



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS REGULAR MEETING

December 4, 2019

A meeting of the Bay Area Air Quality Management District Board of Directors will be held at 9:30 a.m. in the 1st Floor Board Room at the Air District Headquarters, 375 Beale Street, San Francisco, California 94105.

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 9:30 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 www.baaqmd.gov/bodagendas at the time of the meeting. Closed captioning may contain errors and omissions, and are not certified for their content or form.

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 Speakers wishing to address the Board on non-agenda matters will be heard at the end of the agenda, and each will be allowed up to 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 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.

Speakers may speak for up to three minutes on each item on the Agenda. However, 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. 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
DECEMBER 4, 2019
9:30 A.M.

BOARD ROOM
1ST FLOOR

CALL TO ORDER

Chairperson, Katie Rice

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 two 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.

COMMENDATION/PROCLAMATION/AWARD

3. *The Board of Directors will recognize Assemblymember Buffy Wicks for her service, leadership, and dedication in sponsoring Assembly Bill (AB 836) - Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Pilot Program.*

CONSENT CALENDAR (ITEMS 4-10)

Staff/Phone (415) 749-

4. Minutes of the Board of Directors Regular Meeting of November 20, 2019

Clerk of the Boards/5073

The Board of Directors will consider approving the draft minutes of the Board of Directors Regular Meeting of November 20, 2019.

5. Board Communications Received from November 20, 2019 through December 3, 2019

J. Broadbent/5052

jbroadbent@baaqmd.gov

A copy of communications directed to the Board of Directors received by the Air District from November 20, 2019 through December 3, 2019, if any, will be at each Board Member's place.

6. Notices of Violations Issued and Settlements in Excess of \$10,000 in the month of October 2019

J. Broadbent/5052

jbroadbent@baaqmd.gov

In accordance with Resolution No. 2012-08, the Board of Directors will receive a list of all Notices of Violations issued, and all settlements for amounts in excess of \$10,000 during the month of October 2019.

7. Proposed Regulatory Agenda for 2020

J. Broadbent/5052

jbroadbent@baaqmd.gov

State law requires each Air District to publish a list of potential regulatory measures for the upcoming year. No regulatory measure can be brought before the Board that is not on the list, with specified exceptions. Consequently, the list contains all regulatory measures that may come before the Board of Directors in 2020.

8. Authorization to Amend a Contract with Mark Kadesh and Associates

J. Broadbent/5052

jbroadbent@baaqmd.gov

Recommend the Board of Directors consider authorizing the Executive Officer/APCO to amend a contract with Mark Kadesh and Associates, in an amount not to exceed \$150,000 for Federal Legislative Advocacy Services.

9. Authorization to Execute a Contract for Organizational Development and Employee Engagement Services

J. Broadbent/5052

jbroadbent@baaqmd.gov

Recommend the Board of Directors consider authorizing the Executive Officer/APCO to execute a two-year contract with Illumyx, LLC, in an amount not to exceed \$250,000, for Organizational Development and Employee Engagement Services.

10. Acceptance and Award of Grant Funding

J. Broadbent/5052

jbroadbent@baaqmd.gov

Recommend the Board of Directors consider authorizing the Executive Officer/APCO to enter into an agreement with the California Department of Transportation (Caltrans) to receive grant funds under the federal Congestion Mitigation and Air Quality Improvement (CMAQ) Program to support the Air District's Spare the Air Campaign Activities.

COMMITTEE REPORTS

11. Report of the Budget and Finance Committee meeting of November 25, 2019

CHAIR: C. Groom

J. Broadbent/5052
jbroadbent@baaqmd.gov

The Committee received the following reports:

A) Fourth Quarter Financial Report – Fiscal Year Ending (FYE) 2019

- 1) *None; receive and file.*

B) First Quarter Financial Report – Fiscal Year Ending (FYE) 2020

- 1) *None; receive and file.*

C) California Employers’ Pension Prefunding Trust (CEPPT) Participation and Consideration to Recommend Adoption

- 1) *Adopt a resolution to authorize the Air District to participate in the California Employers’ Pension Prefunding Trust (CEPPT) Program administered by the California Public Employees Retirement System (CalPERS) to Pre-fund Pension Obligations;*
- 2) *Delegate the Executive Officer/APCO and the Chief Financial Officer with Authority to Request Disbursements; and*
- 3) *Authorize the Executive Officer/APCO to execute the CEPPT legal and administrative documents on behalf of the Air District, to take any necessary additional actions to maintain the Air District’s participation in the Program, and to maintain compliance of any relevant regulation issued, or as may be issued.*

For the full Committee agenda packet and materials, click on the link below:

www.baaqmd.gov/bodagendas

12. Report of the Legislative Committee meeting of November 25, 2019

CHAIR: M. Abe-Koga

J. Broadbent/5052
jbroadbent@baaqmd.gov

The Committee received the following reports:

A) 2020 Budget Priorities

- 1) *The Committee will receive a report on potential activities associated with the 2020 Budget, providing direction as necessary.*

B) 2020 Legislative Priorities

- 1) *The Committee will receive a report on potential legislative activities in 2020, providing direction as necessary.*

For the full Committee agenda packet and materials, click on the link below:

www.baaqmd.gov/bodagendas

13. Report of the Climate Protection Committee meeting of December 2, 2019

CHAIR: T. Barrett

J. Broadbent/5052
jbroadbent@baaqmd.gov

The Committee will receive the following reports:

A) Marin County Low Carbon Concrete Ordinance

- 1) *None; receive and file.*

B) Building Electrification Trends and Opportunities

- 1) *None; receive and file.*

C) Update on Air District's Building Decarbonization Program

- 1) *None; receive and file.*

For the full Committee agenda packet and materials, click on the link below:

www.baaqmd.gov/bodagendas

PUBLIC HEARING

14. Public Hearing to Consider Adoption of Proposed Amendments to Regulation 12: Miscellaneous Standards of Performance, Rule 15: Petroleum Refining Emissions Tracking; and Approval of Filing a Notice of Exemption from the California Environmental Quality Act (CEQA)

The Board of Directors will consider adoption of proposed amendments to Regulation 12: Miscellaneous Standards of Performance, Rule 15: Petroleum Refining Emissions Tracking that would become effective immediately; and approval of filing a Notice of Exemption from the California Environmental Quality Act (CEQA). The proposed amendments revise and establish emissions reporting deadlines to coordinate with state-level regulations.

PRESENTATION

15. Climate Protection Update

Staff will provide the Board of Directors with an update of Air District Climate Protection Activities.

PUBLIC COMMENT ON NON-AGENDA MATTERS

16. 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 two minutes each to address the Board on non-agenda matters.

BOARD MEMBERS' COMMENTS

17. *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

18. Report of the Executive Officer/APCO

19. Chairperson's Report

20. Time and Place of Next Meeting:

Wednesday, January 15, 2020 at Residence Inn by Marriott, 19429 Stevens Creek Blvd. (Montebello Room), Cupertino, CA 95014 at 10:00 a.m.

21. Adjournment

The Board meeting shall be adjourned by the Board Chair.

CONTACT:

MANAGER, EXECUTIVE OPERATIONS
375 BEALE STREET, SAN FRANCISCO, CA 94105
vjohnson@baaqmd.gov

(415) 749-4941
FAX: (415) 928-8560
BAAQMD homepage:
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.
- 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 375 Beale Street, Suite 600, San Francisco, CA 94105, at the time such writing is made available to all, or a majority of all, members of that body.

Accessibility and Non-Discrimination Policy

The Bay Area Air Quality Management District (Air District) does not discriminate on the basis of race, national origin, ethnic group identification, ancestry, religion, age, sex, sexual orientation, gender identity, gender expression, color, genetic information, medical condition, or mental or physical disability, or any other attribute or belief protected by law.

It is the Air District’s policy to provide fair and equal access to the benefits of a program or activity administered by Air District. The Air District will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activity offered or conducted by the Air District. Members of the public who believe they or others were unlawfully denied full and equal access to an Air District program or activity may file a discrimination complaint under this policy. This non-discrimination policy also applies to other people or entities affiliated with Air District, including contractors or grantees that the Air District utilizes to provide benefits and services to members of the public.

Auxiliary aids and services including, for example, qualified interpreters and/or listening devices, to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the benefits, activities, programs and services will be provided by the Air District in a timely manner and in such a way as to protect the privacy and independence of the individual. Please contact the Non-Discrimination Coordinator identified below at least three days in advance of a meeting so that arrangements can be made accordingly.

If you believe discrimination has occurred with respect to an Air District program or activity, you may contact the Non-Discrimination Coordinator identified below or visit our website at www.baaqmd.gov/accessibility to learn how and where to file a complaint of discrimination.

Questions regarding this Policy should be directed to the Air District’s Non-Discrimination Coordinator, Rex Sanders, at (415) 749-4951 or by email at rsanders@baaqmd.gov.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

375 BEALE STREET, SAN FRANCISCO, CA 94105

FOR QUESTIONS PLEASE CALL (415) 749-4941

EXECUTIVE OFFICE:

MONTHLY CALENDAR OF AIR DISTRICT MEETINGS

DECEMBER 2019

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Climate Protection Committee	Monday	2	9:30 a.m.	1 st Floor Board Room
Board of Directors Regular Meeting	Wednesday	4	9:30 a.m.	1 st Floor Board Room
Advisory Council Meeting	Monday	9	10:00 a.m.	1 st Floor Board Room
Board of Directors Stationary Source Committee	Monday	16	9:30 a.m.	1 st Floor Board Room
Board of Directors Executive Committee - CANCELLED	Wednesday	18	9:30 a.m.	1 st Floor Board Room
Board of Directors Mobile Source Committee	Wednesday	18	9:30 a.m.	1 st Floor Yerba Buena Room
Board of Directors Budget & Finance Committee - CANCELLED	Wednesday	25	9:30 a.m.	1 st Floor Board Room
Board of Directors Mobile Source Committee – CANCELLED AND RESCHEDULED TO WEDNESDAY, DECEMBER 18, 2019	Thursday	26	9:30 a.m.	1 st Floor Board Room

JANUARY 2020

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting - CANCELLED	Wednesday	1	9:30 a.m.	1 st Floor Board Room
Board of Directors Special Meeting/Retreat	Wednesday	15	10:00 a.m.	Residence Inn by Marriott San Jose/Cupertino 19429 Stevens Creek Blvd., Montebello Room Cupertino, CA 95014
Board of Directors Climate Protection Committee - CANCELLED	Thursday	16	9:30 a.m.	1 st Floor Board Room
Board of Directors Stationary Source Committee - CANCELLED	Monday	20	9:30 a.m.	1 st Floor Board Room
Board of Directors Budget & Finance Committee - CANCELLED	Wednesday	22	9:30 a.m.	1 st Floor Board Room

JANUARY 2020

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Legislative Committee - CANCELLED	Wednesday	22	10:30 a.m.	1 st Floor Board Room
Board of Directors Mobile Source Committee - CANCELLED	Thursday	23	9:30 a.m.	1 st Floor Yerba Buena Room
Board of Directors Budget & Finance Committee - CANCELLED	Wednesday	23	9:30 a.m.	1 st Floor Board Room

VJ – 11/26/2019 – 5:00 PM

G/Board/Executive Office/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 21, 2019

Re: Minutes of the Board of Directors Regular Meeting of November 20, 2019

RECOMMENDED ACTION

Approve the attached draft minutes of the Board of Directors Regular Meeting of November 20, 2019.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Regular Meeting of November 20, 2019.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

Attachment 4A: Draft Minutes of the Board of Directors Regular Meeting of November 20, 2019

AGENDA 4A – ATTACHMENT

Draft Minutes - Board of Directors Regular Meeting of November 20, 2019

Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
(415) 749-5073

Board of Directors Regular Meeting
Wednesday, November 20, 2019

DRAFT MINUTES

Note: Audio recordings of the meeting are available on the website of the Bay Area Air Quality Management District at www.baaqmd.gov/bodagendas

CALL TO ORDER

1. **Opening Comments:** Board of Directors (Board) Chairperson, Katie Rice, called the meeting to order at 9:34 a.m. Chair Rice introduced new Board member, Davina Hurt, current Mayor of the City of Belmont.

Roll Call:

Present: Chairperson Katie Rice; Vice Chairperson Rod Sinks; Secretary Cindy Chavez; and Directors David J. Canepa, John Gioia, Carole Groom, Scott Haggerty, David Hudson, Davina Hurt, Tyrone Jue, Liz Kniss, Karen Mitchoff, Mark Ross, Jim Spering, Brad Wagenknecht, Shamann Walton, and Shirlee Zane.

Absent: Directors Margaret Abe-Koga, Teresa Barrett, John J. Bauters, Pauline Russo Cutter, Nate Miley, Gordon Mar, and Lori Wilson.

PUBLIC COMMENT ON NON-AGENDA MATTERS

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

Public comments were given by Katherine Funes and Mykela Patton, Rose Foundation.

NOTED PRESENT: Vice Chair Sinks, Secretary Chavez, and Director Kniss were noted present at 9:38 a.m.

COMMENDATIONS/PROCLAMATIONS/AWARDS

3. The Board of Directors recognized Bay Area Air Quality Management District Supervising Air Quality Specialist, Linda Duca, as the recipient of the 2019 Rodney Swartzendruber Outstanding Inspector Award, which is issued by the California Air Pollution Control Officers Association (CAPCOA). The award is given each year by CAPCOA's Enforcement Managers' Committee to three inspectors who work for the state's 35 air quality management

districts. It recognizes inspectors who consistently demonstrate outstanding performance and who make significant contributions that benefit air pollution control efforts in an exemplary way. Duca is one of three Bay Area Air Quality Management District recipients of this award.

4. The Board of Directors recognized Air District Staff who have been working on the Assembly Bill (AB) 617 West Oakland Community Action Plan. This recognition occurred during Item 25 (see below).

CONSENT CALENDAR (ITEMS 5-14)

5. Minutes of the Board of Directors Special Meeting of October 2, 2019
6. Board Communications Received from October 2, 2019 through November 19, 2019
7. Notices of Violations Issued and Settlements in Excess of \$10,000 from September 2019
8. Air District Personnel on Out-of-State Business Travel
9. Quarterly Report of California Air Resources Board (CARB) Representative – Honorable John Gioia
10. Quarterly Report of the Executive Office and Division Activities for the Months of July 2019 – September 2019
11. Authorization to Execute a Contract for Odor Attribution Study in the South Bay
12. Set a Public Hearing for December 4, 2019 to Consider Adoption of Proposed Amendments to Regulation 12: Miscellaneous Standards of Performance, Rule 15: Petroleum Refining Emissions Tracking; and Approval of Filing a Notice of Exemption from the California Environmental Quality Act (CEQA)
13. Acceptance and Award of Grant Funding
14. Delegate Authority to Metropolitan Transportation Commission (MTC) to Conduct a Public Hearing on Proposed Amendments to Bay Area Transportation Conformity and Interagency Consultation Procedures in the State Implementation Plan (SIP)

Public Comments

No requests received.

Board Comments

None.

Board Action:

Director Wagenknecht made a motion, seconded by Director Haggerty, to **approve** the Consent Calendar Items 5 through 14, inclusive; and the motion **carried** by the following vote of the Board:

AYES:	Canepa, Chavez, Gioia, Groom, Haggerty, Hudson, Hurt, Jue, Kniss, Mitchoff, Rice, Ross, Sinks, Spring, Wagenknecht, Walton, Zane.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Abe-Koga, Barrett, Bauters, Cutter, Mar, Miley, Wilson.

COMMITTEE REPORTS

15. Report of the Technology Implementation Office Steering Committee Meeting of October 4, 2019

Technology Implementation Office Steering Committee Chair, Cindy Chavez, read the following Committee report:

The Committee met on Friday, October 4, 2019, and approved the minutes of March 25, 2019.

The Committee reviewed and discussed the staff presentation Climate Tech Finance: Accelerating Adoption of Lower-Carbon Technology.

The Committee then reviewed and discussed the staff presentation Programs to Accelerate Electric Vehicle Adoption.

Finally, the Committee reviewed and discussed the staff presentation Technology Implementation Office Overview.

The next meeting of the Technology Implementation Office Steering Committee will be held at the call of the Chair. This concludes the Chair Report of the Technology Implementation Office Steering Committee.

Public Comments

No requests received.

Board Comments

Secretary Chavez encouraged the Board members to attend these meetings when possible.

Board Action

None; receive and file.

16. Report of the Legislative Committee Meeting of October 9, 2019

Legislative Committee member, Brad Wagenknecht, read the following Committee report:

The Legislative Committee met on Wednesday, October 9, 2019, and approved the minutes of May 22, 2019.

The Committee then discussed the 2019 legislative year, focusing on measures with Air District-adopted positions of interest to the Air District.

The Committee then received an update on Assembly Bill 836, the Air District-sponsored bill introduced by Assemblymember Buffy Wicks regarding the Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Program, which was signed by the Governor on October 2, 2019.

Finally, the Committee received an update on the Air District's legislative priorities for 2020.

The next meeting of the Legislative Committee will be on Monday, November 25, 2019, at 10:45 a.m. This concludes the Chair's report of the Legislative Committee.

Public Comments

No requests received.

Board Comments

None.

Board Action

None; receive and file.

17. Report of the Personnel Committee Meeting of October 16, 2019

Personnel Committee Chair, Jim Spering, read the following Committee report:

The Committee met on Wednesday, October 16, 2019, and due to a lack of a quorum, did not approve the minutes of September 6, 2019.

The Committee then met in Closed Session to discuss contract negotiations with the Bay Area Air Quality Management District Employee's Association and conduct a performance evaluation for the Executive Officer and General Counsel. There is no reportable action for either item.

The Committee then reviewed and discussed the staff presentation Fiscal Year Ending 2020 Staffing Augmentation: Request to Amend the Fiscal Year Ending 2020 Budget to Increase Staffing. Although a quorum of Committee members was not present, the consensus of the Committee was to recommend that the Board amends the Fiscal Year Ending 2020 Budget to authorize the creation of ten additional full-time regular positions that will support Assembly Bill 617, and backfill staffing resources previously diverted to support Assembly Bill 617 from the Air District's Engineering and Enforcement Divisions. The Committee requested that Air District staff give a brief presentation on this item as part of this report.

The next meeting of the Personnel Committee will be held at the call of the Chair.

Based upon the concensus of the Committee on October 16, 2019, I move that the Board amends the Fiscal Year Ending 2020 Budget to authorize the creation of ten additional full-time regular positions that will support Assembly Bill 617, and backfill staffing resources previously diverted to support Assembly Bill 617 from the Air District's Engineering and Enforcement Divisions.

This concludes the Chair Report of the Personnel Committee.

Although it had been anticipated that the Board would consider this staff request during Item 21, Chair Rice requested that the Board received the staff presentation and take action during Item 17. Jack P. Broadbent, Executive Officer/Air Pollution Control Officer, gave the staff presentation *Fiscal Year Ending (FYE) 2020 Staffing Augmentation*, explaining the need for ten additional full-time employees, and describing each requested position's proposed division, impact to the FYE 2020 Budget, and funding source. The presentation also included the comparison of the Bay Area Air Quality Management District's proposed staff augmentation to that of four other large air districts in California.

Public Comments

Public comments were given by Jed Holtzman, 350 Bay Area.

Board Comments

The Board and staff discussed the request for a status of the Air District's progress on promoting racial equity; the probability of securing funds from CARB to cover the costs of four of the applicable ten requested positions, and the concern about hiring new staff without being guaranteed long-term funding to support their positions; and the status of the Air District's organizational audit/salary survey.

Board Action

Director Sperring made a motion, seconded by Director Hudson, to **approve** the recommendations of the Personnel Committee; and the motion **carried** by the following vote of the Board:

AYES: Canepa, Chavez, Gioia, Groom, Haggerty, Hudson, Hurt, Jue, Kniss, Mitchoff, Rice, Ross, Sinks, Sperring, Wagenknecht, Walton, Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Barrett, Bauters, Cutter, Mar, Miley, Wilson.

18. **Report of the Mobile Source Committee Meeting of October 24, 2019**

Mobile Source Committee Chair, David J. Canepa, read the following Committee report:

The Committee met on Thursday, October 24, 2019, and approved the minutes of September 26, 2019.

The Committee reviewed and discussed the staff presentation Projects and Contracts with Proposed Grant Awards Over \$100,000. The Committee recommends the Board:

1. *Approve recommended projects with proposed grant awards over \$100,000; and*
2. *Authorize the Executive Officer/Air Pollution Control Officer to enter into all necessary agreements with applicants for the recommended projects.*

The Committee then reviewed and discussed the staff presentation Proposed Updates to the Transportation Fund for Clean Air County Program Manager Fund Policies and Fiscal Year Ending 2021. The Committee recommends the Board:

1. *Approve the proposed updates to the Transportation Fund for Clean Air County Program Manager Fund Policies for Fiscal Year Ending 2021.*

Finally, the Committee then reviewed and discussed the staff presentation Diesel Free by '33: Update on Zero-Emission Medium – and Heavy-Duty Mobile Source Technologies.

The next meeting of the Mobile Source Committee will be on Wednesday, December 18, 2019, at 9:30 a.m. I move that the Board approve the Mobile Source Committee's recommendations. This concludes the Chair Report of the Mobile Source Committee.

Public Comments

No requests received.

Board Comments

None.

Board Action

Director Canepa made a motion, seconded by Director Hudson, to **approve** the recommendations of the Mobile Source Committee; and the motion **carried** by the following vote of the Board:

AYES: Canepa, Chavez, Gioia, Groom, Haggerty, Hudson, Hurt, Jue, Kniss, Mitchoff, Rice, Ross, Sinks, Spering, Wagenknecht, Walton, Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Barrett, Bauters, Cutter, Mar, Miley, Wilson.

19. **Report of the Advisory Council Meeting of October 28, 2019**

Advisory Council (Council) Board Liaison, Rod Sinks, read the following Committee report:

The Council met on Monday, October 28, 2019, and approved the minutes of July 29, 2019.

The Council then held the first of its Particulate Matter Symposia series. Designed to identify effective measures to further protect public health, and facilitate discussion among nationally recognized scientists, stakeholders and the Air District, this symposium featured two panels that addressed the topics of “Particulate Matter Health Effects”, and “Particulate Matter Exposure and Risk”. The full-day symposium was a well-attended and successful event. Advisory Council Chair, Stan Hayes, will give a brief presentation on this event and its outcomes. The remainder of this symposia series is scheduled to continue in February and tentatively July of 2020.

The next meeting of the Council will be on Monday, December 9, 2019, at 10:00 a.m. This concludes the Chair Report of the Advisory Council.

Advisory Council Chairperson, Stan Hayes, gave the presentation *Particulate Matter (PM) Protection Symposium (Advisory Council Meeting of October 28, 2019)*, including: PM focus; PM symposia – key points, format, speaker profiles, panels, sample panel and discussion questions, Council initial deliberation; and PM symposia series.

Public Comments

Public comments were given by Jed Holtzman, 350 Bay Area.

Board Comments

The Board and staff discussed the suggestion that the language “standards should be lowered” be changed to “standards should be strengthened” so as not to confuse members of the public who may not be familiar with scientific terminology; the suggestion that the Council engages with the Centers for Disease Control and Prevention as PM impacts can be long-term effects; London’s “Great Smog of 1952” and the resulting mortality; what the Council means by “needing more science”; increases of heart attack and stroke due to exposure to wildfire-PM_{2.5}; and the need to differentiate between wildfire smoke and prescribed- burn smoke.

Board Action

None; receive and file.

20. Report of the Community and Public Health Committee Meeting of October 30, 2019

Community and Public Health Committee Vice Chair, Mark Ross, read the following Committee report:

The Community and Public Health Committee met on Wednesday, October 30, 2019 and approved the minutes of September 12, 2019.

The Committee reviewed and discussed the staff presentation 2020 Youth for the Environment and Sustainability Conference.

