



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## BOARD OF DIRECTORS REGULAR MEETING

March 18, 2015

A meeting of the Bay Area Air Quality Management District Board of Directors will be held 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  
MARCH 18, 2015  
9:45 A.M.

BOARD ROOM  
7TH FLOOR

## CALL TO ORDER

Chairperson, Carole Groom

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.*

## COMMENDATIONS/PROCLAMATIONS/AWARDS

3. *The Board of Directors will recognize the Production System Pilot Program Business Partners for their participation in the Production System On-Line Permitting System Pilot Program.*

## CLOSED SESSION

4. **CONFERENCE WITH LABOR NEGOTIATORS** (Government Code § 54957.6(a))

Agency Negotiators: Jack P. Broadbent, Executive Officer/APCO  
Rex Sanders, Director of Executive and Administrative Resources Division

Employee Organizations: Bay Area Air Quality Employee's Association, Inc.  
Non-Represented Confidential Employees  
Non-Represented Management Employees

## OPEN SESSION

### CONSENT CALENDAR (ITEMS 5 - 14)

Staff/Phone (415) 749-

5. Minutes of the Board of Directors Regular Meeting of February 18, 2015

Clerk of the Boards/5073

*The Board of Directors will consider approving the draft minutes of the Board of Directors Regular Meeting of February 18, 2015.*

6. Board Communications Received from February 18, 2015 through March 17, 2015

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 February 18, 2015 through March 17, 2015, if any, will be at each Board Member's place.*

7. 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 hereby notified that the attached memorandum lists Air District personnel who have traveled on out-of-state business in the preceding month.*

8. Notice of Violations Issued and Settlements in Excess of \$10,000 in the Month of February 2015

B. Bunger/4920

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

*In accordance with Resolution No. 2012-08, the Board of Directors will receive a list of all Notices of Violation issued, and all settlements for amounts in excess of \$10,000 during the month of February 2015.*

9. Adoption of Proposed Amendments to the Air District's Administrative Code, Division I: Operating Policies and Procedures, Section 6:, Board of Directors, Committees, Section 6.2:., Standing Committees

J. Broadbent/5052

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

*The Board of Directors will consider adopting proposed amendments to the Air District's Administrative Code, Division I: Operating Policies and Procedures, Section 6: Board of Directors, Committees, Section 6.2: Standing Committees.*

10. Increase in Cylogy, Inc. Contract by \$54,000 for Website Testing and Verification

J. Broadbent/5052

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

*The Board of Directors will consider authorizing the Executive Officer/APCO to increase the contract for Cylogy, Inc. (Cylogy) from \$250,000 to \$304,000 (\$54,000) for testing and verification of the My Air Online website.*

11. Referral of Proposed Budget for Fiscal Year Ending (FYE) 2016 to the Budget and Finance Committee

J. Broadbent/5052

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

*Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures, and in compliance with Health and Safety Code Section 40276, the Board shall refer the proposed budget for FYE 2016 to the Budget and Finance Committee for review and consideration.*

12. Set a Public Hearing, to Consider Adoption of Proposed Amendments to Regulation 3: Fees and Approval of a Notice of Exemption from the California Environmental Quality Act (CEQA)

J. Broadbent/5052

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

*At the April 15, 2015, meeting, the Board of Directors will consider adoption of proposed amendments to Regulation 3: Fees and approval of a Notice of Exemption from the California Environmental Quality Act (CEQA).*

13. Consider Approving a Tentative Agreement between the Air District and the Employees' Association regarding a Separation by Retirement Incentive Program, Adopt a Resolution to Establish a Separation by Retirement Incentive Program for Management and Confidential Employees, and Allocate Funding for the Program in the Amount of \$1 Million from the Undesignated Reserves to the General Fund

J. Broadbent/5052

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

*The Board of Directors will consider approving a Tentative Agreement between the Air District and the Employees' Association Regarding a Separation by Retirement Incentive Program, Adopt a Resolution to Establish a Separation by Retirement Incentive Program for Management and Confidential Employees, and Allocate Funding for the Program in the Amount of \$1 Million from the Undesignated Reserves to the General Fund.*

14. Adopt a Resolution to Amend the Air District's Money Purchase Pension Plan (401(a))

J. Broadbent/5052

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

*The Board of Directors will consider adopting a Resolution to amend the Air District's Money Purchase Pension Plan (401(a)).*

### **COMMITTEE REPORT(S)**

15. Report of the **Budget and Finance Committee** Meeting of February 25, 2015

CHAIR: D. Hudson

J. Broadbent/5052

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

*The Committee received the following report:*

#### **A) Air District Financial Overview**

- 1) *None; receive and file.*

16. Report of the **Mobile Source Committee** Meeting of February 26, 2015  
CHAIR: S. Haggerty

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Committee received the following reports:*

A) **Projects with Proposed Awards over \$100,000**

- 1) *Approve Carl Moyer Program (CMP) projects with proposed grant awards over \$100,000; and*
- 2) *Authorize the Executive Officer/Air Pollution Control Officer (APCO) to enter into agreements for the recommended projects.*

B) **Transportation Fund for Clean Air (TFCA) Audit Report**

- 1) *None; receive and file.*

C) **Residential Lawn Mower Replacement Program**

- 1) *Allocate \$300,000 in CMP/Mobile Source Incentive Funds (MSIF) to implement the residential lawn mower replacement program; and*
- 2) *Authorize the Executive Officer/APCO to execute agreements with one or more metal recycling facilities to help administer the residential lawn mower replacement program.*

17. Report of the **Legislative Committee** Meeting of February 25, 2015  
CHAIR: D. Hudson

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Committee received the following reports:*

A) **Review of the 2014 Legislative Year**

- 1) *None; receive and file.*

B) **Potential Legislative Agenda for 2015**

- 1) *Approve direction to staff to work with Air District colleagues in the business and environmental community on legislation designed to cut emissions by increasing the rates of vehicle registration and reducing registration fraud.*

C) **Consideration of New Bills**

*The following positions on the following bills:*

- 1) *Assembly Bill 156 Perea: Oppose*
- 2) *AB 197 E. Garcia: Support*
- 3) *AB 239 Gallagher: Oppose*
- 4) *AB 335 Patterson: Oppose*
- 5) *Senate Bill 32 Pavley: Support*
- 6) *SB 350 De Leon and Leno: Support*

18. Report of the **Public Outreach Committee** Meeting of March 5, 2015

CHAIR: M. Ross

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Committee received the following reports:*

A) **Overview of the 2014/2015 Winter Spare the Air Season**

- 1) *None; receive and file.*

B) **Overview of Spare the Air Youth for Environmental Sustainability (YES) Conference**

- 1) *None; receive and file.*

C) **Approval of a Contract for Spare the Air Advertising / Messaging Campaigns**

- 1) *Approval of O'Rorke, Inc. as the selected contractor for the Spare the Air Campaigns' Advertising, Communications & Evaluation Services.*
- 2) *Authorization for the Executive Officer/Air Pollution Control Officer (APCO) to execute a contract with O'Rorke, Inc. for an amount not to exceed \$1,950,000 per contract year during Fiscal Year Ending (FYE) 2016 and FYE 2017, and \$2,019,000 for FYE 2018.*

D) **Approval of a Contract for the Spare the Air Resource Teams**

- 1) *Approve the selection of Community Focus, a contractor to facilitate the Spare the Air Resource Teams; and*
- 2) *Authorize the Executive Officer/APCO to execute a contract with Community Focus for facilitation services in an amount not to exceed \$245,000 per contract year for up to three years.*

19. Report of the **Executive Committee** Meeting of March 16, 2015  
CHAIR: C. Groom

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Executive Committee (Committee) will receive only informational items and have no recommendations of approval by the Board of Directors.*

- A) **Hearing Board Quarterly Report – July through September 2014**  
1) *None; receive and file.*
- B) **Hearing Board Quarterly Report – October through December 2014**  
1) *None; receive and file.*
- C) **Joint Policy Committee Update**  
1) *None; receive and file.*
- D) **Update on the My Air Online Program – Online Permitting System**  
1) *None; receive and file.*

20. Report of the **Stationary Source Committee** Meeting of March 16, 2015  
CHAIR: J. Gioia

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Stationary Source Committee (Committee) will receive only informational items and have no recommendations of approval by the Board of Directors.*

- A) **Odor Issues and Subsequent District Actions in the Milpitas Area**  
1) *None; receive and file.*
- B) **Update on the Development of Regulation 12, Rule 15: Petroleum Refining Emissions Tracking and Regulation 12, Rule 16: Petroleum Refining Analysis, Thresholds and Mitigation**  
1) *None; receive and file.*

## **PRESENTATION**

21. **OVERVIEW OF THE 2014/2015 WOOD SMOKE REDUCTION PROGRAM**

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Board of Directors will receive an overview on the 2014/2015 Wood Smoke Reduction Program.*



22. **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.*

23. **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**

24. **Report of the Executive Officer/APCO**

25. **Chairperson's Report**

26. **Time and Place of Next Meeting**

*Wednesday, April 1, 2015, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.*

27. **Adjournment**

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

## **CONTACT:**

**MANAGER, EXECUTIVE OPERATIONS**  
**939 ELLIS STREET, SAN FRANCISCO, CA 94109**  
**[mmartinez@baaqmd.gov](mailto:mmartinez@baaqmd.gov)**

**(415) 749-5016**  
**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. Please note that all correspondence must be addressed to the “Members of the Board of Directors” and received at least 24 hours prior, excluding weekends and holidays, in order to be presented at that Board meeting. Any correspondence received after that time will be presented to the Board at the following 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 Clerk’s Office should be given in a timely manner, 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 District’s offices 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**

**MARCH 2015**

<b><u>TYPE OF MEETING</u></b>	<b><u>DAY</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>	<b><u>ROOM</u></b>
<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.	Board Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</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 Climate Protection Committee</b> <i>(Meets on the 3<sup>rd</sup> Thursday of Every Other Month)</i>	Thursday	19	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	25	9:30 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> - CANCELLED	Thursday	26	9:30 a.m.	Board Room
<b>Board of Directors Legislative Committee</b> <i>(At the Call of the Chair)</i>	Monday	30	9:30 a.m.	Board Room

**APRIL 2015**

<b><u>TYPE OF MEETING</u></b>	<b><u>DAY</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>	<b><u>ROOM</u></b>
<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	1	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	8	9:00 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	15	9:45 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	20	9:30 a.m.	Board Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i>	Monday	20	10:30 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	22	9:30 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	23	9:30 a.m.	Board Room

## MAY 2015

<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	6	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	13	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	18	9:30 a.m.	Board Room
<b>Board of Directors Stationary Source Committee</b> <i>(Meets on the 3<sup>rd</sup> Monday of each Month)</i>	Monday	18	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	20	9:45 a.m.	Board Room
<b>Board of Directors Climate Protection Committee</b> <i>(Meets on the 3<sup>rd</sup> Thursday of Every Other Month)</i>	Thursday	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	27	9:30 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	28	9:30 a.m.	Board Room

HL – 3/12/15 (11:40 a.m.)

P/Library/Forms/Calendars/Moncal

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

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

Date: March 9, 2015

Re: Minutes of the Board of Directors Regular Meeting of February 18, 2015

RECOMMENDED ACTION

Approve the attached draft minutes of the Board of Directors Regular Meeting of February 18, 2015.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Regular Meeting of February 18, 2015.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Sean Gallagher  
Reviewed by: Maricela Martinez

Attachment: Draft Minutes of the Board of Directors Regular Meeting of February 18, 2015

## AGENDA 5 – ATTACHMENT

Draft Minutes - Board of Directors Regular Meeting of February 18, 2015

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

Board of Directors Regular Meeting  
Wednesday, February 18, 2015

### **DRAFT MINUTES**

*Note: Audio and video recordings of the meeting are available on the website of the Bay Area Air Quality Management District at <http://www.baaqmd.gov/The-Air-District/Board-of-Directors/Agendas-and-Minutes.aspx>.*

#### **1. CALL TO ORDER**

Chairperson Carole Groom called the meeting to order at 9:47 a.m.

**Opening Comments:** None.

#### **Roll Call:**

Present: Chairperson Carole Groom; Vice-Chairperson Eric Mar; Secretary Liz Kniss; and Directors John Avalos, Teresa Barrett, Tom Bates, David J. Canepa, Cindy Chavez, Margaret Fujioka, John Gioia, Scott Haggerty, David Hudson, Roger Kim (on behalf of Edwin Lee), Nate Miley, Karen Mitchoff, Jan Pepper, Katie Rice, Mark Ross and Brad Wagenknecht.

Absent: Directors Rod Sinks, Jim Spering and Shirlee Zane.

**Pledge of Allegiance:** Chairperson Groom led the Pledge of Allegiance.

#### **2. PUBLIC COMMENT ON NON-AGENDA MATTERS**

Mark Roest, 350 Bay Area, addressed the Board of Directors (Board) regarding greenhouse gas (GHG) emissions suggesting the need to phase out combustion for heat and power in all sectors and the reduction of GHG emissions through rulemaking and permitting.

Jed Holtzman, 350 Bay Area, addressed the Board regarding the rules limiting GHG emissions while emission levels continue to rise and to request that rules limiting GHG emissions be the top priority of the climate protection program this year, specifically, rules that decarbonize the Bay Area and which require the inclusion of GHG emissions in the permitting process.

NOTED PRESENT: Director Bates was noted present at 9:52 a.m.

Larry Chaset, 350.org, addressed the Board requesting action this year to decarbonize the Bay Area, limit GHG emissions from refineries, include GHG emissions limits in permits, and use of regulations and permits to move toward 100% renewable energy in the Bay Area.

Claire Broom, 350 Bay Area, addressed the Board and displayed a PowerPoint presentation and expressed discouragement with the GHG emissions trend displayed from 1990 – 2050; and requested that GHG reduction targets be integrated with rulemaking and permitting.

NOTED PRESENT: Director Miley was noted present at 9:59 a.m. and Director Mar was noted present at 10:00 a.m.

Greg Karras, Communities for a Better Environment (CBE), addressed the Board regarding the request by the Richmond City Council to the Chevron Richmond refinery to cease operations rather than employ temporary staff in response to a strike by organized labor; to report that refinery staff have joined with the community voices calling for GHG and pollutants reductions; and to suggest the current version of proposed rule 12-16 is inadequate.

Janet Johnson, Sunflower Alliance, addressed the Board to suggest that climate change is the humanitarian crisis of our time and to request reconsideration of the Kinder Morgan permit in light of the toxic emissions described by others.

Sylvia Hopkins, CBE, addressed the Board regarding the proximity of her residence to the Richmond rail yard and recent sightings of black tanker cars, reports of uncovered petroleum coke cars and reports of leaking tanker cars stating that these have created a constant state of anxiety for those living in the community and requesting the Board resist this trend.

Ratha Lai, Sierra Club San Francisco Bay Chapter, addressed the Board to request the Board consider the issues of GHG reductions and changing crude oil stocks; noted the recent explosion in West Virginia of a railcar purportedly bound for the Tesoro Martinez refinery and noted that the resulting particulate matter would be an Air District issue even if the cars themselves are not; and urged for crude oil to remain in the ground.

Margaret Pearce, 350 San Francisco, addressed the Board regarding her recent involvement in the environmental movement as an effort to help preserve this world for her grandchildren only to discover the need to be immediate and to request aggressive action from the Board relative to rulemaking and permitting.

Megan Zapanta, Asian Pacific Environmental Network, addressed the Board to suggest the recent railcar explosion in West Virginia as heightening the existing anxiety and concern regarding crude-by-rail through Bay Area communities and the Kinder Morgan permit specifically.

Nick Despota addressed the Board to suggest the urgent and immediate need for action in the face of climate change; to suggest there is not one Air District regulation relative to GHGs; to request a limit on or end of fossil fuel use for energy; to note that a prior rulemaking said that GHG reductions would be a co-benefit but those reductions are so far unrealized; and to request that the Board demand from staff proposed rules with strict reductions provisions in the following year.

**3. COMMENDATION / PROCLAMATIONS / AWARDS**

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), Jean Roggenkamp, Deputy APCO (DAPCO), Director Haggerty and Chairperson Groom, in turn, each recognized former Advisory Council Member John Holtzclaw, Ph.D., for his twenty-four years of dedicated service to the Air District.

**CONSENT CALENDAR (ITEMS 4 – 12)**

- 4. Minutes of the Board Special Meeting and Retreat of January 21, 2015 and Amend the Approved Minutes of the Board Meeting of December 17, 2014;**
- 5. Board Communications Received from January 21, 2015 through February 17, 2015;**
- 6. Air District Personnel on Out-of-State Business Travel;**
- 7. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of January 2015;**
- 8. Quarterly Report of Executive Office and Division Activities;**
- 9. Notice of Proposed Amendments to the Air District's Administrative Code, Division I: Operating Policies and Procedures, Section 6.; Board of Directors, Committees, Section 6.2.; Standing Committees;**
- 10. Update on the Air District Advisory Council;**
- 11. Increase in Cylogy, Inc. Contract by \$70,000 for Website Content Migration and Custom Integrations; and**
- 12. Selection of Translation Service for Air District Website.**

Public Comments: No requests received.

Board Action:

Director Wagenknecht made a motion, seconded by Director Ross, to approve Consent Calendar Items 4 through 12, inclusive.

Board Comments:

The Board and staff discussed the trends revealed in the staff report for agenda item 7, Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of January 2015.

Board Action (continued):

The motion carried by the following vote of the Board:

- |          |  |
|----------|--|
| AYES:    | Avalos, Barrett, Bates, Canepa, Chavez, Fujioka, Gioia, Groom, Haggerty, Hudson, Kim, Kniss, Mar, Miley, Mitchoff, Pepper, Rice, Ross and Wagenknecht. |
| NOES:    | None.  |
| ABSTAIN: | None.  |
| ABSENT:  | Sinks, Spring and Zane.  |



## **COMMITTEE REPORTS**

### **13. Report of the Mobile Source Committee (MSC) Meeting of January 22, 2015**

Committee Chairperson Haggerty

The MSC met on Thursday, January 22, 2015, and approved the minutes of November 13 and December 18, 2014.

The MSC reviewed and discussed *Projects and Contracts with Proposed Awards Over \$100,000* and recommends the Board:

1. Approve Carl Moyer Program (CMP) and Transportation Fund for Clean Air (TFCA) projects with proposed grant awards over \$100,000 for four marine engines and an electronic bicycle locker project; and
2. Authorize the Executive Officer/APCO to enter into agreements for the recommended projects.

The MSC then reviewed the staff presentation *Participation in Year 17 of the CMP*, including funding source information, Year 17 funding, program implementation, and multi-district funds. The Committee recommends the Board:

1. Adopt a resolution authorizing the Executive Officer/APCO to execute all necessary agreements with the California Air Resources Board (CARB) relating to the Air District's receipt of CMP funds and Multi-District funds for fiscal year 2014-2015 (Program Year 17); and
2. Allocate \$5 million in Mobile Source Incentive Funding (MSIF) to provide the required match funding and additional monies for projects eligible for funding under the CMP.

The MSC then reviewed and discussed the staff presentation *Selection of an Auditor for District's Financial and Grants Program Audits*, including background; scope of work; selection process; request for proposals, evaluation criteria, and scoring results. The Committee recommends the Board:

1. Approve the selection of Gilbert Associates, Inc., to conduct the District's 2014-15 Financial Audit, the 2013-14 TFCA Audit for Projects and Programs, and conduct a review of Carbon Offset Project;
2. Authorize the Executive Officer/APCO to execute a contract with Gilbert Associates, Inc., for audit services in an amount not to exceed \$217,022; and
3. Authorize the Executive Officer/APCO to extend the contract with Gilbert Associates, Inc., in an amount not to exceed \$217,022 annually for up to an additional two years under the terms of the current request for proposals.

The MSC then reviewed and discussed the staff presentation *Air District Grant Programs Overview*, including background information; 2014 grant allocations in total, by fund and by county; 2014 CMP Years 15 and 16 allocations by project type; 2014 TFCA allocations by program; MSIF and Goods

Movement Program overviews; 2014 emissions reductions and highlights; total grant allocations since 2007; 2015 revenue projection; projected allocations for TFCA in 2015; and upcoming activities.

The next meeting of the Committee is on Thursday, February 26, 2015, at 9:30 a.m.

Board Comments: None.

Public Comments: No requests received.

Board Action:

Director Haggerty made a motion, seconded by Director Wagenknecht, to approve the recommendation of the MSC; and the motion carried by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Canepa, Chavez, Fujioka, Gioia, Groom, Haggerty, Hudson, Kim, Kniss, Mar, Miley, Mitchoff, Pepper, Rice, Ross and Wagenknecht.  
NOES: None.  
ABSTAIN: None.  
ABSENT: Sinks, Spring and Zane.

**14. Report of the Personnel Committee (PC) Meeting of January 26, 2015**  
Committee Chairperson Wagenknecht

The PC met on Monday, January 26, 2015, and approved the minutes of December 15, 2014.

The PC received and discussed the staff presentation *Update on Advisory Council (Council) Restructure*, including summaries of the recent Health and Safety Code amendments under Senate Bill 1415 and the proposed Council restructure.

The PC then received and discussed the staff presentation *Strategic Staffing Plan Update*, including background; staffing considerations; succession planning efforts; strategic staffing principles; current staffing levels; filling vacancies; staffing goals and budget considerations; and next steps.

The PC met in closed session to confer on labor negotiations with no reportable action. The PC Chair will brief the Board on this item during today's closed session.

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

Board Comments: None.

Public Comments: No requests received.

Board Action: None; receive and file.

**15. Report of the PC Meeting of February 18, 2015**  
Committee Chairperson Wagenknecht

The PC met on Wednesday, February 18, 2015, and deferred approval of the minutes of January 26, 2015.

The PC received and discussed the staff presentation *Strategic Staffing Plan Update*, including background; staffing considerations; succession planning efforts; strategic staffing principles; current staffing levels; filling vacancies; staffing goals and budget considerations; and next steps.

The PC met in closed session to confer on labor negotiations with no reportable action. The PC Chair will brief the Board on this item during today's closed session.

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

Board Comments: None.

Public Comments: No requests received.

Board Action: None; receive and file.

**16. Report of the Budget and Finance Committee (BFC) Meeting of January 28, 2015**  
Committee Chairperson Groom

The BFC met on Wednesday, January 28, 2015, and approved the minutes of November 26, 2014.

The BFC received and discussed the independent auditor presentation *Air District Financial Audit Report – Fiscal Year Ending (FYE) 2014*, including audit deliverables; communications with those charged with governance; and an overview of Governmental Accounting Standards Board Statement Number 68: Accounting and Financial Reporting for Pensions.

The BFC then received and discussed the staff presentation *Second Quarter Financial Report – FYE 2015*, including an overview of general fund revenues and expenses; revenue and expense year-over-year comparisons; investments; general fund balance; purchasing reporting requirements; and cumulative vendor payments in excess of \$70,000 for Board review.

The BFC then received and discussed the staff presentation *Selection of a Contractor for Upgrade of the Air District Financial System*, including background; request for proposals process, evaluation criteria and scoring results; and recommendations. The Committee recommends the Board:

1. Approve the selection of Denovo to upgrade the Air District's Financial System;
2. Authorize the Executive Officer/APCO to enter into all necessary agreements with Denovo to upgrade the financial system in amount not to exceed \$1,358,036; and
3. Amend the Program 701 budget by the corresponding amount transferring \$1,000,000 from the *Reserve for JD Edwards Software Upgrade* and \$358,036 from the *Undesignated Fund Balance* for this purpose.

The next meeting of the BFC is Wednesday, February 25, 2015, at 9:30 a.m.

Board Comments: None.

Public Comments: No requests received.

Board Action:

Chairperson Groom made a motion, seconded by Director Kniss, to approve the recommendation of the BFC; and the motion carried by the following vote of the Board:

AYES: Avalos, Barrett, Bates, Canepa, Chavez, Fujioka, Gioia, Groom, Haggerty, Hudson, Kim, Kniss, Mar, Mitchoff, Pepper, Rice, Ross and Wagenknecht.  
NOES: None.  
ABSTAIN: None.  
ABSENT: Miley, Sinks, Spering and Zane.

### **CLOSED SESSION**

The Board adjourned to Closed Session at 10:34 a.m.

#### **17. CONFERENCE WITH LABOR NEGOTIATORS (Government Code § 54957.6(a))**

*Pursuant to Government Code Section 54957.6(a), a need existed to meet in closed session to confer with labor negotiators.*

### **OPEN SESSION**

The Board resumed Open Session at 11:16 a.m. with no reportable action.

#### **18. PUBLIC COMMENT ON NON-AGENDA MATTERS**

Mr. Lai addressed the Board regarding the threat of petroleum coke emissions to community members near processing facilities and transportation routes.

#### **19. BOARD MEMBERS' COMMENTS**

Director Hudson suggested that public comments indicating the Air District has not done much lately are at odds with recent work and suggested an enhanced communication effort on progress being made is needed.

Director Kniss reported on a recent trip to Cuba and encouraged those with a similar opportunity to take advantage as soon as possible.

Director Gioia noted the importance of the Air District properly messaging the recent achievements relative to climate change and suggested to staff a dedicated portion of the website for that purpose.

Chairperson Groom echoed Director Gioia and asked for a brief staff presentation summarizing the same at the next Board meeting.

**OTHER BUSINESS**

**20. Report of the Executive Officer/APCO**

Mr. Broadbent said the Climate Protection Committee meeting on March 19, 2015 will include a staff summary of rulemaking work ahead and the associated challenges; the Deputy Executive Officer of CARB will likely appear before the Stationary Source Committee (SSC) at an upcoming meeting; the SSC meeting on March 16, 2015 will include a briefing on rulemaking work in progress; and then gave the staff presentation *Winter PM<sub>2.5</sub> [Fine Particulate Matter] Season*.

**21. Chairperson's Report**

Chairperson Groom announced the cancellation of the Board meeting on March 4, 2015.

**22. Time and Place of Next Meeting**

Wednesday, March 18, 2015, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

**23. Adjournment:** The Board meeting adjourned at 11:26 a.m.

Sean Gallagher  
Clerk of the Boards

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 27, 2015

Re: Board Communications Received from February 18, 2015, through March 17, 2015

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Copies of communications directed to the Board of Directors received by the Air District from February 18, 2015, through March 17, 2015, if any, will be at each Board Member's place at the March 18, 2015, Board meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Vanessa Johnson  
Reviewed by: Maricela Martinez

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 2, 2015

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 District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified of District personnel who have traveled on out-of-state business.

The report covers the out-of-state business travel for the month of February 2015. 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 February 2015.

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 Carole Groom and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 9, 2015

Re: Notice of Violations Issued and Settlements in Excess of \$10,000 in the Month of  
February 2015

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RECOMMENDED ACTION

None; receive and file.

DISCUSSION

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

BUDGET CONSIDERATION/FINANCIAL IMPACT

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

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Brian C. Bunger

Attachment



**NOTICES OF VIOLATION ISSUED**

The following Notice(s) of Violation were issued in February 2015:

<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>
Carlos/Maria Flores	X0471	Castro Valley	A55522A	2/13/15	6-3-301	Wood smoke violation
Casey-Fogli Concrete Contractors, Inc	X0691	Hayward	A54103A	2/2/15	2-1-301	Operates portable diesel engine > 50HP without permit
Casey-Fogli Concrete Contractors, Inc	X0691	Hayward	A54103B	2/2/15	2-1-302	Operates portable diesel engine > 50HP without permit
Gaylord's Caffe Espresso	E1279	Oakland	A53283A	2/18/15	2-1-307	No temperature records
Pinnacle Composite Solutions	B2766	Livermore	A53913A	2/19/15	2-1-307	Material handling operations not under negative pressure

<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>
Billy/Sylvia Ray	X0790	Oakley	A55520A	2/5/15	6-3-301	Wood smoke violation
Chevron Products Company	A0010	Richmond	A53862A	2/2/15	1-301	7 confirmed complaints for visible flaring
Criterion Catalysts Company LP	A0227	Pittsburg	A54062A	2/9/15	2-6-307	Temperature dropped below permit limit 1400 F
Phillips 66 Company - San Francisco Refinery	A0016	Rodeo	A53836A	2/26/15	2-6-307	Source 465 vapors vented to atmosphere in violation of permit condition 22964, part 3

AGENDA: 8

ST Shore Terminals LLC	A0581	Crockett	A53835A	2/5/15	8-5-306	8-5-306.2 Pressure vacuum valve on T3001 not gas tight
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53096A	2/18/15	2-6-307	Exceeded annual throughput limit
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53097A	2/18/15	2-6-307	Nox > 25 ppm

<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>
David F. Marchand	X0886	Campbell	A52625A	2/11/15	5-301.1	Backyard burning of fresh cut trees, brush & fence board
International Disposal Corp of CA	A9013	Milpitas	A53960A	2/11/15	8-34-301.2	Positive Pressure on Well #EW228 >2000 ppm
International Disposal Corp of CA	A9013	Milpitas	A53960B	2/11/15	8-34-305.1	Positive Pressure on Well #EW228 >2000 ppm
International Disposal Corp of CA	A9013	Milpitas	A53961A	2/11/15	8-34-303	Three surface leaks > 500 ppm

<b>Solano</b>						
<b>Site Name</b>	<b>Site #</b>	<b>City</b>	<b>NOV #</b>	<b>Issuance Date</b>	<b>Regulation</b>	<b>Comments</b>
Valero Refining Company - California	B2626	Benicia	A54080A	2/4/15	2-6-307	NOx > 2.5 ppm/3-hour avg. & Late Reporting (Excess ID-06R25 & 06R47)
Valero Refining Company - California	B2626	Benicia	A54080B	2/4/15	1-522.7	NOx > 2.5 ppm/3-hour avg. & Late Reporting (Excess ID-06R25 & 06R47)
Valero Refining Company - California	B2626	Benicia	A54081A	2/4/15	2-6-307	CO > 100 ppm/day (Excess ID-06R38)

Valero Refining Company - California	B2626	Benicia	A54082A	2/4/15	10	H2S > 162 ppm/3-hour avg (Excess ID-06R92)
Valero Refining Company - California	B2626	Benicia	A54083A	2/24/15	2-6-307	NOx > 10 ppm/3-hour avg
Valero Refining Company - California	B2626	Benicia	A54084A	2/24/15	2-6-307	(Excess ID-06S56) NOx > 9 ppm/3-hour avg
City of Santa Rosa Wastewater Treatment	A1403	Santa Rosa	A53731A	2/18/15	2-6-307	Exceeded Nox limit

<b>District Wide</b>						
<b>Site Name</b>	<b>Site #</b>	<b>City</b>	<b>NOV #</b>	<b>Issuance Date</b>	<b>Regulation</b>	<b>Comments</b>
Flyers	X0866	Auburn	A55521A	2/10/15	8-33-304	8-33-304.6 CT#206293, failure to meet year round decay rate
Williams Tank Lines/Mike Stewart	F4406	Stockton	A55523A	2/20/15	8-33-304	8-33-304.6 CT #20593, Failure to meet year round decay rate

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

There were 2 settlement(s) for \$10,000 or more completed in February 2015.

- 1) On February 5, 2015, the Air District reached settlement with Universal Paragon Corp. (Sunquest Landfill) for \$12,000, regarding the allegations contained in the following 2 Notices of Violation:

<b>NOV #</b>	<b>Issuance Date</b>	<b>Occurrence Date</b>	<b>Regulation</b>	<b>Comments from Enforcement</b>
A52142A	1/9/14	1/4/13	8-34-301.1	Failure to operate gas collection and emission control systems continuously.
A52143A	1/8/14	7/1/02	8-34-501	8-34-501.10 Failure to maintain operating records, failure to maintain a gas flow measuring device.
A52143B	1/8/14	7/1/02	8-34-501	8-34-501.12 Failure to maintain operating records, failure to maintain a gas flow measuring device
A52143C	1/8/14	7/1/02	8-34-508	Failure to maintain operating records, failure to maintain a gas flow measuring device

- 2) On February 23, 2015, the Air District reached settlement with Air Liquide Large Industries U.S. LP for \$82,000, regarding allegations contained in the following 9 Notices of Violation:

<b>NOV #</b>	<b>Issuance Date</b>	<b>Occurrence Date</b>	<b>Regulation</b>	<b>Comments from Enforcement</b>
A51771A	2/1/12	4/1/10	2-6-307	(excess ID-05Z14) - 9 CO excesses & 11 late reporting violations
A51771B	2/1/12	4/1/10	1-522.7	(excess ID-05Z14) - 9 CO excesses & 11 late reporting violations
A51772A	2/1/12	4/14/10	2-6-307	(excess ID-05Z15) - 3 NOx excesses & 19 late reporting violations
A51772B	2/1/12	4/14/10	1-522.7	(excess ID-05Z15) - 3 NOx excesses & 19 late reporting violations
A52121A	1/12/12	6/21/11	2-6-307	Failed to meet permit conditions. NOx excess - RCA#06A38
A52353A	6/14/12	10/28/11	1-522.7	(excess ID-06C04) - reported late (> 96 hours)
A52355A	7/23/12	4/12/12	2-6-307	(OS-4178) ammonia >10ppm @3%O2 (avg.= 20.15ppm)
A52361A	10/24/12	2/27/12	1-522.7	(ID-06D84) - indicated excess was reported late
A52362A	10/25/12	4/22/12	2-6-307	(ID-06E84) - CO >10ppm/1-hr & >9.1lbs/hs
A52363A	10/25/12	7/6/12	2-6-307	(ID-06F89) - CO >10ppm/1-hr
A52372A	8/30/13	7/21/12	2-6-307	Excess ID-06G06; CO > 10 ppm / 1-hour average

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 5, 2015

Re: Adoption of Proposed Amendments to the Air District's Administrative Code,  
Division I: Operating Policies and Procedures, Section 6: Board of Directors,  
Committees, Section 6.2: Standing Committees and Section 6.10: Public Outreach  
Committee

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RECOMMENDED ACTION

The Board of Directors will consider adopting amendments to the Air District's Administrative Code, Division I: Operating Policies and Procedures, Section 6: Board of Directors, Committees, Section 6.2: Standing Committees and Section 6.10: Public Outreach.

BACKGROUND

These amendments will change the name of and replace all references to the "Public Outreach Committee" to the "Public Engagement Committee" in the Administrative Code. This name change accurately reflects the Air District's programs that report to this Committee: the Communications Office and the Community Engagement Office.

In accordance with provisions of the Administrative Code governing amendments to the Code, notice of these proposed amendments was given at the Board of Directors regular meeting of February 18, 2015.

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

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Maricela Martinez

Reviewed by: Rex Sanders

Attachment: Air District's Administrative Code, Division I: Operating Policies and Procedures, Section 6: Board of Directors, Committees, Section 6.2: Standing Committees and Section 6.10: Public Outreach Committee

## **SECTION 6 BOARD OF DIRECTORS, COMMITTEES**

### **6.1 SPECIAL COMMITTEES.**

All special committees shall be appointed by the Chairperson, unless otherwise directed by the Board.

### **6.2 STANDING COMMITTEES. (Revised 12/6/06)**

Standing Committees of the Board of Directors shall be the following:

- (a) Executive Committee, consisting of the Chairperson of the Board, who shall be Chairperson of the Committee, the Vice-Chairperson of the Board, the Board Secretary, the last past Chairperson and five (5) other Directors appointed by the Chairperson.
- (b) Budget and Finance Committee, consisting of nine (9) Directors appointed by the Chairperson.
- (c) Personnel Committee, consisting of nine (9) Directors appointed by the Chairperson.
- (d) Legislative Committee, consisting of nine (9) Directors appointed by the Chairperson.
- (e) Mobile Source Committee, consisting of nine (9) Directors appointed by the Chairperson.
- (f) Public **Outreach Engagement** Committee, consisting of (9) Directors appointed by the Chairperson.
- (g) Stationary Source Committee, consisting of nine (9) Directors appointed by the Chairperson.
- (h) Climate Protection Committee, consisting of nine (9) Directors appointed by the Chairperson.
- (i) The Chairperson shall be an ex-officio member of all Standing Committees of the Board of Directors.
- (j) Each Standing Committee shall have authority to make recommendations to the Board of Directors for action regarding matters within the scope of the Committee's jurisdiction. A standing committee may discuss but may not make recommendations to the Board of Directors regarding issues outside of its jurisdiction and shall refer such matters to the appropriate committee. Except as specified in this Division or as otherwise specified by the Board of Directors, Standing Committees are not delegated decision-making authority.

