the state board*  
19 *if a regulated entity did not submit greenhouse gas emissions data*  
20 *pursuant to a rule, regulation, order, emission limitation, emissions*  
21 *reduction measure, or other measure if the state board already*  
22 *possessed that greenhouse gas emissions data pursuant to another*  
23 *rule, regulation, order, emission limitation, emissions reduction*  
24 *measure, or other measure.*

**ASSEMBLY BILL**

**No. 2050**

---

---

**Introduced by Assembly Member Quirk**

February 20, 2014

---

---

An act to add and repeal Sections 38561.5 and 38561.7 to the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

AB 2050, as introduced, Quirk. California Global Warming Solutions Act of 2006: scoping plan: advisory panel.

The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to adopt a statewide greenhouse gas emissions limit, as defined, to be achieved by 2020, equivalent to the statewide greenhouse gas emissions levels in 1990. The act requires the state board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions. The act requires the scoping plan to be updated at least once every 5 years.

This bill, until January 1, 2020, would require the state board to include specified elements when updating the scoping plan. The bill would require the state board, on or before January 1, 2019, to submit a report to the appropriate committees of the Legislature on those specified elements of the updated scoping plan.

This bill, until January 1, 2020, would establish the Scoping Plan Advisory Panel, as specified. The bill would require the panel, on or before January 1, 2019, to submit a report to the appropriate committees

of the Legislature evaluating and reporting key findings and recommendations on the update of the scoping plan.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) California is responsible for less than 2 percent of the world’s  
4 global greenhouse gas emissions and, thus, cannot mitigate the  
5 effects of climate change with any meaningful solutions without  
6 the participation of key states and nations.

7 (b) It is in the best interest of the state to ensure that the goals  
8 to reduce greenhouse gas emissions are flexible and developed  
9 with the intent to produce adaptable policies and programs that  
10 other states and nations could reasonably adopt.

11 (c) Demonstrating effective climate change policy can increase  
12 the likelihood that other states and nations will follow California’s  
13 lead, which is necessary for the state to have a significant effect  
14 on the global climate change problem.

15 SEC. 2. Section 38561.5 is added to the Health and Safety  
16 Code, to read:

17 38561.5. (a) On or before January 1, 2019, for purposes of the  
18 update of the scoping plan pursuant to subdivision (h) of Section  
19 38561, the state board shall include, but not be limited to, all of  
20 the following:

21 (1) A proposal for further reducing greenhouse gas emissions  
22 by 2050, including intermediate goals.

23 (2) An evaluation of the emissions-reduction goals proposed  
24 pursuant to paragraph (1) based on what technologies can be scaled  
25 to the rest of the country and the world that ensure  
26 cost-effectiveness and maintain local and systemwide reliability.

27 (3) The establishment of consistent metrics to effectively  
28 quantify greenhouse gas emissions from technologies that are  
29 designed to reduce greenhouse gases and retrofits that increase  
30 overall efficiency for the purpose of reducing a carbon footprint.

31 (b) (1) On or before January 1, 2019, the state board shall  
32 submit to the appropriate committees of the Legislature the

1 elements of the update of the scoping plan included pursuant to  
2 subdivision (a).

3 (2) A report to be submitted pursuant to this paragraph shall  
4 be submitted in compliance with Section 9795 of the Government  
5 Code.

6 (c) This section shall remain in effect only until January 1, 2020,  
7 and as of that date is repealed, unless a later enacted statute, that  
8 is enacted before January 1, 2020, deletes or extends that date.

9 SEC. 3. Section 38561.7 is added to the Health and Safety  
10 Code, to read:

11 38561.7. (a) (1) The Scoping Plan Advisory Panel shall be  
12 appointed to advise the state board on the update of the scoping  
13 plan completed pursuant to Section 38561.5.

14 (2) The members of the panel shall be highly qualified and  
15 professionally active or engaged in the economic development of  
16 the technologies associated with the reduction and mitigation of  
17 greenhouse gas emissions and shall be appointed as follows:

18 (A) Five members shall be appointed by the Secretary for  
19 Environmental Protection, all of whom shall be qualified as \_\_\_\_.

20 (B) Two members shall be appointed by the Senate Committee  
21 on Rules, both of whom shall be qualified as \_\_\_\_.

22 (C) Two members shall be appointed by the Speaker of the  
23 Assembly, both of whom shall be qualified as \_\_\_\_.

24 (D) Members of the panel shall be appointed from a pool of  
25 nominees submitted to each appointing body by the President of  
26 the University of California. The pool shall include, at a minimum,  
27 three nominees for each discipline represented on the panel.

28 (3) (A) On or before January 1, 2019, the panel shall evaluate  
29 and report key findings and recommendations to the appropriate  
30 committees of the Legislature on the update of the scoping plan  
31 completed pursuant to Section 38561.5 and subdivision (h) of  
32 Section 38561, including, but not limited to, both of the following:

33 (i) Any continuation, modification, or suspension of any program  
34 reasoned to be appropriate.

35 (ii) An economic assessment that includes, but is not limited  
36 to, a marginal cost curve analysis of each program contained in  
37 the scoping plan to provide an assessment of cost-effectiveness.

38 (B) A report to be submitted pursuant to this paragraph shall be  
39 submitted in compliance with Section 9795 of the Government  
40 Code.



- 1 (4) The panel may utilize special consultants or establish ad hoc  
2 committees, which may include other scientists, to assist the panel  
3 in performing its functions.
- 4 (5) Any ad hoc committees or hearings conducted pursuant to  
5 paragraph (4) shall be held at the Sacramento headquarters of the  
6 California Environmental Protection Agency.
- 7 (6) Members of the panel, and any ad hoc committee established  
8 by the panel, shall submit annually a financial disclosure statement  
9 that includes a listing of income received within the preceding  
10 three years, including investments, grants, and consulting fees  
11 derived from individuals or businesses that might be affected by  
12 regulatory actions undertaken by the state board pursuant to this  
13 division. The financial disclosure statements submitted pursuant  
14 to this subdivision are public information. Members of the panel  
15 shall be subject to the disqualification requirements of Section  
16 87100 of the Government Code.
- 17 (7) Members of the panel shall receive one hundred dollars  
18 (\$100) per day for attending panel meetings and meetings of the  
19 state board, or upon authorization of the chair of the state board  
20 while on official business of the panel, and shall be reimbursed  
21 for actual and necessary travel expenses incurred in the  
22 performance of their duties.
- 23 (8) The panel shall receive sufficient resources, including, but  
24 not limited to, technical, administrative, and clerical support.
- 25 (b) This section shall remain in effect only until January 1, 2020,  
26 and as of that date is repealed, unless a later enacted statute, that  
27 is enacted before January 1, 2020, deletes or extends that date.

**ASSEMBLY BILL**

**No. 2202**

---

---

**Introduced by Assembly Member Logue**

February 20, 2014

---

---

An act to amend Sections 38530, 38562, and 38570 of the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2202, as introduced, Logue. Greenhouse gas reduction.

Existing law requires the State Air Resources Board to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program. Existing law requires the state board to adopt greenhouse gas emission limits and emission reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit, and, as part of that regulation, authorizes the state board to adopt a market-based compliance mechanism, commonly referred to as cap and trade.

This bill would require the state board to exempt small independent fuel marketers, as defined, from the regulations adopted by the state board in this regard.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 38530 of the Health and Safety Code is
- 2 amended to read:

1 38530. (a) On or before January 1, 2008, the state board shall  
2 adopt regulations to require the reporting and verification of  
3 statewide greenhouse gas emissions and to monitor and enforce  
4 compliance with this program.

5 (b) The regulations shall do all of the following:

6 (1) Require the monitoring and annual reporting of greenhouse  
7 gas emissions from greenhouse gas emission sources beginning  
8 with the sources or categories of sources that contribute the most  
9 to statewide emissions.

10 (2) Account for greenhouse gas emissions from all electricity  
11 consumed in the state, including transmission and distribution line  
12 losses from electricity generated within the state or imported from  
13 outside the state. This requirement applies to all retail sellers of  
14 electricity, including load-serving entities as defined in subdivision  
15 (j) of Section 380 of the Public Utilities Code and local publicly  
16 owned electric utilities as defined in Section 9604 of the Public  
17 Utilities Code.

18 (3) Where appropriate and to the maximum extent feasible,  
19 incorporate the standards and protocols developed by the California  
20 Climate Action Registry, established pursuant to Chapter 6  
21 (commencing with Section 42800) of Part 4 of Division 26. Entities  
22 that voluntarily participated in the California Climate Action  
23 Registry prior to December 31, 2006, and have developed a  
24 greenhouse gas emission reporting program, shall not be required  
25 to significantly alter their reporting or verification program except  
26 as necessary to ensure that reporting is complete and verifiable for  
27 the purposes of compliance with this division as determined by  
28 the state board.

29 (4) Ensure rigorous and consistent accounting of emissions, and  
30 provide reporting tools and formats to ensure collection of  
31 necessary data.

32 (5) Ensure that greenhouse gas emission sources maintain  
33 comprehensive records of all reported greenhouse gas emissions.

34 (c) The state board shall do both of the following:

35 (1) Periodically review and update its emission reporting  
36 requirements, as necessary.

37 (2) Review existing and proposed international, federal, and  
38 state greenhouse gas emission reporting programs and make  
39 reasonable efforts to promote consistency among the programs  
40 established pursuant to this part and other programs, and to

1 streamline reporting requirements on greenhouse gas emission  
2 sources.

3 (d) (1) *The state board shall exempt small independent fuel*  
4 *marketers from the regulations adopted pursuant to this section*  
5 *(Article 2 (commencing with Section 95100) of Subchapter 10 of*  
6 *Chapter 1 of Division 3 of Title 17 of the Code of California*  
7 *Regulations).*

8 (2) *“Small independent fuel marketer” for purposes of this*  
9 *subdivision means a company with gross annual revenues from*  
10 *motor vehicle fuel sales in this state of \$10 billion or less.*

11 SEC. 2. Section 38562 of the Health and Safety Code is  
12 amended to read:

13 38562. (a) On or before January 1, 2011, the state board shall  
14 adopt greenhouse gas emission limits and emission reduction  
15 measures by regulation to achieve the maximum technologically  
16 feasible and cost-effective reductions in greenhouse gas emissions  
17 in furtherance of achieving the statewide greenhouse gas emissions  
18 limit, to become operative on January 1, 2012.

19 (b) In adopting regulations pursuant to this section and Part 5  
20 (commencing with Section 38570), to the extent feasible and in  
21 furtherance of achieving the statewide greenhouse gas emissions  
22 limit, the state board shall do all of the following:

23 (1) Design the regulations, including distribution of emissions  
24 allowances where appropriate, in a manner that is equitable, seeks  
25 to minimize costs and maximize the total benefits to California,  
26 and encourages early action to reduce greenhouse gas emissions.

27 (2) Ensure that activities undertaken to comply with the  
28 regulations do not disproportionately impact low-income  
29 communities.

30 (3) Ensure that entities that have voluntarily reduced their  
31 greenhouse gas emissions prior to the implementation of this  
32 section receive appropriate credit for early voluntary reductions.

33 (4) Ensure that activities undertaken pursuant to the regulations  
34 complement, and do not interfere with, efforts to achieve and  
35 maintain federal and state ambient air quality standards and to  
36 reduce toxic air contaminant emissions.

37 (5) Consider cost-effectiveness of these regulations.

38 (6) Consider overall societal benefits, including reductions in  
39 other air pollutants, diversification of energy sources, and other  
40 benefits to the economy, environment, and public health.

1 (7) Minimize the administrative burden of implementing and  
2 complying with these regulations.

3 (8) Minimize leakage.

4 (9) Consider the significance of the contribution of each source  
5 or category of sources to statewide emissions of greenhouse gases.

6 (c) In furtherance of achieving the statewide greenhouse gas  
7 emissions limit, by January 1, 2011, the state board may adopt a  
8 regulation that establishes a system of market-based declining  
9 annual aggregate emission limits for sources or categories of  
10 sources that emit greenhouse gas emissions, applicable from  
11 January 1, 2012, to December 31, 2020, inclusive, that the state  
12 board determines will achieve the maximum technologically  
13 feasible and cost-effective reductions in greenhouse gas emissions,  
14 in the aggregate, from those sources or categories of sources.

15 (d) Any regulation adopted by the state board pursuant to this  
16 part or Part 5 (commencing with Section 38570) shall ensure all  
17 of the following:

18 (1) The greenhouse gas emission reductions achieved are real,  
19 permanent, quantifiable, verifiable, and enforceable by the state  
20 board.

21 (2) For regulations pursuant to Part 5 (commencing with Section  
22 38570), the reduction is in addition to any greenhouse gas emission  
23 reduction otherwise required by law or regulation, and any other  
24 greenhouse gas emission reduction that otherwise would occur.

25 (3) If applicable, the greenhouse gas emission reduction occurs  
26 over the same time period and is equivalent in amount to any direct  
27 emission reduction required pursuant to this division.

28 (e) The state board shall rely upon the best available economic  
29 and scientific information and its assessment of existing and  
30 projected technological capabilities when adopting the regulations  
31 required by this section.

32 (f) The state board shall consult with the Public Utilities  
33 Commission in the development of the regulations as they affect  
34 electricity and natural gas providers in order to minimize  
35 duplicative or inconsistent regulatory requirements.

36 (g) After January 1, 2011, the state board may revise regulations  
37 adopted pursuant to this section and adopt additional regulations  
38 to further the provisions of this division.

39 (h) (1) *The state board shall exempt small independent fuel*  
40 *marketers from the regulations adopted pursuant to this section*

1 *relating to the application of an aggregate greenhouse gas*  
2 *allowance budget on covered entities (Article 5 (commencing with*  
3 *Section 95801) of Subchapter 10 of Chapter 1 of Division 3 of*  
4 *Title 17 of the Code of California Regulations).*

5 (2) “*Small independent fuel marketer*” *for purposes of this*  
6 *subdivision means a company with gross annual revenues from*  
7 *motor vehicle fuel sales in this state of \$10 billion or less.*

8 SEC. 3. Section 38570 of the Health and Safety Code is  
9 amended to read:

10 38570. (a) The state board may include in the regulations  
11 adopted pursuant to Section 38562 the use of market-based  
12 compliance mechanisms to comply with the regulations.

13 (b) Prior to the inclusion of any market-based compliance  
14 mechanism in the regulations, to the extent feasible and in  
15 furtherance of achieving the statewide greenhouse gas emissions  
16 limit, the state board shall do all of the following:

17 (1) Consider the potential for direct, indirect, and cumulative  
18 emission impacts from these mechanisms, including localized  
19 impacts in communities that are already adversely impacted by air  
20 pollution.

21 (2) Design any market-based compliance mechanism to prevent  
22 any increase in the emissions of toxic air contaminants or criteria  
23 air pollutants.

24 (3) Maximize additional environmental and economic benefits  
25 for California, as appropriate.

26 (c) The state board shall adopt regulations governing how  
27 market-based compliance mechanisms may be used by regulated  
28 entities subject to greenhouse gas emission limits and mandatory  
29 emission reporting requirements to achieve compliance with their  
30 greenhouse gas emissions limits.

31 (d) (1) *The state board shall exempt small independent fuel*  
32 *marketers from the regulations adopted pursuant to this section*  
33 *relating to providing a trading mechanism for compliance*  
34 *instruments (Article 5 (commencing with Section 95801) of*  
35 *Subchapter 10 of Chapter 1 of Division 3 of Title 17 of the Code*  
36 *of California Regulations).*

37 (2) “*Small independent fuel marketer*” *for the purposes of this*  
38 *subdivision means a company with gross annual revenues from*  
39 *motor vehicle fuel sales in this state of \$10 billion or less.*

O

**Introduced by Senators Pavley and Lara  
(Coauthor: Senator Leno)**

(Coauthor: Assembly Member Lowenthal)

February 19, 2014

---

An act to add and repeal Section 39607.6 of the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

SB 1125, as introduced, Pavley. Greenhouse gases: emissions reduction.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to approve a statewide greenhouse gas emissions limit that is equivalent to the 1990 level to be achieved by 2020. The act requires the state board to make recommendations to the Governor and the Legislature on how to continue reduction of greenhouse gas emissions beyond 2020.

This bill would require the state board, on or before January 1, 2016, and in consultation with specified entities, to develop and submit to the Governor and the Legislature a report containing recommendations on a timetable of reduction targets of greenhouse gas emissions and short-lived climate pollutants with high global warming potentials beyond 2020. The bill would repeal the above provision on January 1, 2020.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.



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

1 SECTION 1. Section 39607.6 is added to the Health and Safety  
2 Code, to read:

3 39607.6. (a) For the purposes of this section, “short-lived  
4 climate pollutant” means an agent that has a relatively short lifetime  
5 in the atmosphere, from a few days to a few decades, and a  
6 warming influence on the climate.

7 (b) On or before January 1, 2016, the state board shall, in  
8 consultation with the Climate Action Team, other relevant state  
9 and local agencies, and interested stakeholders, in an open and  
10 public process, develop and submit to the Governor and Legislature  
11 a report containing recommendations on a timetable of reduction  
12 targets of greenhouse gas emissions and short-lived climate  
13 pollutants with high global warming potentials beyond 2020.

14 (c) The state board, in developing the timetable of reduction  
15 targets shall consider emissions reduction trajectories that do all  
16 of the following:

17 (1) Mitigate medium- and long-term risks of global climate  
18 change and associated adverse impacts on health, safety, and  
19 welfare in California.

20 (2) Advance California’s economic competitiveness by  
21 minimizing leakage and stimulating innovation.

22 (3) Significantly mitigate adverse public health impacts in  
23 disadvantaged communities through reductions of short-lived  
24 climate pollutants, or in concert with other regulations limiting the  
25 emissions of criteria or toxic air pollutants under this division.

26 (d) The report to be submitted to the Legislature pursuant to  
27 subdivision (a) shall be submitted in compliance with Section 9795  
28 of the Government Code.

29 (e) Pursuant to Section 10231.5 of the Government Code, this  
30 section is repealed on January 1, 2020.

O

AMENDED IN SENATE MARCH 24, 2014

**SENATE BILL**

**No. 1204**

---

---

**Introduced by Senators Lara and Pavley**

February 20, 2014

---

---

An act to add Section 39719 to the Health and Safety Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1204, as amended, Lara. California Clean Truck ~~and~~, Bus, *and Off-Road Vehicle and Equipment Technology Program.*

Existing law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions, commonly known as cap and trade revenues, to be deposited in the Greenhouse Gas Reduction Fund, and to be used, upon appropriation by the Legislature, for specified purposes.

This bill would create the California Clean Truck ~~and~~, Bus, *and Off-Road Vehicle and Equipment Technology Program*, to be funded from cap and trade revenues, to fund zero- and near-zero emission truck ~~and zero-emission~~, bus, *and off-road vehicle and equipment technology* and related projects, as specified, with preference to be given to projects in disadvantaged communities. The program would be administered by the state board, *in conjunction with the State Energy Resources Conservation and Development Commission.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 39719 is added to the Health and Safety  
2 Code, to read:

3 39719. (a) The California Clean Truck and, Bus, and Off-Road  
4 Vehicle and Equipment Technology Program is hereby created, to  
5 be administered by the state board *in conjunction with the State*  
6 *Energy Resources Conservation and Development Commission.*  
7 *The program, from moneys appropriated from the fund for*  
8 *purposes of the program, shall fund development, demonstration,*  
9 *pilot deployment, and commercial deployment of zero- and*  
10 *near-zero emission truck, bus, and off-road vehicle and equipment*  
11 *technologies. Priority shall be given to projects located in*  
12 *disadvantaged communities pursuant to the requirements of*  
13 *Sections 39711 and 39713.*

14 ~~(b) From funds appropriated from the fund for that purpose, the~~  
15 ~~state board shall establish a focused medium- and heavy-duty truck~~  
16 ~~deployment program, with an emphasis on technology development~~  
17 ~~and demonstration for zero- and near-zero emissions goods~~  
18 ~~movement. Eligible projects under this subdivision shall include,~~  
19 ~~but not be limited to, targeted early stage technological~~  
20 ~~development funding, small scale pilot demonstrations of new~~  
21 ~~technologies, and larger, commercial scale demonstrations of trucks~~  
22 ~~operating in real world conditions. Funding made available under~~  
23 ~~this subdivision shall complement existing efforts in this area at~~  
24 ~~the State Energy Conservation and Development Commission and~~  
25 ~~the state board. Preference shall be given to disadvantaged~~  
26 ~~communities pursuant to the requirements of Sections 39711 and~~  
27 ~~39713.~~

28 ~~(c) From funds appropriated from the fund for that purpose, the~~  
29 ~~state board shall establish an emerging technology demonstration~~  
30 ~~program for zero-emission buses to be used in public transportation.~~  
31 ~~Eligible projects to be funded under the program include projects~~  
32 ~~recommended by public transit agencies to demonstrate and deploy,~~  
33 ~~as part of their fleets, advanced fueled vehicles and associated~~  
34 ~~infrastructure. The objective of the program shall be to demonstrate~~  
35 ~~zero-emission bus technology at a commercial scale, in order to~~  
36 ~~clear the path for broader deployment of zero-emission bus~~  
37 ~~technology throughout the state. Preference shall be given to~~

1 ~~disadvantaged communities pursuant to the requirements of~~  
2 ~~Sections 39711 and 39713.~~

3 *(b) The program shall fund projects in each of the following*  
4 *areas:*

5 *(1) Zero- and near-zero emission medium- and heavy-duty truck*  
6 *technology development, demonstration, and pilot deployment.*

7 *(2) Zero- and near-zero emission buses. The program shall fund*  
8 *pilot deployments to demonstrate operation of large numbers of*  
9 *clean buses in a real world setting, to showcase the following*  
10 *issues: (A) these vehicles can make direct impacts in disadvantaged*  
11 *communities, (B) transit operators are currently unable to*  
12 *economically purchase vehicles of this type because of high costs*  
13 *and technological uncertainty, which may be overcome through*  
14 *large pilot deployments, and (C) zero- and near-zero emission*  
15 *technologies in the bus context, once successfully demonstrated*  
16 *on a large scale, may find applications in a wide variety of other*  
17 *heavy-duty vehicles in addition to buses. In that connection, the*  
18 *state board, in consultation with transit operators, shall develop*  
19 *solicitations to fund at least two large scale zero- or near-zero*  
20 *emission bus pilot deployment projects of between 10 and 40 buses,*  
21 *to be located in or near disadvantaged communities.*

22 *(3) Development, demonstration, and pilot deployment of zero-*  
23 *and near-zero emission technologies to be used in off-road vehicles*  
24 *and equipment, including, but not limited to, port equipment,*  
25 *agricultural equipment, and marine and rail equipment.*

26 *(4) Development of commercially available zero- and near-zero*  
27 *emission trucks, buses, and off-road vehicles and equipment using*  
28 *streamlined purchase incentives pursuant to the California Hybrid*  
29 *and Zero-Emission Truck and Bus Voucher Incentive Project*  
30 *(HVIP). The state board shall create a multiyear framework and*  
31 *plan for HVIP incentives. The plan shall focus on providing*  
32 *incentives for zero- and near-zero emission medium- and*  
33 *heavy-duty vehicles as they become commercially available. The*  
34 *incentives shall be structured to drive acquisition volumes by*  
35 *reducing payback times for these vehicles. The plan shall provide*  
36 *long-term certainty about incentives while also remaining flexible*  
37 *and open to new technologies. The plan shall also examine*  
38 *opportunities to link HVIP vehicle funding with infrastructure*  
39 *funding to provide coordinated funding for both vehicles and*  
40 *related infrastructure. HVIP incentives for plug-in and*

- 1 *zero-emission vehicles in disadvantaged communities shall be*
- 2 *sufficient to increase sales of the cleanest vehicles in communities*
- 3 *where they are needed most.*

O

AMENDED IN SENATE MARCH 25, 2014

**SENATE BILL**

**No. 1371**

---

---

**Introduced by Senator Leno**  
(Principal coauthor: Assembly Member Mullin)  
(Coauthor: **Senator Hill**)

February 21, 2014

---

---

An act to add Article 3 (commencing with Section 975) to Chapter 4.5 of Part 1 of Division 1 of the Public Utilities Code, relating to natural gas.

LEGISLATIVE COUNSEL'S DIGEST

SB 1371, as amended, Leno. Natural gas: leakage abatement.

The California Constitution establishes the Public Utilities Commission with regulatory authority over public utilities, authorizes the commission to establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process, and authorizes the commission to fix rates and establish rules for all public utilities, subject to control by the Legislature.

The Natural Gas Pipeline Safety Act of 2011, within the Public Utilities Act, designates the commission as the state authority responsible for regulating and enforcing intrastate gas pipeline transportation and pipeline facilities pursuant to federal law, including the development, submission, and administration of a state pipeline safety program certification for natural gas pipelines.

This bill would require the commission to adopt rules and procedures governing the operation, maintenance, repair, and replacement of commission-regulated gas pipeline facilities to minimize leaks as a hazard to be mitigated pursuant to the Natural Gas Pipeline Safety Act of 2011 and to eliminate uncontrolled emissions of natural gas from

commission-regulated gas pipeline facilities to the maximum extent feasible *with the goal of cutting total emission in  $\frac{1}{2}$  by January 1, 2020*. The bill would require the commission to commence a proceeding by January 15, 2015, and to adopt rules and procedures not later than December 31, 2015. *The bill would require the commission to consult with the State Air Resources Board and those other state and federal entities that the commission determines have regulatory roles of relevance to the rules and procedures under consideration.* The bill would require that the rules and procedures provide for ~~repair~~ *the elimination* of leaks in commission-regulated gas pipeline facilities within a reasonable time after discovery, but require that leaks discovered in close proximity to residential and commercial buildings be ~~repaired upon discovery so that the emission of leaking gas that can result in injury or loss of life will be substantially eliminated~~ *eliminated as soon as reasonably possible after discovery, consistent with the goal of reducing the risk of injury or loss of life.* The bill would ~~additionally~~ require that the rules and procedures establish *and require the use of* best practices for leak surveys, patrols, leak survey technology, and metrics for evaluating and comparing leaks so that operators, the commission, and the public have accurate information about the number and severity of leaks and about the quantity of gas that is emitted to the atmosphere over time. *The bill would require that the rules and procedures, to the extent feasible, provide for the establishment of a baseline systemwide leak rate, a periodic updating of systemwide leak rate quantifications, and an annual reporting structure of the measures that will be taken in the following year to reduce the systemwide leak rate to achieve the goals of the bill for each commission-regulated pipeline.* The bill would require that the commission consider *whether* the costs of compliance with the *adopted* rules and procedures *are commensurate with the short- and long-term benefits resulting from reducing leaks and emissions* and provide for cost recovery in rates charged to their customers by a gas corporation, consistent with the commission's existing ratemaking procedures and authority to establish just and reasonable rates.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission

implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

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:*

- 1     ~~SECTION 1. The Legislature finds and declares all of the~~
- 2     ~~following:~~
- 3     ~~(a) The Legislature has established that safety of the natural gas~~
- 4     ~~pipeline infrastructure in California is a priority for the Public~~
- 5     ~~Utilities Commission and gas corporations.~~
- 6     ~~(b) The incidence of natural gas leaks and their repair is~~
- 7     ~~considered by the industry and regulators to be a significant~~
- 8     ~~indicator of pipeline integrity and safety.~~
- 9     ~~(c) The Legislature has established a policy goal to significantly~~
- 10    ~~reduce emissions of greenhouse gases in California.~~
- 11    ~~(d) There is a growing awareness of the potency of methane,~~
- 12    ~~the primary component of natural gas, as a greenhouse gas. The~~
- 13    ~~Intergovernmental Panel on Climate Change estimates that the~~
- 14    ~~global warming potential of methane is 84 times that of carbon~~
- 15    ~~dioxide over a 20-year time horizon.~~
- 16    ~~(e) Fugitive methane volumes from pipelines in California may~~
- 17    ~~exceed 35 billion cubic feet annually and may exceed 500 billion~~
- 18    ~~cubic feet nationwide.~~
- 19    ~~(f) Reducing these fugitive emissions by repairing pipeline leaks~~
- 20    ~~promptly and effectively advances both policy goals of natural gas~~
- 21    ~~pipeline safety and integrity and reducing emissions of greenhouse~~
- 22    ~~gases.~~
- 23    ~~(g) Reducing leaks and promoting pipeline integrity in California~~
- 24    ~~provides significant employment opportunities for California~~
- 25    ~~residents and for domestic fabricators of high quality pipeline~~
- 26    ~~materials.~~
- 27    ~~(h) Providing just and reasonable rate revenues for gas~~
- 28    ~~corporations to reduce leaks and repair them promptly when~~



1 ~~discovered, including employing an adequate workforce, is in the~~  
2 ~~public interest, and promotes the interests of customers and the~~  
3 ~~public.~~

4 ~~SEC. 2.~~

5 SECTION 1. Article 3 (commencing with Section 975) is added  
6 to Chapter 4.5 of Part 1 of Division 1 of the Public Utilities Code,  
7 to read:

8

9

Article 3. Methane Leakage Abatement

10

11 975. *The Legislature finds and declares all of the following:*

12 (a) *The Legislature has established that safety of the natural*  
13 *gas pipeline infrastructure in California is a priority for the Public*  
14 *Utilities Commission and gas corporations.*

15 (b) *The incidence of natural gas leaks and their repair is*  
16 *considered by the industry and regulators to be a significant*  
17 *indicator of pipeline integrity and safety.*

18 (c) *The Legislature has established a policy goal to significantly*  
19 *reduce emissions of greenhouse gases in California.*

20 (d) *There is a growing awareness of the potency of methane,*  
21 *the primary component of natural gas, as a greenhouse gas. The*  
22 *Intergovernmental Panel on Climate Change estimates that the*  
23 *global warming potential of methane is approximately 80 times*  
24 *that of carbon dioxide over a 20-year time horizon.*

25 (e) *It is undisputed that natural gas pipelines and infrastructure*  
26 *in California leak substantial volumes of natural gas, estimated*  
27 *in 2011 to exceed 35 billion cubic feet annually.*

28 (f) *Reducing these fugitive methane emissions by promptly and*  
29 *effectively repairing or replacing the pipes and associated*  
30 *infrastructure that is responsible for these leaks advances both*  
31 *policy goals of natural gas pipeline safety and integrity and*  
32 *reducing emissions of greenhouse gases.*

33 (g) *Although there are existing federal and state rules and*  
34 *regulations that pertain to the natural gas transmission and*  
35 *distribution system and associated infrastructure, these rules and*  
36 *regulations are insufficient to prevent the climate change impacts*  
37 *from leaks of natural gas.*

38 (h) *Reducing leaks and promoting the integrity of pipelines and*  
39 *associated infrastructure in California provides significant*  
40 *employment opportunities for California residents and for domestic*

1 *fabricators of high quality pipeline materials and other equipment*  
2 *associated with finding and fixing leaks.*

3 (i) *Providing just and reasonable rate revenues for gas*  
4 *corporations to find, categorize, and eliminate leaks promptly*  
5 *when discovered, including employing an adequate workforce, is*  
6 *in the public interest, and promotes the interests of customers and*  
7 *the public.*

8 ~~975.~~

9 976. (a) For purposes of this chapter, “commission-regulated  
10 gas pipeline facility” has the same meaning as defined in Section  
11 950.

12 (b) The commission shall adopt rules and procedures governing  
13 the operation, maintenance, repair, and replacement of  
14 commission-regulated gas pipeline facilities to achieve both of the  
15 following:

16 (1) Minimize leaks as a hazard to be mitigated pursuant to  
17 paragraph (1) of subdivision (d) of Section 961.

18 (2) ~~Eliminate~~ *While giving due consideration to the cost*  
19 *considerations of Section 977, eliminate uncontrolled emissions*  
20 *of natural gas from commission-regulated gas pipeline facilities*  
21 *to the maximum extent feasible with the goal of cutting total*  
22 *emission in half by January 1, 2020, in order to advance the state’s*  
23 *goals in reducing emissions of greenhouse gases pursuant to the*  
24 *California Global Warming Solutions Act of 2006 (Division 25.5*  
25 *(commencing with Section 38500) of the Health and Safety Code).*

26 (c) Not later than January 15, 2015, the commission shall  
27 commence a proceeding to adopt rules and procedures for intrastate  
28 distribution lines and intrastate transmission lines, as respectively  
29 described in paragraphs (1) and (2) of subdivision (a) of Section  
30 950, to achieve the goals of subdivision (b). *The commission shall*  
31 *consult with the State Air Resources Board and those other state*  
32 *and federal entities that the commission determines have regulatory*  
33 *roles of relevance to the rules and procedures under consideration.*  
34 The commission shall adopt rules and procedures not later than  
35 December 31, 2015.

36 (d) The rules and procedures *adopted pursuant to subdivision*  
37 *(c) shall provide accomplish all of the following:*

38 (1) *Provide for the—repair elimination of leaks in*  
39 *commission-regulated gas pipeline facilities within a reasonable*

1 time after discovery, consistent with eliminating hazards and  
2 reducing emissions to achieve the goals in subdivision (b). ~~Leaks~~

3 ~~(2) Provide for the elimination of any leaks discovered in close~~  
4 ~~proximity to residential and commercial buildings shall be repaired~~  
5 ~~upon discovery so that the emission of leaking gas that can result~~  
6 ~~in injury or loss of life will be substantially eliminated. as soon as~~  
7 ~~reasonably possible after discovery, consistent with the goal of~~  
8 ~~reducing the risk of injury or loss of life.~~

9 ~~(e) The rules and procedures shall establish~~

10 ~~(3) Establish and require the use of best practices for leak~~  
11 ~~surveys, patrols, leak survey technology, and metrics for evaluating~~  
12 ~~and comparing leaks so that operators, the commission, and the~~  
13 ~~public have accurate information about the number and severity~~  
14 ~~of leaks and about the quantity of natural gas that is emitted to the~~  
15 ~~atmosphere over time. Best practices shall include evaluation of~~  
16 ~~the quality of materials and equipment from various sources,~~  
17 ~~including foreign and domestic third-party suppliers.~~

18 ~~(4) To the extent feasible, provide for each~~  
19 ~~commission-regulated gas pipeline facility, the establishment of~~  
20 ~~a baseline systemwide leak rate, a periodic updating of systemwide~~  
21 ~~leak rate quantifications, and an annual reporting structure of the~~  
22 ~~measures that will be taken in the following year to reduce the~~  
23 ~~systemwide leak rate to achieve the goals of subdivision (b).~~

24 ~~(f)~~

25 ~~(e) The rules and procedures, including best practices and repair~~  
26 ~~standards, shall be incorporated into the safety plans required by~~  
27 ~~Section 961.~~

28 ~~(g)~~

29 ~~(f) Consistent with subdivision (e) of Section 961, the~~  
30 ~~commission shall facilitate robust ongoing participation of the~~  
31 ~~workforce of gas corporations in all aspects of the proceeding.~~

32 ~~976:~~

33 ~~977. As an element of the proceeding required by Section-975,~~  
34 ~~976, the commission shall consider whether the costs of compliance~~  
35 ~~with the adopted rules and procedures are commensurate with the~~  
36 ~~short- and long-term benefits resulting from reducing leaks and~~  
37 ~~emissions and shall provide for cost recovery in rates charged to~~  
38 ~~their customers by a gas corporation, consistent with the~~  
39 ~~commission’s existing ratemaking procedures and authority to~~

1 establish just and reasonable rates. Cost considerations shall  
2 include, *but are not limited to*, all of the following:

3 (a) Providing an adequate workforce to achieve the objectives  
4 of reducing hazards and emissions from leaks, including ~~prompt~~  
5 ~~leak repair and~~ *leak* elimination.

6 (b) Directing the revenues from any allowance for lost or  
7 unaccounted for natural gas to ~~leak repair and~~ elimination.

8 (c) Providing guidance for treatment of expenditures as being  
9 either an item of expense or a capital investment.

10 (d) *The impact on affordability of gas service for vulnerable*  
11 *customers as a result of the incremental costs of compliance with*  
12 *the adopted rules and procedures.*

13 ~~SEC. 3.~~

14 *SEC. 2.* No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.

AMENDED IN SENATE MARCH 24, 2014

**SENATE BILL**

**No. 1415**

---

---

**Introduced by Senator Hill**

February 21, 2014

---

---

An act to amend Section 40262 of the Health and Safety Code, relating to the Bay Area Air Quality Management District.

LEGISLATIVE COUNSEL'S DIGEST

SB 1415, as amended, Hill. Bay Area Air Quality Management District: advisory council.

(1) Existing law establishes the Bay Area Air Quality Management District, which is vested with the authority to regulate air emissions located in the boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara and portions of the Counties of Solano and Sonoma. Existing law establishes a district board to govern the district.

Existing law also establishes the Bay Area Air Quality Management Council, which consists of 20 members appointed by the district board, as specified, for the purposes of advising and consulting with the district board and air pollution control officer in the implementation of their authority to regulate air emissions.

*This bill would limit the council to 7 appointed members, would no longer allow for members of the general public to be appointed under specified circumstances, and would additionally require the inclusion of members who are skilled and experienced in the fields of air pollution, climate change, or the health impacts of air pollution. The bill would require members to be selected to include a diversity of perspectives, expertise, and backgrounds. By adding to the duties of the district, this bill would impose a state-mandated local program.*

~~This bill additionally would require the council to include members who are skilled and experienced in the fields of air pollution, climate change, or the health impacts of air pollution. By adding to the duties of the district, this bill would impose a state-mandated local program.~~

(2) 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:*

1 SECTION 1. Section 40262 of the Health and Safety Code is  
2 amended to read:

3 40262. The council shall consist of the ~~chairman~~ following:

4 (a) Chair of the bay district board, who shall serve as an ex  
5 officio member, and 20 member.

6 (b) Seven members who ~~preferably are~~ shall be skilled and  
7 experienced in the ~~field~~ fields of air pollution, ~~including at least~~  
8 ~~three representatives of public health agencies, at least four~~  
9 ~~representatives of private organizations active in conservation or~~  
10 ~~protection of the environment within the bay district, and at least~~  
11 ~~one representative of colleges or universities in the state and at~~  
12 ~~least one representative of each of the following groups within the~~  
13 ~~bay district: regional park district, park and recreation commissions~~  
14 ~~or equivalent agencies of any city, public mass transportation~~  
15 ~~system, agriculture, industry, community planning, transportation,~~  
16 ~~registered professional engineers, general contractors, architects,~~  
17 ~~and organized labor~~ climate change, or the health impacts of air  
18 pollution. Members shall be selected to include a diversity of  
19 perspectives, expertise, and backgrounds.

20 To the extent that suitable persons cannot be found for each of  
21 the specified categories, council members may be appointed from  
22 the general public.