The Committee then reviewed and discussed the staff presentation Assembly Bill 617 Implementation: Update and Next Steps.

Finally, the Committee reviewed and discussed the staff presentation Report on NuStar Terminal Incident and Wildfire Status Report.

The next meeting of the Community and Public Health Committee will be held at the Call of the Chair. This concludes the Chair Report of the Community and Public Health Committee.

Public Comments

No requests received.

Board Comments

The Board and staff discussed details about the Kincadee Fire in Sonoma County, including evacuation, lack of gas and electricity, the work of the firefighters, the importance of being prepared for wildfires, Sonoma County's alert system, a lack of mortality and less home damage than in previous years, a decrease in the use of respirators, the evacuation of two hospitals, the need for clean air shelters, and the suggestion that the Council collect data from the Santa Rosa Memorial Hospital Trauma Center; and the new episode of *Frontline*, a journalism program of the Public Broadcasting Service, called "Fire In Paradise," about the Camp Fire of 2018 in Paradise, California.

Board Action

None; receive and file.

21. Report of the Executive Committee Meeting of November 6, 2019

Executive Committee Chair, Katie Rice, read the following Committee report:

The Executive Committee met on Wednesday, November 6, 2019, and approved the minutes of September 5, 2019.

The Committee received the presentation Hearing Board Quarterly Reports: July – September 2019.

The Committee then received the presentation Bay Area Regional Collaborative Executive Director's Update, given by Executive Director, Allison Brooks.

The Committee then reviewed and discussed the presentation Particulate Matter Health Protection Symposium, given by Advisory Council Chairperson, Stan Hayes.

The Committee then reviewed and discussed the staff presentation Assembly Bill 617 Implementation: Update and Next Steps.

The Committee then reviewed and discussed the staff presentation Report on Recent Incident Response Events.

Finally, the Committee reviewed and discussed the staff presentation Fiscal Year Ending 2020 Staffing Augmentation. The Committee recommends that the Board:

- 1. Amend the Fiscal Year Ending 2020 budget to authorize the creation of ten additional full-time regular positions.*

The Committee requested that staff give a brief presentation to the Board on this item.

The next meeting of the Executive Committee will be held at the Call of the Chair. I move that the Board approves the Executive Committee's recommendation. This concludes the Chair report of the Executive Committee.

Although it had been anticipated that the Board would consider this staff request and take action during Item 21, this was previously done during Item 17.

Public Comments

No requests received.

Board Comments

None.

Board Action

None; receive and file.

22. **Report of the Nominating Committee Meeting of November 20, 2019**

Nominating Committee Chair, Katie Rice, read the following Committee report:

The Committee met on Wednesday, November 20, 2019, and approved the minutes of November 7, 2018.

The Committee considered nomination of Board Officers for the 2020 Term of Office and recommends Rod Sinks as Chairperson, Cindy Chavez as Vice-Chairperson, and Karen Mitchoff as Secretary.

I move that the Board of Directors approve recommendations of the Nominating Committee.

Public Comments

No requests received.

Board Comments

None.

Board Action

Chair Rice made a motion, seconded by Director Gioia, to **approve** the recommendations of the Nominating Committee; and the motion **carried** by the following vote of the Board:

AYES:	Canepa, Chavez, Gioia, Groom, Haggerty, Hudson, Hurt, Jue, Kniss, Mitchoff, Rice, Ross, Sinks, Wagenknecht, Walton, Zane.
NOES:	None.
ABSTAIN:	None.
ABSENT:	Abe-Koga, Barrett, Bauters, Cutter, Mar, Miley, Spering, Wilson.

PUBLIC HEARING

23. Public Hearing to Consider Adoption of Proposed Amendments to Regulation 5: Open Burning and Regulation 6: Particulate Matter and Visible Emissions, Rule 3: Wood Burning Devices; and Approval of Filing a Notice of Exemption/Determination Pursuant to the California Environmental Quality Act (CEQA)

Wayne Kino, Deputy Air Pollution Control Officer of Operations, explained that the proposed amendments to Air District Regulations 5 and 6-3 are part of the Air District's Wildfire Air Quality Response Program intended to prepare for, prevent, and respond to future wildfires and ensure health-protective measures and strategies are in place. Mr. Kino then introduced Patrick Wenzinger, Supervising Air Quality Specialist, who gave the staff presentation *Public Hearing on Proposed Amendments – Regulation 5: Open Burning; and Regulation 6-3: Wood-Burning Devices*, including: Bay Area wildfire review; Sonoma/Napa, Camp, and Kincade Fires; Cal Fire data: top 20 most destructive wildfires in California; Wildfire Air Quality Response Program strategy; overview; California wildfires; local and regional PM_{2.5} impacts; wildfire smoke impacts from Camp Fire; impacts on daily 24-hour average Air Quality Index; Bay Area PM_{2.5} trend from 2005-2018; wildfire smoke composition; health effects of PM_{2.5}; goals of proposed rule amendments; Regulation 5: Open Burning (current rule, 2017 open burning PM_{2.5} emissions, plans and acreage burned from 2008-2018, proposed amendments, and PM_{2.5} emissions reductions estimates); Rule 6-3: Wood-Burning Devices (current rule, proposed amendments, PM_{2.5} exceedances from 2015-2019, and PM_{2.5} emissions reductions estimates); rule development process; summary of 30-day public comments; socioeconomic analyses; CEQA analyses; and recommended actions.

Chair Rice opened the Public Hearing.

Public Comments

Public comments were given by Coty Sifuentes-Winter, Midpeninsula Regional Open Space District; Tara Cahn, Tara Cahn Architecture; Dr. Mary Williams, Bay Area Chapter of Physicians for Social Responsibility; Jenny Bard, American Lung Association; Dennis Rein, Moraga-Orinda Fire District; Sarah Collamer, California Department of Forestry and Fire Protection; Jared Childress, Audubon Canyon Ranch's Fire Forward; and Jed Holtzman, 350 Bay Area.

Committee Comments

The Board and staff discussed whether prescribed burns are exempt during days on which Spare the Air alerts are issued; whether prescribed burning is limited to certain times during the year, and if so, whether that time can be expanded; the estimated number of households that currently make use of the Air District's "sole source of heat exemption" from the Air District's woodsmoke rule; whether the Air District has template language for potential homeowners, renters, and realtors about the Air District's woodsmoke regulations; whether the Air District recommends a safety threshold for PM_{2.5} exposure; whether the Air District is considering regulation that requires electric fire places or heat pumps for new construction; the City of Palo Alto's request for a draft ordinance that bans gas appliances, beginning in April and in new office buildings by the end of 2020; communities that have protested the Air District's woodsmoke regulations, due to a reliance on wood-burning devices; whether the

proposed amendments pertain to federal lands; and how vineyards have served as firebreaks in Sonoma County.

Chair Rice closed the Public Hearing.

Board Action

Director Hudson made a motion, seconded by Director Groom, to **adopt** proposed amendments to Regulation 5: Open Burning; **adopt** proposed amendments to Regulation 6: Particulate Matter and Visible Emissions, Rule 3: Wood Burning Devices; and **approve** filing a Notice of Exemption/Determination pursuant to CEQA; and the motion **carried** by the following vote of the Board:

AYES: Canepa, Chavez, Gioia, Groom, Haggerty, Hudson, Hurt, Jue, Kniss, Mitchoff, Rice, Ross, Sinks, Walton, Zane.
NOES: None.
ABSTAIN: None.
ABSENT: Abe-Koga, Barrett, Bauters, Cutter, Mar, Miley, Sperring, Wagenknecht, Wilson.

PRESENTATIONS

24. **Report on the Air District Incident Response Role and Recent Incident Response Events**

Mr. Kino gave the staff presentation *Air District Incident Response: Role and Report on Recent Incident Response Events*, including: overview; Air District role; discovery and notification; response objectives; NuStar Energy LP; California map of fires.

Public Comments

No requests received.

Committee Comments

The Board and staff discussed the request for additional monitors in Santa Rosa; the need for the Air District to publicize accurate, real-time air quality information to the public during smoke incidents; whether the Air District has designated a central-point person during smoke incidents; why smaller, less significant fires that may or may not have less media attention are not captured in Air District presentations; and the suggestion that the community of Crockett be designated as a shelter-in-place area.

25. **Assembly Bill 617 Implementation into 2020**

Gregory Nudd, Deputy Air Pollution Control Officer of Policy, gave the staff presentation *AB 617 Implementation: Update and Next Steps*, including: 2019 accomplishments; AB 617 2020: regional and community levels; and next steps in program management.

Mr. Nudd then acknowledged those Air District employees that have been working on AB 617 that were in the audience.

Public Comments

Public comments were given by Jill Ratner, Rose Foundation; and Jed Holtzman, 350 Bay Area.

Committee Comments

The Board and staff discussed the current year's work in AB 617 and proposed work for 2020, and the fact that the Air District was not asking CARB to designate new AB 617 communities in the Bay Area in 2020; how the Air District will address the needs of potential AB 617 communities while a lack of long-term funding persists, and whether it is feasible to consider new potential communities until funding is secured; the idea of communities implementing measures used in previous AB 617 implementation plans, despite a lack of AB 617 funding from the CARB; how to address disadvantaged communities that face high levels of exposure to air pollution but lack the presence of an environmental justice or advocacy community; how the Air District defines "Central Contra Costa County"; and appreciation for the Air District's source apportionment work.

PUBLIC COMMENT ON NON-AGENDA MATTERS

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

No requests received.

BOARD MEMBERS' COMMENTS

27. Board Members' Comments

Vice Chair Sinks remarked that he looks forward to the Air District's Odor Attribution Study in the South Bay.

Director Haggerty acknowledged the work of Wayne Kino and his staff.

OTHER BUSINESS

28. Report of the Executive Officer/Air Pollution Control Officer

Mr. Broadbent discussed the following:

- The current winter PM_{2.5} (Spare the Air) season, and how, after today's amendment to Rule 6 - 3 (allowing the Air District to announce a Spare the Air Alert on any day throughout the year to notify the public when particulate matter is forecast to exceed the national ambient air quality standard) Air District staff will display combined ozone data to the Board.
- The anticipated rulemaking schedule for six Best Available Retrofit Control Technology (BARCT) rules and five climate and organics rules.
- Karen Schkolnick, Director of Strategic Incentives, presented the Air District's new Wood Smoke Reduction Incentive Program, which would provide funding for replacements with electrical heat pumps only and include options for low-income residents. After Air District staff expressed its

request for the Board's direction on the development of this revised program, the Board and staff discussed the request that this be brought to the appropriate committees; the request that the Air District provide workshops for contractors and electricians who will be replacing the equipment; what determines "low-income" applicants, and whether utility companies and community choice aggregation agencies can help cover 100% of the project costs for low income applicants; and the suggestion to ask the utility companies and community choice aggregation agencies about the Air District's scale solutions.

- Brian Bunger, District Counsel, reported that the Air District, along with the South Coast and Sacramento Metro Air Quality Management Districts, filed two pieces of litigation to challenge aspects of the Trump Administration's Proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule.

Public Comments

Public comments were given by Tony Fisher, Clean Air Coalition; and Jed Holtzman, 350 Bay Area.

29. **Chairperson's Report**

Chair Rice requested that the Board considers the adoption of a vehicle-purchasing policy that opposes vehicle manufacturers that joined the Coalition for Sustainable Automotive Regulation, which weakens existing auto emission and mileage standards.

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

Wednesday, December 4, 2019, at 375 Beale Street, San Francisco, CA 94105 at 9:30 a.m.

31. **Adjournment**

The meeting adjourned at 1:03 p.m.

Marcy Hirtzka
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 19, 2019

Re: Board Communications Received from November 20, 2019 through December 3,
2019

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Copies of communications directed to the Board of Directors received by the Air District from November 20, 2019 through December 3, 2019, if any, will be at each Board Member's place at the December 4, 2019 Board meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Aloha de Guzman
Reviewed by: Vanessa Johnson

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 19, 2019

Re: Notices of Violations Issued and Settlements in Excess of \$10,000 in the month of
October 2019

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

In accordance with Resolution No. 2012-08, attached to this memorandum is a listing of all Notices of Violations issued, and all settlements for amounts in excess of \$10,000 during the calendar months 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 6A: Notices of Violations for the Month of October 2019

NOTICES OF VIOLATIONS ISSUED

The following Notice(s) of Violations were issued in October 2019:

Alameda						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
All Star Gas	V6369	San Leandro	A59382A	10/16/2019	8-7-503.3	Gas throughput records not maintained
Amphenol Thermometrics, Inc.	A3224	Fremont	A58755A	10/18/2019	2-1-307	Exhaust gas flow of A-3 exceeded 16,00 cfm per PC# 1686
Bay Ship & Yacht Co.	A9684	Alameda	A58832A	10/8/2019	2-1-307	Incomplete records
Bay Ship & Yacht Co.	A9684	Alameda	A58833A	10/8/2019	2-1-307	Exceeded throughput limit
Bright View Landscape Dev.	Z6836	Pleasanton	A58642A	10/17/2019	2-1-302	PO expired on 04/01/17
Express Gas & Mart	W5469	Oakland	A59383A	10/22/2019	8-7-302.3	Phase II not maintained or 3rd party ST per VR-302; failed V/L
Hayward Area RPD	V3600	Hayward	A59156A	10/8/2019	11-2-401.5	Failure to revise start date
MG Remediation, Inc.	Q7498	Hayward	A59155A	10/8/2019	11-2-303.6	ASB110693 No viewports, No on-site representative
MG Remediation, Inc.	Q7498	Hayward	A59155B	10/8/2019	11-2-303.9	ASB110693 No viewports, No on-site representative
Nor-Cal Metal Fabricators	A2650	Oakland	A58834A	10/29/2019	2-1-307	No process weight or AB temp. records
P. W. Stephens Environmental, Inc.	Z6816	Fremont	A59459A	10/4/2019	11-2-303	ASB110607 Sections 301.1; 303.2; 303.6; 304.1

P. W. Stephens Environmental, Inc.	Z6816	Fremont	A59459B	10/4/2019	11-2-304	ASB110607 Sections 301.1; 303.2; 303.6; 304.1
SFD	Z6717	Pleasanton	A58664A	10/31/2019	11-2-303.8	No survey
SFD	Z6717	Pleasanton	A58664B	10/31/2019	11-2-303.9	No onsite representative
SFD	Z6717	Pleasanton	A58665A	10/31/2019	11-2-304.1	No generator labels / RACM not sealed in leak-tight containers and not wetted
SFD	Z6717	Pleasanton	A58665B	10/31/2019	11-2-304.3	Failure to dispose of RACM @ a landfill which operated in accordance of rule
SFD	Z6717	Pleasanton	A58666A	10/31/2019	11-2-401.3	Failure to Notify
Western Digital Corporation	A8391	Fremont	A57022A	10/23/2019	2-1-307	Cleaning solvent used >10% VOC by weight
Western Digital Corporation	A8391	Fremont	A57022B	10/23/2019	8-30-307	PC #21868-1
Contra Costa						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Atria Senior Living Facility	E2579	Walnut Creek	A58729A	10/31/2019	2-1-302	No permit to operate
Bethel Market	Z6835	Bethel Island	A58641A	10/17/2019	2-1-302	PO Expired 1/1/17
Central Gas Richmond	Z6906	Richmond	A59258A	10/29/2019	2-1-307	Failed to complete start-up tests per AC #415403
Central Gas Richmond	Z6906	Richmond	A59258B	10/29/2019	8-7-302.2	Vapor polisher not properly connected
Chevron Products Company	A0010	Richmond	A58706A	10/21/2019	2-6-307	TVP Exceedance Deviation# 5422

Chevron Products Company	A0010	Richmond	A58707A	10/21/2019	8-5-301	TVP Exceedance Deviation #4750
Chevron Products Company	A0010	Richmond	A58707B	10/21/2019	10	40cfr sec60.112(b)b)
Chevron Products Company	A0010	Richmond	A58708A	10/21/2019	8-5-301	TVP Exceedance Deviation # 4771
Chevron Products Company	A0010	Richmond	A58708B	10/21/2019	10	10CFR sec60.112(b)(b)
D&D Ready Mix Inc.	E3903	Byron	A58728A	10/16/2019	2-1-307	Violation of P/C 26673
Dutra Materials/San Rafael Rock Quarry Inc.	A7053	Richmond	A57897A	10/9/2019	2-1-307	No Abatement PC 16131 #3 & 5
Keller Canyon Landfill Company	A4618	Pittsburg	A58268A	10/9/2019	8-34-303	3 surface leaks discovered above standard
Keller Canyon Landfill Company	A4618	Pittsburg	A58268B	10/9/2019	10	CCR 17 95465(a)(1)
Qualawash Holdings LLC	B1869	Richmond	A57896A	10/8/2019	9-7-307.1	Exceeded NOX limit (52.9 ppm)
ST Shore Terminals LLC	A0581	Crockett	A59233A	10/28/2019	6-1-301	T20109 / T20107 - CWS, Evacuation, Large plumes
ST Shore Terminals LLC	A0581	Crockett	A59233B	10/28/2019	1-301	H&S code 41700 - Public Nuisance
ST Shore Terminals LLC	A0581	Crockett	A59234A	10/28/2019	5-301	Illegal fire due to Explosion (20107/20109)
ST Shore Terminals LLC	A0581	Crockett	A59235A	10/28/2019	8-5-306	Damage vapor lines, VRV down, Atmospheric emission
Tesoro Refining & Marketing Company, LLC	B2758	Martinez	A59331A	10/2/2019	2-6-307	Failure to maintain NOx monitor / RAT-1044 NST - 5078

Tesoro Refining & Marketing Company, LLC	B2758	Martinez	A59331B	10/2/2019	1-522.6	Failure to maintain NOx monitor / RAT-1044 NST - 5078
Tesoro Refining & Marketing Company, LLC	B2758	Martinez	A59332A	10/2/2019	1-522.4	Failure to report NOx monitor on time
Tesoro Refining & Marketing Company, LLC	B2758	Martinez	A59333A	10/2/2019	6-1-301	V.E. greater than Ringleman #1
Tesoro Refining & Marketing Company, LLC	B2758	Martinez	A59334A	10/2/2019	6-1-301	V.E. Greater than Ringleman #1
West Contra Costa County Landfill	A1840	Richmond	A57898A	10/15/2019	2-1-302	RCA# 07M98 Breakdown Denied
West Contra Costa County Landfill	A1840	Richmond	A57899A	10/15/2019	2-1-302	RCA# 07N59 Breakdown Denied
West Contra Costa County Landfill	A1840	Richmond	A59004A	10/1/2019	2-6-307	Abatement system down
West Contra Costa County Landfill	A1840	Richmond	A59004B	10/1/2019	8-34-301.1	Abatement system down (dev5129)
West Contra Costa County Landfill	A1840	Richmond	A59005A	10/1/2019	2-6-307	No abatement
West Contra Costa County Landfill	A1840	Richmond	A59005B	10/1/2019	8-34-301.1	No abatement (07K04)
West Contra Costa County Landfill	A1840	Richmond	A59006A	10/1/2019	2-6-307	No abatement
West Contra Costa County Landfill	A1840	Richmond	A59006B	10/1/2019	8-34-301.1	No abatement (07K37)

San Francisco						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Auto City Food Mart	C2678	San Francisco	A58820A	10/15/2019	8-7-301.1	Uncertified tank gauge cap/adaptor on 87 tank

British Motor Cars Dist	A2780	San Francisco	A58817A	10/1/2019	2-1-307	Failure to conduct/pass/submit Source Test 2017-2019.
Divisadero Union 76	Z6908	San Francisco	A58823A	10/22/2019	8-7-301.5	Failed torque test on vapor adaptors for 87 & 91 grade
Gas and Shop	Z6910	San Francisco	A58824A	10/24/2019	2-1-307	2019 Source test not conducted & submitted

San Mateo						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Browning-Ferris Industries of CA, Inc.	A2266	Half Moon Bay	A58226A	10/23/2019	8-34-301.1	Failure to continuously operate GCCS
Browning-Ferris Industries of CA, Inc.	A2266	Half Moon Bay	A58226B	10/23/2019	2-6-307	CCR17 95464(b)(1)(a) Failure to continuously operate GCCS
Gas & Shop	Y4197	South San Francisco	A58819A	10/15/2019	2-1-302	Start-up notification must be submitted before operation. OPW fill vapor adaptor not permitted
Genentech, Inc.	A1257	South San Francisco	A58225A	10/8/2019	9-7-506	Annual testing performed with improper device
Union 76	Z6917	Redwood City	A58822A	10/21/2019	8-7-301.5	Missing/no source test conducted for 2019
Union 76	Z6917	Redwood City	A58822B	10/21/2019	8-7-301.2	Failed torque on vapor adaptor 100 grade
Union 76	Z6917	Redwood City	A58822C	10/21/2019	8-7-301.2	Gasket broken (grade 87 vapor)

Santa Clara						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Cannery Apartments	Z6603	Campbell	A59457A	10/1/2019	11-2-303	Section #'s 303.1, 303.2, 303.6, 303.8, 303.9
CEMEX Construction Materials Pacific, LLC	A3259	Santa Clara	A58379A	10/29/2019	2-1-307	PC #676, Part 2.F
City of Santa Clara	A3464	Santa Clara	A58378A	10/9/2019	2-6-311	PPO Conditions 2935, 26565
Dave's Body Shop	B6108	Mountain View	A56548A	10/2/2019	8-45-501	No records of coating or solvent usage
Dave's Body Shop	B6108	Mountain View	A56548B	10/2/2019	2-1-307	No records of coating or solvent usage
International Disposal Corp of CA	A9013	Milpitas	A58201A	10/25/2019	8-34-301.2	Component leaks > 1,000 ppm at wells 581, 475A, 654 "witness pipes"
Northrop Grumman Systems Corporation	B0861	Sunnyvale	A58227A	10/24/2019	2-1-307	Exceeded NOx limit per Permit Condition # 14049.46
Olam West Coast Inc.	B1327	Gilroy	A58756A	10/23/2019	2-1-307	Nat gas usage exceeded 1,944,000 therms at 5-5,6,20-23 and 1021 combined per PC #26686
SFD	Z6923	Los Altos	A59458A	10/1/2019	11-2-401.3	Late submittal of asbestos renovation notification
Silicon Valley Demolition	Z6831	Morgan Hill	A58663A	10/10/2019	11-2-401.5	ASB110555 Inaccurate Start Date
Triad Tool and Engineering Inc.	A9717	San Jose	A59428A	10/31/2019	8-31-302	Applying coating to plastic parts >340 VOC

Solano						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
iMod Structures	Z6919	Vallejo	A58667A	10/31/2019	11-2-401.5	Failure to revise
Valero Refining Company - California	B2626	Benicia	A58990A	10/24/2019	8-5-306.2	7 Safety valves exceeded POC gas-tight leak standard of 500 ppm
Valero Refining Company - California	B2626	Benicia	A58991A	10/24/2019	8-5-306.2	1 safety valve exceeded POC gas-tight leak standard of 500 ppm
Valero Refining Company - California	B2626	Benicia	A58992A	10/24/2019	1-523.1	Notification for pressure & water level parametric monitors not reported following working day
Valero Refining Company - California	B2626	Benicia	A58993A	10/24/2019	8-5-306.2	PV vent on Tank 1741 exceeded 500 ppm emission standard; Deviation #5575
Valero Refining Company - California	B2626	Benicia	A58994A	10/24/2019	9-1-307	E07E03, 4914 SO2 1hr & 12hr avg.limit of 250 ppm @ 0% O2 exceeded
Valero Refining Company - California	B2626	Benicia	A58994B	10/24/2019	1-522	Late reporting Inoperative Monitor, Indicated excess, & 10day deviation P/O# 24245.40

Sonoma						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
The Home Depot #6667	B3223	Windsor	A59205A	10/16/2019	2-1-307	Permit condition 22807-hour limit exceedance

District Wide						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Platinum Energy; Sue Sommers	Y4152	Agoura Hills	A59255A	10/24/2019	8-7-302.1	Uncertified whip hoses (#1-2,4-8)

SETTLEMENTS FOR \$10,000 OR MORE REACHED

There were five settlements for \$10,000 or more completed in October 2019.