### **6.3 ROTATION OF COMMITTEES.**

The membership on committees shall ordinarily be rotated among the Counties so as to secure participation in the work of the District by as broad a representation as may be possible.

### **6.4 DUTIES OF EXECUTIVE COMMITTEE.**

It is the function of the Executive Committee to consider such matters of policy affecting the affairs of the District as may arise from time to time when the Board of Directors is not in session. The Executive Committee shall consult with the officers of the District and, within the scope and limitations of resolutions or other policies adopted by the Board of Directors, shall implement and make more specific the policies and programs of the District and, within such limits determine policies for the officers of the District. The Executive Committee shall not have authority to authorize the expenditure of any moneys otherwise than is appropriated

by the budget adopted by the Board of Directors or to alter, change or reverse any policy established by the Board of Directors. (See Section I-6.7) The Executive Committee shall have the responsibility for overseeing and guiding staff activities relative to long range planning and for receiving short range and long range plan proposals submitted by the District staff, as well as goals and objectives of the District; and for endorsing each year a long range plan to be submitted to the Board for its approval, and to the Budget and Finance Committee for its use in reviewing the Budget. The Executive Committee should review the goals and objectives, short and long range plans of the California Air Resources Board to the extent that they are known. The Executive Committee may receive and consider staff reports, presentations by staff members or other persons, and any other matter not requiring action by the Board. The Executive Committee shall subsequently report on such matters to the Board at a regular meeting of the Board.

**6.5 BUDGET AND FINANCE COMMITTEE. (Revised 5/3/00)**

It is the function of the Budget and Finance Committee to assist in the preparation of the annual budget for the District and to present the annual budget with recommendations to the District Board of Directors. The Budget and Finance Committee also is responsible for approving administrative policy proposed by the APCO in the area of finance, procurement, insurance and related matters. At Budget review time each year the Committee shall evaluate District goals and objectives and recommend to the Board of Directors any changes, deletions and additions which it determines to be appropriate.

**6.6 PERSONNEL COMMITTEE.**

It is the function of the Personnel Committee to consider and recommend policies of the District relating to procurement of officers and employees, employment of officers and employees, discharge of officers and employees, salaries and working conditions, and the retaining of consultants. The Personnel Committee shall keep itself informed as to the work of the Advisory Council and Hearing Board, to be informed about persons in the community who may be qualified to serve on the Advisory Council and Hearing Board, and to recommend to the Board of Directors selection of such persons whenever vacancies may from time to time occur in the Advisory Council and Hearing Board.

**6.7 LEGISLATIVE COMMITTEE.**

It is the function of the Legislative Committee to consider and recommend legislative proposals for the District and to consider and recommend a District position on all proposed legislation affecting the District. The Legislative Committee, in conjunction with District staff and the District Legislative Advocate, will keep itself informed on pending legislative matters and will meet and/or confer with appropriate legislators as necessary.

**6.8 NOMINATING COMMITTEE. (Revised 10/4/95)**

The Nominating Committee will consist of the Chairperson of the Board, the past Chairperson of the Board and three (3) appointees of the Chairperson of the Board, or in the event the past Chairperson of the Board is no longer serving on the Board, four (4) appointees of the Chairperson of the Board. The Nominating Committee shall be appointed no later than the second Board Meeting in November of each year and shall serve until the appointment of a new Committee. It is the function of the Nominating Committee to recommend to the Board the officers for each calendar year. In making its recommendation, the Committee shall not be bound by a recommendation of a previous Nominating Committee. The Committee need not follow a strict rule of rotation between supervisor and city members but may take into account their proportionate membership on the Board of Directors. Additionally, the Committee shall take into account the provisions of Section I-2.7.

**6.9 MOBILE SOURCE COMMITTEE. (Revised 3/18/98)**

It is the function of the Mobile Source Committee to consider and recommend policies and positions of the District relating to transportation planning and funding, on-road and off-road mobile sources, and mobile source fuels. The Mobile Source Committee will keep itself



informed on actions or proposed actions by local, regional, state and federal agencies affecting air pollutant emissions from mobile sources.

**6.10 PUBLIC ~~OUTREACH~~ ENGAGEMENT COMMITTEE**

It is the function of the Public ~~Outreach~~ Engagement Committee to give overall direction to the District's public ~~outreach~~ engagement programs. In addition, the Committee hears proposals and makes recommendations to the Board of Directors regarding the selection of a contractor(s) to assist the District with aspects of the public ~~outreach~~ engagement programs. The Committee consists of Board members who vote on issues that come before the Committee.

**6.11 STATIONARY SOURCE COMMITTEE. (Revised 2/19/03)**

It is the function of the Stationary Source Committee to consider and recommend policies to the Board of Directors relating to stationary sources. The Committee shall recommend to the Board of Directors stationary source policy issues affecting the implementation of the State and Federal Air Quality Management Plans and key planning policy issues such as federal and State Air Quality Management Plan development and air quality and economic modeling. The Stationary Source Committee shall review and make recommendations to the Board of Directors regarding major stationary source programs including: permitting, compliance, small business assistance, toxics, source education, and rule development. The Stationary Source Committee shall recommend to the Board of Directors positions concerning federal and state regulations that affect stationary sources. The Stationary Source Committee shall recommend policies to the Board of Directors for disbursement of supplemental environmental project grants.

**6.12 CLIMATE PROTECTION COMMITTEE**

It is the function of the Climate Protection Committee to consider and recommend to the Board of Directors policies and positions of the District relating to climate protection activities and funding. The Climate Protection Committee will keep itself informed on actions and proposed actions by local, regional, state, federal, and international agencies and organizations relating to climate protection.

**6.13 QUORUM FOR COMMITTEES (Revised 12/6/06)**

There is no quorum requirement for a Committee meeting to be held, except that, for the purpose of making a Committee recommendation to the Board of Directors, there is established a quorum of five (5) Committee members.

**6.14 COMMITTEE PROCEDURE (Revised 12/6/06)**

- (a) Voting. Only members of the Committee shall be allowed to vote on Committee recommendations.
- (b) Minority Report. Any Committee member can submit a Minority Report to accompany the Committee recommendation submitted to the Board of Directors, but may not use District staff to prepare such report.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

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

Date: March 6, 2015

Re: Increase in Cylogy, Inc. Contract by \$54,000 for Website Testing and Verification

RECOMMENDED ACTION

Recommend the Board of Directors:

- Authorize the Executive Officer/APCO to increase the contract for Cylogy, Inc. (Cylogy) from \$250,000 to \$304,000 (\$54,000) for testing and verification of the My Air Online website.

BACKGROUND

On June 3, 2014, the Air District entered into an ongoing contract for the support and maintenance of its current website with Cylogy. As part of this contract, Cylogy is responsible for the upkeep and programming of the backbone software for web operations (Sitecore and ASP.NET) and for the development of any additional custom functionality necessary to enhance operations on the current website.

Through the My Air Online website development process, the Air District and its contractor, Oasis, have determined that additional testers are needed to perform user acceptance testing, functionality testing, integration testing and final pre-launch testing on the new site. As part of this agenda item, staff will request additional funding for Cylogy to add and manage the testing work.

DISCUSSION

The Air District's current website has a number of complicated and custom integrations that are considered vital to its functionality. These include: custom search functionality, newsletter functionality, custom alerts for incidents and the Spare the Air Program, flare data, etc. The redesign project with Oasis requires a set amount of testing tasks to confirm the website is functional and ready for those custom integrations by Cylogy. In order to ensure that the website is fully and efficiently tested prior to launch, staff is requesting an increase of \$54,000 to the Air District's current contract with Cylogy.

As the Air District's web maintenance contractor and developer over the past 6 years, Cylogy has developed or integrated much of the custom functionality that needs to be transferred to the new website. Additionally, even as the new website is being developed, Cylogy continues to finalize additional mission critical custom functionality, like the new air quality portal which just went online in January 2015. Therefore, staff believes that Cylogy has the best knowledge base and is best positioned to assist the Air District in successfully completing the necessary test phases of the website redesign project.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. The cost of the Cylogy contract increase was included the Fiscal Year Ending 2015 budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Anja Page  
Reviewed by: Damian Breen

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 3, 2015

Re: Referral of Proposed Budget for Fiscal Year Ending (FYE) 2016 to the Budget &  
Finance Committee

---

RECOMMENED ACTION

Refer the proposed operating budget for FYE 2016 to the Budget and Finance Committee for review and consideration.

BACKGROUND

Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures and in compliance with Health and Safety Code Section 40276, the Executive Officer/APCO requests that the Board of Directors refer the proposed budget for FYE 2016 to the Budget and Finance Committee for review and consideration.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Stephanie Osaze

Reviewed by: Jeff McKay

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 2, 2015

Re: Set a Public Hearing to Consider Adoption of Proposed Amendments to Regulation  
3: Fees and Approval of a Notice of Exemption from the California Environmental  
Quality Act (CEQA)

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RECOMMENDED ACTION

Set a public hearing for April 15, 2015 to receive testimony and June 3, 2015 to consider adoption of proposed amendments to Air District Regulation 3: Fees and to consider approval of a Notice of Exemption from CEQA.

DISCUSSION

A public hearing notice and the proposed amendments to Regulation 3 are available for review by request and have been posted on the Air District's website at [http://www.baaqmd.gov/pln/ruledev/regulatory\\_public\\_hearings.htm](http://www.baaqmd.gov/pln/ruledev/regulatory_public_hearings.htm).

BUDGET CONSIDERATION/FINANCIAL IMPACTS

The draft fee amendments would increase fee revenue in Fiscal Year End (FYE) 2016 by approximately \$2.3 million from revenue that would otherwise result without a fee increase.

Fee revenue estimates will be included in the draft FYE 2016 budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jim Karas  
Reviewed by: Jeffrey McKay

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 5, 2015

Re: Consider Approving a Tentative Agreement between the Air District and the Employees' Association Regarding a Separation by Retirement Incentive Program, Adopt a Resolution to Establish a Separation by Retirement Incentive Program for Management and Confidential Employees, and Allocate Funding for the Program in the Amount of \$1 Million from the Undesignated Reserves to the General Fund

RECOMMENDATION

The Board of Directors will consider:

- Approving a tentative agreement between the Air District and the Employees' Association regarding a Separation by Retirement Incentive Program;
- Adopting a resolution to establish a Separation by Retirement Incentive Program for management and confidential employees, and;
- Allocating funds for the program and amending the Fiscal Year Ending (FYE) 2015 Budget in the amount of \$1 Million by transferring from the Undesignated Reserves to the General Fund.

BACKGROUND

Under Board direction, Air District staff entered into negotiations with the EA regarding a separation by retirement incentive program and to extend that same program to management, and confidential employees.

DISCUSSION

The Air District and the EA met and agreed to a tentative agreement, subject to Board approval to create a separation by retirement incentive program. If approved, the Air District and the EA agree to the following:

The Bay Area Air Quality Management District (Air District) and the Employees' Association (EA) agree to the 'one time' retirement incentive program, offering a monetary incentive for those employees who meet the criteria below and retire from Air District employment no later than June 30, 2015.

#### Eligibility

- Retirement only (not for any other types of separations)
- 10 years of cumulative Air District service
- Total number limited to approved budget, and available on a 'first come, first served' basis. Sequence of receipt of election forms will be determined by the actual date and time received by the HRO.

#### Incentive

- \$30,000 per employee
- Incentive is paid into the Money Purchase Pension Plan (401a account) no more than 30 days after the date of retirement

#### Schedule

- Employees must submit an election form to the Human Resources Office during the election period.
- Employees must retire from Air District employment no later than June 30, 2015.
- This incentive is not available to any employee retiring or who has retired prior to the first date of the election period, nor to any employee retiring after June 30, 2015.

This program, as agreed to, will also be offered to the management and confidential employees by Board adoption of the attached resolution.

#### BUDGET CONSIDERATION/FINANCIAL IMPACT

If approved, \$1 million will be allocated to fund the program and will amend the FYE 2015 budget by transferring the amount of \$1 million from the Undesignated Reserves to the General Fund.

Respectfully Submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Rex Sanders

Attachments: Tentative Agreement between the Air District and the Employees' Association

Draft Resolution Establishing a Voluntary Separation by Retirement Incentive Program

**Bay Area Air Quality Management District and Employees' Association**

**Retirement Incentive Program**

**March 4, 2015**

The Bay Area Air Quality Management District (Air District) and the Employees' Association (EA) agree to the 'one time' retirement incentive program, offering a monetary incentive for those employees who meet the criteria below and retire from Air District employment no later than June 30, 2015.

**Eligibility**

- Retirement only (not for any other types of separations)
- 10 years of cumulative Air District service
- Total number limited to approved budget, and available on a 'first come, first served' basis. Sequence of receipt of election forms will be determined by the actual date and time received by the HRO.


**Incentive**


- \$30,000 per employee
- Incentive is paid into the Money Purchase Pension Plan (401a account) no more than 30 days after the date of retirement

**Schedule**

- Employees must submit an election form to the Human Resources Office during the election period between March 19, 2015 to April 30, 2015.
- Employees must retire from Air District employment no later than June 30, 2015.
- This incentive is not available to any employee retiring or who has retired prior to the first date of the election period, nor to any employee retiring after June 30, 2015.

Tentative Agreement for a Side Letter


3/4/15  
 \_\_\_\_\_  
 For the District


4 MARCA 2015  
 \_\_\_\_\_  
 For the EA/Date



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**Resolution No. 2015-**

**A Resolution Establishing a Voluntary Separation by Retirement Incentive Program**

WHEREAS, the Bay Area Air Quality Management District (Air District) needs to develop a voluntary separation by retirement incentive program in an effort to provide the agency with staffing stability in the period leading up to the headquarters move;

WHEREAS, the Air District can benefit from this program by reducing short and long term costs associated with staffing by implementation of a program;

WHEREAS, the Air District and the Employees' Association met and agreed to a tentative agreement, subject to Board approval, to create a separation by retirement incentive program;

WHEREAS, the Air District will extend the agreed program with the EA to non-represented management and confidential employees, which consists of:

Eligibility

- Retirement only (not for any other types of separations)
- 10 years of cumulative Air District service
- Total number limited to approved budget, and available on a 'first come, first served' basis. Sequence of receipt of election forms will be determined by the actual date and time received by the HRO.

Incentive

- \$30,000 per employee
- Incentive is paid into the Money Purchase Pension Plan (401a account) no more than 30 days after the date of retirement

Schedule

- Employees must submit an election form to the Human Resources Office during the election period.
- Employees must retire from Air District employment no later than June 30, 2015.
- This incentive is not available to any employee retiring or who has retired prior to the first date of the election period, nor to any employee retiring after June 30, 2015;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT:

That the Board of Directors for the Bay Area Air Quality Management District adopts the Separation by Retirement Incentive Program for management and confidential employees.

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, on the 18th day of MARCH 2015

by the following vote of the Board:

AYES:

NOES:

ABSENT:

ATTEST:

\_\_\_\_\_  
CAROLE GROOM  
Chairperson of the Board of Directors

\_\_\_\_\_  
LIZ KNISS  
Secretary of the Board of Directors

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 5, 2015

Re: Adopt a Resolution to Amend the Air District's Money Purchase Pension Plan  
(401(a))

---

RECOMMENDED ACTION

The Board of Directors will consider adopting amendments to the Air District's Money Purchase Pension Plan (401(a)).

BACKGROUND

The Air District and the EA met and agreed to a tentative agreement, subject to Board approval to create a separation by retirement incentive program. The Air District will also extend this program to all management and confidential employees. If approved, the Air District is required to amend the Money Purchase Pension Plan (401(a)) agreement.

Changes to the agreement require Board approval.

DISCUSSION

Upon the Board's adoption of a separation by retirement program, the Air District's Money Purchase Pension Plan (401(a)) provider will require a resolution by the Board to make separation contributions in the amount of \$30,000 per eligible employee to the plan upon their retirement. Attached Resolution No. 2015-\_\_\_, will amend the Air District's plan as follows:

**FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION** (Plan Sections 4.1 and 12.8): The Employer will contribute to each Eligible Participant a monthly contribution in the amount of \$87.78 per month, effective July 1, 2013, that shall be adjusted each subsequent July 1, by the change in the annual-average Bay Area CPI-W for the previous calendar year. In lieu of the above contribution, for the Executive Officer/Air Pollution Control Officer and District Counsel, the Employer will make a contribution as determined on an annual basis. The employer will contribute an additional \$30,000 to eligible employees who separate employment by June 30, 2015.

BUDGET CONSIDERATION/FINANCIAL IMPACT

If approved, up to \$1 million will be allocated to fund the program from the Undesignated Reserves to the General Fund in the Fiscal Year Ending 2015 budget.

Respectfully Submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Rex Sanders

Attachment: Draft Resolution Amending the Air District's Money Purchase Pension Plan (401(a))

**THIRD AMENDMENT  
TO THE  
BAY AREA AIR QUALITY MANAGEMENT DISTRICT MONEY PURCHASE PENSION PLAN**

Bay Area Air Quality Management District (the "Employer") hereby adopts this Amendment to the Bay Area Air Quality Management District Money Purchase Pension Plan (the "Plan") on the date noted below.

WHEREAS, the Employer previously adopted the Plan; and,

WHEREAS, the Employer reserves the right to amend said Plan from time to time; and,

WHEREAS, the Employer desires to amend the Plan's Formula for determining Employer's Contribution.

NOW, THEREFORE, effective March 1, 2015, the Plan is amended by replacing the Adoption Agreement sections as noted below with the following language.

27. FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION (Plan Sections 4.1 and 12.8) (Select all that apply EXCEPT, ONLY ONE OF a., b. or c. may be selected)
- a.  **NON-INTEGRATED CONTRIBUTION AND ALLOCATION**
1.  \_\_\_\_\_% (not to exceed 25%) of each Participant's Compensation.
  2.  The Employer will contribute to each Eligible Participant a monthly contribution in the amount of \$87.78 per month, effective July 1, 2013, that shall be adjusted each subsequent July 1, by the change in the annual-average Bay Area CPI-W for the previous calendar year. In lieu of the above contribution, for the Executive Officer/Air Pollution Control Officer and District Counsel, the Employer will make a contribution as determined on an annual basis. The employer will contribute an additional \$30,000 to eligible employees who separate employment by June 30, 2015. per Participant.
  3.  \$\_\_\_\_\_ per Hour of Service worked while an Eligible Employee.

Except as amended hereinabove, the Plan shall remain unchanged, and as amended herein, shall continue in full force and effect.

**IN WITNESS WHEREOF**, the Employer has executed this Amendment this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**ADOPTING RESOLUTION  
FOR  
BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

The undersigned authorized representative of Bay Area Air Quality Management District (the "Employer") hereby certifies that the following resolutions were duly adopted by the Employer on \_\_\_\_\_, 20\_\_\_\_, and that such resolutions have not been modified or rescinded as of the date hereof.

WHEREAS, the Bay Area Air Quality Management District Money Purchase Pension Plan (the "Plan") expressly provides the right to amend the Plan and Trust; and,

WHEREAS, it is the desire of the Employer to amend the Plan's Formula for determining Employer's Contribution; and,

WHEREAS, it is the desire of the Employer to amend the Plan's Money Purchase Contribution to reflect that the Employer will contribute an additional \$30,000 to Eligible Employees who separate employment by June 30, 2015;

WHEREAS, such amendment shall not reduce the accrued benefits of any participant in the Bay Area Air Quality Management District Money Purchase Pension Plan; and,

THEREFORE, BE IT RESOLVED, that the Plan be amended as set forth in the Third Amendment and, that by adopting this resolution, the Plan does accept the amendment as attached hereto;

BE IT FURTHER RESOLVED, that the appropriate authorized representatives of the Employer are empowered and directed to do all acts and things, including adopting a Plan amendment, necessary or desirable to effectuate the actions authorized herein; and,

BE IT FURTHER RESOLVED, that any executed copy of this Resolution, duly signed as hereunder, shall constitute a Certificate of Resolution in the matters hereinabove recited.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## BAY AREA AIR QUALITY MANAGEMENT DISTRICT MONEY PURCHASE PENSION PLAN

### SUMMARY OF MATERIAL MODIFICATION

To: All Participants, Beneficiaries and Alternate Payees under the Bay Area Air Quality Management District Money Purchase Pension Plan (the "Plan").

This notice, called a "Summary of Material Modification," advises you of some changes in the information presented in your Summary Plan Description (SPD). These changes have resulted from an amendment made to the Plan, and are effective as of March 1, 2015.

Please do three things:

1. Read this notice in its entirety, paying particular attention to the changes listed below. If you have any questions regarding these changes, then please contact the Plan Administrator.
2. Keep this notice with your Summary Plan Description for future reference.
3. Mark the sections in your Summary Plan Description that have been changed, so that when you refer to those sections in the future, you will be reminded of the changes described in this notice.

#### THE CHANGES

##### **What is the Employer money purchase contribution and how is it allocated?**

**Money purchase contribution.** Each year that you are eligible to share in contributions, your Employer will contribute on your behalf an amount equal to: The Employer will contribute to each Eligible Participant a monthly contribution in the amount of \$87.78 per month, effective July 1, 2013, that shall be adjusted each subsequent July 1, by the change in the annual-average Bay Area CPI-W for the previous calendar year. In lieu of the above contribution, for the Executive Officer/Air Pollution Control Officer and District Counsel, the Employer will make a contribution as determined on an annual basis. The employer will contribute an additional \$30,000 to eligible employees who separate employment by June 30, 2015.

**Allocation conditions.** You will always share in the money purchase contribution regardless of the amount of service you complete during the Plan Year.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

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

Date: February 25, 2015

Re: Report of the Budget and Finance Committee Meeting of February 25, 2015

RECOMMENDED ACTION

The Budget and Finance Committee (Committee) received only informational items and has no recommendations of approval by the Board of Directors (Board).

BACKGROUND

The Committee met on Wednesday, February 25, 2015, and considered the report Air District Financial Overview.

Committee Chairperson David Hudson will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Sean Gallagher  
Reviewed by: Maricela Martinez

Attachment: 02/25/15 – Budget and Finance Committee Meeting Agenda #4



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Dave Hudson and Members  
of the Budget and Finance Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 5, 2015

Re: Air District Financial Overview

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Staff will review the status of the current fiscal year. The review will include a discussion of the strategies employed during the Fiscal year Ending (FYE) 2015 budget cycle and implications for the coming FYE 2016 budget process.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jeffrey McKay

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

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

Date: February 26, 2015

Re: Report of the Mobile Source Committee Meeting of February 26, 2015

**RECOMMENDED ACTION**

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

- A) Projects with Proposed Awards over \$100,000:
  - 1) Approve Carl Moyer Program (CMP) projects with proposed grant awards over \$100,000; and
  - 2) Authorize the Executive Officer/Air Pollution Control Officer (APCO) to enter into agreements for the recommended projects.
- B) None; receive and file; and
- C) Residential Lawn Mower Replacement Program:
  - 1) Allocate \$300,000 in CMP/Mobile Source Incentive Funds (MSIF) to implement the residential lawn mower replacement program; and
  - 2) Authorize the Executive Officer/APCO to execute agreements with one or more metal recycling facilities to help administer the residential lawn mower replacement program.

**BACKGROUND**

The Committee met on Thursday, February 26, 2015, and received the following reports and recommendations:

- A) Projects with Proposed Awards over \$100,000;
- B) Transportation Fund for Clean Air (TFCA) Audit Report; and

C) Residential Lawn Mower Replacement Program.

Chairperson Scott Haggerty will provide an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None. Through the CMP, MSIF and TFCA, the Air District distributes “pass-through” funds to public agencies and private entities on a reimbursement basis. Administrative costs for both programs are provided by each funding source.
- B) None. As required by California Health and Safety Code Section 44242(a), the costs of TFCA audits are taken from the TFCA motor vehicle registration fee surcharges. Resources for Audit #15 were identified in the Fiscal Year Ending 2014 budget.
- C) None. Through the CMP and MSIF, the Air District distributes “pass-through” funds to public agencies and private entities on a reimbursement basis. Administrative costs for both programs are provided by each funding source.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Sean Gallagher  
Reviewed by: Maricela Martinez

- Attachment A: 02/26/15 – Mobile Source Committee Meeting Agenda #4
- Attachment B: 02/26/15 – Mobile Source Committee Meeting Agenda #5
- Attachment C: 02/26/15 – Mobile Source Committee Meeting Agenda #6

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Scott Haggerty and  
Members of the Mobile Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 9, 2015

Re: Projects with Proposed Awards over \$100,000

RECOMMENDATIONS

Recommend the Board of Directors:

1. Approve Carl Moyer Program (CMP) projects with proposed grant awards over \$100,000; and
2. Authorize the Executive Officer/APCO to enter into agreements for the recommended projects.

BACKGROUND

The Bay Area Air Quality Management District (Air District) has participated in the Carl Moyer Program (CMP), in cooperation with the California Air Resources Board (ARB), since the program began in fiscal year 1998-1999. The CMP provides grants to public and private entities to reduce emissions of oxides of nitrogen (NOx), reactive organic gases (ROG) and particulate matter (PM) from existing heavy-duty engines by either replacing or retrofitting them. Eligible heavy-duty diesel engine applications include on-road trucks and buses, off-road equipment, marine vessels, locomotives, and stationary agricultural pump engines.

Assembly Bill 923 (AB 923 - Firebaugh), enacted in 2004 (codified as Health and Safety Code Section 44225), authorized local air districts to increase their motor vehicle registration surcharge up to an additional \$2 per vehicle. The revenues from the additional \$2 surcharge are deposited into the Air District's Mobile Source Incentive Fund (MSIF). AB 923 stipulates that air districts may use the revenues generated by the additional \$2 surcharge for projects eligible under the CMP.

On February 19, 2014, the Board of Directors authorized Air District participation in Year 16 of the CMP, and authorized the Executive Officer/APCO to execute Grant Agreements and amendments for projects funded with CMP funds or MSIF revenues, with individual grant award amounts up to \$100,000.

CMP and Transportation Fund for Clean Air (TFCA) Regional Fund projects with grant award amounts over \$100,000 are brought to the Committee for consideration on a quarterly basis.

Staff reviews and evaluates the grant applications based upon the respective governing policies and guidelines established by the ARB and/or the Air District's Board of Directors.

## DISCUSSION

### **Carl Moyer Program**

The Air District started accepting applications for CMP Year 16 projects on July 14, 2014. The Air District has approximately \$12 million available for CMP projects from a combination of MSIF and CMP funds. Project applications are being accepted and evaluated on a first-come, first-served basis.

As of February 9, 2015, the Air District had received 49 project applications for the CMP Year 16 cycle. Of the applications that have been evaluated between January 5, 2015 and February 9, 2015, three (3) eligible projects have proposed individual grant awards over \$100,000. These projects will replace eight (8) off-road diesel-powered tractors, and 87 pieces of off-road diesel-powered airport ground support equipment. These projects will reduce over 19.3 tons of NO<sub>x</sub>, ROG and PM per year. Staff recommends allocating \$2,952,950 to these projects from a combination of CMP funds and MSIF revenues. Attachment 1, Table 1, provides additional information on these projects.

Attachment 2, lists all of the eligible projects that have been received by the Air District as of February 9, 2015, and summarizes the allocation of funding by equipment category, and county. This list also includes the Voucher Incentive Program (VIP) on-road replacement projects awarded since the last committee update. Approximately 27% of the funds have been awarded to projects that reduce emissions in highly impacted Bay Area communities. Attachment 3 summarizes the cumulative allocation of CMP, MSIF, Vehicle Buy Back Program, and VIP funding since 2009 (more than \$80 million awarded to 645 projects).

## BUDGET CONSIDERATION / FINANCIAL IMPACT

None. Through the CMP, MSIF and TFCA, the Air District distributes "pass-through" funds to public agencies and private entities on a reimbursement basis. Administrative costs for both programs are provided by each funding source.

Respectfully submitted,

Jack P. Broadbent  
Executive Director/APCO

Prepared by: Anthony Fournier  
Reviewed by: Damian Breen

- Attachment 1: Summary of CMP/MSIF projects with grant awards greater than \$100,000 (evaluated between 1/5/15 and 2/9/15)
- Attachment 2: Summary of all CMP/ MSIF and VIP approved and eligible projects (evaluated between 5/6/14 and 2/9/15)
- Attachment 3: Summary of program distribution by county and equipment category for CMP, MSIF, VBB, and VIP projects since 2009

## AGENDA 4 - ATTACHMENT 1

**Table 1 - Summary of Carl Moyer Program/ Mobile Source Incentive Fund projects with grant awards greater than \$100k (Evaluated between 1/5/15 and 2/9/15)**

Project #	Applicant name	Equipment category	Project description	Proposed contract award	Total project cost	Emission Reductions (Tons per year)			County
						NOx	ROG	PM	
16MOY33	United Airlines, Inc.	Off-road	Replacement of 87 diesel-powered ground support equipment units with 80 electric units and 7 diesel units at San Francisco International Airport	\$ 2,540,187.00	\$ 4,657,178.00	14.292	2.158	0.858	San Mateo
16MOY29	Sprague Custom Farming, LLC	Ag/ off-road	Replacement of 2 diesel-powered tractors	\$ 224,076.00	\$ 295,097.00	0.909	0.093	0.034	Sonoma
16MOY39	Dutton Ranch corp.	Ag/ off-road	Replacement of 6 diesel-powered tractors	\$ 188,687.00	\$ 282,000.00	0.778	0.182	0.056	Sonoma
<b>3 Projects</b>				<b>\$ 2,952,950.00</b>		<b>15.979</b>	<b>2.433</b>	<b>0.948</b>	

## AGENDA 4 - ATTACHMENT 2

*Summary of all CMP, MSIF and VIP approved/ eligible projects (between 5/6/14 and 2/9/15)*

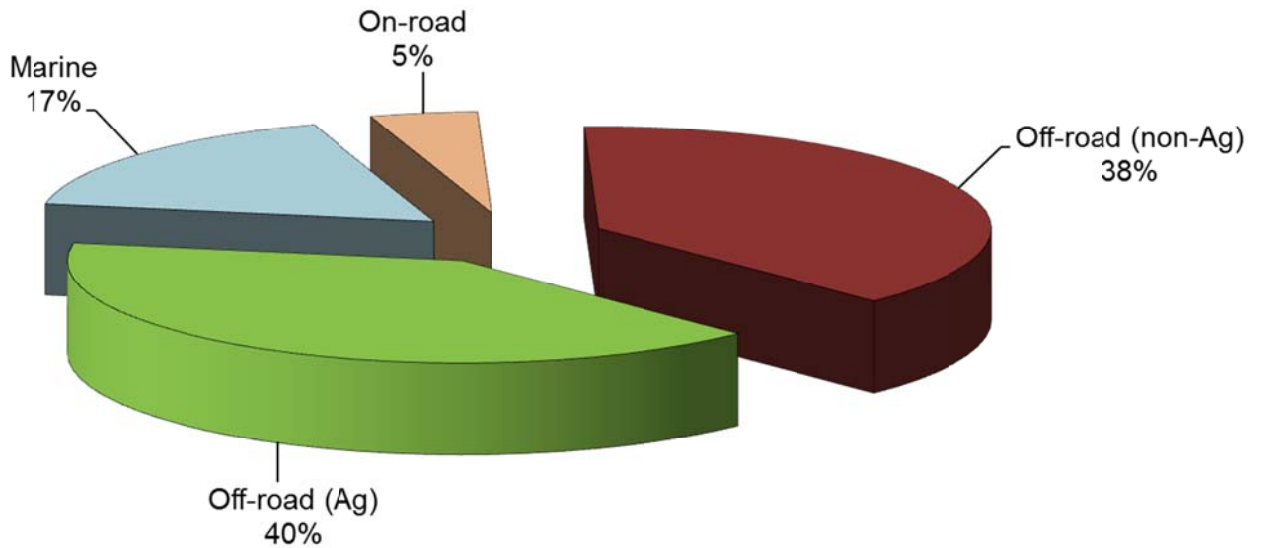
Project #	Equipment category	Project type	# of engines	Proposed contract award	Applicant name	Emission Reductions (Tons per year)			Board approval date	County
						NOx	ROG	PM		
15MOY89	Ag/ off-road	Tractor replacement	1	\$ 23,100.00	Tri-Valley Vineyard Management Inc.	0.061	0.013	0.003	APCO	Sonoma
15MOY120	Ag/ off-road	Tractor replacement	4	\$ 96,346.00	David Pirio Vineyard Management LLC	0.251	0.059	0.020	APCO	Napa
15MOY80	Ag/ off-road	Tractor replacement	2	\$ 59,791.00	Kenzo Estate, Inc.	0.186	0.033	0.015	APCO	Napa
15MOY94	Ag/ off-road	Tractor replacement	2	\$ 85,280.00	Garry Mahrt (Farmer)	0.319	0.060	0.024	APCO	Sonoma
15MOY104	Ag/ off-road	Tractor replacement	1	\$ 38,428.00	Capp Bros Vineyard Management	0.097	0.025	0.010	APCO	Napa
15MOY105	Ag/ off-road	Tractor replacement	1	\$ 40,801.00	Domenico J. Carinalli, Jr.	0.114	0.024	0.006	APCO	Sonoma
15MOY107	Ag/ off-road	Tractor replacement	1	\$ 42,232.00	M. German & Son (Farmer)	0.175	0.032	0.015	APCO	Solano
15MOY108	Ag/ off-road	Tractor replacement	1	\$ 28,704.00	Clementina Biale Vineyards	0.083	0.017	0.006	APCO	Napa
15MOY109	Ag/ off-road	Tractor replacement	1	\$ 47,910.00	Cunningham Dairy	0.243	0.015	0.013	APCO	Sonoma
15MOY97	Ag/ off-road	Tractor replacement	1	\$ 22,580.00	Bowland Vineyard Mgt, Inc.	0.059	0.013	0.003	APCO	Sonoma
15MOY100	Ag/ off-road	Tractor replacement	1	\$ 62,676.00	Custom Tractor Sevice	0.382	0.053	0.019	APCO	Sonoma
15MOY99	Ag/ off-road	Tractor replacement	1	\$ 39,757.00	Regusci Vineyard Management, Inc.	0.104	0.029	0.010	APCO	Napa
15MOY110	Ag/ off-road	Tractor replacement	1	\$ 33,860.00	Roche Winery, LLC.	0.067	0.014	0.006	APCO	Sonoma
15MOY115	Ag/ off-road	Tractor replacement	2	\$ 71,508.00	Nancy and Tony Lilly (Vineyard)	0.220	0.045	0.021	APCO	Sonoma
15MOY118	Ag/ off-road	Tractor replacement	1	\$ 28,898.00	Pina Vineyard Management , LLC.	0.129	0.026	0.009	APCO	Napa
15MOY119	Ag/ off-road	Tractor replacement	2	\$ 58,835.00	Chappellet Vineyard	0.152	0.022	0.009	APCO	Napa
15MOY122	Ag/ off-road	Tractor replacement	1	\$ 32,081.00	Cornerstone Certified Vineyard	0.074	0.016	0.006	APCO	Sonoma
15MOY123	Ag/ off-road	Tractor replacement	1	\$ 71,775.00	Glenn Yenni & Sons, Inc.	0.153	0.029	0.013	APCO	Sonoma
15MOY137	Marine	Engine replacement	2	\$ 99,550.00	Brian Collier (Charter fishing)	0.937	-0.010	0.037	APCO	Contra Costa
15MOY116	Ag/ off-road	Equipment replacement	1	\$ 63,622.00	Morrison Brother's Dairy	0.171	0.042	0.021	APCO	Sonoma
15MOY124	Ag/ off-road	Equipment replacement	1	\$ 46,040.00	Blakes Landing Farms, Inc.	0.116	0.020	0.007	APCO	Marin
15MOY128	Ag/ off-road	Equipment replacement	1	\$ 42,232.00	Deniz Dairy	0.135	0.023	0.008	APCO	Sonoma
15MOY129	Ag/ off-road	Equipment replacement	5	\$ 177,919.00	Colinas Farming Company	0.394	0.090	0.032	10/15/2014	Napa
15MOY136	Ag/ off-road	Equipment replacement	1	\$ 27,480.00	Dirt Farmer & Company	0.052	0.015	0.005	APCO	Sonoma
15MOY133	Ag/ off-road	Equipment replacement	1	\$ 41,017.00	Alta Vineyard Management, Inc.	0.164	0.032	0.009	APCO	Sonoma
15MOY132	Ag/ off-road	Equipment replacement	1	\$ 27,865.00	B Wise Vinyeards, LLC	0.053	0.016	0.005	APCO	Sonoma
15MOY135	Marine	Equipment replacement	2	\$ 68,500.00	San Francisco Bar Pilots	0.399	0.003	0.017	APCO	San Francisco
15MOY130	Off-road	Equipment replacement	2	\$ 188,559.00	Evergreen Materials Inc. DBA Evergreen Supply	1.098	0.162	0.053	10/15/2014	Santa Clara
16MOY2	Ag/ off-road	Equipment replacement	2	\$ 289,836.00	Rankins AG, Inc.	2.947	0.298	0.111	10/15/2014	Contra Costa
16MOY4	Ag/ off-road	Equipment replacement	1	\$ 41,017.00	John Camozzi (Farm/ ranch)	0.176	0.029	0.011	APCO	Sonoma