23 SECTION 1. Section 40262 of the Health and Safety Code is  
24 amended to read:

1 40262. ~~(a) The council shall consist of the following:~~  
2 ~~(1) Chair of the bay district board, who shall serve as an ex~~  
3 ~~officio member.~~  
4 ~~(2) Twenty members who shall be skilled and experienced in~~  
5 ~~the fields of air pollution, climate change, or the health impacts of~~  
6 ~~air pollution. The 20 members may include any of the following:~~  
7 ~~(A) At least three representatives of public health agencies.~~  
8 ~~(B) At least four representatives of private organizations active~~  
9 ~~in conservation or protection of the environment within the bay~~  
10 ~~district.~~  
11 ~~(C) At least one representative of colleges or universities in the~~  
12 ~~state.~~  
13 ~~(D) At least one representative of each of the following groups~~  
14 ~~within the bay district:~~  
15 ~~(i) Regional park district.~~  
16 ~~(ii) Park and recreation commissions or equivalent agencies of~~  
17 ~~any city.~~  
18 ~~(iii) Public mass transportation system.~~  
19 ~~(iv) Agriculture.~~  
20 ~~(v) Industry.~~  
21 ~~(vi) Community planning.~~  
22 ~~(vii) Transportation.~~  
23 ~~(viii) Registered professional engineers.~~  
24 ~~(ix) General contractors.~~  
25 ~~(x) Architects.~~  
26 ~~(xi) Organized labor.~~  
27 ~~(b) To the extent that suitable persons cannot be found for each~~  
28 ~~of the specified categories, council members may be appointed~~  
29 ~~from the general public.~~  
30 SEC. 2. If the Commission on State Mandates determines that  
31 this act contains costs mandated by the state, reimbursement to  
32 local agencies and school districts for those costs shall be made  
33 pursuant to Part 7 (commencing with Section 17500) of Division  
34 4 of Title 2 of the Government Code.

# BAAQMD BILL DISCUSSION LIST

MARCH 2014

BILL NO.	AUTHOR	SUBJECT	STATUS	POSITION (Positions in italics are staff recommendations)
AB 1330	Perez	Gut-and-amend to double environmental penalties and direct 50% of penalty revenue to Green Zone Trust Fund	Assembly Floor Inactive File	<i>Oppose unless amended</i>
AB 1447	Waldron	Allows cap-and-trade revenues to fund traffic signal synchronization	4/7 Asm. Nat. Res.	
AB 1594	Williams	Disallows green material used as landfill daily cover from counting towards 50% solid waste diversion goal	4/7 Asm. Nat. Res.	
AB 1639	Grove	Requires AB 32 revenues, including cap-and-trade funds, to be used to cost-effectively reduce greenhouse gas emissions	4/7 Asm. Nat. Res.	
AB 1696	Wieckoski	Adds parking spaces with charging stations to the list of advanced technology vehicle benefits to be added to state parking lots	4/7 Asm. Nat. Res.	<i>Support if amended</i>
AB 1721	Linder	Would allow HOVs in Riverside HOT lanes to be tolled	Asm. Transportation	
AB 1811	Buchanan	Changes access rules for HOV-access decal vehicles for Sunol Grade and other HOT lanes in Alameda County	Asm. Transportation	
AB 1813	Quirk	\$100M of cap-and-trade funds for Fuel Producer Capital Assistance Program	Asm. Nat. Res.	
AB 1818	Allen	Spot bill on electrical generation and air pollution		
AB 1857	Frazier	Authorizes Caltrans to purchase vehicles and equipment using 'best value' procurement, which includes environmental benefits	Asm. Approps.	
AB 1907	Ridley-Thomas	Requires natural gas sold as a transportation fuel in CA to be measured in gasoline or diesel gallon equivalents		<i>Support</i>
AB 1935	Campos	Defines clean distributed energy technology	4/7 Asm. Nat. Res.	
AB 1970	Gordon	Community Investment and Innovation Program; funded via cap-and-trade	4/7 Asm. Nat. Res.	
AB 2008	Quirk	Intent bill on delivery of urban freight		
AB 2013	Muratsuchi	Increases the number of green-stickered vehicles allowed in HOV lanes	Asm. Approps.	
AB 2027	Logue	Prohibits ARB from collecting emissions data from AB 32 sources twice	4/7 Asm. Nat. Res.	<i>Oppose</i>
AB 2050	Quirk	Authorizes ARB to establish, with Scoping Plan Advisory Panel, greenhouse gas reduction goals beyond 2020, and extending to 2050	4/7 Asm. Nat. Res.	<i>Support and seek amendments</i>
AB 2090	Fong	Allows VTA to require HOV drivers to have switchable electronic tolling equipment when using HOT lanes	Asm. Approps.	



AB 2173	Bradford	Allows low-speed electric bikes to use bike lanes	Asm. Transportation	
AB 2202	Logue	Exempts fuel marketers from ARB cap-and-trade regulations	4/7 Asm. Nat. Res.	<i>Oppose unless amended</i>
AB 2348	Stone	Natural Resources Climate Improvement Program; funded via cap-and-trade	4/7 Asm. Nat. Res.	
SB 691	Hancock	Increases air penalty ceilings for one-day community-disrupting violations	Assembly Floor Inactive File	Sponsor
SB 792	DeSaulnier	Assigns new tasks to the Joint Policy Committee with respect to ABAG, BAAQMD, BATA, BCDC, and MTC	Assembly Desk	<i>Oppose unless amended</i>
SB 913	DeSaulnier	Increases numbers of vehicles retired and replaced through the Consumer Assistance Program and the Enhanced Fleet Modernization Program	4/1 Sen. Trans.& Housing	
SB 1077	DeSaulnier	Vehicle-Miles-Traveled Fee Pilot Program	4/22 Sen Trans. & Housing	
SB 1121	DeLeon	Establishes California Green Bank for financing clean energy projects	Sen. Rules	
SB 1122	Pavley	Strategic Growth Council to fund Sustainable Communities Implementation, via cap-and-trade	4/2 Sen. Env. Quality	
SB 1125	Pavley	Requires ARB to develop emission reductions targets beyond 2020	Senate Rules	<i>Support</i>
SB 1132	Mitchell	Prohibits all well stimulation treatments (including hydraulic fracturing) until multiple findings are made and an independent scientific study is completed	4/8 Sen. Nat. Res.	
SB 1156	Steinberg	Removes transportation fuels from cap-and-trade, imposes a tax on said fuels, and distributes proceeds particularly to low and medium-income	4/9 Sen. Gov.& Finance	
SB 1184	Hancock	Requires BCDC to prepare a regional resilience strategy for sea level rise	Sen. Nat. Res.	
SB 1204	Lara	California Clean Truck and Bus Program	4/1 Sen. Trans.& Housing	<i>Support if amended</i>
SB 1268	Beall	Natural Resources Climate Improvement Program, funded via cap-and-trade	4/8 Sen. Nat. Res.	
SB 1275	DeLeon	Charge Ahead California Initiative (incentives for increasing clean vehicle use by low-income, and new rebates for transit and car sharing)	4/1 Sen. Trans.& Housing	
SB 1371	Leno	Has the PUC establish a Methane Leakage Abatement program	4/1 Sen. Energy, Utilities, and Communications	<i>Support</i>
SB 1415	Hill	Modernizes BAAQMD Advisory Council language	4/2 Sen. Env. Quality	<i>Support</i>

## **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 24, 2014

Re: Update on 2013 Bills

### RECOMMENDED ACTION

The Committee will discuss measures introduced in 2013 and still alive, and will consider recommending positions on some of these bills.

### DISCUSSION

At its last meeting, the Committee discussed Senator DeSaulnier's 2013 bill on regional governance, SB 792. An amended version of the bill passed the Senate in January, and now is in the Assembly. The bill is likely to be heard in policy committees shortly. A copy is attached. The Joint Policy Committee (JPC) has discussed the bill several times recently, and on March 24<sup>th</sup> it sent recommended changes to the bill to the author. These are also attached.

Note that the current bill would require both the Bay Conservation and Development Commission (BCDC) and the District to jointly adopt the Sustainable Communities Strategy (SCS). The SCS is already required by SB 375 to be adopted by both the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission. Also note that the bill would require the four agencies to prepare a consolidation plan for a host of functions including legal services. There are a multitude of other requirements in the bill that do not affect the District, but apply primarily to MTC and ABAG. These include the establishment of a new economic development advisory committee, new public outreach requirements, and more. While some of these are redundant with existing practices, they have not been the primary concerns expressed by the four JPC member agencies.

Staff recommends the District adopt an "Oppose unless amended" position on SB 792, with amendments consistent with the JPC's direction. The Executive Directors of the four agencies along with the JPC Director expressed their concerns to Senator DeSaulnier's staff in a recent meeting in Sacramento, and the consensus position of the JPC at its March 21<sup>st</sup> meeting was that the bill needed to be amended. The amendments sought by the District would be to remove the requirement that the District and BCDC must both also adopt the SCS, and to allow the consolidation work already being undertaken as part of the move to 375 Beale to suffice.

The Committee also discussed AB 1330 at its last meeting. This bill, which was a major gut-and-amend at the end of 2013, is currently on the inactive file on the Assembly floor. A copy of the bill is attached. Currently, the bill would attempt to double environmental penalties in

environmental justice areas defined by CalEPA. Half of those revenues, including stationary source air penalty revenues, would be taken away from the local enforcement agency such as the District, and put instead into a new Green Zone Trust Fund. From there, they could be used to fund programs elsewhere in the state, and even to fund non- air quality programs. Staff have met with the Speaker's staff and supporters of the bill and expressed the concern that as drafted this bill will weaken enforcement in the very areas the bill is trying to help. Staff is recommending the District adopt an "Oppose unless amended" position on AB 1330. If the bill instead focused on, for example, increasing penalties for serious, repeated violations, that is something staff recommend the District support in concept.

Finally, SB 691 is the response to the 2012 Chevron Richmond refinery fire that is authored by Senator Hancock and sponsored by the District. This bill remains where it was at the end of the last legislative year, on the inactive file on the Assembly floor. The bill is subject to the same end-of-August deadline as the 2014 bills.

#### 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 1330  
Assembly Bill 792 (Redline Version)  
Assembly Bill 792

AMENDED IN SENATE JANUARY 27, 2014

AMENDED IN SENATE JANUARY 13, 2014

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 10, 2013

**SENATE BILL**

**No. 792**

---

**Introduced by Senator DeSaulnier  
(Coauthors: ~~Senators Hancock and~~ *Hancock, Hill, and Leno*)**

February 22, 2013

---

An act to amend Section 65080 of, and to add Sections 66537.1, 66537.2, 66537.3, 66537.4, 66537.6, and 66537.7 to, the Government Code, relating to planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 792, as amended, DeSaulnier. Regional entities: San Francisco 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 under existing law as a joint powers agency comprised of cities and counties with regional planning responsibilities. Existing law provides for a joint policy committee of certain member agencies 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, coordinating transportation, land use, and air quality planning, with specified objectives.

This bill would require the member agencies of the joint policy committee to prepare a plan for consolidating certain functions that are common to the member agencies. The bill would require the plan to also include a statement relative to the expected reduction of overhead, operation, and management costs. The bill would require a member agency affected by the plan to submit a copy of the plan to its board on or before December 31, 2015, and would require the member agencies to report to the Senate Committee on Transportation and Housing on the adoption and implementation of the plan on or before December 31, 2016. The bill would also require the joint policy committee to maintain an Internet Web site containing information relevant to the committee's activities and to appoint an advisory committee on economic competitiveness with specified members from the business community and other organizations to adopt goals and policies related to the inclusion of economic development opportunities in the sustainable ~~committees~~ *communities* strategy.

~~The bill would require the San Francisco Bay Conservation and Development Commission to relocate to a specified location.~~

The bill would also establish additional requirements for a sustainable communities strategy adopted on or after January 1, 2015, within the jurisdiction of the Metropolitan Transportation Commission, and would impose additional duties relating to that sustainable communities strategy on the Metropolitan Transportation Commission, the Bay Area Air Quality Management District, and the San Francisco Bay Conservation and Development Commission. Among those additional duties, the bill would require the Metropolitan Transportation Commission to convene a public engagement advisory group to assist in the development of a draft public participation plan, as specified. The bill would also require the commission to report biannually to the Legislature and the public on the progress in implementing the policies and programs of the sustainable communities strategy.

By imposing new duties on the Metropolitan Transportation Commission and other regional entities, 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:*

1 SECTION 1. Section 65080 of the Government Code is  
2 amended to read:

3 65080. (a) Each transportation planning agency designated  
4 under Section 29532 or 29532.1 shall prepare and adopt a regional  
5 transportation plan directed at achieving a coordinated and balanced  
6 regional transportation system, including, but not limited to, mass  
7 transportation, highway, railroad, maritime, bicycle, pedestrian,  
8 goods movement, and aviation facilities and services. The plan  
9 shall be action-oriented and pragmatic, considering both the  
10 short-term and long-term future, and shall present clear, concise  
11 policy guidance to local and state officials. The regional  
12 transportation plan shall consider factors specified in Section 134  
13 of Title 23 of the United States Code. Each transportation planning  
14 agency shall consider and incorporate, as appropriate, the  
15 transportation plans of cities, counties, districts, private  
16 organizations, and state and federal agencies.

17 (b) The regional transportation plan shall be an internally  
18 consistent document and shall include all of the following:

19 (1) A policy element that describes the transportation issues in  
20 the region, identifies and quantifies regional needs, and describes  
21 the desired short-range and long-range transportation goals, and  
22 pragmatic objective and policy statements. The objective and policy  
23 statements shall be consistent with the funding estimates of the  
24 financial element. The policy element of transportation planning  
25 agencies with populations that exceed 200,000 persons may  
26 quantify a set of indicators including, but not limited to, all of the  
27 following:

1 (A) Measures of mobility and traffic congestion, including, but  
2 not limited to, daily vehicle hours of delay per capita and vehicle  
3 miles traveled per capita.

4 (B) Measures of road and bridge maintenance and rehabilitation  
5 needs, including, but not limited to, roadway pavement and bridge  
6 conditions.

7 (C) Measures of means of travel, including, but not limited to,  
8 percentage share of all trips (work and nonwork) made by all of  
9 the following:

10 (i) Single occupant vehicle.

11 (ii) Multiple occupant vehicle or carpool.

12 (iii) Public transit including commuter rail and intercity rail.

13 (iv) Walking.

14 (v) Bicycling.

15 (D) Measures of safety and security, including, but not limited  
16 to, total injuries and fatalities assigned to each of the modes set  
17 forth in subparagraph (C).

18 (E) Measures of equity and accessibility, including, but not  
19 limited to, percentage of the population served by frequent and  
20 reliable public transit, with a breakdown by income bracket, and  
21 percentage of all jobs accessible by frequent and reliable public  
22 transit service, with a breakdown by income bracket.

23 (F) The requirements of this section may be met utilizing  
24 existing sources of information. No additional traffic counts,  
25 household surveys, or other sources of data shall be required.

26 (2) A sustainable communities strategy prepared by each  
27 metropolitan planning organization as follows:

28 (A) No later than September 30, 2010, the State Air Resources  
29 Board shall provide each affected region with greenhouse gas  
30 emission reduction targets for the automobile and light truck sector  
31 for 2020 and 2035, respectively.

32 (i) No later than January 31, 2009, the state board shall appoint  
33 a Regional Targets Advisory Committee to recommend factors to  
34 be considered and methodologies to be used for setting greenhouse  
35 gas emission reduction targets for the affected regions. The  
36 committee shall be composed of representatives of the metropolitan  
37 planning organizations, affected air districts, the League of  
38 California Cities, the California State Association of Counties,  
39 local transportation agencies, and members of the public, including  
40 homebuilders, environmental organizations, planning organizations,

1 environmental justice organizations, affordable housing  
2 organizations, and others. The advisory committee shall transmit  
3 a report with its recommendations to the state board no later than  
4 September 30, 2009. In recommending factors to be considered  
5 and methodologies to be used, the advisory committee may  
6 consider any relevant issues, including, but not limited to, data  
7 needs, modeling techniques, growth forecasts, the impacts of  
8 regional jobs-housing balance on interregional travel and  
9 greenhouse gas emissions, economic and demographic trends, the  
10 magnitude of greenhouse gas reduction benefits from a variety of  
11 land use and transportation strategies, and appropriate methods to  
12 describe regional targets and to monitor performance in attaining  
13 those targets. The state board shall consider the report prior to  
14 setting the targets.

15 (ii) Prior to setting the targets for a region, the state board shall  
16 exchange technical information with the metropolitan planning  
17 organization and the affected air district. The metropolitan planning  
18 organization may recommend a target for the region. The  
19 metropolitan planning organization shall hold at least one public  
20 workshop within the region after receipt of the report from the  
21 advisory committee. The state board shall release draft targets for  
22 each region no later than June 30, 2010.

23 (iii) In establishing these targets, the state board shall take into  
24 account greenhouse gas emission reductions that will be achieved  
25 by improved vehicle emission standards, changes in fuel  
26 composition, and other measures it has approved that will reduce  
27 greenhouse gas emissions in the affected regions, and prospective  
28 measures the state board plans to adopt to reduce greenhouse gas  
29 emissions from other greenhouse gas emission sources as that term  
30 is defined in subdivision (i) of Section 38505 of the Health and  
31 Safety Code and consistent with the regulations promulgated  
32 pursuant to the California Global Warming Solutions Act of 2006  
33 (Division 25.5 (commencing with Section 38500) of the Health  
34 and Safety Code).

35 (iv) The state board shall update the regional greenhouse gas  
36 emission reduction targets every eight years consistent with each  
37 metropolitan planning organization's timeframe for updating its  
38 regional transportation plan under federal law until 2050. The state  
39 board may revise the targets every four years based on changes in  
40 the factors considered under clause (iii). The state board shall



1 exchange technical information with the Department of  
2 Transportation, metropolitan planning organizations, local  
3 governments, and affected air districts and engage in a consultative  
4 process with public and private stakeholders prior to updating these  
5 targets.

6 (v) The greenhouse gas emission reduction targets may be  
7 expressed in gross tons, tons per capita, tons per household, or in  
8 any other metric deemed appropriate by the state board.

9 (B) Each metropolitan planning organization shall prepare a  
10 sustainable communities strategy, subject to the requirements of  
11 Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of  
12 Federal Regulations, including the requirement to utilize the most  
13 recent planning assumptions considering local general plans and  
14 other factors. The sustainable communities strategy shall (i)  
15 identify the general location of uses, residential densities, and  
16 building intensities within the region, (ii) identify areas within the  
17 region sufficient to house all the population of the region, including  
18 all economic segments of the population, over the course of the  
19 planning period of the regional transportation plan taking into  
20 account net migration into the region, population growth, household  
21 formation and employment growth, (iii) identify areas within the  
22 region sufficient to house an eight-year projection of the regional  
23 housing need for the region pursuant to Section 65584, (iv) identify  
24 a transportation network to service the transportation needs of the  
25 region, (v) gather and consider the best practically available  
26 scientific information regarding resource areas and farmland in  
27 the region as defined in subdivisions (a) and (b) of Section  
28 65080.01, (vi) consider the state housing goals specified in Sections  
29 65580 and 65581, (vii) set forth a forecasted development pattern  
30 for the region, which, when integrated with the transportation  
31 network, and other transportation measures and policies, will  
32 reduce the greenhouse gas emissions from automobiles and light  
33 trucks to achieve, if there is a feasible way to do so, the greenhouse  
34 gas emission reduction targets approved by the state board, and  
35 (viii) allow the regional transportation plan to comply with Section  
36 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506).

37 (C) (i) Within the jurisdiction of the Metropolitan  
38 Transportation Commission, as defined by Section 66502, a  
39 sustainable communities strategy adopted on or after January 1,  
40 2015, shall also include consideration of local and regional air

1 quality, ~~sea level rise~~, priority infrastructure needs, and the goals  
2 and policies related to economic development opportunities and  
3 social equity goals pursuant to subdivision (b) of Section 66537.6.  
4 *The sustainable communities strategy may also include*  
5 *consideration of sea level rise.* The Association of Bay Area  
6 Governments shall be responsible for clauses (i), (ii), (iii), (v), and  
7 (vi) of subparagraph (B). The Metropolitan Transportation  
8 Commission shall be responsible for clauses (iv) and (viii) of  
9 subparagraph (B), priority infrastructure needs, and the goals and  
10 policies related to economic development opportunities and social  
11 equity goals pursuant to subdivision (b) of Section 66537.6. The  
12 Bay Area Air Quality Management District shall be responsible  
13 for criteria pollutants and toxic air contaminants. ~~The San Francisco~~  
14 ~~Bay Conservation and Development Commission shall be~~  
15 ~~responsible for sea level rise.~~ The Association of Bay Area  
16 Governments, the Bay Area Air Quality Management District, the  
17 San Francisco Bay Conservation and Development Commission,  
18 and the Metropolitan Transportation Commission shall jointly be  
19 responsible for clause (vii) of subparagraph (B) and the adoption  
20 of the strategy as a whole.

21 (ii) Within the jurisdiction of the Tahoe Regional Planning  
22 Agency, as defined in Sections 66800 and 66801, the Tahoe  
23 Metropolitan Planning Organization shall use the Regional Plan  
24 for the Lake Tahoe Region as the sustainable community strategy,  
25 provided that it complies with clauses (vii) and (viii) of  
26 subparagraph (B).

27 (D) In the region served by the multicounty transportation  
28 planning agency described in Section 130004 of the Public Utilities  
29 Code, a subregional council of governments and the county  
30 transportation commission may work together to propose the  
31 sustainable communities strategy and an alternative planning  
32 strategy, if one is prepared pursuant to subparagraph (I), for that  
33 subregional area. The metropolitan planning organization may  
34 adopt a framework for a subregional sustainable communities  
35 strategy or a subregional alternative planning strategy to address  
36 the intraregional land use, transportation, economic, air quality,  
37 and climate policy relationships. The metropolitan planning  
38 organization shall include the subregional sustainable communities  
39 strategy for that subregion in the regional sustainable communities  
40 strategy to the extent consistent with this section and federal law

1 and approve the subregional alternative planning strategy, if one  
2 is prepared pursuant to subparagraph (I), for that subregional area  
3 to the extent consistent with this section. The metropolitan planning  
4 organization shall develop overall guidelines, create public  
5 participation plans pursuant to subparagraph (F), ensure  
6 coordination, resolve conflicts, make sure that the overall plan  
7 complies with applicable legal requirements, and adopt the plan  
8 for the region.

9 (E) The metropolitan planning organization shall conduct at  
10 least two informational meetings in each county within the region  
11 for members of the board of supervisors and city councils on the  
12 sustainable communities strategy and alternative planning strategy,  
13 if any. The metropolitan planning organization may conduct only  
14 one informational meeting if it is attended by representatives of  
15 the county board of supervisors and city council members  
16 representing a majority of the cities representing a majority of the  
17 population in the incorporated areas of that county. Notice of the  
18 meeting or meetings shall be sent to the clerk of the board of  
19 supervisors and to each city clerk. The purpose of the meeting or  
20 meetings shall be to discuss the sustainable communities strategy  
21 and the alternative planning strategy, if any, including the key land  
22 use and planning assumptions to the members of the board of  
23 supervisors and the city council members in that county and to  
24 solicit and consider their input and recommendations.

25 (F) Each metropolitan planning organization shall adopt a public  
26 participation plan, for development of the sustainable communities  
27 strategy and an alternative planning strategy, if any, that includes  
28 all of the following:

29 (i) Outreach efforts to encourage the active participation of a  
30 broad range of stakeholder groups in the planning process,  
31 consistent with the agency's adopted Federal Public Participation  
32 Plan, including, but not limited to, affordable housing advocates,  
33 transportation advocates, neighborhood and community groups,  
34 environmental advocates, home builder representatives,  
35 broad-based business organizations, landowners, commercial  
36 property interests, and homeowner associations.

37 (ii) Consultation with congestion management agencies,  
38 transportation agencies, and transportation commissions.

39 (iii) Workshops throughout the region to provide the public with  
40 the information and tools necessary to provide a clear

1 understanding of the issues and policy choices. At least one  
2 workshop shall be held in each county in the region. For counties  
3 with a population greater than 500,000, at least three workshops  
4 shall be held. Each workshop, to the extent practicable, shall  
5 include urban simulation computer modeling to create visual  
6 representations of the sustainable communities strategy and the  
7 alternative planning strategy.

8 (iv) Preparation and circulation of a draft sustainable  
9 communities strategy and an alternative planning strategy, if one  
10 is prepared, not less than 55 days before adoption of a final regional  
11 transportation plan.

12 (v) At least three public hearings on the draft sustainable  
13 communities strategy in the regional transportation plan and  
14 alternative planning strategy, if one is prepared. If the metropolitan  
15 transportation organization consists of a single county, at least two  
16 public hearings shall be held. To the maximum extent feasible, the  
17 hearings shall be in different parts of the region to maximize the  
18 opportunity for participation by members of the public throughout  
19 the region.

20 (vi) A process for enabling members of the public to provide a  
21 single request to receive notices, information, and updates.

22 (G) In preparing a sustainable communities strategy, the  
23 metropolitan planning organization shall consider spheres of  
24 influence that have been adopted by the local agency formation  
25 commissions within its region.

26 (H) Prior to adopting a sustainable communities strategy, the  
27 metropolitan planning organization shall quantify the reduction in  
28 greenhouse gas emissions projected to be achieved by the  
29 sustainable communities strategy and set forth the difference, if  
30 any, between the amount of that reduction and the target for the  
31 region established by the state board.

32 (I) If the sustainable communities strategy, prepared in  
33 compliance with subparagraph (B) or (D), is unable to reduce  
34 greenhouse gas emissions to achieve the greenhouse gas emission  
35 reduction targets established by the state board, the metropolitan  
36 planning organization shall prepare an alternative planning strategy  
37 to the sustainable communities strategy showing how those  
38 greenhouse gas emission targets would be achieved through  
39 alternative development patterns, infrastructure, or additional  
40 transportation measures or policies. The alternative planning

1 strategy shall be a separate document from the regional  
2 transportation plan, but it may be adopted concurrently with the  
3 regional transportation plan. In preparing the alternative planning  
4 strategy, the metropolitan planning organization:

5 (i) Shall identify the principal impediments to achieving the  
6 targets within the sustainable communities strategy.

7 (ii) May include an alternative development pattern for the  
8 region pursuant to subparagraphs (B) to (G), inclusive.

9 (iii) Shall describe how the greenhouse gas emission reduction  
10 targets would be achieved by the alternative planning strategy, and  
11 why the development pattern, measures, and policies in the  
12 alternative planning strategy are the most practicable choices for  
13 achievement of the greenhouse gas emission reduction targets.

14 (iv) An alternative development pattern set forth in the  
15 alternative planning strategy shall comply with Part 450 of Title  
16 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations,  
17 except to the extent that compliance will prevent achievement of  
18 the greenhouse gas emission reduction targets approved by the  
19 state board.

20 (v) For purposes of the California Environmental Quality Act  
21 (Division 13 (commencing with Section 21000) of the Public  
22 Resources Code), an alternative planning strategy shall not  
23 constitute a land use plan, policy, or regulation, and the  
24 inconsistency of a project with an alternative planning strategy  
25 shall not be a consideration in determining whether a project may  
26 have an environmental effect.

27 (J) (i) Prior to starting the public participation process adopted  
28 pursuant to subparagraph (F), the metropolitan planning  
29 organization shall submit a description to the state board of the  
30 technical methodology it intends to use to estimate the greenhouse  
31 gas emissions from its sustainable communities strategy and, if  
32 appropriate, its alternative planning strategy. The state board shall  
33 respond to the metropolitan planning organization in a timely  
34 manner with written comments about the technical methodology,  
35 including specifically describing any aspects of that methodology  
36 it concludes will not yield accurate estimates of greenhouse gas  
37 emissions, and suggested remedies. The metropolitan planning  
38 organization is encouraged to work with the state board until the  
39 state board concludes that the technical methodology operates  
40 accurately.

1 (ii) After adoption, a metropolitan planning organization shall  
2 submit a sustainable communities strategy or an alternative  
3 planning strategy, if one has been adopted, to the state board for  
4 review, including the quantification of the greenhouse gas emission  
5 reductions the strategy would achieve and a description of the  
6 technical methodology used to obtain that result. Review by the  
7 state board shall be limited to acceptance or rejection of the  
8 metropolitan planning organization's determination that the strategy  
9 submitted would, if implemented, achieve the greenhouse gas  
10 emission reduction targets established by the state board. The state  
11 board shall complete its review within 60 days.

12 (iii) If the state board determines that the strategy submitted  
13 would not, if implemented, achieve the greenhouse gas emission  
14 reduction targets, the metropolitan planning organization shall  
15 revise its strategy or adopt an alternative planning strategy, if not  
16 previously adopted, and submit the strategy for review pursuant  
17 to clause (ii). At a minimum, the metropolitan planning  
18 organization must obtain state board acceptance that an alternative  
19 planning strategy would, if implemented, achieve the greenhouse  
20 gas emission reduction targets established for that region by the  
21 state board.

22 (K) Neither a sustainable communities strategy nor an alternative  
23 planning strategy regulates the use of land, nor, except as provided  
24 by subparagraph (J), shall either one be subject to any state  
25 approval. Nothing in a sustainable communities strategy shall be  
26 interpreted as superseding the exercise of the land use authority  
27 of cities and counties within the region. Nothing in this section  
28 shall be interpreted to limit the state board's authority under any  
29 other provision of law. Nothing in this section shall be interpreted  
30 to authorize the abrogation of any vested right whether created by  
31 statute or by common law. Nothing in this section shall require a  
32 city's or county's land use policies and regulations, including its  
33 general plan, to be consistent with the regional transportation plan  
34 or an alternative planning strategy. Nothing in this section requires  
35 a metropolitan planning organization to approve a sustainable  
36 communities strategy that would be inconsistent with Part 450 of  
37 Title 23 of, or Part 93 of Title 40 of, the Code of Federal  
38 Regulations and any administrative guidance under those  
39 regulations. Nothing in this section relieves a public or private

1 entity or any person from compliance with any other local, state,  
2 or federal law.

3 (L) Nothing in this section requires projects programmed for  
4 funding on or before December 31, 2011, to be subject to the  
5 provisions of this paragraph if they (i) are contained in the 2007  
6 or 2009 Federal Statewide Transportation Improvement Program,  
7 (ii) are funded pursuant to Chapter 12.49 (commencing with  
8 Section 8879.20) of Division 1 of Title 2, or (iii) were specifically  
9 listed in a ballot measure prior to December 31, 2008, approving  
10 a sales tax increase for transportation projects. Nothing in this  
11 section shall require a transportation sales tax authority to change  
12 the funding allocations approved by the voters for categories of  
13 transportation projects in a sales tax measure adopted prior to  
14 December 31, 2010. For purposes of this subparagraph, a  
15 transportation sales tax authority is a district, as defined in Section  
16 7252 of the Revenue and Taxation Code, that is authorized to  
17 impose a sales tax for transportation purposes.

18 (M) A metropolitan planning organization, or a regional  
19 transportation planning agency not within a metropolitan planning  
20 organization, that is required to adopt a regional transportation  
21 plan not less than every five years, may elect to adopt the plan not  
22 less than every four years. This election shall be made by the board  
23 of directors of the metropolitan planning organization or regional  
24 transportation planning agency no later than June 1, 2009, or  
25 thereafter 54 months prior to the statutory deadline for the adoption  
26 of housing elements for the local jurisdictions within the region,  
27 after a public hearing at which comments are accepted from  
28 members of the public and representatives of cities and counties  
29 within the region covered by the metropolitan planning  
30 organization or regional transportation planning agency. Notice  
31 of the public hearing shall be given to the general public and by  
32 mail to cities and counties within the region no later than 30 days  
33 prior to the date of the public hearing. Notice of election shall be  
34 promptly given to the Department of Housing and Community  
35 Development. The metropolitan planning organization or the  
36 regional transportation planning agency shall complete its next  
37 regional transportation plan within three years of the notice of  
38 election.

39 (N) Two or more of the metropolitan planning organizations  
40 for Fresno County, Kern County, Kings County, Madera County,

1 Merced County, San Joaquin County, Stanislaus County, and  
2 Tulare County may work together to develop and adopt  
3 multiregional goals and policies that may address interregional  
4 land use, transportation, economic, air quality, and climate  
5 relationships. The participating metropolitan planning organizations  
6 may also develop a multiregional sustainable communities strategy,  
7 to the extent consistent with federal law, or an alternative planning  
8 strategy for adoption by the metropolitan planning organizations.  
9 Each participating metropolitan planning organization shall  
10 consider any adopted multiregional goals and policies in the  
11 development of a sustainable communities strategy and, if  
12 applicable, an alternative planning strategy for its region.

13 (3) An action element that describes the programs and actions  
14 necessary to implement the plan and assigns implementation  
15 responsibilities. The action element may describe all transportation  
16 projects proposed for development during the 20-year or greater  
17 life of the plan. The action element shall consider congestion  
18 management programming activities carried out within the region.

19 (4) (A) A financial element that summarizes the cost of plan  
20 implementation constrained by a realistic projection of available  
21 revenues. The financial element shall also contain  
22 recommendations for allocation of funds. A county transportation  
23 commission created pursuant to Section 130000 of the Public  
24 Utilities Code shall be responsible for recommending projects to  
25 be funded with regional improvement funds, if the project is  
26 consistent with the regional transportation plan. The first five years  
27 of the financial element shall be based on the five-year estimate  
28 of funds developed pursuant to Section 14524. The financial  
29 element may recommend the development of specified new sources  
30 of revenue, consistent with the policy element and action element.

31 (B) The financial element of transportation planning agencies  
32 with populations that exceed 200,000 persons may include a project  
33 cost breakdown for all projects proposed for development during  
34 the 20-year life of the plan that includes total expenditures and  
35 related percentages of total expenditures for all of the following:

- 36 (i) State highway expansion.
- 37 (ii) State highway rehabilitation, maintenance, and operations.
- 38 (iii) Local road and street expansion.
- 39 (iv) Local road and street rehabilitation, maintenance, and  
40 operation.



- 1 (v) Mass transit, commuter rail, and intercity rail expansion.
- 2 (vi) Mass transit, commuter rail, and intercity rail rehabilitation,
- 3 maintenance, and operations.
- 4 (vii) Pedestrian and bicycle facilities.
- 5 (viii) Environmental enhancements and mitigation.
- 6 (ix) Research and planning.
- 7 (x) Other categories.

8 (C) The metropolitan planning organization or county  
9 transportation agency, whichever entity is appropriate, shall  
10 consider financial incentives for cities and counties that have  
11 resource areas or farmland, as defined in Section 65080.01, for  
12 the purposes of, for example, transportation investments for the  
13 preservation and safety of the city street or county road system  
14 and farm-to-market and interconnectivity transportation needs.  
15 The metropolitan planning organization or county transportation  
16 agency, whichever entity is appropriate, shall also consider  
17 financial assistance for counties to address countywide service  
18 responsibilities in counties that contribute toward the greenhouse  
19 gas emission reduction targets by implementing policies for growth  
20 to occur within their cities.

21 (c) Each transportation planning agency may also include other  
22 factors of local significance as an element of the regional  
23 transportation plan, including, but not limited to, issues of mobility  
24 for specific sectors of the community, including, but not limited  
25 to, senior citizens.

26 (d) Except as otherwise provided in this subdivision, each  
27 transportation planning agency shall adopt and submit, every four  
28 years, an updated regional transportation plan to the California  
29 Transportation Commission and the Department of Transportation.  
30 A transportation planning agency located in a federally designated  
31 air quality attainment area or that does not contain an urbanized  
32 area may at its option adopt and submit a regional transportation  
33 plan every five years. When applicable, the plan shall be consistent  
34 with federal planning and programming requirements and shall  
35 conform to the regional transportation plan guidelines adopted by  
36 the California Transportation Commission. Prior to adoption of  
37 the regional transportation plan, a public hearing shall be held after  
38 the giving of notice of the hearing by publication in the affected  
39 county or counties pursuant to Section 6061.

1 SEC. 2. Section 66537.1 is added to the Government Code, to  
2 read:

3 66537.1. (a) The member agencies of the joint policy  
4 committee created pursuant to subdivision (d) of Section 66536  
5 shall prepare a plan for consolidating the functions that are common  
6 to the member agencies, including, but not limited to, personnel  
7 and human resources, budget and financial services, electronic  
8 data and communications systems, legal services, contracting and  
9 procurement of goods and services, public information and  
10 outreach services, intergovernmental relations, transportation, land  
11 use, economic, and related forecasting models, and other related  
12 activities, as deemed appropriate and feasible, that will further the  
13 goals of the member agencies and reduce redundancy. The plan  
14 shall also include a statement as to the expected reduction in the  
15 cost of overhead and in the cost of operation and management of  
16 the member agencies.

17 (b) On or before December 31, 2015, a member agency affected  
18 by the plan shall submit a copy of the plan to its board.

19 (c) On or before December 31, 2016, the member agencies shall  
20 report to the Senate Committee on Transportation and Housing on  
21 the adoption and implementation of the plan.

22 SEC. 3. Section 66537.2 is added to the Government Code, to  
23 read:

24 66537.2. (a) Prior to initiating public outreach and participation  
25 efforts for a regional transportation plan update, including the  
26 sustainable communities strategy pursuant to subparagraphs (B)  
27 and (C) of paragraph (2) of subdivision (b) of Section 65080, the  
28 Metropolitan Transportation Commission, in consultation with the  
29 Association of Bay Area Governments, the Bay Area Air Quality  
30 Management District, and the San Francisco Bay Conservation  
31 and Development Commission, shall issue, for public comment,  
32 a draft public participation plan to meet the public participation  
33 requirements under federal law and Section 65080.

34 (b) (1) At least 180 days before issuing the draft under  
35 subdivision (a), the Metropolitan Transportation Commission shall  
36 convene a public engagement advisory group to meet at least six  
37 times before the draft is issued for public comment. Meetings of  
38 the public engagement advisory group shall be subject to the Ralph  
39 M. Brown Act (Chapter 9 (commencing with Section 54950) of  
40 Part 1 of Division 2 of Title 5 of the Government Code).

1 (2) The Metropolitan Transportation Commission shall accept  
2 nominations for membership on the public engagement advisory  
3 group from community-based organizations representing  
4 populations that are traditionally underrepresented in  
5 decisionmaking, including minority and low-income populations.  
6 Not less than 60 percent of the members of the public engagement  
7 advisory group shall be affiliated with those community-based  
8 groups.

9 (3) The public engagement advisory group shall be charged  
10 with all of the following tasks:

11 (A) Reviewing the public participation process in connection  
12 with the development and adoption of the previous regional  
13 transportation plan and sustainable communities strategy and  
14 assessing both of the following:

15 (i) Strengths and weaknesses.

16 (ii) The degree to which the public participation plans were  
17 implemented, and the degree to which specific implementation  
18 actions contributed to a robust, inclusive, and transparent process.

19 (B) Identifying key decision points in the process by which the  
20 previous regional transportation plan and sustainable communities  
21 strategy was developed and adopted, including all of the following:

22 (i) Decision points relating to public outreach.

23 (ii) Participation and process needs assessment and prioritization.

24 (iii) Goals and objectives.

25 (iv) Targets and performance measures.

26 (v) Equity metrics and equity analysis.

27 (vi) Scenario development and evaluation.

28 (vii) Selection of a preferred alternative.

29 (viii) Regional housing needs assessment methodology and  
30 allocation.