- 1) On October 2, 2019, the District reached settlement with Live Nation Entertainment, Inc. (Shoreline Amphitheatre) for \$35,000, regarding the allegations contained in the following six (6) Notices of Violations:

NOV #	Issuance Date	Occurrence Date	Regulation	Comments from Enforcement
A53663A	12/10/2014	12/10/2014	2-6-307	Gas not vented to flare. PC 876-4
A53664A	12/10/2014	12/10/2014	CCR	CCR17 SS 95464(b)(3)(A)(1) No gas control device, no source test
A53664B	12/10/2014		CCR	CCR17 SS 95464(b)(4) No gas control device, no source test
A56519A	3/1/2018	3/7/2017	CCR	CCR 17 95470(b)(3) Incomplete Annual Report for 2016
A56522A	4/25/2018	9/13/2017	2-6-307	Submitted source test results late; reported indicated excess late
A56522B	4/25/2018		8-34-301.4	NMOC emissions greater than 120 ppm
A56607A	4/27/2017	3/14/2017	8-34-301.2	GW #11, carbon beds. CCR 17 Sect. 95464(b)(1)(B)
A56608A	4/27/2017	3/14/2017	8-34-301.4	Failed Source Test #05-6576

- 2) On October 4, 2019, the District reached settlement with Seton Medical Center for \$29,000, regarding the allegations contained in the following two (2) Notices of Violations:

NOV #	Issuance Date	Occurrence Date	Regulation	Comments from Enforcement
A56589A	5/25/2017	5/17/2017	9-7-307	Failed emission test
A56589B	5/25/2017	1/1/2014	9-7-403	No initial determination of compliance
A56589C	5/25/2017	1/1/2015	9-7-506	Not conducting periodic annual testing
A56590B	5/17/2017	5/17/2017	9-7-506	Sources subject to periodic testing requirement of Reg 9-7-506

3) On October 11, 2019, the District reached settlement with Clean Harbors San Jose, LLC for \$15,000, regarding the allegations contained in the following one (1) Notice of Violation:

NOV #	Issuance Date	Occurrence Date	Regulation	Comments from Enforcement
A56526A	10/30/2018	10/30/2018	8-5-303.2	Pressure vacuum and tank fittings not gas tight.
A56526B	10/30/2018	10/30/2018	8-5-306.2	Pressure vacuum and tank fittings not gas tight

4) On October 22, 2019, the District reached settlement with Children’s Hospital, Oakland for \$24,600, regarding the allegations contained in the following two (2) Notices of Violations:

NOV #	Issuance Date	Occurrence Date	Regulation	Comments from Enforcement
A56068A	7/31/2018	7/6/2017	9-7-307.1	failed annual boiler compliance test; >30 ppm NOx 2 boilers
A56338A	6/22/2017	6/22/2017	9-7-403	No periodic testing; 2 AJAX boilers
A56338B	6/22/2017	6/22/2017	9-7-506	No periodic testing; 2 AJAX boilers

5) On October 23, 2019, the District reached settlement with William Lyon Homes, Inc for \$25,000, regarding the allegations contained in the following one (1) Notice of Violation:

NOV #	Issuance Date	Occurrence Date	Regulation	Comments from Enforcement
A57011A	7/2/2018	7/2/2018	CCR	NOA site operated without ADMP

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 25, 2019

Re: Proposed Regulatory Agenda for 2020

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Each year, the Air District is required by Health and Safety Code section 40923 to publish a list of regulatory measures scheduled or tentatively scheduled for consideration during the next calendar year. If a measure is not on this list, it may not be brought before the Board of Directors unless it is necessary to:

1. Satisfy federal requirements;
2. Abate a substantial endangerment to public health or welfare;
3. Comply with state toxic air contaminant requirements;
4. Comply with California Air Resources Board (CARB) requirement that the Air District adopt contingency measures due to inadequate progress towards attainment;
5. Preserve an existing rule's "original intent;" or
6. Allow for alternative compliance under an existing rule.

The attached list includes all measure that may come before the Board in calendar year 2020. Some of the measures may fall within exceptions listed above but are nevertheless included for completeness. It is very unlikely that all the measures on the list will be enacted during the calendar year. Rules are listed in numerical order as they appear in the Air District Rules and Regulations.

All new rules and rule amendments must be adopted at a public hearing conducted by the Board of Directors of the Air District. Public comment is accepted at these hearings. Public notice of hearings is provided as required by law. In addition, the Air District staff typically conducts public workshops and provides opportunities for oral and written comments before scheduling a rule for public hearing for the Board's consideration. Information on workshops, hearings, and other rule development issues may be obtained from the Air District website.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Victor Douglas
Reviewed by: Greg Nudd

Attachment 7A: Bay Area Air Quality Management District 2020 Regulatory Measures List

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
PROPOSED REGULATORY AGENDA
CALENDAR YEAR 2020**

Regulation, Rule	Title	Objectives¹
Reg. 1	General Provisions and Definitions	Clarify and enhance District policies, definitions
Reg. 2, Rule 1	General Requirements (Permits)	GHG threshold, community health protection
Reg. 2, Rule 2	New Source Review	GHG threshold, community health protection
Reg. 2, Rule 4	Emissions Banking	Community health protection
Reg. 2, Rule 5	New Source Review for Toxic Air Contaminants	Clarifications, community health protection
Reg. 2, Rule 9	Interchangeable Emission Reduction Credits	Community health protection
Reg. 2, Rule TBD	Biogas Flares	Reduce emissions
Reg. 3	Fees	Cost recovery
Reg. 4	Air Pollution Episode Plan	Reduce emissions
Reg. 5	Open Burning	Reduce emissions
Reg. 6	General Provisions	Standardize administrative requirements
Reg. 6, Rule 2	Commercial Cooking Devices	Reduce emissions
Reg. 6, Rule 3	Wood Burning Devices	Clarifications, reduce emissions
Reg. 6, Rule 5	Fluid Catalytic Cracking Units	AB 617 BARCT, changes to address legal concerns
Reg. 6, Rule TBD	Glass Melting and Forming Operations	Reduce emissions
Reg. 6, Rule TBD	Reduction of Risk from Particulate Matter	Reduce emissions and risk
Reg. 7	Odorous Substances	Clarifications, reduce emissions
Reg. 8, Rule 1 and others	General Provisions	Applicability, VOC definition, remove methane exemption if applicable
Reg. 8, Rule 2	Miscellaneous Operations	Clarifications
Reg. 8, Rule 3	Architectural Coatings	Clarifications, flexibility
Reg. 8, Rule 4	General Solvent and Surface Coating Operations	Clarifications, reduce emissions
Reg. 8, Rule 5	Storage of Organic Liquids	AB 617 BARCT, reduce emissions
Reg. 8, Rule 6	Organic Liquid Bulk Terminals and Bulk Plants	Clarifications, reduce emissions
Reg. 8, Rule 7	Gasoline Dispensing Facilities	Reduce emissions
Reg. 8, Rule 8	Wastewater Collection and Separation Systems	AB 617 BARCT, clarifications, definitions, emission reductions
Reg. 8, Rule 9	Vacuum Producing Systems	Clarifications, definitions

Regulation, Rule	Title	Objectives ¹
Reg. 8, Rule 10	Process Vessel Depressurization	Clarifications, definitions, reduce emissions
Reg. 8, Rule 11	Metal Container, Closure and Coil Coating	Clarifications, definitions, reduce emissions
Reg. 8, Rule 12	Paper, Fabric and Film Coating	Clarifications, definitions, reduce emissions
Reg. 8, Rule 13	Light and Medium Duty Motor Vehicle Assembly Plants	Clarifications, definitions, reduce emissions
Reg. 8, Rule 14	Surface Preparation and Coating of Large Appliances and Metal Furniture	Clarifications, definitions, reduce emissions
Reg. 8, Rule 15	Emulsified and Liquid Asphalts	Reduce emissions
Reg. 8, Rule 16	Solvent Cleaning Operations	Clarifications, reduce emissions
Reg. 8, Rule 18	Equipment Leaks	AB 617 BARCT, clarifications, definitions, applicability, reduce emissions, changes to address legal concerns
Reg. 8, Rule 19	Surface Preparation and Coating of Miscellaneous Metal Parts and Products	Clarifications, definitions, reduce emissions
Reg. 8, Rule 20	Graphic Arts Operations	Clarifications, reduce emissions, EPA policy
Reg. 8, Rule 21	Rubber Tire Manufacturing Operations	Clarifications, definitions
Reg. 8, Rule 22	Valves and Flanges at Chemical Plants	Clarifications, definitions
Reg. 8, Rule 23	Coating of Flat Wood Paneling and Wood Flat Stock;	Clarifications, definitions, reduce emissions
Reg. 8, Rule 24	Pharmaceutical and Cosmetic Manufacturing Operations;	Clarifications, definitions, reduce emissions
Reg. 8, Rule 26	Magnet Wire Coating Operations	Clarifications, definitions, reduce emissions
Reg. 8, Rule 28	Episodic Releases from Pressure Relief Devices at Petroleum Refineries and Chemical Plants	Clarifications, flexibility, definitions, reduce emissions
Reg. 8, Rule 29	Aerospace Assembly and Component Coating Operations	Clarifications, definitions, reduce emissions
Reg. 8, Rule 30	Semiconductor Manufacturing Operations	Reduce emissions
Reg. 8, Rule 31	Surface Coating of Plastic Parts and Products	Clarifications, definitions, reduce emissions
Reg. 8, Rule 32	Wood Products Coatings	Clarifications, flexibility, reduce emissions
Reg. 8, Rule 33	Gasoline Bulk Terminals and Gasoline Delivery Vehicles	Clarifications
Reg. 8, Rule 34	Solid Waste Disposal Sites	Climate protection, reduce emissions
Reg. 8, Rule 35	Coating, Ink and Adhesive Manufacturing	Clarifications, definitions, reduce emissions
Reg. 8, Rule 36	Resin Manufacturing	Clarifications, definitions, reduce emissions

Regulation, Rule	Title	Objectives ¹
Reg. 8, Rule 37	Natural Gas and Crude Oil Production Facilities	Reduce emissions, consistency with ARB standards, definitions
Reg. 8, Rule 38	Flexible and Rigid Disc Manufacturing	Clarifications, VOC definition, reduce emissions
Reg. 8, Rule 39	Gasoline Bulk Plants and Gasoline Delivery Vehicles	Clarifications
Reg. 8, Rule 40	Aeration of Contaminated Soil and Removal of Underground Storage Tanks	Clarifications, definitions
Reg. 8, Rule 41	Vegetable Oil Manufacturing Operations	Clarifications, definitions
Reg. 8, Rule 43	Surface Preparation and Coating of Marine Vessels	Clarifications, definitions, reduce emissions
Reg. 8, Rule 44	Marine Vessel Loading	Clarifications, reduce emissions
Reg. 8, Rule 45	Motor Vehicle and Mobile Equipment Coating Operations	Clarifications, flexibility
Reg. 8, Rule 46	Marine Tank Vessel to Marine Tank Vessel Loading	Clarifications
Reg. 8, Rule 47	Air Stripping and Soil Vapor Extraction Operations	Clarifications, organic compound definition
Reg. 8, Rule 49	Aerosol Paint Products	Clarifications, consistency with ARB standards, reduce emissions
Reg. 8, Rule 50	Polyester Resin Operations	Clarifications
Reg. 8, Rule 51	Adhesive and Sealant Products	Clarifications, reduce emissions
Reg. 8, Rule 52	Polystyrene, Polypropylene and Polyethylene Foam Product Mfg. Ops.	Clarifications
Reg. 8, Rule 53	Vacuum Truck Operations	Clarifications
Reg. 8, Rule TBD	Green Waste Operations	Reduce emissions
Reg. 8, Rule TBD	Livestock Waste/Confined Animal Facilities	Reduce emissions
Reg. 8, Rule TBD	Digital Printing	Reduce emissions
Reg. 8, Rule TBD	Natural Gas Transmission and Distribution	Reduce emissions
Reg. 8, Rule TBD	Wastewater from Coke Cutting	Reduce emissions
Reg. 8, Rule TBD	Wineries	Reduce emissions
Reg. 8, Rule TBD	Vanishing Oils and Rust Inhibitors	Reduce emissions
Reg. 8, Rule TBD	LPG, Propane, Butane, and other Pressurized Gases	Reduce emissions
Reg. 9, Rule 1	Sulfur Dioxide	Monitoring, recording requirements, reduce emissions
Reg. 9, Rule 2	Hydrogen Sulfide	Monitoring, recording requirements, reduce emissions
Reg. 9, Rule 4	NOx from Fan Type Residential Central Furnaces	Reduce emissions
Reg. 9, Rule 6	NOx from Natural Gas-Fired Water Heaters	Clarifications, reduce emissions

Regulation, Rule	Title	Objectives ¹
Reg. 9, Rule 7	NOx and CO from Boilers, Steam Generators and Process Heaters	Clarifications, reduce emissions
Reg. 9, Rule 8	Stationary IC Engines	Clarifications, reduce emissions
Reg. 9, Rule 9	Stationary Gas Turbines	Reduce emissions
Reg. 9, Rule 10	Refinery boilers, steam generators and process heaters	Reduce emissions
Reg. 9, Rule 12	NOx, SO ₂ and Particulate from Glass Melting Furnaces	Reduce emissions
Reg. 9, Rule 13	NOx, Particulate Matter and Toxic Air Contaminants from Cement Kilns	AB 617 BARCT, clarifications, reduce emissions
Reg. 9, Rule 14	SOx and NOx from Petroleum Coke Calcining	AB 617 BARCT, reduce emissions
Reg. 9, Rule TBD	NOx from Kilns, Ovens and Furnaces	Reduce emissions
Reg. 9, Rule TBD	NOx from Large Residential and Commercial Space Heating	Reduce emissions
Reg. 9, Rule TBD	Sulfur content for gaseous fuels	Reduce emissions
Reg. 9, Rule TBD	Sulfur content for liquid fuels	Reduce emissions
Reg. 10	Standards of Performance for New Stationary Sources	Federal standards update
Reg. 11	Hazardous Air Pollutants	Reference federal standards
Reg. 11, Rule 1	Lead	Clarifications, reference federal standards
Reg. 11, Rule 2	Asbestos Demolition, Lead Paint Removal, Renovation and Manufacturing	Clarifications
Reg. 11, Rule 10	Hexavalent Chromium from All Cooling Towers and Total Hydrocarbon Emissions from Petroleum Refinery Cooling Towers	Clarifications, changes to address legal concerns
Reg. 11, Rule 14	Asbestos-Containing Serpentine	Clarifications
Reg. 11, Rule 18	Reduction of Risks from Air Toxics at Existing Facilities	Clarifications, changes to address legal concerns
Reg. 11, Rule TBD	Backup Generators	Reduce emissions and risk
Reg. 12, Rule 11	Flare Monitoring at Petroleum Refineries	Clarifications, reduce emissions
Reg. 12, Rule 12	Flares at Petroleum Refineries	Reduce emissions
Reg. 12, Rule 15	Refinery Emissions Tracking	Monitor emissions, assess health impacts
Reg. 12, Rule 16	Petroleum Refining Facility-Wide Emissions Limits	Ensure that some refinery emissions do not increase
Reg. 13, Rule 1	Significant Methane Releases	Climate protection
Reg. 13, Rule 2	Organic Materials Handling	Climate protection
Reg. 13, Rule 3	Composting Operations	Climate protection
Reg. 13, Rule 4	Sewage Treatment Facilities and Anaerobic Digesters	Climate protection
Reg. 13, Rule 5	Petroleum Refinery Hydrogen Systems	Climate protection
Reg. 13, Rule TBD	Petroleum Refinery Carbon Intensity Limits	Climate protection
Reg. 13, Rule TBD	Short-Lived Climate Pollutants	Climate protection
Reg. 13, Rule TBD	Refrigeration Management	Climate protection

Regulation, Rule	Title	Objectives ¹
Reg. 13. Rule TBD	Heat Mitigating Technologies Deployment	Climate protection
Reg. 13, Rule TBD	Energy Use in Residential, Commercial and Industrial Sectors	Climate protection
Reg. 13, Rule TBD	Livestock Waste	Climate protection
Reg. 14, Rule 1	Commuter Benefits Program	Legislative update, reduce emissions
Reg. 15:	Disaster Preparedness & Response Program	Reduce emissions, respond to emergencies
Reg. and Rule TBD	Indirect Source Review	Address emissions and risk
Reg. and Rule TBD	Episodic Controls	Reduce emissions
Reg. and Rule TBD	Sulfur Hexafluoride	Reduce emissions
Reg. and Rule TBD	Magnet Source Rule	Reduce emissions
Reg. and Rule TBD	Emergency Stand-by Stationary IC Engines	Reduce emissions
Reg. and Rule TBD	Refinery Fuel Gas	Reduce emissions
Reg. and Rule TBD	Limiting Health Impacts from Particulate Matter Pollution	Reduce emissions and health impacts
Reg. and Rule TBD	Sulfuric Acid Plants	Reduce emissions
Reg. and Rule TBD	Sulfur Plants	Reduce emissions
Reg. and Rule TBD	Refinery Delayed Cokers	Reduce emissions
Reg. and Rule TBD	Methane and Air Toxics from Oil & Gas Capped Wells	Reduce emissions
Reg. and Rule TBD	Ammonia from Stationary Sources	Reduce emissions
Reg. and Rule TBD	Sample and Analyze Episodic Event Plumes	Monitor emissions, assess health impacts
Reg. and Rule TBD	Impacts of Crude Changes Upstream of Crude Units	Improve enforceability
Reg. and Rule TBD	Start-up, Shutdown & Malfunction Emissions	Reduce emissions
Reg. and Rule TBD	Refinery Emissions Best Practices Backstop Rule	Reduce emissions
Reg. and Rule TBD	Periodic Assessment of Significant Emission Sources	Reduce emissions
Reg. and Rule TBD	AB 617 Community Emissions Reduction Plans	Community health protection
MOP, Volume I	Enforcement Procedures	Clarification, improve data submittals
MOP, Volume II	Engineering Permitting Procedures	Consistency with EPA requirements, clarifications
MOP, Volume III	Laboratory Methods	New and improved analytical procedures
MOP, Volume IV	Source Test Methods	New and improved analytical procedures
MOP, Volume V	Continuous Emission Monitoring	New and improved analytical and monitoring procedures
MOP, Volume VI	Ground Level Monitoring	Consistency with EPA requirements
New MOP, Volume X	Procedures for Evaluating and Lists of Non-Precursor Organic Compounds, Group I and Group II	Evaluation and listing of NPOCs

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- 1 Objectives are listed for information only and are subject to change. Rule development efforts for a rule are not limited to listed objectives.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 26, 2019

Re: Authorization to Amend a Contract with Mark Kadesh and Associates

RECOMMENDED ACTION

Authorize the Executive Officer/APCO to amend a contract with the following vendor in the amount listed below:

Vendor	Amount	Service Description
Kadesh and Associates	\$150,000	Federal legislative advocacy services.

BACKGROUND

Bay Area Air Quality Management (Air District) staff is recommending contract amendments for an existing vendor, which current contract is in the amount of \$50,000, to assist with federal legislative advocacy efforts, including support for federal funding and other federal legislative activities in an amount not to exceed \$150,000.

DISCUSSION

Expanding the Air District’s legislative advocacy to include work at the federal level could yield significant benefits for the Air District and for the residents in the Bay Area Region. While it is a politically divisive environment at the federal level, there are many benefits in promoting the work of the Air District, and in requesting legislative and fiscal support for programs that benefit our residents. California has the largest federal delegation, and incredibly fortunate to have important members on all the key Congressional committees, such as Energy & Commerce; Transportation and Infrastructure; Ways and Means; and, of course, significantly, the Speaker of the House. Participating more in the federal legislative process may provide opportunities to benefit more from upcoming federal legislative efforts, including technology advancement funding (DERA and Targeted Airshed Grants), surface transportation and goods movement funding (FAST Act and its future successor legislation), and Congestion Mitigation Air Quality Improvement Funding (CMAQ).

Kadesh and Associates has extensive experience in appropriations, transportation, energy and environmental issues, and has been successful in working effectively with the Executive Branch, government agencies and regulatory bodies in advancing their clients' priorities, including those of the South Coast Air Quality Management District, which has used Kadesh and Associates since 2007. Kadesh and Associates specializes in representing California agencies, and its staff includes recent high-level staff members from prominent California legislators. Under a recent limited contract, Kadesh and Associates arranged meetings with legislators and their staff to provide background on the work of the district as well as our future challenges. As a result of these meetings, Congresswoman Anna Eshoo introduced a bill related to our wildfire smoke clean air center initiative as a companion bill to the Senate version, with a \$50 million appropriations request. The House version currently has 25 other California sponsors, and we were able to talk with staff of Senators Feinstein and Harris, who subsequently signed on as supporters of the Senate version.

While this Administration has been less predictable than prior Administrations, we do know that eventually Congress must pass its appropriations legislation and may also work on other significant legislative issues, including infrastructure and a surface transportation reauthorization that could have major implications for clean air programs across the country and in the Bay Area. It is our view that engaging the entire California delegation on these and other clean air issues would enhance the Air District's opportunities and ability to support and augment what the State of California is already doing and help develop and fund important clean air programs in this and future Congresses.

The original contract is sole sourced based on Kadesh and Associates knowledge and experience in appropriations, transportation, energy and environmental issues related to California Air Districts. Upon the conclusion of this amended contract, the Air District intends to solicit a Request for Proposals (RFP) for federal legislative advocacy services.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for this contract is provided for in the Fiscal Year Ending 2019 Budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Jack P. Broadbent

Attachment 8A: Kadesh and Associates Professional Services Contract No. 2019.246

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

PROFESSIONAL SERVICES CONTRACT

CONTRACT NO. 2019.246

1. PARTIES – The parties to this Contract (“Contract”) are the Bay Area Air Quality Management District (“DISTRICT”) whose address is 375 Beale Street, Suite 600, San Francisco, CA 94105, and **Kadesh & Associates, LLC** (“CONTRACTOR”) whose address is 230 Second Street SE, Washington, DC 20003.
2. RECITALS
 - A. DISTRICT is the local agency with primary responsibility for regulating stationary source air pollution in the Bay Area Air Quality Management District in the State of California. DISTRICT is authorized to enter into this Contract under California Health and Safety Code Section 40701. DISTRICT desires to contract with CONTRACTOR for services described in the Scope of Work, attached hereto as Attachment A and made a part hereof by this reference. DISTRICT is entering into this Contract based on CONTRACTOR’s stated qualifications to perform the services.
 - B. All parties to this Contract have had the opportunity to have this contract reviewed by their attorney.
3. PERFORMANCE REQUIREMENTS
 - A. CONTRACTOR is authorized to do business in the State of California. CONTRACTOR attests that it is in good tax standing with federal and state tax authorities.
 - B. CONTRACTOR agrees to obtain any and all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees.
 - C. CONTRACTOR shall comply with all laws and regulations that apply to its performance under this Contract, including any requirements to disclose potential conflicts of interest under DISTRICT’s Conflict of Interest Code.
 - D. CONTRACTOR shall not engage in any performance of work during the term of this contract that is in direct or indirect conflict with duties and responsibilities set forth in the Scope of Work.
 - E. CONTRACTOR shall exercise the degree of skill and care customarily required by accepted professional practices and procedures.
 - F. CONTRACTOR shall ensure that any subcontractors, employees and agents performing under this Contract comply with the performance standards set forth in paragraph D above.
4. TERM – The term of this Contract is from date of Contract execution by both PARTIES to January 31, 2020, unless further extended by amendment of this Contract in writing, or terminated earlier. CONTRACTOR shall not submit any invoice for services performed under this Contract until the Contract is fully executed.
5. TERMINATION

- A. The DISTRICT may terminate this Contract at any time, at will, and without specifying any reason, by notifying CONTRACTOR in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of the notice of termination, and shall be delivered in accordance with the provisions of section 10 below. Immediately upon receipt of the notice of termination, CONTRACTOR shall cease all work under this Contract, except such work as is specified in the notice of termination. CONTRACTOR shall deliver a final invoice for all remaining work performed but not billed, including any work specified in the termination notice, on or before ten (10) business days following the termination date.
- B. Either party may terminate this Contract for breach by the other party.
 - i) Failure to perform any agreement or obligation contained in this Contract or failure to perform the services in a satisfactory manner shall constitute a breach of the Contract.
 - ii) The non-breaching party may terminate the Contract by delivery of a written notice of breach. The notice of breach shall specify the date of termination, which shall be no earlier than ten (10) business days from delivery of the notice of breach. In the alternative, at its sole discretion, the non-breaching party may require the breaching party to cure the breach. The notice of breach shall specify the nature of the breach and the date by which such breach must be cured.
 - iii) If CONTRACTOR fails to perform any obligation under this Contract, DISTRICT at its sole discretion, may perform, or cause the performance, of the obligation itself. In that event, DISTRICT shall deduct the costs to perform such obligation and any other costs to cure the breach from the payment otherwise due to CONTRACTOR for work performed under this Contract. DISTRICT's performance hereunder shall not be deemed a waiver or release of any obligation of, or default by, CONTRACTOR under this Contract.
 - iv) The notice of breach shall be provided in accordance with the notice requirements set forth in section 10.
 - v) The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.