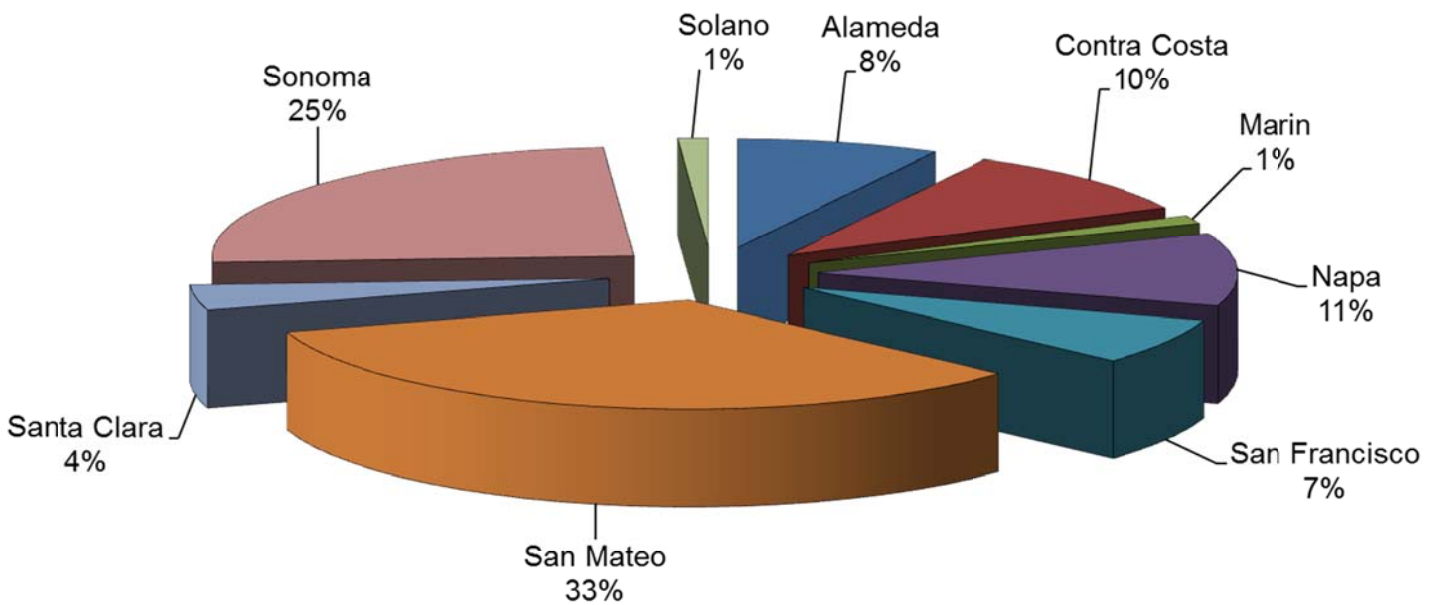
Project #	Equipment category	Project type	# of engines	Proposed contract award	Applicant name	Emission Reductions (Tons per year)			Board approval date	County
						NOx	ROG	PM		
16MOY11	Ag/ off-road	Equipment replacement	1	\$ 147,264.00	Dolcini Brothers	1.244	0.180	0.064	10/15/2014	Sonoma
15MOY126	Marine	Engine replacement	2	\$ 188,580.00	C & W Diving Services, Inc.	1.524	0.051	0.067	10/15/2014	Alameda
16MOY17	Ag/ off-road	Equipment replacement	1	\$ 126,130.00	Spaletta Ranch	0.305	0.056	0.020	11/17/2014	Sonoma
16MOY9	Ag/ off-road	Equipment replacement	3	\$ 80,510.00	David Arthur Vineyards LLC	0.170	0.045	0.019	APCO	Napa
16MOY19	Ag/ off-road	Equipment replacement	1	\$ 150,014.00	MCE Amos, Inc.	0.677	0.118	0.042	11/17/2014	Sonoma
16MOY10	Ag/ off-road	Equipment replacement	1	\$ 27,277.00	Archangel Investments LLC DBA Baldacci Family Vineyards	0.085	0.017	0.006	APCO	Napa
16MOY16	Ag/ off-road	Equipment replacement	1	\$ 54,694.00	Garvey Vineyard Management, LLC.	0.164	0.040	0.016	APCO	Napa
16MOY20	Ag/ off-road	Equipment replacement	1	\$ 150,014.00	Mulas Dairy, Co.	0.620	0.108	0.039	11/17/2014	Sonoma
16MOY21	Ag/ off-road	Equipment replacement	1	\$ 161,789.00	Louise R. Dei	0.752	0.094	0.032	11/17/2014	Sonoma
16MOY22	Ag/ off-road	Equipment replacement	5	\$ 135,291.00	Far Niente Vineyards, LLC DBA Vinescape	0.453	0.081	0.039	11/17/2014	Napa
16MOY13	Marine	Engine replacement	1	\$ 74,410.00	Pound the Zone Fishing	0.379	0.003	0.014	APCO	Contra Costa
15MOY125	Marine	Engine replacement	2	\$ 99,730.00	C & W Diving Services, Inc.	0.272	-0.009	0.017	APCO	Alameda
15MOY121	Marine	Engine replacement	2	\$ 123,860.00	C & W Diving Services, Inc.	0.399	0.016	0.017	11/17/2014	Alameda
16MOY14	Marine	Engine replacement	2	\$ 136,295.00	Bouna Pesca L.L.C.	0.576	-0.008	0.022	11/17/2014	Monterey
16MOY8	Marine	Engine replacement	2	\$ 33,675.00	Blue and Gold Fleet L.P.	0.268	0.006	0.019	APCO	San Francisco
16MOY30	Off-road	Equipment replacement	1	\$ 191,400.00	W.R. Forde Associates	1.130	0.140	0.054	11/17/2014	Contra Costa
16MOY12	Ag/ off-road	Equipment replacement	1	\$ 48,860.00	James Mclsaac dba Mclsaac Dairy	0.113	0.027	0.014	APCO	Marin
16MOY27	Marine	Engine replacement	1	\$ 49,155.00	Mendler Brothers Fish LLC	0.231	0.004	0.009	APCO	Contra Costa
16MOY26	Marine	Engine replacement	2	\$ 46,000.00	Golden Gate Scenic Steamship Corp. dba Red and White Fleet	0.350	0.000	0.027	APCO	San Francisco
16MOY6	Marine	Engine replacement	2	\$ 227,250.00	Captain Joe's Sportfishing	0.951	0.025	0.044	2/18/2015	San Francisco
16MOY28	Marine	Engine replacement	2	\$ 149,650.00	Amigo Adventure	1.747	0.024	0.067	2/18/2015	San Francisco
16MOY1	Off-road	Equipment replacement	3	\$ 73,305.00	American Soil Products, Inc.	0.239	0.066	0.027	APCO	Alameda
16MOY34	Marine	Engine replacement	1	\$ 56,425.00	Pound the Zone Fishing DBA Pound the Zone Fishing	0.207	0.005	0.008	APCO	Contra Costa
16MOY33	Off-road	Equipment replacement	87	\$ 2,540,187.00	United Airlines, Inc.	14.292	2.158	0.858	TBD	San Mateo
16MOY29	Ag/ off-road	Equipment replacement	2	\$ 224,076.00	Sprague Custom Farming, LLC	0.909	0.093	0.034	TBD	Sonoma
16MOY39	Ag/ off-road	Equipment replacement	6	\$ 188,687.00	Dutton Ranch corp.	0.778	0.182	0.056	TBD	Sonoma
VIP247	VIP	Truck Replacement	1	\$ 45,000.00	Everardo Espinosa	0.878	0.013	0.000	APCO	Tehama
VIP248	VIP	Truck Replacement	1	\$ 20,000.00	Lupe Laureano	0.400	0.007	0.000	APCO	Santa Clara
VIP250	VIP	Truck Replacement	1	\$ 30,000.00	J/W Sanchez Trucking Co., Inc.	0.581	0.009	0.000	APCO	Alameda
VIP251	VIP	Truck Replacement	1	\$ 45,000.00	Horacio Cardenas	0.851	0.029	0.000	APCO	Solano

Project #	Equipment category	Project type	# of engines	Proposed contract award	Applicant name	Emission Reductions (Tons per year)			Board approval date	County
						NOx	ROG	PM		
VIP252	VIP	Truck Replacement	1	\$ 25,000.00	American Soil Products	0.486	0.007	0.000	APCO	Alameda
VIP254	VIP	Truck Replacement	1	\$ 35,000.00	Rattu Trucking DBA Ramesh Rattu	0.675	0.010	0.000	APCO	Santa Clara
VIP255	VIP	Truck Replacement	1	\$ 15,000.00	Michael Scott Minnis	0.606	0.008	0.012	APCO	Alameda
VIP256	VIP	Truck Replacement	1	\$ 45,000.00	Antonino Esqueda	0.878	0.013	0.000	APCO	Sacramento
VIP257	VIP	Truck Replacement	1	\$ 45,000.00	Gurjot Singh Pawar / Amrik Singh Pawar	0.851	0.029	0.000	APCO	Santa Clara
VIP258	VIP	Truck Replacement	1	\$ 15,000.00	Harjinder Singh	0.606	0.008	0.012	APCO	Alameda
VIP259	VIP	Truck Replacement	1	\$ 20,000.00	Martin Minh Ngo	0.812	0.011	0.016	APCO	Alameda
<b>67 Projects</b>			<b>190</b>	<b>\$ 7,822,727.00</b>		<b>45.968</b>	<b>4.912</b>	<b>2.198</b>		

**Figure 1: CMP/ MSIF Funding Distribution by Equipment Category as of 2/9/15**

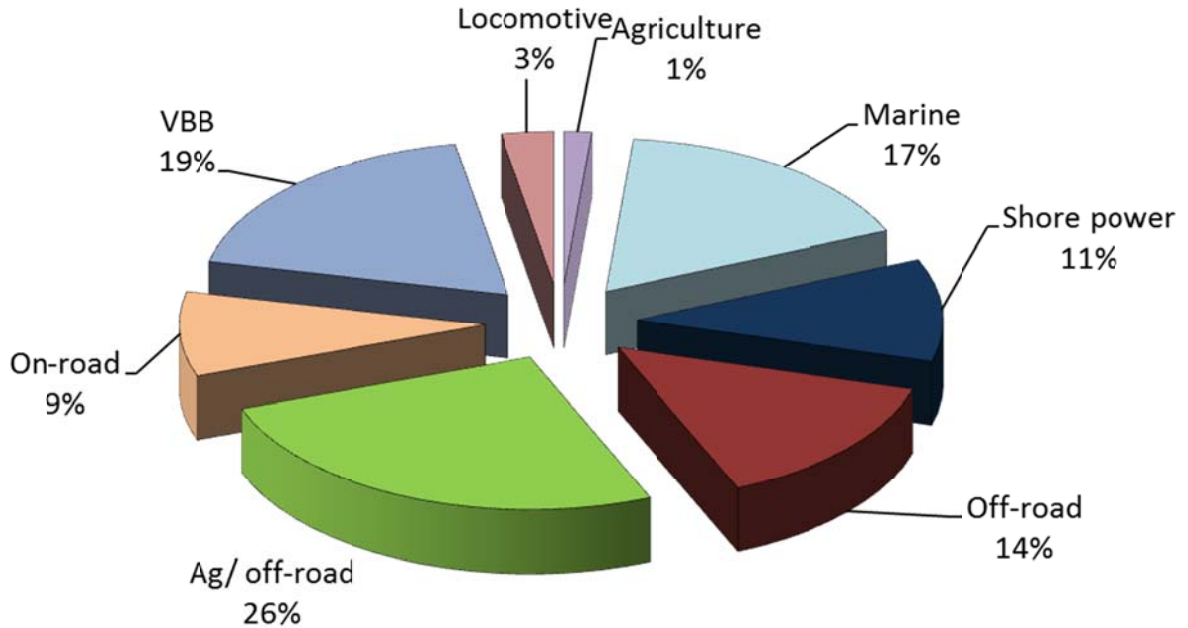


**Figure 2: CMP/ MSIF Funding Distribution by County as of 2/9/15**

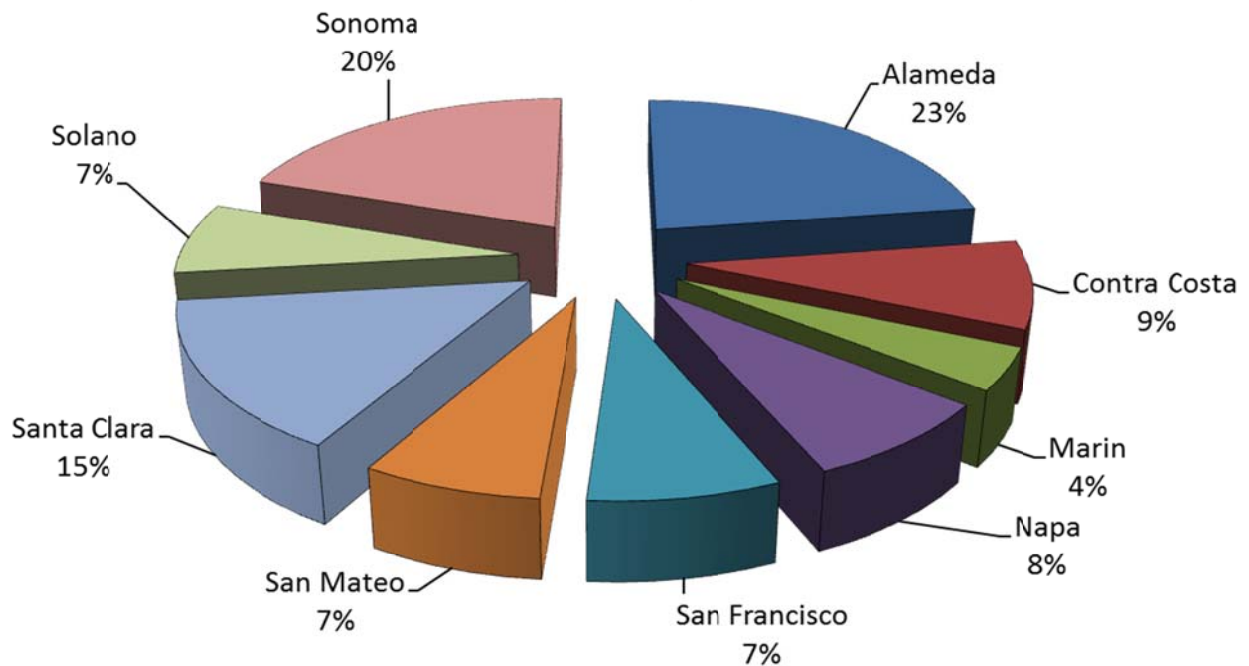


# AGENDA 4 - ATTACHMENT 3

**Figure 3: CMP, MSIF, VBB and VIP funding since 2009 by equipment category**



**Figure 4: CMP, MSIF, VBB and VIP funding since 2009 by county**



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

## Memorandum

To: Chairperson Scott Haggerty and  
Members of the Mobile Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 9, 2015

Re: Transportation Fund for Clean Air (TFCA) Audit Report

**RECOMMENDED ACTION**

None; receive and file.

**BACKGROUND**

In 1991, the California State Legislature authorized the Bay Area Air Quality Management District (Air District) to impose a \$4 surcharge on motor vehicles registered within its nine-county jurisdiction to fund projects that reduce on-road motor vehicle emissions. The Air District allocates these funds to eligible projects through the Transportation Fund for Clean Air (TFCA). The statutory authority for the TFCA and requirements of the program are set forth in California Health and Safety Code (HSC) Sections 44241 and 44242.

Sixty percent of TFCA funds are awarded by the Air District to eligible programs implemented directly by the Air District (e.g., the Smoking Vehicle, enhanced mobile source enforcement and the Spare the Air Programs) and through a grant program known as the Regional Fund. The remaining forty percent of TFCA funds are forwarded to a designated agency within each Bay Area county to be distributed via the County Program Manager Fund.

HSC Section 44242 requires that the Air District conduct an audit of every program and project funded with TFCA monies, at least once every two years. For the past three years, the Air District has conducted an audit of Regional Fund projects annually and County Program Manager Fund projects biennially.

On June 15, 2011, the Air District's Board of Directors (Board) selected Gilbert Associates, Inc. (Gilbert) as the independent auditor to conduct Audit #13. As allowed by the terms of that selection process, on December 5, 2012, the Board extended the contract with Gilbert to conduct Audit #14 and #15. The results of Audit #15 are presented in this report.

## DISCUSSION

For Audit #15, Gilbert Associates, Inc. conducted financial and compliance audits of:

- 35 TFCA Regional Fund projects (including Air District-sponsored programs) that were closed during the period from July 1, 2012 and June 30, 2013; and
- 144 County Program Manager Fund projects that were closed during the period from July 1, 2011 through June 30, 2013.

Gilbert conducted field work for these audits from November 2013 through July 2014 and issued draft audit reports to each of the audited agencies/companies. Each agency/company was provided an opportunity to respond in writing to any findings and those responses are included in the final version of the individual audit reports.

The results of Audit #15 are presented in the attached Audit Summary Reports shown in Attachment 1 (for the Regional Fund) and Attachment 2 (for the County Program Manager Fund). Each report contains a list of all of the projects and programs that were audited as part of Audit #15 (in Appendix B) and a summary of findings from the individual audit reports.

The findings from this current audit were:

- Nine project sponsors submitted one or more report late (i.e., semiannual and/or annual monitoring); and
- Two project sponsors failed to submit one or more required semiannual and/or annual monitoring reports.

The results from Audit #15 show an improvement in adherence to program and contractual requirements over those from previous audits. Although the timely submittal of progress reports continues to be an ongoing challenge, both the overall percent of project sponsors and the total number of projects with late or un-submitted reports has declined from the previous year's audit. In addition, there are no other types of findings for project sponsors or oversight findings attributable to the Air District contained in this audit.

A discussion of the audit process, results, and the additional steps that Air District staff is taking to ensure compliance with program requirements will be presented at the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. As required by California Health and Safety Code Section 44242(a), the costs of TFCA audits are taken from the TFCA motor vehicle registration fee surcharges. Resources for Audit #15 were identified in the FYE 2014 budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Linda Hui  
Reviewed by: Karen Schkolnick

Attachment 1: Audit Summary Report for the TFCA Regional Fund (Audit #15)

Attachment 2: Audit Summary Report for the TFCA County Program Manager Fund (Audit #15)

**BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT**

**TRANSPORTATION FUND FOR CLEAN AIR  
PROGRAM REGIONAL FUND**

**AUDIT SUMMARY REPORT**

**PROJECT PERIOD ENDED JUNE 30, 2013**



# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

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# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

### AUDIT SUMMARY REPORT FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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#### 1. INTRODUCTION

The Bay Area Air Quality Management District (Air District) was created by the California legislature in 1955. The Air District's structure, operating procedures and authority are established by Division 26 of the California Health and Safety Code.

The Air District includes seven counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo and Santa Clara and portions of two other counties, Southwestern Solano and Southern Sonoma. The Air District is governed by a twenty-two member Board of Directors that includes representatives from all of the above counties.

The Air District's jurisdiction is limited principally to policing non-vehicular sources of air pollution within the Bay Area, primarily industry pollution and burning. Any company wishing to build or modify a facility in the Bay area must first obtain a permit from the Air District to ensure that the facility complies with all applicable rules.

The Air District also acts as the program administrator for Transportation Fund for Clean Air (TFCA) funds and Mobile Source Incentive funds (MSIF) derived from Assembly Bill 434 and Assembly Bill 923 respectively. TFCA and MSIF funding comes from a \$4 and \$2 surcharge, respectively, on motor vehicles registered within the Air District. TFCA funding may only be used to fund eligible projects that reduce motor vehicle emissions and support the implementation of the transportation and mobile source control measures in the Clean Air Plan in place at time of award. All projects must fall within the categories listed in State Law (Health and Safety Code Section 44241).

The Health and Safety Code requires the Air District to pass-through no less than 40% of the TFCA revenues raised within a particular county, after audit and administrative costs, to that county's designated Program Manager. The remaining 60% is for Regional Fund grants and is being allocated to projects on a competitive basis. Projects are evaluated using the Air District's Board adopted evaluation and scoring criteria.

#### 2. PROGRAM DESCRIPTION

Health and Safety Code Sections 44223 and 44225 authorize a surcharge on the motor vehicle registration fee (surcharge) to be used by the Air District and local governments specifically for programs to reduce air pollution from motor vehicles. The Department of Motor Vehicles collects the surcharge and allocates the amounts to the Air District. The Air District administers these funds through the TFCA Program. Under the TFCA Program, money is allocated to two funds: (1) 60% is placed in the Regional Fund and allocated to entities on a competitive basis by the Air District and (2) 40% is placed in the Program Managers Fund and allocated to designated agencies. Allowable projects under Health and Safety Code Section 44241 include the following:

- Ridesharing programs
- Purchase or lease of clean fuel school and transit buses
- Feeder or shuttle bus service to rail and ferry stations and airports
- Arterial traffic management
- Demonstrations in congestion pricing of highways, bridges and public transit

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

### AUDIT SUMMARY REPORT FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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- Rail bus integration and regional transit information systems
- Low emission vehicle projects
- Bicycle facility improvement projects
- Physical improvements that support "Smart Growth" projects

State law requires that any agency receiving TFCA funding be subject to an audit, at least once every two years. Health and Safety Code Section 44242 provides the legal compliance guidelines for the Air District to follow in the event revenues are not spent appropriately or when projects do not result in emission reductions. Health and Safety Code Sections 44241 and 44242 are provided in Appendix A.

The Air District retained the firm of Gilbert Associates, Inc. to conduct financial and compliance audits of completed projects funded through the Regional Fund for the project period ended June 30, 2013. These audits were conducted during the months of January 2014 through July 2014.

A total of 25 individual Sponsors and 35 projects were audited, with \$12,110,381 total funds expended. A listing of the projects audited is provided in Appendix B. Unqualified opinions were issued on all 25 reports.

### 3. AUDIT PROCESS

The audits were designed to address numerous financial and compliance objectives; however, the principal objectives of the audits were to (1) provide assurance that amounts reported in the Schedules of Expenditures are fairly stated, and (2) determine whether projects financed through the Air District's Regional Fund met funding agreement requirements. The audit procedures were specifically designed for TFCA financial and compliance requirements. The audit approach is described below:

#### *Auditing Standards and Specific Procedures*

The financial audits were performed in accordance with generally accepted auditing standards in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States for the period ended June 30, 2013.

Procedures performed included, but were not limited to:

- Gaining an understanding of the project sponsors' internal controls over financial reporting of the TFCA program through observation, inquiry, and supporting documentation.
- Tracing expenditures related to the TFCA program to the Sponsor's accounting records.
- Validating TFCA expenditures related to vendor disbursements, payroll, and administrative charges to supporting documentation.
- Conducting interviews with project sponsors to inquire about known, alleged or suspected fraud related to the program.

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

### AUDIT SUMMARY REPORT FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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#### *Compliance Auditing Procedures*

The audits were performed in accordance with the requirements outlined in the Health and Safety Code, individual funding agreements and *Government Auditing Standards*. The principal focus of the compliance auditing procedures was to ensure TFCA expenditures were paid in accordance with the program's objectives (Health and Safety Code Sections 44241 and 44242). Detailed tests on select transactions were performed to verify compliance with the Health and Safety Code and individual funding agreements, but were not designed to provide assurance on overall project compliance.

Auditing procedures performed included, but were not limited to:

- Testing expenditures for allowable costs in accordance with Section 44241 of the Health and Safety Code.
- Verifying that the Sponsor used the TFCA funds for the reduction of emissions from motor vehicles.
- Determining that the Sponsor adopted appropriate resolutions authorizing the grant application or, where applicable, an authorizing letter of commitment.
- Verifying the expenditure of funds was within two years, unless a longer period was approved in writing by the Air District.
- Determining whether the Sponsor submitted to the Air District all required reports and that the reports contained all information required as specified on Attachment C of the funding agreement.
- Verifying the use of the Air District's approved logo or acknowledgment of the Air District in printed or electronic materials for public distribution.
- Determining if the Sponsor followed the indirect cost determination approach when allocating indirect costs to the project.
- Determining whether administrative costs were adequately supported and did not exceed 5% of the TFCA revenues.
- Determining whether other specific terms of the funding agreement were adhered to, such as additional reporting requirements.

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

### AUDIT SUMMARY REPORT FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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#### 4. SPONSOR FINDINGS

A summary of Sponsor audit findings is provided below.

**Finding 2013-1: Late Filing of Reports**

According to the funding agreement between the Air District and the Sponsors, Sponsors were required to submit to the Air District quarterly or semiannual reports, a final report, and other reports specified in the Sponsor's funding agreements.

During the audit, we noted that the projects listed in Table 1 had one or more late reports. 8 Sponsors out of 25 (32.00%) and 9 projects out of the 35 audited (25.71%) had one or more late reports. The number of semiannual reports and annual monitoring reports submitted late are noted below:

	<u>Late Reports</u>	<u>Number of Sponsors</u>	<u>Number of Projects</u>
Semiannual reports	13	6	6
Annual monitoring reports	4	4	4
Total late reports	<u>17</u>		

**Air District's Response to Finding 2013-1**

The District acknowledges this finding and will work with sponsors to ensure that future reports are submitted on time. The District has taken a series of steps over the past years to ensure project sponsors are aware of their contractual obligations to minimize the occurrence of late and missing progress reports. These efforts include further strengthening the District's Administrative Operating Procedure (AOP) for Regional Fund Administration to specify that reminder notices be sent to project sponsors three weeks prior to report due dates and that follow-up telephone calls and/or emails be made beginning one week prior to the due date if a report is still not received. If a report is more than three weeks late, the project sponsor is sent a Delinquent Notice, which includes language warning that failure to submit a report will delay payment, may result in termination of the grant, and may render the sponsor ineligible from future grants. Current TFCA Regional Fund policies also prohibit project sponsors with uncorrected audit finding from being eligible for grant funding.

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

### AUDIT SUMMARY REPORT FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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#### Finding 2013-2: Unfiled Reports

According to the funding agreement between the Air District and the Sponsors, Sponsors were required to submit to the Air District quarterly or semiannual reports, a final report, and other reports specified in the Sponsor's funding agreements.

During the audit, we noted that the projects listed in Table 2 had one or more unfiled reports. 2 Sponsors out of 25 (8.00%) and 3 projects out of the 35 audited (8.57%) had one or more unfiled reports. The number of unfiled reports is noted below:

	<u>Unfiled Reports</u>	<u>Number of Sponsors</u>	<u>Number of Projects</u>
Semiannual reports	1	1	1
Annual monitoring reports	<u>2</u>	1	2
Total unfiled reports	<u>3</u>		

#### Air District's Response to Finding 2013-2

The Air District acknowledges this finding, and, as with late reports, has taken significant steps to reduce the likelihood of sponsors not filing reports. The steps the Air District follows (as outlined in its AOP for Regional Fund Administration) are outlined in the response to Finding 2013-1.

## 5. OVERSIGHT FINDINGS

No oversight findings noted as of and for the project period ending June 30, 2013.

**TABLE 1**  
**SPONSORS WITH LATE REPORTS**

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

**TABLE 1 - SPONSORS WITH LATE REPORTS  
FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

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<b>Project Number</b>	<b>Project Sponsor</b>	<b>Project Description</b>
07BFP02	Alameda County	East Lewelling Boulevard Class II Bikeway Improvement Project
09R37	Alameda County General Services	Purchase 15 Hybrid Vehicles & 4 Neighborhood Electric Vehicles
09R14	City of Oakland	Oakland Waterfront - Uptown Pilot Shuttle
09R42	City of Palo Alto	(1) Heavy Duty Vehicle Purchase
09BFP06	City of San Jose	San Jose Citywide Bicycle Racks Installation
05R08	Golden Gate Park Concourse Authority	Bicycle and Pedestrian Improvements: Golden Gate Park, JFK Drive
09R20	Mission Trail Waste Systems	23 Compressed Natural Gas Refuse Trucks
09R26	San Francisco Yellow Cab	(25) Compressed Natural Gas Taxis
09R23	South San Francisco Scavenger Company	4 Compressed Natural Gas Refuse Trucks



**TABLE 2**  
**SPONSORS WITH UNFILED REPORTS**

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

**TABLE 2 - SPONSORS WITH UNFILED REPORTS  
FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

---

<b>Project Number</b>	<b>Project Sponsor</b>	<b>Project Description</b>
09R42	City of Palo Alto	(1) Heavy Duty Vehicle Purchase
07R05	Metropolitan Transportation Commission	Purchase Nine (9) Fuel Cell Transit Buses
07R06	Metropolitan Transportation Commission	Purchase Nine (9) Fuel Cell Transit Buses

**APPENDIX A**

**HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242**

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

### AUDIT SUMMARY REPORT HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242 FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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#### 44241

- (a) Fee revenues generated under this chapter in the bay district shall be subvned to the bay district by the Department of Motor Vehicles after deducting its administrative costs pursuant to Section 44229.
- (b) Fee revenues generated under this chapter shall be allocated by the bay district to implement the following mobile source and transportation control projects and programs that are included in the plan adopted pursuant to Sections 40233, 40717, and 40919:
  - (1) The implementation of ridesharing programs.
  - (2) The purchase or lease of clean fuel buses for school districts and transit operators.
  - (3) The provision of local feeder bus or shuttle service to rail and ferry stations and to airports.
  - (4) Implementation and maintenance of local arterial traffic management, including, but not limited to, signal timing, transit signal preemption, bus stop relocation and "smart streets."
  - (5) Implementation of rail-bus integration and regional transit information systems.
  - (6) Implementation of demonstration projects in telecommuting and in congestion pricing of highways, bridges, and public transit. No funds expended pursuant to this paragraph for telecommuting projects shall be used for the purchase of personal computing equipment for an individual's home use.
  - (7) Implementation of vehicle-based projects to reduce mobile source emissions, including, but not limited to, engine repowers, engine retrofits, fleet modernization, alternative fuels, and advanced technology demonstrations.
  - (8) Implementation of a smoking vehicles program.
  - (9) Implementation of an automobile buy-back scrappage program operated by a governmental agency.
  - (10) Implementation of bicycle facility improvement projects that are included in an adopted countywide bicycle plan or congestion management program.
  - (11) The design and construction by local public agencies of physical improvements that support development projects that achieve motor vehicle emission reductions. The projects and the physical improvements shall be identified in an approved area-specific plan, redevelopment plan, general plan, or other similar plan.

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

### AUDIT SUMMARY REPORT HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242 FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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- (c) (1) Fee revenue generated under this chapter shall be allocated by the bay district for projects and programs specified in subdivision (b) to cities, counties, the Metropolitan Transportation Commission, transit districts, or any other public agency responsible for implementing one or more of the specified projects or programs. Fee revenue generated under this chapter may also be allocated by the bay district for projects and programs specified in paragraph (7) of subdivision (b) to entities that include, but are not limited to, public agencies, consistent with applicable policies adopted by the governing board of the bay district. Those policies shall include, but are not limited to, requirements for cost-sharing for projects subject to the policies. Fee revenues shall not be used for any planning activities that are not directly related to the implementation of a specific project or program.
- (2) The bay district shall adopt cost-effectiveness criteria for fee revenue generated under this chapter that projects and programs are required to meet. The cost-effectiveness criteria shall maximize emissions reductions and public health benefits.
- (d) Not less than 40 percent of fee revenues shall be allocated to the entity or entities designated pursuant to subdivision (e) for projects and programs in each county within the bay district based upon the county's proportionate share of fee-paid vehicle registration.
- (e) In each county, one or more entities may be designated as the overall program manager for the county by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county. The resolution shall specify the terms and conditions for the expenditure of funds. The entities so designated shall be allocated the funds pursuant to subdivision (d) in accordance with the terms and conditions of the resolution.
- (f) Any county, or entity designated pursuant to subdivision (e), that receives funds pursuant to this section, at least once a year, shall hold one or more public meetings for the purpose of adopting criteria for expenditure of the funds and to review the expenditure of revenues received pursuant to this section by any designated entity. If any county or entity designated pursuant to subdivision (e) that receives funds pursuant to this section has not allocated all of those funds within six months of the date of the formal approval of its expenditure plan by the bay district, the bay district shall allocate the unallocated funds in accordance with subdivision (c).

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

### AUDIT SUMMARY REPORT HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242 FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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#### 44242

- (a) Any agency which receives funds pursuant to Section 44241 shall, at least once every two years, undertake an audit of each program or project funded. The audit shall be conducted by an independent auditor selected by the bay district in accordance with Division 2 (commencing with Section 1100) of the Public Contract Code. The district shall deduct any audit costs which will be incurred pursuant to this section prior to distributing fee revenues to cities, counties, or other agencies pursuant to Section 44241.
- (b) Upon completion of an audit conducted pursuant to subdivision (a), the bay district shall do both of the following:
- (1) Make the audit available to the public and to the affected agency upon request.
  - (2) Review the audit to determine if the fee revenues received by the agency were spent for the reduction of air pollution from motor vehicles pursuant to the plan prepared pursuant to Sections 40233 and 40717.
- (c) If, after reviewing the audit, the bay district determines that the revenues from the fees may have been expended in a manner which is contrary to this chapter or which will not result in the reduction of air pollution from motor vehicles pursuant to that plan, the district shall do all of the following:
- (1) Notify the agency of its determination.
  - (2) Within 45 days of the notification pursuant to paragraph (1), hold a public hearing at which the agency may present information relating to expenditure of the revenues from the fees.
  - (3) After the public hearing, if the district determines that the agency has expended the revenues from the fees in a manner which is contrary to this chapter or which will not result in the reduction of air pollution from motor vehicles pursuant to the plan prepared pursuant to Sections 40233 and 40717, the district shall withhold these revenues from the agency in an amount equal to the amount which was inappropriately expended. Any revenues withheld pursuant to this paragraph shall be redistributed to the other cities within the county, or to the county, to the extent the district determines that they have complied with the requirements of this chapter.
- (d) Any agency which receives funds pursuant to Section 44241 shall encumber and expend the funds within two years of receiving the funds, unless an application for funds pursuant to this chapter states that the project will take a longer period of time to implement and is approved by the district or the agency designated pursuant to subdivision (e) of Section 44241. In any other case, the district or agency may extend the time beyond two years, if the recipient of the funds applies for that extension and the district or agency, as the case may be, finds that significant progress has been made on the project for which the funds were granted.