31 (ix) Scoping of the environmental impact report.

32 (x) Response to comments.

33 (xi) Investment and planning tradeoffs.

34 (xii) Relevant decision points of other public agencies, such as  
35 county congestion management agencies, transit operators, the  
36 Bay Area Partnership Board, cities, and counties.

37 (C) Assisting staff in developing a draft public participation  
38 plan that does all of the following:

1 (i) Provides a clear process map, timeline, and description of  
2 all key decision points, including those described in subparagraph  
3 (B).

4 (ii) Sets forth outreach activities designed to meaningfully  
5 inform and engage *San Francisco bay—Area area* residents,  
6 including activities targeting populations traditionally  
7 underrepresented in regional planning, such as minority and  
8 low-income populations.

9 (iii) Sets forth the role of advisory committees in the  
10 development and approval of the regional transportation plan  
11 update and sustainable-~~community~~ *communities* strategy.

12 (iv) Sets forth the role of other agencies and local jurisdictions  
13 in the planning process, and prescribes requirements for inclusive  
14 public engagement and transparency, to which the Metropolitan  
15 Transportation Commission will hold those agencies and  
16 jurisdictions accountable.

17 (v) Addresses any other priority concerns raised by the public  
18 engagement advisory group.

19 SEC. 4. Section 66537.3 is added to the Government Code, to  
20 read:

21 66537.3. The joint policy committee shall maintain an Internet  
22 Web site containing relevant information pertaining to the joint  
23 policy committee's activities.

24 SEC. 5. Section 66537.4 is added to the Government Code, to  
25 read:

26 66537.4. The joint policy committee shall be subject to the  
27 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)  
28 of Part 1 of Division 2 of Title 5).

29 SEC. 6. Section 66537.6 is added to the Government Code, to  
30 read:

31 66537.6. (a) The joint policy committee shall appoint an  
32 advisory committee on economic competitiveness with members  
33 from the business community, including representatives of small  
34 businesses and the technology and manufacturing sectors,  
35 community colleges, public and private universities, labor, local  
36 governments, community organizations with an interest in  
37 expanding economic opportunity for low-income populations and  
38 communities, and other organizations involved with the private  
39 economy.

1 (b) The joint policy committee, in consultation with the advisory  
2 committee, shall adopt goals and policies related to the inclusion  
3 of economic development opportunities in the sustainable  
4 communities strategy. The goals and policies shall also promote  
5 amenities that are special to the region and contribute to the  
6 region's quality of life. Social equity goals and considerations shall  
7 be integrated throughout to ensure that low-income populations  
8 and populations of color share fairly in the benefits and burdens  
9 of the economic development goals and policies and their  
10 implementation and include strategies to improve the economic  
11 conditions and opportunities for all residents with special attention  
12 given to opportunities available for low-income residents and  
13 populations of color.

14 SEC. 7. Section 66537.7 is added to the Government Code, to  
15 read:

16 66537.7. The Metropolitan Transportation Commission shall  
17 report biannually to the Legislature and the public at large on  
18 progress in implementing the policies and programs of the  
19 sustainable communities strategy required pursuant to subparagraph  
20 (B) of paragraph (2) of subdivision (b) of Section 65080 and in  
21 preparing the subsequent sustainable communities strategy.

22 ~~SEC. 8. The San Francisco Bay Conservation and Development~~  
23 ~~Commission shall relocate to 390 Main Street in San Francisco,~~  
24 ~~California.~~

25 ~~SEC. 9.~~

26 SEC. 8. If the Commission on State Mandates determines that  
27 this act contains costs mandated by the state, reimbursement to  
28 local agencies and school districts for those costs shall be made  
29 pursuant to Part 7 (commencing with Section 17500) of Division  
30 4 of Title 2 of the Government Code.

AMENDMENTS PROPOSED BY THE JOINT POLICY COMMITTEE  
& SHARED WITH SENATOR DESAULNIER

Formatted: Font: 14 pt, Underline

Formatted: Indent: Left: 0", Right: 0.21"

Formatted: Font: 14 pt, Underline

AMENDED IN SENATE JANUARY 27, 2014

AMENDED IN SENATE JANUARY 13, 2014

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 10, 2013

**SENATE BILL**

**No. 792**

**Introduced by Senator DeSaulnier**

**(Coauthors: Senators ~~Hancock~~ and Hancock, Hill, and Leno)**

February 22, 2013

An act to amend Section 65080 of, and to add Sections 66537.1, 66537.2, 66537.3, 66537.4, 66537.6, and 66537.7 to, the Government Code, relating to planning.

legislative counsel's digest

SB 792, as amended, DeSaulnier. Regional entities: San Francisco 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 under existing law as a joint powers agency comprised of cities and counties with regional planning responsibilities. Existing law provides for a joint policy committee of certain member agencies 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, coordinating transportation, land use, and air quality planning, with specified objectives.

This bill would require the member agencies of the joint policy committee to prepare a plan for consolidating certain functions that are common to the member agencies. The bill would require the plan to also include a statement relative to the expected reduction of overhead, operation, and management costs. The bill would require a member agency affected by the plan to submit a copy of the plan to its board on or before December 31, 2015, and would require the member agencies to report to the Senate Committee on Transportation and Housing on the adoption and implementation of the plan on or before December 31, 2016. The bill would also require the joint policy committee to maintain an Internet Web site containing information relevant to the committee's activities and to appoint an advisory committee on economic competitiveness with specified members from the business community and other organizations to adopt goals and policies related to the inclusion of economic development opportunities in the sustainable ~~committees~~ *communities* strategy.

~~The bill would require the San Francisco Bay Conservation and Development Commission to relocate to a specified location.~~

The bill would also establish additional requirements for a sustainable communities strategy adopted on or after January 1, 2015, within the jurisdiction of the Metropolitan Transportation Commission, and would impose additional duties relating to that sustainable communities strategy on the Metropolitan Transportation Commission, the Bay Area Air Quality Management District, and the San Francisco Bay Conservation and Development Commission. Among those additional duties, the bill would require the Metropolitan Transportation Commission to convene a public engagement advisory group to assist in the development of a draft public participation plan, as specified. The bill would also require the commission to report biannually to the Legislature and the public on the progress in implementing the policies and programs of the sustainable communities strategy.

By imposing new duties on the Metropolitan Transportation Commission and other regional entities, 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:*

1 SECTION 1. Section 65080 of the Government Code is  
2 amended to read:

3 65080. (a) Each transportation planning agency designated  
4 under Section 29532 or 29532.1 shall prepare and adopt a regional  
5 transportation plan directed at achieving a coordinated and balanced  
6 regional transportation system, including, but not limited to, mass  
7 transportation, highway, railroad, maritime, bicycle, pedestrian,  
8 goods movement, and aviation facilities and services. The plan  
9 shall be action-oriented and pragmatic, considering both the  
10 short-term and long-term future, and shall present clear, concise  
11 policy guidance to local and state officials. The regional  
12 transportation plan shall consider factors specified in Section 134  
13 of Title 23 of the United States Code. Each transportation planning  
14 agency shall consider and incorporate, as appropriate, the  
15 transportation plans of cities, counties, districts, private  
16 organizations, and state and federal agencies.

17 (b) The regional transportation plan shall be an internally  
18 consistent document and shall include all of the following:

19 (1) A policy element that describes the transportation issues in  
20 the region, identifies and quantifies regional needs, and describes  
21 the desired short-range and long-range transportation goals, and  
22 pragmatic objective and policy statements. The objective and policy  
23 statements shall be consistent with the funding estimates of the  
24 financial element. The policy element of transportation planning  
25 agencies with populations that exceed 200,000 persons may  
26 quantify a set of indicators including, but not limited to, all of the  
27 following:



1 (A) Measures of mobility and traffic congestion, including, but  
2 not limited to, daily vehicle hours of delay per capita and vehicle  
3 miles traveled per capita.

4 (B) Measures of road and bridge maintenance and rehabilitation  
5 needs, including, but not limited to, roadway pavement and bridge  
6 conditions.

7 (C) Measures of means of travel, including, but not limited to,  
8 percentage share of all trips (work and nonwork) made by all of  
9 the following:

10 (i) Single occupant vehicle.

11 (ii) Multiple occupant vehicle or carpool.

12 (iii) Public transit including commuter rail and intercity rail.

13 (iv) Walking.

14 (v) Bicycling.

15 (D) Measures of safety and security, including, but not limited  
16 to, total injuries and fatalities assigned to each of the modes set  
17 forth in subparagraph (C).

18 (E) Measures of equity and accessibility, including, but not  
19 limited to, percentage of the population served by frequent and  
20 reliable public transit, with a breakdown by income bracket, and  
21 percentage of all jobs accessible by frequent and reliable public  
22 transit service, with a breakdown by income bracket.

23 (F) The requirements of this section may be met utilizing  
24 existing sources of information. No additional traffic counts,  
25 household surveys, or other sources of data shall be required.

26 (2) A sustainable communities strategy prepared by each  
27 metropolitan planning organization as follows:

28 (A) No later than September 30, 2010, the State Air Resources  
29 Board shall provide each affected region with greenhouse gas  
30 emission reduction targets for the automobile and light truck sector  
31 for 2020 and 2035, respectively.

32 (i) No later than January 31, 2009, the state board shall appoint  
33 a Regional Targets Advisory Committee to recommend factors to  
34 be considered and methodologies to be used for setting greenhouse  
35 gas emission reduction targets for the affected regions. The  
36 committee shall be composed of representatives of the metropolitan  
37 planning organizations, affected air districts, the League of  
38 California Cities, the California State Association of Counties,  
39 local transportation agencies, and members of the public, including  
40 homebuilders, environmental organizations, planning organizations,

1 environmental justice organizations, affordable housing  
2 organizations, and others. The advisory committee shall transmit  
3 a report with its recommendations to the state board no later than  
4 September 30, 2009. In recommending factors to be considered  
5 and methodologies to be used, the advisory committee may  
6 consider any relevant issues, including, but not limited to, data  
7 needs, modeling techniques, growth forecasts, the impacts of  
8 regional jobs-housing balance on interregional travel and  
9 greenhouse gas emissions, economic and demographic trends, the  
10 magnitude of greenhouse gas reduction benefits from a variety of  
11 land use and transportation strategies, and appropriate methods to  
12 describe regional targets and to monitor performance in attaining  
13 those targets. The state board shall consider the report prior to  
14 setting the targets.

15 (ii) Prior to setting the targets for a region, the state board shall  
16 exchange technical information with the metropolitan planning  
17 organization and the affected air district. The metropolitan planning  
18 organization may recommend a target for the region. The  
19 metropolitan planning organization shall hold at least one public  
20 workshop within the region after receipt of the report from the  
21 advisory committee. The state board shall release draft targets for  
22 each region no later than June 30, 2010.

23 (iii) In establishing these targets, the state board shall take into  
24 account greenhouse gas emission reductions that will be achieved  
25 by improved vehicle emission standards, changes in fuel  
26 composition, and other measures it has approved that will reduce  
27 greenhouse gas emissions in the affected regions, and prospective  
28 measures the state board plans to adopt to reduce greenhouse gas  
29 emissions from other greenhouse gas emission sources as that term  
30 is defined in subdivision (i) of Section 38505 of the Health and  
31 Safety Code and consistent with the regulations promulgated  
32 pursuant to the California Global Warming Solutions Act of 2006  
33 (Division 25.5 (commencing with Section 38500) of the Health  
34 and Safety Code).

35 (iv) The state board shall update the regional greenhouse gas  
36 emission reduction targets every eight years consistent with each  
37 metropolitan planning organization's timeframe for updating its  
38 regional transportation plan under federal law until 2050. The state  
39 board may revise the targets every four years based on changes in  
40 the factors considered under clause (iii). The state board shall

1 exchange technical information with the Department of  
2 Transportation, metropolitan planning organizations, local  
3 governments, and affected air districts and engage in a consultative  
4 process with public and private stakeholders prior to updating these  
5 targets.

6 (v) The greenhouse gas emission reduction targets may be  
7 expressed in gross tons, tons per capita, tons per household, or in  
8 any other metric deemed appropriate by the state board.

9 (B) Each metropolitan planning organization shall prepare a  
10 sustainable communities strategy, subject to the requirements of  
11 Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of  
12 Federal Regulations, including the requirement to utilize the most  
13 recent planning assumptions considering local general plans and  
14 other factors. The sustainable communities strategy shall (i)  
15 identify the general location of uses, residential densities, and  
16 building intensities within the region, (ii) identify areas within the  
17 region sufficient to house all the population of the region, including  
18 all economic segments of the population, over the course of the  
19 planning period of the regional transportation plan taking into  
20 account net migration into the region, population growth, household  
21 formation and employment growth, (iii) identify areas within the  
22 region sufficient to house an eight-year projection of the regional  
23 housing need for the region pursuant to Section 65584, (iv) identify  
24 a transportation network to service the transportation needs of the  
25 region, (v) gather and consider the best practically available  
26 scientific information regarding resource areas and farmland in  
27 the region as defined in subdivisions (a) and (b) of Section  
28 65080.01, (vi) consider the state housing goals specified in Sections  
29 65580 and 65581, (vii) set forth a forecasted development pattern  
30 for the region, which, when integrated with the transportation  
31 network, and other transportation measures and policies, will  
32 reduce the greenhouse gas emissions from automobiles and light  
33 trucks to achieve, if there is a feasible way to do so, the greenhouse  
34 gas emission reduction targets approved by the state board, and  
35 (viii) allow the regional transportation plan to comply with Section  
36 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506).

37 (C) (i) Within the jurisdiction of the Metropolitan  
38 Transportation Commission, as defined by Section 66502, a  
39 sustainable communities strategy adopted on or after January 1,  
40 2015, shall include, a brief needs assessment of economic  
development, environmental, social equity, and governance indicators  
as needed to guide the development of future plans. These indicators  
shall include, but not be limited to, air quality, sea level rise, climate  
change and other hazard readiness, including shoreline resilience and  
long-term recovery from major earthquakes. This work will be  
completed to the extent financial resources are  
available to the agencies that comprise the Joint  
Policy Committee to perform such work.

The member agencies of the Joint Policy Committee  
created pursuant to subdivision (d) Section 66536  
shall be responsible for undertaking any work related  
to the sustainable communities strategy at the  
regional scale. Such coordination, collaboration, and

partnership, shall include outreach and consultation with:

Federal, state, regional, special district, and local government stakeholders; and

A wide variety of individuals and organizations from the private and nonprofit sectors with subject matter expertise in the focus areas included in the sustainable communities strategy.

~~shall also include consideration of local and regional air~~

Formatted: Strikethrough

1 ~~quality, sea level rise, priority infrastructure needs, and the goals~~  
2 ~~and policies related to economic development opportunities and~~  
3 ~~social equity goals pursuant to subdivision (b) of Section 66537.6.~~

Formatted: Strikethrough

4 ~~The sustainable communities strategy may also include~~  
5 ~~consideration of sea level rise.~~ The Association of Bay Area

6 Governments shall be responsible for clauses (i), (ii), (iii), (v), and  
7 (vi) of subparagraph (B). The Metropolitan Transportation  
8 Commission shall be responsible for clauses (iv) and (viii) of  
9 subparagraph (B), priority infrastructure needs, and the goals and  
10 policies related to economic development opportunities and social

11 equity goals pursuant to subdivision (b) of Section 66537.6. The  
12 Bay Area Air Quality Management District shall be responsible

13 for criteria pollutants and toxic air contaminants. ~~The San Francisco~~  
14 ~~Bay Conservation and Development Commission shall be~~

Formatted: Strikethrough

15 responsible for sea level rise. The Association of Bay Area  
16 Governments, ~~the Bay Area Air Quality Management District, the~~  
17 ~~San Francisco Bay Conservation and Development Commission,~~

Formatted: Strikethrough

18 and the Metropolitan Transportation Commission shall jointly be  
19 responsible for clause (vii) of subparagraph (B) and the adoption

20 of the strategy as a whole. The Bay Area Air Quality Management District and the San  
Francisco Bay Conservation and Development Commission shall provide technical and policy  
analysis, recommendations and other forms of consultation as requested by the Joint Policy  
Committee created pursuant to subdivision (d) of Section 66536.

21 (ii) Within the jurisdiction of the Tahoe Regional Planning  
22 Agency, as defined in Sections 66800 and 66801, the Tahoe  
23 Metropolitan Planning Organization shall use the Regional Plan  
24 for the Lake Tahoe Region as the sustainable community strategy,  
25 provided that it complies with clauses (vii) and (viii) of  
26 subparagraph (B).

27 (D) In the region served by the multicounty transportation  
28 planning agency described in Section 130004 of the Public Utilities  
29 Code, a subregional council of governments and the county  
30 transportation commission may work together to propose the  
31 sustainable communities strategy and an alternative planning  
32 strategy, if one is prepared pursuant to subparagraph (I), for that  
33 subregional area. The metropolitan planning organization may  
34 adopt a framework for a subregional sustainable communities  
35 strategy or a subregional alternative planning strategy to address  
36 the intraregional land use, transportation, economic, air quality,  
37 and climate policy relationships. The metropolitan planning  
38 organization shall include the subregional sustainable communities  
39 strategy for that subregion in the regional sustainable communities  
40 strategy to the extent consistent with this section and federal law

1 and approve the subregional alternative planning strategy, if one  
2 is prepared pursuant to subparagraph (I), for that subregional area  
3 to the extent consistent with this section. The metropolitan planning  
4 organization shall develop overall guidelines, create public  
5 participation plans pursuant to subparagraph (F), ensure  
6 coordination, resolve conflicts, make sure that the overall plan  
7 complies with applicable legal requirements, and adopt the plan  
8 for the region.

9 (E) The metropolitan planning organization shall conduct at  
10 least two informational meetings in each county within the region  
11 for members of the board of supervisors and city councils on the  
12 sustainable communities strategy and alternative planning strategy,  
13 if any. The metropolitan planning organization may conduct only  
14 one informational meeting if it is attended by representatives of  
15 the county board of supervisors and city council members  
16 representing a majority of the cities representing a majority of the  
17 population in the incorporated areas of that county. Notice of the  
18 meeting or meetings shall be sent to the clerk of the board of  
19 supervisors and to each city clerk. The purpose of the meeting or  
20 meetings shall be to discuss the sustainable communities strategy  
21 and the alternative planning strategy, if any, including the key land  
22 use and planning assumptions to the members of the board of  
23 supervisors and the city council members in that county and to  
24 solicit and consider their input and recommendations.

25 (F) Each metropolitan planning organization shall adopt a public  
26 participation plan, for development of the sustainable communities  
27 strategy and an alternative planning strategy, if any, that includes  
28 all of the following:

29 (i) Outreach efforts to encourage the active participation of a  
30 broad range of stakeholder groups in the planning process,  
31 consistent with the agency's adopted Federal Public Participation  
32 Plan, including, but not limited to, affordable housing advocates,  
33 transportation advocates, neighborhood and community groups,  
34 environmental advocates, home builder representatives,  
35 broad-based business organizations, landowners, commercial  
36 property interests, and homeowner associations.

37 (ii) Consultation with congestion management agencies,  
38 transportation agencies, and transportation commissions.

39 (iii) Workshops throughout the region to provide the public with  
40 the information and tools necessary to provide a clear

1 understanding of the issues and policy choices. At least one  
2 workshop shall be held in each county in the region. For counties  
3 with a population greater than 500,000, at least three workshops  
4 shall be held. Each workshop, to the extent practicable, shall  
5 include urban simulation computer modeling to create visual  
6 representations of the sustainable communities strategy and the  
7 alternative planning strategy.

8 (iv) Preparation and circulation of a draft sustainable  
9 communities strategy and an alternative planning strategy, if one  
10 is prepared, not less than 55 days before adoption of a final regional  
11 transportation plan.

12 (v) At least three public hearings on the draft sustainable  
13 communities strategy in the regional transportation plan and  
14 alternative planning strategy, if one is prepared. If the metropolitan  
15 transportation organization consists of a single county, at least two  
16 public hearings shall be held. To the maximum extent feasible, the  
17 hearings shall be in different parts of the region to maximize the  
18 opportunity for participation by members of the public throughout  
19 the region.

20 (vi) A process for enabling members of the public to provide a  
21 single request to receive notices, information, and updates.

22 (G) In preparing a sustainable communities strategy, the  
23 metropolitan planning organization shall consider spheres of  
24 influence that have been adopted by the local agency formation  
25 commissions within its region.

26 (H) Prior to adopting a sustainable communities strategy, the  
27 metropolitan planning organization shall quantify the reduction in  
28 greenhouse gas emissions projected to be achieved by the  
29 sustainable communities strategy and set forth the difference, if  
30 any, between the amount of that reduction and the target for the  
31 region established by the state board.

32 (I) If the sustainable communities strategy, prepared in  
33 compliance with subparagraph (B) or (D), is unable to reduce  
34 greenhouse gas emissions to achieve the greenhouse gas emission  
35 reduction targets established by the state board, the metropolitan  
36 planning organization shall prepare an alternative planning strategy  
37 to the sustainable communities strategy showing how those  
38 greenhouse gas emission targets would be achieved through  
39 alternative development patterns, infrastructure, or additional  
40 transportation measures or policies. The alternative planning

1 strategy shall be a separate document from the regional  
2 transportation plan, but it may be adopted concurrently with the  
3 regional transportation plan. In preparing the alternative planning  
4 strategy, the metropolitan planning organization:

5 (i) Shall identify the principal impediments to achieving the  
6 targets within the sustainable communities strategy.

7 (ii) May include an alternative development pattern for the  
8 region pursuant to subparagraphs (B) to (G), inclusive.

9 (iii) Shall describe how the greenhouse gas emission reduction  
10 targets would be achieved by the alternative planning strategy, and  
11 why the development pattern, measures, and policies in the  
12 alternative planning strategy are the most practicable choices for  
13 achievement of the greenhouse gas emission reduction targets.

14 (iv) An alternative development pattern set forth in the  
15 alternative planning strategy shall comply with Part 450 of Title  
16 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations,  
17 except to the extent that compliance will prevent achievement of  
18 the greenhouse gas emission reduction targets approved by the  
19 state board.

20 (v) For purposes of the California Environmental Quality Act  
21 (Division 13 (commencing with Section 21000) of the Public  
22 Resources Code), an alternative planning strategy shall not  
23 constitute a land use plan, policy, or regulation, and the  
24 inconsistency of a project with an alternative planning strategy  
25 shall not be a consideration in determining whether a project may  
26 have an environmental effect.

27 (J) (i) Prior to starting the public participation process adopted  
28 pursuant to subparagraph (F), the metropolitan planning  
29 organization shall submit a description to the state board of the  
30 technical methodology it intends to use to estimate the greenhouse  
31 gas emissions from its sustainable communities strategy and, if  
32 appropriate, its alternative planning strategy. The state board shall  
33 respond to the metropolitan planning organization in a timely  
34 manner with written comments about the technical methodology,  
35 including specifically describing any aspects of that methodology  
36 it concludes will not yield accurate estimates of greenhouse gas  
37 emissions, and suggested remedies. The metropolitan planning  
38 organization is encouraged to work with the state board until the  
39 state board concludes that the technical methodology operates  
40 accurately.



1 (ii) After adoption, a metropolitan planning organization shall  
2 submit a sustainable communities strategy or an alternative  
3 planning strategy, if one has been adopted, to the state board for  
4 review, including the quantification of the greenhouse gas emission  
5 reductions the strategy would achieve and a description of the  
6 technical methodology used to obtain that result. Review by the  
7 state board shall be limited to acceptance or rejection of the  
8 metropolitan planning organization's determination that the strategy  
9 submitted would, if implemented, achieve the greenhouse gas  
10 emission reduction targets established by the state board. The state  
11 board shall complete its review within 60 days.

12 (iii) If the state board determines that the strategy submitted  
13 would not, if implemented, achieve the greenhouse gas emission  
14 reduction targets, the metropolitan planning organization shall  
15 revise its strategy or adopt an alternative planning strategy, if not  
16 previously adopted, and submit the strategy for review pursuant  
17 to clause (ii). At a minimum, the metropolitan planning  
18 organization must obtain state board acceptance that an alternative  
19 planning strategy would, if implemented, achieve the greenhouse  
20 gas emission reduction targets established for that region by the  
21 state board.

22 (K) Neither a sustainable communities strategy nor an alternative  
23 planning strategy regulates the use of land, nor, except as provided  
24 by subparagraph (J), shall either one be subject to any state  
25 approval. Nothing in a sustainable communities strategy shall be  
26 interpreted as superseding the exercise of the land use authority  
27 of cities and counties within the region. Nothing in this section  
28 shall be interpreted to limit the state board's authority under any  
29 other provision of law. Nothing in this section shall be interpreted  
30 to authorize the abrogation of any vested right whether created by  
31 statute or by common law. Nothing in this section shall require a  
32 city's or county's land use policies and regulations, including its  
33 general plan, to be consistent with the regional transportation plan  
34 or an alternative planning strategy. Nothing in this section requires  
35 a metropolitan planning organization to approve a sustainable  
36 communities strategy that would be inconsistent with Part 450 of  
37 Title 23 of, or Part 93 of Title 40 of, the Code of Federal  
38 Regulations and any administrative guidance under those  
39 regulations. Nothing in this section relieves a public or private

1 entity or any person from compliance with any other local, state,  
2 or federal law.

3 (L) Nothing in this section requires projects programmed for  
4 funding on or before December 31, 2011, to be subject to the  
5 provisions of this paragraph if they (i) are contained in the 2007  
6 or 2009 Federal Statewide Transportation Improvement Program,  
7 (ii) are funded pursuant to Chapter 12.49 (commencing with  
8 Section 8879.20) of Division 1 of Title 2, or (iii) were specifically  
9 listed in a ballot measure prior to December 31, 2008, approving  
10 a sales tax increase for transportation projects. Nothing in this  
11 section shall require a transportation sales tax authority to change  
12 the funding allocations approved by the voters for categories of  
13 transportation projects in a sales tax measure adopted prior to  
14 December 31, 2010. For purposes of this subparagraph, a  
15 transportation sales tax authority is a district, as defined in Section  
16 7252 of the Revenue and Taxation Code, that is authorized to  
17 impose a sales tax for transportation purposes.

18 (M) A metropolitan planning organization, or a regional  
19 transportation planning agency not within a metropolitan planning  
20 organization, that is required to adopt a regional transportation  
21 plan not less than every five years, may elect to adopt the plan not  
22 less than every four years. This election shall be made by the board  
23 of directors of the metropolitan planning organization or regional  
24 transportation planning agency no later than June 1, 2009, or  
25 thereafter 54 months prior to the statutory deadline for the adoption  
26 of housing elements for the local jurisdictions within the region,  
27 after a public hearing at which comments are accepted from  
28 members of the public and representatives of cities and counties  
29 within the region covered by the metropolitan planning  
30 organization or regional transportation planning agency. Notice  
31 of the public hearing shall be given to the general public and by  
32 mail to cities and counties within the region no later than 30 days  
33 prior to the date of the public hearing. Notice of election shall be  
34 promptly given to the Department of Housing and Community  
35 Development. The metropolitan planning organization or the  
36 regional transportation planning agency shall complete its next  
37 regional transportation plan within three years of the notice of  
38 election.

39 (N) Two or more of the metropolitan planning organizations  
40 for Fresno County, Kern County, Kings County, Madera County,

1 Merced County, San Joaquin County, Stanislaus County, and  
2 Tulare County may work together to develop and adopt  
3 multiregional goals and policies that may address interregional  
4 land use, transportation, economic, air quality, and climate  
5 relationships. The participating metropolitan planning organizations  
6 may also develop a multiregional sustainable communities strategy,  
7 to the extent consistent with federal law, or an alternative planning  
8 strategy for adoption by the metropolitan planning organizations.  
9 Each participating metropolitan planning organization shall  
10 consider any adopted multiregional goals and policies in the  
11 development of a sustainable communities strategy and, if  
12 applicable, an alternative planning strategy for its region.

13 (3) An action element that describes the programs and actions  
14 necessary to implement the plan and assigns implementation  
15 responsibilities. The action element may describe all transportation  
16 projects proposed for development during the 20-year or greater  
17 life of the plan. The action element shall consider congestion  
18 management programming activities carried out within the region.

19 (4) (A) A financial element that summarizes the cost of plan  
20 implementation constrained by a realistic projection of available  
21 revenues. The financial element shall also contain  
22 recommendations for allocation of funds. A county transportation  
23 commission created pursuant to Section 130000 of the Public  
24 Utilities Code shall be responsible for recommending projects to  
25 be funded with regional improvement funds, if the project is  
26 consistent with the regional transportation plan. The first five years  
27 of the financial element shall be based on the five-year estimate  
28 of funds developed pursuant to Section 14524. The financial  
29 element may recommend the development of specified new sources  
30 of revenue, consistent with the policy element and action element.

31 (B) The financial element of transportation planning agencies  
32 with populations that exceed 200,000 persons may include a project  
33 cost breakdown for all projects proposed for development during  
34 the 20-year life of the plan that includes total expenditures and  
35 related percentages of total expenditures for all of the following:

- 36 (i) State highway expansion.
- 37 (ii) State highway rehabilitation, maintenance, and operations.
- 38 (iii) Local road and street expansion.
- 39 (iv) Local road and street rehabilitation, maintenance, and  
40 operation.



- 1 (v) Mass transit, commuter rail, and intercity rail expansion.
  - 2 (vi) Mass transit, commuter rail, and intercity rail rehabilitation,
  - 3 maintenance, and operations.
  - 4 (vii) Pedestrian and bicycle facilities.
  - 5 (viii) Environmental enhancements and mitigation.
  - 6 (ix) Research and planning.
  - 7 (x) Other categories.
- 8 (C) The metropolitan planning organization or county  
9 transportation agency, whichever entity is appropriate, shall  
10 consider financial incentives for cities and counties that have  
11 resource areas or farmland, as defined in Section 65080.01, for  
12 the purposes of, for example, transportation investments for the  
13 preservation and safety of the city street or county road system  
14 and farm-to-market and interconnectivity transportation needs.  
15 The metropolitan planning organization or county transportation  
16 agency, whichever entity is appropriate, shall also consider  
17 financial assistance for counties to address countywide service  
18 responsibilities in counties that contribute toward the greenhouse  
19 gas emission reduction targets by implementing policies for growth  
20 to occur within their cities.
- 21 (c) Each transportation planning agency may also include other  
22 factors of local significance as an element of the regional  
23 transportation plan, including, but not limited to, issues of mobility  
24 for specific sectors of the community, including, but not limited  
25 to, senior citizens.
- 26 (d) Except as otherwise provided in this subdivision, each  
27 transportation planning agency shall adopt and submit, every four  
28 years, an updated regional transportation plan to the California  
29 Transportation Commission and the Department of Transportation.  
30 A transportation planning agency located in a federally designated  
31 air quality attainment area or that does not contain an urbanized  
32 area may at its option adopt and submit a regional transportation  
33 plan every five years. When applicable, the plan shall be consistent  
34 with federal planning and programming requirements and shall  
35 conform to the regional transportation plan guidelines adopted by  
36 the California Transportation Commission. Prior to adoption of  
37 the regional transportation plan, a public hearing shall be held after  
38 the giving of notice of the hearing by publication in the affected  
39 county or counties pursuant to Section 6061.

1 SEC. 2. Section 66537.1 is added to the Government Code, to  
2 read:

3 66537.1. (a) The member agencies of the joint policy  
4 committee created pursuant to subdivision (d) of Section 66536  
5 ~~shall prepare a plan for consolidating the functions that are common~~  
6 ~~to the member agencies, including, but not limited to, personnel~~  
7 ~~and human resources, budget and financial services, electronic~~  
8 ~~data and communications systems, legal services, contracting and~~  
9 ~~procurement of goods and services, public information and~~  
10 ~~outreach services, intergovernmental relations, transportation, land~~  
11 ~~use, economic, and related forecasting models, and other related~~  
12 ~~activities, as deemed appropriate and feasible, that will further the~~  
13 ~~goals of the member agencies and reduce redundancy. The plan~~

14 shall complete an analysis of common functions and identify  
opportunities to save costs, reduce redundancies and further the goals  
of the member agencies. The analysis shall also include a statement as

to the expected reduction in the  
15 cost of overhead and in the cost of operation and management of  
16 the member agencies.

17 ~~(b) On or before December 31, 2015, a member agency affected~~  
18 ~~by the plan shall submit a copy of the plan to its board.~~

19 ~~(c) On or before December 31, 2016, the member agencies shall~~  
20 ~~report to the Senate Committee on Transportation and Housing on~~  
21 ~~the adoption and implementation of the plan.~~

22 SEC. 3. Section 66537.2 is added to the Government Code, to  
23 read:

24 66537.2. (a) Prior to initiating public outreach and participation  
25 efforts for a regional transportation plan update, including the  
26 sustainable communities strategy pursuant to subparagraphs (B)  
27 and (C) of paragraph (2) of subdivision (b) of Section 65080, the  
28 Metropolitan Transportation Commission, in consultation with the  
29 Association of Bay Area Governments, the Bay Area Air Quality  
30 Management District, and the San Francisco Bay Conservation  
31 and Development Commission, shall issue, for public comment,  
32 a draft public participation plan to meet the public participation  
33 requirements under federal law and Section 65080.

34 (b) (1) ~~At least 180 days before~~ Prior to issuing the  
draft under

35 subdivision (a), the Metropolitan Transportation Commission shall  
36 convene a public engagement advisory group to meet ~~at least six~~  
37 ~~times as needed~~ before the draft is issued for public comment.

The public engagement advisory group shall include, but not be limited  
to, persons representing local planning agencies, congestion  
management authorities or other local government, persons representing  
low-income communities, communities of color, seniors, persons with  
disabilities, business and environmental organizations. Meetings of

38 the public engagement advisory group shall be subject to the Ralph  
39 M. Brown Act (Chapter 9 (commencing with Section 54950) of  
40 Part 1 of Division 2 of Title 5 of the Government Code).

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

1 ~~(2) The Metropolitan Transportation Commission shall accept~~  
 2 ~~(2) The Metropolitan Transportation Commission shall accept~~  
 3 ~~nominations for membership on the public engagement advisory~~  
 4 ~~group from community based organizations representing~~  
 5 ~~populations that are traditionally underrepresented in~~  
 6 ~~decisionmaking, including minority and low income populations.~~  
 7 ~~Not less than 60 percent of the members of the public engagement~~  
 8 ~~advisory group shall be affiliated with those community based~~  
 9 ~~groups.~~

Formatted: Strikethrough  
 Formatted: Strikethrough

9 ~~(2)~~ The public engagement advisory group shall be charged  
 10 with all of the following tasks:

11 (A) Reviewing the public participation process in connection  
 12 with the development and adoption of the previous regional  
 13 transportation plan and sustainable communities strategy and  
 14 assessing both of the following:

- 15 (i) Strengths and weaknesses.
- 16 (ii) The degree to which the public participation plans were
- 17 implemented, and the degree to which specific implementation
- 18 actions contributed to a robust, inclusive, and transparent process.

19 ~~(B) Identifying key decision points in the process by which the~~  
 20 ~~previous regional transportation plan and sustainable communities~~  
 21 ~~strategy was developed and adopted, including all of the following:~~

Formatted: Strikethrough

- 22 ~~(i) Decision points relating to public outreach.~~
- 23 ~~(ii) Participation and process needs assessment and prioritization.~~
- 24 ~~(iii) Goals and objectives.~~
- 25 ~~(iv) Targets and performance measures.~~
- 26 ~~(v) Equity metrics and equity analysis.~~
- 27 ~~(vi) Scenario development and evaluation.~~
- 28 ~~(vii) Selection of a preferred alternative.~~
- 29 ~~(viii) Regional housing needs assessment methodology and~~
- 30 ~~allocation.~~
- 31 ~~(ix) Scoping of the environmental impact report.~~
- 32 ~~(x) Response to comments.~~
- 33 ~~(xi) Investment and planning tradeoffs.~~
- 34 ~~(xii) Relevant decision points of other public agencies, such as~~
- 35 ~~county congestion management agencies, transit operators, the~~
- 36 ~~Bay Area Partnership Board, cities, and counties.~~

37 ~~(BC) Assisting staff~~ Providing recommendations to the Metropolitan  
 38 Transportation Commission and the Association of Bay Area Governments

Formatted: Strikethrough

in developing a draft public participation  
 38 plan that ~~does~~ seeks to do all of the following:

Formatted: Strikethrough

1 (i) Provides a clear process map, timeline, and description of  
2 all key decision points, including those described in subparagraph  
3 (B).

Formatted: Strikethrough

4 (ii) Sets forth outreach activities designed to meaningfully  
5 inform and engage *San Francisco bay Area area* residents,  
6 including activities targeting populations traditionally  
7 underrepresented in regional planning, such as minority and  
8 low-income populations.

9 (iii) Sets forth the role of advisory committees in the  
10 development and approval of the regional transportation plan  
11 update and sustainable ~~community~~ *communities* strategy.

12 (iv) Sets forth the role of other agencies and local jurisdictions  
13 in the planning process, and prescribes requirements for inclusive  
14 public engagement and transparency, to which the Metropolitan  
15 Transportation Commission will hold those agencies and  
16 jurisdictions accountable.

Formatted: Strikethrough

17 (v) ~~Addresses~~ Seeks to address any other priority concerns raised by the public  
18 engagement advisory group.

Formatted: Strikethrough

19 SEC. 4. Section 66537.3 is added to the Government Code, to  
20 read:

21 66537.3. The joint policy committee shall maintain an Internet  
22 Web site containing relevant information pertaining to the joint  
23 policy committee's activities.

24 SEC. 5. Section 66537.4 is added to the Government Code, to  
25 read:

26 66537.4. The joint policy committee shall be subject to the  
27 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)  
28 of Part 1 of Division 2 of Title 5).

29 SEC. 6. Section 66537.6 is added to the Government Code, to  
30 read:

31 66537.6. (a) The joint policy committee shall appoint an  
32 advisory committee on economic competitiveness with members  
33 from the business community, including representatives of small  
34 businesses and the technology and manufacturing sectors,  
35 community colleges, public and private universities, labor, local  
36 governments, community organizations with an interest in  
37 expanding economic opportunity for low-income populations and  
38 communities, and other organizations involved with the private  
39 economy.



1 (b) The joint policy committee, in consultation with the advisory  
 2 committee, shall ~~adopt-recommend~~ goals and ~~performance~~  
~~measures~~policies related to the inclusion  
 3 of economic development opportunities in the sustainable  
 4 communities strategy. The goals and policies shall also promote  
 5 amenities that are special to the region and contribute to the  
 6 region’s quality of life. Social equity goals and considerations shall  
 7 be integrated throughout to ensure that low-income populations  
 8 and populations of color share fairly in the benefits and burdens  
 9 of the economic development goals and policies and their  
 10 implementation and include strategies to improve the economic  
 11 conditions and opportunities for all residents with special attention  
 12 given to opportunities available for low-income residents and  
 13 populations of color.