6. INSURANCE

- A. CONTRACTOR shall maintain the following insurance:
 - i) Workers' compensation and employers' liability insurance as required by California law or other applicable statutory requirements.
 - ii) Occurrence-based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. Such insurance shall include DISTRICT and its officers, agents, and employees as additional insureds and shall be primary with respect to any insurance maintained by DISTRICT.
 - iii) Business automobile liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles. If CONTRACTOR is a sole proprietor, CONTRACTOR may meet this insurance requirement with personal automobile liability insurance carrying a business use endorsement or by demonstrating to the satisfaction of DISTRICT that business use is covered under the CONTRACTOR's personal automobile liability insurance. A CONTRACTOR using only rental vehicles in performing work under this Contract may meet this insurance requirement by purchasing automobile liability insurance in the required coverage amount from the rental

agency.

- iv) Professional liability insurance with limits not less than \$1,000,000 each claim.
- B. All insurance shall be placed with insurers acceptable to DISTRICT.
- C. Prior to commencement of work under this Contract, CONTRACTOR shall furnish properly-executed certificates of insurance for all required insurance. Upon request by DISTRICT, CONTRACTOR shall provide a complete copy of any required insurance policy. CONTRACTOR shall notify DISTRICT in writing thirty (30) days prior to cancellation or modification of any required insurance policy. Any such modifications are subject to pre-approval by DISTRICT.
- D. If CONTRACTOR fails to maintain the required insurance coverage set forth above, DISTRICT reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to CONTRACTOR or to terminate this Contract for breach.

7. INDEMNIFICATION

- A. CONTRACTOR shall indemnify and hold DISTRICT, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of CONTRACTOR, its officers, agents, or employees.
- B. DISTRICT shall indemnify and hold CONTRACTOR, its officers, employees and agents harmless from and against any and all liability, loss, expense, including reasonable attorneys' fee, or claims for injury or damages arising out of the performance of this Contract but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of DISTRICT, its officers, agents, or employees.

8. PAYMENT

- A. DISTRICT shall pay CONTRACTOR for services in accordance with the terms set forth in the Cost Schedule, which is attached hereto as Attachment B and incorporated herein by this reference.
- B. CONTRACTOR shall submit invoice(s) to DISTRICT for services performed. Each invoice shall specify the total cost of the services for which the invoice is submitted, shall reference tasks shown in the Scope of Work, the hours associated with same, or percentage completion thereof, and the amount of charge claimed, and, as appropriate, shall list any charges for equipment, material, supplies, travel, and subcontractors' services.
- C. DISTRICT's payment of invoices shall be subject to the following limitations and requirements:
 - i) Each invoice, including supporting documentation, shall be prepared in duplicate on CONTRACTOR's letterhead; shall list DISTRICT's contract number, the period covered by the invoice, and the CONTRACTOR's Social Security Number or Federal Employer Identification Number; and shall be submitted to: Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA 94105, Attn: Contracts Manager.
 - ii) DISTRICT shall not pay interest, fees, handling charges, or the cost of money on the Contract.

- iii) DISTRICT shall pay CONTRACTOR within thirty (30) calendar days after approval by DISTRICT of an itemized invoice.
 - D. The total amount for which DISTRICT may be held liable for the performance of services specified in this Contract shall not exceed \$50,000.
9. DISPUTE RESOLUTION – A party that disputes a notice of breach must first seek mediation to resolve the dispute in accordance with the provisions set forth below.
- A. Upon receipt of a notice of breach of contract, the party may submit a demand for mediation to resolve whether or not a breach occurred. The party must state the basis of the dispute and deliver the demand within ten (10) business days of the date of receipt of the notice of breach.
 - B. The mediation shall take place at DISTRICT’s office at 375 Beale Street, Suite 600, San Francisco, or at such other place as may be mutually agreed upon by the parties and the mediator.
 - C. The parties shall make good faith efforts to hold the mediation within thirty (30) days after receipt of the demand for mediation.
 - D. Each party shall bear its own mediation costs.
 - E. In the event the parties are unable to resolve the dispute, either party may file an action in a court of competent jurisdiction to enforce the Contract.
 - F. Maximum recovery under this section shall be limited to \$50,000. The mediation costs shall not reduce the maximum amount recoverable under this section.
10. NOTICES – All notices that are required under this Contract shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by e-mail, facsimile, or regular first class mail. In the case of e-mail and facsimile communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. E-mail and facsimile communications shall be deemed to have been received on the date of such transmission, provided such date was a business day and delivered prior to 4:00 p.m. PST. Otherwise, receipt of e-mail and facsimile communications shall be deemed to have occurred on the following business day. In the case of regular mail notice, notice shall be deemed to have been delivered on the mailing date and received five (5) business days after the date of mailing.

DISTRICT: Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
Attn: Alan Abbs

CONTRACTOR: Kadesh & Associates, LLC
230 Second Street SE
Washington, DC, 20003
Attn: Mark Kadesh

11. ADDITIONAL PROVISIONS – All attachment(s) to this Contract are expressly incorporated herein by this reference and made a part hereof as though fully set forth.

12. EMPLOYEES OF CONTRACTOR

- A. CONTRACTOR shall be responsible for the cost of regular pay to its employees, as well as cost of vacation, vacation replacements, sick leave, severance pay, and pay for legal holidays.
- B. CONTRACTOR, its officers, employees, agents, or representatives shall not be considered employees or agents of DISTRICT, nor shall CONTRACTOR, its officers, employees, agents, or representatives be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by DISTRICT to its employees.
- C. DISTRICT reserves the right to review the credentials to perform the work of any of CONTRACTOR's employees assigned herein and to disapprove CONTRACTOR's assignments. CONTRACTOR warrants that it will not employ any subcontractor(s) without prior written approval from DISTRICT.

13. CONFIDENTIALITY – In order to carry out the purposes of this Contract, CONTRACTOR may require access to certain of DISTRICT's confidential information (including trade secrets, inventions, confidential know-how, confidential business information, and other information that DISTRICT considers confidential) (collectively, "Confidential Information"). It is expressly understood and agreed that DISTRICT may designate in a conspicuous manner Confidential Information that CONTRACTOR obtains from DISTRICT, and CONTRACTOR agrees to:

- A. Observe complete confidentiality with respect to such information, including without limitation, agreeing not to disclose or otherwise permit access to such information by any other person or entity in any manner whatsoever, except that such disclosure or access shall be permitted to employees of CONTRACTOR requiring access in fulfillment of the services provided under this Contract.
- B. Ensure that CONTRACTOR's officers, employees, agents, representatives, and independent contractors are informed of the confidential nature of such information and to assure by agreement or otherwise that they are prohibited from copying or revealing, for any purpose whatsoever, the contents of such information or any part thereof, or from taking any action otherwise prohibited under this section.
- C. Not use such information or any part thereof in the performance of services to others or for the benefit of others in any form whatsoever whether gratuitously or for valuable consideration, except as permitted under this Contract.
- D. Notify DISTRICT promptly and in writing of the circumstances surrounding any possession, use, or knowledge of such information or any part thereof by any person or entity other than those authorized by this section. Take at CONTRACTOR's expense, but at DISTRICT's option and in any event under DISTRICT's control, any legal action necessary to prevent unauthorized use of such information by any third party or entity which has gained access to such information at least in part due to the fault of CONTRACTOR.
- E. Take any and all other actions necessary or desirable to assure such continued confidentiality and protection of such information during the term of this Contract and following expiration or termination of the Contract.
- F. Prevent access to such materials by a person or entity not authorized under this Contract.
- G. Establish specific procedures in order to fulfill the obligations of this section.

14. INTELLECTUAL PROPERTY RIGHTS – Title and full ownership rights to all intellectual property developed under this Contract shall at all times remain with DISTRICT, unless otherwise agreed

to in writing.

15. PUBLICATION

- A. DISTRICT shall approve in writing any report or other document prepared by CONTRACTOR in connection with performance under this Contract prior to dissemination or publication of such report or document to a third party. DISTRICT may waive in writing its requirement for prior approval.
- B. Until approved by DISTRICT, any report or other document prepared by CONTRACTOR shall include on each page a conspicuous header, footer, or watermark stating "DRAFT – Not Reviewed or Approved by BAAQMD," unless DISTRICT has waived its requirement for prior approval pursuant to paragraph A of this section.
- C. Information, data, documents, or reports developed by CONTRACTOR for DISTRICT, pursuant to this Contract, shall be part of DISTRICT's public record, unless otherwise indicated. CONTRACTOR may use or publish, at its own expense, such information, provided DISTRICT approves use of such information in advance. The following acknowledgment of support and disclaimer must appear in each publication of materials, whether copyrighted or not, based upon or developed under this Contract.

"This report was prepared as a result of work sponsored, paid for, in whole or in part, by the Bay Area Air Quality Management District (District). The opinions, findings, conclusions, and recommendations are those of the author and do not necessarily represent the views of the District. The District, its officers, employees, contractors, and subcontractors make no warranty, expressed or implied, and assume no legal liability for the information in this report."

- D. CONTRACTOR shall inform its officers, employees, and subcontractors involved in the performance of this Contract of the restrictions contained herein and shall require compliance with the above.

16. NON-DISCRIMINATION – In the performance of this Contract, CONTRACTOR shall not discriminate in its recruitment, hiring, promotion, demotion, and termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, marital status, sexual orientation, medical condition, or physical or mental disability and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts. CONTRACTOR shall also require each subcontractor performing work in connection with this Contract to comply with this section and shall include in each contract with such subcontractor provisions to accomplish the requirements of this section.

17. PROPERTY AND SECURITY – Without limiting CONTRACTOR'S obligations with regard to security, CONTRACTOR shall comply with all the rules and regulations established by DISTRICT for access to and activity in and around DISTRICT'S premises.

18. ASSIGNMENT – No party shall assign, sell, license, or otherwise transfer any rights or obligations under this Contract to a third party without the prior written consent of the other party, and any attempt to do so shall be void upon inception.

19. WAIVER – No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Contract shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to enforce performance by the other party of any term, covenant, or condition of this Contract, and the failure of a party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.
20. ATTORNEYS' FEES – In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys' fees and costs.
21. FORCE MAJEURE – Neither DISTRICT nor CONTRACTOR shall be liable for or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of DISTRICT or CONTRACTOR, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Contract.
22. SEVERABILITY – If a court of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them will not be affected.
23. HEADINGS – Headings on the sections and paragraphs of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
24. COUNTERPARTS/FACSIMILES/SCANS – This Contract may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same contract. The parties may rely upon a facsimile copy or scanned copy of any party's signature as an original for all purposes.
25. GOVERNING LAW – Any dispute that arises under or relates to this Contract shall be governed by California law, excluding any laws that direct the application of another jurisdiction's laws. Venue for resolution of any dispute that arises under or relates to this Contract, including mediation, shall be San Francisco, California.

26. ENTIRE CONTRACT AND MODIFICATION – This Contract represents the final, complete, and exclusive statement of the agreement between the parties related to CONTRACTOR providing services to DISTRICT and supersedes all prior and contemporaneous understandings and agreements of the parties. No party has been induced to enter into this Contract by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Contract may only be amended by mutual agreement of the parties in writing and signed by both parties.
27. SURVIVAL OF TERMS – The provisions of sections 7 (Indemnification), 13 (Confidentiality), 14 (Intellectual Property Rights), and 15 (Publication) shall survive the expiration or termination of this Contract.

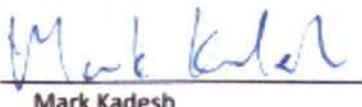
IN WITNESS WHEREOF, the parties to this Contract have caused this Contract to be duly executed on their behalf by their authorized representatives.

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

KADESH & ASSOCIATES, LLC

By: 

Jack P. Broadbent
Executive Officer/APCO

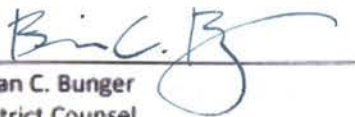
By: 

Mark Kadesh
President

Date: 8/22/19

Date: 9/20/19

Approved as to form:
District Counsel

By: 

Brian C. Bungler
District Counsel

ATTACHMENT A

SCOPE OF WORK

CONTRACTOR shall:

- Work with DISTRICT to develop and execute a results-oriented federal advocacy and funding agenda.
- Align DISTRICT priorities with the priorities and interests of key members of Congress;
- Ensure the entire California Congressional delegation has a good sense of DISTRICT's needs and priorities, and develop active champions among the Bay Area delegation to deliver these messages to the California delegation and all of Congress.
- Determine the best way to frame DISTRICT actions and proposals to achieve the most promising strategy for the DISTRICT's desired policy and funding goals.
- Aid DISTRICT in obtaining federal funding to support DISTRICT efforts related to the reduction of ozone, particulate matter, toxic air contaminants, and other emissions.
- Work with Congress, particularly the California delegation, to secure funding for clean technology development and deployment to address mobile source emissions.
- Work with Congressional staff to expand and increase funding to the Environmental Protection Agency (EPA), Department of Energy (DOE), and other agencies, to support DISTRICT goals and efforts regarding policy and funding.

ATTACHMENT B

COST SCHEDULE

DISTRICT shall pay CONTRACTOR a fixed fee of \$10,000 per month for the work described in Attachment A, Scope of Work. CONTRACTOR shall submit all invoices in accordance with Paragraph 8, Payments.

Total Cost of Contract not to exceed \$50,000.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 26, 2019

Re: Authorization to Execute a Contract for Organizational Development and Employee
Engagement Services

RECOMMENDED ACTION

Authorize the Executive Officer/APCO to execute a two-year contract with Illumyx, LLC in an amount not to exceed \$250,000, for organizational development and employee engagement services with an option to extend for an additional three years.

BACKGROUND

The Air District recently conducted a Request for Proposals (RFP) to seek support in the area of organizational development and employee engagement. After a robust RFP process including proposal scoring and interviews, the Air District has selected Illumyx, LLC to assist the Air District in this effort.

DISCUSSION

The Air District's staff have supported much change and development in the work that the Agency has undertaken in recent years. To support that work, the Air District seeks to enhance a culture of regular employee engagement and organizational development to support the Agency's overall work. The Air District intends to create an in-depth understanding of the existing culture and to aid the Air District's management team in creating action plans that will strengthen the culture, enhance organizational performance and implement accountability strategies in the Air District's policies, procedures and practices.

The RFP process solicited seven proposals from qualified vendors which were interviewed and scored by a panel of internal stakeholders across the Agency and by a colleague from the Metropolitan Transportation Commission, all who are skilled and experienced in vendor selection.

Selection of the vendor was based on the final scoring of the panel. The top two scoring vendors tied, and the panel ultimately chose Illumyx, LLC based on their overall approach and fit with the Air District’s immediate needs.

**2019-010 - Organizational Development and Employee Engagement Strategy
Scoring Summary**

Active Submissions

Supplier	B - Interview / 100 pts	B-1 - Expertise / 25 pts	B-2 - Skill / 25 pts	B-3 - Approach / 25 pts	B-4 - Cost / 15 pts	B-5 - References / 5 pts	B-6 - Firm's Specialty Focus Area / 5 pts
CPS HR Consulting	83.2	22.2	23.4	20	10.8	4.6	2.2
illumyx, LLC	83.2	24	21.6	23.4	8.4	4.2	1.6
ReadySet	76.2	20.4	19.2	17.2	11.2	4.2	4
BerryDunn	74.8	22.2	23.4	19.6	4	4.6	1
GP Strategies Corporation	67.3	19.6	21	14.6	7.5	3.8	0.8

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

Costs for Year One are contemplated in the Fiscal Year Ending (FYE) 2020 Budget. Costs for Year Two will be budgeted for the Board’s review in the FYE 2021 Budget. Any additional years of this contract after Year Two will be brought back to the Board for consideration at that time.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Rex Sanders

Attachment 9A: Air District RFP



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

August 29, 2019

Request for Proposals# 2019-010

**Organizational Development and Employee
Engagement Strategy**

SECTION I – SUMMARY 1

SECTION II – BACKGROUND..... 2

SECTION III – SCOPE OF WORK 2

SECTION IV – INSTRUCTIONS TO BIDDERS..... 4

SECTION V – PROPOSAL FORMAT, CONTENT, AND SUBMITTAL..... 6

SECTION VI – PROPOSAL EVALUATION 8

SECTION VII – SAMPLE CONTRACT..... 9

SECTION I – SUMMARY

The Bay Area Air Quality Management District (Air District) seeks proposals from qualified consultants and firms to support the development of strategic initiatives surrounding the Air District’s organizational development and employee engagement. The Air District’s intention is to create an in-depth understanding of the existing culture (strengths and opportunities for improvement) and to provide assistance to the Air District’s management team in creating action plans that will strengthen the culture, improve organizational performance and implement accountability strategies in all policies, procedures and practices.

The tentative timeline of this project is from October 1, 2019 through December 31, 2024.

To respond to this Request for Proposals (RFP), an interested company should submit its proposal electronically (in Adobe Acrobat PDF file format) to the Air District’s Procurement Portal (Portal):

Cynthia Zhang, Staff Specialist
Bay Area Air Quality Management District
375 Beale Street, Suite 600; San Francisco, CA 94105
Portal link: <https://baaqmd.bonfirehub.com>

**Proposals must be submitted and received by 4:00 p.m. on
Friday, September 20, 2019.
Late proposals will not be considered.**

Proposals must address all information requested in this RFP. A proposal may add information not requested in this RFP, but the information should be in addition to, not instead of, the requested information and format. Minority business enterprises, women's business enterprises, veteran's business enterprises, and Certified Green Businesses are encouraged to submit proposals. **Any questions regarding this RFP should be submitted through the Portal.**

SECTION II – BACKGROUND

A. Air District Overview

The Air District was created by the California Legislature in 1955 as the first regional agency to deal with air pollution in California. The Air District jurisdiction includes Alameda, Contra Costa, Marin, Napa, Santa Clara, San Francisco, San Mateo, southwestern Solano, and southern Sonoma counties.

The State Legislature originally gave the Air District the authority to regulate stationary sources of air pollution, such as factories, oil refineries, chemical plants, gasoline stations, and agricultural burning. With more recent legislation, the Air District was granted authority to enact certain transportation and mobile source measures.

The Air District is governed by a twenty-four member Board of Directors, consisting of elected officials, including county supervisors, mayors, and city council members. The Executive Officer / Air Pollution Control Officer for the Air District is Jack P. Broadbent.

B. Organizational Development and Employee Engagement Strategy

The Air District requires skilled resources to proactively address how to maintain and improve employee engagement in the delivery of its vision, business strategy and operational plans. The organizational development and employee engagement strategy should identify the issues, evidence and strategies in order for the Air District to maintain and enhance employee engagement at the strategic levels.

The selected consultant or firm will work with the Air District's Human Resources Office, management team and agency staff to achieve the following goals:

- Gather, analyze and synthesize current employee engagement;
- Understand the new strategy, objectives and desired outcomes;
- Ensure buy in from all key leadership roles in designing the framework;
- Determine and prioritize key touch points for the framework;
- Create a communication and change management plan for the project; and
- Provide detailed steps and a support plan on the implementation of the project.

SECTION III – SCOPE OF WORK

The Air District seeks a consultant or firm to help the Air District continue to build a culture of accountability and to achieve the goal of becoming a preferred employer as evidenced

by excellent employee recruitment and retention, performance, staff development and positive employee relations. The selected firm will help the Air District to identify the roles that are at the greatest risk due to retirement and attrition, and to develop a structured, sustainable and effective organizational development program that meets the identified needs of the Air District to improve recruitment, retention, succession planning, knowledge transfer, employee engagement and job satisfaction.

These services shall include:

1. Conduct a “kick-off” meeting with the Executive Officer, Chief Administrative Officer, Human Resources Manager, and executive team regarding the process, timeline and expectations.
2. Conduct “kick-off” meetings with each impacted group prior to initiating assessment work.
3. Conduct an effective employee engagement voice survey with the goal of achieving a high employee participation rate. The Air District’s intent is to deliver annual employee engagement surveys over the next five (5) years. The employee engagement survey results will provide a new baseline for future comparisons to measure and drive improvements and changes in employee engagement and corporate culture, and to inform and further develop a roadmap and action plan for success. Data from the survey should enable the Air District to achieve the following objectives:
 - a. Measure the level of employee engagement based on identified factors and drivers.
 - b. Enable employees to provide input and feedback, establishing two-way communication.
 - c. Provide tools and support in the creation of shared actions plans that focus on sustainment of current strength and support areas for development.
4. Provide a comprehensive, but concise, executive summary report that details the results of the survey, as well as all response data (scrubbed of employee identity).
5. Conduct a “de-brief” session with the Executive Officer, Chief Administrative Officer, Human Resources Manager and applicable executive team regarding the findings and recommendations.
6. Engage in planning sessions with the Human Resources Office to develop a strategic action plan that supports the Air District’s commitment to organizational development and employee engagement. Assess the strengths and needs of the current agency staff to determine an appropriate training plan.
7. Utilize the results-based accountability framework to identify and create performance measures that assess progress on the adoption and impact of these practices.
8. Assist Air District management in seeking additional information and feedback for potential improvement actions through post-survey employee focus groups.
9. Provide group coaching and technical assistance with individual program areas to develop an engagement action plan for implementation as agreed upon.

Minimum Qualifications

1. Relevant experience providing employee engagement survey services to organizations of similar size and scope (400 employees), particularly in the public sector.

2. Demonstrated current and past experience with respect to conducting employee engagement surveys in both a non-unionized and unionized public sector environment, and specific examples of partnering with organizations to achieve a high survey participation rate.

SECTION IV – INSTRUCTIONS TO BIDDERS

A. General

1. Interested firms must create an account through the Portal described on p. 1 of this RFP to view RFP documents and addenda, and to submit questions and bid documents.
2. All proposals must be made in accordance with the conditions of this RFP. Failure to address any of the requirements is grounds for rejection of this proposal.
3. All information should be complete, specific, and as concise as possible.
4. Proposals should include any additional information that the respondent deems pertinent to the understanding and evaluation of the bid.
5. The Air District may modify the RFP or issue supplementary information or guidelines during the proposal preparation period prior to the due date. Please check our [Portal](#) for updates prior to the due date.
6. Proposals shall constitute firm offers. Once submitted, proposals may be withdrawn, modified and resubmitted through the Portal up until the September 20, 2019, due date.
7. The District reserves the right to reject any and all proposals.
8. All questions must be in written form and submitted through the Portal no later than **4:00 p.m. on Friday, September 6, 2019**. Firms will not be able to submit questions after this time. All questions will be answered in writing and posted on the [Portal](#) by **6:00 p.m. on Thursday, September 12, 2019**.
9. The cost for developing the proposal is the responsibility of the bidder, and shall not be chargeable to the Air District.