**APPENDIX B**

**LISTING OF AUDITED PROJECTS**

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND**

**APPENDIX B**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

<b>Project Number</b>	<b>Project Sponsor</b>	<b>Project Description</b>	<b>Project Expenditures</b>
07BFP02	Alameda County	East Lewelling Boulevard Class II Bikeway Improvement Project	\$ 59,500
08BFP05	Alameda County	Stanley Boulevard Bicycle Lanes	127,500
09R37	Alameda County General Services Agency	Purchase 15 Hybrid Vehicles & 4 Neighborhood Electric Vehicles	43,131
11R09	Associated Students, San Jose State University	SJSU - Ridesharing and Trip Reduction	120,000
12R00	Bay Area Air Quality Management District	Administration	1,109,818
12R01	Bay Area Air Quality Management District	Spare the Air	1,246,643
12R02	Bay Area Air Quality Management District	Smoking Vehicle Program	1,035,170
08R17	Bauer's Intelligent Transportation	Purchase 10 Compressed Natural Gas Heavy-Duty Vehicles	419,294
10R15	City of Alameda	Estuary Crossing Bicycle/College Shuttle-Pilot	162,027
08BFP08	City of Belmont	U.S. Highway 101 Bicycle/Pedestrian Overcrossing & Alameda de las Pulgas Bicycle Lanes Project	72,500
09BFP02	City of Oakland	Class II and III Bikeways on 14th Street, MacArthur Blvd, and Fruitvale Ave	56,550
09R14	City of Oakland	Oakland Waterfront - Uptown Pilot Shuttle	580,500
11R14	City of Oakland	Broadway Shuttle - "B"	278,724
09R42	City of Palo Alto	(1) Heavy Duty Vehicle Purchase	70,697
11R07	City of Redwood City	Redwood City Community Shuttle	19,925
10R16	City of Richmond	Richmond Circular Shuttle-Pilot	289,392
09BFP06	City of San Jose	San Jose Citywide Bicycle Racks Installation	5,024
09R29	County of San Francisco	U.S. Department of Energy's - Clean Cities Outreach (San Francisco)	24,961
05R08	Golden Gate Park Concourse Authority	Bicycle and Pedestrian Improvements: Golden Gate Park, JFK Drive	173,248
10R12	Livermore Amador Valley Transit Authority	Modification for BART to ACE Route	383,442
10R13	Livermore Amador Valley Transit Authority	Route 1A/B BART to East Dublin	44,504
07R05	Metropolitan Transportation Commission	Purchase Nine (9) Fuel Cell Transit Buses	1,500,000
07R06	Metropolitan Transportation Commission	Purchase Nine (9) Fuel Cell Transit Buses	500,000
10R08	Metropolitan Transportation Commission	511 Rideshare Program	861,286
09R20	Mission Trail Waste Systems	23 Compressed Natural Gas Refuse Trucks	413,999
11R06	Peninsula Corridor Joint Powers Board	Caltrain Shuttle	993,330
11R13	The Presidio Trust	PresidiGo Downtown Shuttle	94,213
09BFP13	San Francisco Municipal Transportation Agency	Class II Bicycle Lane on John Muir Drive	22,639



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND**  
**APPENDIX B**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

<b>Project Number</b>	<b>Project Sponsor</b>	<b>Project Description</b>	<b>Project Expenditures</b>
09R26	San Francisco Yellow Cab	(25) Compressed Natural Gas Taxis	74,250
11R10	San Joaquin Regional Rail Commission	Shuttle Route 54	50,000
11R11	San Joaquin Regional Rail Commission	Shuttle Route 53	33,002
11R08	Santa Clara Valley Transportation Authority	ACE Shuttle Bus	960,000
09R22	Sonoma County Transit	(2) Compressed Natural Gas Transit Buses	80,000
09R23	South San Francisco Scavenger Company	4 Compressed Natural Gas Refuse Trucks	79,737
05R17	West Contra Costa Transportation Advisory Committee	Bicycle Cage Storage Facilities, Racks and Lockers for West Contra Costa County	125,375
		Total Funds Expended	<u>\$ 12,110,381</u>
		Total Sponsors Audited	25
		Total Projects Audited	35

**BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT**

**TRANSPORTATION FUND FOR CLEAN AIR  
PROGRAM MANAGER FUND**

**AUDIT SUMMARY REPORT**

**PROJECT PERIOD ENDED JUNE 30, 2013**

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND

### AUDIT SUMMARY REPORT TABLE OF CONTENTS

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# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND

### AUDIT SUMMARY REPORT FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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#### 1. INTRODUCTION

The Bay Area Air Quality Management District (Air District), created by the California legislature in 1955, is the state's first regional agency dealing with air pollution. The Air District regulates stationary sources of air pollution within the nine San Francisco Bay Area counties in California. The Air District's jurisdiction includes Alameda County, Contra Costa County, Marin County, Napa County, City/County of San Francisco, San Mateo County, Santa Clara County, southern Sonoma County, and south-western Solano County. The primary mission of the Air District is to achieve ambient air quality standards designed to protect the public's health and the environment. The Air District is governed by a twenty-two member Board of Directors who has the authority to develop and enforce regulations for the control of air pollution within its jurisdiction.

#### 2. PROGRAM DESCRIPTION

Health and Safety Code Sections 44223 and 44225 authorize a surcharge on the motor vehicle registration fee (surcharge) to be used by the Air District and local governments to fund projects that implement transportation control measures in accordance with the 1988 California Clean Air Act and the 2010 Clean Air Plan. These measures are designed specifically to reduce air pollution from motor vehicles. The Department of Motor Vehicles collects the surcharge and allocates the amounts to the Air District.

The Air District administers these funds through the Transportation Fund for Clean Air (TFCA) Program. Under the TFCA Program, money is allocated to two funds: (1) 60% is placed in the Regional Fund and allocated to entities on a competitive basis by the Air District and (2) 40% is placed in the Program Managers Fund and allocated to designated agencies, known as program managers. Allowable projects under Health and Safety Code Section 44241 include the following:

- Ridesharing programs
- Purchase or lease of clean fuel school and transit buses
- Feeder or shuttle bus service to rail and ferry stations and airports
- Arterial traffic management
- Demonstrations in congestion pricing of highways, bridges and public transit
- Rail bus integration and regional transit information systems
- Low emission vehicle projects
- Bicycle facility improvement projects
- Physical improvements that support "Smart Growth" projects

State law requires that any agency receiving TFCA funding be subject to an audit, at least once every two years. Health and Safety Code Section 44242 provides the legal compliance guidelines for the Air District to follow in the event revenues are not spent appropriately or when projects do not result in emission reductions. Health and Safety Code Sections 44241 and 44242 are provided in Appendix A.

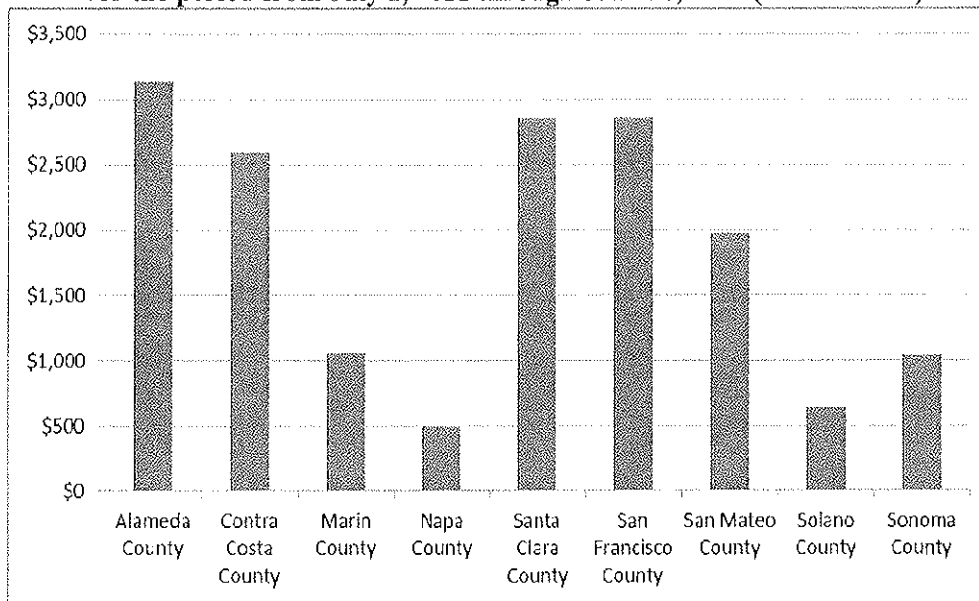
# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND

### AUDIT SUMMARY REPORT FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

The Air District retained the firm of Gilbert Associates, Inc. to conduct financial and compliance audits of completed projects funded through the Program Manager Fund for the project period ended June 30, 2013. The graph below reports the amount of TFCA Funds allocated to each of the individual Program Managers for projects that closed during the period from July 1, 2011 through June 30, 2013. These audits were performed during the period of November 2013 through July 2014. A list of audited projects is provided in Attachment B.

**Total Funds Expended by Program Manager for Specified Projects Conducted for the period from July 1, 2011 through June 30, 2013 (in thousands)**



### 3. AUDIT PROCESS

The audits were designed to address numerous financial and compliance objectives; however, the principal objectives of the audits were to (1) provide assurance that amounts reported in the Schedules of Expenditures are fairly stated, and (2) determine whether projects financed through the Air District's Program Manager Fund met funding agreement requirements. The audit procedures were specifically designed for TFCA financial and compliance requirements. The audit approach is described below:

#### *Auditing Standards and Specific Procedures*

The audits were performed in accordance with generally accepted auditing standards in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The expenditures under audit were TFCA expenditures, incurred by the Program Managers in the Air District's jurisdiction, related to projects that had been reported closed between July 1, 2011, and June 30, 2013.

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND

### AUDIT SUMMARY REPORT FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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#### *Compliance Auditing Procedures*

The audits were performed in accordance with the requirements outlined in the Health and Safety Code, individual funding agreements and *Government Auditing Standards*. The principal focus of the compliance auditing procedures was to ensure TFCA expenditures were paid in accordance with the program's objectives (Health and Safety Code Sections 44241). In the individual Program Manager Fund audits, a report entitled "Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of the Schedule of Expenditures of Projects Performed in Accordance with *Government Auditing Standards* and Requirements of Section 44241 of the California Health and Safety Code" was issued for each Program Manager to provide specific assurance that the Program Manager did or did not comply with the Health and Safety Code. Each of the nine program managers audited received an unmodified opinion.

#### **4. PROGRAM MANAGER FINDINGS**

A summary of Program Manager Findings is provided below.

##### **TRANSPORTATION AUTHORITY OF MARIN**

According to the original funding agreement between the Air District and the Transportation Authority of Marin (TAM), the TAM was required to submit annual and semi-annual reports on October 31, 2011.

We noted that the semi-annual and annual reports were not submitted by the due date of October 31, 2011. The semi-annual and annual reports were submitted by the TAM on November 2, 2011.

##### **Management Response:**

This was an oversight and the reporting deadline has been noted by the project manager and all efforts will be made for timely submission in the future.

##### **Air District's Response:**

The District acknowledges this finding. The District reviewed its records and found that staff sent out a reminder notice to the project sponsor on 9/27/2011 alerting them of the upcoming 10/31/2011 deadline. In a follow up email on 11/1/2011, District staff notified project sponsor that the deadline had been missed. The Project sponsor submitted the report the following day on 11/2/2011. Since this time, the District has taken steps to strengthen its Administrative Operating Procedures (AOPs) to ensure project sponsors are aware of their contractual obligations and to minimize the occurrence of late and missing progress reports. Per County Program Manager Fund Policies, a failed performance audit may subject the County Program Manager to a reduction of future revenue.

#### **5. OVERSIGHT FINDINGS**

No oversight findings noted as of and for the project period ended June 30, 2013.

**APPENDIX A**  
**HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242**

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND

### AUDIT SUMMARY REPORT HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242 FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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#### 44241

(a) Fee revenues generated under this chapter in the bay district shall be subvned to the bay district by the Department of Motor Vehicles after deducting its administrative costs pursuant to Section 44229.

(b) Fee revenues generated under this chapter shall be allocated by the bay district to implement the following mobile source and transportation control projects and programs that are included in the plan adopted pursuant to Sections 40233, 40717, and 40919:

- (1) The implementation of ridesharing programs.
- (2) The purchase or lease of clean fuel buses for school districts and transit operators.
- (3) The provision of local feeder bus or shuttle service to rail and ferry stations and to airports.
- (4) Implementation and maintenance of local arterial traffic management, including, but not limited to, signal timing, transit signal preemption, bus stop relocation and "smart streets."
- (5) Implementation of rail-bus integration and regional transit information systems.
- (6) Implementation of demonstration projects in telecommuting and in congestion pricing of highways, bridges, and public transit. No funds expended pursuant to this paragraph for telecommuting projects shall be used for the purchase of personal computing equipment for an individual's home use.
- (7) Implementation of vehicle-based projects to reduce mobile source emissions, including, but not limited to, engine repowers, engine retrofits, fleet modernization, alternative fuels, and advanced technology demonstrations.
- (8) Implementation of a smoking vehicles program.
- (9) Implementation of an automobile buy-back scrappage program operated by a governmental agency.
- (10) Implementation of bicycle facility improvement projects that are included in an adopted countywide bicycle plan or congestion management program.
- (11) The design and construction by local public agencies of physical improvements that support development projects that achieve motor vehicle emission reductions. The projects and the physical improvements shall be identified in an approved area-specific plan, redevelopment plan, general plan, or other similar plan.



# **BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

## **TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**

### **AUDIT SUMMARY REPORT HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242 FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

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(c) (1) Fee revenue generated under this chapter shall be allocated by the bay district for projects and programs specified in subdivision (b) to cities, counties, the Metropolitan Transportation Commission, transit districts, or any other public agency responsible for implementing one or more of the specified projects or programs. Fee revenue generated under this chapter may also be allocated by the bay district for projects and programs specified in paragraph (7) of subdivision (b) to entities that include, but are not limited to, public agencies, consistent with applicable policies adopted by the governing board of the bay district. Those policies shall include, but are not limited to, requirements for cost-sharing for projects subject to the policies. Fee revenues shall not be used for any planning activities that are not directly related to the implementation of a specific project or program.

(2) The bay district shall adopt cost-effectiveness criteria for fee revenue generated under this chapter that projects and programs are required to meet. The cost-effectiveness criteria shall maximize emissions reductions and public health benefits.

(d) Not less than 40 percent of fee revenues shall be allocated to the entity or entities designated pursuant to subdivision (e) for projects and programs in each county within the bay district based upon the county's proportionate share of fee-paid vehicle registration.

(e) In each county, one or more entities may be designated as the overall program manager for the county by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county. The resolution shall specify the terms and conditions for the expenditure of funds. The entities so designated shall be allocated the funds pursuant to subdivision (d) in accordance with the terms and conditions of the resolution.

(f) Any county, or entity designated pursuant to subdivision (e), that receives funds pursuant to this section, at least once a year, shall hold one or more public meetings for the purpose of adopting criteria for expenditure of the funds and to review the expenditure of revenues received pursuant to this section by any designated entity. If any county or entity designated pursuant to subdivision (e) that receives funds pursuant to this section has not allocated all of those funds within six months of the date of the formal approval of its expenditure plan by the bay district, the bay district shall allocate the unallocated funds in accordance with subdivision (c).

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

## TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND

### AUDIT SUMMARY REPORT HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242 FOR THE PROJECT PERIOD ENDED JUNE 30, 2013

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#### 44242

(a) Any agency which receives funds pursuant to Section 44241 shall, at least once every two years, undertake an audit of each program or project funded. The audit shall be conducted by an independent auditor selected by the bay district in accordance with Division 2 (commencing with Section 1100) of the Public Contract Code. The district shall deduct any audit costs which will be incurred pursuant to this section prior to distributing fee revenues to cities, counties, or other agencies pursuant to Section 44241.

(b) Upon completion of an audit conducted pursuant to subdivision (a), the bay district shall do both of the following:

- (1) Make the audit available to the public and to the affected agency upon request.
- (2) Review the audit to determine if the fee revenues received by the agency were spent for the reduction of air pollution from motor vehicles pursuant to the plan prepared pursuant to Sections 40233 and 40717.

(c) If, after reviewing the audit, the bay district determines that the revenues from the fees may have been expended in a manner which is contrary to this chapter or which will not result in the reduction of air pollution from motor vehicles pursuant to that plan, the district shall do all of the following:

- (1) Notify the agency of its determination.
- (2) Within 45 days of the notification pursuant to paragraph (1), hold a public hearing at which the agency may present information relating to expenditure of the revenues from the fees.
- (3) After the public hearing, if the district determines that the agency has expended the revenues from the fees in a manner which is contrary to this chapter or which will not result in the reduction of air pollution from motor vehicles pursuant to the plan prepared pursuant to Sections 40233 and 40717, the district shall withhold these revenues from the agency in an amount equal to the amount which was inappropriately expended. Any revenues withheld pursuant to this paragraph shall be redistributed to the other cities within the county, or to the county, to the extent the district determines that they have complied with the requirements of this chapter.

(d) Any agency which receives funds pursuant to Section 44241 shall encumber and expend the funds within two years of receiving the funds, unless an application for funds pursuant to this chapter states that the project will take a longer period of time to implement and is approved by the district or the agency designated pursuant to subdivision (e) of Section 44241. In any other case, the district or agency may extend the time beyond two years, if the recipient of the funds applies for that extension and the district or agency, as the case may be, finds that significant progress has been made on the project for which the funds were granted.

**APPENDIX B**

**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**

**AUDIT SUMMARY REPORT**  
**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

**Alameda County Congestion Management Agency:**

<b><u>Project Description</u></b>	<b><u>TFCA Project Number</u></b>	<b><u>Final Project Expenditures through 6/30/13</u></b>
<b>Alameda County Transportation Commission</b>		
Program Administration	10ALA00	\$ 85,191
Program Administration	11ALA00	91,384
Guaranteed Ride Home Program	09ALA08	279,847
Bike to Work Day Marketing and Survey	09ALA10	96,000
<b>Alameda County Transportation Commission/City of Oakland</b>		
San Pablo TSP/Transit Improvement Project	08ALA05	174,493
<b>AC Transit</b>		
TravelChoice - New Residents	10ALA08	139,166
<b>Bay Area Rapid Transit District</b>		
BART Electronic Bicycle Locker Program - Alameda County, Phase 2	07ALA06	253,520
Castro Valley BART Station Bicycle Lockers	08ALA02	60,410
<b>California State University East Bay</b>		
CSUEB TDM and Trip Reduction Program	11ALA05	52,000
<b>City of Berkeley</b>		
9th Street Bicycle Boulevard Project	08ALA03	245,272
Berkeley Citywide Bicycle Parking	09ALA04	45,417
<b>City of Fremont</b>		
South Fremont Arterial Management	09ALA05	223,804
Signal Retiming on Paseo Padre Parkway and Auto Mall Parkway	10ALA03	202,210
<b>City of Oakland</b>		
Oakland Broadway Shuttle	10ALA05	166,857
Webster/Franklin Bikeway Project	10ALA06	56,650
Oakland Broadway Shuttle - Daytime Operations	11ALA10	52,154
<b>City of Pleasanton</b>		
Pleasanton Trip Reduction Program	10ALA07	52,000
Pleasanton Trip Reduction Program	11ALA11	52,816
<b>City of San Leandro</b>		
San Leandro LINKS Shuttle	10ALA13	66,605
<b>County of Alameda</b>		
Fairmont Campus to BART Shuttle	09ALA02	170,000
Fairmont Campus to BART Shuttle	10ALA01	110,000
<b>Livermore Amador Valley Transit Authority</b>		
BART to Downtown Pleasanton Shuttle - Route 8	10ALA09	96,860
BART - Hacienda Business Park Shuttle - Route 9	10ALA10	60,380
ACE Shuttle Service - Route 53	10ALA11	70,677
ACE Shuttle Service - Route 54	10ALA12	72,299
Route 9 BART/Hacienda Business Park Shuttle	11ALA14	42,947
Route 10 - Dublin/Pleasanton BART to Livermore ACE Station Shuttle	11ALA15	123,956
<b>Total</b>		<b><u>\$ 3,142,915</u></b>

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**  
**AUDIT SUMMARY REPORT**  
**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

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**Contra Costa Transportation Authority:**

<b><u>Project Description</u></b>	<b><u>TFCA Project Number</u></b>	<b><u>Final Project Expenditures through 6/30/13</u></b>
<b>Contra Costa Transportation Authority</b>		
Program Administration	10CC00	\$ 66,748
Program Administration	11CC00	66,602
<b>City of San Ramon</b>		
511 Contra Costa Countywide Vanpool Incentive Program	08CC06	83,175
511 South Contra Costa County Employer Program	08CC07	92,146
511 Contra Costa Countywide Vanpool Incentive Program	09CC06	59,175
511 South Contra Costa County Employer Program	09CC07	66,626
511 South Contra Costa County Student Program	09CC08	170,154
511 South Contra Costa County Employer Program	10CC05	61,226
511 Contra Costa Countywide Vanpool Incentive Program	11CC07	37,375
<b>TRANSPAC/City of Pleasant Hill</b>		
Central/East County Ridematching/ Trip Reduction Program	10CC04	694,496
Central/East Contra Costa Trip Reduction Program	11CC04	713,619
<b>West Contra Costa Transportation Advisory Committee</b>		
West Contra Costa Bicycle Rack Program	06CC04	39,000
West County Employer Outreach	08CC02	51,170
Countywide Guaranteed Ride Home Program	08CC03	128,438
Countywide Guaranteed Ride Home Program	09CC03	133,000
Countywide Guaranteed Ride Home Program	10CC03	133,000
Total		<u>\$ 2,595,950</u>

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**

**AUDIT SUMMARY REPORT**  
**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

**Transportation Authority of Marin:**

<b><u>Project Description</u></b>	<b><u>TFCA Project Number</u></b>	<b><u>Final Project Expenditures through 6/30/13</u></b>
<b>Transportation Authority of Marin</b>		
Program Administration	10MAR00	\$ 16,694
Program Administration	11MAR00	16,600
Class I Bike Path and Gap Closure - Puerto Suello Hill	07MAR01	520,000
Emergency Ride Home Program	08MAR03	50,000
Vanpool Program	09MAR08	25,000
Emergency Ride Home Program	09MAR09	50,000
<b>County of Marin</b>		
Bicycle Program (Racks & Lockers)	08MAR01	242,288
<b>County of Marin Department of Public Works</b>		
Marin City Transit Hub Improvements	09MAR05	<u>146,000</u>
Total		<u>\$ 1,066,582</u>

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**

**AUDIT SUMMARY REPORT**  
**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

**Napa County Transportation and Planning Agency:**

<u>Project Description</u>	<u>TFCA Project Number</u>	<u>Final Project Expenditures through 6/30/13</u>
<b>Napa County Transportation and Planning Agency</b>		
Program Administration	08NAP00	\$ 9,231
Program Administration	09NAP00	9,426
Program Administration	10NAP00	9,102
Program Administration	11NAP00	9,353
<b>City of American Canyon</b>		
West American Canyon Road Class II Bicycle Lane Gap Closure	07NAP01	160,000
<b>City of Calistoga</b>		
Calistoga Bike Racks	12NAP04	1,177
<b>City of Napa</b>		
Networkcar - Vehicle Management	07NAP06	43,000
Purchase Two Light-Duty Hybrid Passenger Cars for Parking Enforcement	09NAP03	4,000
Bicycle Lockers and Racks at Various Downtown Napa Locations	09NAP04	10,757
<b>County of Napa</b>		
Duhig Road Class II Bike Lanes	08NAP03	153,586
Las Amigas Class II Bike Lane	10NAP02	41,275
Tubbs Lane Class II Bike Lane	10NAP03	<u>48,566</u>
Total		<u>\$ 499,473</u>

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**  
**AUDIT SUMMARY REPORT**  
**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

**Santa Clara Valley Transportation Authority:**

<b><u>Project Description</u></b>	<b><u>TFCA Project Number</u></b>	<b><u>Final Project Expenditures through 6/30/13</u></b>
<b>Santa Clara Valley Transportation Authority</b>		
Program Administration	10SC00	\$ 112,511
Light Rail Shuttle Program	10SC07	592,000
Program Administration	11SC00	96,301
Light Rail Shuttles	11SC03	557,000
<b>City of Morgan Hill</b>		
West Little Llagas Creek Trail Phase 4	08SC08	134,000
Cochrane Road Bike Lane Improvement Project	09SC04	162,000
<b>City of Morgan Hill - Public Works Department</b>		
Madrone Channel Trail	10SC08	53,275
<b>City of Mountain View</b>		
Permanente Creek Train/US 101 Overpass	07SC04	100,000
Stevens Creek Trail - Sleeper Open Space to Dale/Heatherstone	09SC05	400,000
<b>City of Santa Clara</b>		
Monroe Street Class 2 Bike Lanes	09SC01	31,500
San Tomas Aquino Creek Trail - Reach 4	09SC02	42,000
Downtown Area Class 2 Bike Racks	10SC03	7,000
<b>City of Sunnyvale</b>		
Tasman/Fair Oaks Streetscape Enhancements Project	07SC03	296,260
Borregas Avenue Bicycle Lanes	09SC03	52,000
<b>Santa Clara County - Roads and Airports Department</b>		
Capitol and Lawrence Expressway Weekday Signal Timing	10SC04	127,966
Almaden/Capitol Weekend Traffic Responsive Signal Timing	11SC02	<u>96,000</u>
<b>Total</b>		<b><u>\$ 2,859,813</u></b>



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**  
**AUDIT SUMMARY REPORT**  
**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

**San Francisco County Transportation Authority:**

<b><u>Project Description</u></b>	<b><u>TFCA Project Number</u></b>	<b><u>Final Project Expenditures through 6/30/13</u></b>
<b>San Francisco County Transportation Authority</b>		
Program Administration	10SF00	\$ 33,260
Program Administration	11SF00	33,019

**City and County of San Francisco:**

**Department of the Environment**

Bicycle Fleet Program	09SF01	29,865
Commuter Benefits Program	09SF02	86,000
Emergency Ride Home Program	09SF03	809
Light-Duty Hybrid-Electric Taxis	09SF04	134,400
CCSF Bicycle Fleet	10SF01	22,206
Commuter Benefits Program	11SF02	50,937

**Department of Parking and Traffic**

Class II Bicycle Lanes - Laguna Honda Boulevard	04SF08	9,628
Class II Bicycle Lanes - Phelan Avenue	04SF09	81,907
Class II Bicycle Lanes - Bayshore Blvd.	05SF07	13,735
Class II Bicycle Lanes and Path - San Jose Avenue	05SF09	25,490
Class II Bicycle Lanes - Townsend Street	05SF10	134,353
Class II Bicycle Lanes - Cesar Chavez St.	06SF04	79,000
Class II Bicycle Lane and Roadway Markings - McAllister Street	06SF06	36,254
Class II Bicycle Lanes - Ocean Avenue	06SF07	55,920
Class II Bicycle Lanes - Portola Drive	06SF08	23,714
Class II Bicycle Lanes - Sickles Avenue	06SF09	71,541

**Department of Public Health**

Bayview Hunters Point Shuttle Service	11SF06	174,300
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**Sheriff's Department**

Shuttle Service to the San Bruno Jail	09SF10	26,552
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**City College of San Francisco**

Bicycle Parking Expansion	07SF02	80,067
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**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**  
**AUDIT SUMMARY REPORT**  
**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

**San Francisco County Transportation Authority (continued):**

<u>Project Description</u>	<u>TFCA Project Number</u>	<u>Final Project Expenditures through 6/30/13</u>
<b>County of San Francisco</b>		
Broadway Tunnel Bicycle Improvements	03SF09	26,000
Bicycle Fleet Program	08SF01	31,435
<b>Golden Gate Bridge, Highway &amp; Transportation District</b>		
Purchase Six (6) Police Bicycles and Related Equipment	07SF08	9,380
<b>Presidio Trust</b>		
Coastal Trail Bicycle Lane, Widening, and Gap Closure	10SF02	78,979
<b>San Francisco Municipal Transportation Agency</b>		
Class II Bicycle Lane - Kirkham Street	06SF12	86,557
Geneva Corridor Transit Preferential Streets (TPS) Equipment Improvements	08SF03	328,278
Class II Bicycle Lane - Kirkham Street	08SF04	106,719
17th Street Corridor Bike Lanes and Shared Roadway Markings	09SF07	86,171
Wireless Traffic Signal Detection Loops - Transit Effectiveness Project Rapid Corridors	09SF08	117,916
Laguna Honda Bicycle Lanes (Plaza St. to Woodside Ave.)	10SF04	66,479
Market Street Bicycle Lanes (17th Street to Octavia Boulevard)	10SF05	109,898
Market and Valencia Bicycle Improvements and Gap Closure	10SF06	100,778
<b>San Francisco State University</b>		
Class I Bicycle Path - San Francisco State University	08SF06	358,701
<b>San Francisco Unified School District</b>		
Bike Racks for San Francisco Schools	10SF07	111,876
<b>Yellow Cab Cooperative</b>		
Clean Air CNG Taxi Program	10SF09	<u>39,000</u>
<b>Total</b>		<u>\$ 2,861,124</u>

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**

**AUDIT SUMMARY REPORT**  
**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

City/County Association of Governments of San Mateo County:

<u>Project Description</u>	<u>TFCA Project Number</u>	<u>Final Project Expenditures through 6/30/13</u>
<b>City/County Association of Governments of San Mateo County</b>		
Program Administration	10SM00	\$ 38,447
Program Administration	11SM00	39,493
<b>Peninsula Traffic Congestion Relief Alliance</b>		
Countywide Voluntary Trip Reduction Program	10SM01	421,000
Countywide Voluntary Trip Reduction Program	11SM01	414,000
<b>San Mateo County Transit District</b>		
SamTrans Shuttle Bus Program	10SM02	536,000
SamTrans Shuttle Bus Program	11SM02	<u>527,000</u>
Total		<u>\$ 1,975,940</u>

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**

**AUDIT SUMMARY REPORT**  
**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

**Solano Transportation Authority:**

<b><u>Project Description</u></b>	<b><u>TFCA Project Number</u></b>	<b><u>Final Project Expenditures through 6/30/13</u></b>
<b>Solano Transportation Authority</b>		
Program Administration	10SOL00	\$ 14,308
Program Administration	11SOL00	14,623
Program Administration	12SOL00	14,679
Solano County Safe Routes to School Pilot Program	08SOL01	116,280
Safe Routes to School Program	09SOL01	60,000
Solano Commute Alternatives Incentive and Outreach Program	10SOL02	191,622
Solano Commute Alternative Outreach Program and Incentive Activities	11SOL02	<u>232,215</u>
<b>Total</b>		<b><u>\$ 643,727</u></b>

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**TRANSPORTATION FUND FOR CLEAN AIR PROGRAM MANAGER FUND**

**AUDIT SUMMARY REPORT**  
**LISTING OF AUDITED PROJECTS BY PROGRAM MANAGER**  
**FOR THE PROJECT PERIOD ENDED JUNE 30, 2013**

**Sonoma County Transportation Authority:**

<b><u>Project Description</u></b>	<b><u>TFCA Project Number</u></b>	<b><u>Final Project Expenditures through 6/30/13</u></b>
<b>Sonoma County Transportation Authority</b>		
Program Administration Cost	10SON00	\$ 27,794
Program Administration Cost	11SON00	27,582
<b>Sonoma County Transit</b>		
FY 2009 Transit Marketing Program	08SON02	89,485
Sonoma County Transit Bus Stop Enhancements	10SON04	80,000
Downtown Sebastopol Transit Hub	10SON05	68,064
<b>City of Petaluma</b>		
Washington Street & Petaluma Boulevard Corridor Signal Timing	09SON05	45,000
Petaluma Transit - Transit Marketing	10SON07	60,000
<b>City of Rohnert Park</b>		
Commerce Boulevard Bike Lane Gap Closure	09SON07	9,475
Redwood Drive Bike Lane Gap Closure	09SON08	11,276
<b>City of Santa Rosa, Transit Department</b>		
FY 2009 Student/Youth Bus Pass Subsidy	09SON03	80,000
FY 2010/2011 Student/Youth Bus Pass Subsidy	10SON01	68,000
FY 2010/2011 Santa Rosa Free Ride Trip Reduction Incentive Program	10SON02	141,717
Student/Youth Bus Pass Subsidy	11SON02	71,000
Free Ride Trip Reduction Incentive Program	11SON03	132,060
<b>City of Sonoma</b>		
Comprehensive Class III Route Sign Program & South Fifth Street West Class II Lanes	09SON06	<u>135,542</u>
<b>Total</b>		<b><u>\$ 1,046,995</u></b>

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Scott Haggerty and  
Members of the Mobile Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 9, 2015

Re: Residential Lawn Mower Replacement Program

RECOMMENDATIONS

Recommend the Board of Directors:

1. Allocate \$300,000 in Carl Moyer Program/Mobile Source Incentive Funds (MSIF) to implement the residential lawn mower replacement program; and
2. Authorize the Executive Officer/APCO to execute agreements with one or more metal recycling facilities to help administer the residential lawn mower replacement program.

BACKGROUND

Lawn mower replacement programs achieve emission benefits by providing lawn mower owners an incentive to purchase a cordless, zero-emission mower instead of higher polluting gasoline equipment. There are approximately 865,000 lawn mowers within the Air District's jurisdiction generating annual emissions of approximately 1,120 tons of reactive organic gases (ROG), 50 tons of oxides of nitrogen (NOx), 24 tons of particulate matter (PM10), and 9,680 tons of carbon dioxide, a greenhouse gas. Zero-emission lawn mowers are not required by regulation, so all emissions reduced by equipment replacements are surplus. In past years, the Air District has operated the residential lawn mower exchange program by holding events where eligible participants could bring their lawn mowers to be scrapped and receive a new, discounted, zero-emission lawn mower.

In 2014, the Air District held three exchange events, one each in the North Bay, Central Bay, and South Bay. This program model required a competitive Request for Proposal (RFP) process and contract with the participating lawn mower vendor. The Air District also contracted with a scrapper that could receive the lawn mowers at the event, drain the lawn mowers, and haul them away in containers. Through the program the Air District expended \$59,595 in Air Quality Improvement Program and MSIF funds to replace 411 lawn mowers for Bay Area residents. This resulted in a reduction in emissions of ROG by 467 lbs./year, NOx by 29.2 lbs./year, and PM10 by 19.7 lbs./year.

## DISCUSSION

To improve the performance of this program, staff researched other program models and considered the feedback received during the 2014 program. The proposed program would run continuously until all of the funding is obligated, so that resident participation is not limited to specific event days and locations, and program efficiency is improved. Participants would be able to purchase all new, cordless, zero-emission electric lawn mowers, instead of a limited number of models from specific manufacturers. The program will be administered in accordance with the California Air Resources Board's 2011 Carl Moyer Program guidelines, and subsequent updates. Staff will update the Committee on the program's progress and will continue to look for opportunities to improve and streamline the program.

The proposed program will provide residents a wide selection of equipment from at least 15 different manufacturers. Eligible lawn mowers will be listed on the Air District's website and the list will be updated as new equipment becomes available. Cordless electric lawn mowers range in price from approximately \$150 to \$450. Under the Carl Moyer Program guidelines the maximum eligible incentive funding amount for a lawn mower replacement is \$145. Staff will provide promotional materials to the manufacturers and local retail outlets to expand the outreach of the program and provide this information on the Air District's website. Other promotional opportunities will include press releases and distributing program materials at local events.

Participants would initiate the process by submitting an application to the Air District. Applications would be reviewed to confirm residency in the Air District and confirm that participants currently own and operate a gasoline lawn mower in the Bay Area. Program participants would then purchase a new, Air District-approved, cordless, zero-emission electric lawn mower from an approved manufacturer. The participants would scrap their operational, gasoline-powered lawn mower at an Air District-approved dismantling yard where the lawn mowers would be recycled and hazardous waste disposed of in accordance with all applicable regulations. The dismantling yards would provide the participant with a check for \$145 and then invoice the Air District, on a monthly basis, for reimbursement.

Staff requests the committee recommend the Board of Directors allocate \$300,000 in Carl Moyer Program/MSIF to implement the residential lawn mower replacement program. These funds will help replace approximately 2,000 lawnmowers with electric equipment, and reduce ROG by 2,351 lbs./year, NOx by 147 lbs./year, and PM10 by 99 lbs./year. In order to implement this program, staff also requests the Committee recommend the Board of Directors authorize the Executive Officer/APCO to enter into agreements with one or more metal recycling facilities to scrap eligible participants gasoline lawn mowers and reimburse them for the purchase of the new, cordless, zero-emission electric lawn mowers.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None. Through the CMP and MSIF the Air District distributes “pass-through” funds to public agencies and private entities on a reimbursement basis. Administrative costs for both programs are provided by each funding source.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Joseph Steinberger  
Reviewed by: Anthony Fournier



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

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

Date: February 26, 2015

Re: Report of the Legislative Committee Meeting of February 26, 2015

RECOMMENDED ACTION

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

- A) None; receive and file;
- B) Approve direction to staff to work with Air District colleagues in the business and environmental community on legislation designed to cut emissions by increasing the rates of vehicle registration and reducing registration fraud; and
- C) Consideration of New Bills. The following positions on the following bills:
  - 1) Assembly Bill 156 Perea: Oppose
  - 2) AB 197 E. Garcia: Support
  - 3) AB 239 Gallagher: Oppose
  - 4) AB 335 Patterson: Oppose
  - 5) Senate Bill 32 Pavley: Support
  - 6) SB 350 De Leon and Leno: Support

BACKGROUND

The Committee met on Thursday, February 26, 2015 and considered the following reports:

- A) Review of the 2014 Legislative Year;
- B) Potential Legislative Agenda for 2015; and

C) Consideration of New Bills.