14 SEC. 7. Section 66537.7 is added to the Government Code, to  
 15 read:

16 66537.7. The Metropolitan Transportation Commission shall  
 17 report biannually to the Legislature and the public at large on  
 18 progress in implementing the policies and programs of the  
 19 sustainable communities strategy required pursuant to subparagraph  
 20 (B) of paragraph (2) of subdivision (b) of Section 65080 and in  
 21 preparing the subsequent sustainable communities strategy.

22 ~~SEC. 8. The San Francisco Bay Conservation and Development~~  
 23 ~~Commission shall relocate to 390 Main Street in San Francisco,~~  
 24 ~~California.~~

25 ~~SEC. 9.~~  
 26 SEC. 8. If the Commission on State Mandates determines that  
 27 this act contains costs mandated by the state, reimbursement to  
 28 local agencies and school districts for those costs shall be made  
 29 pursuant to Part 7 (commencing with Section 17500) of Division  
 30 4 of Title 2 of the Government Code.

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1330**

---

---

**Introduced by Assembly Member John A. Pérez**

February 22, 2013

---

---

An act to amend ~~Section~~ Sections 12812.2 and 54954.3 of the Government Code, ~~and to amend Sections 25135 and 44050 of, and to add Sections 25135.10, 25135.11, 25196.1, and 42410.1 to, the Health and Safety Code, and to amend Section 71116 of, and to add Sections 71117 and 71119 to 45024.1, 45025.1, 71116.1, 71117.5, 71119, and 71119.5 to, the Public Resources Code, relating to environmental justice, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1330, as amended, John A. Pérez. Environmental justice.

(1) Existing law requires the Secretary for Environmental Protection to convene a Working Group on Environmental Justice to assist the secretary in developing an agency wide strategy for identifying and addressing gaps in existing programs, policies, or activities of the boards, departments, and offices of the California Environmental Protection Agency that may impede the achievement of environmental justice. Existing law requires the agency to identify disadvantaged communities for investment opportunities under the California Global Warming Solutions Act of 2006.

This bill would require the agency, on or before January 1, 2015, to establish a list of environmental justice communities identifying the top 15% of communities in the state, based on census tracts, that are

*disproportionately impacted by environmental hazards. The bill would require the agency to revise the list on a triennial basis.*

*(2) Existing law imposes administrative, civil, and criminal fines and penalties for a violation of specified environmental laws and establishes the maximum amount of fines and penalties.*

*This bill would require the enforcement agency with jurisdiction over those environmental laws and the courts to double the maximum amount of fines and penalties assessed if a violation occurs at a facility located in an environmental justice community that results in an increased level of emissions or discharges that exceeds the level permitted under that environmental law. The bill would require a specified amount of fines and penalties collected pursuant to this provision to be deposited into the Green Zone Trust Fund, which the bill would establish in the State Treasury. By requiring an enforcement agency to deposit a specified portion of fines and penalties it collects into the Green Zone Trust Fund, the bill would increase the level of service provided by the enforcement agency, thereby imposing a state-mandated local program. The bill would require moneys in the Green Zone Trust Fund, upon appropriation by the Legislature, to be expended by the California Environmental Protection Agency to support Green Zone Environmental Projects that are environmentally beneficial to environmental justice communities. The bill would require the agency, on or before January 1, 2015, to establish guidelines to designate Green Zone Environmental Projects.*

*(3) Existing law gives the responsibility and authority to a deputy to the Secretary for Environmental Protection to, in consultation with the Attorney General, establish a cross-media enforcement unit to assist a board, department office, or other agency that implements a law or regulation within the jurisdiction of the California Environmental Protection Agency.*

*This bill would require the secretary to ensure that the unit give priority to enforcement actions for a violation occurring in an environmental justice community.*

*(4) Existing law requires the Department of Toxic Substances Control to prepare, adopt, and review triennially a state hazardous management plan that serves as a comprehensive planning document for the state and as a useful source of information for the public, local government, and regional councils of government.*

*This bill would require the department, on or before January 1, 2016, in consultation with the Hazardous Waste Reduction Advisory*

*Committee, which the bill would establish, to prepare and submit to the Legislature the state hazardous waste reduction plan that identifies measures necessary to achieve significant reduction in hazardous waste generated and disposed of in California by 2025 to the maximum extent practicable. The bill would require the department, on or before January 1, 2017, and biennially thereafter, to report to the Legislature on its progress toward achieving the reduction goals in the plan.*

~~(4)~~

(5) The Ralph M. Brown Act requires a local legislative body to provide an opportunity for members of the public to directly address the body concerning any item described in a notice of meeting. The act authorizes the legislative body to adopt reasonable regulations limiting the total amount of time allocated for public testimony for each individual speaker.

This bill would, if a local legislative body limits the time for public comment, prohibit the body from counting the time used by a translator to translate comments from a non-English-speaking commenter in determining whether the speaker has exceeded his or her time limit unless simultaneous translation equipment is used to allow the body to hear the translated public testimony simultaneously.

~~(2) Existing law requires the Secretary for Environmental Protection to convene a Working Group on Environmental Justice to assist the secretary in developing, by July 1, 2002, an agencywide strategy for identifying and addressing gaps in existing programs, policies, or activities of the agency's boards, departments, and offices that may impede the achievement of environmental justice.~~

~~This bill would require the secretary, with the assistance of the Cal/EPA Interagency Working Group on Environmental Justice, to periodically revise and update the agencywide strategy to identify and address any additional gaps. The bill would require the secretary to submit to the Governor and the Legislature, by July 1, 2014, a report on the revision and update of the strategy.~~

~~(3) The bill would require each board, department, and office of the California Environmental Protection Agency to maintain a publicly available database on its Internet Web site of its ongoing enforcement cases and compliance histories of its regulated entities. The bill would require the California Environmental Protection Agency to provide links to the databases on its Internet Web site.~~

*(6) Existing law requires the California Environmental Protection Agency to establish the Environmental Justice Small Grant Program*

*to provide grants to eligible community groups that are involved in working to address environmental justice issues. Existing law caps the amount of a grant at \$20,000.*

*This bill would raise the grant cap to \$50,000.*

*(7) This bill would require the California Environmental Protection Agency to maintain an agencywide public database of complaints and enforcement cases for each board, department, and office of the agency.*

*(8) This bill would appropriate \$800,000 from the Hazardous Waste Control Account to the Department of Toxic Substances Control for the purposes of preparing the state hazardous waste reduction plan.*

*(9) The bill would declare that the provisions of the bill are severable.*

*(10) 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~~-yes. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. (a) The Legislature finds and declares all of the  
2 following:

3 (1) The Legislature, in 2001, enacted Senate Bill 828 of the  
4 2001–02 Regular Session (Chapter 765 of the Statutes of 2001) to  
5 require the California Environmental Protection Agency to convene  
6 a Working Group on Environmental Justice to assist the agency  
7 in developing an agencywide strategy for identifying and  
8 addressing gaps in existing programs, policies, or activities that  
9 may impede the achievement of environmental justice.

10 (2) After the development of the strategy, Senate Bill 828  
11 requires each board, department, and office within the agency, in  
12 coordination with the Secretary for Environmental Protection and  
13 the Director of the Office of Planning and Research, to review its  
14 programs, policies, or activities that may impede the achievement  
15 of environmental justice.

16 (3) Senate Bill 828 also requires the secretary to submit, on a  
17 triennial basis beginning on January 1, 2004, a report to the

1 Governor and the Legislature, on the implementation of the above  
2 requirements.

3 (4) In September of 2004, the agency submitted to the Governor  
4 and the Legislature a report on actions taken to implement Senate  
5 Bill 828.

6 (5) In October of 2004, the agency issued the Environmental  
7 Justice Action Plan identifying opportunities for the agency and  
8 its boards, departments, and offices to take the initial steps toward  
9 addressing environmental justice issues.

10 (6) Since 2004, the agency has not submitted a report to the  
11 Governor or the Legislature on the implementation of the  
12 Environmental Justice Action Plan.

13 (7) Additionally, issues regarding environmental justice not  
14 addressed by the agency may have arisen since 2004.

15 (b) It is the intent of the Legislature that the agency should  
16 update the Environmental Justice Action Plan to address issues  
17 regarding environmental justice that may have arisen since 2004  
18 that may have impeded the achievement of environmental justice.

19 (c) It is further the intent of the Legislature to ensure increased  
20 public participation from individuals in the environmental justice  
21 community in the governmental decisionmaking process.

22 *SEC. 2. Section 12812.2 of the Government Code is amended*  
23 *to read:*

24 12812.2. (a) One of the deputies to the Secretary for  
25 Environmental Protection shall be a deputy secretary for law  
26 enforcement and counsel, who, subject to the direction and  
27 supervision of the secretary, shall have the responsibility and  
28 authority to do all of the following:

29 (1) Develop a program to ensure that the boards, departments,  
30 offices, and other agencies that implement laws or regulations  
31 within the jurisdiction of the California Environmental Protection  
32 Agency take consistent, effective, and coordinated compliance  
33 and enforcement actions to protect public health and the  
34 environment. The program shall include training and cross-training  
35 of inspection and enforcement personnel of those boards,  
36 departments, offices, or other agencies to ensure consistent,  
37 effective, and coordinated enforcement.

38 (2) (A) In consultation with the Attorney General, establish a  
39 cross-media enforcement unit to assist a board, department, office,  
40 or other agency that implements a law or regulation within the

1 jurisdiction of the California Environmental Protection Agency,  
 2 to investigate and prepare matters for enforcement action in order  
 3 to protect public health and the environment. The unit may inspect  
 4 and investigate a violation of a law or regulation within the  
 5 jurisdiction of the board, department, office, or other agency,  
 6 including a violation involving more than one environmental  
 7 medium and a violation involving the jurisdiction of more than  
 8 one board, department, office, or agency. The unit shall exercise  
 9 its authority consistent with the authority granted to the head of a  
 10 department pursuant to Article 2 (commencing with Section 11180)  
 11 of Chapter 2 of Part 1.

12 *(B) The Secretary for Environmental Protection shall ensure*  
 13 *that the unit shall give priority to enforcement actions for violations*  
 14 *that have occurred in a community listed pursuant to Section*  
 15 *71117.5 of the Public Resources Code.*

16 (3) Refer a violation of a law or regulation within the jurisdiction  
 17 of a board, department, office, or other agency that implements a  
 18 law or regulation within the jurisdiction of the California  
 19 Environmental Protection Agency to the Attorney General, a  
 20 district attorney, or city attorney for the filing of a civil or criminal  
 21 action.

22 (4) Exercise the authority granted pursuant to paragraph (3)  
 23 only after providing notice to the board, department, office, or  
 24 other agency unless the secretary determines that notice would  
 25 compromise an investigation or enforcement action.

26 (b) Nothing in this section shall authorize the deputy secretary  
 27 for law enforcement and counsel to duplicate, overlap, compromise,  
 28 or otherwise interfere with an investigation or enforcement action  
 29 undertaken by a board, department, office, or other agency that  
 30 implements a law or regulation subject to the jurisdiction of the  
 31 California Environmental Protection Agency.

32 (c) The Environmental Protection Agency shall post on its Web  
 33 site, updated no later than December 1 of each year, the status of  
 34 the implementation of this section.

35 ~~SEC. 2.~~

36 SEC. 3. Section 54954.3 of the Government Code is amended  
 37 to read:

38 54954.3. (a) Every agenda for regular meetings shall provide  
 39 an opportunity for members of the public to directly address the  
 40 legislative body on any item of interest to the public, before or

1 during the legislative body’s consideration of the item, that is  
2 within the subject matter jurisdiction of the legislative body,  
3 provided that no action shall be taken on any item not appearing  
4 on the agenda unless the action is otherwise authorized by  
5 subdivision (b) of Section 54954.2. However, the agenda need not  
6 provide an opportunity for members of the public to address the  
7 legislative body on any item that has already been considered by  
8 a committee, composed exclusively of members of the legislative  
9 body, at a public meeting wherein all interested members of the  
10 public were afforded the opportunity to address the committee on  
11 the item, before or during the committee’s consideration of the  
12 item, unless the item has been substantially changed since the  
13 committee heard the item, as determined by the legislative body.  
14 Every notice for a special meeting shall provide an opportunity  
15 for members of the public to directly address the legislative body  
16 concerning any item that has been described in the notice for the  
17 meeting before or during consideration of that item.

18 (b) The legislative body of a local agency may adopt reasonable  
19 regulations to ensure that the intent of subdivision (a) is carried  
20 out, including, but not limited to, regulations limiting the total  
21 amount of time allocated for public testimony on particular issues  
22 and for each individual speaker.

23 (c) (1) To ensure that a non-English speaker who uses a  
24 translator receives the same opportunity to directly address the  
25 legislative body of a local agency as a speaker who does not use  
26 a translator, notwithstanding subdivision (b), if that body limits  
27 time for public comment, the time used by a translator to translate  
28 a non-English speaker’s comments into English shall not count  
29 toward the speaker’s allotted time.

30 (2) Paragraph (1) shall not apply if the legislative body of a  
31 local agency utilizes simultaneous translation equipment in a  
32 manner that allows that body to hear the translated public testimony  
33 simultaneously.

34 (d) The legislative body of a local agency shall not prohibit  
35 public criticism of the policies, procedures, programs, or services  
36 of the agency, or of the acts or omissions of the legislative body.  
37 Nothing in this subdivision shall confer any privilege or protection  
38 for expression beyond that otherwise provided by law.

39 ~~SEC. 3. Section 71117 is added to the Public Resources Code,~~  
40 ~~to read:~~



1     ~~71117. (a) The Secretary for Environmental Protection shall,~~  
2 ~~with the assistance of the Cal/EPA Interagency Working Group~~  
3 ~~on Environmental Justice, periodically revise and update the~~  
4 ~~agencywide strategy developed pursuant to Section 71113 to~~  
5 ~~identify and address any additional gaps in existing programs,~~  
6 ~~policies, or activities that impede the achievement of environmental~~  
7 ~~justice.~~

8     ~~(b) (1) On or before July 1, 2014, the secretary shall submit to~~  
9 ~~the Governor and the Legislature a report on the implementation~~  
10 ~~of this section.~~

11     ~~(2) The report required by paragraph (1) that is submitted to the~~  
12 ~~Legislature shall be submitted pursuant to Section 9795 of the~~  
13 ~~Government Code.~~

14     ~~(3) Pursuant to Section 10231.5 of the Government Code, this~~  
15 ~~subdivision is inoperative on July 1, 2018.~~

16     ~~SEC. 4. Section 71119 is added to the Public Resources Code,~~  
17 ~~to read:~~

18     ~~71119. (a) Each board, department, and office of the California~~  
19 ~~Environmental Protection Agency shall maintain a public database~~  
20 ~~on its Internet Web site of its ongoing enforcement cases, to the~~  
21 ~~extent the information on the database would normally be available~~  
22 ~~pursuant to the California Public Records Act (Chapter 3.5~~  
23 ~~(commencing with Section 6250) of Division 7 of Title 1 of the~~  
24 ~~Government Code), and compliance histories of its regulated~~  
25 ~~entities that have committed violations focusing on information~~  
26 ~~related to how the entities rectified the violation.~~

27     ~~(b) The California Environmental Protection Agency shall~~  
28 ~~provide links to the databases on its Internet Web site.~~

29     ~~SEC. 4. Section 25135 of the Health and Safety Code is~~  
30 ~~amended to read:~~

31     ~~25135. (a) The Legislature finds and declares as follows:~~

32     ~~(1) An effective planning process involving public and private~~  
33 ~~sector participation exists at the county level for establishing new,~~  
34 ~~or expanding existing, solid waste facilities, but an equivalent~~  
35 ~~process has not been established at the local level to plan for the~~  
36 ~~management of hazardous wastes.~~

37     ~~(2) Counties are presently required to prepare solid waste~~  
38 ~~management plans for all waste disposal within each county and~~  
39 ~~for all waste originating in each county. While the department has~~  
40 ~~requested that counties include in their solid waste management~~

1 plans a hazardous waste management element, there is not presently  
2 a clear mandate that they do so.

3 (3) Hazardous waste management planning at the local level  
4 has been hampered because the department has not provided the  
5 counties with adequate and comprehensive planning guidelines,  
6 there is a lack of accurate data on hazardous waste generation,  
7 handling, and disposal practices, adequate funding has not been  
8 available, and local expertise in hazardous waste planning has not  
9 been developed.

10 (4) The failure to plan for the safe and effective management  
11 of hazardous wastes has contributed to the public's general  
12 uncertainty in viewing proposals to site hazardous waste facilities  
13 at various locations throughout the state. Because advance planning  
14 has not taken place, local governments are not prepared to consider  
15 siting proposals and the public has not received adequate answers  
16 to questions concerning the need for proposed facilities.

17 (5) Safe and responsible management of hazardous wastes is  
18 one of the most important environmental problems facing the state  
19 at the present time. It is critical to the protection of the public health  
20 and the environment, and to the economic growth of the state. If  
21 environmentally sound hazardous waste facilities are not available  
22 to effectively manage the hazardous wastes produced by the many  
23 industries of the state, economic activity will be hampered and the  
24 economy cannot prosper.

25 (6) *The Legislature has given the Department of Toxic*  
26 *Substances Control responsibility for the state's hazardous waste*  
27 *management system to protect public health and the environment*  
28 *from toxic harm.*

29 (7) *California needs a statewide strategy to reduce the amount*  
30 *of hazardous waste it generates and disposes.*

31 (b) The Legislature, therefore, declares that it is in the public  
32 interest to establish an effective process for hazardous waste  
33 management planning at the local level. This process is consistent  
34 with the responsibility of local governments to assure that adequate  
35 treatment and disposal capacity is available to manage the  
36 hazardous wastes generated within their jurisdictions.

37 (c) It is the intent of the Legislature that the hazardous waste  
38 management plans prepared pursuant to this article serve as the  
39 primary planning document for hazardous waste management at  
40 the local level; that the plans be integrated with other local land

1 use planning activities to ensure that suitable locations are available  
2 for needed hazardous waste facilities; that land uses adjacent to,  
3 or near, hazardous waste facilities, or proposed sites for these  
4 facilities, are compatible with their operation; and that the plans  
5 are prepared with the full and meaningful involvement of the  
6 public, environmental groups, civic associations, generators of  
7 hazardous wastes, and the hazardous waste management industry.

8 (d) It is further the intent of the Legislature, in enacting this  
9 article, to define the respective responsibilities of state and local  
10 governments in hazardous waste management planning; to establish  
11 a comprehensive planning process in which state and local  
12 government, the public, and industry jointly develop safe and  
13 effective solutions for the management and disposal of hazardous  
14 wastes; to ensure that local governments are assisted adequately  
15 by the state in carrying out their responsibilities; and to provide  
16 funding for local-level planning.

17 (e) *It is further the intent of the Legislature to create significant*  
18 *disincentives for new releases of hazardous substances that can*  
19 *contaminate soil, buildings, and other environmental media,*  
20 *thereby preventing the generation of hazardous waste in the future.*

21 (f) *It is further the intent of the Legislature to ensure that*  
22 *reducing hazardous waste disposal in hazardous waste landfills*  
23 *does not result in increased health and environmental burdens to*  
24 *other communities.*

25 (g) *It is further the intent of the Legislature to reduce the impact*  
26 *of hazardous waste generation and disposal on individuals in*  
27 *low-income communities by ensuring that individuals in these*  
28 *impacted communities have a greater role in shaping governmental*  
29 *priorities and decisionmaking and that environmental justice*  
30 *concerns are considered during hazardous waste facility permitting*  
31 *and decisionmaking.*

32 (h) *It is further the intent of the Legislature to look to the private*  
33 *sector to develop new technologies and increase pollution*  
34 *prevention practices to reduce hazardous waste generation.*

35 (i) *It is further the intent of the Legislature to look to the private*  
36 *sector to develop new technologies and practices to remediate*  
37 *sites contaminated by hazardous substances.*

38 (j) *It is further the intent of the Legislature to ensure that*  
39 *California significantly reduce its generation and disposal of*  
40 *hazardous waste. This is accomplished by requiring a statewide*

1 hazardous waste management plan to provide thorough analysis,  
2 reduction measures, and specific guidelines to achieve these  
3 reductions by 2025.

4 SEC. 5. Section 25135.10 is added to the Health and Safety  
5 Code, to read:

6 25135.10. (a) For the purposes of this section, “generation”  
7 means the act or process of generating hazardous waste, but does  
8 not include the removal of contaminated soil or water.

9 (b) (1) On or before January 1, 2016, the department, in  
10 consultation with the advisory committee established pursuant to  
11 Section 25135.11, shall prepare and submit, in compliance with  
12 Section 9795 of the Government Code, to the Legislature the state  
13 hazardous waste reduction plan that identifies measures necessary  
14 to achieve significant reduction in hazardous waste generated and  
15 disposed of in California by 2025 to the maximum extent  
16 practicable. The hazardous waste reduction plan prepared  
17 pursuant to this section shall serve as a comprehensive planning  
18 document to ensure that the best practices are implemented to  
19 reduce hazardous waste generation and disposal.

20 (2) In preparing the plan, the department shall take into  
21 consideration methods that can serve to reduce the generation of  
22 hazardous waste, including pollution prevention, hazardous waste  
23 disposal practices in the state, and the impacts of hazardous waste  
24 disposal in or near low-income communities.

25 (3) In developing the plan, the department shall hold public  
26 meetings to discuss elements that could be included in the plan.

27 (c) The plan shall include, but need not be limited to, all of the  
28 following elements:

29 (1) A description of preferred hazardous waste management  
30 practices, programs, incentives, requirements, prohibitions, or  
31 other measures necessary to reduce hazardous waste generation  
32 and disposal. At a minimum, the description shall include steps  
33 for all of the following:

34 (A) Reducing the generation of hazardous wastes to the  
35 maximum extent feasible.

36 (B) Reducing the use of hazardous materials and increasing the  
37 use of less hazardous or nonhazardous alternatives.

38 (C) Reducing the disposal of hazardous waste that may pose a  
39 significant threat to human health or the environment to the  
40 maximum extent practicable.

- 1     (D) Reducing the risk of exposure to communities threatened  
 2 by releases of hazardous substances and hazardous wastes.
- 3     (E) Reducing the risk of exposure to communities near sites  
 4 contaminated by hazardous waste substances and hazardous waste.
- 5     (2) Identification of the hazardous waste streams produced in  
 6 the state.
- 7     (3) A recommendation for a baseline of statewide hazardous  
 8 waste disposal and a baseline for hazardous waste generation in  
 9 the state from which the identified reductions are to be measured.
- 10    (4) An evaluation of hazardous waste generated and disposed  
 11 of in California and an evaluation of the feasibility of implementing  
 12 waste reduction options.
- 13    (5) A list of those waste reduction measures that have been  
 14 determined to be technically feasible, an assessment of the potential  
 15 for the amount of waste reduction that might be achieved if  
 16 implemented, and an evaluation of factors that could influence the  
 17 achievement of those reductions.
- 18    (6) Identification of statutory and regulatory changes to  
 19 permitting of hazardous waste facilities that would reduce the  
 20 health and environmental burden on communities adjacent to  
 21 hazardous waste landfills.
- 22    (7) A target for the reduction of hazardous waste generation  
 23 and disposal by 2025 and a set of recommendations for achieving  
 24 those reductions.
- 25    (8) An implementation schedule for carrying out the  
 26 recommendations. The schedule shall include the following:
- 27    (A) Any changes in departmental policies or procedures that  
 28 do not require statutory or regulatory changes to implement, and  
 29 a proposed timetable for their adoption. The schedule shall project  
 30 the adoption of departmental policies or procedures no later than  
 31 January 1, 2017.
- 32    (B) Any regulations within the department’s statutory authority  
 33 that would need to be adopted in order to carry out the  
 34 recommendations in the plan, and a proposed timetable for their  
 35 adoption.
- 36    (C) Any statutory changes that would need to be enacted in  
 37 order to carry out the recommendations in the plan.
- 38    (d) The plan shall avoid proposals that would do either of the  
 39 following:

1 (1) Weaken the health and environmental protections to  
2 surrounding communities from the remediation of sites  
3 contaminated by hazardous substances or lead to reduced cleanups  
4 of contaminated sites.

5 (2) Attempt to accomplish hazardous waste disposal reductions  
6 through shipping the waste out of state.

7 (3) Rely on strategies that produce disproportionate impacts  
8 on low-income communities and communities of color.

9 (e) The department shall release and post on the department's  
10 Internet Web site a draft of the hazardous waste reduction plan  
11 for public review and comment. The comment period shall be no  
12 less than 60 days, and the department shall hold at least one public  
13 hearing that includes the advisory committee on the draft plan  
14 during the public comment period.

15 (f) The requirement for submitting a report imposed under  
16 paragraph (1) of subdivision (c) is inoperative on January 1, 2020,  
17 pursuant to Section 10231.5 of the Government Code.

18 (g) Notwithstanding Section 10321.5 of the Government Code,  
19 on or before January 1, 2017, and every two years thereafter, the  
20 department shall report to the Legislature, in compliance with  
21 Section 9795 of the Government Code, on its progress toward  
22 achieving the reduction goals in the state hazardous waste  
23 reduction plan. The report shall include all of the efforts the  
24 department has made to achieve these goals, as well as identify  
25 those recommendations in the plan that were not implemented,  
26 and an explanation as to why the recommendations were not  
27 implemented. If the goals are not on track to be met, the report  
28 shall also include recommendations for additional steps that would  
29 be necessary to meet the reduction goals specified in the plan.

30 SEC. 6. Section 25135.11 is added to the Health and Safety  
31 Code, to read:

32 25135.11. (a) The Hazardous Waste Reduction Advisory  
33 Committee is hereby created. The advisory committee shall consist  
34 of seven members, as follows:

35 (1) Two members appointed by the Speaker of the Assembly.

36 (2) Two members appointed by the Senate Committee on Rules.

37 (3) One member appointed by the Governor.

38 (4) One member appointed by the Secretary of the California  
39 Environmental Protection Agency.

- 1     (5) *One member appointed by the President of the University*  
2 *of California.*
- 3     (b) *The members shall include:*
- 4         (1) *At least one representative from an environmental justice*  
5 *organization that works in one of the communities listed pursuant*  
6 *to Section 71117.5 of the Public Resources Code.*
- 7         (2) *One representative from an environmental justice*  
8 *organization, a public health organization, or an academic school*  
9 *of public health that works in one of the communities listed*  
10 *pursuant to Section 71117.5 of the Public Resources Code.*
- 11         (3) *Two academic experts in hazardous waste reduction.*
- 12         (4) *One representative of an organized labor group that works*  
13 *in hazardous waste facilities.*
- 14         (5) *One academic expert in public health and environmental*  
15 *hazards posed by toxic substances.*
- 16         (6) *One expert in regulation and enforcement related to*  
17 *hazardous waste law.*
- 18         (7) *The director or designated appointee from the director's*  
19 *executive team serving as an ex officio member.*
- 20     (c) *Beginning March 1, 2014, the advisory committee shall meet*  
21 *at least three times each year to solicit public input with the goal*  
22 *of assisting the department in its preparation of a state hazardous*  
23 *waste reduction plan pursuant to Section 25135.10. In advising*  
24 *the department, the advisory committee, at a minimum, shall do*  
25 *both of the following:*
- 26         (1) *Recommend statutory, regulatory, policy, and permitting*  
27 *changes that would reduce the generation and the quantity of*  
28 *hazardous waste in the state, encourage the use of nonhazardous*  
29 *alternatives, and fulfill all the goals and requirements of the plan*  
30 *developed pursuant to Section 25135.10.*
- 31         (2) *Recommend regulatory steps for enhancing enforcement of*  
32 *toxic laws and regulations to create significant disincentives for*  
33 *contaminating soil, buildings, and other environmental media with*  
34 *hazardous materials that are used and stored.*
- 35     (d) *The department shall assist and support the advisory*  
36 *committee in holding public meetings to discuss the hazardous*  
37 *waste reduction plan, including soliciting input on ways to reduce*  
38 *the generation and disposal of hazardous waste, and participation*  
39 *at each meeting of the advisory committee by the appropriate*

1 *member of the director's executive team for each of the agenda*  
2 *items to be discussed at the meeting.*

3 *SEC. 7. Section 25196.1 is added to the Health and Safety*  
4 *Code, to read:*

5 *25196.1. (a) Notwithstanding any provision of this article*  
6 *establishing the maximum amount of administrative, civil, or*  
7 *criminal fines or penalties, for a violation that occurs in a facility*  
8 *located in a community listed pursuant to Section 71117.5 of the*  
9 *Public Resources Code and that results in an increased level of*  
10 *emissions or discharges that exceeds a level permitted by this*  
11 *chapter, the department, unified program agency, or the court*  
12 *shall double the maximum amount of fines or penalties assessed*  
13 *for the violation.*

14 *(b) Fifty percent of the fines or penalties collected pursuant to*  
15 *this section that are deposited into the Toxic Substances Control*  
16 *Account pursuant to Section 25192 shall be expended, upon*  
17 *appropriation by the Legislature, by the department for*  
18 *environmentally beneficial projects, as defined in Section 71116.1*  
19 *of the Public Resources Code, authorized pursuant to Section*  
20 *25173.6 that are located within a community listed pursuant to*  
21 *Section 71117.5 of the Public Resources Code.*

22 *SEC. 8. Section 42410.1 is added to the Health and Safety*  
23 *Code, to read:*

24 *42410.1. (a) Notwithstanding any other provision of this article*  
25 *establishing the maximum amount of administrative, civil, or*  
26 *criminal fines or penalties, for a violation that occurs in a facility*  
27 *located in a community listed pursuant to Section 71117.5 of the*  
28 *Public Resources Code and that results in an increased level of*  
29 *emission or discharges that exceeds the level permitted pursuant*  
30 *to this division, the state board, district, or the court shall double*  
31 *the maximum amount of fines or penalties assessed for the*  
32 *violation.*

33 *(b) Fifty percent of the fines or penalties collected pursuant to*  
34 *this section shall be deposited into the Green Zone Trust Fund*  
35 *established pursuant to Section 71116.1 of the Public Resources*  
36 *Code.*

37 *SEC. 9. Section 45024.1 is added to the Public Resources Code,*  
38 *to read:*

39 *45024.1. (a) Notwithstanding any provision of this article*  
40 *establishing the maximum amount of a civil fine or penalty for a*



1 violation occurring in a facility located in a community listed  
 2 pursuant to Section 71117.5 that results in an increased level of  
 3 emissions or discharges that exceeds the level permitted by this  
 4 division, the department, local enforcement agency, or the court  
 5 shall double the maximum amount of the fines or penalties assessed  
 6 for the violation.

7 (b) Fifty percent of the fines or penalties collected pursuant to  
 8 this section shall be deposited into the Green Zone Trust Fund  
 9 established pursuant to Section 71116.1.

10 SEC. 10. Section 45025.1 is added to the Public Resources  
 11 Code, to read:

12 45025.1. (a) Notwithstanding paragraph (1) of subdivision  
 13 (a) of Section 45025, for a violation occurring in a facility located  
 14 in a community listed pursuant to Section 71117.5 that results in  
 15 an increased level of emissions or discharges that exceeds the level  
 16 permitted by this division, the court shall double the maximum  
 17 amount of criminal fines or penalties assessed for the violation.

18 (b) Fifty percent of the fines or penalties collected pursuant to  
 19 this section shall be deposited into the Green Zone Trust Fund  
 20 established pursuant to Section 71116.1.

21 SEC. 11. Section 71116 of the Public Resources Code is  
 22 amended to read:

23 71116. (a) The Environmental Justice Small Grant Program  
 24 is hereby established under the jurisdiction of the California  
 25 Environmental Protection Agency. The California Environmental  
 26 Protection Agency shall adopt regulations for the implementation  
 27 of this section. These regulations shall include, but need not be  
 28 limited to, all of the following:

29 (1) Specific criteria and procedures for the implementation of  
 30 the program.

31 (2) A requirement that each grant recipient submit a written  
 32 report to the agency documenting its expenditures of the grant  
 33 funds and the results of the funded project.

34 (3) Provisions promoting the equitable distribution of grant  
 35 funds in a variety of areas throughout the state, with the goal of  
 36 making grants available to organizations that will attempt to  
 37 address environmental justice issues.

38 (b) The purpose of the program is to provide grants to eligible  
 39 community groups, including, but not limited to, community-based,  
 40 grassroots nonprofit organizations that are located in areas

1 adversely affected by environmental pollution and hazards and  
2 that are involved in work to address environmental justice issues.

3 (c) (1) Both of the following are eligible to receive moneys  
4 from the fund.

5 (A) A nonprofit entity.

6 (B) A federally recognized tribal government.

7 (2) For the purposes of this section, “nonprofit entity” means  
8 any corporation, trust, association, cooperative, or other  
9 organization that meets all of the following criteria:

10 (A) Is operated primarily for scientific, educational, service,  
11 charitable, or other similar purposes in the public interest.

12 (B) Is not organized primarily for profit.

13 (C) Uses its net proceeds to maintain, improve, or expand, or  
14 any combination thereof, its operations.

15 (D) Is a tax-exempt organization under Section ~~501(e)(3)~~  
16 *501(c)(3)* of the federal Internal Revenue Code, or is able to  
17 provide evidence to the agency that the state recognizes the  
18 organization as a nonprofit entity.

19 (3) For the purposes of this section, “nonprofit entity”  
20 specifically excludes an organization that is a tax-exempt  
21 organization under Section ~~501(e)(4)~~ *501(c)(4)* of the federal  
22 Internal Revenue Code.

23 (d) Individuals may not receive grant moneys from the fund.

24 (e) Grant recipients shall use the grant award to fund only the  
25 project described in the recipient’s application. Recipients shall  
26 not use the grant funding to shift moneys from existing or proposed  
27 projects to activities for which grant funding is prohibited under  
28 subdivision (g).

29 (f) Grants shall be awarded on a competitive basis for projects  
30 that are based in communities with the most significant exposure  
31 to pollution. Grants shall be limited to any of the following  
32 purposes and no other:

33 (1) Resolve environmental problems through distribution of  
34 information.

35 (2) Identify improvements in communication and coordination  
36 among agencies and stakeholders in order to address the most  
37 significant exposure to pollution.

38 (3) Expand the understanding of a community about the  
39 environmental issues that affect their community.

1 (4) Develop guidance on the relative significance of various  
2 environmental risks.

3 (5) Promote community involvement in the decisionmaking  
4 process that affects the environment of the community.

5 (6) Present environmental data for the purposes of enhancing  
6 community understanding of environmental information systems  
7 and environmental information.

8 (g) (1) The agency shall not award grants for, and grant funding  
9 shall not be used for, any of the following:

10 (A) Other state grant programs.

11 (B) Lobbying or advocacy activities relating to any federal,  
12 state, regional, or local legislative, quasi-legislative, adjudicatory,  
13 or quasi-judicial proceeding involving development or adoption  
14 of statutes, guidelines, rules, regulations, plans or any other  
15 governmental proposal, or involving decisions concerning siting,  
16 permitting, licensing, or any other governmental action.

17 (C) Litigation, administrative challenges, enforcement action,  
18 or any type of adjudicatory proceeding.

19 (D) Funding of a lawsuit against any governmental entity.

20 (E) Funding of a lawsuit against a business or a project owned  
21 by a business.

22 (F) Matching state or federal funding.

23 (G) Performance of any technical assessment for purposes of  
24 opposing or contradicting a technical assessment prepared by a  
25 public agency.

26 (2) An organization's use of funds from a grant awarded under  
27 this section to educate a community regarding an environmental  
28 justice issue or a governmental process does not preclude that  
29 organization from subsequent lobbying or advocacy concerning  
30 that same issue or governmental process, as long as the lobbying  
31 or advocacy is not funded by a grant awarded under this section.

32 (h) The agency shall review, evaluate, and select grant recipients,  
33 and screen grant applications to ensure that they meet the  
34 requirements of this section.

35 (i) The maximum amount of a grant provided pursuant to this  
36 section may not exceed ~~twenty thousand dollars (\$20,000)~~. *fifty*  
37 *thousand dollars (\$50,000)*.

38 (j) For the purposes of this section, "environmental justice" has  
39 the same meaning as defined in Section 65040.12 of the  
40 Government Code.

1 (k) This section shall be implemented only during fiscal years  
2 for which an appropriation is provided for the purposes of this  
3 section in the annual Budget Act or in another statute.

4 *SEC. 12. Section 71116.1 is added to the Public Resources*  
5 *Code, to read:*

6 *71116.1. (a) The Green Zone Trust Fund is hereby established*  
7 *in the State Treasury and, upon appropriation by the Legislature,*  
8 *shall be expended by the California Environmental Protection*  
9 *Agency for the purposes to support projects that are*  
10 *environmentally beneficial to environmental justice communities.*

11 *(b) On or before January 1, 2015, the California Environmental*  
12 *Protection Agency shall adopt guidelines for the implementation*  
13 *of this section on or before January 1, 2015. The guidelines shall*  
14 *do all of the following:*

15 *(1) Establish criteria and procedures for designating Green*  
16 *Zone Environmental Projects.*

17 *(2) Establish procedures for the disbursement of funds on an*  
18 *annual basis from the Green Zone Trust Fund for Green Zone*  
19 *Environmental Projects.*

20 *(3) Preferentially disburse funds derived from penalties for a*  
21 *violation occurring in an environmental justice community, or*  
22 *within two miles of an environmental justice community, for Green*  
23 *Zone Environmental Projects that are in geographic proximity*  
24 *with the environmental justice community for which the penalties*  
25 *are collected.*

26 *(4) Allow a public entity, local government, or nonprofit*  
27 *organization to submit applications for projects for inclusion as*  
28 *a Green Zone Environmental Project, if the projects meet the*  
29 *criteria established pursuant to paragraph (1).*

30 *(c) In establishing the guidelines, the California Environmental*  
31 *Protection Agency shall solicit and consider comments from the*  
32 *public, including releasing draft project criteria, implementing a*  
33 *public comment period, and hosting a public workshop.*

34 *(d) The adoption of guidelines pursuant to this section is exempt*  
35 *from the rulemaking provisions of the Administrative Procedure*  
36 *Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
37 *Division 3 of Title 2 of the Government Code).*

38 *(e) On or before January 1, 2015, and annually thereafter, the*  
39 *California Environmental Protection Agency shall solicit and*

1 release a list of Green Zone Environmental Projects after a public  
2 process. The public process shall include all of the following:

3 (1) A public request for proposals that is posted on the agency's  
4 Internet Web site and distributed via electronic mail. All proposals  
5 shall meet the criteria established in the Green Zone Trust Fund  
6 guidelines.

7 (2) A public list of Green Zone Environmental Projects online  
8 that is updated on an annual basis.

9 (f) For the purposes of this section, the following definitions  
10 shall apply:

11 (1) "Environmentally beneficial" means a project with a  
12 primary purpose to improve, protect, or reduce risks to public  
13 health or the environment.

14 (2) "Environmental Justice community" means a community  
15 listed pursuant to Section 71117.5.

16 (3) "Green Zone Environmental Project" means an  
17 environmentally beneficial project occurring within an  
18 environmental justice community.