B. Submittal of Proposals

All proposals must be submitted according to the specifications set forth in Section V (A) – Contents of Proposal, and this section. Failure to adhere to these specifications may be cause for the rejection of the proposal.

1. Due Date – All proposals are due no later than 4:00 p.m. on Friday, September 20, 2019, and should be submitted via the Portal:

Cynthia Zhang, Staff Specialist

Bay Area Air Quality Management District
375 Beale Street, Suite 600; San Francisco, CA 94105
Portal link: <https://baaqmd.bonfirehub.com>

2. Uploading large documents may take significant time, depending on the size of the file(s) and Internet connection speed. Bidders should plan sufficient time before the due date to begin the uploading process and to finalize their submissions. Bidders will not be able to submit documents after the due date. Proposals received after the date and time previously specified will not be considered.
3. Signature – All proposals should be signed by an authorized representative of the bidder.
4. Submittal – Submit one (1) electronic copy (in Adobe Acrobat PDF file format). Electronic submissions submitted via the Portal will be acknowledged with a confirmation email receipt. Late proposals will not be accepted. Any correction or re-submission of proposals will not extend the submittal due date.
5. Grounds for Rejection – A proposal may be immediately rejected at any time if it arrives after the deadline, or is not in the prescribed format, or is not signed by an individual authorized to represent the firm.
6. Disposition of the Proposals – All responses to this RFP become property of the Air District and will be kept confidential until a recommendation for award of a contract has been announced. Thereafter, submittals are subject to public inspection and disclosure under the California Public Records Act. If a respondent believes that any portion of its submittal is exempt from public disclosure, it may mark that portion “confidential.” The District will use reasonable means to ensure that such confidential information is safeguarded, but will not be held liable for inadvertent disclosure of the information. Proposals marked “confidential” in their entirety will not be honored, and the District will not deny public disclosure of any portion of submittals so marked.

By submitting a proposal with portions marked “confidential,” a respondent represents it has a good faith belief that such portions are exempt from disclosure under the California Public Records Act and agrees to reimburse the District for, and to indemnify, defend, and hold harmless the District, its officers, employees, and agents, from and against any and all claims, damages, losses, liabilities, suits, judgments, fines, penalties, costs, and expenses, including without limitation, attorneys’ fees, expenses, and court costs of any nature whatsoever, arising from or relating to the District’s non-disclosure of any such designated portions of a proposal.
7. Modification – Once submitted, proposals, including the composition of the contracting team, may be altered up until the due date. Proposals may not be modified after the due date. All proposals shall constitute firm offers valid for ninety (90) days from the September 20, 2019, due date.

C. Interviews

1. The Air District, at its option, may interview bidders. The interviews will be for the purpose of clarifying the proposals.
2. Submittal of new proposal material at an interview will not be permitted.
3. Interviews may involve a presentation and/or a question-and-answer session.

SECTION V – PROPOSAL FORMAT, CONTENT, AND SUBMITTAL

A. Contents of Proposal

Submitted proposals must follow the format outlined below and include all requested information. Failure to submit proposals in the required format can result in the proposal being eliminated from evaluation and consideration.

1. Technical Proposal
 - a. Cover Letter (Section I) – Must include the name, address, and telephone number of the company, and must be signed by the person(s) authorized to represent the firm.
 - b. Firm Contact Information – Provide the following information about the firm:
 - Address and telephone number of office nearest to San Francisco, California and the address and phone number of the office that each of the proposed staff members are based out of if different.
 - Name of firm’s representative designated as the contact and email address
 - Name of project manager, if different from the individual designated as the contact
 - c. Table of Contents – Clearly identify material contained in the proposal by section.
 - d. Summary (Section II) – State overall approach to organizational development and employee engagement strategy, including the objectives and scope of work.
 - e. Program Schedule (Section III) – Provide projected milestones or benchmarks for completing the project within the total time allowed.
 - f. Firm Organization (Section IV) – Provide a statement of your firm’s background and related experience in providing similar services to governmental organizations, if any. Describe the technical capabilities of the firm and, in particular, the firm’s exposure with working with environmental regulations, if any. Provide references of other, similar projects including contact name, title, and telephone number for all references listed.

- g. Project Organization (Section V) – Describe the proposed management structure, program monitoring procedures, and organization of the engagement team. Provide a statement detailing your approach to the project, specifically addressing the firm’s ability and willingness to commit and maintain staffing to successfully conclude the project on the proposed schedule.
- h. Assigned Personnel (Section VI) – Provide the following information about the staff to be assigned to the project:
- List all key personnel assigned to the project by level and name. Provide a description of their background, along with a summary of their experience in providing similar services for governmental agencies, and any specialized expertise they may have. Background descriptions can be a resume, CV, or summary sheet. Substitution of project manager or staff will not be permitted without prior written approval of the Air District’s assigned program manager.
 - Provide a statement of the availability of staff in any local office with requisite qualifications and experience to conduct the requested project.
 - Provide a statement of education and training programs provided to, or required of, the staff identified for participation in the project. Make particular mention of with reference to experience dealing with governmental agencies, procedures, and environmental regulations.
- i. Retention of Working Papers (Section VII) – All working papers are the property of the Air District. Include a statement acknowledging that if your firm is awarded the contract, you will retain project related papers and related reports for a minimum of five (5) years.
- j. Subcontractors (Section VIII) – List any subcontractors that will be used, the work to be performed by them, their related qualifications and experience and the total number of hours or percentage of time they will spend on the contract.
- k. Conflict of Interest (Section IX) – Address possible conflicts of interest with other clients affected by contractors’ actions performed by the firm on behalf of the Air District. The Air District recognizes that prospective bidders may have contracts to perform similar services for other clients. Include a complete list of such clients for the past three (3) years with the type of work performed and the total number of years performing such tasks for each client. The Air District reserves the right to consider the nature and extent of such work in evaluating the proposal.
- l. Additional Data (Section X) – Provide other essential data that may assist in the evaluation of the proposal (e.g. green business certification, etc).

2. Cost Proposal

- a. Name and Address – The Cost Proposal must have the name and complete address of the bidder in the upper, left hand corner.
- b. Cost Proposal – The Cost Proposal must list the fully-burdened hourly rates and the total number of hours estimated for each level of professional and administrative staff to be used to perform the tasks required by this RFP. In addition, costs should be estimated for each of the components of the Scope of Work.
- c. The Cost Proposal does not need to be a separate, sealed document.

SECTION VI – PROPOSAL EVALUATION

A panel of Air District staff will evaluate all proposals. The panel will recommend the selection of the contractor to the Executive Officer/Air Pollution Control Officer (APCO), who will, in turn, make a recommendation to the Air District Board of Directors. The Air District Board of Directors may be required to approve the contract to carry out the work described in this RFP. A link to a typical contract for professional services used by the Air District is included in Section VII.

Proposals will be evaluated on the following criteria:

Criteria	Description	Weight
Expertise	Technical expertise, size and structure of the firm and personnel assigned to RFP tasks; firm’s ability to perform and complete the work in a professional and timely manner.*	25%
Skill	Past experience of the firm and, in particular, experience of the team working on projects of similar scope for other governmental agencies.	25%
Approach	Responsiveness of the proposal, based upon a clear understanding of the work to be performed.	25%
Cost	Cost or cost effectiveness and resource allocation strategy	15%
References	References of the firm	5%
Firm’s Specialty Focus Area	Local business/Green Business**	5%
	Total	100%

* “Size and structure of firm” refers to the ability of a firm’s size to meet the needs

of the District. It does not give absolute preference to larger or smaller firms.

- ** The Air District gives preferences to local businesses and those that are certified as green businesses by a government agency or independent private rating organization. "Local business" means that a firm's headquarters is located within the nine counties of the Air District's jurisdiction.

If two or more proposals receive the same number of points, the Air District will accept the lower cost offer.

SECTION VII – SAMPLE CONTRACT

A sample contract to carry out the work described in this RFP is available on the District's website at <http://www.baaqmd.gov/about-the-air-district/request-for-proposals-rfp-rfq/samples-previous>. (Click the + to the left of Sample Contracts, and then click on the Professional Services Contract link)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 26, 2019

Re: Acceptance and Award of Grant Funding

RECOMMENDED ACTION

Authorize the Executive Officer/APCO to enter into an agreement with the California Department of Transportation (“Caltrans”) to receive grant funds under the federal Congestion Mitigation and Air Quality Improvement (“CMAQ”) Program to support the Air District’s “Spare the Air” campaign activities.

BACKGROUND

Congress has established a grant program known as the Congestion Mitigation and Air Quality Improvement (“CMAQ”) Program (23 U.S.C. § 149) to provide grant funding for transportation-related projects that will address traffic congestion and help reduce mobile source emissions. The Air District has received CMAQ funding for many years to help fund its “Spare the Air” campaign activities.

DISCUSSION

The CMAQ Program is administered in California by the California Department of Transportation (“Caltrans”). Caltrans is ready to distribute \$1,949,192 in CMAQ funds to support the Air District’s Spare the Air campaign activities. Caltrans requires formal authorization from the governing body of the grant recipient – in this case, the Air District – before entering into CMAQ funding agreements. The Board of Directors therefore needs to authorize the receipt of these grant funds in order for the Air District to receive them.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. The grant funds will help the Air District fund its ongoing Spare the Air campaign activities.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Alexander Crockett
Reviewed by: Brian Bunger

Attachment 10A: Draft Board Resolution
Attachment 10B: Draft Funding Agreement

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION No. 2019-

**A Resolution of the Board of Directors of the
Bay Area Air Quality Management District
Authorizing Air District Participation in the
Congestion Mitigation and Air Quality Improvement Program
for the San Francisco Bay Area**

RECITALS

WHEREAS, federal law has established the Surface Transportation Block Grant Program (23 U.S.C. § 133) and the Congestion Mitigation and Air Quality Improvement Program (“CMAQ”) (23 U.S.C. § 149) to provide grant funding for transportation-related projects;

WHEREAS, these grant funding programs were reauthorized most recently under the Fixing America’s Surface Transportation Act (Pub. Law No. 114-94);

WHEREAS, the Bay Area Air Quality Management District (“Air District”) has the authority under Health & Safety Code sections 40701 and 40717 to participate in the CMAQ Program for the San Francisco Bay Area as part of its overall regional responsibility for air quality planning and control;

WHEREAS, eligible project sponsors wishing to receive CMAQ grants for a project must submit an application with the appropriate administering government agency;

WHEREAS, the Air District is an eligible project sponsor for CMAQ funds;

WHEREAS, the Air District has been offered funding for its “Spare the Air” Program to reduce motor vehicle emissions during high ozone days, under the CMAQ program administered by the California Department of Transportation (“Caltrans”);

WHEREAS, Caltrans and the Air District have entered into an agreement entitled “Master Agreement Administering Agency-State Agreement for Federal-Aid Projects,” Agreement No. 04-6297F15, effective December 8th, 2016, to govern funding of Air District programs;

WHEREAS, Caltrans is now ready to enter into Program Supplement No. F007 to Agreement No. 04-6297F15 (a copy of which is attached hereto) with the Air District regarding funding for the Air District’s Spare the Air program;

WHEREAS, the State of California, through Caltrans, requires official governing body authorization from the receiving government agency (in this case, the Air District) before entering into CMAQ Funding Agreements;

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that that the Board of Directors of the Bay Area Air Quality Management District hereby authorizes the Executive Officer/Air Pollution Control Officer, or his designee, to execute Program Supplement No. F007 to Administering Agency-State Agreement For Federal-Aid Projects No. 04-6297F15.

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 ____ day of _____, 2019, by the following vote of the Board:

AYES:

NOES:

ABSENT:

Katie Rice
Chairperson of the Board of Directors

ATTEST:

Cindy Chavez
Secretary of the Board of Directors

PROGRAM SUPPLEMENT NO. F007
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO 04-6297F15

Adv Project ID **Date:** August 2, 2019
 0418000425 **Location:** 04-SF-0-BAQM
 Project Number: CMLNI-6297(008)
 E.A. Number:
 Locode: 6297

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid, which was entered into between the Administering Agency and the State on 12/08/16 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. _____ approved by the Administering Agency on _____ (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

PROJECT LOCATION: San Francisco Bay Area, Region - wide

TYPE OF WORK: Spare the Air campaign activities

LENGTH: 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds	
	Z400		LOCAL	OTHER
\$5,000,000.00		\$1,949,192.00	\$0.00	\$3,050,808.00

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

By _____
 Title _____
 Date _____
 Attest _____

STATE OF CALIFORNIA
Department of Transportation

By _____
 Chief, Office of Project Implementation
 Division of Local Assistance
 Date _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer



Date

8/2/19

\$1,949,192.00

SPECIAL COVENANTS OR REMARKS

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

D. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

E. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

F. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-

SPECIAL COVENANTS OR REMARKS

assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

G. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

H. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.

2. A. ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of

SPECIAL COVENANTS OR REMARKS

Federal Regulation (CFR) and 2 CFR Part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.

B. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.

C. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.

D. Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.

E. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

F. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

G. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

H. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures,

SPECIAL COVENANTS OR REMARKS

48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

I. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

J. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

K. STATE reserves the right to conduct technical and financial audits of PROJECT WORK and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by the following paragraph:

ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT, and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

L. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices set to or paid by STATE.

M. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year of the Catalogue of Federal Domestic Assistance.

N. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in

SPECIAL COVENANTS OR REMARKS

ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.

O. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contracts over \$10,000, or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

P. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions B, C, F, H, I, K, and L under Section 2 of this agreement.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 26, 2019

Re: Report of the Budget and Finance Committee Meeting of November 25, 2019

RECOMMENDED ACTION

The Budget and Finance Committee (Committee) recommends Board of Directors approval of the following items:

- A) Fourth Quarter Financial Report – Fiscal Year Ending (FYE) 2019
 - 1) None; receive and file.
- B) First Quarter Financial Report – Fiscal Year Ending (FYE) 2020
 - 1) None; receive and file.
- C) California Employers’ Pension Prefunding Trust (CEPPT) Participation and Consideration to Recommend Adoption
 - 1) Adopt a resolution to authorize the Air District to participate in the California Employers’ Pension Prefunding Trust (CEPPT) Program administered by the California Public Employees Retirement System (CalPERS) to Pre-fund Pension Obligations;
 - 2) Delegate the Executive Officer/APCO and the Chief Financial Officer with Authority to Request Disbursements; and
 - 3) Authorize the Executive Officer/APCO to execute the CEPPT legal and administrative documents on behalf of the Air District, to take any necessary additional actions to maintain Air District’s participation in the Program, and to maintain compliance of any relevant regulation issued, or as may be issued.

BACKGROUND

The Committee met on Monday, November 25, 2019, and received the following reports:

- A) Fourth Quarter Financial Report – Fiscal Year Ending (FYE) 2019;
- B) First Quarter Financial Report – Fiscal Year Ending (FYE) 2020; and
- C) California Employers’ Pension Prefunding Trust (CEPPT) Participation and Consideration to Recommend Adoption.

Chairperson Carole Groom will provide an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None; receive and file;
- B) None; receive and file; and
- C) In the FYE 2018 and FYE 2019 Adopted Budgets, the Board set aside \$1 million annually for prefunding the pension obligation. The decision on investment vehicle was postponed pending staff recommendations and Board approval. Upon Board approval, a total set aside of \$3 million will be invested in the CEPPT program; \$2 million from the General Fund’s Designated Fund Balance and \$1 million from the FYE 2020 Adopted Budget; respectively. All funds placed into the irrevocable trust fund can only be used to pay for retirement obligations.

The Air District will pay fees to CEPPT for management of the trust. These fees will be paid from the trust assets. Staff anticipates that the investment earnings will be more than adequate to pay the fees.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Aloha de Guzman
Reviewed by: Vanessa Johnson

Attachment 11A: 11/25/2019 – Budget and Finance Committee Meeting Agenda #4
Attachment 11B: 11/25/2019 – Budget and Finance Committee Meeting Agenda #5
Attachment 11C: 11/25/2019 – Budget and Finance Committee Meeting Agenda #6

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Carole Groom and Members
of the Budget and Finance Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 13, 2019

Re: Fourth Quarter Financial Report – Fiscal Year Ending (FYE) 2019

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Finance staff will present an update on the Air District's preliminary financial results for the fourth quarter of the Fiscal Year Ending (FYE) 2019. The following information summarizes those results.

GENERAL FUND BUDGET: STATEMENT OF REVENUES – Comparison of Prior Year Quarter Actual and Current Year Budget to Actual

REVENUE TYPE	4th QTR FYE 2018	4th QTR FYE 2019	FYE 2019 - % of BUDGETED REVENUE
County Receipts	\$33,032,767	\$35,823,934	108%
Permit Fee Receipts	\$36,097,436	\$41,420,977	107%
Title V Permit Fees	\$5,439,167	\$6,597,440	114%
Asbestos Fees	\$4,066,794	\$4,434,539	177%
Toxic Inventory Fees	\$336,389	\$475,140	94%
Penalties and Settlements	\$4,357,810	\$2,123,615	77%
Interest Income	\$875,267	\$1,503,779	303%
Misc. Revenue	\$145,893	\$120,728	121%
Total Revenue	\$84,351,522	\$92,500,152	110%

GENERAL FUND: STATEMENT OF EXPENDITURES - Comparison of Prior Year Quarter Actual and Current Year Budget to Actual

EXPENDITURE TYPE	4th QTR FYE 2018	4th QTR FYE 2019	FYE 2019 - % of BUDGETED EXPENDITURES
Personnel - Salaries*	\$39,623,206	\$42,474,882	91%
Personnel - Fringe	\$20,792,916	\$23,232,627	94%
Operational Services /	\$19,109,582	\$23,677,660	80%
Capital Outlay	\$5,606,660	\$3,973,975	85%
Office Acquisition **		\$13,130,123	0%
Total Expenditures	\$85,132,364	\$106,489,267	101%
* Consolidated (includes Special Funds)			
** Acquisition approved using General Fund (GF) Reserves			

CASH INVESTMENTS IN COUNTY TREASURY – Account Balances as of 4th Quarter

CASH/INVESTMENTS	4th QTR FYE 2018	4th QTR FYE 2019
General Fund	\$67,596,034	\$74,804,416
TFCA	\$96,546,426	\$105,123,260
MSIF	\$42,072,941	\$42,945,090
Carl Moyer	\$19,004,193	\$55,988,126
CA Goods Movement	\$13,878,585	\$17,838,852
AQ Projects	\$1,079,280	\$3,102,461
Total	\$240,177,459	\$299,802,206

BUDGET AND FINANCE COMMITTEE
MEETING OF 11/25/2019

FUND BALANCES	6/30/2018	6/30/2019	6/30/2020
	Audited	Unaudited	Projected
DESIGNATED: *			
Diversity Equity & Inclusion	\$100,000		
Economic Contingency	\$17,390,311	\$19,084,769	\$20,082,966
IT- Event Response	\$500,000		
Litigation	\$500,000		
Napa/Sonoma Fireplace Replacement Grant	\$1,000,000	\$1,000,000	\$1,000,000
Pension & Post Employment Liability	\$1,000,000	\$2,000,000	\$2,000,000
Tech - Meteorological Network Equipment	\$131,100		
Tech - Mobile Monitoring Instruments	\$80,000		
Technology Implementation Office	\$3,350,000		
GHG Abatement Technology Study	\$1,500,000		
Woodchip Program	\$150,000		
Woodsmoke Grant	\$1,000,000	\$1,000,000	\$1,000,000
Workers' Comp Self - Funding	\$1,000,000		
Total Designated Reserves	\$27,701,411	\$23,084,769	\$24,082,966
Undesignated Fund Balance	\$18,101,141	\$25,198,206	\$17,200,009
TOTAL DESIGNATED & UNDESIGNATED	\$45,802,552	\$48,282,975	\$41,282,975
Building Proceeds	\$4,668,200	\$209,489	\$209,489
TOTAL FUND BALANCE	\$50,470,752	\$48,492,464	\$41,492,464
* Designated Fund Balances are subject to change at Board's discretion.			
OUTSTANDING LIABILITIES			
CalPERS Pension Retirement			\$86,309,901
Other Post - Employment Benefits			\$18,840,854
Certificate of Participation Notes			\$26,956,830
TOTAL OUTSTANDING LIABILITIES			\$132,107,585

VENDOR PAYMENTS

In accordance with provisions of the Administrative Code, Division II Fiscal Policies and Procedures - Section 4 Purchasing Procedures: 4.3 Contract Limitations, staff is required to present recurring payments for routine business needs such as utilities, licenses, office supplies and the like, more than, or accumulating to more than \$100,000 for the fiscal year. In addition, this report includes all vendors receiving payments in excess of \$100,000 under contracts that have not been previously reviewed by the Board. In addition, staff will report on vendors that undertook work for the Air District on several projects that individually were less than \$100,000, but cumulatively exceed \$100,000.

Below is a list of vendors with cumulative payments made through the fourth quarter of FYE 2019 that exceeded \$100,000 and meet the reporting criteria noted above. All expenditures have been appropriately budgeted as a part of the overall Air District budget for FYE 2019.

	VENDOR NAME	AMOUNT PAID (July 2018 - June 2019)	Explanation
1	Air Resources Board	\$160,854	Pass through Air Toxic Fees
2	Accountemps	\$109,012	Temporary Staffing Services
3	Alliant Insurance Services	\$332,273	Various Business Insurance Policies
4	Air Resources Board	\$160,854	Pass through Air Toxic Fees
5	BAAQMD Employee Association	\$106,391	Employee Union Dues
6	Bay Area Headquarters Authority	\$2,693,801	Shared Services & Common Areas
7	Benefits Coordinators Corp.	\$943,003	Life Insurance Plan & LTD Insurance
8	Berkeley Communications Corp.	\$255,348	IT Network Services
9	CA Public Employee Retirement System	\$5,756,358	Health Insurance Plan
10	CA Public Employee Retirement System	\$1,813,207	Retirement Benefits & 457 Supplemental Plan
11	CAPCOA	\$651,992	Pass through EPA grants
12	CDW Government	\$147,794	Computer equipment
13	Ceridian	\$146,538	Payroll Processing Services
14	Cubic Transportations Systems	\$510,031	Clipper Transit Subsidy
15	Direct Mail Center	\$132,976	Public Notice Mailing Services
16	Enterprise Fleet Services	\$505,642	Fleet Leasing and Maintenance Services
17	Hartford Life Ins. Co.	\$876,388	457 Supplemental Insurance
18	Metropolitan Transportation Commission	\$255,434	BARC Staffing Support
19	Office Team	\$113,642	Temporary Staffing Services
20	O'Rorke, Inc.	\$329,302	Marketing & Advertising Services
21	P & A Administrative Services	\$266,633	Flexible Spending & Cobra Benefit Services
22	Pacific Gas & Electric	\$123,560	Utility services
23	Preferred Benefit Insurance AD	\$797,273	Dental Insurance Plan
24	Regents of the University of California	\$130,000	Sponsorships
25	Sloan Sakai Yeung & Wong	\$322,938	HR Consulting & Staff Augmentation Services
26	SoftwareOne, Inc.	\$363,009	Microsoft Subscription Service
27	Thermo Environmental Instrument	\$221,404	Air Monitoring and Source Test Instrumentation
28	Verizon Wireless	\$243,762	Cell phone services
29	Wex Fleet Universal	\$128,133	Fuel Fleet Services
30	Wang Brother Investment	\$504,154	Richmond Site Lease

BUDGET CONSIDERATION/FINANCIAL IMPACT

None; receive and file.