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

BUDGET CONSIDERATION/FINANCIAL IMPACTS

A) None.

B) None.

C) None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Sean Gallagher  
Reviewed by: Maricela Martinez

Attachment A: 02/26/15 – Legislative Committee Meeting Agenda #4  
Attachment B: 02/26/15 – Legislative Committee Meeting Agenda #5  
Attachment C: 02/26/15 – Legislative Committee Meeting Agenda #6

**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: February 9, 2015

Re: Review of the 2014 Legislative Year

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Some of the more significant air quality issues for the Air District addressed by the Legislature in 2014 were the distribution of cap-and-trade revenues and Senate Bill (SB) 1415 authored by Senator Jerry Hill. SB 1415 was supported by the Air District and modernized the Air District's Advisory Council. The language establishing the Advisory Council had been largely unchanged since 1955, and Senator Hill's proposal had widespread bipartisan support prior to being signed into law by the Governor. Its new requirements take effect on July 1, 2015.

The issues around distribution of cap-and-trade revenues, and the CalEnviroScreen tool used by CalEPA to identify disadvantaged communities, were discussed at several meeting in 2014 by the Board, as well as a Climate Protection Committee meeting.

As noted in the following table, none of the bills that the Air District opposed in 2014 became law. Thus, air quality interests were successful at blocking the more egregious efforts to weaken air quality statutes. Results were mixed, however, for measures the District supported. Some were chaptered into law, but others failed to make it through the legislative process.

A complete list of bills with air quality significance (far more bills than those with District-adopted positions) is attached to this memorandum.

OUTCOME OF BILLS WITH DISTRICT POSITIONS

<b>BILL AND AUTHOR</b>	<b>SUBJECT</b>	<b>POSITION</b>	<b>OUTCOME</b>
AB 1330 Perez	Double penalty revenues and direct 50% of revenues to Green Zone Trust Fund	Oppose unless amended	Failed passage
AB 1696 Wieckowski	Adds parking spaces with charging stations to the list of advanced technology vehicle benefits to be added to state parking lots	Support if amended	Failed passage
AB 1907 Ridley-Thomas	Requires natural gas sold as a transportation fuel in CA to be measured in gasoline or diesel gallon equivalents	Support	Chaptered
AB 2027 Logue	Prohibits ARB from collecting emissions data from AB 32 sources twice	Oppose	Failed passage
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	Failed passage
AB 2202 Logue	Exempts fuel marketers from ARB cap-and-trade regulations	Oppose	Failed passage
SB 1125 Pavley	Requires ARB to develop emission reductions targets beyond 2020	Support	Failed passage
AB 1204 Lara	California Clean Truck and Bus Program	Support if amended	Chaptered
SB 792 DeSaulnier	Assigns new tasks to the Joint Policy Committee with respect to ABAG, BAAQMD, BATA, BCDC, and MTC	Oppose unless amended	Failed passage
SB 1371 Leno	Has the PUC establish a Methane Leakage Abatement program	Support	Chaptered
SB 1415 Hill	Modernizes BAAQMD Advisory Council language	Support	Chaptered

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Tom Addison  
Reviewed by: Jean Roggenkamp

Attachment: BAAQMD Bill Discussion List – March 2014

**BAAQMD BILL DISCUSSION LIST**  
**MARCH 2014**

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

AB 2090	Fong	Allows VTA to require HOV drivers to have switchable electronic tolling equipment when using HOT lanes.	Chaptered	
AB 2173	Bradford	Allows low-speed electric bikes to use bike lanes.	Chaptered	
AB 2202	Logue	Exempts fuel marketers from ARB cap-and-trade regulations.	Failed passage	Oppose unless amended
AB 2348	Stone	Natural Resources Climate Improvement Program; funded via cap-and-trade.	Failed passage	
SB 605	Lara	Requires comprehensive strategy to cut short-lived climate pollutants.	Chaptered	
SB 691	Hancock	Increases air penalty ceilings for one-day community-disrupting violations.	Failed passage	Sponsor
SB 792	DeSaulnier	Assigns new tasks to the Joint Policy Committee with respect to ABAG, BAAQMD, BATA, BCDC, and MTC.	Failed passage	Oppose unless amended
SB 913	DeSaulnier	Increases numbers of vehicles retired and replaced through the Consumer Assistance Program and the Enhanced Fleet Modernization Program.	Failed passage	
SB 1077	DeSaulnier	Study of road use charges as gas tax alternative.	Chaptered	
SB 1121	DeLeon	Establishes California Green Bank for financing clean energy projects.	Failed passage	
SB 1122	Pavley	Strategic Growth Council to fund Sustainable Communities Implementation, via cap-and-trade.	Failed passage	
SB 1125	Pavley	Requires ARB to develop emission reductions targets beyond 2020.	Failed passage	Support
SB 1132	Mitchell	Prohibits all well stimulation treatments (including hydraulic fracturing) until multiple findings are made and an independent scientific study is completed.	Failed passage	
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.	Failed passage	
SB 1184	Hancock	Requires BCDC to prepare a regional resilience strategy for sea level rise.	Failed passage	
SB 1204	Lara	California Clean Truck and Bus Program.	Chaptered	Support if amended
SB 1268	Beall	Natural Resources Climate Improvement Program, funded via cap-and-trade.	Failed passage	
SB 1275	DeLeon	Charge Ahead California Initiative (incentives for increasing clean vehicle use by low-income, and new rebates for transit and car sharing).	Chaptered	
SB 1371	Leno	Has the PUC establish a Methane Leakage Abatement program.	Chaptered	Support
SB 1415	Hill	Modernizes BAAQMD Advisory Council language.	Chaptered	Support

**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: February 9, 2015

Re: Potential Legislative Agenda for 2015

**RECOMMENDED ACTION**

The Committee will consider recommending a 2015 legislative agenda to the Board of Directors.

**DISCUSSION**

The majority of the Bay Area's and California's air quality problems continue to come from motor vehicle emissions. Furthermore, a small percentage of vehicles are responsible for a large share of the emissions. While we have made substantial progress at reducing emissions from stationary sources of air pollution, and more recently from heavy-duty diesel vehicles, there have been less concerted efforts to reduce emissions from the on-road light-duty fleet.

Most Californians comply with state laws requiring annual vehicle registration, which in turn requires vehicles to comply with the Smog Check program. Unfortunately, however, a surprising number of motorists in California do not comply with the law. This results in significant public health consequences, but also robs the State and local governments of tens of millions of dollars of revenues needed for such vital purposes as transportation projects, deterring auto theft, enforcing driving under the influence laws, removing abandoned vehicles, funding air quality grant programs, supporting the California Highway Patrol, and many other socially desirable programs. Registration fraud and avoidance also significantly increases insurance costs for law-abiding citizens, since unregistered vehicles are rarely insured. The vehicle license fee is part of the registration payment. Since all of the vehicle license fees go to local cities and counties, these problems also reduce funding to local governments.

Air District staff has met with staff at the California Highway Patrol, Department of Motor Vehicles, the Air Resources Board, the Bureau of Automotive Repair, private foundations working on these issues, environmental organizations, business groups, legislative transportation and the appropriations committees, and academics. There initially appears to be widespread, bipartisan support for legislation in this area. We recommend the Air District work with colleagues in the business and environmental community on legislation designed to cut emissions by increasing the rates of vehicle registration and reducing registration fraud. A paper describing this issue in more detail is attached.



BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison  
Reviewed by: Jean Roggenkamp

Attachment: Cutting Registration Fraud and Increasing Registration Rates

## **Cutting Registration Fraud and Increasing Registration Rates**

Registration fraud and avoidance significantly increases air pollution. The majority of California's persistent air quality problems come from our motor vehicles. The primary tool for cutting emissions from the light duty fleet is our Inspection and Maintenance program, commonly referred to as Smog Check. State law requires that California car and truck owners register their vehicles annually with the Department of Motor Vehicles (DMV) which requires compliance with the Smog Check program. Most vehicles are required to pass a Smog Check inspection every other year.

At least four methods are used by unscrupulous vehicle owners to circumvent the legal registration and Smog Check requirements.

- 1) Unregistered vehicles. Drivers fail to register their vehicles yet continue to drive.
- 2) Out-of-state plates. California residents register their vehicles in another state yet live here and drive here.
- 3) False address. Drivers live in one part of the State yet register in another part.
- 4) Dealer plates. Drivers use dealer plates on vehicles that are not actually for sale.

Registration fraud and the resulting Smog Check avoidance has significant public health consequences, and contributes disproportionately to motor vehicle emissions. It also robs the State and local governments of millions of dollars of revenues needed for such vital purposes as transportation projects, supporting the CHP, deterring auto theft, enforcing DUI laws, removing abandoned vehicles, and many other socially desirable programs. Furthermore, it significantly increases insurance costs for law-abiding citizens, since unregistered vehicles are rarely insured. It is not only illegal, it is also simply unfair to the vast majority of Californians who comply with registration requirements.

This paper briefly describes the four schemes mentioned above, and suggests legislative approaches to reduce these illegal behaviors.

### **1. Unregistered vehicles:**

Although registration is required by law, a surprisingly high number of drivers fail to register their vehicles. Many unregistered vehicles operate without an obvious attempt to conceal their registration status. However, some unscrupulous vehicle owners steal DMV stickers (either through the mail or by removing them with a razor blade from legally registered vehicles) and affix these stickers (year and/or month) to their license plates, so that casual observation by law enforcement indicates that the vehicle is registered. Other tactics include stealing front license plates from a vehicle of the same make and model year, and affixing that plate to the unregistered vehicle, or counterfeiting red temporary DMV windshield registration paperwork.

One study<sup>1</sup> found that 1% of the on-road fleet had been unregistered for more than 3 months. An older study in the South Coast found that close to 2% of vehicles on the road had been unregistered for over a year. Another study<sup>2</sup> found that between 8.5 and 11.7% of vehicles were unregistered. The majority of these vehicles are simply late in getting registered. However, the Air Resources Board in 2000<sup>3</sup> estimated that over half of a percent of vehicles on the road had been unregistered for more than two years. The national fatal accident database shows that 6% of fatal accidents in California involve unregistered vehicles. An analysis of this database<sup>4</sup> shows that half of vehicles are unregistered specifically because of failure to comply with the Smog Check program.

Because California has roughly 34 million registered vehicles of all types, even the lowest unregistration rates from the studies above indicate that hundreds of thousands of vehicles are operating without registration. Unregistered vehicles pollute at very high rates compared to the average vehicle in California, and compared to registered vehicles of the same make and model. (Both random roadside emissions sensing studies and the *Valley Can* program<sup>5</sup> show this.) Therefore, although unregistered vehicles account for a relatively small portion of the vehicle fleet, they are responsible for a disproportionate share of emissions.

## 2. Out-of-state plates.

California law requires residents to operate their vehicles with California plates and registration. New residents have 20 days from establishing residence or accepting employment in California to register their cars. However, registration fees are far lower in many other states, and smog requirements are frequently less onerous or non-existent. Therefore, some vehicles owners choose to drive here illegally with out-of-state plates. The study cited in Footnote 1 found that 1.7% of vehicles on the road had out-of-state plates.

## 3. False address.

Smog Check in California comes in three different flavors, depending on where the vehicle is registered. In the most rural parts of the state, the program requires vehicles to pass a smog inspection only if they are sold (change of ownership). In the rest of the state, however, either a basic or enhanced test is required every other year. Vehicle owners who have tampered with their emissions control equipment or who know that their vehicle will fail Smog Check can avoid the required biennial tests by illegally registering their vehicle at an address in a change-of-ownership area. Avoiding the Smog Check inspection enables the owners to continue to operate their high-polluting vehicles.

## 4. Dealer plates.

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[http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/journal\\_of\\_transportation\\_and\\_statistics/volume\\_07\\_number\\_23/html/paper\\_01/index.html](http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/journal_of_transportation_and_statistics/volume_07_number_23/html/paper_01/index.html)

<sup>2</sup> L. Hunstad, 1999, Estimating Uninsured Vehicles and Unregistered Vehicle Rates: Sensitivity to Data and Assumptions, CA Dept. of Insurance

<sup>3</sup> California Air Resources Board, 2000, Technical Support Document for a Public Meeting to Consider Approval of Revisions to the State's On-Road Motor Vehicle Emissions Inventory, May.

<sup>4</sup> Matthew Zaragoza-Watkins, UC Berkeley PhD Thesis, Economics Dept.

<sup>5</sup> <http://valleycan.org/pdfs/titu-bakersfield-final-030610.pdf>

Motor vehicle dealerships use dealer plates on the vehicles in their inventory. These plates are assigned to a dealership, not a specific vehicle. Thus specific vehicles operating with dealer plates can avoid the smog check program entirely. Legally, dealer plate use is limited generally to dealer employees or prospective buyers, but law enforcement officers have few tools to challenge obviously improper use of the plates. They cost \$71 per year, plus whatever standard county registration fee surcharges are in place where they are issued.

#### Possible Legislative Approaches:

What can be done about these problems? The least aggressive approach would be to simply have a reputable academic institution such as the University of California study the issue, in cooperation with the DMV and CHP providing relevant data, and recommend solutions to the Legislature. While there have been some academic investigations of unregistered vehicles by academics at UC Davis, UC Berkeley, and UC Riverside, many of these studies have been less than comprehensive, in part because of a lack of data availability from state agencies.

But there are a multitude of actions that could be taken to help reduce each of the four problems discussed earlier. Here is a brief list of initial ideas to address each of the schemes.

#### Unregistered Vehicles:

- Make it harder to steal stickers from license plates by changing the physical design of the stickers
- Incentivize local law enforcement to cite unregistered vehicles by returning the local government share of the vehicle license fee to the jurisdiction that issued the citation for the first year only. (Currently, the local share of the VLF is distributed based not on the registration address of a given vehicle, but rather based on that local jurisdiction's share of the State's population of people, not vehicles. Thus a local jurisdiction today receives only a miniscule amount of funding from each vehicle registered in its jurisdiction. This proposal would not change that fundamental funding distribution, but would only change where the local share of registration money goes for the first year, from vehicles that were previously not contributing at all.)
- Increase the penalties for operating unregistered, and increase publicity of registration requirements and penalties.

#### Out-of-State Plates:

- Increase funding and thus publicity for CHP's CHEATERS program<sup>6</sup>. This program is specifically targeted at people illegally using out-of-state plates, and relies on the public to report such fraud to the CHP. However, lack of outreach has significantly limited public awareness that the program exists.
- Direct the DMV to work both with other states and other California agencies such as the Franchise Tax Board to crack down on this fraud.
- Allow the use of existing automatic license plate readers (ALPR) to trigger letters to owners of vehicles with out-of-state plates that are routinely operating here. ALPR technology is widely

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<sup>6</sup> [http://www.chp.ca.gov/prog/cheaters\\_2013.cgi](http://www.chp.ca.gov/prog/cheaters_2013.cgi)

used by government entities such as parking enforcement, law enforcement, and others, as well as by private entities (shopping mall security). One typical use is to identify stolen vehicles. But it could also be used to trigger a letter to an owner of a vehicle with out-of-state plates if, for example, that vehicle was seen 10 or more times in a 6-month period operating in California. Penalties for individuals found to be in violation after receiving such a letter could also be increased.

- Large databases such as CARFAX<sup>7</sup> include significant records of vehicle repair and maintenance locations. These could potentially be used in investigations by CHP, DMV, or local law enforcement.
- Incentivize local law enforcement to cite out-of-state plates by returning the local government share of the vehicle license fee to the jurisdiction that issued the citation for the first year only, as described above.
- Increase the penalties for operating illegally with out-of-state plates, and increase publicity of registration requirements and penalties.

#### False address:

- Similar to the proposal for out-of-state plates, allow the use of existing ALPRs to trigger letters to owners of vehicles registered far from where they are routinely operated. For example, if an ALPR detects the same vehicle from a change-of-ownership area in an area with more stringent smog requirements, it could be used to trigger a letter to the owner if, for example, that vehicle was seen 10 or more times in a 6-month period operating in the local jurisdiction. Penalties for individuals found to be in violation after receiving such a letter could also be increased, and DMV registration paperwork could stress that vehicles must be registered where they are primarily used.
- Incentivize local law enforcement to cite false address vehicles by returning the local government share of the vehicle license fee to the jurisdiction that issued the citation for the first year only, as described above.
- Investigate whether there are changes to Smog Check or registration requirements that could help reduce this fraud, including potentially increasing penalties.
- Investigate whether coordination between DMV and other State agencies could increase detection of this fraud.

#### Dealer Plates:

- Increase penalties for misuse of dealer plates (especially for those who misuse the plates specifically to avoid smog check)
- Work with DMV and CHP to make changes to CCR Article 13, Section 201.

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<sup>7</sup> [http://www.carfax.com/phoenix/vehicle\\_history/SampleReport.cfx?reportName=consumerMobileWeb](http://www.carfax.com/phoenix/vehicle_history/SampleReport.cfx?reportName=consumerMobileWeb)

**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: February 9, 2015

Re: Consideration of New Bills

RECOMMENDED ACTION

The Committee will discuss new bills, and consider recommending positions on them to the Board.

BACKGROUND

2015 marks the first year of a new two-year legislative session. Both the Bay Area and the state as a whole have many newly-elected legislators. February 27, 2015, is the deadline for the 120 members of the Legislature to introduce bills, and as of the date of this writing few significant air quality measures have yet been introduced. Staff will review bills introduced prior to the Committee's meeting, and provide verbal analysis of air quality measures and recommended positions for the Committee's consideration. Generally, bills have to be in print for 30 days before they can have their first hearing, so most bills will have policy committee meetings in April to meet the May 1, 2015, deadline for fiscal bills to have cleared their policy committees.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison  
Reviewed by: Jean Roggenkamp

**ASSEMBLY BILL**

**No. 156**

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**Introduced by Assembly Member Perea**

January 20, 2015

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An act to amend Section 39713 of the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

AB 156, as introduced, Perea. California Global Warming Solutions Act of 2006: investment plan.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law requires the California Environmental Protection Agency to identify disadvantaged communities and requires the Department of Finance, in consultation with the state board and any other relevant state agency, to develop, as specified, a 3-year investment plan for the moneys deposited in the Greenhouse Gas Reduction Fund.

This bill would require the department to include in the 3-year investment plan an allocation to provide technical assistance to

disadvantaged communities to assist them in proposing specified projects for inclusion in the 3-year investment 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. Section 39713 of the Health and Safety Code is  
2 amended to read:

3 39713. (a) The investment plan developed and submitted to  
4 the Legislature, pursuant to Section 39716, shall allocate a  
5 minimum of 25 percent of the available moneys in the fund to  
6 projects that provide benefits to communities described in Section  
7 39711.

8 (b) The investment plan shall allocate a minimum of 10 percent  
9 of the available moneys in the fund to projects located within  
10 communities described in Section 39711.

11 (c) The allocation pursuant to subdivision (b) may be, but need  
12 not be, for projects included, in whole or in part, in the set of  
13 projects supported by the allocation described in subdivision (a).

14 (d) *The investment plan shall allocate from the available moneys*  
15 *in the fund technical assistance moneys to assist the communities*  
16 *described in Section 39711 in proposing projects described in this*  
17 *section. That allocation of technical assistance moneys shall not*  
18 *be used to satisfy the requirements of subdivisions (a) and (b).*



**ASSEMBLY BILL**

**No. 197**

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**Introduced by Assembly Member Eduardo Garcia**

January 28, 2015

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An act to add Sections 399.23 and 636 to, and to repeal and add Section 454.55 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 197, as introduced, Eduardo Garcia. Public utilities: renewable resources.

(1) The Public Utilities Act requires the Public Utilities Commission (PUC), in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities, including electrical corporations, in accordance with specified objectives. The act further requires each load-serving entity to maintain physical generating capacity adequate to meet its load requirements, including peak demand and planning and operating reserves, deliverable to locations and at times as may be necessary to provide reliable electric service.

The California Renewables Portfolio Standard (RPS) Program, requires a retail seller of electricity and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources for specified compliance periods, sufficient to ensure that the procurement of electricity products from those resources achieves 25% of retail sales by December 31, 2016 and 33% of retail sales by December 31, 2020, and in all subsequent years. The RPS program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers

procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified, referred to as the portfolio content requirements.

This bill would state the policy of the state to require all retail sellers of electricity, including investor-owned electrical corporations and local publicly owned electric utilities, to procure all available cost-effective, reliable, and feasible energy efficiency, demand response, and renewable resources, so as to achieve grid reliability and greenhouse gases emission reductions simultaneously, in the most cost-effective and affordable manner practicable. The bill would require that procurement not be limited by any targets established for these resources by statute or regulatory decision.

(2) The Public Utilities Act requires the PUC to review and adopt a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives. The act requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will first meet its unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible. The act requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission, to identify all potentially achievable cost-effective electricity efficiency savings and to establish efficiency targets for electrical corporations to achieve pursuant to their procurement plan.

This bill would require electrical corporations to procure all available cost-effective, reliable, and feasible energy efficiency, demand response, and renewable energy resources, and to consider procuring available cost-effective energy storage technologies. The bill would require the PUC to continue to establish efficiency targets for an electrical corporation pursuant to the utility's procurement plan.

(3) The Public Utilities Act requires an electrical corporation or a local publicly-owned electric utility, in a long-term plan or a procurement plan, respectively, to adopt a strategy applicable both to a newly constructed or repowered generation owned and procured by the electrical corporation or local publicly owned electric utility to achieve efficiency in the use of fossil fuels and to address carbon emissions.

This bill would require an electrical corporation, in a long-term plan, or local publicly owned electric utility, in a procurement plan, to adopt a long-term procurement strategy to achieve a target of procuring 50%

of its electricity products from eligible renewable energy resources by December 31, 2030. The bill would require that each long-term plan adopted by an electrical corporation or procurement plan implemented by a local publicly owned electric utility be updated not less than every 3 years and released to the public, the Governor, and the Legislature, and would require that each plan update include estimated emissions of greenhouse gases that are expected to result from implementation of the plan for each 5-year period through December 31, 2030.

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

Because the provisions of this bill are within the act, a violation of the requirements would impose a state-mandated local program by expanding the definition of a crime.

(5) 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. Section 399.23 is added to the Public Utilities  
2 Code, to read:

3 399.23. (a) The Legislature finds and declares all of the  
4 following:

5 (1) There is increasing uncertainty with regard to the availability  
6 of California’s fleet of older powerplants, as well as the state’s  
7 ability to reduce greenhouse gas emissions beyond the target  
8 established for 2020, creating the need for both increased electrical  
9 generation from renewable energy resources and reduced demand  
10 through energy efficiency and demand response.

11 (2) It is in the best interest of the electricity consumers of this  
12 state that sufficient renewable energy generation supply and  
13 demand-side resources are procured to meet electricity demand,  
14 and that this supply and these resources provide the highest value,  
15 including providing safe, reliable, and affordable electricity

1 supplies and minimizing air quality impacts to consumers in the  
2 most cost-effective manner practicable.

3 (3) Renewable energy generation from renewable energy  
4 resources that qualify as local capacity resources are essential to  
5 maintaining reliable electricity deliveries.

6 (4) There are substantial high-quality renewable energy  
7 resources in the County of Imperial near the Salton Sea with the  
8 ability to reduce greenhouse gas emissions that can generate  
9 electricity in a manner that will simultaneously meet local capacity  
10 requirements, maintain grid reliability, and provide significant  
11 local and regional environmental and economic development  
12 benefits.

13 (5) The commitment to a loading order of preferred resources  
14 in the manner prescribed in Section 454.55 is necessary to the  
15 continued health and safety of California electric consumers.

16 (b) Consistent with the loading order adopted by the Energy  
17 Commission and the commission that sets forth state policy for  
18 preferred resources to meet electrical load needs, it is the intent of  
19 the Legislature, and the policy of the state, that all retail sellers of  
20 electricity, including investor-owned electrical corporations and  
21 local publicly owned electric utilities, shall procure all available  
22 cost-effective, reliable, and feasible energy efficiency, demand  
23 response, and renewable energy resources, so as to achieve grid  
24 reliability and greenhouse gases emission reductions  
25 simultaneously, in the most cost-effective and affordable manner  
26 practicable. Procurement shall not be limited by any targets  
27 established for these resources by statute or regulatory decision.

28 SEC. 2. Section 454.55 of the Public Utilities Code is repealed.

29 ~~454.55. The commission, in consultation with the State Energy  
30 Resources Conservation and Development Commission, shall  
31 identify all potentially achievable cost-effective electricity  
32 efficiency savings and establish efficiency targets for an electrical  
33 corporation to achieve pursuant to Section 454.5.~~

34 SEC. 3. Section 454.55 is added to the Public Utilities Code,  
35 to read:

36 454.55. Pursuant to a loading order of preferred resources to  
37 meet electricity demand in a manner that improves the state’s air  
38 quality, reduces greenhouse gas emissions, and preserves electric  
39 grid reliability, electrical corporations shall procure all available  
40 cost-effective, reliable, and feasible energy efficiency, demand

1 response, and renewable energy resources, and shall consider  
2 procuring available cost-effective energy storage technologies.  
3 Procurement of conventional or gas-fired generation shall only be  
4 undertaken to meet residual need forecasted for the long-term  
5 planning period that is not otherwise met by preferred resources.  
6 In measuring the cost-effectiveness of the procurement of preferred  
7 resources, the commission shall determine and include the value  
8 of grid reliability, including the value of grid reliability of diversity  
9 in renewable electric generation by resource type, size, and  
10 location, both alone and in combination with nontransmission  
11 alternatives, and local environmental benefits provided by each  
12 renewable energy resource type technology in disadvantaged  
13 communities that have been identified by the California  
14 Environmental Protection Agency pursuant to Section 39711 of  
15 the Health and Safety Code. This procurement shall not be limited  
16 by any targets established for these resources by statute or  
17 regulatory decision. However, the commission shall continue to  
18 establish efficiency targets for an electrical corporation to achieve  
19 pursuant to Section 454.5.

20 SEC. 4. Section 636 is added to the Public Utilities Code, to  
21 read:

22 636. (a) In a long-term plan adopted by an electrical  
23 corporation or in a procurement plan implemented by a local  
24 publicly owned electric utility, the electrical corporation or local  
25 publicly owned electric utility shall adopt a long-term procurement  
26 strategy to achieve a target of procuring 50 percent of its electricity  
27 products from eligible renewable energy resources, as defined in  
28 Section 399.12, by December 31, 2030, consistent with Section  
29 454.55.

30 (b) Each long-term plan adopted by an electrical corporation or  
31 procurement plan implemented by a local publicly owned electric  
32 utility shall be updated not less than every three years and released  
33 to the public, the Governor, and the Legislature. Each plan update  
34 shall include estimated emissions of greenhouse gases that are  
35 expected to result from implementation of the plan for each  
36 five-year period through December 31, 2030.

37 SEC. 5. No reimbursement is required by this act pursuant to  
38 Section 6 of Article XIII B of the California Constitution because  
39 the only costs that may be incurred by a local agency or school  
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty  
2 for a crime or infraction, within the meaning of Section 17556 of  
3 the Government Code, or changes the definition of a crime within  
4 the meaning of Section 6 of Article XIII B of the California  
5 Constitution.

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**ASSEMBLY BILL**

**No. 239**

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**Introduced by Assembly Member Gallagher**  
**(Coauthors: Assembly Members Achadjian, Bigelow, Brough,**  
**Chang, Grove, Patterson, Steinorth, Wagner, and Wilk)**  
**(Coauthors: Senators Anderson, Fuller, Morrell, and Nielsen)**

February 5, 2015

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An act to add Section 38511 to the Health and Safety Code, relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

AB 239, as introduced, Gallagher. Greenhouse gases: regulations.

The California Global Warming Solutions Act of 2006 authorizes the State Air Resources Board to adopt greenhouse gas emissions limits and emission reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reduction in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit. The act authorizes the board, in the regulations adopted, to include the use of market-based compliance mechanisms.

This bill would prohibit the board, on and after January 1, 2016, from adopting or amending regulations pursuant to the act. The bill would authorize the board to submit to the Legislature recommendations on how to achieve the goals of the act.

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 38511 is added to the Health and Safety
- 2 Code, to read:
- 3 38511. (a) Notwithstanding any law, on and after January 1,
- 4 2016, the state board shall not adopt or amend a regulation pursuant
- 5 to this division. The state board may submit to the Legislature
- 6 recommendations on how to achieve the goals of this division.
- 7 (b) This section does not affect the validity of regulations
- 8 adopted before January 1, 2016.

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**ASSEMBLY BILL**

**No. 335**

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**Introduced by Assembly Member Patterson**  
**(Coauthors: Assembly Members Brough, Chávez, Lackey, Steinorth,**  
**and Waldron)**  
(Coauthor: Senator Anderson)

February 13, 2015

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An act to add Chapter 3 (commencing with Section 39150) to Part 1 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 335, as introduced, Patterson. Air quality: minor violations.

(1) Existing law authorizes the State Air Resources Board and air pollution control and air quality management districts to enforce air quality laws.

This bill would require the State Air Resources Board and air pollution control and air quality management districts to adopt regulations classifying minor violations. The bill would define the term “notice to comply” and would require a representative of those agencies, who in the course of conducting an inspection detects a minor violation, to issue a notice to comply, as specified.

The bill would require the State Air Resources Board to report to the Legislature by January 1, 2020, regarding implementation of the bill.

Because the bill would make a false statement of compliance submitted under those procedures a crime pursuant to specified provisions, the bill would impose a state-mandated local program by creating a new crime. In addition, the bill would impose a state-mandated local program by imposing new requirements on air pollution control and air quality management districts.

(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 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. Chapter 3 (commencing with Section 39150) is  
2 added to Part 1 of Division 26 of the Health and Safety Code, to  
3 read:

4  
5 CHAPTER 3. MINOR VIOLATIONS  
6

7 39150. (a) The Legislature hereby finds and declares that the  
8 purpose of this chapter is to establish an enforcement policy for  
9 violations of this division that the enforcement agency finds are  
10 minor when the danger they pose to, or the potential that they have  
11 for endangering, human health, safety, or welfare or the  
12 environment is taken into account.

13 (b) It is the intent of the Legislature in enacting this chapter to  
14 provide a more resource-efficient enforcement mechanism, faster  
15 compliance times, and the creation of a productive and cooperative  
16 working relationship between the state board, the districts, and the  
17 regulated community while maintaining protection of human health  
18 and safety and the environment.

19 (c) The state board and each district shall, for their respective  
20 jurisdictions, implement this chapter by adopting a regulation or  
21 a rule that classifies the types of violations of this division, or of  
22 the regulations, rules, standards, orders, permit conditions, or other  
23 requirements adopted pursuant to this division, that the state board  
24 or the district finds are minor violations in accordance with  
25 subdivision (d).

26 (d) In classifying the types of violations that are minor  
27 violations, the state board or the district shall consider all of the  
28 following factors:

- 29 (1) The magnitude of the violation.
- 30 (2) The scope of the violation.

1 (3) The severity of the violation.

2 (4) The degree to which a violation puts human health, safety,  
3 or welfare or the environment into jeopardy.

4 (5) The degree to which a violation could contribute to the  
5 failure to accomplish an important goal or program objective as  
6 established by this division.

7 (6) The degree to which a violation may make it difficult to  
8 determine if the violator is in compliance with other requirements  
9 of this division.

10 (e) For purposes of this chapter, a minor violation of this division  
11 shall not include any of the following:

12 (1) Any knowing, willful, or intentional violation of this  
13 division.

14 (2) Any violation of this division that enables the violator to  
15 benefit economically from noncompliance, either by realizing  
16 reduced costs or by gaining a competitive advantage.

17 (3) Any violation that is a chronic violation or that is committed  
18 by a recalcitrant violator.

19 (f) In determining whether a violation is chronic or a violator  
20 is recalcitrant, for purposes of paragraph (3) of subdivision (e),  
21 the state board or district or an authorized or designated officer  
22 shall consider whether there is evidence indicating that the violator  
23 has engaged in a pattern of neglect or disregard with respect to the  
24 requirements of this division or the requirements adopted pursuant  
25 to this division.

26 39151. For purposes of this chapter, “notice to comply” means  
27 a written method of alleging a minor violation that is in compliance  
28 with all of the following requirements:

29 (a) The notice to comply is written in the course of conducting  
30 an inspection by an authorized representative of the state board or  
31 district or an authorized or designated officer. If testing is required  
32 by the state board or district or an authorized or designated officer  
33 to determine compliance, and the testing cannot be conducted  
34 during the course of the inspection, the representative of the state  
35 board or the district or an authorized or designated officer shall  
36 have a reasonable period of time to conduct the required testing.  
37 If, after the test results are available, the representative of the state  
38 board or district or an authorized or designated officer determines  
39 that the issuance of a notice to comply is warranted, the

1 representative or officer shall immediately notify the facility owner  
2 or operator in writing.

3 (b) A copy of the notice to comply is presented to a person who  
4 is an owner, operator, employee, or representative of the facility  
5 being inspected at the time that the notice to comply is written. If  
6 offsite testing is required pursuant to subdivision (a), a copy of the  
7 notice to comply may be mailed to the owner or operator of the  
8 facility.

9 (c) The notice to comply clearly states the nature of the alleged  
10 minor violation, a means by which compliance with the  
11 requirement cited by the state board's or district's representative  
12 or an authorized or designated officer may be achieved, and a time  
13 limit in which to comply, which shall not exceed 30 days.

14 (d) The notice to comply shall contain the information specified  
15 in subdivision (h) of Section 39152 with regard to the possible  
16 reinspection of the facility.

17 39152. (a) An authorized representative of the state board or  
18 district or an authorized or designated officer, who, in the course  
19 of conducting an inspection, detects a minor violation shall issue  
20 a notice to comply before leaving the site at which the minor  
21 violation is alleged to have occurred if the authorized representative  
22 finds that a notice to comply is warranted.

23 (b) A person who receives a notice to comply pursuant to  
24 subdivision (a) shall have the period specified in the notice to  
25 comply from the date of receipt of the notice to comply in which  
26 to achieve compliance with the requirement cited on the notice to  
27 comply. Within five working days of achieving compliance, the  
28 person who received the notice to comply shall sign the notice to  
29 comply and return it to the state board's or district's representative  
30 or an authorized or designated officer, stating that the person has  
31 complied with the notice to comply. A false statement that  
32 compliance has been achieved is a violation of this division  
33 pursuant to Section 42400.2 or 42402.2.

34 (c) A single notice to comply shall be issued for all minor  
35 violations cited during the same inspection and the notice to comply  
36 shall separately list each cited minor violation and the manner in  
37 which each minor violation may be brought into compliance.

38 (d) A notice to comply shall not be issued for any minor  
39 violation that is corrected immediately in the presence of the  
40 inspector. Immediate compliance in that manner may be noted in

1 the inspection report, but the person shall not be subject to any  
2 further action by the state board's or district's representative or an  
3 authorized or designated officer.

4 (e) Except as otherwise provided in subdivision (g), a notice to  
5 comply shall be the only means by which the state board's or  
6 district's representative or an authorized or designated officer shall  
7 cite a minor violation. The state board's or district's representative  
8 or an authorized or designated officer shall not take any other  
9 enforcement action specified in this division to enforce the minor  
10 violation against a person who has received a notice to comply if  
11 the person is in compliance with this section.

12 (f) If a person who receives a notice to comply pursuant to  
13 subdivision (a) disagrees with one or more of the alleged violations  
14 cited in the notice to comply, the person shall give written notice  
15 of appeal to the state board or district, which shall develop a  
16 process for reviewing and determining the disposition of the appeal.