19 SEC. 13. Section 71117.5 is added to the Public Resources  
20 Code, to read:

21 71117.5. (a) For the purposes of this section,  
22 "disproportionately impacted by environmental hazards" means  
23 public health or environmental effects from the emissions or  
24 discharge of substances in a geographic area, including  
25 environmental pollution for all sources whether in a single medium  
26 or in multiple media, routinely, accidentally, or otherwise released  
27 into the environment, taking into account sensitive populations  
28 and socioeconomic factors, where applicable and to the extent  
29 data is available.

30 (b) (1) On or before January 1, 2015, the California  
31 Environmental Protection Agency shall establish a list identifying  
32 the top 15 percent of communities in the state, based on census  
33 tracts, that are disproportionately impacted by environmental  
34 hazards. The communities shall be selected based on the criteria  
35 specified in Section 39711 of the Health and Safety Code.

36 (2) The California Environmental Protection Agency shall  
37 review and revise the list of communities on a triennial basis and  
38 shall make the list publicly available on the agency's Internet Web  
39 site.

1 (3) *In establishing or revising the list of communities, the*  
2 *California Environmental Protection Agency shall solicit and*  
3 *consider comments from the public and conduct a public hearing.*

4 (c) *The establishment of the list pursuant to subdivision (b) is*  
5 *exempt from the rulemaking provisions of the Administrative*  
6 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*  
7 *Part 1 of Division 3 of Title 2 of the Government Code).*

8 SEC. 14. *Section 71119 is added to the Public Resources Code,*  
9 *to read:*

10 71119. (a) (1) *The California Environmental Protection*  
11 *Agency shall maintain an agencywide public database on its*  
12 *Internet Web site of complaints and enforcement cases for each*  
13 *board, department, and office of the agency, to the extent the*  
14 *information on the database would normally be available pursuant*  
15 *to the Public Records Act (Chapter 3.5 (commencing with Section*  
16 *6250) of Division 7 of Title 1 of the Government Code), and*  
17 *compliance histories of its regulated entities that have committed*  
18 *violations focusing on the date of last inspection, total number of*  
19 *violations, total amount of fines, and information related to how*  
20 *the entities rectified the violation.*

21 (2) *Information on the compliance histories of regulated entities*  
22 *required pursuant to paragraph (1) shall not include information*  
23 *prior to 2008.*

24 (b) *The public database shall be interactive and utilize a*  
25 *geographic information system platform that allows the public to*  
26 *file an environmental complaint with the California Environmental*  
27 *Protection Agency.*

28 (c) *On or before January 1, 2017, the California Environmental*  
29 *Protection Agency shall post the public database on its Internet*  
30 *Web site.*

31 SEC. 15. *Section 71119.5 is added to the Public Resources*  
32 *Code, to read:*

33 71119.5. (a) *Subject to applicable legal requirements, in*  
34 *awarding grants or funding, a state agency administering a funding*  
35 *program shall give priority to projects located in environmental*  
36 *justice communities.*

37 (b) *A state agency subject to this section shall provide*  
38 *information on the methods for compliance with this section in*  
39 *any solicitation issued by that state agency for grants or funding*

1 *and shall provide public notice that demonstrates compliance with*  
2 *this section when awarding those grants or funding.*

3 *(c) For the purpose of this section, “environmental justice*  
4 *community” means a community listed pursuant to Section*  
5 *71117.5.*

6 *(d) For the purposes of the section, “state agency” means the*  
7 *following:*

8 *(1) A board, department, or office of the California*  
9 *Environmental Protection Agency.*

10 *(2) An agency, commission, department, and other subdivisions*  
11 *of the Natural Resources Agency.*

12 *(3) The Strategic Growth Council.*

13 *SEC. 16. The sum of eight hundred thousand dollars (\$800,000)*  
14 *is hereby appropriated from the Hazardous Waste Control Account*  
15 *to the Department of Toxic Substances Control for the purposes*  
16 *of revising the state hazardous waste management plant pursuant*  
17 *to Section 25135.10 of the Health and Safety Code.*

18 *SEC. 17. The provisions of this act are severable. If any*  
19 *provision of this act or its application is held invalid, that invalidity*  
20 *shall not affect other provisions or applications that can be given*  
21 *effect without the invalid provision or application.*

22 *SEC. 18. No reimbursement is required by this act pursuant*  
23 *to Section 6 of Article XIII B of the California Constitution because*  
24 *a local agency or school district has the authority to levy service*  
25 *charges, fees, or assessments sufficient to pay for the program or*  
26 *level of service mandated by this act, within the meaning of Section*  
27 *17556 of the Government Code.*

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

## Memorandum

To: Chairperson Nate Miley and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 2, 2014

Re: Public Hearing to Receive Testimony on Proposed Amendments to Air District  
Regulation 3: Fees

---

**RECOMMENDED ACTION**

Air District staff recommends that the Board of Directors receive testimony on proposed amendments to Air District Regulation 3 that would apply in the upcoming Fiscal Year Ending (FYE) 2015. (A second public hearing, which has been scheduled for June 4, 2014, is required prior to adoption).

**BACKGROUND**

Air District staff develops amendments to the Air District's fee regulation as a part of the annual budget preparation process. On March 7, 2012, the Board of Directors adopted a Cost Recovery Policy that established a goal of increasing fee revenue sufficient to achieve 85% recovery of regulatory program costs by FYE 2016. Staff estimated that in order to achieve this goal, fee revenue will need to be increased by approximately 6.4% per year between FYE 2013 and 2016.

**DISCUSSION**

Consistent with the Cost Recovery Policy, draft amendments to specific fee schedules were made in consideration of cost recovery analyses conducted at the fee schedule-level, with larger increases being proposed for the schedules that have larger cost recovery gaps.

Existing fee schedules would be amended as follows:

- 2 percent increase for fee schedules that are recovering greater than 95 percent of costs.
- 7 percent increase for fee schedules that are recovering 85 to 95 percent of costs.
- 8 percent increase for fee schedules that are recovering 75 to 84 percent of costs.
- 9 percent increase for fee schedules that are recovering less than 75 percent of costs.

Several fees that are administrative in nature (permit application filing fees, alternative compliance plan fees, and permit to operate renewal processing fees) would be increased by 3 percent.



In addition, proposed amendments to Schedule T: Greenhouse Gases would increase the fee rate from \$0.048 to \$0.09 per metric ton of carbon dioxide equivalent (CDE) emissions. This fee increase is intended to fund stationary source programs necessary to implement Board Climate Protection Resolution No. 2013-11.

A draft Staff Report is attached which provides additional details regarding the proposed fee amendments.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The proposed fee amendments would increase fee revenue in FYE 2015 by an estimated \$2.7 million from revenue that would otherwise result without a fee increase.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jim Karas  
Revised by: Jeffrey McKay

Attachment



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **STAFF REPORT**

### **PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES**

***DRAFT***

**MARCH 26, 2014**

## TABLE OF CONTENTS

1.	EXECUTIVE SUMMARY.....	1
2.	BACKGROUND.....	2
3.	PROPOSED FEE AMENDMENTS FOR FYE 2015	
	3.1 OVERVIEW OF PROPOSED AMENDMENTS.....	4
	3.2 PROPOSED RULE AMENDMENTS.....	6
4.	FEE REVENUE AND COSTS OF PROGRAM ACTIVITIES .....	11
5.	STATUTORY AUTHORITY FOR PROPOSED FEE INCREASES.....	12
6.	ASSOCIATED IMPACTS/RULE DEVELOPMENT REQUIREMENTS	
	6.1 EMISSIONS IMPACTS.....	13
	6.2 ECONOMIC IMPACTS.....	13
	6.3 ENVIRONMENTAL IMPACTS.....	16
	6.4 STATUTORY FINDINGS.....	16
7.	RULE DEVELOPMENT PROCESS.....	17
8.	PUBLIC COMMENTS.....	17
9.	CONCLUSIONS.....	18
	Appendix A – Cost Recovery Policy.....	A-1
	Appendix B – Proposed Regulatory Language - Regulation 3: Fees.....	B-1

## 1. EXECUTIVE SUMMARY

District staff has prepared proposed amendments to District Regulation 3: Fees for Fiscal Year Ending (FYE) 2015 (i.e., July 1, 2014 to June 30, 2015) that would increase revenue to enable the Bay Area Air Quality Management District (District) to continue to effectively implement and enforce regulatory programs for stationary sources of air pollution. A recently completed 2014 Cost Recovery Study (a copy of which is available on request) indicates that a significant cost recovery gap exists. For the most recently completed fiscal year (FYE 2013), fee revenue recovered 80 percent of program activity costs.

The proposed fee amendments for FYE 2015 are consistent with the District's Cost Recovery Policy, which was adopted on March 7, 2012 by the District's Board of Directors (see Appendix A). This policy indicates that the District should amend its fee regulation, in conjunction with the adoption of budgets for FYE 2013 through FYE 2016, in a manner sufficient to increase overall recovery of regulatory program activity costs to 85 percent. The policy also indicates that amendments to specific fee schedules should continue to be made in consideration of cost recovery analyses conducted at the fee schedule level, with larger increases being adopted for the schedules that have the larger cost recovery gaps. Staff estimated that fee revenue would need to be increased by an average of 6.4 percent per year through FYE 2016 in order to meet the Cost Recovery Policy's 85 percent cost recovery goal.

The results of the 2014 Cost Recovery Study (a copy of which is available on request) were used to establish proposed fee amendments for each existing fee schedule based on the degree to which existing fee revenue recovers the regulatory program activity costs associated with the schedule. Based on this approach, the fee rates in certain fee schedules would be raised by the annual increase in the Bay Area Consumer Price Index (2%), while other fee schedules would be increased by 7, 8, or 9 percent. Several fees that are administrative in nature (e.g. permit application filing fees and permit renewal processing fees) would be increased by 3 percent. In addition, proposed amendments to Schedule T: Greenhouse Gases would increase the fee rate from \$0.048 to \$0.09 per metric ton of carbon dioxide equivalent (CDE) emissions. This fee increase is intended to fund stationary source programs necessary to implement the Board of Director's Climate Protection Resolution No. 2013-11.

The proposed fee amendments would increase annual permit renewal fees for most small businesses that require District permits by less than \$100, with the exception of gas stations with more than four, three-product gasoline dispensing nozzles, which would have larger fee increases (e.g., a typical gas station with 10, three-product gasoline dispensing nozzles would have an increase of \$186 in annual permit renewal fees). For larger facilities, increases in annual permit renewal fees would range between 4 and 15 percent due to differences in the facility's size, type of emission sources, and emission rates. In accordance with State law, overall permit fees cannot increase by more than 15 percent in any calendar year. District permit fees would generally remain well below those of the South Coast AQMD, where fee revenue

recovers a higher percentage of associated program activity costs relative to the Bay Area AQMD.

The proposed fee amendments would increase overall District fee revenue in FYE 2015 by approximately \$2.7 million relative to fee revenue that would be expected without the amendments.

District staff recommends that the Board of Directors adopt the proposed amendments to Regulation 3: Fees with an effective date of July 1, 2014, and approve the filing of a CEQA Notice of Exemption following the 2<sup>nd</sup> public hearing scheduled to consider this matter on June 4, 2014.

## **2. BACKGROUND**

State law authorizes the District to assess fees to generate revenue to recover the reasonable costs of regulatory program activities for stationary sources of air pollution. The largest portion of District fees is collected under provisions that allow the District to impose permit fees sufficient to recover the costs of program activities related to permitted sources. The District is also authorized to assess fees for: (1) area-wide or indirect sources of emissions which are regulated, but for which permits are not issued by the District, (2) sources subject to the requirements of the State Air Toxics Hot Spots Program (Assembly Bill 2588), and (3) activities related to the District's Hearing Board involving variances or appeals from District decisions on the issuance of permits. The District has established, and regularly updates, a fee regulation (District Regulation 3: Fees) under these authorities.

The District has analyzed whether fees result in the collection of a sufficient and appropriate amount of revenue in comparison to the costs of related program activities. In 1999, a comprehensive review of the District's fee structure and revenue was completed by the firm KPMG Peat Marwick LLP (*Bay Area Air Quality Management District Cost Recovery Study, Final Report: Phase One – Evaluation of Fee Revenues and Activity Costs*, KPMG Peat Marwick LLP, February 16, 1999). This 1999 Cost Recovery Study indicated that fee revenue did not nearly offset the full costs of program activities associated with sources subject to fees as authorized by State law. Property tax revenue (and in some years, reserve funds) had been used to close this cost recovery gap.

The District Board of Directors adopted an across-the-board fee increase of 15 percent, the maximum allowed by State law for permit fees, for FYE 2000 as a step toward more complete cost recovery. The District also implemented a detailed employee time accounting system to improve the ability to track costs by program activities moving forward. In each of the next five years, the District adjusted fees only to account for inflation (with the exception of FYE 2005, in which the District also approved further increases in Title V permit fees and a new permit renewal processing fee).

In 2004, the District funded an updated Cost Recovery Study. The accounting firm Stonefield Josephson, Inc. completed this study in March 2005 (*Bay Area Air Quality*

*Management District Cost Recovery Study, Final Report*, Stonefield Josephson, Inc., March 30, 2005). This 2005 Cost Recovery Study indicated that a significant cost recovery gap continued to exist. The study also provided cost recovery results at the level of each individual fee schedule based on detailed time accounting data. Finally, the contractor provided a model that could be used by District staff to update the analysis of cost recovery on an annual basis using a consistent methodology.

For the five years following the completion of the 2005 Cost Recovery Study (i.e., FYE 2006 through 2010), the District adopted fee amendments that increased overall projected fee revenue by an average of 8.9 percent per year. In order to address fee equity issues, the various fees were not all increased in a uniform manner. Rather, individual fee schedules were amended based on the magnitude of the cost recovery gap for that schedule, with the schedules with the more significant cost recovery gaps receiving more significant fee increases. In FYE 2009, the District's fee amendments also included a new greenhouse gas (GHG) fee schedule. The GHG fee schedule recovers costs from stationary source activities related to the District's Climate Protection Program. In FYE 2011, the District adopted an across-the-board 5 percent fee increase, except for the Title V fee schedule (Schedule P) which was increased by 10 percent (the District's 2010 Cost Recovery Study indicated that Fee Schedule P recovered only 46 percent of program activity costs).

In September 2010, the District contracted with the firm Matrix Consulting Group to complete an updated analysis of cost recovery that could be used in developing fee amendments for FYE 2012 and beyond. This study also included a review of the District's current cost containment strategies, and provided recommendations to improve the management of the District's costs and the quality of services provided to stakeholders. The study was completed in March 2011 (*Cost Recovery and Containment Study, Bay Area Air Quality Management District*, Final Report, Matrix Consulting Group, March 9, 2011). The 2011 Cost Recovery and Containment Study concluded that, for FYE 2010, overall fee revenue recovered 64 percent of related program activity costs. The study also provided cost recovery results at the level of each individual fee schedule based on detailed time accounting data, and provided a methodology for District staff to update the analysis of cost recovery on an annual basis using a consistent methodology.

The results of the 2011 Cost Recovery and Containment Study were used to establish fee amendments for FYE 2012 that were designed to increase overall fee revenue by 10 percent (relative to fee revenue that would result without the fee amendments). In order to address fee equity issues, the various fees were not all increased in a uniform manner. Rather, existing fee schedules were amended based on the magnitude of the cost recovery gap for that schedule, with the schedules with the more significant cost recovery gaps receiving more significant fee increases. Based on this approach, the fee rates in several fee schedules were not increased, while the fee rates in other fee schedules were increased by 10, 12, or 14 percent.

One of the recommendations made by Matrix Consulting Group in their 2011 Cost Recovery and Containment Study indicated that the District should consider the adoption of a Cost Recovery Policy to guide future fee amendments. District staff initiated a process to develop such a Policy in May 2011, and a Stakeholder Advisory Group was convened to provide input in this regard. A Cost Recovery Policy was adopted by the District's Board of Directors on March 7, 2012 (see Appendix A). This policy specifies that the District should amend its fee regulation, in conjunction with the adoption of budgets for FYE 2013 through FYE 2016, in a manner sufficient to increase overall recovery of regulatory program activity costs to 85 percent. The policy also indicates that amendments to specific fee schedules should continue to be made in consideration of cost recovery analyses conducted at the fee schedule-level, with larger increases being adopted for the schedules that have the larger cost recovery gaps.

Staff has updated the cost recovery analysis for the most recently completed fiscal year (FYE 2013) using the methodology established by Matrix Consulting Group. This 2014 Cost Recovery Study (a copy of which is available on request) indicates that overall cost recovery increased from 76 percent in FYE 2012 to 80 percent in FYE 2013. The increase in cost recovery observed relative to the prior fiscal year was due largely to continuing cost containment measures implemented by the District including maintaining historically high vacancy rates and reducing capital expenditures.

### **3. PROPOSED FEE AMENDMENTS FOR FYE 2015**

#### **3.1 OVERVIEW OF PROPOSED AMENDMENTS**

For FYE 2015, District staff has developed proposed amendments to Regulation 3 that would increase fee revenue by approximately 6.4 percent (relative to fee revenue that would result without the fee amendments). Staff estimates that a 6.4 percent annual increase in fee revenue will be needed over the next two years in order to meet the District's cost recovery goal of achieving 85 percent overall cost recovery by FYE 2016.

The results of the 2014 Cost Recovery Study (a copy of which is available on request) were used to establish proposed fee amendments for existing fee schedules based on the degree to which existing fee revenue recovers the activity costs associated with the schedule. Based on this approach, the fee rates in certain fee schedules would be raised by the annual increase in the Bay Area Consumer Price Index (2%), while the fee rates in other fee schedules would be increased by 7, 8, or 9 percent. The specific basis for these proposed fee amendments is summarized in Table 1 as follows:

**Table 1. Proposed Fee Changes Based on Cost Recovery by Fee Schedule**

<b>Revenue from Fee Schedule as a Percentage of Program Activity Costs</b>	<b>Change in Fees</b>	<b>Affected Fee Schedules</b>
Revenue exceeds 95% of costs	2% increase	C, G-5, M, N, Q, U, V
Revenue is 85 to 95% of costs	7% increase	B, D, I
Revenue is 75 to 84% of costs	8% increase	F, G-4
Revenue is less than 75% of costs	9% increase	A, E, G-1, G-2, G-3, H, K, L, P, R, S

Cost recovery for Schedule D, Gasoline Transfer at Gasoline Dispensing Facilities and Schedule I, Dry Cleaners for FYE 2013 was less than 75%, however, a 7% fee increase is proposed for these schedules since the District's permitting and compliance costs in these areas continue to decrease in FYE 2014. The District's regulatory activities related to gasoline dispensing have trended lower due to the completed installation of enhanced vapor recovery and in-station diagnostics over the past several years as required by state law. Similarly, changes in state law prohibiting the use of perchloroethylene in dry cleaning operations have led to a shift in resources from permitted dry cleaning operations to non-halogenated solvent operations subject to the District's registration requirements. These trends are expected to continue into FYE 2015.

In addition to the proposed amendments to fee schedules, District staff is proposing to increase several administrative fees that appear in the Standards section of Regulation 3 by three percent. This includes permit application filing fees and permit renewal processing fees. Existing permit fees are well below the point of full cost recovery, and these fee increases are proposed to help the District reduce its cost recovery gap.

**Schedule T: Greenhouse Gas Fees**

The purpose of Schedule T: Greenhouse Gas Fees is to recover the District's costs of its Climate Protection Program activities related to station sources. Schedule T fees are assessed to permitted facilities in proportion to the annual emissions of Greenhouse Gases (GHG) expressed on a carbon dioxide equivalent (CDE) basis, excluding any emitted biogenic carbon dioxide. The GHG emissions are calculated based on data reported to the District for the most recent 12-month period prior to billing.

The proposed amendments to Schedule T would increase the fee rate from \$0.048 to



\$0.09 per metric ton of CDE emissions. This fee increase is intended to fund stationary source programs necessary to implement the Board of Director's Climate Protection Resolution No. 2013-11, adopted on November 6, 2013. The increase in revenue from Schedule T, approximately \$800,000, is intended to recover the costs associated with additional resources including staff, professional services and capital expenditures.

California Health and Safety Code (H&S Code) section 42311(a) provides authority for an air district to collect permit fees to cover the costs of air district programs related to permitted stationary sources. H&S Code section 41512.7(b) limits the allowable percentage increase in fees for authorities to construct and permits to operate to 15 percent per year. The proposed Regulation 3 fee amendments, including Schedule T, will increase annual permit renewal fees between 4% and a maximum of 15% per facility.

### **3.2 PROPOSED RULE AMENDMENTS**

The complete text of the proposed changes to District Regulation 3: Fees, has been prepared in strikethrough (deletion of existing text) and underline (new text) format, and is included in Appendix B. Additional details on the proposed fee amendments follow.

- Section 3-302: Fees for New and Modified Sources

The proposed amendment to Section 3-302 is a 3 percent increase in the filing fee for permit applications for new/modified sources and abatement devices (rounded to the nearest whole dollar), from \$428 to \$441.

- Section 3-307: Transfers

The proposed amendment to Section 3-307 is a reduction in the transfer of ownership fee from \$428 to \$100. For most routine transfers, the reduced fee reflects the actual cost for this service. These fees primarily impact small businesses that tend to change ownership more frequently than larger facilities.

- Section 3-309: Duplicate Permit

The proposed amendment to Section 3-309 is a 3 percent increase in the fee for a duplicate permit to operate or registration, from \$72 to \$74.

- Section 3-311: Banking

The proposed amendment to Section 3-311 is a 3 percent increase in the filing fee for banking applications (rounded to the nearest whole dollar), from \$428 to \$441.

- Section 3-312: Emission Caps and Alternative Compliance Plans

No change in regulatory language is proposed for subsection 3-312.1, which requires an additional annual fee equal to fifteen percent of the facility's Permit to Operate fee for facilities that elect to use an Alternative Compliance Plan (ACP) for compliance with

Regulation 8, or Regulation 2, Rule 2. These ACP fees would change along with the proposed changes in Permit to Operate renewal fees listed in Table 1 for sources in Schedules B, C, D, E, F, G-1, G-2, G-3, G-4, G-5, H, I, and K.

The proposed amendment to subsection 3-312.2 is a 3 percent increase in the annual fee (rounded to the nearest whole dollar) for a facility that elects to use an ACP contained in Regulation 2, Rule 9: Interchangeable Emission Reduction Credits. The fee for each source included in the ACP would be increased from \$1,083 to \$1,115 and the maximum fee would be increased from \$10,830 to \$11,155.

- Section 3-327: Permit to Operate, Renewal Fees

The processing fees for renewal of Permits to Operate specified in subsections 3-327.1 through 3-327.6 would be increased by 3 percent (rounded to the nearest whole dollar).

- Section 3-329: Fee for Risk Screening

No change in regulatory language is proposed for Section 3-329: Fee for Risk Screening. Increases in risk screening fees are instead specified in Schedules B, C, D, E, F, G-1, G-2, G-3, G-4, G-5, H, I, and K. For each applicable fee schedule, the base fee for each application that requires a Health Risk Screening Analysis would be increased by 3 percent from \$428 to \$441. The portion of the risk screening fee that is based on the type of source involved would be changed along with the proposed changes in Permit to Operate renewal fees listed in Table 1 for sources in Schedules B, C, D, E, F, G-1, G-2, G-3, G-4, G-5, H, I, and K.

- Section 3-337: Exemption Fee

The proposed amendment to Section 3-337 is a 3 percent increase in the filing fee for a certificate of exemption, from \$428 to \$441.

- Section 3-405: Fees Not Paid

The proposed amendment to Section 3-405 clarifies that late fees are not additive. Fees received during the first thirty days following the due date are subject to a 10 percent late fee. Fees received more than 30 days after the due date are subject to a 50 percent late fee.

#### Fee Schedules:

##### Schedule A: Hearing Board Fees

Based on the cost recovery methodology listed in Table 1, the fees in Schedule A would be increased by 9 percent (rounded to the nearest whole dollar). The schedules of fees for excess emissions (Schedule A: Table I) and visible emissions (Schedule A: Table II) would also be increased by 9 percent.

#### Schedule B: Combustion of Fuel

Based on the cost recovery methodology listed in Table 1, the fees in Schedule B would be increased by 7 percent (rounded to the nearest whole dollar). The base fee for a health risk screening analysis for a source covered by Schedule B would be increased by 3 percent from \$428 to \$441.

#### Schedule C: Stationary Containers for the Storage of Organic Liquids

Based on the cost recovery methodology listed in Table 1, the fees in Schedule C would be increased by 2 percent (rounded to the nearest whole dollar), except for the base fee for a health risk screening analysis for a source covered by Schedule C, which would be increased by 3 percent from \$428 to \$441.

#### Schedule D: Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals

Based on the cost recovery methodology listed in Table 1, the fees in Schedule D would be increased by 7 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule D, which would be increased by 3 percent from \$428 to \$441. For bulk plants, terminals or other facilities subject to Schedule D, Part B., the base fee for a health risk screening analysis is included in the Risk Screening Fee (RSF) for the first TAC source in the application.

#### Schedule E: Solvent Evaporating Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule E would be increased by 9 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule E, which would be increased by 3 percent from \$428 to \$441.

#### Schedule F: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule F would be increased by 8 percent. The base fee for a health risk screening analysis for a source covered by Schedule F would be increased by 3 percent, from \$428 to \$441. The base fee for a health risk screening analysis in Schedule F is included in the RSF for the first TAC source in the application.

#### Schedule G-1: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule G-1 would be increased by 9 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule G-1, which would be increased by 3 percent from \$428 to \$441. The base fee for a health risk screening analysis in Schedule G-1 is included in the RSF for the first TAC source in the application.

### Schedule G-2: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule G-2 would be increased by 9 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule G-2 which would be increased by 3 percent from \$428 to \$441. The base fee for a health risk screening analysis in Schedule G-2 is included in the RSF for the first TAC source in the application.

### Schedule G-3: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule G-3 would be increased by 9 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule G-3, which would be increased by 3 percent from \$428 to \$441. The base fee for a health risk screening analysis in Schedule G-3 is included in the RSF for the first TAC source in the application.

### Schedule G-4: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule G-4 would be increased by 8 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule G-4, which would be increased by 3 percent from \$428 to \$441. The base fee for a health risk screening analysis in Schedule G-4 is included in the RSF for the first TAC source in the application.

### Schedule G-5: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule G-5 would be increased by 2 percent. The base fee for a health risk screening analysis for a source covered by Schedule G-5 (included in the RSF for the first TAC source in the application), would also be increased by 3 percent from \$428 to \$441. The base fee for a health risk screening analysis in Schedule G-5 is included in the RSF for the first TAC source in the application.

### Schedule H: Semiconductor and Related Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule H would be increased by 9 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule H, which would be increased by 3 percent from \$428 to \$441.

### Schedule I: Dry Cleaners

Based on the cost recovery methodology listed in Table 1, the fees in Schedule I would be increased by 7 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule I, which would be increased by 3 percent from \$428 to \$441.

### Schedule K: Solid Waste Disposal Sites

Based on the cost recovery methodology listed in Table 1, the fees in Schedule K would be increased by 9 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule K, which would be increased by 3 percent from \$428 to \$441.

### Schedule L: Asbestos Operations

Based on the cost recovery methodology listed in Table 1, the fees in Schedule L would be increased by 9 percent.

### Schedule M: Major Stationary Source Fees

Schedule M is an emissions-based fee schedule that applies to various permitted facilities emitting 50 tons per year or more of organic compounds, sulfur oxides, nitrogen oxides, and/or PM<sub>10</sub>. District staff is proposing a 2 percent increase in the Schedule M fee rate based on the annual increase in the Bay Area Consumer Price Index.

### Schedule N: Toxic Inventory Fees

Based on the cost recovery methodology listed in Table 1, the base fee in Sections 2 and 3 would be increased from \$82 to \$84. The value of the variable  $F_T$ , the total amount of fees to be collected, used to calculate fees for Schedule N is proposed to be remain unchanged for FYE 2015.

### Schedule P: Major Facility Review Fees

Based on the cost recovery methodology listed in Table 1, the fees in Schedule P would be increased by 9 percent, except for the cap on the cost of a public hearing specified under Part 5.a., which would remain unchanged since the existing cap has never been exceeded. Language has been added to clarify that any applicable fees listed in Sections 3b-h, is required in addition to the filing fee.

### Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks

Based on the cost recovery methodology listed in Table 1, the fees in Schedule T would be increased by 2 percent.

### Schedule R: Equipment Registration Fees

Based on the cost recovery methodology listed in Table 1, the fees in Schedule R would be increased by 9 percent.

### Schedule S: Naturally Occurring Asbestos Operations

Based on the cost recovery methodology listed in Table 1, the fees in Schedule S would be increased by 9 percent.

### Schedule T: Greenhouse Gas Fees

District staff is proposing to increase Schedule T from \$0.048 to \$0.09 per metric ton of Carbon Dioxide Equivalent emissions.

### Schedule U: Indirect Source Review Fees

Based on the cost recovery methodology listed in Table 1, the fees in Schedule U would be increased by 2 percent.

### Schedule V: Open Burning

Based on the cost recovery methodology listed in Table 1, the fees in Schedule V would be increased by 2 percent.

## **4. FEE REVENUE AND COSTS OF PROGRAM ACTIVITIES**

On an overall basis, the 2014 Cost Recovery Study (a copy of which is available on request) concluded that, for FYE 2013, fee revenue recovered 80 percent of regulatory program activity costs, with revenue of \$31.6 million and costs of \$39.4 million. This resulted in a shortfall, or cost recovery gap, of \$7.8 million which was filled by county tax revenue. The proposed fee amendments for FYE 2015 are projected to increase overall District fee revenue by approximately \$2.7 million relative to fee revenue levels that would be expected without the amendments. Revenue in FYE 2015 is expected to remain well below the District's regulatory program costs for both permitted and non-permitted sources.

Over the past several years, the District has implemented aggressive cost containment measures including maintaining historically high vacancy rates and reducing capital expenditures. In FYE 2015, the District is proposing to fill fifteen vacancies in the Compliance and Enforcement, Engineering, Technical Services and Information Services Divisions that will support mandated stationary source programs and ensure that these core functions will be maintained at levels necessary to adequately service the regulated community. In addition, four full-time equivalent positions are proposed for the District's Climate Action Work Programs.

## **5. STATUTORY AUTHORITY FOR PROPOSED FEE INCREASES**

The District is a regional regulatory agency, and its fees are used to recover the costs of issuing permits, performing inspections, and other associated regulatory activities. The District's fees fall into the category specified in Section 1(e) of Article XIII C of the California Constitution which specifies that charges of this type assessed to regulated entities to recover regulatory program activity costs are not taxes. The amount of fee revenue collected by the District has been clearly shown to be much less than the costs of the District's regulatory program activities both for permitted and non-permitted sources.

The District's fee regulation, with its various fee schedules, is used to allocate regulatory program costs to fee payers in a manner which bears a fair or reasonable relationship to the payer's burden on, or benefits received from, regulatory activities. Permit fees are based on the type and size of the source being regulated, with minimum and maximum fees being set in recognition of the practical limits to regulatory costs that exist based on source size. Add-on fees are used to allocate costs of specific regulatory requirements that apply to some sources but not others (e.g., health risk screening fees, public notification fees, alternative compliance plan fees). Emissions-based fees are used to allocate costs of regulatory activities not reasonably identifiable with specific fee payers.

Since 2006, the District has used annual analyses of cost recovery performed at the fee-schedule level, which is based on data collected from a labor-tracking system, to adjust fees. These adjustments are needed as the District's regulatory program activities change over time based on changes in statutes, rules and regulations, enforcement priorities, and other factors.

State law authorizes air districts to adopt fee schedules to cover the costs of various air pollution programs. California Health and Safety Code (H&S Code) section 42311(a) provides authority for an air district to collect permit fees to cover the costs of air district programs related to permitted stationary sources. H&S Code section 42311(f) further authorizes the District to assess additional permit fees to cover the costs of programs related to toxic air contaminants. H&S Code section 41512.7(b) limits the allowable percentage increase in fees for authorities to construct and permits to operate to 15 percent per year.

H&S Code section 44380(a) authorizes air districts to adopt a fee schedule that recovers the costs to the air district and State agencies of the Air Toxics Hot Spots Program (AB 2588). The section provides the authority for the District to collect toxic inventory fees under Schedule N.

H&S Code section 42311(h) authorizes air districts to adopt a schedule of fees to cover the reasonable costs of the Hearing Board incurred as a result of appeals from air district decisions on the issuance of permits. Section 42364(a) provides similar authority to collect fees for the filing of applications for variances or to revoke or modify variances. These sections provide the authority for the District to collect Hearing Board fees under Schedule A.

H&S Code section 42311(g) authorizes air districts to adopt a schedule of fees to be assessed on area-wide or indirect sources of emissions, which are regulated but for which permits are not issued by the air district, to recover the costs of air district programs related to these sources. This section provides the authority for the District to collect asbestos fees (including fees for Naturally Occurring Asbestos operations), soil excavation reporting fees, registration fees for various types of regulated equipment, for Indirect Source Review, and fees for open burning.

The proposed fee amendments are in accordance with all applicable authorities. Based on the results of the 2014 Cost Recovery Study (a copy of which is available on request), the District fees subject to this rulemaking are in amounts no more than necessary to cover the reasonable costs of the District's regulatory activities, and the manner in which the District fees allocate those costs to a payer bear a fair and reasonable relationship to the payer's burdens on the District regulatory activities and benefits received from those activities. Permit fee revenue (after adoption of the proposed amendments) would still be well below the District's regulatory program activity costs associated with permitted sources. Similarly, fee revenue for non-permitted area wide sources would be below the District's costs of regulatory programs related to these sources. Hearing Board fee revenue would be below the District's costs associated with Hearing Board activities related to variances and permit appeals. Fee increases for authorities to construct and permits to operate would be less than 15 percent per year.

## **6. ASSOCIATED IMPACTS AND OTHER RULE DEVELOPMENT REQUIREMENTS**

### **6.1 EMISSIONS IMPACTS**

There will be no direct change in air emissions as a result of the proposed amendments.

### **6.2 ECONOMIC IMPACTS**

The District must, in some cases, consider the socioeconomic impacts and incremental costs of proposed rules or amendments. Section 40728.5(a) of the California H&S Code requires that socioeconomic impacts be analyzed whenever a district proposes the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations. The proposed fee amendments will not significantly affect air quality or emissions limitations, and so a socioeconomic impact analysis is not required.

Section 40920.6 of the H&S Code specifies that an air district is required to perform an incremental cost analysis for a proposed rule, if the purpose of the rule is to meet the requirement for best available retrofit control technology or for a feasible measure. The proposed fee amendments are not best available retrofit control technology requirements, nor are they a feasible measure required under the California Clean Air



Act; therefore, an incremental cost analysis is not required.

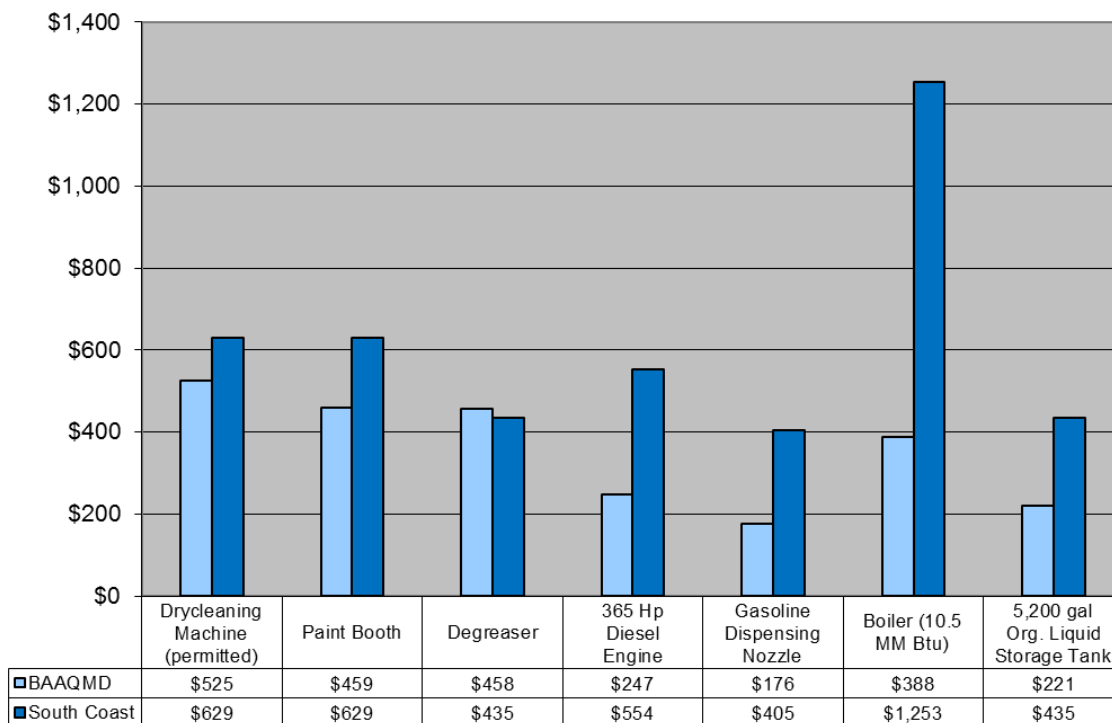
The financial impact of the proposed fee amendments on small businesses is expected to be minor. Many small businesses operate only one or two permitted sources, and generally pay only the minimum permit renewal fees. As is shown in Table 2, increases in annual permit and registration renewal fees for most small businesses would be under \$100, with the exception of gas stations that have ten or more multiproduct gasoline nozzles.