BUDGET
MEETING

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Stephanie Osaze
Reviewed by: Jeff McKay

BUDGET AND FINANCE COMMITTEE
MEETING OF 11/25/2019

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Carole Groom and Members
of the Budget and Finance Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 13, 2019

Re: First Quarter Financial Report – Fiscal Year Ending (FYE) 2020

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Finance staff will present an update on the Air District's financial results for the first quarter of the Fiscal Year Ending (FYE) 2020. The following information summarizes those results.

GENERAL FUND BUDGET: STATEMENT OF REVENUES – Comparison of Prior Year Quarter Actual and Current Year Budget to Actual

REVENUE TYPE	1st QTR FYE 2019	1st QTR FYE 2020	FYE 2019 - % of BUDGETED REVENUE
County Receipts	\$344,827	\$313,817	1%
Permit Fee Receipts	\$25,983,762	\$13,188,089	34%
Title V Permit Fees	\$5,023,406	\$1,357,024	23%
Asbestos Fees	\$1,143,535	\$1,401,272	43%
Toxic Inventory Fees	\$220,209	\$196,095	302%
Penalties and Settlements	\$318,023	\$382,486	14%
Interest Income	\$319,351	\$380,805	39%
Misc Revenue	\$36,798	\$156,269	156%
Total Revenue	\$33,389,911	\$17,375,856	20%

GENERAL FUND: STATEMENT OF EXPENDITURES - Comparison of Prior Year Quarter Actual and Current Year Budget to Actual

EXPENDITURE TYPE	1st QTR FYE 2019	1st QTR FYE 2020	FYE 2019 - % of BUDGETED EXPENDITURES
Personnel - Salaries*	\$8,979,401	\$9,727,956	20%
Personnel - Fringe Benefits*	\$7,996,005	\$9,332,184	36%
Operational Services /	\$3,454,641	\$4,034,585	15%
Capital Outlay	\$1,157,549	\$1,470,771	16%
Total Expenditures	\$21,587,597	\$24,565,496	22%

* Consolidated (includes Special Funds)

CASH INVESTMENTS IN COUNTY TREASURY – Account Balances as of 1st Quarter

CASH/INVESTMENTS	1st QTR FYE 2019	1st QTR FYE 2020
General Fund	\$70,817,140	\$64,630,650
TFCA	\$102,212,849	\$109,044,018
MSIF	\$41,937,053	\$44,183,563
Carl Moyer	\$20,392,810	\$60,150,229
CA Goods Movement	\$13,937,851	\$12,912,125
AQ Projects	\$1,084,000	\$3,120,905
Vehicles Mitigation		\$985,795
Total	\$250,381,703	\$295,027,285

BUDGET AND FINANCE COMMITTEE
MEETING OF 11/25/2019

FUND BALANCES	6/30/2018	6/30/2019	6/30/2020
	Audited	Unaudited	Projected
DESIGNATED: *			
Diversity Equity & Inclusion	\$100,000		
Economic Contingency	\$17,390,311	\$19,084,769	\$20,082,966
IT - Event Response	\$500,000		
Litigation	\$500,000		
Napa/Sonoma Fireplace Replacement Grant	\$1,000,000	\$1,000,000	\$1,000,000
Pension & Post Employment Liability	\$1,000,000	\$2,000,000	\$2,000,000
Tech - Meteorological Network Equipment	\$131,100		
Tech - Mobile Monitoring Instruments	\$80,000		
Technology Implementation Office	\$3,350,000		
GHG Abatement Technology Study	\$1,500,000		
Woodchip Program	\$150,000		
Woodsmoke Grant	\$1,000,000	\$1,000,000	\$1,000,000
Workers' Comp Self - Funding	\$1,000,000		-
Total Designated Reserves	\$27,701,411	\$23,084,769	\$24,082,966
Undesignated Fund Balance	\$18,101,141	\$25,198,206	\$17,200,009
TOTAL DESIGNATED & UNDESIGNATED	\$45,802,552	\$48,282,975	\$41,282,975
Building Proceeds	\$4,668,200	\$209,489	\$209,489
TOTAL FUND BALANCE	\$50,470,752	\$48,492,464	\$41,492,464
* Designated Fund Balances are subject to change at Board's discretion.			
OUTSTANDING LIABILITIES			
CalPERS Pension Retirement			\$86,309,901
Other Post - Employment Benefits			\$18,840,854
Certificate of Participation Notes			\$26,956,830
TOTAL OUTSTANDING LIABILITIES			\$132,107,585

VENDOR PAYMENTS

In accordance with provisions of the Administrative Code, Division II Fiscal Policies and Procedures - Section 4 Purchasing Procedures: 4.3 Contract Limitations, staff is required to present recurring payments for routine business needs such as utilities, licenses, office supplies and the like, more than, or accumulating to more than \$100,000 for the fiscal year. In addition, this report includes all vendors receiving payments in excess of \$100,000 under contracts that have not been previously reviewed by the Board. In addition, staff will report on vendors that undertook work for the Air District on several projects that individually were less than \$100,000, but cumulatively exceed \$100,000.

Below is a list of vendors with cumulative payments made through the first quarter of FYE 2020 that exceeded \$100,000 and meet the reporting criteria noted above. All expenditures have been appropriately budgeted as a part of the overall Air District budget for FYE 2020.

	VENDOR NAME	AMOUNT PAID (July 2019 - Sept 2019)	Explanation
1	Alliant Insurance Services	\$223,753	Various Business Insurance Policies
2	Benefits Coordinators Corp.	\$265,711	Life Insurance Plan & LTD Insurance
3	CA Public Employee Retirement System	\$1,937,746	Health Insurance Plan
4	CA Public Employee Retirement System	\$988,182	Retirement Benefits & 457 Supplemental Plan
5	Enterprise Fleet Services	\$101,935	Fleet Leasing and Maintenance services
6	Hartford Life Ins Co.	\$202,717	457 Supplemental Insurance
7	Preferred Benefit Insurance AD	\$124,323	Dental Insurance Plan
8	Wang Brothers Investment, LLC	\$122,082	Richmond Site Lease

BUDGET CONSIDERATION/FINANCIAL IMPACT

None; receive and file.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Stephanie Osaze
Reviewed by: Jeff McKay

BUDGET AND FINANCIAL
MEETING OF 11/25/2019

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Carole Groom and Members
of the Budget and Finance Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 13, 2019

Re: California Employers' Pension Prefunding Trust (CEPPT) Participation and
Consideration to Recommend Adoption

RECOMMENDED ACTION

Consider recommending the Board of Directors:

1. Adopt a resolution to authorize the Air District to participate in the California Employers' Pension Prefunding Trust (CEPPT) Program administered by the California Public Employees Retirement System (CalPERS) to Pre-fund Pension Obligations;
2. Delegate the Executive Officer/APCO and the Chief Financial Officer with Authority to Request Disbursements; and
3. Authorize the Executive Officer/APCO to execute the CEPPT legal and administrative documents on behalf of the Air District, to take any necessary additional actions to maintain the Air District's participation in the Program, and to maintain compliance of any relevant regulation issued, or as may be issued.

BACKGROUND

The Air District provides a defined-benefit pension to its retirees through California Public Employees Retirement System (CalPERS). Funding of CalPERS pensions relies on three sources: employee contributions, employer contributions, and investment returns (which vary per the performance of financial markets).

In 2012, the Government Accounting Standards Board (GASB) issued Statement No. 68, Accounting and Financial Reporting for Pensions. GASB 68 requires that governmental employers that sponsor defined benefit plans (i.e. CalPERS) must recognize a net pension liability (also known as an unfunded actuarial accrued liability (UAAL)) on their balance sheet. This is the difference between the Air District's total pension liability and actual plan assets. Audited financial statements for Fiscal Year Ending (FYE) 2018 show an unfunded pension liability of \$79 million.

A recent ruling received from the Internal Revenue Service established that public agencies could create a separate trust to "pre-fund" its unfunded pension liability. This would provide the Air District with an option to invest funds directly into to a Section 115 Trust. Like the California Employers Retirement Benefit Trust (CERBT) for Other Post-Employment Benefits (OPEB), also administered by CalPERS, CEPPT participation will allow the Air District to realize similar investment earnings.

DISCUSSION

As part of the FYE 2019 Budget process, the Board directed staff to conduct independent analysis of strategies and consider options for pre-funding pension liability. The Air District hired an independent consulting firm, NHA Advisors, to identify investments options and identify strategies to pay down the long-term liabilities for the Other Post-Employment Benefits (OPEB) and Pension Plans.

Staff will provide a presentation of NHA Advisors' analysis and staff's recommendations based on the results of the independent analysis. The Committee can consider staff's recommendation further, if needed, or recommend moving ahead with CEPPT to the full Board of Directors (Board).

BUDGET CONSIDERATION/FINANCIAL IMPACT

In the FYE 2018 and FYE 2019 Adopted Budgets, the Board set aside \$1 million annually for prefunding the pension obligation. The decision on investment vehicle was postponed pending staff recommendations and Board approval. Upon Board approval, a total set aside of \$3 million will be invested in the CEPPT program; \$2 million from the General Fund's Designated Fund Balance and \$1 million from the FYE 2020 Adopted Budget; respectively. All funds placed into the irrevocable trust fund can only be used to pay for retirement obligations.

The Air District will pay fees to CEPPT for management of the trust. These fees will be paid from the trust assets. Staff anticipates that the investment earnings will be more than adequate to pay the fees.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Stephanie Osaze
Reviewed by: Jeff McKay

- Attachment 6A: Resolution Approving the Adoption of the California Employers' Pension Prefunding Trust (CEPPT) Administered by California Employers Retirement Pension System (CalPERS)
- Attachment 6B: California Employers' Pension Prefunding Trust Participation Agreement
- Attachment 6C: California Delegation of Authority to Request Disbursements

BUDGET AND FINANCE COMMITTEE
MEETING OF 11/25/2019

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. _____

RESOLUTION OF THE GOVERNING BOARD OF DIRECTORS
OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT
APPROVING THE ADOPTION OF THE
CALIFORNIA EMPLOYERS' PENSION PREFUNDING TRUST FUND (CEPPT)
ADMINISTERED BY CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CALPERS)

WHEREAS CALPERS has made available the California Employers' Pension Prefunding Trust Fund (the "Program") for the purpose of allowing eligible employers to prefund their required pension contributions to a defined pension plan by receiving and holding in the CEPPT amounts that are intended to be contributed to an Employer Pension Plan at a later date; and

WHEREAS the Bay Area Air Quality Management District ("District") is eligible to participate in the Program, a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Internal Revenue Code, as amended, and the Regulations issued there under, and is a tax-exempt trust under the relevant statutory provisions of the State of California; and

WHEREAS the District's adoption and operation of the Program has no effect on any current or former employee's entitlement to pension benefits; and

WHEREAS the terms and conditions of pension benefit entitlement are governed by contracts separate from and independent of the Program; and

WHEREAS the District's funding of the Program does not, and is not intended to, create any new vested right to any benefit nor strengthen any existing vested right; and

WHEREAS the District reserves the right to make contributions, if any, to the Program; and

WHEREAS the District's participation in the Program requires the Board to approve the CEPPT Participation Agreement and the Delegation of Authority to Request Disbursements; and

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Governing Board hereby approves the District to participate in the California Employers' Pension Prefunding Trust Fund (CEPPT) program, effective _____, 2019; and
2. The Governing Board hereby approves the Election Agreement and appoints the Executive Officer/APCO and the Chief Financial Officer/CFO, or his/her successor as the Delegation of Authority to Request Disbursements for the Program; and
3. The Executive Officer/APCO or his/her successor, or his/her designee is hereby authorized to execute the CEPPT administrative documents on behalf of the District and to take whatever additional actions are necessary to maintain the District's participation in the Program and to

maintain compliance of any relevant regulation issued or as may be issued; therefore, authorizing him/her to take whatever additional actions are required to administer the District's Program.

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 _____ day of _____ 2019

by the following vote of the Board:

AYES:

NOES:

ABSENT:

KATIE RICE
Chairperson of the Board of Directors

ATTEST:

ROD SINKS
Secretary of the Board of Directors

BUDGET AND FINANCE COMMITTEE
MEETING OF 7/25/2019

CALIFORNIA EMPLOYERS' PENSION PREFUNDING TRUST PROGRAM

**AGREEMENT AND ELECTION
OF**

(NAME OF EMPLOYER)

**to Prefund Employer Contributions to a Defined Benefit
Pension Plan**

WHEREAS (1) Government Code (GC) Section 21711(a) establishes in the State Treasury the California Employers' Pension Prefunding Trust Fund (CEPPT), a special trust fund for the purpose of allowing eligible employers to prefund their required pension contributions to a defined benefit pension plan (each an Employer Pension Plan) by receiving and holding in the CEPPT amounts that are intended to be contributed to an Employer Pension Plan at a later date; and

WHEREAS (2) GC Section 21711(b) provides that the California Public Employees' Retirement System (CalPERS) Board of Administration (Board) has sole and exclusive control of the administration and investment of the CEPPT, the purposes of which include, but are not limited to (i) receiving contributions from participating employers; (ii) investing contributed amounts and income thereon, if any, in order to receive yield on the funds; and (iii) disbursing contributed amounts and income thereon, if any, to pay for costs of administration of the CEPPT and to deposit employer contributions into Employer Pension Plans in accordance with their terms; and

WHEREAS (3) _____
(NAME OF EMPLOYER)

(Employer) desires to participate in the CEPPT upon the terms and conditions set by the Board and as set forth herein; and

WHEREAS (4) Employer may participate in the CEPPT upon (i) approval by the Board and (ii) filing a duly adopted and executed Agreement and Election to Prefund Employer Contributions to a Defined Benefit Pension Plan (Agreement) as provided in the terms and conditions of the Agreement; and

WHEREAS (5) The CEPPT is a trust fund that is intended to perform an essential governmental function (that is, the investment of funds by a State, political subdivision or 115 entity) within the meaning of Internal Revenue Code (Code) Section 115 and Internal Revenue Service Revenue Ruling 77-261, and as an Investment Trust Fund, as defined in Governmental Accounting Standards Board (GASB) Statement No. 84, Paragraph 16, for accounting and financial reporting of fiduciary activities from the

external portion of investment pools and individual investment accounts that are held in a trust that meets the criteria in Paragraph 11c(1).

WHEREAS (6) The CEPPT is not a Code Section 401(a) qualified trust and the assets held in the CEPPT are not assets of any Employer Pension Plan or any plan qualified under Code Section 401(a).

NOW, THEREFORE, BE IT RESOLVED THAT EMPLOYER HEREBY MAKES THE FOLLOWING REPRESENTATION AND WARRANTY AND THAT THE BOARD AND EMPLOYER AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

A. Employer Representation and Warranty

Employer hereby represents and warrants that it is the State of California or a political subdivision thereof, or an entity whose income is excluded from gross income under Code Section 115(1).

B. Adoption and Approval of the Agreement; Effective Date; Amendment

(1) Employer's governing body shall elect to participate in the CEPPT by adopting this Agreement and filing with the Board a true and correct original or certified copy of this Agreement as follows:

Filing by mail, send to: CalPERS
CEPPT
P.O. Box 1494
Sacramento, CA 95812-1494

Filing in person, deliver to: CalPERS Mailroom
CEPPT
400 Q Street
Sacramento, CA 95811

(2) Upon receipt of the executed Agreement, and after approval by the Board, the Board shall fix an effective date and shall promptly notify Employer of the effective date of the Agreement. Employer shall provide the Board such other documents as the Board may request, including, but not limited to a certified copy of the resolution(s) of the governing body of Employer authorizing the adoption of the Agreement and documentation naming Employer's successor entity in the event that Employer ceases to exist prior to termination of this Agreement.

(3) The terms of this Agreement may be amended only in writing upon the agreement of both the Board and Employer, except as otherwise provided herein. Any such amendment or modification to this Agreement shall be adopted and executed in the same manner as required for the Agreement. Upon receipt of the executed amendment or modification, the Board shall fix the effective date of the amendment or modification.

(4) The Board shall institute such procedures and processes as it deems necessary to administer the CEPPT, to carry out the purposes of this Agreement, and to maintain the tax-exempt status of the CEPPT. Employer agrees to follow such procedures and processes.

C. Employer Reports Provided for the Board's Use in Trust Administration and Financial Reporting and Employer Contributions

(1) Employer shall provide to the Board a defined benefit pension plan cost report on the basis of the actuarial assumptions and methods prescribed by Actuarial Standards of Practice (ASOP) or prescribed by GASB. Such report shall be for the Board's use in trust administration and financial reporting and shall be prepared at least as often as the minimum frequency required by applicable GASB Standards. This defined benefit pension plan cost report may be prepared as an actuarial valuation report or as a GASB compliant financial report. Such report shall be:

- 1) prepared and signed by a Fellow or Associate of the Society of Actuaries who is also a Member of the American Academy of Actuaries or a person with equivalent qualifications acceptable to the Board;
- 2) prepared in accordance with ASOP or with GASB; and
- 3) provided to the Board prior to the Board's acceptance of contributions for the reporting period or as otherwise required by the Board.

(2) In the event that the Board determines, in its sole discretion, that Employer's cost report is not suitable for the Board's purposes and use or if Employer fails to provide a required report, the Board may obtain, at Employer's expense, a report that meets the Board's trust administration and financial reporting needs. At the Board's option, the Board may recover the costs of obtaining the report either by billing and collecting such amount from Employer or through a deduction from Employer's Prefunding Account (as defined in Paragraph D(2) below).

(3) Employer shall notify the Board in writing of the amount and timing of contributions to the CEPPT, which contributions shall be made in the manner established by the Board and in accordance with the terms of this Agreement and any procedures adopted by the Board.

(4) The Board may limit Employer's contributions to the CEPPT to the amount necessary to fully fund the actuarial present value of total projected benefit payments not otherwise prefunded through the applicable Employer Pension Plan (Unfunded PVFB), as set forth in Employer's cost report for the applicable period. If Employer's contribution would cause the assets in Employer's Prefunding Account to exceed the Unfunded PVFB, the Board may refuse to accept the contribution. If Employer's cost report for the applicable period does not set forth the Unfunded PVFB, the Board may

refuse to accept a contribution from Employer if the contribution would cause the assets in Employer's Prefunding Account to exceed Employer's total pension liability, as set forth in Employer's cost report.

(5) No contributions are required. Contributions can be made at any time following the effective date of this Agreement if Employer has first complied with the requirements of this Agreement, including Paragraph C.

(6) Employer acknowledges and agrees that assets held in the CEPPT are not assets of any Employer Pension Plan or any plan qualified under Code Section 401(a), and will not become assets of such a plan unless and until such time as they are distributed from the CEPPT and deposited into an Employer Pension Plan.

D. Administration of Accounts; Investments; Allocation of Income

(1) The Board has established the CEPPT as a trust fund consisting of an aggregation of separate single-employer accounts, with pooled administrative and investment functions.

(2) All Employer contributions and assets attributable to Employer contributions shall be separately accounted for in the CEPPT (Employer's Prefunding Account). Assets in Employer's Prefunding Account will be held for the exclusive purpose of funding Employer's contributions to its Employer Pension Plan(s) and defraying the administrative expenses of the CEPPT.

(3) The assets in Employer's Prefunding Account may be aggregated with the assets of other participating employers and may be co-invested by the Board in any asset classes appropriate for a Code Section 115 trust, subject to any additional requirements set forth in applicable law, including, but not limited to, subdivision (d) of GC Section 21711. Employer shall select between available investment strategies in accordance with applicable Board procedures.

(4) The Board may deduct the costs of administration of the CEPPT from the investment income of the CEPPT or from Employer's Prefunding Account in a manner determined by the Board.

(5) Investment income earned shall be allocated among participating employers and posted to Employer's Prefunding Account daily Monday through Friday, except on holidays, when the allocation will be posted the following business day.

(6) If, at the Board's sole discretion and in compliance with accounting and legal requirements applicable to an Investment Trust Fund and to a Code Section 115 compliant trust, the Board determines to its satisfaction that all obligations to pay defined benefit pension plan benefits in accordance with the applicable Employer Pension Plan terms have been satisfied by payment or by defeasance with no remaining risk regarding the amounts to be paid or the value of assets held in the

CEPPT, then the residual Employer assets held in Employer's Prefunding Account may be returned to Employer.

E. Reports and Statements

- (1) Employer shall submit with each contribution a contribution report in the form and containing the information prescribed by the Board.
- (2) The Board, at its discretion but at least annually, shall prepare and provide a statement of Employer's Prefunding Account reflecting the balance in Employer's Prefunding Account, contributions made during the period covered by the statement, investment income allocated during such period, and such other information as the Board may determine.

F. Disbursements

- (1) Employer may receive disbursements from the CEPPT not to exceed, on an annual basis, the amount of the total annual Employer contributions to Employer's Pension Plan for such year.
- (2) Employer shall notify the Board in writing in the manner specified by the Board of the persons authorized to request disbursements from the CEPPT on behalf of Employer.
- (3) Employer's request for disbursement shall be in writing signed by Employer's authorized representative, in accordance with procedures established by the Board, and the Board may rely conclusively upon such writing. The Board may, but is not required to, require that Employer certify or otherwise demonstrate that amounts disbursed from Employer's Prefunding Account will be used solely for the purposes of the CEPPT. However, in no event shall the Board have any responsibility regarding the application of distributions from Employer's Prefunding Account.
- (4) No disbursement shall be made from the CEPPT which exceeds the balance in Employer's Prefunding Account.
- (5) Requests for disbursements that satisfy the above requirements will be processed on at least a monthly basis.
- (6) The Board shall not be liable for amounts disbursed in error if it has acted upon the written instruction of an individual authorized by Employer to request disbursements, and is under no duty to make any investigation or inquiry about the correctness of such instruction. In the event of any other erroneous disbursement, the extent of the Board's liability shall be the actual dollar amount of the disbursement, plus interest at the actual earnings rate but not less than zero.

G. Costs of Administration

Employer shall pay its share of the costs of administration of the CEPPT, as determined by the Board and in accordance with Paragraph D.

H. Termination of Employer's Participation in the CEPPT

(1) The Board may terminate Employer's participation in the CEPPT if:

- (a) Employer's governing body gives written notice to the Board of its election to terminate; or
- (b) The Board determines, in its sole discretion, that Employer has failed to satisfy the terms and conditions of applicable law, this Agreement or the Board's rules, regulations or procedures.

(2) If Employer's participation in the CEPPT terminates for either of the foregoing reasons, all assets in Employer's Prefunding Account shall remain in the CEPPT, except as otherwise provided below, and shall continue to be invested and accrue income as provided in Paragraph D, and Employer shall remain subject to the terms of this Agreement with respect to such assets.

(3) After Employer's participation in the CEPPT terminates, Employer may not make further contributions to the CEPPT.

(4) After Employer's participation in the CEPPT terminates, disbursements from Employer's Prefunding Account may continue upon Employer's instruction or otherwise in accordance with the terms of this Agreement.

(5) After Employer's participation in the CEPPT terminates, the governing body of Employer may request either:

- (a) A trustee to trustee transfer of the assets in Employer's Prefunding Account to a trust dedicated to prefunding Employer's required pension contributions; provided that the Board shall have no obligation to make such transfer unless the Board determines that the transfer will satisfy applicable requirements of the Code, other law and accounting standards, and the Board's fiduciary duties. If the Board determines that the transfer will satisfy these requirements, the Board shall then have one hundred fifty (150) days from the date of such determination to effect the transfer. The amount to be transferred shall be the amount in Employer's Prefunding Account as of the date of the transfer (the "transfer date") and shall include investment earnings up to an investment earnings allocation date preceding the transfer date. In no event shall the investment earnings allocation date precede the transfer date by more than 150 days.