17 (g) Notwithstanding any other provision of this section, if a  
18 person fails to comply with a notice to comply within the  
19 prescribed period, or if the state board or district or an authorized  
20 or designated officer determines that the circumstances surrounding  
21 a particular minor violation are such that immediate enforcement  
22 is warranted to prevent harm to the public health or safety or to  
23 the environment, the state board or district or an authorized or  
24 designated officer may take any needed enforcement action  
25 authorized by this division.

26 (h) A notice to comply issued to a person pursuant to this section  
27 shall contain a statement that the inspected facility may be subject  
28 to reinspection at any time. Nothing in this section shall be  
29 construed as preventing the reinspection of a facility to ensure  
30 compliance or to ensure that minor violations cited in a notice to  
31 comply have been corrected.

32 (i) Nothing in this section shall be construed as preventing the  
33 state board or district or an authorized or designated officer, on a  
34 case-by-case basis, from requiring a person subject to a notice to  
35 comply to submit reasonable and necessary documentation to  
36 support a claim of compliance by the person.

37 (j) Nothing in this section restricts the power of a city attorney,  
38 district attorney, county counsel, or the Attorney General to bring,  
39 in the name of the people of California, any criminal proceeding  
40 otherwise authorized by law. Furthermore, nothing in this section

1 prevents the state board or district, or any representative of the  
2 state board or district, from cooperating with, or participating in,  
3 such a proceeding.

4 (k) Notwithstanding any other provision of this section, if the  
5 state board or district or an authorized or designated officer  
6 determines that the circumstances surrounding a particular minor  
7 violation are such that the assessment of a civil penalty pursuant  
8 to this division is warranted or required by federal law, in addition  
9 to issuance of a notice to comply, the state board or district or an  
10 authorized or designated officer shall assess a civil penalty in  
11 accordance with this division, if the state board or district or an  
12 authorized or designated officer makes written findings that set  
13 forth the basis for the determination of the state board or district.

14 39153. On or before January 1, 2020, the state board shall  
15 report to the Legislature on actions taken by the state board and  
16 the districts to implement this chapter and the results of that  
17 implementation. Each district shall provide the state board with  
18 the information that the state board requests to determine the degree  
19 to which the purposes described in subdivision (a) of Section 39150  
20 have been achieved. The report shall be submitted consistent with  
21 Section 9795 of the Government Code.

22 SEC. 2. No reimbursement is required by this act pursuant to  
23 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 or because costs that may be  
27 incurred by a local agency or school district will be incurred  
28 because this act creates a new crime or infraction, eliminates a  
29 crime or infraction, or changes the penalty for a crime or infraction,  
30 within the meaning of Section 17556 of the Government Code, or  
31 changes the definition of a crime within the meaning of Section 6  
32 of Article XIII B of the California Constitution.

**Introduced by Senator Pavley**December 1, 2014

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An act to amend Sections 38550 and 38551 of the Health and Safety Code, relating to greenhouse gases.

## LEGISLATIVE COUNSEL'S DIGEST

SB 32, as introduced, Pavley. California Global Warming Solutions Act of 2006: emissions limit.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020 and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas emissions reductions.

This bill would require the state board to approve a statewide greenhouse gas emission limit that is equivalent to 80% below the 1990 level to be achieved by 2050, as specified. The bill would authorize the state board to adopt interim greenhouse gas emissions level targets to be achieved by 2030 and 2040. The bill also would state the intent of the Legislature for the Legislature and appropriate agencies to adopt complementary policies that ensure long-term emissions reductions advance specified criteria.

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 38550 of the Health and Safety Code is  
2 amended to read:

3 38550. (a) By January 1, 2008, the state board shall, after one  
4 or more public workshops, with public notice, and an opportunity  
5 for all interested parties to comment, determine what the statewide  
6 greenhouse gas emissions level was in 1990, and approve in a  
7 public hearing, a statewide greenhouse gas emissions limit that is  
8 equivalent to that level, to be achieved by 2020. In order to ensure  
9 the most accurate determination feasible, the state board shall  
10 evaluate the best available scientific, technological, and economic  
11 information on greenhouse gas emissions to determine the 1990  
12 level of greenhouse gas emissions.

13 (b) (1) *Notwithstanding subdivision (a), the state board shall*  
14 *approve in a public hearing a statewide greenhouse gas emissions*  
15 *limit that is equivalent to 80 percent below the 1990 level, as*  
16 *determined pursuant to subdivision (a) or Section 39730, to be*  
17 *achieved by 2050 based on the best available scientific,*  
18 *technological, and economic assessments. The greenhouse gas*  
19 *emissions limit shall include short-lived climate pollutants, as*  
20 *defined in Chapter 4.2 (commencing with Section 39730) of Part*  
21 *2 of Division 26.*

22 (2) *The state board also may approve interim greenhouse gas*  
23 *emissions level targets to be achieved by 2030 and 2040 consistent*  
24 *with paragraph (1).*

25 SEC. 2. Section 38551 of the Health and Safety Code is  
26 amended to read:

27 38551. (a) The statewide greenhouse gas emissions limit shall  
28 remain in effect unless otherwise amended or repealed.

29 (b) It is the intent of the Legislature that the 2050 statewide  
30 greenhouse gas emissions limit *established pursuant to Section*  
31 *38550* continue in existence and be used to maintain and continue  
32 reductions in emissions of greenhouse gases beyond-2020: 2050.

33 (c) The state board shall make recommendations to the Governor  
34 and the Legislature on how to continue reductions of greenhouse  
35 gas emissions beyond-2020: 2050.

36 (d) *In implementing subdivision (b) of Section 38550, it is the*  
37 *intent of the Legislature for the Legislature and appropriate*  
38 *agencies to adopt complementary policies that ensure long-term*



- 1 *emissions reductions adopted pursuant to subdivision (b) of Section*  
2 *38550 advance all of the following:*  
3 *(1) Job growth and local economic benefits in California.*  
4 *(2) Public health benefits for California residents, particularly*  
5 *in disadvantaged communities.*  
6 *(3) Innovation in technology and energy, water, and resource*  
7 *management practices.*  
8 *(4) Regional and international collaboration to adopt similar*  
9 *greenhouse gas emissions reduction policies.*

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**Introduced by Senators De León and Leno  
(Coauthors: Senators Hancock and Monning)**

February 24, 2015

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An act to amend Section 43013 of the Health and Safety Code, to amend Sections 25000.5 and 25943 of the Public Resources Code, and to amend Sections 399.11, 399.12, 399.13, 399.15, 399.16, 399.18, 399.21, and 399.30 of, to add Section 454.51 to, and to add Article 17 (commencing with Section 400) to Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 350, as introduced, De León. Clean Energy and Pollution Reduction Act of 2015.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing boards.

Existing law establishes the California Renewables Portfolio Standard (RPS) program, which expresses the intent of the Legislature that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 33% of the total electricity sold to retail customers in California per year by December 31, 2020. Existing law requires the PUC, by January 1, 2012, to establish the quantity of electricity products from eligible renewable energy resources to be procured by each retail seller for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all

subsequent years. Existing law includes as an eligible renewable energy resources a specified facility engaged in the combustion of municipal solid waste.

Existing law makes the requirements of the RPS program applicable to local publicly owned electric utilities, except that the utility's governing board is responsible for implementation of those requirements, instead of the PUC, and certain enforcement authority with respect to local publicly owned electric utilities is given to the State Energy Resources Conservation and Development Commission (Energy Commission) and State Air Resources Board, instead of the PUC.

This bill would additionally express the intent of the Legislature for the purposes of the RPS program that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount equal to at least 50% by December 31, 2030, and would require the PUC, by January 1, 2017, to establish the quantity of electricity products from eligible renewable energy resources be procured by each retail seller for specified compliance periods sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 50% of retail sales by December 31, 2030. The bill would require the governing boards of local publicly owned electric utilities to ensure that specified quantities of electricity products from eligible renewable energy resources to be procured for specified compliance periods to ensure that the procurement of electricity products from eligible renewable energy resources achieve 50% of retail sales by December 31, 2030. The bill would exclude all facilities engaged in the combustion of municipal solid waste from being eligible renewable energy resources. The bill would require community choice aggregators and electric service providers to prepare and submit renewable energy procurement plans. The bill would revise other aspects of the RPS program, including, among other things, the enforcement provisions and would require penalties collected for noncompliance to be deposited in the Electric Program Investment Charge Fund. The bill would require the PUC to direct electrical corporations to include in their proposed procurement plans a strategy for procuring a diverse portfolio of resources that provide a reliable electricity supply. The bill would require the PUC and the Energy Commission to take certain actions in furtherance of meeting the state's clean energy and pollution reduction objectives.

(2) Under existing law, a violation of the RPS program is a crime.

Because the provisions of this bill would expand the RPS program, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) By placing additional requirements upon local publicly owned electric utilities, this bill would impose a state-mandated local program.

(4) Existing law requires the State Air Resources Board to adopt and implement various standards related to emissions from motor vehicles.

This bill would require those standards to be in furtherance of achieving a reduction in petroleum use in motor vehicles by 50% by January 1, 2030.

(5) Existing law states the policy of the state to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply sources, and competitiveness of transportation energy markets based on the least environmental and economic costs.

This bill would additionally state the policy of the state to exploit those conservation and improvements in furtherance of reducing petroleum use in the transportation sector by 50% by January 1, 2030.

(6) Existing law requires the Energy Commission to establish a regulatory proceeding to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock and to periodically update criteria for the program.

This bill would require the Energy Commission, by January 1, 2017, and at least once every 3 years thereafter, to adopt an update to the program in furtherance of achieving a doubling of energy efficiency in buildings by January 1, 2030.

(7) 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 reasons.

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. This act shall be known and may be cited as the  
2 Clean Energy and Pollution Reduction Act of 2015.

1 SEC. 2. (a) The Legislature finds and declares that the  
2 Governor has called for a new set of objectives in clean energy,  
3 clean air, and pollution reduction for 2030 and beyond. Those  
4 objectives consist of the following:

5 (1) To increase from 33 percent to 50 percent, the procurement  
6 of our electricity from renewable sources.

7 (2) To reduce today's petroleum use in cars and trucks by up  
8 to 50 percent.

9 (3) To double the efficiency of existing buildings.

10 (b) It is the intent of the Legislature in enacting this act to codify  
11 the targets described under subdivision (a) to ensure they are  
12 permanent, enforceable, and quantifiable.

13 SEC. 3. Section 43013 of the Health and Safety Code is  
14 amended to read:

15 43013. (a) The state board shall adopt and implement motor  
16 vehicle emission standards, in-use performance standards, and  
17 motor vehicle fuel specifications for the control of air contaminants  
18 and sources of air pollution which the state board has found to be  
19 necessary, cost effective, and technologically feasible, to carry out  
20 the purposes of this ~~division~~, *division and in furtherance of*  
21 *achieving a reduction in petroleum use in motor vehicles by 50*  
22 *percent by January 1, 2030*, unless preempted by federal law.

23 (b) The state board shall, consistent with subdivision (a), adopt  
24 standards and regulations for light-duty and heavy-duty motor  
25 vehicles, medium-duty motor vehicles, as determined and specified  
26 by the state board, portable fuel containers and spouts, and off-road  
27 or nonvehicle engine categories, including, but not limited to,  
28 off-highway motorcycles, off-highway vehicles, construction  
29 equipment, farm equipment, utility engines, locomotives, and, to  
30 the extent permitted by federal law, marine vessels.

31 (c) Prior to adopting standards and regulations for farm  
32 equipment, the state board shall hold a public hearing and find and  
33 determine that the standards and regulations are necessary, cost  
34 effective, and technologically feasible. The state board shall also  
35 consider the technological effects of emission control standards  
36 on the cost, fuel consumption, and performance characteristics of  
37 mobile farm equipment.

38 (d) Notwithstanding subdivision (b), the state board shall not  
39 adopt any standard or regulation affecting locomotives until the  
40 final study required under Section 5 of Chapter 1326 of the Statutes

1 of 1987 has been completed and submitted to the Governor and  
2 Legislature.

3 (e) Prior to adopting or amending any standard or regulation  
4 relating to motor vehicle fuel specifications pursuant to this section,  
5 the state board shall, after consultation with public or private  
6 entities that would be significantly impacted as described in  
7 paragraph (2) of subdivision (f), do both of the following:

8 (1) Determine the cost-effectiveness of the adoption or  
9 amendment of the standard or regulation. The cost-effectiveness  
10 shall be compared on an incremental basis with other mobile source  
11 control methods and options.

12 (2) Based on a preponderance of scientific and engineering data  
13 in the record, determine the technological feasibility of the adoption  
14 or amendment of the standard or regulation. That determination  
15 shall include, but is not limited to, the availability, effectiveness,  
16 reliability, and safety expected of the proposed technology in an  
17 application that is representative of the proposed use.

18 (f) Prior to adopting or amending any motor vehicle fuel  
19 specification pursuant to this section, the state board shall do both  
20 of the following:

21 (1) To the extent feasible, quantitatively document the  
22 significant impacts of the proposed standard or specification on  
23 affected segments of the state's economy. The economic analysis  
24 shall include, but is not limited to, the significant impacts of any  
25 change on motor vehicle fuel efficiency, the existing motor vehicle  
26 fuel distribution system, the competitive position of the affected  
27 segment relative to border states, and the cost to consumers.

28 (2) Consult with public or private entities that would be  
29 significantly impacted to identify those investigative or preventive  
30 actions that may be necessary to ensure consumer acceptance,  
31 product availability, acceptable performance, and equipment  
32 reliability. The significantly impacted parties shall include, but are  
33 not limited to, fuel manufacturers, fuel distributors, independent  
34 marketers, vehicle manufacturers, and fuel users.

35 (g) To the extent that there is any conflict between the  
36 information required to be prepared by the state board pursuant to  
37 subdivision (f) and information required to be prepared by the state  
38 board pursuant to Chapter 3.5 (commencing with Section 11340)  
39 of Part 1 of Division 3 of Title 2 of the Government Code, the  
40 requirements established under subdivision (f) shall prevail.

1 (h) It is the intent of the Legislature that the state board act as  
2 expeditiously as is feasible to reduce nitrogen oxide emissions  
3 from diesel vehicles, marine vessels, and other categories of  
4 vehicular and mobile sources which significantly contribute to air  
5 pollution problems.

6 SEC. 4. Section 25000.5 of the Public Resources Code is  
7 amended to read:

8 25000.5. (a) The Legislature finds and declares that  
9 overdependence on the production, marketing, and consumption  
10 of petroleum based fuels as an energy resource in the transportation  
11 sector is a threat to the energy security of the state due to  
12 continuing market and supply uncertainties. In addition, petroleum  
13 use as an energy resource contributes substantially to the following  
14 public health and environmental problems: air pollution, acid rain,  
15 global warming, and the degradation of California's marine  
16 environment and fisheries.

17 (b) Therefore, it is the policy of this state to fully evaluate the  
18 economic and environmental costs of petroleum use, and the  
19 economic and environmental costs of other transportation ~~fuels,~~  
20 *fuels and options*, including the costs and values of environmental  
21 impacts, and to establish a state transportation energy policy that  
22 results in the least environmental and economic cost to the state.  
23 In pursuing the "least environmental and economic cost" strategy,  
24 it is the policy of the state to exploit all practicable and  
25 cost-effective conservation and improvements in the efficiency of  
26 energy use and distribution, and to achieve energy security,  
27 diversity of supply sources, and competitiveness of transportation  
28 energy markets based on the least environmental and economic  
29 ~~cost. cost, and in furtherance of reducing petroleum use in the~~  
30 *transportation sector by 50 percent by January 1, 2030.*

31 (c) It is also the policy of this state to minimize the economic  
32 and environmental costs due to the use of petroleum-based and  
33 other transportation fuels by state agencies. In implementing a  
34 least-cost economic and environmental strategy for state fleets, it  
35 is the policy of the state to implement practicable and cost-effective  
36 measures, including, but not necessarily limited to, the purchase  
37 of the cleanest and most efficient automobiles and replacement  
38 tires, the use of alternative fuels in its fleets, and other conservation  
39 measures.

1 (d) For the purposes of this section, “petroleum based fuels”  
2 means fuels derived from liquid unrefined crude oil, including  
3 natural gas liquids, liquefied petroleum gas, or the energy fraction  
4 of methyl tertiary-butyl ether (MTBE) or other ethers that is not  
5 attributed to natural gas.

6 SEC. 5. Section 25943 of the Public Resources Code is  
7 amended to read:

8 25943. (a) (1) By March 1, 2010, the commission shall  
9 establish a regulatory proceeding to develop and implement a  
10 comprehensive program to achieve greater energy savings in  
11 California’s existing residential and nonresidential building stock.  
12 This program shall comprise a complementary portfolio of  
13 techniques, applications, and practices that will achieve greater  
14 energy efficiency in existing residential and nonresidential  
15 structures that fall significantly below the current standards in Title  
16 24 of the California Code of Regulations, as determined by the  
17 commission.

18 (2) The comprehensive program may include, but need not be  
19 limited to, a broad range of energy assessments, building  
20 benchmarking, energy rating, cost-effective energy efficiency  
21 improvements, public and private sector energy efficiency  
22 financing options, public outreach and education efforts, and green  
23 workforce training.

24 (b) To develop and implement the program specified in  
25 subdivision (a), the commission shall do both of the following:

26 (1) Coordinate with the Public Utilities Commission and consult  
27 with representatives from the Bureau of Real Estate, the  
28 Department of Housing and Community Development,  
29 investor-owned and publicly owned utilities, local governments,  
30 real estate licensees, commercial and homebuilders, commercial  
31 property owners, small businesses, mortgage lenders, financial  
32 institutions, home appraisers, inspectors, energy rating  
33 organizations, consumer groups, environmental and environmental  
34 justice groups, and other entities the commission deems  
35 appropriate.

36 (2) Hold at least three public hearings in geographically diverse  
37 locations throughout the state.

38 (c) In developing the requirements for the program specified in  
39 subdivision (a), the commission shall consider all of the following:



- 1 (1) The amount of annual and peak energy savings, greenhouse  
2 gas emission reductions, and projected customer utility bill savings  
3 that will accrue from the program.
- 4 (2) The most cost-effective means and reasonable timeframes  
5 to achieve the goals of the program.
- 6 (3) The various climatic zones within the state.
- 7 (4) An appropriate method to inform and educate the public  
8 about the need for, benefits of, and environmental impacts of, the  
9 comprehensive energy efficiency program.
- 10 (5) The most effective way to report the energy assessment  
11 results and the corresponding energy efficiency improvements to  
12 the owner of the residential or nonresidential building, including,  
13 among other things, the following:
  - 14 (A) Prioritizing the identified energy efficiency improvements.
  - 15 (B) The payback period or cost-effectiveness of each  
16 improvement identified.
  - 17 (C) The various incentives, loans, grants, and rebates offered  
18 to finance the improvements.
  - 19 (D) Available financing options including all of the following:
    - 20 (i) Mortgages or sales agreement components.
    - 21 (ii) On-bill financing.
    - 22 (iii) Contractual property tax assessments.
    - 23 (iv) Home warranties.
- 24 (6) Existing statutory and regulatory requirements to achieve  
25 energy efficiency savings and greenhouse gas emission reductions.
- 26 (7) A broad range of implementation approaches, including both  
27 utility and nonutility administration of energy efficiency programs.
- 28 (8) Any other considerations deemed appropriate by the  
29 commission.
- 30 (d) The program developed pursuant to this section shall do all  
31 of the following:
  - 32 (1) Minimize the overall costs of establishing and implementing  
33 the comprehensive energy efficiency program requirements.
  - 34 (2) Ensure, for residential buildings, that the energy efficiency  
35 assessments, ratings, or improvements do not unreasonably or  
36 unnecessarily affect the home purchasing process or the ability of  
37 individuals to rent housing. A transfer of property subject to the  
38 program implemented pursuant to this section shall not be  
39 invalidated solely because of the failure of a person to comply  
40 with a provision of the program.

1 (3) Ensure, for nonresidential buildings, that the energy  
2 improvements do not have an undue economic impact on California  
3 businesses.

4 (4) Determine, for residential buildings, the appropriateness of  
5 the Home Energy Rating System (HERS) program to support the  
6 goals of this section and whether there are a sufficient number of  
7 HERS-certified raters available to meet the program requirements.

8 (5) Determine, for nonresidential structures, the availability of  
9 an appropriate cost-effective energy efficiency assessment system  
10 and whether there are a sufficient number of certified raters or  
11 auditors available to meet the program requirements.

12 (6) Coordinate with the California Workforce Investment Board,  
13 the Employment Training Panel, the California Community  
14 Colleges, and other entities to ensure a qualified, well-trained  
15 workforce is available to implement the program requirements.

16 (7) Coordinate with, and avoid duplication of, existing  
17 proceedings of the Public Utilities Commission and programs  
18 administered by utilities.

19 (e) A home energy rating or energy assessment service does not  
20 meet the requirements of this section unless the service has been  
21 certified by the commission to be in compliance with the program  
22 criteria developed pursuant to this section and is in conformity  
23 with other applicable elements of the program.

24 (f) (1) The commission shall periodically update the criteria  
25 and adopt any revision that, in its judgment, is necessary to improve  
26 or refine program requirements after receiving public input.

27 (2) *On or before January 1, 2017, and at least once every three*  
28 *years thereafter, the commission shall adopt an update to the*  
29 *program in furtherance of achieving a doubling of the energy*  
30 *efficiency of buildings by January 1, 2030.*

31 (g) Before implementing an element of the program developed  
32 pursuant to subdivision (a) that requires the expansion of statutory  
33 authority of the commission or the Public Utilities Commission,  
34 the commission and the Public Utilities Commission shall obtain  
35 legislative approval for the expansion of their authorities.

36 (h) The commission shall report on the status of the program in  
37 the integrated energy policy report pursuant to Section 25302.

38 (i) The commission shall fund activities undertaken pursuant  
39 to this section from the Federal Trust Fund consistent with the  
40 federal American Recovery and Reinvestment Act of 2009 (Public

1 Law 111-5) or other sources of nonstate funds available to the  
2 commission for the purposes of this section.

3 (j) For purposes of this section, “energy assessment” means a  
4 determination of an energy user’s energy consumption level,  
5 relative efficiency compared to other users, and opportunities to  
6 achieve greater efficiency or improve energy resource utilization.

7 SEC. 6. Section 399.11 of the Public Utilities Code is amended  
8 to read:

9 399.11. The Legislature finds and declares all of the following:

10 (a) In order to attain a target of generating 20 percent of total  
11 retail sales of electricity in California from eligible renewable  
12 energy resources by December 31, 2013,~~and~~ 33 percent by  
13 December 31, 2020, *and 50 percent by December 31, 2030*, it is  
14 the intent of the Legislature that the commission and the Energy  
15 Commission implement the California Renewables Portfolio  
16 Standard Program described in this article.

17 (b) Achieving the renewables portfolio standard through the  
18 procurement of various electricity products from eligible renewable  
19 energy resources is intended to provide unique benefits to  
20 California, including all of the following, each of which  
21 independently justifies the program:

22 (1) Displacing fossil fuel consumption within the state.

23 (2) Adding new electrical generating facilities in the  
24 transmission network within the Western Electricity Coordinating  
25 Council service area.

26 (3) Reducing air pollution in the state.

27 (4) Meeting the state’s climate change goals by reducing  
28 emissions of greenhouse gases associated with electrical generation.

29 (5) Promoting stable retail rates for electric service.

30 (6) Meeting the state’s need for a diversified and balanced  
31 energy generation portfolio.

32 (7) Assistance with meeting the state’s resource adequacy  
33 requirements.

34 (8) Contributing to the safe and reliable operation of the  
35 electrical grid, including providing predictable electrical supply,  
36 voltage support, lower line losses, and congestion relief.

37 (9) Implementing the state’s transmission and land use planning  
38 activities related to development of eligible renewable energy  
39 resources.

1 (c) The California Renewables Portfolio Standard Program is  
2 intended to complement the Renewable Energy Resources Program  
3 administered by the Energy Commission and established pursuant  
4 to Chapter 8.6 (commencing with Section 25740) of Division 15  
5 of the Public Resources Code.

6 (d) New and modified electric transmission facilities may be  
7 necessary to facilitate the state achieving its renewables portfolio  
8 standard targets.

9 (e) (1) Supplying electricity to California end-use customers  
10 that is generated by eligible renewable energy resources is  
11 necessary to improve California’s air quality and public health,  
12 and the commission shall ensure rates are just and reasonable, and  
13 are not significantly affected by the procurement requirements of  
14 this article. This electricity may be generated anywhere in the  
15 interconnected grid that includes many states, and areas of both  
16 Canada and Mexico.

17 (2) This article requires generating resources located outside of  
18 California that are able to supply that electricity to California  
19 end-use customers to be treated identically to generating resources  
20 located within the state, without discrimination.

21 (3) California electrical corporations have already executed,  
22 and the commission has approved, power purchase agreements  
23 with eligible renewable energy resources located outside of  
24 California that will supply electricity to California end-use  
25 customers. These resources will fully count toward meeting the  
26 renewables portfolio standard procurement requirements. ~~In  
27 addition, there are nearly 7,000 megawatts of additional proposed  
28 renewable energy resources located outside of California that are  
29 awaiting interconnection approval from the Independent System  
30 Operator. All of these resources, if procured, will count as eligible  
31 renewable energy resources that satisfy the portfolio content  
32 requirements of paragraph (1) of subdivision (c) of Section 399.16.~~

33 SEC. 7. Section 399.12 of the Public Utilities Code is amended  
34 to read:

35 399.12. For purposes of this article, the following terms have  
36 the following meanings:

37 (a) “Conduit hydroelectric facility” means a facility for the  
38 generation of electricity that uses only the hydroelectric potential  
39 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other

1 manmade conduit that is operated to distribute water for a  
2 beneficial use.

3 (b) “Balancing authority” means the responsible entity that  
4 integrates resource plans ahead of time, maintains load-interchange  
5 generation balance within a balancing authority area, and supports  
6 interconnection frequency in real time.

7 (c) “Balancing authority area” means the collection of  
8 generation, transmission, and loads within the metered boundaries  
9 of the area within which the balancing authority maintains the  
10 electrical load-resource balance.

11 (d) “California balancing authority” is a balancing authority  
12 with control over a balancing authority area primarily located in  
13 this state and operating for retail sellers and local publicly owned  
14 electric utilities subject to the requirements of this article and  
15 includes the Independent System Operator (ISO) and a local  
16 publicly owned electric utility operating a transmission grid that  
17 is not under the operational control of the ISO. A California  
18 balancing authority is responsible for the operation of the  
19 transmission grid within its metered boundaries which may not be  
20 limited by the political boundaries of the State of California.

21 (e) “Eligible renewable energy resource” means an electrical  
22 generating facility that meets the definition of a “renewable  
23 electrical generation facility” in Section 25741 of the Public  
24 Resources Code, subject to the following:

25 (1) (A) An existing small hydroelectric generation facility of  
26 30 megawatts or less shall be eligible only if a retail seller or local  
27 publicly owned electric utility procured the electricity from the  
28 facility as of December 31, 2005. A new hydroelectric facility that  
29 commences generation of electricity after December 31, 2005, is  
30 not an eligible renewable energy resource if it will cause an adverse  
31 impact on instream beneficial uses or cause a change in the volume  
32 or timing of streamflow.

33 (B) Notwithstanding subparagraph (A), a conduit hydroelectric  
34 facility of 30 megawatts or less that commenced operation before  
35 January 1, 2006, is an eligible renewable energy resource. A  
36 conduit hydroelectric facility of 30 megawatts or less that  
37 commences operation after December 31, 2005, is an eligible  
38 renewable energy resource so long as it does not cause an adverse  
39 impact on instream beneficial uses or cause a change in the volume  
40 or timing of streamflow.

1 (C) A facility approved by the governing board of a local  
2 publicly owned electric utility prior to June 1, 2010, for  
3 procurement to satisfy renewable energy procurement obligations  
4 adopted pursuant to former Section 387, shall be certified as an  
5 eligible renewable energy resource by the Energy Commission  
6 pursuant to this article, if the facility is a “renewable electrical  
7 generation facility” as defined in Section 25741 of the Public  
8 Resources Code.

9 (D) (i) A small hydroelectric generation unit with a nameplate  
10 capacity not exceeding 40 megawatts that is operated as part of a  
11 water supply or conveyance system is an eligible renewable energy  
12 resource only for the retail seller or local publicly owned electric  
13 utility that procured the electricity from the unit as of December  
14 31, 2005. No unit shall be eligible pursuant to this subparagraph  
15 if an application for certification is submitted to the Energy  
16 Commission after January 1, 2013. Only one retail seller or local  
17 publicly owned electric utility shall be deemed to have procured  
18 electricity from a given unit as of December 31, 2005.

19 (ii) Notwithstanding clause (i), a local publicly owned electric  
20 utility that meets the criteria of subdivision (j) of Section 399.30  
21 may sell to another local publicly owned electric utility electricity  
22 from small hydroelectric generation units that qualify as eligible  
23 renewable energy resources under clause (i), and that electricity  
24 may be used by the local publicly owned electric utility that  
25 purchased the electricity to meet its renewables portfolio standard  
26 procurement requirements. The total of all those sales from the  
27 utility shall be no greater than 100,000 megawatthours of  
28 electricity.

29 (iii) The amendments made to this subdivision by the act adding  
30 this subparagraph are intended to clarify existing law and apply  
31 from December 10, 2011.

32 (2) (A) A facility engaged in the combustion of municipal solid  
33 waste shall not be considered an eligible renewable energy resource  
34 ~~unless it is located in Stanislaus County and was operational prior~~  
35 ~~to September 26, 1996.~~ *resource.*

36 (B) *Subparagraph (A) does not apply to contracts entered into*  
37 *before January 1, 2016, for the procurement of renewable energy*  
38 *resources from a facility located in Stanislaus County that was*  
39 *operational prior to September 26, 1996.*

40 (f) “Procure” means to acquire through ownership or contract.

1 (g) “Procurement entity” means any person or corporation  
2 authorized by the commission to enter into contracts to procure  
3 eligible renewable energy resources on behalf of customers of a  
4 retail seller pursuant to subdivision (f) of Section 399.13.

5 (h) (1) “Renewable energy credit” means a certificate of proof  
6 associated with the generation of electricity from an eligible  
7 renewable energy resource, issued through the accounting system  
8 established by the Energy Commission pursuant to Section 399.25,  
9 that one unit of electricity was generated and delivered by an  
10 eligible renewable energy resource.

11 (2) “Renewable energy credit” includes all renewable and  
12 environmental attributes associated with the production of  
13 electricity from the eligible renewable energy resource, except for  
14 an emissions reduction credit issued pursuant to Section 40709 of  
15 the Health and Safety Code and any credits or payments associated  
16 with the reduction of solid waste and treatment benefits created  
17 by the utilization of biomass or biogas fuels.

18 (3) (A) Electricity generated by an eligible renewable energy  
19 resource attributable to the use of nonrenewable fuels, beyond a  
20 de minimis quantity used to generate electricity in the same process  
21 through which the facility converts renewable fuel to electricity,  
22 shall not result in the creation of a renewable energy credit. The  
23 Energy Commission shall set the de minimis quantity of  
24 nonrenewable fuels for each renewable energy technology at a  
25 level of no more than 2 percent of the total quantity of fuel used  
26 by the technology to generate electricity. The Energy Commission  
27 may adjust the de minimis quantity for an individual facility, up  
28 to a maximum of 5 percent, if it finds that all of the following  
29 conditions are met:

30 (i) The facility demonstrates that the higher quantity of  
31 nonrenewable fuel will lead to an increase in generation from the  
32 eligible renewable energy facility that is significantly greater than  
33 generation from the nonrenewable fuel alone.

34 (ii) The facility demonstrates that the higher quantity of  
35 nonrenewable fuels will reduce the variability of its electrical  
36 output in a manner that results in net environmental benefits to the  
37 state.

38 (iii) The higher quantity of nonrenewable fuel is limited to either  
39 natural gas or hydrogen derived by reformation of a fossil fuel.

1 (B) Electricity generated by a small hydroelectric generation  
2 facility shall not result in the creation of a renewable energy credit  
3 unless the facility meets the requirements of subparagraph (A) or  
4 (D) of paragraph (1) of subdivision (e).

5 (C) Electricity generated by a conduit hydroelectric generation  
6 facility shall not result in the creation of a renewable energy credit  
7 unless the facility meets the requirements of subparagraph (B) of  
8 paragraph (1) of subdivision (e).

9 (D) Electricity generated by a facility engaged in the combustion  
10 of municipal solid waste shall not result in the creation of a  
11 renewable energy credit unless the facility meets the requirements  
12 of paragraph (2) of subdivision (e). *credit. This subparagraph does*  
13 *not apply to renewable energy credits that were generated before*  
14 *January 1, 2016, by a facility engaged in the combustion of*  
15 *municipal solid waste located in Stanislaus County that was*  
16 *operational prior to September 26, 1996, and sold pursuant to*  
17 *contacts entered into before January 1, 2016.*

18 (i) “Renewables portfolio standard” means the specified  
19 percentage of electricity generated by eligible renewable energy  
20 resources that a retail seller or a local publicly owned electric utility  
21 is required to procure pursuant to this article.

22 (j) “Retail seller” means an entity engaged in the retail sale of  
23 electricity to end-use customers located within the state, including  
24 any of the following:

25 (1) An electrical corporation, as defined in Section 218.

26 (2) A community choice aggregator. ~~The commission shall~~  
27 ~~institute a rulemaking to determine the manner in which a A~~  
28 ~~community choice aggregator will shall~~ participate in the  
29 renewables portfolio standard program subject to the same terms  
30 and conditions applicable to an electrical corporation.

31 (3) An electric service provider, as defined in Section ~~218.3;~~  
32 ~~for all sales of electricity to customers beginning January 1, 2006.~~  
33 ~~The commission shall institute a rulemaking to determine the~~  
34 ~~manner in which electric service providers will participate in the~~  
35 ~~renewables portfolio standard program. 218.3.~~ The electric service  
36 provider shall be subject to the same terms and conditions  
37 applicable to an electrical corporation pursuant to this article. This  
38 paragraph does not impair a contract entered into between an  
39 electric service provider and a retail customer prior to the



1 suspension of direct access by the commission pursuant to Section  
2 80110 of the Water Code.

3 (4) “Retail seller” does not include any of the following:

4 (A) A corporation or person employing cogeneration technology  
5 or producing electricity consistent with subdivision (b) of Section  
6 218.

7 (B) The Department of Water Resources acting in its capacity  
8 pursuant to Division 27 (commencing with Section 80000) of the  
9 Water Code.

10 (C) A local publicly owned electric utility.

11 (k) “WECC” means the Western Electricity Coordinating  
12 Council of the North American Electric Reliability Corporation,  
13 or a successor to the corporation.

14 SEC. 8. Section 399.13 of the Public Utilities Code is amended  
15 to read:

16 399.13. (a) (1) The commission shall direct each electrical  
17 corporation to annually prepare a renewable energy procurement  
18 plan that includes the matter in paragraph (5), to satisfy its  
19 obligations under the renewables portfolio standard. To the extent  
20 feasible, this procurement plan shall be proposed, reviewed, and  
21 adopted by the commission as part of, and pursuant to, a general  
22 procurement plan process. The commission shall require each  
23 electrical corporation to review and update its renewable energy  
24 procurement plan as it determines to be necessary. *The commission*  
25 *shall require all other retail sellers to prepare and submit*  
26 *renewable energy procurement plans that address the requirements*  
27 *identified in paragraph (5).*

28 (2) Every electrical corporation that owns electrical transmission  
29 facilities shall annually prepare, as part of the Federal Energy  
30 Regulatory Commission Order 890 process, and submit to the  
31 commission, a report identifying any electrical transmission  
32 facility, upgrade, or enhancement that is reasonably necessary to  
33 achieve the renewables portfolio standard procurement  
34 requirements of this article. Each report shall look forward at least  
35 five years and, to ensure that adequate investments are made in a  
36 timely manner, shall include a preliminary schedule when an  
37 application for a certificate of public convenience and necessity  
38 will be made, pursuant to Chapter 5 (commencing with Section  
39 1001), for any electrical transmission facility identified as being  
40 reasonably necessary to achieve the renewable energy resources

1 procurement requirements of this article. Each electrical  
2 corporation that owns electrical transmission facilities shall ensure  
3 that project-specific interconnection studies are completed in a  
4 timely manner.