**Table 2. Changes in Annual Permit / Registration Renewal Fees for Typical Small Businesses**

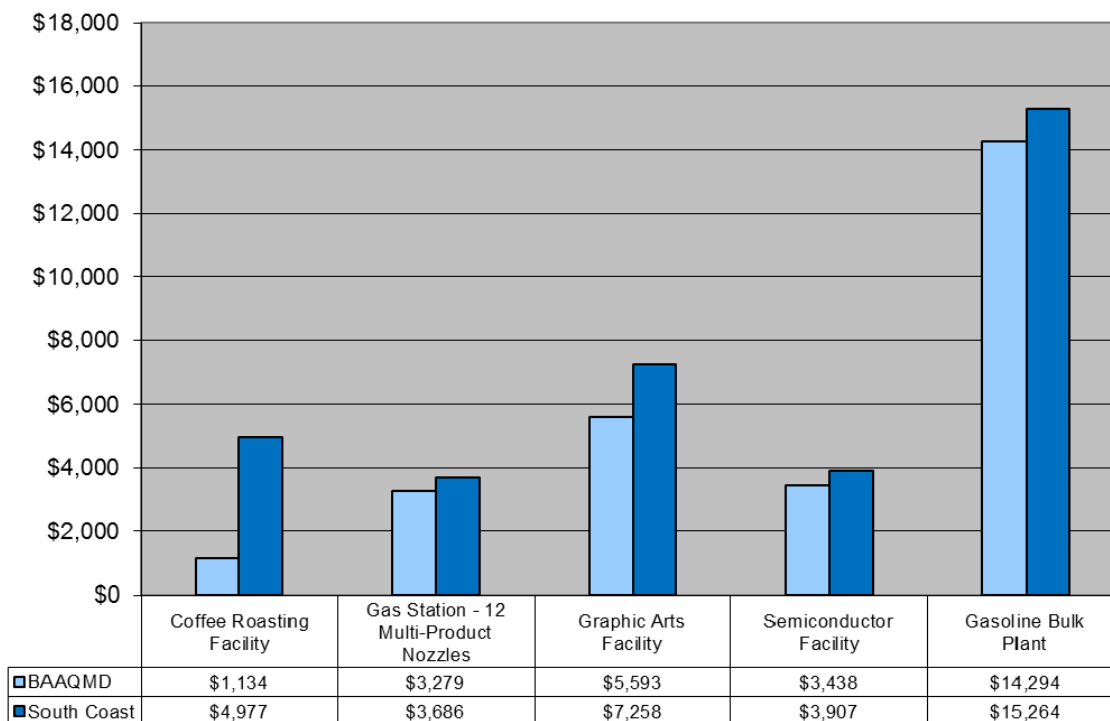
Facility Type	Facility Description	Fee Increase	Total Fee
Gas Station	10 multi-product gasoline nozzles	\$186	\$2,932
Dry Cleaner (permitted)	One machine: 1,400 lb/yr Perc emissions	\$31	\$556
Dry Cleaner (registered)	One machine: 800 lb/yr VOC emissions	\$14	\$173
Auto Body Shop	one spray booth: 400 gal/yr paint 100 gal/yr cleanup solvent	\$37	\$495
Back-up Generator	One 300 hp engine	\$15	\$262

For reference, District permit fees are generally well below that of the South Coast AQMD, the other major metropolitan air district in the state with a cost of living similar to that of the Bay Area. South Coast AQMD staff have indicated that their fee revenue recovers a much higher percentage of associated program activity costs (i.e., over 90 percent) relative to the Bay Area AQMD. A comparison of permit renewal fees recently completed by District staff for twelve different categories of small and medium-sized sources are provided in Figures 1 and 2 as follows:

**Figure 1. Comparison of FYE 2014 Bay Area AQMD and South Coast AQMD Permit Renewal Fees for Various Small Sources**



**Figure 2. Comparison of FYE 2014 Bay Area AQMD and South Coast AQMD Permit Renewal Fees for Various Medium-sized Sources**



For larger facilities, increases in annual permit renewal fees would cover a considerable range due to differences in the facility's size, type of emission sources, and emissions. The annual permit renewal fees for five Bay Area refineries, the District's highest fee payers, would increase within an estimated range of 9 to 13 percent.

District staff is sympathetic to businesses that are impacted by persistent economic uncertainties, but feel that additional revenue is needed to continue the District's core regulatory programs and other air quality initiatives. In general, District fee increases are expected to have a minor financial impact on businesses relative to other factors (e.g., the costs of property and labor).

### **6.3 ENVIRONMENTAL IMPACTS**

The California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., and the CEQA Guidelines, 14 CCR 15000 et seq., require a government agency that undertakes or approves a discretionary project to prepare documentation addressing the potential impacts of that project on all environmental media. Certain types of agency actions are, however, exempt from CEQA requirements. The proposed fee amendments are exempt from the requirements of the CEQA under Section 15273 of the CEQA Guidelines, which state: "CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies...." (See also Public Resources Code Section 21080(b)(8)).

Section 40727.2 of the H&S Code imposes requirements on the adoption, amendment, or repeal of air district regulations. It requires an air district to identify existing federal and air district air pollution control requirements for the equipment or source type affected by the proposed change in air district rules. The air district must then note any differences between these existing requirements and the requirements imposed by the proposed change. This fee proposal does not impose a new standard, make an existing standard more stringent, or impose new or more stringent administrative requirements. Therefore, section 40727.2 of the H&S Code does not apply.

### **6.4 STATUTORY FINDINGS**

Pursuant to H&S Code section 40727, regulatory amendments must meet findings of necessity, authority, clarity, consistency, non-duplication, and reference. The proposed amendments to Regulation 3:

- Are necessary to fund the District's efforts to attain and maintain federal and state air quality standards, and to reduce public exposure to toxic air contaminants;
- Are authorized by H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9;
- Are clear, in that the amendments are written so that the meaning can be understood by the affected parties;
- Are consistent with other District rules, and not in conflict with any state or federal law;
- Are not duplicative of other statutes, rules or regulations; and
- Reference H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9.

## **7. RULE DEVELOPMENT PROCESS**

On January 24, 2014, the District issued a notice for a public workshop to discuss with interested parties an initial proposal to amend Regulation 3, Fees. Distribution of this notice included all District-permitted and registered facilities, asbestos contractors, and a number of other potentially interested stakeholders. The notice was also posted on the District website. A public workshop and simultaneous webcast was held on February 18, 2014 to discuss the initial Regulation 3 fee proposal. Two members of the public attended the workshop.

On March 20, 2014 staff mailed out a second notice to all facilities subject to Schedule T, Greenhouse Gas Fees. A revised Schedule T proposal was noted that would increase the fee rate from \$0.048 to \$0.09 per metric ton of carbon dioxide equivalent emissions.

On March 26, 2014 District staff provided a briefing on the proposed fee amendments to the District Board of Directors' Budget and Finance Committee.

Under H&S Code section 41512.5, the adoption or revision of fees for non-permitted sources requires two public hearings that are held at least 30 days apart from one another. This provision applies to Schedule L: Asbestos Operations, Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks, Schedule R: Equipment Registration Fees, Schedule S: Naturally Occurring Asbestos Operations and Schedule V: Open Burning. A Public Hearing Notice for the proposed Regulation 3 was published on March 14, 2014. An initial public hearing to consider testimony on the proposed amendments has been scheduled for April 16, 2014. A second public hearing, to consider adoption of the proposed fee amendments, has been scheduled for June 4, 2014. If adopted, the amendments would be made effective on July 1, 2014, which is the beginning of FYE 2015.

## **8. PUBLIC COMMENTS**

To date, the District has not received any written comments in response to the initial draft amendments to Regulation 3 presented at the fee workshop, or in response to the mail-out noting changes to Schedule T: Greenhouse Gas Fees.

## **9. CONCLUSIONS**

District staff finds that the proposed fee amendments meet the findings of necessity, authority, clarity, consistency, non-duplication and reference specified in H&S Code section 40727. The proposed amendments:

- Are necessary to fund the District's efforts to attain and maintain federal and state air quality standards, and to reduce public exposure to toxic air contaminants;

- Are authorized by H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9;
- Are clear, in that the amendments are written so that the meaning can be understood by the affected parties;
- Are consistent with other District rules, and not in conflict with any state or federal law;
- Are not duplicative of other statutes, rules or regulations; and
- Reference H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9.

The proposed fee amendments will be used by the District to recover the costs of issuing permits, performing inspections, and other associated regulatory activities. Based on the results of the 2014 Cost Recovery Study (a copy of which is available on request), the District fees subject to this rulemaking are in amounts no more than necessary to cover the reasonable costs of the District's regulatory activities, and the manner in which the District fees allocate those costs to a payer bear a fair and reasonable relationship to the payer's burdens on the District regulatory activities and benefits received from those activities. Permit fee revenue (after adoption of the proposed amendments) would still be well below the District's regulatory program activity costs associated with permitted sources. Similarly, fee revenue for non-permitted sources would be below the District's costs of regulatory programs related to these sources. Fee increases for authorities to construct and permits to operate would not exceed 15 percent per year as required under H&S Code section 41512.7.

The proposed amendments to Regulation 3 are exempt from the requirements of the CEQA under Section 15273 of the CEQA Guidelines.

District staff recommends that the Board of Directors adopt the proposed amendments to Regulation 3: Fees with an effective date of July 1, 2014, and approve the filing of a CEQA Notice of Exemption, following the 2<sup>nd</sup> public hearing scheduled to consider this matter on June 4, 2014.



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **STAFF REPORT**

### **PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES**

#### **APPENDIX A COST RECOVERY POLICY (Adopted March 7, 2012)**

***DRAFT***

**MARCH 26, 2014**

## **COST RECOVERY POLICY FOR BAY AREA AIR QUALITY MANAGEMENT DISTRICT REGULATORY PROGRAMS**

---

### **PURPOSE**

WHEREAS, the District has the primary authority for the control of air pollution from all sources of air emissions located in the San Francisco Bay Area, other than emissions from motor vehicles, in accordance with the provisions of Health & Safety Code sections 39002 and 40000.

WHEREAS, the District is responsible for implementing and enforcing various District, State, and federal air quality regulatory requirements that apply to non-vehicular sources.

WHEREAS, the District's regulatory programs involve issuing permits, performing inspections, and other associated activities.

WHEREAS, the District is authorized to assess fees to regulated entities for the purpose of recovering the reasonable costs of regulatory program activities, and these authorities include those provided for in California Health and Safety Code sections 42311, 42364, and 44380.

WHEREAS, the District's fees fall within the categories provided in Section 1(e) of Article XIII C of the California Constitution, which indicates that charges assessed to regulated entities to recover regulatory program activity costs, and charges assessed to cover the cost of conferring a privilege or providing a service, are not taxes.

WHEREAS, the District has adopted, and periodically amends, a fee regulation for the purpose of recovering regulatory program activity costs, and this regulation with its various fee schedules, is used to allocate costs to fee payers in a manner which bears a fair or reasonable relationship to the payer's burden on, or benefits received from, regulatory activities.

WHEREAS, the District analyzes whether assessed fees result in the collection of sufficient revenue to recover the costs of related program activities; these analyses have included contractor-conducted fee studies completed in 1999, 2005, and 2011, and annual District staff-conducted cost recovery updates completed in 2006 through 2010. Each fee study and cost recovery update completed revealed that District fee revenue falls significantly short of recovering the costs of related program activities.

WHEREAS, the District's most recently completed fee study (*Cost Recovery*

*and Containment Study, Bay Area Air Quality Management District, Final Report, Matrix Consulting Group, March 9, 2011)* concluded that in Fiscal Year Ending (FYE) 2010, the District recovered approximately 62 percent of its fee-related activity costs, resulting in an under-recovery of costs (i.e., a cost recovery gap), and a subsidy to fee payers, of approximately \$16.8 million, and that this cost recovery gap resulted despite the implementation of a number of strategies to contain costs.

WHEREAS, cost recovery analyses have indicated that the District's Fee Schedule P: Major Facility Review Fees, which establishes fees for program activities associated with the Title V permit program, has under-recovered costs by an average of \$3.4 million per year over the period FYE 2004 through FYE 2010.

WHEREAS, the District's Board of Directors has recognized since 1999 that the District's cost recovery gap has been an issue that needs to be addressed, and since that time has adopted annual fee amendments in order to increase fee revenue.

WHEREAS, in addition to fee revenue, the District receives revenue from Bay Area counties that is derived from property taxes, and a large portion of this tax revenue has historically been used on an annual basis to fill the cost recovery gap.

WHEREAS, the tax revenue that the District receives varies on a year-to-year basis, and cannot necessarily be relied on to fill the cost recovery gap and also cover other District expenses necessitating, in certain years, the use of reserve funds.

WHEREAS, tax revenue that the District receives, to the extent that it is not needed to fill the cost recovery gap, can be used to fund initiatives or programs that may further the District's mission but that lack a dedicated funding source.

WHEREAS, it may be appropriate as a matter of policy to establish specific fee discounts for small businesses, green businesses, or other regulated entities or members of the public, where tax revenue is used to cover a portion of regulatory program activity costs, and the District's existing fee regulation contains several fee discounts of this type.



## **POLICY**

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Bay Area Air Quality Management District that:

**(1) Cost Containment** –In order to ensure that the costs of its regulatory programs remain reasonable, the District should continue to implement feasible cost containment measures, including the use of appropriate best management practices, without compromising the District's effective implementation and enforcement of applicable regulatory requirements. The District's annual budget documents should include a summary of cost containment measures that are being implemented.

**(2) Analysis of Cost Recovery** – The District should continue to analyze the extent to which fees recover regulatory program activity costs, both on an overall basis, and at the level of individual fee schedules. These cost recovery analyses should be periodically completed by a qualified District contactor, and should be updated on an annual basis by District staff using a consistent methodology.

**(3) Cost Recovery Goals** – It is the general policy of the District, except as otherwise noted below, that the costs of regulatory program activities be fully recovered by assessing fees to regulated entities. In order to move towards this goal, the District should amend its fee regulation over the next four years, in conjunction with the adoption of budgets for Fiscal Year Ending (FYE) 2013 through FYE 2016, in a manner sufficient to increase overall recovery of regulatory program activity costs to 85 percent. Amendments to specific fee schedules should also be made in consideration of cost recovery analyses conducted at the fee schedule-level, with larger increases being adopted for the schedules that have the larger cost recovery gaps. This includes Fee Schedule P: Major Facility Review Fees, which has been determined to under-recover costs by a significant amount. Newly adopted regulatory measures should include fees that are designed to recover increased regulatory program activity costs associated with the measure, unless the Board of Directors determines that a portion of those costs should be covered by tax revenue. Tax revenue should also continue to be used to subsidize existing fee discounts that the District provides (e.g., for small businesses, green businesses, and third-party permit appeals), and to cover the cost of the District's wood smoke enforcement program.

BE IT FURTHER RESOLVED that this resolution is non-binding in the case of unforeseen financial circumstances, and may also be reconsidered or updated by the District's Board of Directors.



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **STAFF REPORT**

### **PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES**

#### **APPENDIX B PROPOSED REGULATORY LANGUAGE REGULATION 3: FEES**

*DRAFT*  
**MARCH 26, 2014**

## REGULATION 3 FEES

### INDEX

#### **3-100 GENERAL**

- 3-101 Description
- 3-102 Deleted July 12, 1989
- 3-103 Exemption, Abatement Devices
- 3-104 Deleted August 2, 1995
- 3-105 Exemption, Excavation of Contaminated Soil and Removal of Underground Storage Tank  
Operation Fees
- 3-106 Deleted December 2, 1998
- 3-107 Exemption, Sources Exempt from Permit Requirements

#### **3-200 DEFINITIONS**

- 3-201 Cancelled Application
- 3-202 Gasoline Dispensing Facility
- 3-203 Filing Fee
- 3-204 Initial Fee
- 3-205 Authority to Construct
- 3-206 Modification
- 3-207 Permit to Operate Fee
- 3-208 Deleted June 4, 1986
- 3-209 Small Business
- 3-210 Solvent Evaporating Source
- 3-211 Source
- 3-212 Deleted August 2, 1995
- 3-213 Major Stationary Source
- 3-214 Deleted effective March 1, 2000
- 3-215 Deleted effective March 1, 2000
- 3-216 Deleted effective March 1, 2000
- 3-217 Deleted effective March 1, 2000
- 3-218 Deleted effective March 1, 2000
- 3-219 Deleted effective March 1, 2000
- 3-220 Deleted effective March 1, 2000
- 3-321 Deleted effective March 1, 2000
- 3-222 Deleted effective March 1, 2000
- 3-223 Start-up Date
- 3-224 Permit to Operate
- 3-225 Minor Modification
- 3-226 Air Toxics "Hot Spots" Information and Assessment Act of 1987
- 3-227 Toxic Air Contaminant, or TAC
- 3-228 Deleted December 2, 1998
- 3-229 Deleted December 2, 1998
- 3-230 Deleted December 2, 1998
- 3-231 Deleted December 2, 1998
- 3-232 Deleted December 2, 1998
- 3-233 Deleted December 2, 1998
- 3-234 Deleted December 2, 1998

3-235 Deleted December 2, 1998  
3-236 Deleted December 2, 1998  
3-237 PM<sub>10</sub>  
3-238 Risk Screening Fee  
3-239 Toxic Surcharge  
3-240 Biogenic Carbon Dioxide  
3-241 Green Business  
3-242 Incident  
3-243 Incident Response  
3-244 Permit to Operate Renewal Date  
3-245 Permit Renewal Period

**3-300 STANDARDS**

3-301 Hearing Board Fees  
3-302 Fees for New and Modified Sources  
3-303 Back Fees  
3-304 Alteration  
3-305 Cancellation or Withdrawal  
3-306 Change in Conditions  
3-307 Transfers  
3-308 Change of Location  
3-309 Duplicate Permit  
3-310 Fee for Constructing Without a Permit  
3-311 Banking  
3-312 Emission Caps and Alternative Compliance Plans  
3-313 Deleted May 19, 1999  
3-314 Deleted August 2, 1995  
3-315 Costs of Environmental Documentation  
3-316 Deleted June 6, 1990  
3-317 Asbestos Operation Fee  
3-318 Public Notice Fee, Schools  
3-319 Major Stationary Source Fees  
3-320 Toxic Inventory Fees  
3-321 Deleted December 2, 1998  
3-322 Excavation of Contaminated Soil and Removal of Underground Storage Tank Operation Fees  
3-323 Pre-Certification Fees  
3-324 Deleted June 7, 2000  
3-325 Deleted December 2, 1998  
3-326 Deleted December 2, 1998  
3-327 Permit to Operate, Renewal Fees  
3-328 Fee for OEHHA Risk Assessment Reviews  
3-329 Fee for Risk Screening  
3-330 Fee for Renewing an Authority to Construct  
3-331 Registration Fees  
3-332 Naturally Occurring Asbestos Fees  
3-333 Major Facility Review (MFR) and Synthetic Minor Application Fees  
3-334 Greenhouse Gas Fees  
3-335 Indirect Source Review Fees  
3-336 Open Burning Operation Fees  
3-337 Exemption Fees  
3-338 Incident Response Fees

**3-400 ADMINISTRATIVE REQUIREMENTS**

- 3-401 Permits
- 3-402 Single Anniversary Date
- 3-403 Change in Operating Parameters
- 3-404 Deleted June 7, 2000
- 3-405 Fees Not Paid
- 3-406 Deleted June 4, 1986
- 3-407 Deleted August 2, 1995
- 3-408 Permit to Operate Valid for 12 Months
- 3-409 Deleted June 7, 2000
- 3-410 Deleted August 2, 1995
- 3-411 Advance Deposit of Funds
- 3-412 Deleted December 2, 1998
- 3-413 Toxic "Hot Spots" Information and Assessment Act Revenues
- 3-414 Deleted December 2, 1998
- 3-415 Failure to Pay - Further Actions
- 3-416 Adjustment of Fees
- 3-417 Temporary Amnesty for Unpermitted and Unregistered Sources

**3-500 MONITORING AND RECORDS (None Included)**

**3-600 MANUAL OF PROCEDURES (None Included)**

**FEE SCHEDULES**

- SCHEDULE A HEARING BOARD FEES
- SCHEDULE B COMBUSTION OF FUEL
- SCHEDULE C STATIONARY CONTAINERS FOR THE STORAGE OF ORGANIC LIQUIDS
- SCHEDULE D GASOLINE TRANSFER AT GASOLINE DISPENSING FACILITIES, BULK PLANTS AND TERMINALS
- SCHEDULE E SOLVENT EVAPORATING SOURCES
- SCHEDULE F MISCELLANEOUS SOURCES
- SCHEDULE H SEMICONDUCTOR AND RELATED OPERATIONS
- SCHEDULE I DRY CLEANERS
- SCHEDULE J DELETED February 19, 1992
- SCHEDULE K SOLID WASTE DISPOSAL SITES
- SCHEDULE L ASBESTOS OPERATIONS
- SCHEDULE M MAJOR STATIONARY SOURCE FEES
- SCHEDULE N TOXIC INVENTORY FEES
- SCHEDULE O DELETED May 19, 1999
- SCHEDULE P MAJOR FACILITY REVIEW FEES
- SCHEDULE Q EXCAVATION OF CONTAMINATED SOIL AND REMOVAL OF UNDERGROUND STORAGE TANKS
- SCHEDULE R EQUIPMENT REGISTRATION FEES
- SCHEDULE S NATURALLY OCCURRING ASBESTOS OPERATIONS
- SCHEDULE T GREENHOUSE GAS FEES
- SCHEDULE U INDIRECT SOURCE REVIEW FEES
- SCHEDULE V OPEN BURNING

## REGULATION 3 FEES

(Adopted June 18, 1980)

### 3-100 GENERAL

**3-101 Description:** This regulation establishes the regulatory fees charged by the District.  
*(Amended 7/6/83; 11/2/83; 2/21/90; 12/16/92; 8/2/95; 12/2/98; 5/21/03; 5/21/08; 5/20/09; 6/19/13)*

**3-102 Deleted July 12, 1989**

**3-103 Exemption, Abatement Devices:** Installation, modification, or replacement of abatement devices on existing sources are subject to fees pursuant to Section 3-302.3. All abatement devices are exempt from annual permit renewal fees. However, emissions from abatement devices, including any secondary emissions, shall be included in facility-wide emissions calculations when determining the applicability of and the fees associated with Schedules M, N, P, and T.

*(Amended 6/4/86; 7/1/98; 6/7/00; 5/21/08)*

**3-104 Deleted August 2, 1995**

**3-105 Exemption, Excavation of Contaminated Soil and Removal of Underground Storage Tank Operation Fees:** Fees shall not be required, pursuant to Section 3-322, for operations associated with the excavation of contaminated soil and the removal of underground storage tanks if one of the following is met:

105.1 The tank removal operation is being conducted within a jurisdiction where the APCO has determined that a public authority has a program equivalent to the District program and persons conducting the operations have met all the requirements of the public authority.

105.2 Persons submitting a written notification for a given site have obtained an Authority to Construct or Permit to Operate in accordance with Regulation 2, Rule 1, Section 301 or 302. Evidence of the Authority to Construct or the Permit to Operate must be provided with any notification required by Regulation 8, Rule 40.

*(Adopted 1/5/94; Amended 5/21/03)*

**3-106 Deleted December 2, 1998**

**3-107 Exemption, Sources Exempt from Permit Requirements:** Any source that is exempt from permit requirements pursuant to Regulation 2, Rule 1, Sections 103 through 128 is exempt from permit fees. However, emissions from exempt sources shall be included in facility-wide emissions calculations when determining the applicability of and the fees associated with Schedules M, N, and P.

*(Adopted June 7, 2000)*

### 3-200 DEFINITIONS

**3-201 Cancelled Application:** Any application which has been withdrawn by the applicant or cancelled by the APCO for failure to pay fees or to provide the information requested to make an application complete.

*(Amended 6/4/86; 4/6/88)*

**3-202 Gasoline Dispensing Facility:** Any stationary facility which dispenses gasoline directly into the fuel tanks of vehicles, such as motor vehicles, aircraft or boats. The facility shall be treated as a single source which includes all necessary equipment for the exclusive use of the facility, such as nozzles, dispensers, pumps, vapor return lines, plumbing and storage tanks.

*(Amended February 20, 1985)*

**3-203 Filing Fee:** A fixed fee for each source in an authority to construct.

*(Amended June 4, 1986)*

- 3-204 Initial Fee:** The fee required for each new or modified source based on the type and size of the source. The fee is applicable to new and modified sources seeking to obtain an authority to construct. Operation of a new or modified source is not allowed until the permit to operate fee is paid.  
*(Amended June 4, 1986)*
- 3-205 Authority to Construct:** Written authorization from the APCO, pursuant to Section 2-1-301, for a source to be constructed or modified or for a source whose emissions will be reduced by the construction or modification of an abatement device.  
*(Amended June 4, 1986)*
- 3-206 Modification:** See Section 1-217 of Regulation 1.
- 3-207 Permit to Operate Fee:** The fee required for the annual renewal of a permit to operate or for the first year of operation (or prorated portion thereof) of a new or modified source which received an authority to construct.  
*(Amended 6/4/86; 7/15/87; 12/2/98; 6/7/00)*
- 3-208 Deleted June 4, 1986**
- 3-209 Small Business:** A business with no more than 10 employees and gross annual income of no more than \$750,000 that is not an affiliate of a non-small business.  
*(Amended 6/4/86; 6/6/90; 6/7/00; 6/15/05; 6/16/10)*
- 3-210 Solvent Evaporating Source:** Any source utilizing organic solvent, as part of a process in which evaporation of the solvent is a necessary step. Such processes include, but are not limited to, solvent cleaning operations, painting and surface coating, rotogravure coating and printing, flexographic printing, adhesive laminating, etc. Manufacture or mixing of solvents or surface coatings is not included.  
*(Amended July 3, 1991)*
- 3-211 Source:** See Section 1-227 of Regulation 1.
- 3-212 Deleted August 2, 1995**
- 3-213 Major Stationary Source:** For the purpose of Schedule M, a major stationary source shall be any District permitted plant, building, structure, stationary facility or group of facilities under the same ownership, leasehold, or operator which, in the base calendar year, emitted to the atmosphere organic compounds, oxides of nitrogen (expressed as nitrogen dioxide), oxides of sulfur (expressed as sulfur dioxide), or PM<sub>10</sub> in an amount calculated by the APCO equal to or exceeding 50 tons per year.  
*(Adopted 11/2/83; Amended 2/21/90; 6/6/90; 8/2/95; 6/7/00)*
- 3-214 Deleted October 20, 1999, effective March 1, 2000**
- 3-215 Deleted October 20, 1999, effective March 1, 2000**
- 3-216 Deleted October 20, 1999, effective March 1, 2000**
- 3-217 Deleted October 20, 1999, effective March 1, 2000**
- 3-218 Deleted October 20, 1999, effective March 1, 2000**
- 3-219 Deleted October 20, 1999, effective March 1, 2000**
- 3-220 Deleted October 20, 1999, effective March 1, 2000**
- 3-221 Deleted October 20, 1999, effective March 1, 2000**
- 3-222 Deleted October 20, 1999, effective March 1, 2000**
- 3-223 Start-up Date:** Date when new or modified equipment under an authority to construct begins operating. The holder of an authority to construct is required to notify the APCO of this date at least 3 days in advance. For new sources, or modified sources whose authorities to construct have expired, operating fees are charged from the startup date.  
*(Adopted 6/4/86; Amended 6/6/90)*
- 3-224 Permit to Operate:** Written authorization from the APCO pursuant to Section 2-1-302.  
*(Adopted 6/4/86; Amended 6/7/00)*

- 3-225** **Minor Modification:** Any physical change or alteration to a source listed on Schedules G-3, G-4, or G-5 that will not increase emissions of any air contaminant. Such modifications may include alterations to improve energy and operational efficiency and those that reduce emissions. Alterations to increase actual or maximum production capacity shall not be considered minor modifications. Final determination of the applicability of this section shall be made by the APCO.  
(Adopted 6/6/90; Amended 5/4/11)
- 3-226** **Air Toxics "Hot Spots" Information and Assessment Act of 1987:** The Air Toxics "Hot Spots" Information and Assessment Act of 1987 directs the California Air Resources Board and the Air Quality Management Districts to collect information from industry on emissions of potentially toxic air contaminants and to inform the public about such emissions and their impact on public health. It also directs the Air Quality Management District to collect fees sufficient to cover the necessary state and District costs of implementing the program.  
(Adopted 10/21/92; Amended 6/15/05)
- 3-227** **Toxic Air Contaminant, or TAC:** An air pollutant that may cause or contribute to an increase in mortality or in serious illness or that may pose a present or potential hazard to human health. For the purposes of this rule, TACs consist of the substances listed in Table 2-5-1 of Regulation 2, Rule 5.  
(Adopted 10/21/92; Amended 6/15/05)
- 3-228** Deleted December 2, 1998
- 3-229** Deleted December 2, 1998
- 3-230** Deleted December 2, 1998
- 3-231** Deleted December 2, 1998
- 3-232** Deleted December 2, 1998
- 3-233** Deleted December 2, 1998
- 3-234** Deleted December 2, 1998
- 3-235** Deleted December 2, 1998
- 3-236** Deleted December 2, 1998
- 3-237** **PM<sub>10</sub>:** See Section 2-1-229 of Regulation 2, Rule 1.  
(Adopted June 7, 2000)
- 3-238** **Risk Screening Fee:** Fee for a new or modified source of toxic air contaminants for which a health risk screening analysis (HRSA) is required under Regulation 2-5-401, or for an HRSA prepared for other purposes (e.g., for determination of permit exemption in accordance with Regulations 2-1-316, 2-5-301 and 2-5-302; or for determination of exemption from emission control requirements pursuant to Regulation 8-47-113 and 8-47-402).  
(Adopted June 15, 2005)
- 3-239** **Toxic Surcharge:** Fee paid in addition to the permit to operate fee for a source that emits one or more toxic air contaminants at a rate which exceeds a chronic trigger level listed in Table 2-5-1.  
(Adopted June 15, 2005)
- 3-240** **Biogenic Carbon Dioxide:** Carbon dioxide emissions resulting from materials that are derived from living cells, excluding fossil fuels, limestone and other materials that have been transformed by geological processes. Biogenic carbon dioxide originates from carbon (released in the form of emissions) that is present in materials that include, but are not limited to, wood, paper, vegetable oils, animal fat, and food, animal and yard waste.  
(Adopted May 21, 2008)
- 3-241** **Green Business:** A business or government agency that has been certified under the Bay Area Green Business Program coordinated by the Association of Bay Area Governments and implemented by participating counties.  
(Adopted June 16, 2010)
- 3-242** **Incident:** A non-routine release of an air contaminant that may cause adverse health consequences to the public or to emergency personnel responding to the release, or that may cause a public nuisance or off-site environmental damage.  
(Adopted June 19, 2013)
- 3-243** **Incident Response:** The District's response to an incident. The District's incident response



may include the following activities: i) inspection of the incident-emitting equipment and facility records associated with operation of the equipment; ii) identification and analysis of air quality impacts, including without limitation, identifying areas impacted by the incident, modeling, air monitoring, and source sampling; iii) engineering analysis of the specifications or operation of the equipment; and iv) administrative tasks associated with processing complaints and reports.

*(Adopted June 19, 2013)*

**3-244 Permit to Operate Renewal Date:** The first day of a Permit to Operate's Permit Renewal Period.

*(Adopted June 19, 2013)*

**3-245 Permit Renewal Period:** The length of time the source is authorized to operate pursuant to a Permit to Operate.

*(Adopted June 19, 2013)*

### **3-300 STANDARDS**

**3-301 Hearing Board Fees:** Applicants for variances or appeals or those seeking to revoke or modify variances or abatement orders or to rehear a Hearing Board decision shall pay the applicable fees, including excess emission fees, set forth in Schedule A.

*(Amended June 7, 2000)*

**3-302 Fees for New and Modified Sources:** Applicants for authorities to construct and permits to operate new sources shall pay for each new source: a filing fee of \$428441, the initial fee, the risk screening fee, the permit to operate fee, and toxic surcharge (given in Schedules B, C, D, E, F, H, I or K). Applicants for authorities to construct and permits to operate modified sources shall pay for each modified source, a filing fee of \$428441, the initial fee, the risk screening fee, and any incremental increase in permit to operate and toxic surcharge fees. Where more than one of the schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. Except for gasoline dispensing facilities (Schedule D) and semiconductor facilities (Schedule H), the size to be used for a source when applying the schedules shall be the maximum size the source will have after the construction or modification. Where applicable, fees for new or modified sources shall be based on maximum permitted usage levels or maximum potential to emit including any secondary emissions from abatement equipment. The APCO may reduce the fees for new and modified sources by an amount deemed appropriate if the owner or operator of the source attends an Industry Compliance School sponsored by the District.

302.1 Small Business Discount: If an applicant qualifies as a small business and the source falls under schedules B, C, D (excluding gasoline dispensing facilities), E, F, H, I or K, the filing fee, initial fee, and risk screening fee shall be reduced by 50%. All other applicable fees shall be paid in full.

302.2 Deleted July 3, 1991

302.3 Fees for Abatement Devices: Applicants for an authority to construct and permit to operate abatement devices where there is no other modification to the source shall pay a \$428-441 filing fee and initial and risk screening fees that are equivalent to 50% of the initial and risk screening fees for the source being abated. For abatement devices abating more than one source, the initial fee shall be 50% of the initial fee for the source having the highest initial fee.

302.4 Fees for Reactivated Sources: Applicants for a Permit to Operate reactivated, previously permitted equipment shall pay the full filing, initial, risk screening, permit, and toxic surcharge fees.

302.5 Schedule G Fees: Applicants for minor modifications to permitted sources subject to Schedules G-3, G-4, or G-5 shall pay filing, initial, risk screening, permit to operate, and toxic surcharge fees specified under Schedule G-2. Permit renewal fees will continue to be charged under Schedules G-3, G-4, and G-5.

302.6 Green Business Discount: If an applicant qualifies as a green business, the filing fee,

initial fee, and risk screening fee shall be reduced by 10%. All other applicable fees shall be paid in full.

*(Amended 5/19/82; 7/6/83; 6/4/86; 7/15/87; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01; 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**3-303 Back Fees:** An applicant required to obtain a permit to operate existing equipment in accordance with District regulations shall pay back fees equal to the permit to operate fees and toxic surcharges given in the appropriate Schedule (B, C, D, E, F, H, I or K) prorated from the effective date of permit requirements. Where more than one of these schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. The applicant shall also pay back fees equal to toxic inventory fees pursuant to Section 3-320 and Schedule N. The maximum back fee shall not exceed a total of five years' permit, toxic surcharge, and toxic inventory fees. An owner/operator required to register existing equipment in accordance with District regulations shall pay back fees equal to the annual renewal fee given in Schedule R prorated from the effective date of registration requirements, up to a maximum of five years.

*(Amended 5/19/82; 7/6/83; 6/4/86; 7/15/87; 6/6/90; 7/3/91; 10/8/97; 6/15/05; 5/20/09)*

**3-304 Alteration:** An applicant to alter an existing permitted source shall pay only the filing fee, provided that the alteration does not result in an increase in emissions of any regulated air pollutant.

*(Amended 6/4/86; 11/15/00; 6/2/04)*

**3-305 Cancellation or Withdrawal:** There will be no refund of initial, risk screening, and filing fees if an application is cancelled or withdrawn. However, if an application for identical equipment is submitted within six months of the date of cancellation or withdrawal, the initial fee will be credited in full against the fee for the new application.

*(Amended 7/6/83; 4/6/88; 10/8/97; 6/15/05)*

**3-306 Change in Conditions:** If an applicant applies to change the conditions on an existing authority to construct or permit to operate, the applicant will pay the following fees. There will be no change in anniversary date.

306.1 Administrative Condition Changes: An applicant applying for an administrative change in permit conditions shall pay a fee equal to the filing fee for a single source, provided the following criteria are met:

- 1.1 The condition change applies to a single source or a group of sources with shared permit conditions.
- 1.2 The condition change does not subject the source(s) to any District Regulations or requirements that were not previously applicable.
- 1.3 The condition change does not result in any increase in emissions of POC, NPOC, NO<sub>x</sub>, CO, SO<sub>2</sub>, or PM<sub>10</sub> at any source or the emission of a toxic air contaminant above the trigger levels identified in Table 2-5-1
- 1.4 The condition change does not require a public notice.

306.2 Other Condition Changes: Applicant shall pay the filing, initial, and risk screening fees required for new and modified equipment under Section 3-302. If the condition change will result in higher permit to operate fees, the applicant shall also pay any incremental increases in permit to operate fees and toxic surcharges.

*(Amended 7/6/83; 6/4/86; 6/6/90; 10/8/97; 6/7/00; 6/15/05)*

**3-307 Transfers:** The owner/operator of record is the person to whom a permit is issued or, if no permit has yet been issued to a facility, the person who applied for a permit. Permits are valid only for the owner/operator of record. Upon submittal of a \$428100 transfer of ownership fee, permits are re-issued to the new owner/operator of record with no change in expiration dates.

*(Amended 2/20/85; 6/4/86; 11/5/86; 4/6/88; 10/8/97; 5/1/02; 5/21/03; 6/02/04; 6/19/13)*

**3-308 Change of Location:** An applicant who wishes to move an existing source, which has a permit to operate, shall pay no fee if the move is on the same facility. If the move is not on the same facility, the source shall be considered a new source and subject to Section 3-302.

This section does not apply to portable permits meeting the requirements of Regulation 2-1-220 and 413.

*(Amended 7/6/83; 6/4/86; 6/15/05)*

**3-309 Duplicate Permit or Registration:** An applicant for a duplicate permit to operate or registration shall pay a fee of ~~\$72-74~~ per permit or registration.

*(Amended 5/19/99; 5/1/02; 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 6/19/13)*

**3-310 Fee for Constructing Without a Permit:** An applicant for an authority to construct and a permit to operate a source, which has been constructed or modified without an authority to construct, shall pay the following fees:

310.1 Sources subject to permit requirements on the date of initial operation shall pay fees for new construction pursuant to Section 3-302, any back fees pursuant to Section 3-303, and a late fee equal to 100% of the initial fee. A modified gasoline dispensing facility subject to Schedule D that is not required to pay an initial fee shall pay fees for a modified source pursuant to Section 3-302, back fees, and a late fee equal to 100% of the filing fee.

310.2 Sources previously exempt from permit requirements that lose their exemption due to changes in District, state, or federal regulations shall pay a permit to operate fee and toxic surcharge for the coming year and any back fees pursuant to Section 3-303.

310.3 Sources previously exempt from permit requirements that lose their exemption due to a change in the manner or mode of operation, such as an increased throughput, shall pay fees for new construction pursuant to Section 3-302. In addition, sources applying for permits after commencing operation in a non-exempt mode shall also pay a late fee equal to 100% of the initial fee and any back fees pursuant to Section 3-303.

310.4 Sources modified without a required authority to construct shall pay fees for modification pursuant to Section 3-302 and a late fee equal to 100% of the initial fee.

*(Amended 7/6/83; 4/18/84; 6/4/86; 6/6/90; 7/3/91; 8/2/95; 10/8/97; 6/02/04; 6/15/05; 6/6/12)*

**3-311 Banking:** Any applicant who wishes to bank emissions for future use, or convert an ERC into an IERC, shall pay a filing fee of ~~\$428-441~~ per source plus the initial fee given in Schedules B, C, D, E, F, H, I or K. Where more than one of these schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. Any applicant for the withdrawal of banked emissions shall pay a fee of ~~\$428-441~~.

*(Amended 7/6/83; 6/4/86; 7/15/87; 7/3/91; 6/15/94; 7/1/98; 5/19/99; 6/7/00; 6/6/01; 5/1/02; 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**3-312 Emission Caps and Alternative Compliance Plans:** Any facility which elects to use an alternative compliance plan contained in:

312.1 Regulation 8 ("bubble") to comply with a District emission limitation or to use an annual or monthly emission limit to acquire a permit in accordance with the provisions of Regulation 2, Rule 2, shall pay an additional annual fee equal to fifteen percent of the total plant permit to operate fee.

312.2 Regulation 2, Rule 9, or Regulation 9, Rule 10 shall pay an annual fee of ~~\$1,083,115~~ for each source included in the alternative compliance plan, not to exceed ~~\$40,830,115~~.