- (b) A disbursement of the assets in Employer's Prefunding Account; provided that the Board shall have no obligation to make such disbursement unless the Board determines that, in compliance with the Code, other law and accounting standards, and the Board's fiduciary duties, all of Employer's obligations for payment of defined benefit pension plan benefits and reasonable administrative costs of the Board have been satisfied. If the Board determines that the disbursement will satisfy these requirements, the Board shall then have one hundred fifty (150) days from the date of such determination to effect the disbursement. The amount to be disbursed shall be the amount in Employer's Prefunding Account as of the date of the disbursement (the "disbursement date") and shall include investment earnings up to an investment earnings allocation date preceding the disbursement date. In no event shall the investment earnings allocation date precede the disbursement date by more than 150 days.

(6) After Employer's participation in the CEPPT terminates and at such time that no assets remain in Employer's Prefunding Account, this Agreement shall terminate. To the extent that assets remain in Employer's Prefunding Account, this Agreement shall remain in full force and effect.

(7) If, for any reason, the Board terminates the CEPPT, the assets in Employer's Prefunding Account shall be paid to Employer to the extent permitted by law and Code Section 115 after retention of (i) an amount sufficient to pay the Unfunded PVFB as set forth in a current defined benefit pension plan(s) cost report prepared in compliance with ASOP and the requirements of Paragraph C(1), and (ii) amounts sufficient to pay reasonable administrative costs of the Board. Amounts retained by the Board to pay the Unfunded PVFB shall be transferred to (i) another Code Section 115 trust dedicated to prefunding Employer's required pension contributions, subject to the Board's determination that such transfer will satisfy applicable requirements of the Code, other law and accounting standards, and the Board's fiduciary duties or (ii) Employer's Pension Plan, subject to acceptance by Employer's Pension Plan.

(8) If Employer ceases to exist but Employer's Prefunding Account continues to exist, and if no provision has been made to the Board's satisfaction by Employer with respect to Employer's Prefunding Account, the Board shall be permitted to identify and appoint a successor to Employer under this Agreement, provided that the Board first determines, in its sole discretion, that there is a reasonable basis upon which to identify and appoint such a successor and provided further that such successor agrees in writing to be bound by the terms of this Agreement. If the Board is unable to identify or appoint a successor as provided in the preceding sentence, then the Board is authorized to appoint a third-party administrator or other successor to act on behalf of Employer under this Agreement and to otherwise carry out the intent of this Agreement with respect to Employer's Prefunding Account. Any and all costs associated with such appointment shall be paid from the assets attributable to Employer's Prefunding Account. At the Board's option, and subject to acceptance by Employer's Pension Plan,

the Board may instead transfer the assets in Employer's Prefunding Account to Employer's Pension Plan and terminate this Agreement.

(9) If the Board determines, in its sole discretion, that Employer has breached the representation and warranty set forth in Paragraph A., the Board shall take whatever action it deems necessary to preserve the tax-exempt status of the CEPPT.

I. Indemnification

Employer shall indemnify, defend, and hold harmless CalPERS, the Board, the CEPPT, and all of the officers, trustees, agents and employees of the foregoing from and against any loss, liability, claims, causes of action, suits, or expense (including reasonable attorneys' fees and defense costs, lien fees, judgments, fines, penalties, expert witness fees, appeals, and claims for damages of any nature whatsoever) not charged to the CEPPT and imposed as a result of, arising out of, related to or in connection with (1) the performance of the Board's duties or responsibilities under this Agreement, except to the extent that such loss, liability, suit or expense results or arises from the Board's own gross negligence, willful misconduct or material breach of this Agreement, or (2) without limiting the scope of Paragraph F(6) of this Agreement, any acts taken or transactions effected in accordance with written directions from Employer or any of its authorized representatives or any failure of the Board to act in the absence of such written directions to the extent the Board is authorized to act only at the direction of Employer.

J. General Provisions

(1) Books and Records

Employer shall keep accurate books and records connected with the performance of this Agreement. Such books and records shall be kept in a secure location at Employer's office(s) and shall be available for inspection and copying by the Board and its representatives.

(2) Notice

(a) Any notice or other written communication pursuant to this Agreement will be deemed effective immediately upon personal delivery, or if mailed, three (3) days after the date of mailing, or if delivered by express mail or e-mail, immediately upon the date of confirmed delivery, to the following:

For the Board:

Filing by mail, send to:
CalPERS
CEPPT
P.O. Box 1494
Sacramento, CA 95812-1494

Filing in person, deliver to:
CalPERS Mailroom
CEPPT
400 Q Street
Sacramento, CA 95811

For Employer:

(b) Either party to this Agreement may, from time to time by notice in writing served upon the other, designate a different mailing address to which, or a different person to whom, all such notices thereafter are to be addressed.

(3) Survival

All representations, warranties, and covenants contained in this Agreement, or in any instrument, certificate, exhibit, or other writing intended by the parties to be a part of this Agreement shall survive the termination of this Agreement.

(4) Waiver

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

(5) Necessary Acts; Further Assurances

The parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

(6) Incorporation of Amendments to Applicable Laws and Accounting Standards

Any references to sections of federal or state statutes or regulations or accounting standards shall be deemed to include a reference to any amendments thereof and any successor provisions thereto.

(7) Days

Wherever in this Agreement a set number of days is stated or allowed for a particular event to occur, the days are understood to include all calendar days, including weekends and holidays, unless otherwise stated.

(8) No Third Party Beneficiaries

Except as expressly provided herein, this Agreement is for the sole benefit of the parties hereto and their permitted successors and assignees, and nothing herein, expressed or implied, will give or be construed to give any other person any legal or equitable rights hereunder. Notwithstanding the foregoing, CalPERS, the CEPPT, and all of the officers, trustees, agents and employees of CalPERS, the CEPPT and the Board shall be considered third party beneficiaries of this Agreement with respect to Paragraph I above.

(9) Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

A majority vote of Employer's Governing Body at a public meeting held on the _____ day of the month of _____ in the year _____, authorized entering into this Agreement.

Signature of the Presiding Officer: _____

Printed Name of the Presiding Officer: _____

Name of Governing Body: _____

Name of Employer: _____

Date: _____

BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____

ARNITA PAIGE

DIVISION CHIEF, PENSION CONTRACT AND PREFUNDING PROGRAMS

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

To be completed by CalPERS

The effective date of this Agreement is: _____

BUDGET AND FINANCE COMMITTEE
MEETING OF 11/25/2019



California Public Employees' Retirement System
California Employers' Pension Prefunding Trust (CEPPT)
400 Q Street, Sacramento, CA 95811
www.calpers.ca.gov

Delegation of Authority to Request Disbursements
California Employers' Pension Prefunding Trust
(CEPPT)

RESOLUTION
OF THE

(GOVERNING BODY)

OF THE

(NAME OF EMPLOYER)

The _____ delegates to the incumbents
(GOVERNING BODY)

in the positions of _____ and
(TITLE)

_____, and/or
(TITLE)

_____ authority to request on behalf of the
(TITLE)

Employer disbursements from the Pension Prefunding Trust and to certify as to the purpose
for which the disbursed funds will be used.

By _____

Title _____

Witness _____

Date _____

BUDGET AND FINANCE COMMITTEE
MEETING OF 11/25/2019

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 26, 2019

Re: Report of the Legislative Committee Meeting of November 25, 2019

RECOMMENDED ACTION

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

A) 2020 Budget Priorities

- 1) The Committee will receive a report on potential activities associated with the 2020 Budget, providing direction as necessary.

B) 2020 Legislative Priorities

- 1) The Committee will receive a report on potential legislative activities in 2020, providing direction as necessary.

BACKGROUND

The Committee met on Monday, November 25, 2019, and received the following reports:

A) 2020 Budget Priorities; and

B) 2020 Legislative Priorities

Chairperson Margaret Abe-Koga will provide an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

A) None at this time; and

B) None at this time.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Aloha de Guzman
Reviewed by: Vanessa Johnson

Attachment 12A: 11/25/2019 – Legislative Committee Meeting Agenda #4
Attachment 12B: 11/25/2019 – Legislative Committee Meeting Agenda #5

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Margaret Abe-Koga and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 18, 2019

Re: 2020 Budget Priorities

RECOMMENDED ACTION

The Committee will receive a report on potential activities associated with the 2020 Budget, providing direction as necessary.

DISCUSSION

The Bay Area Air Quality Management District (Air District) will be focusing on several budget related matters for 2020, as follows:

Bond Ballot Measures

The Legislature has already sent a bill to place a \$15 billion, school modernization bond measure on the March 202 ballot. Individual legislators, including Assemblymember Eduardo Garcia (D – Coachella), Assemblymember Kevin Mullin (D – South San Francisco), and Senator Ben Allen (D – Santa Monica) are also currently working on climate/water/wildfire bond measure bills for the fall general election; bills Assembly Bill (AB) 352 (E. Garcia), AB 1298 (Mullin), and Senate Bill (SB) 45 (Allen), respectively. Each of the current versions of the bills are in the \$4-5 billion range, with funding categories in AB 352 and SB 45 having significant overlap, and also identifying wildfire smoke clean air centers for funding. The three bills are in various stages of a stakeholder input process and may eventually be combined into a single bill, or identical Assembly and Senate bills. The Air District is participating in stakeholder discussions as they occur. To make the fall 2020 general election, a bill will need to get to the Governor by late April 2020. If the measure is on the ballot, it will be interesting to see if the education bond influences people's willingness for the state to take on further debt.

State Budget

On November 4, 2019, the Air District submitted a letter to all Bay Area legislators regarding 2020-2021 State Budget Funding. A summary of the Air District's requests is listed below:

AB 617 (C. Garcia; Chapter 136, Statutes of 2017)

We advised on the importance of the Legislature and Governor to identify long-term funding through a continuous appropriation for ongoing implementation and, as communities are added, future expansion of this important program. We also highlighted the fact that we believe incentive funding is the most cost-effective and expeditious way to implement the requirements of AB 617, to bring emission reductions and public health benefits to our most impacted communities, and respectfully requested maintaining the incentive funding for this program.

Other Greenhouse Gas Reduction Fund (GGRF)-Funded Emission Reduction Incentive Programs

The 2019-2020 budget provided funding for several successful and cost-effective statewide emission reduction programs from the GGRF, including the Clean Vehicle Rebate Program (\$238 million); Clean Trucks, Buses & Off-road Freight Equipment (\$182 million); Enhanced Fleet Modernization Program (EFMP), Clean Cars for All, and School Buses (\$65 million); and the FARMER Tractor Replacement Program (\$65 million). Locally, these programs have contributed to our efforts to expand electric vehicle usage, clean local transit fleets, and reduce emissions in the freight sector. As the goal of reducing the air quality impacts in these areas is a multiyear effort, we stated the importance of ensuring that these programs are well funded into the future.

AB 836 (Wicks; Chapter 393, Statutes of 2019)

The Air District is dedicating significant effort to improving wildfire smoke public health response capabilities in the Bay Area Region in the coming years. As part of this initiative, the Air District is working with regional stakeholders to identify public locations that can serve as “clean air centers” during wildfire smoke or other times of high particulate exposure. One of the prime beneficiaries of this program would be public schools, ensuring school children can experience a healthier learning environment. The Air District is proud to take the lead in this effort and requested funding for a statewide incentive program in the amount of \$50 million.

Federal Activities

On October 30, 2019, House of Representatives Bill 4924 (H.R. 4924) was introduced by Congresswoman Anna G. Eshoo (CA-18) with 24 cosponsors, all from California. H.R. 4924 is the House companion to legislation introduced by Senators Jeff Merkley (D-OR) and Ron Wyden (D-OR). The bill would appropriate \$50 million for Fiscal Year Ending 2020, and each fiscal year thereafter, to help state and local governments protect their communities from the public risks of wildfire smoke. To the extent possible, the Air District will be advocating for this funding in future federal budgets.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None at this time.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Jack P. Broadbent

Attachment 4A: Air District Letter to Bay Area Legislators
Attachment 4B: H.R. 4924
Attachment 4C: Press Release: Eshoo, Thompson Introduce Legislation to Address Public Health Effects of Wildfire Smoke

LEGISLATIVE COMMITTEE
MEETING OF 11/25/2019



**BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT**

November 4, 2019

Joint Caucus – Bay Area
State Capitol
Sacramento, CA 95814

Subject: 2020-2021 State Budget Funding

ALAMEDA COUNTY

John J. Bauters
Pauline Russo Cutter
Scott Haggerty
Nate Milely

CONTRA COSTA COUNTY

John Gioia
David Hudson
Karen Mitchoff
Mark Ross

MARIN COUNTY

Katie Rice
(Chair)

NAPA COUNTY

Brad Wagenknecht

SAN FRANCISCO COUNTY

Gordon Mar
Tyrone Jue
(SF Mayor's Appointee)

SAN MATEO COUNTY

David J. Canepa
Carole Groom
Doug Kim

SANTA CLARA COUNTY

Margaret Abe-Koga
Cindy Chavez
(Secretary)
Lis Kniss
Rod G. Sinks
(Vice Chair)

SOLANO COUNTY

James Sperring
Lori Wilson

SONOMA COUNTY

Teresa Barrett
Shirlee Zane

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

Connect with the
Bay Area Air District:



The Bay Area Air Quality Management District (Bay Area AQMD) and other local air districts play a pivotal role in ensuring the State's air quality goals are met. These goals include attaining the health-protective national and state ambient air quality standards, working closely with the California Air Resources Board to implement the State's climate change programs, and ensuring community health is protected from the effects of air pollution. Our stationary source regulations and mobile source incentive programs, which are built on decades of experience implementing both federal and California Clean Air Act requirements, have reduced air pollutant emissions in the region to historically low levels. Yet, while much progress has been made regionally and throughout the State, substantial work is still necessary because significant portions of the State still do not meet national or state ambient air quality standards. Further, many of California's disadvantaged communities are located within these nonattainment areas and are also impacted by localized air pollutants in their communities, making expedient emissions reductions a critical need if we are to protect human health in all communities.

Therefore, we respectfully request your support for funding in the 2020-2021 State budget for the following programs:

AB 617 Community Air Protection Program Local Air District Implementation Funding

The Bay Area AQMD has played a central role in implementing this ambitious and important new program that will provide significant public health benefits by identifying and reducing air pollution's impacts on communities disproportionately impacted by air pollution. AB 617 (C. Garcia; Chapter 136, Statutes of 2017) was signed into law with the Cap and Trade extension bill AB 398 (E. Garcia; Chapter 135, Statutes of 2017) to ensure our most burdened communities in the State received the health benefits promised by Cap and Trade. The Bay Area AQMD has been working aggressively to make the program a success in two communities, West Oakland and Richmond/San Pablo. If adequate funding is available, we plan early actions in East Oakland, Vallejo, and San Francisco in the next year. San Jose, the Tri-Valley area, and Eastern Contra Costa are also high on our priority list, pending available resources.

AB 617 envisions a long-term focus on air pollution reductions and improved community health, all of which require dedicated equipment and staffing over many years. This is especially true as new communities are identified for action. If the Community Air Protection Programs throughout the State are to be successful in reducing air pollution and protecting public health as the Legislature intends, then adequate ongoing statewide funding supporting the Bay Area AQMD and other air districts' efforts is essential. These communities have long suffered from government neglect and discriminatory policies. Establishing AB 617 and then failing to fund it would be a continuation of that pattern.

Recognizing the significant ongoing air district costs related to implementation of AB 617 mandates, the 2018-2019 and 2019-2020 budgets included \$50 million for local air district implementation costs. The Bay Area AQMD receives approximately \$10 million per year of this funding. While we appreciate the funding, our experience with the implementation of this program over the last two years is showing that statewide implementation costs are significantly higher than \$50 million, and the Bay Area AQMD's costs are significantly higher than \$10 million. In addition, the California Air Resources Board will likely add communities in the AB 617 program in this current fiscal year, which will dilute the effectiveness of the existing funding by spreading it over more communities. Although the AB 617 activities are mandated, and the program is on a fast pace, the uncertainty surrounding funding makes it extremely difficult to hire staff and purchase equipment based on uncertain annual appropriations. We strongly urge the Legislature and Governor to identify long-term funding through a continuous appropriation for ongoing implementation and, as communities are added, future expansion of this important program.

AB 617 Community Air Protection Program Incentive Funding

The 2019-2020 budget provided \$245 million for AB 617 Community Air Protection Program incentives so that the California Air Resources Board and the local air districts can fund early emissions reduction projects that cut both stationary and mobile source emissions of, and exposure to, criteria air pollutants and toxic air contaminant emissions in the communities disproportionately impacted by air pollution. The Bay Area AQMD will receive approximately \$40 million of that funding. Based on our extensive experience in successfully reducing air pollutant emissions via grants and incentives, the Bay Area AQMD believes that incentive funding is the most cost-effective and expeditious way to implement the requirements of AB 617 and bring emission reductions and public health benefits to our most impacted communities. Because transportation and goods movement air pollutant emissions continue to be the largest contributor to poor air quality and adverse human health effects, it is important to continue programs that accelerate the turnover and elimination of older diesel vehicles and diesel-powered equipment. In addition to immediate reductions in diesel exhaust, benefits include a reduction of ozone precursor gases such as oxides of nitrogen, a reduction of PM 2.5, and reductions of greenhouse gases. These are very positive outcomes for air quality, climate change, public health and our quality of life, and we respectfully request maintaining this incentive funding.

Other GGRF-Funded Emission Reduction Incentive Programs

The 2019-2020 budget provided funding for several successful and cost-effective statewide emission reduction programs from the Greenhouse Gas Reduction Fund (GGRF), including the Clean Vehicle Rebate Program (\$238 million); Clean Trucks, Buses & Off-road Freight Equipment (\$182 million); EFMP, Clean Cars for All, and School Buses (\$65 million); and the FARMER Tractor Replacement Program (\$65 million). These programs reduce greenhouse gas, criteria pollutant, and toxic air contaminant emissions from light-duty vehicles, agricultural tractors and harvesting equipment, heavy-duty trucks, school and transit buses, and port equipment. Locally, these programs have contributed to our efforts to expand electric vehicle usage, clean local transit fleets, and reduce emissions in the freight sector. Because the goal of reducing the air quality impacts in these areas is a multiyear effort, it is important to ensure these programs are well funded into the future.


AB 836 (Wicks; Chapter 393, Statutes of 2019) Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Pilot Program Implementation - \$50 Million

The Bay Area AQMD is dedicating significant effort to improving wildfire smoke public health response capabilities in the Bay Area Region in the coming years. As in many parts of the State, wildfire smoke from several of the catastrophic fires in recent years blanketed the region with smoke for weeks at a time, erasing public health gains made over many years through district programs to reduce emissions from mobile and stationary sources. While the catastrophic nature of the wildfires of the last several years may appear to be an anomaly, many State officials have indicated that events like these are the “new normal” as we deal with the impacts of climate change and past forest policy. Bay Area AQMD’s wildfire response activities have included working with health officers regionally to develop consistent communication tools, identifying Bay Area AQMD rules to further reduce stationary source particulate matter, and streamlining permitting for forest fuel reduction projects.

As part of this suite of initiatives, the Bay Area AQMD is working with regional stakeholders to identify public locations that can serve as “clean air centers” during wildfire smoke or other times of high particulate exposure. Similar to cooling centers used during high heat days in other parts of the State, these clean air centers would provide a healthy space for our vulnerable population during emergency events. While some of these potential locations such as schools, community centers, and libraries may be equipped with high-efficiency filtration to provide a clean indoor environment, some will require filtration system retrofitting and maintenance, or use of portable air filtration units. And, given recent experience with public safety power shutoffs, many will require clean back-up power as well. The Bay Area AQMD sponsored Assembly Bill 836 by Assemblymember Buffy Wicks that creates an incentive program to fund the retrofit of facilities to be used by the public during air quality emergencies. One of the prime beneficiaries of this program would be public schools, so that we can ensure school children can experience a healthier learning environment. The Bay Area AQMD is proud to take the lead in this effort and requests funding for a statewide incentive program in the amount of \$50 million.

The Bay Area AQMD appreciates the opportunity to provide our funding request for the upcoming fiscal year. We are committed to reducing air pollution in California and ensuring that every one of the region's 8 million residents can breathe clean, healthful air. We are also committed to ensuring that the State's most disproportionately affected populations realize emissions reductions as expeditiously as possible. If you should have any questions, please do not hesitate to contact me at (415) 749-5052, or our Legislative Officer, Mr. Alan Abbs at (916) 769-7769.

Respectfully,



Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Distribution List:

- The Honorable Jim Beall, California State Senate
- The Honorable Anna Caballero, California State Senate
- The Honorable Bill Dodd, California State Senate
- The Honorable Steven Glazer, California State Senate
- The Honorable Jerry Hill, California State Senate
- The Honorable Mike McGuire, California State Senate
- The Honorable William Morning, California State Senate
- The Honorable Nancy Skinner, California State Senate
- The Honorable Bob Wiedowski, California State Senate
- The Honorable Scott Wiener, California State Senate
- The Honorable Cecilia Aguiar-Curry, California State Assembly
- The Honorable Rebecca Bauer-Kahan, California State Assembly
- The Honorable Marc Berman, California State Assembly
- The Honorable Rob Bonta, California State Assembly
- The Honorable David Chiu, California State Assembly
- The Honorable Kansen Chu, California State Assembly
- The Honorable Jim Frazier, California State Assembly
- The Honorable Tim Grayson, California State Assembly
- The Honorable Ash Kalra, California State Assembly
- The Honorable Marc Levine, California State Assembly
- The Honorable Evan Low, California State Assembly
- The Honorable Kevin Mullin, California State Assembly
- The Honorable Bill Quirk, California State Assembly
- The Honorable Robert Rivas, California State Assembly
- The Honorable Mark Stone, California State Assembly
- The Honorable Philip Ting, California State Assembly
- The Honorable Buffy Wicks, California State Assembly
- The Honorable Jim Wood, California State Assembly

116TH CONGRESS
1ST SESSION

H. R. 4924

To authorize the Administrator of the Environmental Protection Agency to conduct research on wildfire smoke, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2019

Ms. ESHOO (for herself, Mr. THOMPSON of California, Mr. HUFFMAN, Mr. GARAMENDI, Ms. MATSUI, Mr. COSTA, Mr. KHANNA, Mr. LOFGREN, Mr. PANETTA, Ms. BROWNLEY of California, Mrs. NAPOLITANO, Mr. TED LIEU of California, Mrs. TORRES of California, Mr. RUIZ, Ms. BARRAGÁN, Ms. PORTER, Mr. CORREA, Mr. ROYDA, Mr. LEVIN of California, Mr. PETERS, Ms. SPEIER, and Mr. DOWENTHAL) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Administrator of the Environmental Protection Agency to conduct research on wildfire smoke, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Smoke Planning and
5 Research Act of 2019”.

1 **SEC. 2. RESEARCH ON WILDFIRE SMOKE.**

2 (a) **CENTERS OF EXCELLENCE.**—

3 (1) **IN GENERAL.**—Not later than 180 days
4 after the date of enactment of this Act, the Adminis-
5 trator of the Environmental Protection Agency (re-
6 ferred to in this section as the “Administrator”)
7 shall establish at institutions of higher education 4
8 centers, each of which shall be known as a “Center
9 of Excellence for Wildfire Smoke”, to carry out re-
10 search relating to—

11 (A) the effects on public health of smoke
12 emissions from wildland fires, and

13 (B) means by which communities can bet-
14 ter respond to the impacts of emissions from
15 wildland fires.

16 (2) **AUTHORIZATION OF APPROPRIATIONS.**—

17 There is authorized to be appropriated to the Ad-
18 ministrator to carry out this subsection \$10,000,000
19 for fiscal year 2020 and each fiscal year thereafter.

20 (b) **RESEARCH.**—

21 (1) **IN GENERAL.**—Not later than 180 days
22 after the date of enactment of this Act, the Adminis-
23 trator shall carry out research—

24 (A) to study the health effects of smoke
25 emissions from wildland fires;

1 (B) to develop and disseminate personal
2 and community-based interventions to reduce
3 exposure to and adverse health effects of smoke
4 emissions from wildland fires;

5 (C) to increase the quality of smoke moni-
6 toring and prediction tools and techniques; and

7 (D) to develop implementation and com-
8 munication strategies.