5 (3) The commission shall direct each retail seller to prepare and  
6 submit an annual compliance report that includes all of the  
7 following:

8 (A) The current status and progress made during the prior year  
9 toward procurement of eligible renewable energy resources as a  
10 percentage of retail sales, including, if applicable, the status of any  
11 necessary siting and permitting approvals from federal, state, and  
12 local agencies for those eligible renewable energy resources  
13 procured by the retail seller, and the current status of compliance  
14 with the portfolio content requirements of subdivision (c) of  
15 Section 399.16, including procurement of eligible renewable energy  
16 resources located outside the state and within the WECC and  
17 unbundled renewable energy credits.

18 (B) If the retail seller is an electrical corporation, the current  
19 status and progress made during the prior year toward construction  
20 of, and upgrades to, transmission and distribution facilities and  
21 other electrical system components it owns to interconnect eligible  
22 renewable energy resources and to supply the electricity generated  
23 by those resources to load, including the status of planning, siting,  
24 and permitting transmission facilities by federal, state, and local  
25 agencies.

26 (C) Recommendations to remove impediments to making  
27 progress toward achieving the renewable energy resources  
28 procurement requirements established pursuant to this article.

29 (4) The commission shall adopt, by rulemaking, all of the  
30 following:

31 (A) A process that provides criteria for the rank ordering and  
32 selection of least-cost and best-fit eligible renewable energy  
33 resources to comply with the California Renewables Portfolio  
34 Standard Program obligations on a total cost basis. This process  
35 shall take into account all of the following:

36 (i) Estimates of indirect costs associated with needed  
37 transmission investments.

38 (ii) The cost impact of procuring the eligible renewable energy  
39 resources on the electrical corporation's electricity portfolio.

1 (iii) The viability of the project to construct and reliably operate  
2 the eligible renewable energy resource, including the developer's  
3 experience, the feasibility of the technology used to generate  
4 electricity, and the risk that the facility will not be built, or that  
5 construction will be delayed, with the result that electricity will  
6 not be supplied as required by the contract.

7 (iv) Workforce recruitment, training, and retention efforts,  
8 including the employment growth associated with the construction  
9 and operation of eligible renewable energy resources and goals  
10 for recruitment and training of women, minorities, and disabled  
11 veterans.

12 (v) (I) Estimates of electrical corporation expenses resulting  
13 from integrating and operating eligible renewable energy resources,  
14 including, but not limited to, any additional wholesale energy and  
15 capacity costs associated with integrating each eligible renewable  
16 resource.

17 (II) No later than December 31, 2015, the commission shall  
18 approve a methodology for determining the integration costs  
19 described in subclause (I).

20 (B) Rules permitting retail sellers to accumulate, beginning  
21 January 1, 2011, excess procurement in one compliance period to  
22 be applied to any subsequent compliance period. The rules shall  
23 apply equally to all retail sellers. In determining the quantity of  
24 excess procurement for the applicable compliance period, the  
25 commission shall deduct from actual procurement quantities the  
26 total amount of procurement associated with contracts of less than  
27 10 years in ~~duration. In no event shall~~ *duration and* electricity  
28 products meeting the portfolio content of paragraph (3) of  
29 subdivision (b) of Section ~~399.16 be counted as excess~~  
30 ~~procurement.~~ *399.16.*

31 (C) Standard terms and conditions to be used by all electrical  
32 corporations in contracting for eligible renewable energy resources,  
33 including performance requirements for renewable generators. A  
34 contract for the purchase of electricity generated by an eligible  
35 renewable energy resource, at a minimum, shall include the  
36 renewable energy credits associated with all electricity generation  
37 specified under the contract. The standard terms and conditions  
38 shall include the requirement that, no later than six months after  
39 the commission's approval of an electricity purchase agreement  
40 entered into pursuant to this article, the following information

1 about the agreement shall be disclosed by the commission: party  
2 names, resource type, project location, and project capacity.

3 (D) An appropriate minimum margin of procurement above the  
4 minimum procurement level necessary to comply with the  
5 renewables portfolio standard to mitigate the risk that renewable  
6 projects planned or under contract are delayed or canceled. This  
7 paragraph does not preclude an electrical corporation from  
8 voluntarily proposing a margin of procurement above the  
9 appropriate minimum margin established by the commission.

10 (5) Consistent with the goal of increasing California's reliance  
11 on eligible renewable energy resources, the renewable energy  
12 procurement plan ~~submitted by an electrical corporation~~ shall  
13 include all of the following:

14 (A) An assessment of annual or multiyear portfolio supplies  
15 and demand to determine the optimal mix of eligible renewable  
16 energy resources with deliverability characteristics that may include  
17 peaking, dispatchable, baseload, firm, and as-available capacity.

18 (B) Potential compliance delays related to the conditions  
19 described in paragraph (5) of subdivision (b) of Section 399.15.

20 (C) A bid solicitation setting forth the need for eligible  
21 renewable energy resources of each deliverability characteristic,  
22 required online dates, and locational preferences, if any.

23 (D) A status update on the development schedule of all eligible  
24 renewable energy resources currently under contract.

25 (E) Consideration of mechanisms for price adjustments  
26 associated with the costs of key components for eligible renewable  
27 energy resource projects with online dates more than 24 months  
28 after the date of contract execution.

29 (F) An assessment of the risk that an eligible renewable energy  
30 resource will not be built, or that construction will be delayed,  
31 with the result that electricity will not be delivered as required by  
32 the contract.

33 (6) In soliciting and procuring eligible renewable energy  
34 resources, each electrical corporation shall offer contracts of no  
35 less than 10 years duration, unless the commission approves of a  
36 contract of shorter duration.

37 (7) In soliciting and procuring eligible renewable energy  
38 resources for California-based projects, each electrical corporation  
39 shall give preference to renewable energy projects that provide  
40 environmental and economic benefits to communities afflicted

1 with poverty or high unemployment, or that suffer from high  
2 emission levels of toxic air contaminants, criteria air pollutants,  
3 and greenhouse gases.

4 (b) A retail seller may enter into a combination of long- and  
5 short-term contracts for electricity and associated renewable energy  
6 credits. The commission may authorize a retail seller to enter into  
7 a contract of less than 10 years' duration with an eligible renewable  
8 energy resource, if the commission has established, for each retail  
9 seller, minimum quantities of eligible renewable energy resources  
10 to be procured through contracts of at least 10 years' duration.

11 (c) The commission shall review and accept, modify, or reject  
12 each electrical corporation's renewable energy resource  
13 procurement plan prior to the commencement of renewable energy  
14 procurement pursuant to this article by an electrical corporation.

15 (d) Unless previously preapproved by the commission, an  
16 electrical corporation shall submit a contract for the generation of  
17 an eligible renewable energy resource to the commission for review  
18 and approval consistent with an approved renewable energy  
19 resource procurement plan. If the commission determines that the  
20 bid prices are elevated due to a lack of effective competition among  
21 the bidders, the commission shall direct the electrical corporation  
22 to renegotiate the contracts or conduct a new solicitation.

23 (e) If an electrical corporation fails to comply with a commission  
24 order adopting a renewable energy resource procurement plan, the  
25 commission shall exercise its authority pursuant to ~~Section 2113~~  
26 to require compliance. ~~The commission shall enforce comparable~~  
27 ~~penalties on any retail seller that is not an electrical corporation~~  
28 ~~that fails to meet the procurement targets established pursuant to~~  
29 ~~Section 399.15.~~

30 (f) (1) The commission may authorize a procurement entity to  
31 enter into contracts on behalf of customers of a retail seller for  
32 electricity products from eligible renewable energy resources to  
33 satisfy the retail seller's renewables portfolio standard procurement  
34 requirements. The commission shall not require any person or  
35 corporation to act as a procurement entity or require any party to  
36 purchase eligible renewable energy resources from a procurement  
37 entity.

38 (2) Subject to review and approval by the commission, the  
39 procurement entity shall be permitted to recover reasonable  
40 administrative and procurement costs through the retail rates of

1 end-use customers that are served by the procurement entity and  
2 are directly benefiting from the procurement of eligible renewable  
3 energy resources.

4 (g) Procurement and administrative costs associated with  
5 contracts entered into by an electrical corporation for eligible  
6 renewable energy resources pursuant to this article and approved  
7 by the commission are reasonable and prudent and shall be  
8 recoverable in rates.

9 (h) Construction, alteration, demolition, installation, and repair  
10 work on an eligible renewable energy resource that receives  
11 production incentives pursuant to Section 25742 of the Public  
12 Resources Code, including work performed to qualify, receive, or  
13 maintain production incentives, are “public works” for the purposes  
14 of Chapter 1 (commencing with Section 1720) of Part 7 of Division  
15 2 of the Labor Code.

16 SEC. 9. Section 399.15 of the Public Utilities Code is amended  
17 to read:

18 399.15. (a) In order to fulfill unmet long-term resource needs,  
19 the commission shall establish a renewables portfolio standard  
20 requiring all retail sellers to procure a minimum quantity of  
21 electricity products from eligible renewable energy resources as  
22 a specified percentage of total kilowatthours sold to their retail  
23 end-use customers each compliance period to achieve the targets  
24 established under this article. For any retail seller procuring at least  
25 14 percent of retail sales from eligible renewable energy resources  
26 in 2010, the deficits associated with any previous renewables  
27 portfolio standard shall not be added to any procurement  
28 requirement pursuant to this article.

29 (b) The commission shall implement renewables portfolio  
30 standard procurement requirements only as follows:

31 (1) Each retail seller shall procure a minimum quantity of  
32 eligible renewable energy resources for each of the following  
33 compliance periods:

34 (A) January 1, 2011, to December 31, 2013, inclusive.

35 (B) January 1, 2014, to December 31, 2016, inclusive.

36 (C) January 1, 2017, to December 31, 2020, inclusive.

37 (D) *January 1, 2021, to December 31, 2024, inclusive.*

38 (E) *January 1, 2025, to December 31, 2027, inclusive.*

39 (D) *January 1, 2028, to December 31, 2030, inclusive.*

1 (2) (A) No later than January 1, ~~2012~~, 2017, the commission  
2 shall establish the quantity of electricity products from eligible  
3 renewable energy resources to be procured by the retail seller for  
4 each compliance period. These quantities shall be established in  
5 the same manner for all retail sellers and result in the same  
6 percentages used to establish compliance period quantities for all  
7 retail sellers.

8 (B) In establishing quantities for the compliance period from  
9 January 1, 2011, to December 31, 2013, inclusive, the commission  
10 shall require procurement for each retail seller equal to an average  
11 of 20 percent of retail sales. For the following compliance periods,  
12 the quantities shall reflect reasonable progress in each of the  
13 intervening years sufficient to ensure that the procurement of  
14 electricity products from eligible renewable energy resources  
15 achieves 25 percent of retail sales by December 31, 2016, ~~and 33~~  
16 ~~percent of retail sales by December 31, 2020. 2020, 40 percent by~~  
17 *December 31, 2024, 45 percent by December 31, 2027, and 50*  
18 *percent by December 31, 2030.* The commission shall *establish*  
19 *appropriate multiyear compliance periods for all subsequent years*  
20 *that require retail sellers to procure not less than 33 50 percent of*  
21 *retail sales of electricity products from eligible renewable energy*  
22 ~~resources in all subsequent years.~~ *resources.*

23 (C) Retail sellers shall be obligated to procure no less than the  
24 quantities associated with all intervening years by the end of each  
25 compliance period. Retail sellers shall not be required to  
26 demonstrate a specific quantity of procurement for any individual  
27 intervening year.

28 (3) The commission may require the procurement of eligible  
29 renewable energy resources in excess of the quantities specified  
30 in paragraph (2).

31 (4) Only for purposes of establishing the renewables portfolio  
32 standard procurement requirements of paragraph (1) and  
33 determining the quantities pursuant to paragraph (2), the  
34 commission shall include all electricity sold to retail customers by  
35 the Department of Water Resources pursuant to Division 27  
36 (commencing with Section 80000) of the Water Code in the  
37 calculation of retail sales by an electrical corporation.

38 (5) The commission shall waive enforcement of this section if  
39 it finds that the retail seller has demonstrated any of the following

1 conditions are beyond the control of the retail seller and will  
2 prevent compliance:

3 (A) There is inadequate transmission capacity to allow for  
4 sufficient electricity to be delivered from proposed eligible  
5 renewable energy resource projects using the current operational  
6 protocols of the Independent System Operator. In making its  
7 findings relative to the existence of this condition with respect to  
8 a retail seller that owns transmission lines, the commission shall  
9 consider both of the following:

10 (i) Whether the retail seller has undertaken, in a timely fashion,  
11 reasonable measures under its control and consistent with its  
12 obligations under local, state, and federal laws and regulations, to  
13 develop and construct new transmission lines or upgrades to  
14 existing lines intended to transmit electricity generated by eligible  
15 renewable energy resources. In determining the reasonableness of  
16 a retail seller's actions, the commission shall consider the retail  
17 seller's expectations for full-cost recovery for these transmission  
18 lines and upgrades.

19 (ii) Whether the retail seller has taken all reasonable operational  
20 measures to maximize cost-effective deliveries of electricity from  
21 eligible renewable energy resources in advance of transmission  
22 availability.

23 (B) Permitting, interconnection, or other circumstances that  
24 delay procured eligible renewable energy resource projects, or  
25 there is an insufficient supply of eligible renewable energy  
26 resources available to the retail seller. In making a finding that this  
27 condition prevents timely compliance, the commission shall  
28 consider whether the retail seller has done all of the following:

29 (i) Prudently managed portfolio risks, including relying on a  
30 sufficient number of viable projects.

31 (ii) Sought to develop one of the following: its own eligible  
32 renewable energy resources, transmission to interconnect to eligible  
33 renewable energy resources, or energy storage used to integrate  
34 eligible renewable energy resources. This clause shall not require  
35 an electrical corporation to pursue development of eligible  
36 renewable energy resources pursuant to Section 399.14.

37 (iii) Procured an appropriate minimum margin of procurement  
38 above the minimum procurement level necessary to comply with  
39 the renewables portfolio standard to compensate for foreseeable  
40 delays or insufficient supply.



1 (iv) Taken reasonable measures, under the control of the retail  
2 seller, to procure cost-effective distributed generation and allowable  
3 unbundled renewable energy credits.

4 (C) Unanticipated curtailment of eligible renewable energy  
5 resources necessary to address the needs of a balancing authority.

6 (6) If the commission waives the compliance requirements of  
7 this section, the commission shall establish additional reporting  
8 requirements on the retail seller to demonstrate that all reasonable  
9 actions under the control of the retail seller are taken in each of  
10 the intervening years sufficient to satisfy future procurement  
11 requirements.

12 (7) The commission shall not waive enforcement pursuant to  
13 this section, unless the retail seller demonstrates that it has taken  
14 all reasonable actions under its control, as set forth in paragraph  
15 (5), to achieve full compliance.

16 (8) If a retail seller fails to procure sufficient eligible renewable  
17 energy resources to comply with a procurement requirement  
18 pursuant to paragraphs (1) and (2) and fails to obtain an order from  
19 the commission waiving enforcement pursuant to paragraph (5),  
20 the commission shall ~~exercise its authority pursuant to Section~~  
21 ~~2413~~ *assess penalties for noncompliance. A schedule of penalties*  
22 *shall be adopted by the commission that shall be comparable for*  
23 *electrical corporations and other retail sellers. For electrical*  
24 *corporations, the cost of any penalties shall not be collected in*  
25 *rates. Any penalties collected under this article shall be deposited*  
26 *into the Electric Program Investment Charge Fund and used for*  
27 *the purposes described in Chapter 8.1 (commencing with Section*  
28 *25710) of Division 15 of the Public Resources Code.*

29 (9) Deficits associated with the compliance period shall not be  
30 added to a future compliance period.

31 (c) The commission shall establish a limitation for each electrical  
32 corporation on the procurement expenditures for all eligible  
33 renewable energy resources used to comply with the renewables  
34 portfolio standard. ~~In establishing this limitation, the commission~~  
35 ~~shall rely on the following:~~ *This limitation shall be set at a level*  
36 *that prevents disproportionate rate impacts.*

37 ~~(1) The most recent renewable energy procurement plan.~~

38 ~~(2) Procurement expenditures that approximate the expected~~  
39 ~~cost of building, owning, and operating eligible renewable energy~~  
40 ~~resources.~~

1 ~~(3) The potential that some planned resource additions may be~~  
2 ~~delayed or canceled.~~

3 ~~(d) In developing the limitation pursuant to subdivision (c), the~~  
4 ~~commission shall ensure all of the following:~~

5 ~~(1) The limitation is set at a level that prevents disproportionate~~  
6 ~~rate impacts.~~

7 ~~(2) The costs of all procurement credited toward achieving the~~  
8 ~~renewables portfolio standard are counted towards the limitation.~~

9 ~~(3) Procurement expenditures do not include any indirect~~  
10 ~~expenses, including imbalance energy charges, sale of excess~~  
11 ~~energy, decreased generation from existing resources, transmission~~  
12 ~~upgrades, or the costs associated with relicensing any utility-owned~~  
13 ~~hydroelectric facilities.~~

14 ~~(e) (1) No later than January 1, 2016, the commission shall~~  
15 ~~prepare a report to the Legislature assessing whether each electrical~~  
16 ~~corporation can achieve a 33-percent renewables portfolio standard~~  
17 ~~by December 31, 2020, and maintain that level thereafter, within~~  
18 ~~the adopted cost limitations. If the commission determines that it~~  
19 ~~is necessary to change the limitation for procurement costs incurred~~  
20 ~~by any electrical corporation after that date, it may propose a~~  
21 ~~revised cap consistent with the criteria in subdivisions (c) and (d).~~  
22 ~~The proposed modifications shall take effect no earlier than January~~  
23 ~~1, 2017.~~

24 ~~(2) Notwithstanding Section 10231.5 of the Government Code,~~  
25 ~~the requirement for submitting a report imposed under paragraph~~  
26 ~~(1) is inoperative on January 1, 2021.~~

27 ~~(3) A report to be submitted pursuant to paragraph (1) shall be~~  
28 ~~submitted in compliance with Section 9795 of the Government~~  
29 ~~Code.~~

30 ~~(f)~~

31 ~~(d) If the cost limitation for an electrical corporation is~~  
32 ~~insufficient to support the projected costs of meeting the~~  
33 ~~renewables portfolio standard procurement requirements, the~~  
34 ~~electrical corporation may refrain from entering into new contracts~~  
35 ~~or constructing facilities beyond the quantity that can be procured~~  
36 ~~within the limitation, unless eligible renewable energy resources~~  
37 ~~can be procured without exceeding a de minimis increase in rates,~~  
38 ~~consistent with the long-term procurement plan established for the~~  
39 ~~electrical corporation pursuant to Section 454.5.~~

40 ~~(g)~~

1 (e) (1) The commission shall monitor the status of the cost  
2 limitation for each electrical corporation in order to ensure  
3 compliance with this article.

4 (2) If the commission determines that an electrical corporation  
5 may exceed its cost limitation prior to achieving the renewables  
6 portfolio standard procurement requirements, the commission shall  
7 do both of the following within 60 days of making that  
8 determination:

9 (A) Investigate and identify the reasons why the electrical  
10 corporation may exceed its annual cost limitation.

11 (B) Notify the appropriate policy and fiscal committees of the  
12 Legislature that the electrical corporation may exceed its cost  
13 limitation, and include the reasons why the electrical corporation  
14 may exceed its cost limitation.

15 ~~(h)~~

16 (f) The establishment of a renewables portfolio standard shall  
17 not constitute implementation by the commission of the federal  
18 Public Utility Regulatory Policies Act of 1978 (Public Law  
19 95-617).

20 SEC. 10. Section 399.16 of the Public Utilities Code is  
21 amended to read:

22 399.16. (a) Various electricity products from eligible renewable  
23 energy resources located within the WECC transmission network  
24 service area shall be eligible to comply with the renewables  
25 portfolio standard procurement requirements in Section 399.15.  
26 These electricity products may be differentiated by their impacts  
27 on the operation of the grid in supplying electricity, as well as,  
28 meeting the requirements of this article.

29 (b) Consistent with the goals of procuring the least-cost and  
30 best-fit electricity products from eligible renewable energy  
31 resources that meet project viability principles adopted by the  
32 commission pursuant to paragraph (4) of subdivision (a) of Section  
33 399.13 and that provide the benefits set forth in Section 399.11, a  
34 balanced portfolio of eligible renewable energy resources shall be  
35 procured consisting of the following portfolio content categories:

36 (1) Eligible renewable energy resource electricity products that  
37 meet either of the following criteria:

38 (A) Have a first point of interconnection with a California  
39 balancing authority, have a first point of interconnection with  
40 distribution facilities used to serve end users within a California

1 balancing authority area, or are scheduled from the eligible  
2 renewable energy resource into a California balancing authority  
3 without substituting electricity from another source. The use of  
4 another source to provide real-time ancillary services required to  
5 maintain an hourly or subhourly import schedule into a California  
6 balancing authority shall be permitted, but only the fraction of the  
7 schedule actually generated by the eligible renewable energy  
8 resource shall count toward this portfolio content category.

9 (B) Have an agreement to dynamically transfer electricity to a  
10 California balancing authority.

11 (2) Firmed and shaped eligible renewable energy resource  
12 electricity products providing incremental electricity and scheduled  
13 into a California balancing authority.

14 (3) Eligible renewable energy resource electricity products, or  
15 any fraction of the electricity generated, including unbundled  
16 renewable energy credits, that do not qualify under the criteria of  
17 paragraph (1) or (2).

18 (c) In order to achieve a balanced portfolio, all retail sellers  
19 shall meet the following requirements for all procurement credited  
20 toward each compliance period:

21 (1) Not less than 50 percent for the compliance period ending  
22 December 31, 2013, 65 percent for the compliance period ending  
23 December 31, 2016, and 75 percent ~~thereafter~~ *for the compliance*  
24 *period ending December 31, 2020*, of the eligible renewable energy  
25 resource electricity products associated with contracts executed  
26 after June 1, 2010, shall meet the product content requirements of  
27 paragraph (1) of subdivision (b). *Each retail seller shall continue*  
28 *to satisfy the product content requirements applicable to*  
29 *procurement quantities associated with the compliance period*  
30 *ending December 31, 2020, and ensure that, for compliance*  
31 *periods ending after December 31, 2020, not less than 75 percent*  
32 *of the incremental renewable procurement requirements in each*  
33 *compliance period shall be satisfied with eligible renewable energy*  
34 *resource electricity products meeting the requirements of*  
35 *paragraph (1) of subdivision (b).*

36 (2) Not more than 25 percent for the compliance period ending  
37 December 31, 2013, 15 percent for the compliance period ending  
38 December 31, 2016, and 10 percent ~~thereafter~~ *for compliance*  
39 *period ending December 31, 2020*, of the eligible renewable energy  
40 resource electricity products associated with contracts executed

1 after June 1, 2010, shall meet the product content requirements of  
2 paragraph (3) of subdivision (b). *For the compliance periods*  
3 *ending after December 31, 2020, not more than 10 percent of the*  
4 *incremental renewable procurement requirements in each*  
5 *compliance period shall be satisfied with eligible renewable energy*  
6 *resource electricity products meeting the requirements of*  
7 *paragraph (3) of subdivision (b).*

8 (3) Any renewable energy resources contracts executed on or  
9 after June 1, 2010, not subject to the limitations of paragraph (1)  
10 or (2), shall meet the product content requirements of paragraph  
11 (2) of subdivision (b).

12 (4) For purposes of electric service providers only, the  
13 restrictions in this subdivision on crediting eligible renewable  
14 energy resource electricity products to each compliance period  
15 shall apply to contracts executed after January 13, 2011.

16 (d) Any contract or ownership agreement originally executed  
17 prior to June 1, 2010, shall count in full toward the procurement  
18 requirements established pursuant to this article, if all of the  
19 following conditions are met:

20 (1) The renewable energy resource was eligible under the rules  
21 in place as of the date when the contract was executed.

22 (2) For an electrical corporation, the contract has been approved  
23 by the commission, even if that approval occurs after June 1, 2010.

24 (3) Any contract amendments or modifications occurring after  
25 June 1, 2010, do not increase the nameplate capacity or expected  
26 quantities of annual generation, or substitute a different renewable  
27 energy resource. The duration of the contract may be extended if  
28 the original contract specified a procurement commitment of 15  
29 or more years.

30 (e) A retail seller may apply to the commission for a reduction  
31 of a procurement content requirement of subdivision (c). The  
32 commission may reduce a procurement content requirement of  
33 subdivision (c) to the extent the retail seller demonstrates that it  
34 cannot comply with that subdivision because of conditions beyond  
35 the control of the retail seller as provided in paragraph (5) of  
36 subdivision (b) of Section 399.15. The commission shall not, under  
37 any circumstance, reduce the obligation specified in paragraph (1)  
38 of subdivision (c) below 65 percent for any compliance *period*  
39 obligation after December 31, 2016.

1 SEC. 11. Section 399.18 of the Public Utilities Code is  
2 amended to read:

3 399.18. (a) This section applies to an electrical corporation  
4 that as of January 1, 2010, met either of the following conditions:

5 (1) Served 30,000 or fewer customer accounts in California and  
6 had issued at least four solicitations for eligible renewable energy  
7 resources prior to June 1, 2010.

8 (2) Had 1,000 or fewer customer accounts in California and was  
9 not connected to any transmission system or to the Independent  
10 System Operator.

11 (b) For an electrical corporation or its successor, electricity  
12 products from eligible renewable energy resources may be used  
13 for compliance with this article, notwithstanding any procurement  
14 content limitation in Section 399.16, provided that ~~both~~ *all* of the  
15 following conditions are met:

16 (1) The electrical corporation or its successor participates in,  
17 and complies with, the accounting system administered by the  
18 Energy Commission pursuant to subdivision (b) of Section 399.25.

19 (2) The Energy Commission verifies that the electricity  
20 generated by the facility is eligible to meet the requirements of  
21 Section 399.15.

22 (3) *The electrical corporation continues to satisfy either of the*  
23 *conditions described in subdivision (a).*

24 SEC. 12. Section 399.21 of the Public Utilities Code is  
25 amended to read:

26 399.21. (a) The commission, by rule, shall authorize the use  
27 of renewable energy credits to satisfy the renewables portfolio  
28 standard procurement requirements established pursuant to this  
29 article, subject to the following conditions:

30 ~~(1) Prior to authorizing any renewable energy credit to be used~~  
31 ~~toward satisfying the renewables portfolio standard procurement~~  
32 ~~requirements, the~~ *The* commission and the Energy Commission  
33 shall ~~conclude~~ *ensure* that the tracking system established pursuant  
34 to subdivision (c) of Section 399.25, is operational, is capable of  
35 independently verifying that electricity earning the credit is  
36 generated by an eligible renewable energy resource, and can ensure  
37 that renewable energy credits shall not be double counted by any  
38 seller of electricity within the service territory of the WECC.

39 (2) Each renewable energy credit shall be counted only once  
40 for compliance with the renewables portfolio standard of this state

1 or any other state, or for verifying retail product claims in this state  
2 or any other state.

3 (3) All revenues received by an electrical corporation for the  
4 sale of a renewable energy credit shall be credited to the benefit  
5 of ratepayers.

6 (4) Renewable energy credits shall not be created for electricity  
7 generated pursuant to any electricity purchase contract with a retail  
8 seller or a local publicly owned electric utility executed before  
9 January 1, 2005, unless the contract contains explicit terms and  
10 conditions specifying the ownership or disposition of those credits.  
11 Procurement under those contracts shall be tracked through the  
12 accounting system described in subdivision (b) of Section 399.25  
13 and included in the quantity of eligible renewable energy resources  
14 of the purchasing retail seller pursuant to Section 399.15.

15 (5) Renewable energy credits shall not be created for electricity  
16 generated under any electricity purchase contract executed after  
17 January 1, 2005, pursuant to the federal Public Utility Regulatory  
18 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Procurement  
19 under the electricity purchase contracts shall be tracked through  
20 the accounting system implemented by the Energy Commission  
21 pursuant to subdivision (b) of Section 399.25 and count toward  
22 the renewables portfolio standard procurement requirements of  
23 the purchasing retail seller.

24 (6) A renewable energy credit shall not be eligible for  
25 compliance with a renewables portfolio standard procurement  
26 requirement unless it is retired in the tracking system established  
27 pursuant to subdivision (c) of Section 399.25 by the retail seller  
28 or local publicly owned electric utility within 36 months from the  
29 initial date of generation of the associated electricity.

30 (b) The commission shall allow an electrical corporation to  
31 recover the reasonable costs of purchasing, selling, and  
32 administering renewable energy credit contracts in rates.

33 SEC. 13. Section 399.30 of the Public Utilities Code is  
34 amended to read:

35 399.30. (a) To fulfill unmet long-term generation resource  
36 needs, each local publicly owned electric utility shall adopt and  
37 implement a renewable energy resources procurement plan that  
38 requires the utility to procure a minimum quantity of electricity  
39 products from eligible renewable energy resources, including  
40 renewable energy credits, as a specified percentage of total

1 kilowatthours sold to the utility’s retail end-use customers, each  
2 compliance period, to achieve the targets of subdivision (c).

3 (b) The governing board shall implement procurement targets  
4 for a local publicly owned electric utility that require the utility to  
5 procure a minimum quantity of eligible renewable energy resources  
6 for each of the following compliance periods:

7 (1) January 1, 2011, to December 31, 2013, inclusive.

8 (2) January 1, 2014, to December 31, 2016, inclusive.

9 (3) January 1, 2017, to December 31, 2020, inclusive.

10 (D) *January 1, 2021, to December 31, 2024, inclusive.*

11 (E) *January 1, 2025, to December 31, 2027, inclusive.*

12 (D) *January 1, 2028, to December 31, 2030, inclusive.*

13 (c) The governing board of a local publicly owned electric utility  
14 shall ensure all of the following:

15 (1) The quantities of eligible renewable energy resources to be  
16 procured for the compliance period from January 1, 2011, to  
17 December 31, 2013, inclusive, are equal to an average of 20 percent  
18 of retail sales.

19 (2) The quantities of eligible renewable energy resources to be  
20 procured for all other compliance periods reflect reasonable  
21 progress in each of the intervening years sufficient to ensure that  
22 the procurement of electricity products from eligible renewable  
23 energy resources achieves 25 percent of retail sales by December  
24 31, 2016, ~~and 33 percent of retail sales by December 31, 2020.~~  
25 *2020, 40 percent by December 31, 2024, 45 percent by December*  
26 *31, 2027, and 50 percent by December 31, 2030. The local*  
27 ~~governing board shall~~ *Energy Commission shall establish*  
28 *appropriate multiyear compliance periods for all subsequent years*  
29 *that require the local publicly owned electric utilities utility to*  
30 *procure not less than* ~~33~~ *50 percent of retail sales of electricity*  
31 *products from eligible renewable energy resources in all subsequent*  
32 ~~years.~~ *resources.*

33 (3) A local publicly owned electric utility shall adopt  
34 procurement requirements consistent with Section 399.16.

35 (d) The governing board of a local publicly owned electric utility  
36 may adopt the following measures:

37 (1) Rules permitting the utility to apply excess procurement in  
38 one compliance period to subsequent compliance periods in the  
39 same manner as allowed for retail sellers pursuant to Section  
40 399.13.



1 (2) Conditions that allow for delaying timely compliance  
2 consistent with subdivision (b) of Section 399.15.

3 (3) Cost limitations for procurement expenditures consistent  
4 with subdivision (c) of Section 399.15.

5 (e) The governing board of the local publicly owned electric  
6 utility shall adopt a program for the enforcement of this ~~article on~~  
7 ~~or before January 1, 2012.~~ *article*. The program shall be adopted  
8 at a publicly noticed meeting offering all interested parties an  
9 opportunity to comment. Not less than 30 days' notice shall be  
10 given to the public of any meeting held for purposes of adopting  
11 the program. Not less than 10 days' notice shall be given to the  
12 public before any meeting is held to make a substantive change to  
13 the program.

14 (f) (1) Each local publicly owned electric utility shall annually  
15 post notice, in accordance with Chapter 9 (commencing with  
16 Section 54950) of Part 1 of Division 2 of Title 5 of the Government  
17 Code, whenever its governing body will deliberate in public on its  
18 renewable energy resources procurement plan.

19 (2) Contemporaneous with the posting of the notice of a public  
20 meeting to consider the renewable energy resources procurement  
21 plan, the local publicly owned electric utility shall notify the  
22 Energy Commission of the date, time, and location of the meeting  
23 in order to enable the Energy Commission to post the information  
24 on its Internet Web site. This requirement is satisfied if the local  
25 publicly owned electric utility provides the uniform resource  
26 locator (URL) that links to this information.

27 (3) Upon distribution to its governing body of information  
28 related to its renewable energy resources procurement status and  
29 future plans, for its consideration at a noticed public meeting, the  
30 local publicly owned electric utility shall make that information  
31 available to the public and shall provide the Energy Commission  
32 with an electronic copy of the documents for posting on the Energy  
33 Commission's Internet Web site. This requirement is satisfied if  
34 the local publicly owned electric utility provides the uniform  
35 resource locator (URL) that links to the documents or information  
36 regarding other manners of access to the documents.

37 (g) A public utility district that receives all of its electricity  
38 pursuant to a preference right adopted and authorized by the United  
39 States Congress pursuant to Section 4 of the Trinity River Division

1 Act of August 12, 1955 (Public Law 84-386) shall be in compliance  
2 with the renewable energy procurement requirements of this article.

3 (h) For a local publicly owned electric utility that was in  
4 existence on or before January 1, 2009, that provides retail electric  
5 service to 15,000 or fewer customer accounts in California, and is  
6 interconnected to a balancing authority located outside this state  
7 but within the WECC, an eligible renewable energy resource  
8 includes a facility that is located outside California that is  
9 connected to the WECC transmission system, if all of the following  
10 conditions are met:

11 (1) The electricity generated by the facility is procured by the  
12 local publicly owned electric utility, is delivered to the balancing  
13 authority area in which the local publicly owned electric utility is  
14 located, and is not used to fulfill renewable energy procurement  
15 requirements of other states.

16 (2) The local publicly owned electric utility participates in, and  
17 complies with, the accounting system administered by the Energy  
18 Commission pursuant to this article.

19 (3) The Energy Commission verifies that the electricity  
20 generated by the facility is eligible to meet the renewables portfolio  
21 standard procurement requirements.

22 (i) Notwithstanding subdivision (a), for a local publicly owned  
23 electric utility that is a joint powers authority of districts established  
24 pursuant to state law on or before January 1, 2005, that furnish  
25 electric services other than to residential customers, and is formed  
26 pursuant to the Irrigation District Law (Division 11 (commencing  
27 with Section 20500) of the Water Code), the percentage of total  
28 kilowatthours sold to the district's retail end-use customers, upon  
29 which the renewables portfolio standard procurement requirements  
30 in subdivision (b) are calculated, shall be based on the authority's  
31 average retail sales over the previous seven years. If the authority  
32 has not furnished electric service for seven years, then the  
33 calculation shall be based on average retail sales over the number  
34 of completed years during which the authority has provided electric  
35 service.

36 (j) A local publicly owned electric utility in a city and county  
37 that only receives greater than 67 percent of its electricity sources  
38 from hydroelectric generation located within the state that it owns  
39 and operates, and that does not meet the definition of a "renewable  
40 electrical generation facility" pursuant to Section 25741 of the

1 Public Resources Code, shall be required to procure eligible  
2 renewable energy resources, including renewable energy credits,  
3 to meet only the electricity demands unsatisfied by its hydroelectric  
4 generation in any given year, in order to satisfy its renewable  
5 energy procurement requirements.

6 (k) (1) A local publicly owned electric utility that receives  
7 greater than 50 percent of its annual retail sales from its own  
8 hydroelectric generation that is not an eligible renewable energy  
9 resource shall not be required to procure additional eligible  
10 renewable energy resources in excess of either of the following:

11 (A) The portion of its retail sales not supplied by its own  
12 hydroelectric generation. For these purposes, retail sales supplied  
13 by an increase in hydroelectric generation resulting from an  
14 increase in the amount of water stored by a dam because the dam  
15 is enlarged or otherwise modified after December 31, 2012, shall  
16 not count as being retail sales supplied by the utility's own  
17 hydroelectric generation.