*(Adopted 5/19/82; Amended 6/4/86; 5/19/99; 6/7/00; 6/6/01; 5/1/02; 5/23/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**3-313 Deleted May 19, 1999**

**3-314 Deleted August 2, 1995**

**3-315 Costs of Environmental Documentation:** An applicant for an Authority to Construct a project which is subject to review under the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) shall pay, in addition to the fees required under Section 3-302 and in any applicable schedule, the District's costs of performing all environmental evaluation required pursuant to the California Environmental Quality Act, the District's costs in preparing any environmental study or Environmental Impact Report (including the costs of any outside consulting assistance which the District may employ in

connection with the preparation of any such study or report), as well as the District's reasonable internal costs (including overhead) of processing and reviewing the required environmental documentation.

*(Adopted 12/18/85; Amended 5/1/02)*

**3-316 Deleted June 6, 1990**

**3-317 Asbestos Operation Fees:** After July 1, 1988, persons submitting a written plan, as required by Regulation 11, Rule 2, Section 401, to conduct an asbestos operation shall pay the fee given in Schedule L.

*(Adopted 7/6/88; Renumbered 9/7/88; Amended 8/2/95)*

**3-318 Public Notice Fee, Schools:** Pursuant to Section 42301.6(b) of the Health and Safety Code, an applicant for an authority to construct or permit to operate subject to the public notice requirements of Regulation 2-1-412 shall pay, in addition to the fees required under Section 3-302 and in any applicable schedule, a fee to cover the expense of preparing and distributing the public notices to the affected persons specified in Regulation 2-1-412 as follows:

318.1 A fee of \$2,100 per application, and

318.2 The District's cost exceeding \$2,100 of preparing and distributing the public notice.

318.3 The District shall refund to the applicant the portion of any fee paid under this Section that exceeds the District's cost of preparing and distributing the public notice.

*(Adopted 11/1/89; Amended 10/8/97; 7/1/98; 5/19/99; 6/7/00; 5/21/03; 6/2/04; 6/16/10)*

**3-319 Major Stationary Source Fees:** Any major stationary source emitting 50 tons per year of organic compounds, sulfur oxides, nitrogen oxides, or PM<sub>10</sub> shall pay a fee based on Schedule M. This fee is in addition to permit and other fees otherwise authorized to be collected from such facilities and shall be included as part of the annual permit renewal fees.

*(Adopted 6/6/90; Amended 8/2/95; 6/7/00)*

**3-320 Toxic Inventory Fees:** Any facility that emits one or more toxic air contaminants in quantities above a minimum threshold level shall pay an annual fee based on Schedule N. This fee will be in addition to permit to operate, toxic surcharge, and other fees otherwise authorized to be collected from such facilities.

320.1 An applicant who qualifies as a small business under Regulation 3-209 shall pay a Toxic Inventory Fee as set out in Schedule N up to a maximum fee of \$8,944 per year.

*(Adopted 10/21/92; Amended 5/19/99; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/20/09; 6/16/10; 5/4/11)*

**3-321 Deleted December 2, 1998**

**3-322 Excavation of Contaminated Soil and Removal of Underground Storage Tank Operation Fees:** Persons submitting a written notification for a given site to conduct either excavation of contaminated soil or removal of underground storage tanks as required by Regulation 8, Rule 40, Section 401, 402, 403 or 405 shall pay a fee based on Schedule Q.

*(Adopted 1/5/94; Amended 8/2/95; 5/21/03)*

**3-323 Pre-Certification Fees:** An applicant seeking to pre-certify a source, in accordance with Regulation 2, Rule 1, Section 415, shall pay the filing fee, initial fee and permit to operate fee given in the appropriate schedule.

*(Adopted June 7, 1995)*

**3-324 Deleted June 7, 2000**

**3-325 Deleted December 2, 1998**

**3-326 Deleted December 2, 1998**

**3-327 Permit to Operate, Renewal Fees:** After the expiration of the initial permit to operate, the permit to operate shall be renewed on an annual basis or other time period as approved by the APCO. The fee required for the renewal of a permit to operate is the permit to operate fee and toxic surcharge listed in Schedules B, C, D, E, F, H, I, and K, prorated for the period of coverage. When more than one of the schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. This renewal fee is applicable to all sources required to obtain permits to operate in accordance with District regulations. The permit renewal invoice shall also specify any applicable major stationary source fees based on

Schedule M, toxic inventory fees based on Schedule N, major facility review fees based on Schedule P, and greenhouse gas fees based on Schedule T. Where applicable, renewal fees shall be based on actual usage or emission levels that have been reported to or calculated by the District. In addition to these renewal fees for the sources at a facility, the facility shall also pay a processing fee at the time of renewal that covers each Permit Renewal Period as follows:

- 327.1 ~~\$84-87~~ for facilities with one permitted source, including gasoline dispensing facilities,
- 327.2 ~~\$167-172~~ for facilities with 2 to 5 permitted sources,
- 327.3 ~~\$332-342~~ for facilities with 6 to 10 permitted sources,
- 327.4 ~~\$499-514~~ for facilities with 11 to 15 permitted sources,
- 327.5 ~~\$662-682~~ for facilities with 16 to 20 permitted sources,
- 327.6 ~~\$829-854~~ for facilities with more than 20 permitted sources.

*(Adopted 6/7/00; Amended 6/2/04; 6/16/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**3-328 Fee for OEHHA Risk Assessment Reviews:** Any facility that submits a health risk assessment to the District in accordance with Section 44361 of the California Health and Safety Code shall pay any fee requested by the State Office of Environmental Health Hazard Assessment (OEHHA) for reimbursement of that agency's costs incurred in reviewing the risk assessment.

*(Adopted June 7, 2000)*

**3-329 Fee for Risk Screening:** A health risk screening analysis (HRSA) required pursuant to Regulation 2, Rule 5 shall be subject to an appropriate Risk Screening Fee pursuant to Regulation 3-302 and Schedules B, C, D, E, F, H, I or K. In addition, any person that requests that the District prepare or review an HRSA (e.g., for determination of permit exemption in accordance with Regulations 2-1-316, 2-5-301 and 2-5-302; or for determination of exemption from emission control requirements pursuant to Regulation 8-47-113 and 8-47-402) shall pay a Risk Screening Fee.

*(Adopted June 15, 2005)*

**3-330 Fee for Renewing an Authority to Construct:** An applicant seeking to renew an authority to construct in accordance with Regulation 2-1-407 shall pay a fee of 50% of the initial fee in effect at the time of the renewal. If the District determines that an authority to construct cannot be renewed, any fees paid under this section shall be credited in full against the fee for a new authority to construct for functionally equivalent equipment submitted within six months of the date the original authority to construct expires.

*(Adopted June 15, 2005)*

**3-331 Registration Fees:** Any person who is required to register equipment under District rules shall submit a registration fee, and any annual fee thereafter, as set out in Schedule R. The APCO may reduce registration fees by an amount deemed appropriate if the owner or operator of the equipment attends an Industry Compliance School sponsored by the District.

*(Adopted June 6, 2007; Amended 6/16/10)*

**3-332 Naturally Occurring Asbestos Fees:** After July 1, 2007, any person required to submit an Asbestos Dust Mitigation Plan (ADMP) pursuant to Title 17 of the California Code of Regulations, Section 93105, Asbestos Air Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations shall pay the fee(s) set out in Schedule S.

*(Adopted June 6, 2007)*

**3-333 Major Facility Review (MFR) and Synthetic Minor Application Fees:** Any facility that applies for, or is required to undergo, an initial MFR permit, an amendment to an MFR permit, a minor or significant revision to an MFR permit, a reopening of an MFR permit, a renewal of an MFR permit, an initial synthetic minor operating permit, or a revision to a synthetic minor operating permit, shall pay the applicable fees set forth in Schedule P.

*(Adopted May 21, 2008)*

**3-334 Greenhouse Gas Fees:** Any permitted facility with greenhouse gas emissions shall pay a fee based on Schedule T. This fee is in addition to permit and other fees otherwise authorized to be collected from such facilities, and shall be included as part of the annual permit renewal fees.

*(Adopted May 21, 2008)*



**3-335 Indirect Source Review Fees:** Applicants that must file an Air Quality Impact Assessment pursuant to District rules for a project that is deemed to be an indirect source shall pay a fee based on Schedule U.

*(Adopted May 20, 2009)*

**3-336 Open Burning Operation Fees:** Effective July 1, 2013, any person required to provide notification to the District prior to burning; submit a petition to conduct a Filmmaking or Public Exhibition fire; receive an acreage burning allocation to conduct a Stubble fire; or submit a smoke management plan and receive an acreage burning allocation to conduct a Wildland Vegetation Management fire or Marsh Management fire shall pay the fee given in Schedule V.

*(Adopted June 19, 2013)*

**3-337 Exemption Fee:** An applicant who wishes to receive a certificate of exemption shall pay a filing fee of \$~~428~~~~441~~ per exempt source.

*(Adopted June 19, 2013)*

**3-338 Incident Response Fee:** Any facility required to obtain a District permit, and any District-regulated area-wide or indirect source, that is the site where an incident occurs to which the District responds, shall pay a fee equal to the District's actual costs in conducting the incident response as defined in Section 3-243, including without limitation, the actual time and salaries, plus overhead, of the District staff involved in conducting the incident response and the cost of any materials.

*(Adopted June 19, 2013)*

### **3-400 ADMINISTRATIVE REQUIREMENTS**

**3-401 Permits:** Definitions, standards, and conditions contained in Regulation 2, Permits, are applicable to this regulation.

**3-402 Single Anniversary Date:** The APCO may assign a single anniversary date to a facility on which all its renewable permits to operate expire and will require renewal. Fees will be prorated to compensate for different time periods resulting from change in anniversary date.

**3-403 Change in Operating Parameters:** See Section 2-1-404 of Regulation 2, Rule 1.

**3-404 Deleted June 7, 2000**

**3-405 Fees Not Paid:** If an applicant or owner/operator fails to pay the fees specified on the invoice by the due date, the following procedure(s) shall apply:

405.1 Authority to Construct: The application will be cancelled, but can be reactivated upon payment of fees.

405.2 New Permit to Operate: The Permit to Operate shall not be issued, and the facility will be notified that operation, including startup, is not authorized.

2.1 Fees received during the first 30 days following the due date must include an ~~an~~ **additional** late fee equal to 10 percent of all fees specified on the invoice.

2.2 Fees received more than 30 days after the due date must include an ~~an~~ **additional** late fee equal to 50 percent of all fees specified on the invoice.

405.3 Renewal of Permit to Operate: The owner or operator of a facility must renew the Permit to Operate in order to continue to be authorized to operate the source. Permit to Operate Fees for the Permit Renewal Period shall be calculated using fee schedules in effect on the Permit to Operate Renewal Date. The permit renewal invoice will include all fees to be paid in order to renew the Permit to Operate, as specified in Section 3-327. If not renewed as of the date of the next Permit Renewal Period, a Permit to Operate lapses and further operation is no longer authorized. The District will notify the facility that the permit has lapsed. Reinstatement of lapsed Permits to Operate will require the payment of all unpaid prior Permit to Operate fees and associated reinstatement fees for each unpaid prior Permit Renewal Period, in addition to all fees specified on the permit renewal invoice.

405.4 Reinstatement of Lapsed Permit to Operate: To reinstate a Permit to Operate, the owner or operator must pay all of the following fees:

- 4.1 The applicable Permit to Operate Fees for the current year, as specified in Regulation 3-327, and the applicable reinstatement fee, if any, calculated as follows:
  - 4.1.1 Fees received during the first 30 days following the due date must include all fees specified on the permit renewal invoice plus a reinstatement fee equal to 10 percent of all fees specified on the invoice.
  - 4.1.2 Fees received more than 30 days after the due date, but less than one year after the due date, must include all fees specified on the permit renewal invoice plus a reinstatement fee equal to 50 percent of all fees specified on the invoice.
- 4.2 The applicable Permit to Operate Fees specified in Regulation 3-327 for each prior Permit Renewal Period for which all Permit to Operate Fees and associated reinstatement fees have not been paid. Each year's Permit to Operate Fee shall be calculated at the fee rates in effect on that year's Permit to Operate Renewal Date. The reinstatement fee for each associated previously-unpaid Permit to Operate Fee shall be calculated in accordance with Regulation 3-405.4.1 and 4.1.2.

Each year or period of the lapsed Permit to Operate is deemed a separate Permit Renewal Period. The oldest outstanding Permit to Operate Fee and reinstatement fees shall be paid first.

405.5 **Registration and Other Fees:** Persons who have not paid the fee by the invoice due date, shall pay the following late fee in addition to the original invoiced fee. Fees shall be calculated using fee schedules in effect at the time of the fees' original determination.

- 5.1 Fees received during the first 30 days following the due date must include an additional late fee equal to 10 percent of all fees specified on the invoice.
- 5.2 Fees received more than 30 days after the due date must include an additional late fee equal to 50 percent of all fees specified on the invoice.

*(Amended 7/6/83; 6/4/86; 11/5/86; 2/15/89; 6/6/90; 7/3/91; 8/2/95; 12/2/98; 6/15/05; 6/7/06; 6/6/12; 6/19/13)*

**3-406**

**Deleted June 4, 1986**

**3-407**

**Deleted August 2, 1995**

**3-408**

**Permit to Operate Valid for 12 Months:** A Permit to Operate is valid for 12 months from the date of issuance or other time period as approved by the APCO.

*(Amended 6/4/86; Amended 6/7/00)*

**3-409**

**Deleted June 7, 2000**

**3-410**

**Deleted August 2, 1995**

**3-411**

**Advance Deposit of Funds:** The APCO may require that at the time of the filing of an application for an Authority to Construct for a project for which the District is a lead agency under the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), the applicant shall make an advance deposit of funds, in an amount to be specified by the APCO, to cover the costs which the District estimates to incur in connection with the District's performance of its environmental evaluation and the preparation of any required environmental documentation. In the event the APCO requires such an estimated advance payment to be made, the applicant will be provided with a full accounting of the costs actually incurred by the District in connection with the District's performance of its environmental evaluation and the preparation of any required environmental documentation.

*(Adopted 12/18/85; Amended 8/2/95)*

**3-412**

**Deleted December 2, 1998**

**3-413**

**Toxic "Hot Spots" Information and Assessment Act Revenues:** No later than 120 days after the adoption of this regulation, the APCO shall transmit to the California Air Resources Board, for deposit into the Air Toxics "Hot Spots" Information and Assessment Fund, the revenues determined by the ARB to be the District's share of statewide Air Toxics "Hot Spot" Information and Assessment Act expenses.

*(Adopted October 21, 1992)*

**3-414 Deleted December 2, 1998**

**3-415 Failure to Pay - Further Actions:** When an applicant or owner/operator fails to pay the fees specified on the invoice by the due date, the APCO may take the following actions against the applicant or owner/operator:

415.1 Issuance of a Notice to Comply.

415.2 Issuance of a Notice of Violation.

415.3 Revocation of an existing Permit to Operate. The APCO shall initiate proceedings to revoke permits to operate for any person who is delinquent for more than one month. The revocation process shall continue until payment in full is made or until permits are revoked.

415.4 The withholding of any other District services as deemed appropriate until payment in full is made.

*(Adopted 8/2/95; Amended 12/2/98; 6/15/05)*

**3-416 Adjustment of Fees:** The APCO or designees may, upon finding administrative error by District staff in the calculation, imposition, noticing, invoicing, and/or collection of any fee set forth in this rule, rescind, reduce, increase, or modify the fee. A request for such relief from an administrative error, accompanied by a statement of why such relief should be granted, must be received within two years from the date of payment.

*(Adopted October 8, 1997)*

**3-417 Temporary Amnesty for Unpermitted and Unregistered Sources:** The APCO has the authority to declare an amnesty period, during which the District may waive all or part of the back fees and/or late fees for sources that are currently operating without valid Permits to Operate and/or equipment registrations.

*(Adopted June 16, 2010)*



**SCHEDULE A  
HEARING BOARD FEES<sup>1</sup>**

Established by the Board of Directors December 7, 1977 Resolution No. 1046  
(Code section references are to the California Health & Safety Code, unless otherwise indicated)

		Large Companies	Small Business	Third Party
1.	For each application for variance exceeding 90 days, in accordance with §42350, including applications on behalf of a class of applicants, which meet the requirements of the Hearing Board Rules for a valid and proper class action for variance ..... Plus, for each hearing in addition to the first hearing necessary to dispose of said variance application in accordance with §42350, the additional sum of .....	<u>\$3,2603</u> <u>.553</u>  <u>\$1,6321</u> <u>.779</u>	<u>\$4875</u> <u>31</u>  <u>\$1641</u> <u>79</u>	
2.	For each application for variance not exceeding 90 days, in accordance with §42350, including applications on behalf of a class of applicants, which meet the requirements of the Hearing Board Rules for a valid and proper class action for variance ..... Plus, for each hearing in addition to the first hearing necessary to dispose of said variance application, in accordance with §42350, the additional sum of .....	<u>\$1,9582</u> <u>.134</u>  <u>\$9771,0</u> <u>65</u>	<u>\$4875</u> <u>31</u>  <u>\$1641</u> <u>79</u>	
3.	For each application to modify a variance in accordance with §42356 ... Plus, for each hearing in addition to the first hearing on said application to modify a variance, in accordance with §42345, necessary to dispose of the application, the additional sum of.....	<u>\$1,2991</u> <u>.416</u>  <u>\$9771,0</u> <u>65</u>	<u>\$1641</u> <u>79</u>  <u>\$1641</u> <u>79</u>	
4.	For each application to extend a variance, in accordance with §42357 .. Plus, for each hearing in addition to the first hearing on an application to extend a variance, in accordance with §42357, necessary to dispose of the application, the additional sum of.....	<u>\$1,2991</u> <u>.416</u>  <u>\$9771,0</u> <u>65</u>	<u>\$1641</u> <u>79</u>  <u>\$1641</u> <u>79</u>	
5.	For each application to revoke a variance .....	<u>\$1,9582</u> <u>.134</u>	<u>\$1641</u> <u>79</u>	
6.	For each application for approval of a Schedule of Increments of Progress in accordance with §41703.....	<u>\$1,2991</u> <u>.416</u>	<u>\$1641</u> <u>79</u>	
7.	For each application for variance in accordance with §41703, which exceeds 90 days ..... Plus, for each hearing in addition to the first hearing on said application for variance in accordance with §41703, the additional sum of .....	<u>\$3,2603</u> <u>.553</u>  <u>\$1,6321</u> <u>.779</u>	<u>\$4875</u> <u>31</u>  <u>\$1641</u> <u>79</u>	

		Large Companies	Small Business	Third Party
8.	For each application for variance in accordance with §41703, not to exceed 90 days ..... Plus, for each hearing in addition to the hearing on said application for a variance in accordance with §41703, the additional sum of .....	<u>\$1,9582</u> <u>,134</u>  <u>\$9771,0</u> <u>65</u>	<u>\$4875</u> <u>31</u>  <u>\$1641</u> <u>79</u>	
9.	For each Appeal (Permit, Banking, Title V).....	<u>\$3,2603,5</u> <u>53</u> per hearing day	<u>\$1,6321,</u> <u>779</u> per hearing day	<u>\$1,6321,7</u> <u>79</u> for entire appeal period
10.	For each application for intervention in accordance with Hearing Board Rules §§2.3, 3.6 & 4.6.....	<u>\$1,6321</u> <u>,779</u>	<u>\$3283</u> <u>58</u>	
11.	For each application to Modify or Terminate an abatement order .....	<u>\$3,2603,5</u> <u>53</u> per hearing day	<u>\$1,6321,</u> <u>779</u> per hearing day	
12.	For each application for an interim variance in accordance with §42351	<u>\$1,6321</u> <u>,779</u>	<u>\$3283</u> <u>58</u>	
13.	For each application for an emergency variance in accordance with §42359.5 .....	<u>\$81488</u> <u>7</u>	<u>\$1641</u> <u>79</u>	
14.	For each application to rehear a Hearing Board decision in accordance with §40861 .....	100% of previous fee charged	100% of previous fee charged	
15.	Excess emission fees.....	See Attachment I	See Attachment I	
16.	Miscellaneous filing fee for any hearing not covered above	<u>\$1,6321</u> <u>,779</u>	<u>\$4875</u> <u>31</u>	<u>\$48753</u> <u>1</u>
17.	For each published Notice of Public Hearing.....	Cost of Publication	\$0	\$0
18.	Court Reporter Fee (to be paid only if Court Reporter required for hearing) .....	Actual Appearance and Transcript costs per hearing solely dedicated to one Docket	\$0	Actual Appearance and Transcript costs per hearing solely dedicated to one Docket

NOTE 1 Any applicant who believes they have a hardship for payment of fees may request a fee waiver from the Hearing Board pursuant to Hearing Board Rules.  
(Amended 10/8/97; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)

**SCHEDULE A  
ATTACHMENT I  
EXCESS EMISSION FEE**

**A. General**

- (1) Each applicant or petitioner for a variance from these Rules and Regulations shall pay to the Clerk or Deputy Clerk of the Hearing Board, in addition to the other filing fees required in Schedule A, an emission fee based on the total weight of emissions discharged, per source or product, other than those described in division (B) below, during the variance period in excess of that allowed by these rules in accordance with the schedule set forth in Table I.
- (2) Where the total weight of emission discharged cannot be easily calculated, the petitioner shall work in concert with District staff to establish the amount of excess emissions to be paid.
- (3) In the event that more than one rule limiting the discharge of the same contaminant is violated, the excess emission fee shall consist of the fee for violation which will result in the payment of the greatest sum. For the purposes of this subdivision, opacity rules and particulate mass emissions shall not be considered rules limiting the discharge of the same contaminant.

**B. Excess Visible Emission Fee**

Each applicant or petitioner for a variance from Regulation 6 or Health and Safety Code Section 41701 shall pay to the Clerk or Deputy Clerk of the Hearing Board, in addition to the filing fees required in Schedule A and the excess emission fees required in (A) above (if any), an emission fee based on the difference between the percent opacity allowed by Regulation 6 and the percent opacity of the emissions allowed from the source or sources operating under the variance, in accordance with the schedule set forth in Table II.

In the event that an applicant or petitioner is exempt from the provisions of Regulation 6, the applicant or petitioner shall pay a fee calculated as described herein above, but such fee shall be calculated based upon the difference between the opacity allowed under the variance and the opacity allowed under the provisions of Health and Safety Code Section 41701, in accordance with the schedule set forth in Table II.

**C. Applicability**

The provisions of subdivision (A) shall apply to all variances that generate excess emissions.

**D. Fee Determination**

- (1) The excess emission fees shall be calculated by the petitioner based upon the requested number of days of operation under variance multiplied by the expected excess emissions as set forth in subdivisions (A) and (B) above. The calculations and proposed fees shall be set forth in the petition.
- (2) The Hearing Board may adjust the excess emission fee required by subdivisions (A) and (B) of this rule based on evidence regarding emissions presented at the time of the hearing.

## **E. Small Businesses**

- (1) A small business shall be assessed twenty percent (20%) of the fees required by subdivisions (A) and (B), whichever is applicable. "Small business" is defined in the Fee Regulation.
- (2) Request for exception as a small business shall be made by the petitioner under penalty of perjury on a declaration form provided by the Executive Officer which shall be submitted to the Clerk or Deputy Clerk of the Hearing Board at the time of filing a petition for variance.

## **F. Group, Class and Product Variance Fees**

Each petitioner included in a petition for a group, class or product variance shall pay the filing fee specified in Schedule A, and the excess emission fees specified in subdivisions (A) and (B), whichever is applicable.

## **G. Adjustment of Fees**

If after the term of a variance for which emission fees have been paid, petitioner can establish, to the satisfaction of the Executive Officer/APCO, that emissions were actually less than those upon which the fee was based, a pro rata refund shall be made.

## **H. Fee Payment/Variance Invalidation**

- (1) Excess emission fees required by subdivisions (A) and (B), based on an estimate provided during the variance Hearing, are due and payable within fifteen (15) days of the granting of the variance. The petitioner shall be notified in writing of any adjustment to the amount of excess emission fees due, following District staff's verification of the estimated emissions. Fee payments to be made as a result of an adjustment are due and payable within fifteen (15) days of notification of the amount due.
- (2) Failure to pay the excess emission fees required by subdivisions (A) and (B) within fifteen (15) days of notification that a fee is due shall automatically invalidate the variance. Such notification may be given by personal service or by deposit, postpaid, in the United States mail and shall be due fifteen (15) days from the date of personal service or mailing. For the purpose of this rule, the fee payment shall be considered to be received by the District if it is postmarked by the United States Postal Service on or before the expiration date stated on the billing notice. If the expiration date falls on a Saturday, Sunday, or a state holiday, the fee payment may be postmarked on the next business day following the Saturday, Sunday, or the state holiday with the same effect as if it had been postmarked on the expiration date.

**TABLE I  
SCHEDULE OF EXCESS EMISSIONS FEES**

Air Contaminants	All at <del>\$3-133.41</del> Per Pound
<ul style="list-style-type: none"> <li>Organic gases, except methane and those containing sulfur</li> <li>Carbon Monoxide</li> <li>Oxides of nitrogen (expressed as nitrogen dioxide)</li> <li>Gaseous sulfur compounds (expressed as sulfur dioxide)</li> <li>Particulate matter</li> </ul>	
Toxic Air Contaminants	All at <del>\$15-5416.94</del> Per Pound
<ul style="list-style-type: none"> <li>Asbestos</li> <li>Benzene</li> <li>Cadmium</li> <li>Carbon tetrachloride</li> <li>Chlorinated dioxins and dibenzofurans (15 species)</li> <li>Ethylene dibromide</li> <li>Ethylene dichloride</li> <li>Ethylene oxide</li> <li>Formaldehyde</li> <li>Hexavalent chromium</li> <li>Methylene chloride</li> <li>Nickel</li> <li>Perchloroethylene</li> <li>1,3-Butadiene</li> <li>Inorganic arsenic</li> <li>Beryllium</li> <li>Polynuclear aromatic hydrocarbons (PAH)</li> <li>Vinyl chloride</li> <li>Lead</li> <li>1,4-Dioxane</li> <li>Trichloroethylene</li> </ul>	

**TABLE II  
SCHEDULE OF EXCESS VISIBLE EMISSION FEE**

For each source with opacity emissions in excess of twenty percent (20%), but less than forty percent (40%) (where the source is in violation of Regulation 6, the fee is calculated as follows:

	Fee = (Opacity* equivalent - 20) x number of days allowed in variance x <del>\$3-483.79</del>
--	---

For each source with opacity emissions in excess of forty percent (40%) (where the source is in violation of Regulation 6 and California Health and Safety Code Section 41701), the fee is calculated as follows:

	Fee = (Opacity* equivalent - 40) x number of days allowed by variance x <del>\$3-483.79</del>
--	---

\* Where "Opacity" equals maximum opacity of emissions in percent (not decimal equivalent) allowed by the variance. Where the emissions are darker than the degree of darkness equivalent to the allowed Ringelmann number, the percentage equivalent of the excess degree of darkness shall be used as "opacity."

*(Adopted 6/7/00; Amended 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**SCHEDULE B  
COMBUSTION OF FUEL**  
(Adopted June 18, 1980)

For each source that burns fuel, which is not a flare and not exempted by Regulation 2, Rule 1, the fee shall be computed based on the maximum gross combustion capacity (expressed as higher heating value, HHV) of the source.

1. INITIAL FEE: \$53,9357.71 per MM BTU/HOUR
  - a. The minimum fee per source is: \$288308
  - b. The maximum fee per source is: \$400,620107,663
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: \$428,441 plus \$53,9357.71 per MM BTU/hr
  - b. Minimum RSF for first TAC source: \$716749
  - c. RSF for each additional TAC source: \$53,9357.71 per MM BTU/hr \*
  - d. Minimum RSF per additional TAC source: \$288308 \*
  - e. Maximum RSF per source is: \$400,620107,663
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE: \$26,9528.84 per MM BTU/HOUR
  - a. The minimum fee per source is: \$205219
  - b. The maximum fee per source is: \$50,30953,831
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. ROUNDING: Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.
  
6. Applicants for an authority to construct and permit to operate a project, which burns municipal waste or refuse-derived fuel, shall pay in addition to all required fees, an additional fee to cover the costs incurred by the State Department of Health Services, and/or a qualified contractor designated by the State Department of Health Services, in reviewing a risk assessment as required under H&S Code Section 42315. The fee shall be transmitted by the District to the Department of Health Services and/or the qualified contractor upon completion of the review and submission of comments in writing to the District.
  
7. A surcharge equal to 100% of all required initial and permit to operate fees shall be charged for sources permitted to burn one or more of the following fuels: coke, coal, wood, tires, black liquor, and municipal solid waste.

NOTE: MM BTU is million BTU of higher heat value  
One MM BTU/HR = 1.06 gigajoules/HR

*(Amended 6/5/85; 6/4/86; 3/4/87; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**SCHEDULE C**  
**STATIONARY CONTAINERS FOR THE STORAGE OF ORGANIC LIQUIDS**  
(Adopted June 18, 1980)

For each stationary container of organic liquids which is not exempted from permits by Regulation 2 and which is not part of a gasoline dispensing facility, the fee shall be computed based on the container volume, as follows:

1. INITIAL FEE: 0.1730.176 cents per gallon
  - a. The minimum fee per source is: \$191.195
  - b. The maximum fee per source is: \$26,046.26,567
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: \$428.441 plus 0.1730.176 cents per gallon
  - b. Minimum RSF for first TAC source: \$619.636
  - c. RSF for each additional TAC source: 0.1730.176 cents per gallon \*
  - d. Minimum RSF per additional TAC source: \$191.195 \*
  - e. Maximum RSF per source is: \$26,046.26,567
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE: 0.0870.089 cents per gallon
  - a. The minimum fee per source is: \$137.140
  - b. The maximum fee per source is: \$13,023.13,283
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. ROUNDING: Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 2/20/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 7/1/98; 5/19/99; 6/7/00; 6/6/01  
5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/20/09; 6/16/10; 6/6/12; 6/19/13)*

**SCHEDULE D**  
**GASOLINE TRANSFER AT GASOLINE DISPENSING FACILITIES,**  
**BULK PLANTS AND TERMINALS**  
(Adopted June 18, 1980)

A. All gasoline dispensing facilities shall pay the following fees:

1. INITIAL FEE: \$~~227.35~~243.26 per single product nozzle (spn)  
\$~~227.35~~243.26 per product for each multi-product nozzle (mpn)
2. PERMIT TO OPERATE FEE: \$~~87.08~~93.18 per single product nozzle (spn)  
\$~~87.08~~93.18 per product for each multi-product nozzle (mpn)

3. Initial fees and permit to operate fees for hardware modifications at a currently permitted gasoline dispensing facility shall be consolidated into a single fee calculated according to the following formula:

$$\$~~314.41~~336.42 \times \{[(mpn_{proposed})(products\ per\ nozzle) + spn_{proposed}] - [(mpn_{existing})(products\ per\ nozzle) + spn_{existing}]\}$$

*mpn* = multi-product nozzles  
*spn* = single product nozzles

The above formula includes a toxic surcharge.

If the above formula yields zero or negative results, no initial fees or permit to operate fees shall be charged.

For the purposes of calculating the above fees, a fuel blended from two or more different grades shall be considered a separate product.

Other modifications to facilities' equipment, including but not limited to tank addition/replacement/conversion, vapor recovery piping replacement, moving or extending pump islands, will not be subject to initial fees or permit to operate fees.

4. RISK SCREENING FEE (RSF) of \$~~428~~441 per application is only applicable to projects for which a health risk screening analysis is required under Regulation 2-5-401 [including increases in permitted throughput for which a health risk screening analysis is required.]
5. Nozzles used exclusively for the delivery of diesel fuel or other fuels exempt from permits shall pay no fee. Multi-product nozzles used to deliver both exempt and non-exempt fuels shall pay fees for the non-exempt products only.

B. All bulk plants, terminals or other facilities using loading racks to transfer gasoline or gasohol into trucks, railcars or ships shall pay the following fees:

1. INITIAL FEE: \$~~2,9863,195~~2,9863,195 per single product loading arm  
\$~~2,9863,195~~2,9863,195 per product for multi-product arms
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: \$~~3,4143,636~~3,4143,636
  - b. RSF for each additional TAC source: \$~~2,9863,195~~2,9863,195 \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: \$~~832-890~~832-890 per single product loading arm  
\$~~832-890~~832-890 per product for multi-product arms



4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
- C. Fees in (A) above are in lieu of tank fees. Fees in (B) above are in addition to tank fees.
- D. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 2/20/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01; 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**SCHEDULE E**  
**SOLVENT EVAPORATING SOURCES**  
(Adopted June 18, 1980)

For each solvent evaporating source, as defined in Section 3-210 except for dry cleaners, the fee shall be computed based on the net amount of organic solvent processed through the sources on an annual basis (or anticipated to be processed, for new sources) including solvent used for the cleaning of the sources.

1. INITIAL FEE:
  - a. The minimum fee per source is: \$519566
  - b. If usage is not more than 1,000 gallons/year: \$519566
  - c. If usage is more than 1,000 gallons/year: \$1,0441,138 per 1,000 gallons
  - d. The maximum fee per source is: \$41,50645,242
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: \$428-441 plus initial fee
  - b. Minimum RSF for first TAC source: \$9471,007
  - c. RSF for each additional TAC source: equal to initial fee \*
  - d. Minimum RSF per additional TAC source: \$519-566 \*
  - e. Maximum RSF per source is: \$41,50645,242

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE:
  - a. The minimum fee per source is: \$374408
  - b. If usage is not more than 1,000 gallons/year: \$374408
  - c. If usage is more than 1,000 gallons/year: \$519-566 per 1,000 gallons
  - d. The maximum fee per source is: \$20,75122,619
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 5/19/82; 10/17/84; 6/5/85; 6/4/86; 10/8/87; 7/3/91; 6/15/94; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**SCHEDULE F**  
**MISCELLANEOUS SOURCES**  
(Adopted June 18, 1980)

For each source not governed by Schedules B, C, D, E, H or I, (except for those sources in the special classification lists, G-1 - G-5) the fees are:

1. INITIAL FEE: \$444476
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: \$869917
  - b. RSF for each additional TAC source: \$444476 \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: \$320346
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1. List of special classifications requiring graduated fees is shown in Schedules G-1, G-2, G-3, G-4, and G-5.