18 (B) The cost limitation adopted pursuant to this section.

19 (2) For the purposes of this subdivision, "hydroelectric  
20 generation" means electricity generated from a hydroelectric  
21 facility that satisfies all of the following:

22 (A) Is owned solely and operated by the local publicly owned  
23 electric utility as of 1967.

24 (B) Serves a local publicly owned electric utility with a  
25 distribution system demand of less than 150 megawatts.

26 (C) Involves a contract in which an electrical corporation  
27 receives the benefit of the electric generation through June of 2014,  
28 at which time the benefit reverts back to the ownership and control  
29 of the local publicly owned electric utility.

30 (D) Has a maximum penstock flow capacity of no more than  
31 3,200 cubic feet per second and includes a regulating reservoir  
32 with a small hydroelectric generation facility producing fewer than  
33 20 megawatts with a maximum penstock flow capacity of no more  
34 than 3,000 cubic feet per second.

35 (3) This subdivision does not reduce or eliminate any renewable  
36 procurement requirement for any compliance period ending prior  
37 to January 1, 2014.

38 (4) This subdivision does not require a local publicly owned  
39 electric utility to purchase additional eligible renewable energy

1 resources in excess of the procurement requirements of subdivision  
2 (c).

3 (l) A local publicly owned electric utility shall retain discretion  
4 over both of the following:

5 (1) The mix of eligible renewable energy resources procured  
6 by the utility and those additional generation resources procured  
7 by the utility for purposes of ensuring resource adequacy and  
8 reliability.

9 (2) The reasonable costs incurred by the utility for eligible  
10 renewable energy resources owned by the utility.

11 (m) ~~On or before July 1, 2011, the~~ *The Energy Commission*  
12 *shall adopt regulations specifying the requirements under this*  
13 *article and require local governing boards to adopt timely*  
14 *requirements consistent with this article. The Energy Commission*  
15 *shall adopt regulations specifying procedures for enforcement of*  
16 ~~this article. these requirements, including the adoption of a~~  
17 ~~schedule of penalties to be imposed pursuant to subdivision (n).~~  
18 The regulations shall include a public process under which the  
19 Energy Commission may issue a notice of violation and correction  
20 against a local publicly owned electric utility for failure to comply  
21 with this article, and for referral of violations to the State Air  
22 Resources Board for penalties pursuant to subdivision (o). *article*  
23 *and assess penalties pursuant to subdivision (n).*

24 (n) ~~(1)~~ Upon a determination by the Energy Commission that  
25 a local publicly owned electric utility has failed to comply with  
26 this article, the Energy Commission shall refer the failure to comply  
27 with this article to the State Air Resources Board, which may  
28 impose penalties to enforce this article consistent with Part 6  
29 (commencing with Section 38580) of Division 25.5 of the Health  
30 and Safety Code. ~~Any penalties imposed shall be comparable to~~  
31 those adopted by the commission for noncompliance by retail  
32 sellers. ~~Any penalties collected under this article shall be deposited~~  
33 ~~into the Electric Program Investment Charge Fund and used for~~  
34 ~~the purposes described in Chapter 8.1 (commencing with Section~~  
35 ~~25710) of Division 15 of the Public Resources Code.~~

36 ~~(2) If Division 25.5 (commencing with Section 38500) of the~~  
37 ~~Health and Safety Code is suspended or repealed, the State Air~~  
38 ~~Resources Board may take action to enforce this article on local~~  
39 ~~publicly owned electric utilities consistent with Section 41513 of~~  
40 ~~the Health and Safety Code, and impose penalties on a local~~

1 ~~publicly owned electric utility consistent with Article 3~~  
2 ~~(commencing with Section 42400) of Chapter 4 of Part 4 of, and~~  
3 ~~Chapter 1.5 (commencing with Section 43025) of Part 5 of,~~  
4 ~~Division 26 of the Health and Safety Code.~~

5 ~~(3) For the purpose of this subdivision, this section is an~~  
6 ~~emissions reduction measure pursuant to Section 38580 of the~~  
7 ~~Health and Safety Code.~~

8 ~~(4) If the State Air Resources Board has imposed a penalty upon~~  
9 ~~a local publicly owned electric utility for the utility’s failure to~~  
10 ~~comply with this article, the State Air Resources Board shall not~~  
11 ~~impose an additional penalty for the same infraction, or the same~~  
12 ~~failure to comply, with any renewables procurement requirement~~  
13 ~~imposed upon the utility pursuant to the California Global Warming~~  
14 ~~Solutions Act of 2006 (Division 25.5 (commencing with Section~~  
15 ~~38500) of the Health and Safety Code).~~

16 ~~(5) Any penalties collected by the State Air Resources Board~~  
17 ~~pursuant to this article shall be deposited in the Air Pollution~~  
18 ~~Control Fund and, upon appropriation by the Legislature, shall be~~  
19 ~~expended for reducing emissions of air pollution or greenhouse~~  
20 ~~gases within the same geographic area as the local publicly owned~~  
21 ~~electric utility.~~

22 ~~(e) The commission has no authority or jurisdiction to enforce~~  
23 ~~any of the requirements of this article on a local publicly owned~~  
24 ~~electric utility.~~

25 SEC. 14. Article 17 (commencing with Section 400) is added  
26 to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code,  
27 to read:

28

29 Article 17. Clean Energy and Pollution Reduction

30

31 400. The commission and the Energy Commission shall do all  
32 of the following in furtherance of meeting the state’s clean energy  
33 and pollution reduction objectives:

34 (a) Take into account the benefits of distributed generation and  
35 promote the use of distributed generation where it provides  
36 economic and environmental benefits, particularly in disadvantaged  
37 communities as identified pursuant to Section 39711 of the Health  
38 and Safety Code.

39 (b) Allow for consideration of costs and benefits of grid  
40 integration in proceedings associated with meeting the objectives.

1 (c) Where feasible, adopt rules for integrating renewable energy  
2 that minimize system power and fossil fuel purchases and, where  
3 feasible and consistent with other state policy objectives, increase  
4 the use of energy storage, demand response, and other  
5 low-emission or zero- technologies to protect system reliability.

6 (d) Review technology incentive programs overseen by the  
7 commission and the Energy Commission and make  
8 recommendations for adjustments that more effectively and  
9 consistently align with state clean energy and pollution reduction  
10 objectives, and that provide benefits to disadvantaged communities  
11 as identified pursuant to Section 39711 of the Health and Safety  
12 Code.

13 (e) To the extent feasible, give first priority to the manufacture  
14 and deployment of clean energy and pollution reduction  
15 technologies that create employment opportunities, including high  
16 wage, highly skilled employment opportunities, and increased  
17 investment in the state.

18 SEC. 15. Section 454.51 is added to the Public Utilities Code,  
19 to read:

20 454.51. The commission shall direct each electrical corporation  
21 to include in its proposed procurement plan a strategy for procuring  
22 a diverse portfolio of resources that provide a reliable electricity  
23 supply, including renewable energy integration needs, using zero  
24 carbon-emitting resources to the maximum extent reasonable. The  
25 net capacity costs of those resources shall be allocated on a fully  
26 nonbypassable basis consistent with the treatment of costs  
27 identified in paragraph (2) of subdivision (c) of Section 365.1.

28 SEC. 16. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 a local agency or school district has the authority to levy service  
31 charges, fees, or assessments sufficient to pay for the program or  
32 level of service mandated by this act or because costs that may be  
33 incurred by a local agency or school district will be incurred  
34 because this act creates a new crime or infraction, eliminates a  
35 crime or infraction, or changes the penalty for a crime or infraction,  
36 within the meaning of Section 17556 of the Government Code, or  
37 changes the definition of a crime within the meaning of Section 6  
38 of Article XIII B of the California Constitution.

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**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
 Memorandum

To: Chairperson Carole Groom and Members  
 of the Board of Directors

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

Date: March 5, 2015

Re: Report of the Public Outreach Committee Meeting of March 5, 2015

RECOMMENDED ACTION

The Public Outreach Committee (Committee) recommends Board of Directors’ approval of the following items:

- A) None; receive and file.
- B) None; receive and file.
- C) Approval of a Contract for Spare the Air Advertising / Messaging Campaigns:
  1. Approval of O’Rorke, Inc. as the selected contractor for the Spare the Air Campaigns’ Advertising, Communications & Evaluation Services.
  2. Authorization for the Executive Officer/Air Pollution Control Officer (APCO) to execute a contract with O’Rorke, Inc. for an amount not to exceed \$1,950,000 per contract year during Fiscal Year Ending (FYE) 2016 and FYE 2017, and \$2,019,000 for FYE 2018, to be broken down as follows:
    - Spare the Air Every Day Campaign
      - Advertising \$600,000
      - Media Relations \$200,000
      - Social Media \$75,000
      - Employer Program \$200,000
      - Public Opinion Surveys \$50,000
    - Winter Spare the Air Campaign
      - Advertising \$600,000
      - Media Relations \$100,000
      - Social Media \$75,000
      - Public Opinion Surveys \$50,000
      - In-Language Option Surveys \$69,000 (3rd year of contract only)

D) Approval of a Contract for the Spare the Air Resource Teams:

1. Approve the selection of Community Focus, a contractor to facilitate the Spare the Air Resource Teams; and
2. Authorize the Executive Officer/APCO to execute a contract with Community Focus for facilitation services in an amount not to exceed \$245,000 per contract year for up to three years.

BACKGROUND

The Committee met on Thursday, March 5, 2015, and received the following reports:

- A) Overview of the 2014/2015 Winter Spare the Air Season;
- B) Overview of Spare the Air Youth for Environmental Sustainability Conference;
- C) Approval of a Contract for Spare the Air Advertising / Messaging Campaigns; and
- D) Approval of a Contract for the Spare the Air Resource Teams.

Chairperson Mark Ross will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

- A) Funding for the Winter Spare the Air outreach program is included in the FYE 2015 budget.
- B) Air District funding for this program is included in the FYE 2015 Budget.
- C) Funding for this contract comes from the following sources:
  - Spare the Air Every Day
    - Congestion Mitigation Air Quality - \$925,000 per contract year FYE 2016-18
    - Transportation Fund for Clean Air - \$200,000 per contract year FYE 2016-18
  - Winter Spare the Air
    - General Revenue - \$825,000 per contract year FYE 2016 and FYE 2017
    - General Revenue - \$894,000 contract year FYE 2018
- D) Funding for the first year of this contract is included in the proposed FYE 2016 budget.



Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Sean Gallagher  
Reviewed by: Maricela Martinez

Attachment A: 03/05/15 – Public Outreach Committee Meeting Agenda #4

Attachment B: 03/05/15 – Public Outreach Committee Meeting Agenda #5

Attachment C: 03/05/15 – Public Outreach Committee Meeting Agenda #6

Attachment D: 03/05/15 – Public Outreach Committee Meeting Agenda #7

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Mark Ross and Members  
of the Public Outreach Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 23, 2015

Re: Overview of the 2014/2015 Winter Spare the Air Season

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Winter Spare the Air Season began on November 1, 2014 and ended February 28, 2015. The Air District's Communications Office conducted Winter Spare the Air outreach and advertising to message the health impacts of wood smoke during the four winter months.

DISCUSSION

The Winter Spare the Air campaign continued to inform residents about the Wood Burning Rule and focused on the localized health impacts from wood smoke in the Bay Area. This year's campaign included a stronger message that more closely links wood smoke to cigarette smoke. Advertising clearly illustrated this link and a new tagline was featured that supports the stronger messaging and visuals.

Staff will present a summary of the 2014-2015 Winter Spare the Air advertising and outreach campaign for the season wrap-up. Survey data and trends will also be featured.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for the Winter Spare the Air outreach program is included in the Fiscal Year Ending 2015 budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Kristine Roselius

Reviewed by: Lisa Fasano

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Mark Ross and Members  
of the Public Outreach Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 19, 2015

Re: Overview of Spare the Air Youth for Environmental Sustainability (YES) Conference

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Spare the Air Youth program is a regional joint program between the Metropolitan Transportation Commission and the Air District. The purpose of the Spare the Air Youth program is to educate, inspire and empower youth and families in the San Francisco Bay Area to walk, bicycle, carpool and take transit.

DISCUSSION

On Saturday, February 7, 2015, the Spare the Air Youth program hosted the second annual Youth for the Environment and Sustainability (YES) Conference at Joseph P. Bort Metro Center's Auditorium in Oakland. The conference provided high school students the opportunity to discuss transportation and climate change issues with their peers from around the Bay Area. The agenda included two keynote speakers, interactive presentations on climate change and fifteen different breakout session topics.

At the committee meeting, staff will provide an overview of the 2015 YES Conference and show a video from the conference.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Air District funding for this program is included in the Fiscal Year Ending (FYE) 2015 Budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Kristina Chu  
Reviewed by: Jean Roggenkamp

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Mark Ross and Members  
of the Public Outreach Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 24, 2015

Re: Approval of a Contract for Spare the Air Advertising/Messaging Campaigns

RECOMMENDED ACTION

The Committee will consider recommending Board of Directors approval of O’Rorke, Inc. as the selected contractor for the Spare the Air Campaigns’ Advertising, Communications & Evaluation Services.

The Committee will also consider recommending Board of Directors authorization for the Executive Officer/APCO to execute a contract with O’Rorke, Inc. for an amount not to exceed \$1,950,000 per contract year during Fiscal Year Ending (FYE) 2016 and FYE 2017, and \$2,019,000 for FYE 2018, to be broken down as follows:

- Spare the Air Every Day Campaign
  - Advertising \$600,000
  - Media Relations \$200,000
  - Social Media \$75,000
  - Employer Program \$200,000
  - Public Opinion Surveys \$50,000
  
- Winter Spare the Air Campaign
  - Advertising \$600,000
  - Media Relations \$100,000
  - Social Media \$75,000
  - Public Opinion Surveys \$50,000
  - In-Language Option Surveys \$69,000 (3rd year of contract only)

BACKGROUND

The Air District’s Communications Office relies on contractors to assist with various aspects of its advertising and outreach programs. The Communications Office recently completed a Request for Proposal (RFP) process to solicit responses for the following services: Advertising, Media Relations, Social Media, Public Opinion Surveys and Employer Outreach services.

- **Advertising Services:** To develop professional quality broadcast, print and digital advertising/educational materials for the Spare the Air campaigns.

- **Media/Public Relations Services:** To provide media relations services to promote activities through the media that support the Spare the Air campaigns.
- **Social Media Services:** To provide social media strategies—including concept, writing, design, production and technical services.
- **Public Opinion Survey Services:** To measure the effectiveness of the Air District’s Spare the Air Every Day and Winter Spare the Air campaigns, and assess public behavior patterns/change.
- **Employer Outreach Services:** To notify Bay Area employers of the Commuter Benefits Program requirements, encourage employers in the Spare the Air Employer Program to educate their employees about air quality, notify them when a Spare the Air Alert is called and change commute behaviors to benefit air quality.

DISCUSSION

The RFP for Spare the Air Advertising, Communications & Evaluation Services was released on January 14, 2015. The RFP was posted on the Air District website for three weeks.

Three proposals were received from KHB Marketing, Mental Marketing and O’Rorke, Inc. in response to the RFP. A panel of three Air District staff performed a thorough evaluation and conducted interviews of the company proposals based on the five evaluation criteria outlined in the RFP.

EVALUATION

The panel member’s scores were averaged and the average scores were summed for each bidder. The tables below list the RFP evaluation criteria and show each firm’s averaged score for the proposal evaluations and the interviews.

RFP proposal and interview scores – Spare the Air Campaigns’ Advertising, Communications & Evaluation Services

**Proposal Scores**

<b>KHB</b>		
<b>Evaluative Criteria</b>	<b>Maximum Points</b>	<b>Average</b>
Expertise	30	18
Skill	20	10
Approach	20	16
Cost	20	16
Firm’s Focus Area	10	5
<b>Total Points</b>	<b>100</b>	<b>65</b>

<b>Mental Marketing</b>		
<b>Evaluative Criteria</b>	<b>Maximum Points</b>	<b>Average</b>
Expertise	30	19
Skill	20	12

**Interview Scores**

<b>KHB</b>		
<b>Evaluative Criteria</b>	<b>Maximum Points</b>	<b>Average</b>
Expertise	30	17
Skill	20	11
Approach	20	13
Cost	20	13
Firm’s Focus Area	10	5
<b>Total Points</b>	<b>100</b>	<b>60</b>

<b>Mental Marketing</b>		
<b>Evaluative Criteria</b>	<b>Maximum Points</b>	<b>Average</b>
Expertise	30	10
Skill	20	7

Approach	20	7
Cost	20	9
Firm's Focus Area	10	5
<b>Total Points</b>	<b>100</b>	<b>53</b>

Approach	20	6
Cost	20	6
Firm's Focus Area	10	3
<b>Total Points</b>	<b>100</b>	<b>32</b>

<b>O'Rorke</b>		
<b>Evaluative Criteria</b>	<b>Maximum Points</b>	<b>Average</b>
Expertise	30	30
Skill	20	20
Approach	20	20
Cost	20	17
Firm's Focus Area	10	8
<b>Total Points</b>	<b>100</b>	<b>94</b>

<b>O'Rorke</b>		
<b>Evaluative Criteria</b>	<b>Maximum Points</b>	<b>Average</b>
Expertise	30	30
Skill	20	20
Approach	20	19
Cost	20	18
Firm's Focus Area	10	7
<b>Total Points</b>	<b>100</b>	<b>94</b>

O'Rorke Inc. received the highest score for the proposal evaluation and for the interview.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for this contract comes from the following sources:

- Spare the Air Every Day
  - Congestion Mitigation Air Quality (CMAQ) - \$925,000 per contract year FYE 2016-18
  - Transportation Fund for Clean Air (TFCA) - \$200,000 per contract year FYE 2016-18
- Winter Spare the Air
  - General Revenue - \$825,000 per contract year FYE 2016 and FYE 2017
  - General Revenue - \$894,000 contract year FYE 2018

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Kristine Roselius  
Reviewed by: Lisa Fasano



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Mark Ross and Members  
of the Public Outreach Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 25, 2015

Re: Approval of a Contract for the Spare the Air Resource Teams

**RECOMMENDED ACTION**

The Committee will consider recommending the Board of Directors:

- Approve the selection of Community Focus, a contractor to facilitate the Spare the Air Resource Teams; and
- Authorize the Executive Officer/APCO to execute a contract with Community Focus for facilitation services in an amount not to exceed \$245,000 per contract year for up to three years.

**BACKGROUND**

One of the Air District's innovative efforts to engage the public was the formation of local resource teams in 1991, in conjunction with the creation of the Spare the Air program. Since the inception of the program, local community groups, public agencies, businesses and environmental organizations meet regularly and work collaboratively to implement projects that promote cleaner air. The Air District currently operates nine teams in the region:

- Contra Costa County Spare the Air Resource Team
- Napa Valley Clean Air Coalition
- San Francisco Spare the Air Resource Team
- San Mateo County Spare the Air Resource Team
- San Jose Green Vision Resource Team
- Santa Clara County Spare the Air Resource Team
- Sonoma County Spare the Air Resource Team
- Southern Alameda County Spare the Air Resource Team
- Tri-Valley Spare the Air Resource Team

The teams meet, at least, every two months to select and coordinate work on team projects. Past projects have included Walk and Roll to School; the Great Race for Clean Air; Green Business Workshops; and Home Energy Workshops.

## DISCUSSION

The Community Engagement Section relies on a contractor to assist with the administration, coordination, recruitment, retention and facilitation of the nine Spare the Air Resource Teams.

On January 5, 2015, the Air District issued a request for proposals (RFPs) for this project. In this request, the Air District invited proposals from qualified firms experienced in community engagement to bring together businesses, civic organizations, and local governments to collectively develop and implement collaborative, community-wide air pollution reduction programs; and with the capability to foster innovative ideas among team members.

The RFP was distributed to a list of over 30 firms in the area of civic engagement and Air District's Community Groups mailing list made up of approximately 85 stakeholders. The RFP was also distributed through a 1500-member listserv of the National Coalition for Dialogue & Deliberation and posted on its blog, as well as on the Air District website.

## EVALUATION

Staff evaluated all proposals according to the criteria below:

Expertise of the firm and personnel assigned to proposal tasks; firm's ability to perform and complete the work in a professional and timely manner.	20%
Past experience of the firm and personnel on similar projects for governmental or non-profit agencies.	20%
Responsiveness of the proposal in achieving all elements of the Scope of Work, based upon a clear understanding of the work to be performed.	30%
Cost effectiveness and resource allocation strategy.	20%
References of the firm, Green Business certification	10%

Based on the evaluation described above, staff recommends Community Focus as the contractor for the Spare the Air Resource Team Program. Below is a summary of the scores and evaluations of the proposals submitted on the RFP:

		<b>Community Focus</b>	<b>PMC</b>	<b>TRC</b>
<b>Evaluative Criteria</b>	<b>Points</b>	<b>Average</b>	<b>Average</b>	<b>Average</b>
Expertise	20	19	15	9
Skill	20	19	13	10
Approach	30	24	23	9
Cost	20	16	10	7
Firm's Focus Area	10	6	4	2
<b>Total Points</b>	<b>100</b>	<b>85</b>	<b>65</b>	<b>37</b>

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for the first year of this contract is included in the proposed Fiscal Year End 2016 budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Kristina Chu  
Reviewed by: Jean Roggenkamp

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

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

Date: March 5, 2015

Re: Report of the Executive Committee Meeting of March 16, 2015

RECOMMENDED ACTION

The Executive Committee (Committee) will receive only informational items and have no recommendations of approval by the Board of Directors.

BACKGROUND

The Committee will meet on Monday, March 16, 2015, and receive the following reports:

- A) Hearing Board Quarterly Report – July through September 2014;
- B) Hearing Board Quarterly Report – October through December 2014;
- C) Joint Policy Committee Update; and
- D) Update on the My Air Online Program – Online Permitting System.

Chairperson Carole Groom will give an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

- A) None.
- B) None.
- C) None.
- D) This work is funded from the Fiscal Year End 2015 My Air Online program budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Sean Gallagher  
Reviewed by: Maricela Martinez

Attachment A: 03/16/15 – Executive Committee Meeting Agenda #4  
Attachment B: 03/16/15 – Executive Committee Meeting Agenda #5  
Attachment C: 03/16/15 – Executive Committee Meeting Agenda #6  
Attachment D: 03/16/15 – Executive Committee Meeting Agenda #7

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Executive Committee

From: Chairperson Terry Trumbull, Esq., and Members  
of the Hearing Board

Date: March 9, 2015

Re: Hearing Board Quarterly Report – July through September 2014

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

During the third quarter of 2014 (July through September), the Hearing Board:

- Held one hearing on one Accusation (3663). There were no hearings on Appeals or Variances;
- Processed a total of two orders, including one Accusation (3663) and one Emergency Variance (3664). There were no orders relative to Appeals, Variances or Requests for Withdrawal/Dismissal; and
- Collected a total of \$887.00 in filing fees.

Below is a detail of Hearing Board activity during the same period:

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**Location:** Alameda County; City of Hayward

**Docket:** 3663 AIR POLLUTION CONTROL OFFICER OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT VS. GILBERTO ISLAS; NANCY RAMALES; and PASIANO MORENO – *Accusation*

**Regulation(s):** 2-1-302

**Synopsis:** Staff alleged the facility has operated for at least five years without renewing their Air District Permit to Operate.

**Status:** Stipulated Conditional Order for Abatement filed September 25, 2014.

**Period of Variance:** N/A

**Estimated Excess Emissions:** N/A

**Fees collected this quarter:** N/A

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**Location:** Santa Clara County; City of San Jose

**Docket:** 3664 JDS UNIPHASE CORPORATION – *Application for Emergency Variance*

**Regulation(s):** Permit Condition # 25081, Item #4

**Synopsis:** A PG&E regional power outage during a production run caused source S-16 to run without the proper abatement device (A-14), which was running as designed and without incident until the outage. Fabrication was placed in shutdown mode upon resumption of power while the facility summoned an equipment manufacturer technician who determined the A-14 computer control system and igniter were at fault. Solvent station and photoresist use were minimized where possible and no new production runs were started until A-14 was back in operation.

**Status:** Order granting Emergency Variance filed August 22, 2014

**Period of Variance:** July 27, 2014 at 3:51 p.m. through July 29, 2014 at 11:59 p.m.

**Estimated Excess Emissions:** 38 lbs/day IPA; 39 lbs/day acetone; 2 lbs/day methanol; 7 lbs/day Ecoclear; 2 lbs/day EBR; 2 lbs/day Resist Remover; and 20 lbs/day ST-33.

**Fees collected this quarter:** \$887.00

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Respectfully submitted,

Terry Trumbull, Esq.  
Chair, Hearing Board

Prepared by: Sean Gallagher  
Reviewed by: Maricela Martinez

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Executive Committee

From: Chairperson Terry Trumbull, Esq., and Members  
of the Hearing Board

Date: March 9, 2015

Re: Hearing Board Quarterly Report – October through December 2014

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

During the fourth quarter of 2014 (October through December), the Hearing Board:

- Held no hearings, including Accusations, Appeals and Variances;
- Processed a total of two orders, including one Emergency Variance (3665) and one Order for Dismissal (3666). There were no orders relative to Accusations or Appeals; and
- Collected a total of \$9,772.00 in filing fees.

Below is a detail of Hearing Board activity during the same period:

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**Location:** Santa Clara County; City of San Jose

**Docket:** 3665 LOS ESTEROS CRITICAL ENERGY FACILITY LLC – *Application for Emergency Variance*

**Regulation(s):** Regulation 2, Rule 1, Section 307; Regulation 2, Rule 6, Section 307; and Permit Condition 23688, Parts 19.c. and 22

**Synopsis:** A malfunction led to significant increases in bias factors relative to measurements of ammonia slip through continuous recording of the ratio of ammonia injection rate to the nitrogen oxides (NOx) inlet rate into selective catalytic reduction control system. Preliminary indications were that the oxidation catalysts installed on each gas turbine heat recovery steam generator train were not achieving guaranteed levels of carbon monoxide (CO) performance.

**Status:** Order granting Emergency Variance filed October 27, 2014

**Period of Variance:** October 3, 2014, at 6:17 p.m., to November 2, 2014, at 6:16 p.m.



**Estimated Excess Emissions:** CO at 4.0 ppmvd @ 15% oxygen, or less, thereby reducing emissions of CO to the greatest extent feasible during the variance period. Maintain compliance with both NOx and ammonia (NH3) limits through the continued injection of both water and NH3.

**Fees collected this quarter:** \$887.00

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**Location:** Santa Clara County; City of San Jose

**Docket:** 3666 LOS ESTEROS CRITICAL ENERGY FACILITY LLC – *Application for Regular and Interim Variances*

**Regulation(s):** Regulation 2, Rule 1, Section 307; Regulation 2, Rule 6, Section 307; and Permit Condition 23688, Parts 19.c. and 22

**Synopsis:** A malfunction led to significant increases in bias factors relative to measurements of ammonia slip through continuous recording of the ratio of ammonia injection rate to the NOx inlet rate into selective catalytic reduction control system. Preliminary indications were that the oxidation catalysts installed on each gas turbine heat recovery steam generator train are not achieving guaranteed levels of CO performance.

**Status:** Order for Dismissal filed December 6, 2014.

**Period of Variance:** N/A

**Estimated Excess Emissions:** 159.2 lbs/day CO

**Fees collected this quarter:** \$5,332.00

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**Location:** Solano County; City of Benicia

**Docket:** 3667 VALERO REFINING COMPANY – CALIFORNIA – *Appeal*

**Regulation(s):** Final Decision on Banking of Emission Reduction Credits, Issued November 21, 2014

**Synopsis:** Appellant alleges the Air District has historically established an emissions baseline used to calculate emission reduction credits by relying on the date an application for permit is submitted but erroneously utilized the date of an application for banking credits based on recent rulemaking.

**Status:** Pro Forma Hearing scheduled for January 8, 2015.

**Period of Variance:** N/A

**Estimated Excess Emissions: N/A**

**Fees collected this quarter: \$3,553.00**

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Respectfully submitted,

Terry Trumbull, Esq.  
Chair, Hearing Board

Prepared by: Sean Gallagher  
Reviewed by: Maricela Martinez

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
Memorandum

To: Chairperson Carole Groom and Members  
of the Executive Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 26, 2015

Re: Joint Policy Committee (JPC) Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Joint Policy Committee (JPC) consists of Board/Commission representatives of the four regional agencies and provides a forum for discussing issues of regional importance.

DISCUSSION

At the upcoming Executive Committee meeting, the JPC Director, Allison Brooks, will provide an update on the activities of the Joint Policy Committee.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jean Roggenkamp

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Executive Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 5, 2015

Re: Update on the My Air Online Program – Online Permitting System

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

At the Board of Directors meeting of January 21, 2015, the Executive Officer/APCO presented an update on the My Air Online program. This included a discussion on the integration of the production system project, website redesign, and geospatial data visualization platform to present a unified face to the public.

Staff will present the current status of the My Air Online program.

DISCUSSION

**My Air Online Program**

The My Air Online Program is composed of the design and implementation of the following information systems:

- A new public website;
- A map-based visualization platform for the public to view air quality related data; and
- The Permitting & Compliance System (Production System), including integration into the new public website

In February of 2015, staff began sending invitations to small businesses (auto body coating shops, gas stations and dry cleaners) to complete permit applications and renewals over the Internet using the Permitting & Compliance System. This system is accessed by the regulated community through the District website. Compliance & Enforcement Division staff also expanded their use of the system in completing regulatory inspections in the field.

In the first half of the 2015 calendar year, the My Air Online Program aims to complete the following:

- Deployment of the redesigned public website ([www.baaqmd.gov](http://www.baaqmd.gov))
- Integration of the following into the redesigned public website:
  - Maps to allow the public to visualize air quality related information
  - Online permitting system for small businesses
  - Online air quality complaint wizard
  - Website content language translation for most common languages (Spanish, Chinese, Tagalog, and Vietnamese)

For the remainder of the 2015 calendar year, the My Air Online Program aims to add support for permitting additional source categories, and processing asbestos renovation and demolition job requests online.

#### BUDGET CONSIDERATION/FINANCIAL IMPACT

This work is funded from the Fiscal Year End 2015 My Air Online program budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jaime A. Williams  
Reviewed by: Damian Breen

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

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

Date: March 5, 2015

Re: Report of the Stationary Source Committee Meeting of March 16, 2015

RECOMMENDED ACTION

The Stationary Source Committee (Committee) will receive only informational items and have no recommendations of approval by the Board of Directors.

BACKGROUND

The Committee will meet on Monday, March 16, 2015, and receive the following reports:

- A) Odor Issues and Subsequent District Actions in the Milpitas Area; and
- B) Update on the Development of Regulation 12, Rule 15: Petroleum Refining Emissions Tracking and Regulation 12, Rule 16: Petroleum Refining Analysis, Thresholds and Mitigation.

Chairperson John Gioia will provide an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None.
- B) None. Staff intends to propose a new fee schedule in order to recover the Air District's costs of implementing the new rules.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Sean Gallagher  
Reviewed by: Maricela Martinez

Attachment A: 03/16/15 – Stationary Source Committee Meeting Agenda #4  
Attachment B: 03/16/15 – Stationary Source Committee Meeting Agenda #5

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson John Gioia and Members  
of the Stationary Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 16, 2015

Re: Odor Issues and Subsequent District Actions in the Milpitas Area

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Since December, 2014, the Air District has received over 1,500 odor complaints from the area including Milpitas, southern Fremont and northern San Jose. Community concerns about the odor have focused on the cause, duration, impacts, and on the Air District's role in monitoring and prevention.

The Air District has been investigating the sources of the odor and has identified the possible sources as:

- **International Disposal Corporation of California:** This facility is a municipal solid waste landfill located within San Jose city limits, but immediately adjacent to the City of Milpitas.
- **Newby Island Organics, (aka The Recyclery):** This facility is a Materials Recycling Facility (MRF) and a green waste composting site located within San Jose city limits, but immediately adjacent to the City of Milpitas.
- **Zero Waste Energy Development (ZWED):** This facility is a Dry Fermentation Anaerobic Digestion Combined Heat and Power Facility (DFAD/CHP) located in San Jose. The facility accepts commercial food waste from restaurants and composts it through anaerobic digestion
- **The Santa Clara / San Jose Waste Water Treatment Facility:** This facility is a regional wastewater sewage treatment facility located in San Jose.

DISCUSSION

Staff will discuss the current efforts to reduce the odor issues in Milpitas. The discussion will include emission sources, monitoring activities and the role of the Air District in prevention and minimization of these odor occurrences.



BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Wayne Kino  
Reviewed by: Jeff McKay

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson John Gioia and Members  
of the Stationary Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 2, 2015

Re: Update on the Development of Regulation 12, Rule 15: Petroleum Refining  
Emissions Tracking and Regulation 12, Rule 16: Petroleum Refining Analysis,  
Thresholds and Mitigation

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RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On October 17, 2012, the Board of Directors approved staff's *Work Plan for Action Items Related to Accidental Releases from Industrial Facilities* that included, among the key actions, the development of new rules that would apply to Bay Area petroleum refineries. During the rule development process, the following goals have emerged:

- Evaluate whether changes in crude oil composition result in increased emissions by enhancing current emissions inventories, establishing refinery-specific emissions profiles and the reporting of crude oil properties
- Re-evaluate health risks associated with refinery emissions based on new Office of Environmental Health Hazard Assessment (OEHHA) guidelines
- Develop air monitoring capabilities along refinery fence-lines and in nearby communities
- Develop requirements to investigate causes of emissions increases at refineries
- Develop threshold above which refineries must mitigate emissions increases
- Investigate ways to continue reducing refinery emissions over time

On October 15, 2014, the Board of Directors approved Resolution Number 2014-07 directing staff to develop strategies to reduce emissions from petroleum refineries. Specifically, the resolution directed staff to continue development of Regulation 12, Rule 15: Petroleum Refining Emissions Tracking, to track and monitor refinery emissions, as well as develop a companion rule, Regulation 12, Rule 16, to set emissions thresholds and mitigate potential emissions increases. The resolution set a deadline of spring 2015 for both rules to be presented to the Board of Directors for consideration.

## DISCUSSION

In this report, staff will provide the Committee with an update on progress towards meeting the above goals, including:

- Summarizing current regulatory proposals
- Current and remaining rule development activities
- Stakeholder outreach and input

## BUDGET CONSIDERATIONS/FINANCIAL IMPACT

None. Staff intends to propose a new fee schedule in order to recover the Air District's costs of implementing the new rules.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Eric Stevenson  
Reviewed by: Jean Roggenkamp

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Carole Groom and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 10, 2015

Re: Overview of the 2014/2015 Wood Smoke Reduction Program

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Fine particulate matter (PM<sub>2.5</sub>) is the most significant air pollutant in the Bay Area, especially during the winter months, according to the Air District's 2010 Clean Air Plan. The Air District records the highest levels of PM<sub>2.5</sub> during the *Winter Spare the Air* season, from November 1, 2014, through the end of February 2015. In the winter, more than 30% of PM<sub>2.5</sub> air pollution is attributed to wood burning from the estimated 1.4 million fireplaces and other wood-burning devices in the Bay Area.

On July 9, 2008, the Board of Directors adopted Regulation 6-3: Wood-burning Devices to protect Bay Area residents from the public health impacts of wood smoke pollution. The rule bans wood burning during *Winter Spare the Air Alerts*, limits excess visible smoke, prohibits burning garbage, restricts the sale and installation of non-EPA certified wood burning devices, and requires labeling on firewood and solid fuels sold within the Air District's jurisdiction.

DISCUSSION

While the Air District's air monitoring data show concentrations of PM<sub>2.5</sub> have decreased over time, the lack of storms this winter season caused 23 *Winter Spare the Air Alerts* to be issued and six days when the National Ambient Air Quality Standard for PM<sub>2.5</sub> was exceeded. Air District staff will present a review of, and lessons learned from, the 2014/2015 winter season, including how enforcement actions and public outreach contribute to the public's understanding of why reducing wood smoke positively affects their health, as well as an outline of the relevant rule development process that is currently underway.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

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Executive Officer/APCO

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