G-1 FEES FOR SCHEDULE G-1. For each source in a G-1 classification, fees are:

1. INITIAL FEE: \$2,8243,075
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: \$3,2493,516
  - b. RSF for each additional TAC source: \$2,8243,075 \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: \$1,4081,535
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-2 FEES FOR SCHEDULE G-2. For each source in a G-2 classification, fees are:

1. INITIAL FEE: \$3,7254,060
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: \$4,1534,501
  - b. RSF for each additional TAC source: \$3,7254,060 \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: \$1,8642,028
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate

fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-3 FEES FOR SCHEDULE G-3. For each source in a G-3 classification, fees are:

1. INITIAL FEE: [\\$23,55825,678](#)
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: [\\$23,98626,119](#)
  - b. RSF for each additional TAC source: [\\$23,55825,678](#) \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: [\\$11,77712,837](#)
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-4 FEES FOR SCHEDULE G-4. For each source in a G-4 classification, fees are:

1. INITIAL FEE: [\\$49,70253,678](#)
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: [\\$50,13054,119](#)
  - b. RSF for each additional TAC source: [\\$49,70253,678](#) \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: [\\$24,85026,838](#)
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-5 FEES FOR SCHEDULE G-5. For each source in a G-5 classification, fees are:

1. INITIAL FEE: [\\$48,36749,334](#)
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: [\\$48,79549,775](#)
  - b. RSF for each additional TAC source: [\\$48,36749,334](#) \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: [\\$24,18324,667](#)
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

*(Amended 5/19/82; 6/5/85; 6/4/86; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01; 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**SCHEDULE G-1**  
(Adopted June 18, 1980)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Asphalt Roofing Manufacturing – Asphalt Dipping	Asphalt Roofing or Related Materials
Calcining Kilns, excluding those processing cement, lime, or coke (see G-4 for cement, lime, or coke Calcining Kilns)	Any Materials except cement, lime, or coke
Chemical Manufacturing, Inorganic – Processing Units with a Capacity of 1000 Gallons/Hour or more	Any Inorganic Materials
Chemical Manufacturing, Inorganic – Processing Units with a Capacity of 5 Tons/Hour or more	Any Inorganic Materials
Chemical Manufacturing, Inorganic – Reactors with a Capacity of 1000 Gallons or more	Any Inorganic Materials
Chemical Manufacturing, Organic – Latex Dipping	Any latex materials
Chemical Manufacturing, Organic – Processing Units with a Capacity of 1000 Gallons/Hour or more	Any Organic Materials
Chemical Manufacturing, Organic – Processing Units with a Capacity of 5 Tons/Hour or more	Any Organic Materials
Chemical Manufacturing, Organic – Reactors with a Capacity of 1000 Gallons or more	Any Organic Materials
Compost Operations – Windrows, Static Piles, Aerated Static Piles, In-Vessel, or similar methods	Any waste materials such as yard waste, food waste, agricultural waste, mixed green waste, bio-solids, animal manures, etc.
Crushers	Any minerals or mineral products such as rock, aggregate, cement, concrete, or glass; waste products such as building or road construction debris; and any wood, wood waste, green waste; or similar materials
Electroplating Equipment	Hexavalent Decorative Chrome with permitted capacity greater than 500,000 amp-hours per year or Hard Chrome

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Foil Manufacturing – Any Converting or Rolling Lines	Any Metal or Alloy Foils
Galvanizing Equipment	Any
Glass Manufacturing – Batching Processes including storage and weigh hoppers or bins, conveyors, and elevators	Any Dry Materials
Glass Manufacturing – Mixers	Any Dry Materials
Glass Manufacturing – Molten Glass Holding Tanks	Any molten glass
Grinders	Any minerals or mineral products such as rock, aggregate, cement, concrete, or glass; waste products such as building or road construction debris; and any wood, wood waste, green waste; or similar materials
Incinerators – Crematory	Human and/or animal remains
Incinerators – Flares	Any waste gases
Incinerators – Other (see G-2 for hazardous or municipal solid waste incinerators, see G-3 for medical or infectious waste incinerators)	Any Materials except hazardous wastes, municipal solid waste, medical or infectious waste
Incinerators – Pathological Waste (see G-3 for medical or infectious waste incinerators)	Pathological waste only
Loading and/or Unloading Operations – Bulk Plants and Bulk Terminals, excluding those loading gasoline or gasohol (see Schedule D for Bulk Plants and Terminals loading gasoline or gasohol)	Any Organic Materials except gasoline or gasohol
Petroleum Refining – Alkylation Units	Any Hydrocarbons
Petroleum Refining – Asphalt Oxidizers	Any Hydrocarbons
Petroleum Refining – Benzene Saturation Units/Plants	Any Hydrocarbons
Petroleum Refining – Catalytic Reforming Units	Any Hydrocarbons
Petroleum Refining – Chemical Treating Units including alkane, naphthenic acid, and naptha merox treating, or similar processes	Any Hydrocarbons
Petroleum Refining – Converting Units including Dimersol Plants, Hydrocarbon Splitters, or similar processes	Any Hydrocarbons

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Petroleum Refining – Distillation Units, excluding crude oil units with capacity > 1000 barrels/hour (see G-3 for > 1000 barrels/hour crude distillation units)	Any Hydrocarbons
Petroleum Refining – Hydrogen Manufacturing	Hydrogen or Any Hydrocarbons
Petroleum Refining – Hydrotreating or Hydrofining	Any Hydrocarbons
Petroleum Refining – Isomerization	Any Hydrocarbons
Petroleum Refining – MTBE Process Units/Plants	Any Hydrocarbons
Petroleum Refining – Sludge Converter	Any Petroleum Waste Materials
Petroleum Refining – Solvent Extraction	Any Hydrocarbons
Petroleum Refining – Sour Water Stripping	Any Petroleum Process or Waste Water
Petroleum Refining – Storage (enclosed)	Petroleum Coke or Coke Products
Petroleum Refining – Waste Gas Flares (not subject to Regulation 12, Rule 11)	Any Petroleum Refining Gases
Petroleum Refining – Miscellaneous Other Process Units	Any Hydrocarbons
Remediation Operations, Groundwater – Strippers	Contaminated Groundwater
Remediation Operations, Soil – Any Equipment	Contaminated Soil
Spray Dryers	Any Materials
Sterilization Equipment	Ethylene Oxide
Wastewater Treatment, Industrial – Oil-Water Separators, excluding oil-water separators at petroleum refineries (see G-2 for Petroleum Refining - Oil-Water Separators)	Wastewater from any industrial facilities except petroleum refineries
Wastewater Treatment, Industrial – Strippers including air strippers, nitrogen strippers, dissolved air flotation units, or similar equipment and excluding strippers at petroleum refineries (see G-2 for Petroleum Refining – Strippers)	Wastewater from any industrial facilities except petroleum refineries
Wastewater Treatment, Industrial - Storage Ponds, excluding storage ponds at petroleum refineries (see G-2 for Petroleum Refining – Storage Ponds)	Wastewater from any industrial facilities except petroleum refineries
Wastewater Treatment, Municipal – Preliminary Treatment	Municipal Wastewater
Wastewater Treatment, Municipal – Primary Treatment	Municipal Wastewater
Wastewater Treatment, Municipal –	Municipal Wastewater

Equipment or Process Description	Materials Processed or Produced
Digesters	
Wastewater Treatment, Municipal – Sludge Handling Processes, excluding sludge incinerators (see G-2 for sludge incinerators)	Sewage Sludge

*(Amended 6/4/86; 6/6/90; 5/19/99; 6/7/00; 6/2/04; 6/15/05)*



**SCHEDULE G-2**  
(Adopted June 6, 1990)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Asphalt Roofing Manufacturing – Asphalt Blowing	Asphalt Roofing or Related Materials
Asphaltic Concrete Manufacturing – Aggregate Dryers	Any Dry Materials
Asphaltic Concrete Manufacturing – Batch Mixers	Any Asphaltic Concrete Products
Asphaltic Concrete Manufacturing – Drum Mixers	Any Asphaltic Concrete Products
Asphaltic Concrete Manufacturing – Other Mixers and/or Dryers	Any Dry Materials or Asphaltic Concrete Products
Concrete or Cement Batching Operations – Mixers	Any cement, concrete, or stone products or similar materials
Furnaces – Electric	Any Mineral or Mineral Product
Furnaces – Electric Induction	Any Mineral or Mineral Product
Furnaces – Glass Manufacturing	Soda Lime only
Furnaces – Reverberatory	Any Ores, Minerals, Metals, Alloys, or Related Materials
Incinerators – Hazardous Waste including any unit required to have a RCRA permit	Any Liquid or Solid Hazardous Wastes
Incinerators – Solid Waste, excluding units burning human/animal remains or pathological waste exclusively (see G-1 for Crematory and Pathological Waste Incinerators)	Any Solid Waste including Sewage Sludge (except human/animal remains or pathological waste)
Metal Rolling Lines, excluding foil rolling lines (see G-1 for Foil Rolling Lines)	Any Metals or Alloys
Petroleum Refining – Stockpiles (open)	Petroleum Coke or coke products only
Petroleum Refining, Wastewater Treatment – Oil-Water Separators	Wastewater from petroleum refineries only
Petroleum Refining, Wastewater Treatment – Strippers including air strippers, nitrogen strippers, dissolved air flotation units, or similar equipment	Wastewater from petroleum refineries only
Petroleum Refining, Wastewater Treatment – Storage Ponds	Wastewater from petroleum refineries only
Pickling Lines or Tanks	Any Metals or Alloys
Sulfate Pulping Operations – All Units	Any
Sulfite Pulping Operations – All Units	Any

*(Amended June 7, 2000)*

**SCHEDULE G-3**  
(Adopted June 18, 1980)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Furnaces – Electric Arc	Any Metals or Alloys
Furnaces – Electric Induction	Any Metals or Alloys
Incinerators – Medical Waste, excluding units burning pathological waste exclusively (see G-1 for Pathological Waste Incinerators)	Any Medical or Infectious Wastes
Loading and/or Unloading Operations – Marine Berths	Any Organic Materials
Petroleum Refining – Cracking Units including hydrocrackers and excluding thermal or fluid catalytic crackers (see G-4 for Thermal Crackers and Catalytic Crackers)	Any Hydrocarbons
Petroleum Refining – Distillation Units (crude oils) including any unit with a capacity greater than 1000 barrels/hour (see G-1 for other distillation units)	Any Petroleum Crude Oils
Phosphoric Acid Manufacturing – All Units (by any process)	Phosphoric Acid

*(Amended 5/19/82; Amended and renumbered 6/6/90; Amended 6/7/00; 6/15/05; 5/2/07)*

**SCHEDULE G-4**  
(Adopted June 6, 1990)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Acid Regeneration Units	Sulfuric or Hydrochloric Acid only
Annealing Lines (continuous only)	Metals and Alloys
Calcining Kilns (see G-1 for Calcining Kilns processing other materials)	Cement, Lime, or Coke only
Fluidized Bed Combustors	Solid Fuels only
Nitric Acid Manufacturing – Any Ammonia Oxidation Processes	Ammonia or Ammonia Compounds
Petroleum Refining - Coking Units including fluid cokers, delayed cokers, flexicokers, and coke kilns	Petroleum Coke and Coke Products
Petroleum Refining - Cracking Units including fluid catalytic crackers and thermal crackers and excluding hydrocrackers (see G-3 for Hydrocracking Units)	Any Hydrocarbons
Petroleum Refining - Sulfur Removal including any Claus process or any other process requiring caustic reactants	Any Petroleum Refining Gas
Sulfuric Acid Manufacturing – Any Chamber or Contact Process	Any Solid, Liquid or Gaseous Fuels Containing Sulfur

*(Amended June 7, 2000)*

**SCHEDULE G-5**

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Petroleum Refinery Flares (subject to Regulation 12, Rule 11)	Any Petroleum Vent Gas (as defined in section 12-11-210 and section 12-12-213)

*(Adopted May 2, 2007)*

**SCHEDULE H**  
**SEMICONDUCTOR AND RELATED OPERATIONS**  
(Adopted May 19, 1982)

All of the equipment within a semiconductor fabrication area will be grouped together and considered one source. The fee shall be as indicated:

1. INITIAL FEE:

- a. The minimum fee per source is: \$453494
- b. The maximum fee per source is: \$36,26339,527

The initial fee shall include the fees for each type of operation listed below, which is performed at the fabrication area:

c. SOLVENT CLEANING OPERATIONS, such as usage of:

Solvent Sinks (as defined in Regulation 8-30-214);  
Solvent Spray Stations (as defined in Regulation 8-30-221);  
Solvent Vapor Stations (as defined in Regulation 8-30-222); and  
Wipe Cleaning Operation (as defined in Regulation 8-30-225).

The fee is based on the gross throughput of organic solvent processed through the solvent cleaning operations on an annual basis (or anticipated to be processed, for new sources):

- i. If gross throughput is not more than 3,000 gallons/year: \$453494
- ii. If gross throughput is more than 3,000 gallons/year: \$306-334 per 1,000 gallon

d. COATING OPERATIONS, such as application of:

Photoresist (as defined in Regulation 8-30-215); other wafer coating;  
Solvent-Based Photoresist Developer (as defined in Regulation 8-30-219); and other miscellaneous solvent usage.

The fee is based on the gross throughput of organic solvent processed through the coating operations on an annual basis (or anticipated to be processed, for new sources):

- i. If gross throughput is not more than 1,000 gallons/year: \$453494
- ii. If gross throughput is more than 1,000 gallons/year: \$911-993 per 1,000 gallon

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.

- a. RSF for first TAC source in application: \$428-441 plus initial fee
- b. Minimum RSF for first TAC source: \$881935
- c. RSF for each additional TAC source: equal to initial fee \*
- d. Minimum RSF per additional TAC source: \$453494 \*
- e. Maximum RSF per source is: \$36,26339,527

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE:

- a. The minimum fee per source is: \$328358

b. The maximum fee per source is: \$48,129,761

The permit to operate fee shall include the fees for each type of operation listed below, which is performed at the fabrication area:

c. SOLVENT CLEANING OPERATIONS, such as usage of:

Solvent Sinks (as defined in Regulation 8-30-214);  
Solvent Spray Stations (as defined in Regulation 8-30-221);  
Solvent Vapor Stations (as defined in Regulation 8-30-222); and  
Wipe Cleaning Operation (as defined in Regulation 8-30-225).

The fee is based on the gross throughput of organic solvent processed through the solvent cleaning operations on an annual basis (or anticipated to be processed, for new sources):

i. If gross throughput is not more than 3,000 gal/year: \$328,358

ii. If gross throughput is more than 3,000 gallons/year: \$453,168 per 1,000 gallon

d. COATING OPERATIONS, such as application of:

Photoresist (as defined in Regulation 8-30-215); other wafer coating;  
Solvent-Based Photoresist Developer (as defined in Regulation 8-30-219); and other  
miscellaneous solvent usage.

The fee is based on the gross throughput of organic solvent processed through the coating operations on an annual basis (or anticipated to be processed, for new sources):

i. If gross throughput is not more than 1,000 gal/year: \$328,358

ii. If gross throughput is more than 1,000 gallons/year: \$453,494 per 1,000 gallon

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

5. The fee for each source will be rounded to the whole dollar. Fees for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 1/9/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 10/20/99; 6/7/00; 6/6/01; 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**SCHEDULE I  
DRY CLEANERS**  
(Adopted July 6, 1983)

For dry cleaners, the fee shall be computed based on each cleaning machine, except that machines with more than one drum shall be charged based on each drum, regardless of the type or quantity of solvent, as follows:

1. INITIAL FEE FOR A DRY CLEANING MACHINE (per drum):
  - a. If the washing or drying capacity is no more than 100 pounds: \$~~448~~479
  - b. If the washing or drying capacity exceeds 100 pounds: \$~~448-479~~ plus  
For that portion of the capacity exceeding 100 pounds: \$~~13-40~~14.34 per pound
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: \$~~428-441~~ plus initial fee
  - b. Minimum RSF for first TAC source: \$~~876~~920
  - c. RSF for each additional TAC source: equal to initial fee \*
  - d. Minimum RSF per additional TAC source: \$~~448~~479 \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE FOR A DRY CLEANING MACHINE (per drum):
  - a. If the washing or drying capacity is no more than 100 pounds: \$~~326~~349
  - b. If the washing or drying capacity exceeds 100 pounds: \$~~326-349~~ plus  
For that portion of the capacity exceeding 100 pounds: \$~~6-73~~7.20 per pound
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 10/17/84; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01; 5/1/02; 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**SCHEDULE K**  
**SOLID WASTE DISPOSAL SITES**  
(Adopted July 15, 1987)

1. INITIAL FEE:

- |   |                     |
|---|---------------------|
| a. Landfill (Decomposition Process)                                   | <u>\$3,1103,390</u> |
| b. Active Landfill (Waste and Cover Material Dumping Process)         | <u>\$1,5551,695</u> |
| c. Active Landfill (Excavating, Bulldozing, and Compacting Processes) | <u>\$1,5551,695</u> |

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.

- |   |                                   |
|---|-----------------------------------|
| a. RSF for first TAC source in application: | <u>\$428-441</u> plus initial fee |
| b. RSF for each additional TAC source:      | equal to initial fee *            |

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE:

- |   |                     |
|---|---------------------|
| a. Landfill (Decomposition Process)                                   | <u>\$1,5551,695</u> |
| b. Active Landfill (Waste and Cover Material Dumping Process)         | <u>\$777847</u>     |
| c. Active Landfill (Excavating, Bulldozing, and Compacting Processes) | <u>\$777847</u>     |

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

5. Evaluation of Reports and Questionnaires:

- |  |                     |
|--|---------------------|
| a. Evaluation of Solid Waste Air Assessment Test Report as required by Health & Safety Code Section 41805.5(g)   | <u>\$1,7451,869</u> |
| b. Evaluation of Inactive Site Questionnaire as required by Health & Safety Code Section 41805.5(b)  | <u>\$860937</u>     |
| c. Evaluation of Solid Waste Air Assessment Test Report in conjunction with evaluation of Inactive Site Questionnaire as required by Health & Safety Code Section 41805.5(b) | <u>\$860937</u>     |
| d. Evaluation of Initial or Amended Design Capacity Reports as required by Regulation 8, Rule 34, Section 405  | <u>\$634688</u>     |
| e. Evaluation of Initial or Periodic NMOC Emission Rate Reports as required by Regulation 8, Rule 34, Sections 406 or 407  | <u>\$1,8081,971</u> |
| f. Evaluation of Closure Report as required by Regulation 8, Rule 34, Section 409  | <u>\$634688</u>     |
| g. Evaluation of Annual Report as required by Regulation 8, Rule 34, Section 411   | <u>\$1,5831,725</u> |

6. Fees for each source will be rounded off to the nearest dollar. The fee for sources will be rounded up or down to the nearest dollar.

7. For the purposes of this fee schedule, landfill shall be considered active, if it has accepted solid waste for disposal at any time during the previous 12 months or has plans to accept solid waste for disposal during the next 12 months.

*(Amended 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 10/6/99; 6/7/00; 6/6/01; 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*



**SCHEDULE L**  
**ASBESTOS OPERATIONS**  
(Adopted July 6, 1988)

1. Asbestos Operations conducted at single family dwellings are subject to the following fees:
  - a. OPERATION FEE:     \$155169 for amounts 100 to 500 square feet or linear feet.  
                              \$570621 for amounts 501 square feet or linear feet to 1000 square feet or linear feet.  
                              \$829904 for amounts 1001 square feet or liner feet to 2000 square feet or linear feet.  
                              \$1,1391,242 for amounts greater than 2000 square feet or linear feet.
  - b. Cancellation:         \$7582 of above amounts non-refundable for notification processing.
2. Asbestos Operations, other than those conducted at single family dwellings, are subject to the following fees:
  - a. OPERATION FEE:     \$439479 for amounts 100 to 159 square feet or 100 to 259 linear feet or 35 cubic feet  
                              \$633690 for amounts 160 square feet or 260 linear feet to 500 square or linear feet or greater than 35 cubic feet.  
                              \$9241,004 for amounts 501 square feet or linear feet to 1000 square feet or linear feet.  
                              \$1,3591,481 for amounts 1001 square feet or liner feet to 2500 square feet or linear feet.  
                              \$1,9372,111 for amounts 2501 square feet or linear feet to 5000 square feet or linear feet.  
                              \$2,6592,898 for amounts 5001 square feet or linear feet to 10000 square feet or linear feet.  
                              \$3,3823,686 for amounts greater than 10000 square feet or linear feet.
  - b. Cancellation:         \$208227 of above amounts non-refundable for notification processing.
3. Demolitions (including zero asbestos demolitions) conducted at a single-family dwelling are subject to the following fee:
  - a. OPERATION FEE:     \$7582
  - b. Cancellation:         \$7582 (100% of fee) non-refundable, for notification processing.
4. Demolitions (including zero asbestos demolitions) other than those conducted at a single family dwelling are subject to the following fee:
  - a. OPERATION FEE:     \$312340
  - b. Cancellation:         \$208227 of above amount non-refundable for notification processing.
5. Asbestos operations with less than 10 days prior notice (excluding emergencies) are subject to the following additional fee:
  - a. OPERATION FEE:     \$519566
6. Asbestos demolition operations for the purpose of fire training are exempt from fees.
7. Floor mastic removal using mechanical buffers and solvent is subject to the following fee:
  - a. OPERATION FEE:     \$312340
  - b. Cancellation:         \$208227 of above amount non-refundable for notification processing.

(Amended 9/5/90; 1/5/94; 8/20/97; 10/7/98; 7/19/00; 8/1/01; 6/5/02; 7/2/03; 6/2/04; 6/6/07; 5/21/08; 5/20/09; 6/16/10; 6/15/11; 6/6/12; 6/19/13)

**SCHEDULE M**  
**MAJOR STATIONARY SOURCE FEES**  
(Adopted June 6, 1990)

For each major stationary source emitting 50 tons per year or more of Organic Compounds, Sulfur Oxides, Nitrogen Oxides, and/or PM<sub>10</sub>, the fee shall be based on the following:

	1.	Organic Compounds	\$ <del>405.84</del> <u>107.93</u> per ton
	2.	Sulfur Oxides	\$ <del>405.84</del> <u>107.93</u> per ton
	3.	Nitrogen Oxides	\$ <del>405.84</del> <u>107.93</u> per ton
	4.	PM <sub>10</sub>	\$ <del>405.84</del> <u>107.93</u> per ton

Emissions calculated by the APCO shall be based on the data reported for the most recent 12-month period prior to billing. In calculating the fee amount, emissions of Organic Compounds, Sulfur Oxides, Nitrogen Oxides, or PM<sub>10</sub>, if occurring in an amount less than 50 tons per year, shall not be counted.

*(Amended 7/3/91; 6/15/94; 7/1/98; 5/9/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04;  
6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10)*

**SCHEDULE N**  
**TOXIC INVENTORY FEES**  
(Adopted October 21, 1992)

For each stationary source emitting substances covered by California Health and Safety Code Section 44300 *et seq.*, the Air Toxics "Hot Spots" Information and Assessment Act of 1987, which have trigger levels listed in Table 2-5-1, a fee based on the weighted emissions of the facility shall be assessed based on the following formulas:

1. A fee of \$5 for each gasoline product dispensing nozzle in the facility, if the facility is a Gasoline Dispensing Facility; or
2. A fee of ~~\$82-84~~ if the facility has emissions in the current Toxic Emissions Inventory which are greater than or equal to 50 weighted pounds per year and less than 1000 weighted pounds per year; or
3. A fee of ~~\$82-84~~ +  $S_L \times (w_i - 1000)$  if the facility has emissions in the current Toxic Emissions Inventory which are greater than or equal to 1000 weighted pounds per year;

where the following relationships hold:

$w_i$  = facility weighted emissions for facility j; where the weighted emission for the facility shall be calculated as a sum of the individual emissions of the facility multiplied by either the inhalation cancer potency factor (CPF, in kilogram-day/milligram) for the substance times 28.6 if the emission is a carcinogen, or by the reciprocal of the inhalation chronic reference exposure level (REL<sub>c</sub>) for the substance (in cubic meters/microgram) if the emission is not a carcinogen [use CPF and REL as listed in Table 2-5-1]:

$$w_j = \text{Facility Weighted Emission} = \sum_{i=1}^n E_i * Q_i \text{ where}$$

$n$  = number of toxic substances emitted by facility  
 $E_i$  = amount of substance i emitted by facility in lbs/year  
 $Q_i$  = 28.6 \* CPF, if i is a carcinogen; or  
 $Q_i$  = [REL]<sup>-1</sup>, if i is not a carcinogen

$F_T$  = Total amount of fees to be collected by the District to cover District and State of California AB 2588 costs as most recently adopted by the Board of Directors of the California Environmental Protection Agency, Air Resources Board, and set out in the most recently published "Amendments to the Air Toxics "Hot Spots" Fee Regulation," published by that agency.

$N_L$  = Number of facilities with emissions in current District Toxic Emissions Inventory greater than 1000 weighted pounds per year.

$N_S$  = Number of facilities with emissions in current District Toxic Emissions Inventory greater than 50 weighted pounds per year and less than 1000 weighted pounds per year.

$N_{NOZ}$  = Number of gasoline-product-dispensing nozzles in currently permitted Gasoline Dispensing Facilities.

$S_L$  = Surcharge per pound of weighted emissions for each pound in excess of 1000 weighted pounds per year, where  $S_L$  is given by the following formula:

$$S_L = \frac{F_T - (82 \times N_S) - (82 \times N_L) - (5 \times N_{NOZ})}{\sum_{j=1}^{N_L} (w_j - 1000)}$$

(Amended 12/15/93; 6/15/05; 5/2/07; 6/16/10; 5/4/11)

**SCHEDULE P**  
**MAJOR FACILITY REVIEW FEES**  
(Adopted November 3, 1993)

1. MFR / SYNTHETIC MINOR ANNUAL FEES

Each facility, which is required to undergo major facility review in accordance with the requirements of Regulation 2, Rule 6, shall pay annual fees (1a and 1b below) for each source holding a District Permit to Operate. These fees shall be in addition to and shall be paid in conjunction with the annual renewal fees paid by the facility. However, these MFR permit fees shall not be included in the basis to calculate Alternative Emission Control Plan (bubble) or toxic air contaminant surcharges. If a major facility applies for and obtains a synthetic minor operating permit, the requirement to pay the fees in 1a and 1b shall terminate as of the date the APCO issues the synthetic minor operating permit.

- a. MFR SOURCE FEE ..... ~~\$542-591~~ per source
- b. MFR EMISSIONS FEE..... ~~\$21-3623.28~~ per ton of regulated air pollutants emitted

Each MFR facility and each synthetic minor facility shall pay an annual monitoring fee (1c below) for each pollutant measured by a District-approved continuous emission monitor or a District-approved parametric emission monitoring system.

- c. MFR/SYNTHETIC MINOR MONITORING FEE ~~\$5,4255,913~~ per monitor per pollutant

2. SYNTHETIC MINOR APPLICATION FEES

Each facility that applies for a synthetic minor operating permit or a revision to a synthetic minor operating permit shall pay application fees according to 2a and either 2b (for each source holding a District Permit to Operate) or 2c (for each source affected by the revision). If a major facility applies for a synthetic minor operating permit prior to the date on which it would become subject to the annual major facility review fee described above, the facility shall pay, in addition to the application fee, the equivalent of one year of annual fees for each source holding a District Permit to Operate.

- a. SYNTHETIC MINOR FILING FEE ..... ~~\$755-823~~ per application
- b. SYNTHETIC MINOR INITIAL PERMIT FEE ..... ~~\$530-578~~ per source
- c. SYNTHETIC MINOR REVISION FEE..... ~~\$530-578~~ per source modified

3. MFR APPLICATION FEES

Each facility that applies for or is required to undergo: an initial MFR permit, an amendment to an MFR permit, a minor or significant revision to an MFR permit, a reopening of an MFR permit or a renewal of an MFR permit shall pay, with the application and in addition to any other fees required by this regulation, the ~~applicable fees according to 3a-h~~ MFR filing fee and any applicable fees listed in 3b-h below. The fees in 3b and 3g apply to each source in the initial or renewal permit, while the fees in 3d-f apply to each source affected by the revision or reopening.

- a. MFR FILING FEE ..... ~~\$755-823~~ per application
- b. MFR INITIAL PERMIT FEE ..... ~~\$734-797~~ per source
- c. MFR ADMINISTRATIVE AMENDMENT FEE ..... ~~\$244-233~~ per application
- d. MFR MINOR REVISION FEE ..... ~~\$1,0731,170~~ per source modified
- e. MFR SIGNIFICANT REVISION FEE ..... ~~\$2,0042,181~~ per source modified
- f. MFR REOPENING FEE ..... ~~\$656-715~~ per source modified
- g. MFR RENEWAL FEE ..... ~~\$348-347~~ per source

Each facility that requests a permit shield or a revision to a permit shield under the provisions of Regulation 2, Rule 6 shall pay the following fee for each source (or group of sources, if the

requirements for these sources are grouped together in a single table in the MFR permit) that is covered by the requested shield. This fee shall be paid in addition to any other applicable fees.

h. MFR PERMIT SHIELD FEE ..... ~~\$1,429~~1,231 per shielded source or group of sources

4. MFR PUBLIC NOTICE FEES

Each facility that is required to undergo a public notice related to any permit action pursuant to Regulation 2-6 shall pay the following fee upon receipt of a District invoice.

MFR PUBLIC NOTICE FEE ..... Cost of Publication

5. MFR PUBLIC HEARING FEES

If a public hearing is required for any MFR permit action, the facility shall pay the following fees upon receipt of a District invoice.

a. MFR PUBLIC HEARING FEE ..... Cost of Public Hearing not to exceed \$10,968

b. NOTICE OF PUBLIC HEARING FEE ..... Cost of distributing Notice of Public Hearing

6. POTENTIAL TO EMIT DEMONSTRATION FEE

Each facility that makes a potential to emit demonstration under Regulation 2-6-312 in order to avoid the requirement for an MFR permit shall pay the following fee:

a. PTE DEMONSTRATION FEE ..... ~~\$129~~141 per source, not to exceed ~~\$12,694~~13,833

*(Amended 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01; 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09; 6/16/10; 5/4/11; 6/6/12; 6/19/13)*

**SCHEDULE Q**  
**EXCAVATION OF CONTAMINATED SOIL AND**  
**REMOVAL OF UNDERGROUND STORAGE TANKS**  
(Adopted January 5, 1994)

1. Persons excavating contaminated soil or removing underground storage tanks subject to the provisions of Regulation 8, Rule 40, Section 401, 402, 403 or 405 are subject to the following fee:
  - a. OPERATION FEE: \$~~157~~160  
*(Amended 7/19/00; 8/1/01; 6/5/02; 7/2/03; 6/2/04; 6/6/07; 5/21/08; 5/20/09; 6/16/10; 6/15/11; 6/6/12)*

**SCHEDULE R  
EQUIPMENT REGISTRATION FEES**

1. Persons operating commercial cooking equipment who are required to register equipment as required by District rules are subject to the following fees:
 

a.	Conveyorized Charbroiler REGISTRATION FEE:	\$ <del>459</del> - <del>500</del> per facility
b.	Conveyorized Charbroiler ANNUAL RENEWAL FEE:	\$ <del>128</del> - <del>140</del> per facility
c.	Under-fired Charbroiler REGISTRATION FEE:	\$ <del>459</del> - <del>500</del> per facility
d.	Under-fired Charbroiler ANNUAL RENEWAL FEE:	\$ <del>128</del> - <del>140</del> per facility
  
2. Persons operating non-halogenated dry cleaning equipment who are required to register equipment as required by District rules are subject to the following fees:
 

a.	Dry Cleaning Machine REGISTRATION FEE:	\$ <del>229</del> <del>250</del>
b.	Dry Cleaning Machine ANNUAL RENEWAL FEE:	\$ <del>159</del> <del>173</del>
  
3. Persons operating diesel engines who are required to register equipment as required by District or State rules are subject to the following fees:
 

a.	Diesel Engine REGISTRATION FEE:	\$ <del>154</del> <del>168</del>
b.	Diesel Engine ANNUAL RENEWAL FEE:	\$ <del>102</del> <del>111</del>
c.	Diesel Engine ALTERNATIVE COMPLIANCE PLAN FEE (for each plan submitted under District Regulation 11-17-402):	\$ <del>154</del> <del>168</del>
  
4. Persons operating boilers, steam generators and process heaters who are required to register equipment by District Regulation 9-7-404 are subject to the following fees:
 

a.	Each facility operating a boiler, steam generator or process heater subject to Regulation 9-7-404 REGISTRATION FEE	\$ <del>541</del> - <del>590</del> per facility
b.	Each boiler, steam generator or process heater subject to Regulation 9-7-404, after the first REGISTRATION FEE	\$ <del>64</del> - <del>70</del> per device
c.	ANNUAL RENEWAL FEE:	\$ <del>71</del> - <del>77</del> per device
  
5. Persons owning or operating graphic arts operations who are required to register equipment by District Regulation 8-20-408 are subject to the following fees:
 

a.	REGISTRATION FEE:	\$ <del>275</del> <del>300</del>
b.	ANNUAL RENEWAL FEE:	\$ <del>172</del> <del>187</del>
  
6. Persons owning or operating mobile refinishing operations who are required to register by District Regulation 8-45-4 are subject to the following fees:
 

a.	REGISTRATION FEE	\$ <del>128</del> <del>140</del>
b.	ANNUAL RENEWAL FEE	\$ <del>76</del> <del>83</del>

*(Adopted 7/6/07; Amended 12/5/07; 5/21/08; 7/30/08; 11/19/08; 12/3/08; 5/20/09; 6/16/10; 6/15/11; 6/6/12; 6/19/13)*

**SCHEDULE S  
NATURALLY OCCURRING ASBESTOS OPERATIONS**

1. ASBESTOS DUST MITIGATION PLAN PROCESSING FEE:

Any person submitting an Asbestos Dust Mitigation Plan (ADMP) for review of a Naturally Occurring Asbestos (NOA) project shall pay the following fee (including NOA Discovery Notifications which would trigger an ADMP review): \$379413

2. AIR MONITORING PROCESSING FEE:

NOA projects requiring an Air Monitoring component as part of the ADMP approval are subject to the following fee in addition to the ADMP fee: \$3,3683,671

3. INSPECTION FEE:

The owner of any property for which an ADMP is required shall pay fees to cover the costs incurred by the District after July 1, 2012 in conducting inspections to determine compliance with the ADMP on an ongoing basis. Inspection fees shall be invoiced by the District on a quarterly basis, and at the conclusion of dust generating activities covered under the ADMP, based on the actual time spent in conducting such inspections, and the following time and materials rate: \$98-107 per hour

*(Adopted 6/6/07; Amended 5/21/08; 5/20/09; 6/16/10; 6/15/11; 6/6/12; 6/19/13)*



**SCHEDULE T  
GREENHOUSE GAS FEES**

For each permitted facility emitting greenhouse gases, the fee shall be based on the following:

1. Carbon Dioxide Equivalent (CDE) Emissions \$0.0489 per metric ton

Emissions calculated by the APCO shall be based on the data reported for the most recent 12-month period prior to billing. The annual emissions of each greenhouse gas (GHG) listed below shall be determined by the APCO for each permitted (i.e., non-exempt) source. For each emitted GHG, the CDE emissions shall be determined by multiplying the annual GHG emissions by the applicable Global Warming Potential (GWP) value. The GHG fee for each facility shall be based on the sum of the CDE emissions for all GHGs emitted by the facility, except that no fee shall be assessed for emissions of biogenic carbon dioxide.

**Direct Global Warming Potential Relative to Carbon Dioxide\***

GHG	GWP**
Carbon Dioxide	1
Methane	21
Nitrous Oxide	310
HCFC-22	1,500
HCFC-123	90
HCFC-124	470
HCFC-142b	1,800
HFC-23	11,700
HFC-32	650
HFC-125	2,800
HFC-134a	1,300
HFC-143a	3,800
HFC-152a	140
HFC-227ea	2,900
HFC-236fa	6,300
HFC-43-10-mee	1,300
PFC-14	6,500
PFC-116	9,200
PFC-218	7,000
PFC-318	8,700
PFC-3-1-10	7,000
PFC-5-1-14	7,400
Sulfur Hexafluoride	23,900

\* Source: Intergovernmental Panel on Climate Change (Second Assessment Report: Climate Change 1995).

\*\* GWPs compare the integrated radiative forcing over a specified period (i.e., 100 years) from a unit mass pulse emission to compare the potential climate change associated with emissions of different GHGs.

*(Adopted 5/21/08; Amended 5/20/09; 6/16/10)*

**SCHEDULE U  
INDIRECT SOURCE REVIEW FEES**

The applicant for any project deemed an indirect source pursuant to District rules shall be subject to the following fees:

1. APPLICATION FILING FEE

When an applicant files an Air Quality Impact Assessment as required by District rules, the applicant shall pay a non-refundable Application Filing Fee as follows:

- a. Residential project: \$560571
- b. Non-residential or mixed use project: \$836853

2. APPLICATION EVALUATION FEE

Every applicant who files an Air Quality Impact Assessment as required by District rules shall pay an evaluation fee for the review of an air quality analysis and the determination of Offsite Emission Reduction Fees necessary for off-site emission reductions. The Application Evaluation fee will be calculated using the actual staff hours expended and the prevailing weighted labor rate. The Application Filing fee, which assumes eight hours of staff time for residential projects and twelve hours of staff time for non-residential and mixed use projects, shall be credited towards the actual Application Evaluation Fee.

3. OFFSITE EMISSION REDUCTION FEE

(To be determined)

*(Adopted 5/20/09; Amended 6/16/10)*

**SCHEDULE V  
OPEN BURNING**

1. Any prior notification required by Regulation 5, Section 406 is subject to the following fee:

a. OPERATION FEE: \$98100

b. The operation fee paid as part of providing notification to the District prior to burning will be determined for each property, as defined in Regulation 5, Section 217, and will be valid for one year from the fee payment date when a given fire is allowed, as specified in Regulation 5, Section 401 for the following fires:

<b>Regulation 5 Section – Fire</b>	<b>Burn Period</b>
401.1 - Disease and Pest	January 1 – December 31
401.2 - Crop Replacement <sup>1</sup>	October 1 – April 30
401.3 - Orchard Pruning and Attrition <sup>2</sup>	November 1 – April 30
401.4 - Double Cropping Stubble	June 1 – August 31
401.6 - Hazardous Material <sup>1</sup>	January 1 – December 31
401.7 - Fire Training	January 1 – December 31
401.8 - Flood Debris	October 1 – May 31
401.9 - Irrigation Ditches	January 1 – December 31
401.10 - Flood Control	January 1 – December 31
401.11 - Range Management <sup>1</sup>	July 1 – April 30
401.12 - Forest Management <sup>1</sup>	November 1 – April 30
401.14 - Contraband	January 1 – December 31

<sup>1</sup> Any Forest Management fire, Range Management fire, Hazardous Material fire not related to Public Resources Code 4291, or any Crop Replacement fire for the purpose of establishing an agricultural crop on previously uncultivated land, that is expected to exceed 10 acres in size or burn piled vegetation cleared or generated from more than 10 acres is defined in Regulation 5, Section 213 as a type of prescribed burning and, as such, is subject to the prescribed burning operation fee in Section 3 below.

<sup>2</sup> Upon the determination of the APCO that heavy winter rainfall has prevented this type of burning, the burn period may be extended to no later than June 30.

c. Any person who provided notification required under Regulation 5, Section 406, who seeks to burn an amount of material greater than the amount listed in that initial notification, shall provide a subsequent notification to the District under Regulation 5, Section 406 and shall pay an additional open burning operation fee prior to burning.

2. Any Marsh Management fire conducted pursuant to Regulation 5, Section 401.13 is subject to the following fee, which will be determined for each property by the proposed acreage to be burned:

a. OPERATION FEE: \$350357 for 50 acres or less  
\$475485 for more than 50 acres but less than or equal to 150 acres  
\$600612 for more than 150 acres

b. The operation fee paid for a Marsh Management fire will be valid for a Fall or Spring burning period, as specified in Regulation 5, Subsection 401.13. Any burning subsequent to either of these time periods shall be subject to an additional open burning operation fee.



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

## Memorandum

To: Chairperson Nate Miley and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/ APCO

Date: April 3, 2014

Re: Community Air Risk Evaluation (CARE) Program Summary Report

**RECOMMENDED ACTION**

None; receive and file.

**BACKGROUND**

The Community Air Risk Evaluation (CARE) program was established by the Air District in 2004. Policy goals of the CARE program are to:

- Identify areas within the Bay Area where air pollution is most contributing to health impacts and where populations are most vulnerable to air pollution impacts;
- Apply sound science and robust technical analyses to design and focus effective mitigation measures in areas with highest impacts; and
- Engage the communities and other stakeholder groups in the program and develop productive relationships with local agencies to craft mitigations that extend beyond what the Air District could do alone.

Since its initiation nearly a decade ago, the CARE program has made important progress in identifying, understanding, and reducing public exposure to air pollution. Air District staff has recently produced a report summarizing work accomplished by the Air District on the CARE program. The report reviews accomplishments, challenges, and the road ahead, highlighting the program's scientific basis and collaborative development. The report also describes how the CARE program has guided policy decisions, enhanced Air District programs, and fostered long-term partnerships with local jurisdictions, business and community groups.

One of the main objectives of the CARE Program has been to promote an ongoing dialogue with Air District stakeholders. In order to facilitate this dialogue, the Air District invited a range of representatives from local health and planning departments, research institutions, regulated industry, and community organizations to participate in a CARE Task Force. While the CARE program will continue, the CARE Task Force, envisioned as a limited-term panel to advise staff on issues related to the CARE program, will hold its final meeting on April 16, 2014. Air District staff is currently investigating other potential forums for engaging with stakeholders in the future.

## DISCUSSION

Despite tremendous strides in air pollution reduction, some communities in the Bay Area still experience relatively higher pollution levels, and corresponding health effects, compared to their counterparts in other parts of the Bay Area. Air pollution levels of many pollutants are highest in close proximity to pollution sources—such as near freeways, busy roadways, busy distribution centers, and large industrial sources. Communities where these types of sources are concentrated contain areas where air pollution is consistently relatively high and corresponding health impacts are greater. The CARE program represents a critical step toward reducing health disparities linked to air quality. The program has brought together government, communities and business in an effort to understand and address localized areas of elevated air pollution and its health impacts.

Air District staff will provide an update on the CARE program and an overview of a recently completed CARE summary report. The update will summarize regional studies to identify impacted communities, local studies to evaluate air pollution levels and exposures, and actions to reduce exposures to local air pollution sources and help build healthy communities. Identifying communities most impacted by air pollution helps the Air District prioritize activities, especially those related to reducing exposures to local air pollution sources. The Air District's regional actions to improve air quality continue, both within and outside these communities.

The goal of local-scale studies has been to develop information and tools to reduce exposures to local sources of air pollution and reduce associated health impacts, especially in impacted communities. Four local studies assessed air pollution in West Oakland, where freeways and equipment related to the Port of Oakland contribute to high local air pollution emissions. Several studies characterized pollutant concentrations and risk near individual industrial facilities and near busy roadways. In related work, the Air District also developed new tools and technical guidance to assist local planners and promote healthy infill development.

One of the main goals of the CARE program has been to help design and focus effective air pollution mitigation measures in areas with highest health impacts. To carry out actions to improve air quality and reduce health impacts, the Air District has developed the Clean Air Communities Initiative, an initiative designed to bring resources from throughout the Air District to protect public health in impacted communities.

The presentation will conclude with a discussion of planned next steps for the CARE program. In the near term, Air District staff will continue to reduce emissions and risk in impacted areas and will develop improved datasets, tools, and guidance to support healthy infill development. Looking further ahead, Air District staff will investigate additional methods for characterizing air pollution levels in communities; develop improved exposure assessments during times people are at work, at school, or commuting; and incorporate issues related to climate change in assessing and mitigating health impacts in Bay Area communities.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer /APCO

Prepared by: Phil Martien  
Reviewed by: Henry Hilken