9 (2) AUTHORIZATION OF APPROPRIATIONS.—

10 There is authorized to be appropriated to the Ad-
11 ministrator to carry out this subsection \$20,000,000
12 for fiscal year 2020 and each fiscal year thereafter.

13 **SEC. 3. COMMUNITY SMOKE PLANNING.**

14 (a) IN GENERAL.—Not later than 180 days after the
15 date of enactment of this Act, the Administrator shall es-
16 tablish a competitive grant program to assist eligible enti-
17 ties described in subsection (b) in developing and imple-
18 menting collaborative community plans for mitigating the
19 impacts of smoke emissions from wildland fires.

20 (b) ELIGIBLE ENTITIES.—An entity that is eligible
21 to submit an application for a grant under subsection (a)
22 is—

23 (1) a State;

1 (2) a unit of local government (including any
2 special district, such as an air quality management
3 district or a school district); or

4 (3) an Indian Tribe.

5 (c) APPLICATIONS.—To be eligible to receive a grant
6 under subsection (a), an eligible entity described in sub-
7 section (b) shall submit to the Administrator an applica-
8 tion at such time, in such manner, and containing such
9 information as the Administrator may require.

10 (d) TECHNICAL ASSISTANCE.—The Administrator
11 may use amounts made available to carry out this section
12 to provide to eligible entities described in subsection (b)
13 technical assistance in—

14 (1) submitting grant applications under sub-
15 section (c); or

16 (2) carrying out projects using a grant under
17 this section.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to the Administrator to
20 carry out this section \$50,000,000 for fiscal year 2020
21 and each fiscal year thereafter.

○



Congresswoman Anna G. Eshoo
California's 18th Congressional District

News

Eshoo, Thompson Introduce Legislation to Address Public Health Effects of Wildfire Smoke

October 30th, 2019

WASHINGTON, D.C.—Today, Congresswoman Anna G. Eshoo (CA-18) and Congressman Mike Thompson (CA-05) introduced the *Smoke Planning and Research Act* to help state and local governments protect their communities from the public risks of wildfire smoke. The bill is the House companion to legislation introduced by Senators Jeff Merkley (D-OR) and Ron Wyden (D-OR).

“As fires rage across California, wildfire smoke has become a significant public health risk for communities throughout Northern California and the West Coast,” **Rep. Eshoo said**. “Poor air quality could remain a persistent concern in the Bay Area, and our legislation provides local governments with critical funding to mitigate the risks to public health. The communities devastated by the destructive wildfires deserve federal resources to rebuild and better respond to future natural disasters.”

“Our entire region has been hit with wildfires every year for the last five years and we know all too well the long lasting impacts smoke can have on our communities,” **Rep. Thompson said**. “That’s why I am proud to join with Representative Eshoo to introduce the *Smoke Planning and Research Act* to help researchers and experts better understand the effects of wildfire smoke on our health and to establish Federal grants to help local, state, and tribal governments better mitigate long term smoke damage. This is a smart and effective tool to have in our toolbox as we continue working to help our communities rebuild and recover.”

Background

The *Smoke Planning and Research Act* establishes four Centers of Excellence at colleges or universities to research the risks communities face due to wildfire smoke. It also directs the EPA to study this issue and provide grants to states, tribes, and local governments to plan and respond to wildfire smoke. These efforts can include creating shelters for at-risk populations and retrofitting schools with air filters so students can safely attend school. The *Smoke Planning and Research Act* is endorsed by: American Lung Society, American Thoracic Society, the Bay Area Air Quality Management District, and South Coast Air Quality Management District.

Reps. Eshoo and Thompson are strong advocates for advancing solutions to address the threats posed by wildfires in California. In July, Congresswoman Eshoo introduced and Congressman Thompson cosponsored the *WIRED Act*, legislation to bolster wireless networks during natural disasters.

###

LEGISLATIVE COMMITTEE
MEETING OF 11/25/2019

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Margaret Abe-Koga and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 18, 2019

Re: 2020 Legislative Priorities

RECOMMENDED ACTION

The Committee will receive a report on potential legislative activities in 2020, providing direction as necessary.

DISCUSSION**2020 Legislative Calendar**

Staff will review the 2020 Legislative Calendar and important milestones during the year.

Potential Air District-Sponsored Bills

Expansion of Indirect Source or Magnet Source Authority – The West Oakland Emissions Reduction Plan has identified this as a task for the Air District to explore. We believe current authority provided in the Health and Safety Code limits the Air District's ability to develop magnet source regulations, due to its linkage to criteria pollutants and state ambient air quality standards, the passage of Proposition 26 requiring a supermajority vote to pass new fees and taxes, and air districts' limitations on regulating mobile sources. A previous legislative effort by the California Air Pollution Control Officers Association (CAPCOA) in 2005 (Assembly Bill (AB) 1101 Oropeza) to include air toxics under magnet source authority was unsuccessful. In response, we have drafted a proposal that would be a much simpler change to current law. The attached idea would expand current statewide indirect source authority in Health and Safety Section 40716 (HSC 40716) to include toxic air contaminants, and to also specifically grant air districts authority to request data from indirect sources in order to calculate health risk assessments. Like existing indirect source authority in HSC 40716, an air district would have to undertake a local rulemaking process in order to exercise the new authority and define how the authority would be used. At the Committee meeting, staff can provide an update on the status of the proposal, and potential legislators to carry the bill.

Private School Requirements for Air Quality Review Under the California Environmental Quality Act (CEQA) – In consideration of issues associated with construction of the Stratford School, staff has looked at the underlying requirements related to school construction. Overall, oversight of public school construction is very robust at the state and local level, but is silent in

addressing construction of private schools, as shown in the attached section of Title 14 of the California Code of Regulations, and the attached Section 17213 of the Education Code. Of note, this is a requirement placed on “school districts” during the environmental review process, and not on individual schools. Were the Air District to move forward on potential legislation, the bill language would need to modify the Title 14 CEQA air quality requirement to include private schools, as well as the parallel Education Code requirement.

Potential Non-Air District bills

Responses to Legislation Involving the Composition of the Board – There may be legislative proposals that could affect the composition of this Air District Board of Directors (Board). In past years, the Board has opposed any legislation regarding Board composition that did not originate with the Board but was instead proposed by others. Ultimately, in 2019, no such proposals were submitted as bills. The passage of AB 423 (Gloria: Chapter 744, Statutes of 2019), however, revised the composition of the San Diego County Air Pollution Control District Board of Directors, and led to a similar effort related to other air districts. Staff suggests the Board consider retaining its previous position.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None at this time.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Alan Abbs
Reviewed by: Jack P. Broadbent

- Attachment 5A: 2020 Tentative Legislative Calendar
- Attachment 5B: Draft Proposed Changes to Health and Safety Code Section 40716
- Attachment 5C: California Code of Regulations, Title 14, Section 15186
- Attachment 5D: California Education Code, Section 17213

2020 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 10-18-19

DEADLINES

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 6** Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 17** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the odd-numbered year (J.R. 61(b)(1)).
- Jan. 20** Martin Luther King, Jr. Day.
- Jan. 24** Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year. (J.R. 61(b)(2)). Last day to submit **bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to pass bills introduced in that house in the odd-numbered year (J.R. 61(b)(3)) (Art. IV, Sec. 10(c)).

JANUARY							
	S	M	T	W	TH	F	S
				1	2	3	4
Wk. 1	5	6	7	8	9	10	11
Wk. 2	12	13	14	15	16	17	18
Wk. 3	19	20	21	22	23	24	25
Wk. 4	26	27	28	29	30	31	

FEBRUARY							
	S	M	T	W	TH	F	S
Wk. 4							1
Wk. 1	2	3	4	5	6	7	8
Wk. 2	9	10	11	12	13	14	15
Wk. 3	16	17	18	19	20	21	22
Wk. 4	23	24	25	26	27	28	29

MARCH							
	S	M	T	W	TH	F	S
Wk. 1	1	2	3	4	5	6	7
Wk. 2	8	9	10	11	12	13	14
Wk. 3	15	16	17	18	19	20	21
Wk. 4	22	23	24	25	26	27	28
Wk. 1	29	30	31				

APRIL							
	S	M	T	W	TH	F	S
Wk. 1				1	2	3	4
Spring Recess	5	6	7	8	9	10	11
Wk. 2	12	13	14	15	16	17	18
Wk. 3	19	20	21	22	23	24	25
Wk. 4	26	27	28	29	30		

MAY							
	S	M	T	W	TH	F	S
Wk. 4						1	2
Wk. 1	3	4	5	6	7	8	9
Wk. 2	10	11	12	13	14	15	16
Wk. 3	17	18	19	20	21	22	23
No Hrgs.	24	25	26	27	28	29	30
Wk. 4	31						

Feb. 17 Presidents' Day.

Feb. 21 Last day for bills to be introduced (J.R. 61(b)(4), J.R. 54(a)).

Mar. 27 Cesar Chavez Day observed.

Apr. 2 **Spring Recess** begins upon adjournment (J.R. 51(b)(1)).

Apr. 13 Legislature reconvenes from Spring Recess (J.R. 51(b)(1)).

Apr. 24 Last day for **policy committees** to hear and report to fiscal committees **fiscal bills** introduced in their house (J.R. 61(b)(5)).

May 1 Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).

May 8 Last day for **policy committees** to meet prior to June 1 (J.R. 61(b)(7)).

May 15 Last day for **fiscal committees** to hear and report to the **floor** bills introduced in their house (J.R. 61 (b)(8)). Last day for **fiscal committees** to meet prior to June 1 (J.R. 61 (b)(9)).

May 25 Memorial Day.

May 26-29 **Floor session only.** No committee may meet for any purpose except for Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(10)).

May 29 Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).

*Holiday schedule subject to final approval by Rules Committee.

2020 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK AND THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 10-18-19

JUNE							
	S	M	T	W	TH	F	S
Wk. 4		1	2	3	4	5	6
Wk. 1	7	8	9	10	11	12	13
Wk. 2	14	15	16	17	18	19	20
Wk. 3	21	22	23	24	25	26	27
Wk. 4	28	29	30				

- June 1** Committee meetings may resume (J.R. 61(b)(12)).
- June 15** Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)).
- June 25** Last day for a legislative measure to qualify for the Nov. 3 General Election ballot (Elections Code Sec. 9040).
- June 26** Last day for **policy committees** to hear and report **fiscal bills** to fiscal committees (J.R. 61(b)(13)).

JULY							
	S	M	T	W	TH	F	S
Wk. 4				1	2	3	4
Summer Recess	5	6	7	8	9	10	11
Summer Recess	12	13	14	15	16	17	18
Summer Recess	19	20	21	22	23	24	25
Summer Recess	26	27	28	29	30	31	

- July 2** Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)).
Summer Recess begins upon adjournment, provided Budget Bill has been passed (J.R. 51(b)(2)).
- July 3** Independence Day observed.

AUGUST							
	S	M	T	W	TH	F	S
Summer Recess							1
Wk. 1	2	3	4	5	6	7	8
Wk. 2	9	10	11	12	13	14	15
No Hrgs.	16	17	18	19	20	21	22
No Hrgs.	23	24	25	26	27	28	29
No Hrgs.	30	31					

- Aug. 3** Legislature reconvenes from **Summer Recess** (J.R. 51(b)(2)).
- Aug. 14** Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).
- Aug. 17 – 31** **Floor session only.** No committee may meet for any purpose except Rules Committee, bills referred pursuant to Assembly Rule 77.2, and Conference Committees (J.R. 61(b)(16)).
- Aug. 21** Last day to **amend** bills on the floor (J.R. 61(b)(17)).
- Aug. 31** Last day for each house to pass bills (Art. IV, Sec 10(c), J.R. 61(b)(18)).
Final Recess begins upon adjournment (J.R. 51(b)(3)).

IMPORTANT DATES OCCURRING DURING FINAL RECESS

2020

- Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).
- Oct. 1 Bills enacted on or before this date take effect January 1, 2021. (Art. IV, Sec. 8(c)).
- Nov. 3 General Election.
- Nov. 30 Adjournment *sine die* at midnight (Art. IV, Sec. 3(a)).
- Dec. 7 2021-22 Regular Session convenes for Organizational Session at 12 noon. (Art. IV, Sec. 3(a)).

2021

- Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

*Holiday schedule subject to final approval by Rules Committee.

Draft Proposed Changes to Health and Safety Code Section 40716

Health and Safety Code Section 40716.

(a) In carrying out its responsibilities pursuant to this division with respect to the attainment of state ambient air quality standards or reduction of health risks from toxic air contaminants and other air pollutants, a district may adopt and implement regulations to accomplish ~~both~~ any of the following:

(1) Reduce or mitigate emissions from new and existing indirect and areawide sources of air ~~pollution-pollutants~~.

(2) Encourage or require the use of measures which reduce the number or length of vehicle trips.

(3) Require data regarding air pollutant emissions from mobile sources associated with new and existing indirect and areawide sources located within the district's jurisdiction, to enable the calculation of health risks from toxic air contaminants and impacts from other air pollutants.

(b) Nothing in this section constitutes an infringement on the existing authority of counties and cities to plan or control land use, and nothing in this section provides or transfers new authority over such land use to a district.

LEGISLATIVE COMMITTEE
MEETING OF 11/25/2019

California Code of Regulations
Title 14, Division 6, Chapter 3, Article 12

2019 CEQA Guidelines (Pages 231-233)

[http://resources.ca.gov/ceqa/docs/2019 CEQA Statutes and Guidelines.pdf](http://resources.ca.gov/ceqa/docs/2019_CEQA_Statutes_and_Guidelines.pdf)

15186. SCHOOL FACILITIES

- (a) CEQA establishes a special requirement for certain school projects, as well as certain projects near schools, to ensure that potential health impacts resulting from exposure to hazardous materials, wastes, and substances will be carefully examined and disclosed in a negative declaration or EIR, and that the lead agency will consult with other agencies in this regard.
- (b) Before certifying an EIR or adopting a negative declaration for a project located within one-fourth mile of a school that involves the construction or alteration of a facility that might reasonably be anticipated to emit hazardous air emissions, or that would handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the state threshold quantity specified in subdivision (j) of Section 25532 of the Health and Safety code, that may impose a health or safety hazard to persons who would attend or would be employed at the school, the lead agency must do both of the following:
- (1) Consult with the affected school district or districts regarding the potential impact of the project on the school; and
 - (2) Notify the affected school district or districts of the project, in writing, not less than 30 days prior to approval or certification of the negative declaration or EIR.
- (c) **When the project involves the purchase of a school site or the construction of a secondary or elementary school by a school district, the negative declaration or EIR prepared for the project shall not be adopted or certified unless:**
- (1) The negative declaration, mitigated negative declaration, or EIR contains sufficient information to determine whether the property is:
 - (A) The site of a current or former hazardous waste or solid waste disposal facility and, if so, whether wastes have been removed.
 - (B) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.
 - (C) The site of one or more buried or above ground pipelines which carry hazardous substances, acutely hazardous materials, or hazardous wastes, as defined in Division 20 of the Health and Safety Code. This does not include a natural gas pipeline used only to supply the school or neighborhood.
 - (D) Within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.
 - (2) **The lead agency has notified in writing and consulted with the county or city administering agency (as designated pursuant to Section 25502 of the Health and Safety Code) and with any air pollution control district or air quality management district having jurisdiction, to identify facilities within one-fourth mile of the proposed school site which might reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous material, substances, or waste.** The notice shall include a list of the school sites for which information is sought. Each agency or district receiving notice shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the notification. If any such agency or district fails to respond within that time, the negative declaration or EIR shall be conclusively presumed to comply with this section as to the area of responsibility of that agency.
 - (3) **The school district makes, on the basis of substantial evidence, one of the following written findings:**

(A) Consultation identified none of the facilities specified in paragraph (2).

(B) The facilities specified in paragraph (2) exist, but one of the following conditions applies:

1. The health risks from the facilities do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.

2. Corrective measures required under an existing order by another agency having jurisdiction over the facilities will, before the school is occupied, mitigate all chronic or accidental hazardous air emissions to levels that do not constitute any actual or potential public health danger to persons who would attend or be employed at the proposed school. When the school district board makes such a finding, it shall also make a subsequent finding, prior to occupancy of the school, that the emissions have been so mitigated.

3. For a school site with boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the school district determines, through a health risk assessment pursuant to subdivision (b)(2) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(C) The facilities or other pollution sources specified in subsection (c)(2) exist, but conditions in subdivisions (c)(3)(B)(1), (2) or (3) cannot be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213 of the Education Code. If the school district makes this finding, the school board shall prepare an EIR and adopt a statement of overriding considerations. This finding shall be in addition to any findings which may be required pursuant to Sections 15074, 15091 or 15093.

(d) When the lead agency has carried out the consultation required by paragraph (2) of subdivision (b), the negative declaration or EIR shall be conclusively presumed to comply with this section, notwithstanding any failure of the consultation to identify an existing facility.

(e) The following definitions shall apply for the purposes of this section:

(1) "Acutely hazardous material," is as defined in 22 C.C.R. § 66260.10.

(2) "Administering agency" is as defined in Section 25501 of the Health and Safety Code.

(3) "Extremely hazardous substance," is as defined in subdivision (g)(2)(B) of Section 25532 of the Health and Safety Code and listed in Section 2770.5, Table 3, of Title 19 of the California Code of Regulations.

(4) "Facilities" means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.

(5) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

(6) "Handle" means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.

(7) "Hazardous air emissions," is as defined in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(8) "Hazardous substance," is as defined in Section 25316 of the Health and Safety Code.

(9) "Hazardous waste," is as defined in Section 25117 of the Health and Safety Code.

(10) "Hazardous waste disposal site," is as defined in Section 25114 of the Health and Safety Code.



State of California

EDUCATION CODE

Section 17213

17213. The governing board of a school district may not approve a project involving the acquisition of a schoolsite by a school district, unless all of the following occur:

(a) The school district, as the lead agency, as defined in Section 21067 of the Public Resources Code, determines that the property purchased or to be built upon is not any of the following:

(1) The site of a current or former hazardous waste disposal site or solid waste disposal site, unless if the site was a former solid waste disposal site, the governing board of the school district concludes that the wastes have been removed.

(2) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety Code for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(3) A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, extremely hazardous substances, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood.

(b) The school district, as the lead agency, as defined in Section 21067 of the Public Resources Code, in preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California Code of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and other busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or extremely hazardous materials, substances, or waste. The school district, as the lead agency, shall include a list of the locations for which information is sought.

(c) The governing board of the school district makes one of the following written findings:

(1) Consultation identified none of the facilities or significant pollution sources specified in subdivision (b).

(2) The facilities or other pollution sources specified in subdivision (b) exist, but one of the following conditions applies:

(A) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the school.

(B) The governing board finds that corrective measures required under an existing order by another governmental entity that has jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes this finding, the governing board shall also make a subsequent finding, prior to the occupancy of the school, that the emissions have been mitigated to these levels.

(C) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety Code, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(D) The governing board finds that neither of the conditions set forth in subparagraph (B) or (C) can be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213. If the governing board makes this finding, the governing board shall adopt a statement of Overriding Considerations pursuant to Section 15093 of Title 14 of the California Code of Regulations.

(d) As used in this section:

(1) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(2) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.

(3) "Extremely hazardous substances" means any material defined pursuant to paragraph (2) of subdivision (g) of Section 25532 of the Health and Safety Code.

(4) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.

(5) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.

(6) "Administering agency" means any agency designated pursuant to Section 25502 of the Health and Safety Code.

(7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(8) "Facilities" means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the State Air Resources Board.

(9) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area as defined in Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety Code.

(Amended by Stats. 2007, Ch. 130, Sec. 54. Effective January 1, 2008.)

LEGISLATIVE COMMITTEE
MEETING OF 11/25/2019

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 26, 2019

Re: Report of the Climate Protection Committee Meeting of December 2, 2019

RECOMMENDED ACTION

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

BACKGROUND

The Committee will meet on Monday, December 2, 2019, and will receive the following reports:

- A) Marin County Low Carbon Concrete Ordinance;
- B) Building Electrification Trends and Opportunities; and
- C) Update on Air District's Building Decarbonization Program.

Chairperson Teresa Barrett will provide an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) Funding for the Climate Protection Grant Program was included in the Fiscal Year Ending (FYE) 2018 budget;
- B) None; and
- C) Funding for the contract with Building Decarbonization Coalition was included in the Fiscal Year Ending (FYE) 2019 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Aloha de Guzman
Reviewed by: Vanessa Johnson

Attachment 13A: 12/02/2019 – Climate Protection Committee Meeting Agenda #5
Attachment 13B: 12/02/2019 – Climate Protection Committee Meeting Agenda #6
Attachment 13C: 12/02/2019 – Climate Protection Committee Meeting Agenda #7

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Teresa Barrett and Members
of the Climate Protection Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 18, 2019

Re: Marin County Low Carbon Concrete Ordinance

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In June 2019, the Air District Board of Directors awarded \$4.5 million through the Climate Protection Grant Program to 17 Bay Area public agencies to fund greenhouse gas (GHG) reduction activities in the Bay Area. Among the projects funded, the County of Marin was awarded \$206,456 to create market demand for low carbon concrete by developing appropriate building code and technical specifications that can be replicated by public agencies in the Bay Area and beyond; creating and disseminating replicable templates and tools; and providing technical assistance to demonstrate the feasibility of low carbon concrete in pilot projects.

Concrete is the most widely used construction material in the world and is responsible for an estimated six to ten percent of global carbon dioxide emissions from human activity. Most of these emissions come from Portland cement, the “glue” that binds aggregate-like sand and gravel into concrete. The emissions associated with concrete can be reduced by minimizing cement use or by using cement alternatives, known as “supplementary cementitious materials” (SCM), such as fly ash, slag, and glass powders.

To date, green building ordinances have focused on reducing operational energy use through increased energy-efficiency requirements and an emphasis on low-emission fuel sources. In general, standards have focused little on reducing embodied carbon emissions generated by the processes associated with the production of a building, including material extraction, transportation, manufacturing, and building construction.

In older buildings, lifetime operational carbon emissions exceed the carbon emissions embodied in the building’s materials, because of the historically higher carbon content of the electricity used in the buildings over their lifetimes. As new construction and upgraded buildings grow closer to achieving zero-net operating energy emissions, embodied carbon emissions from construction materials represent most of the lifetime emissions from these newer, more energy-efficient buildings. Moreover, because the embodied emissions are already emitted by the time

the building is occupied, there is little potential to mitigate those impacts later in the building's life, as is possible with energy-efficiency retrofits for operational emissions.

DISCUSSION

The County of Marin has approved an ordinance to address embodied carbon emissions in concrete by modifying the Building Code to introduce scaling requirements for building permit applicants by either limiting cement content or increasing SCMs. The standards establish a sliding scale of requirement for the maximum amount of cement used for different strength concrete mixes. The new standards apply to all projects requiring a building permit that includes newly poured concrete, and to all public projects developed by the County of Marin.

Alice Zanmiller, the project lead and a planner from Marin County's Community Development Agency's Sustainability Team, will present on the development of the standards, key components of the ordinance, and next steps for implementation of the ordinance.

BUDGET CONSIDERATION / FINANCIAL IMPACT

Funding for the Climate Protection Grant Program was included in the Fiscal Year Ending (FYE) 2018 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Geraldina Grünbaum
Reviewed by: Henry Hilken

CLIMATE PROTECTION COMMITTEE
MEETING OF 12/02/2019

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Teresa Barrett and Members
of the Climate Protection Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 18, 2019

Re: Building Electrification Trends and Opportunities

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

Residential and commercial buildings are among the largest sources of carbon emissions in cities and counties across the Bay Area and California. Roughly half of building emissions come from the on-site combustion of natural gas, largely for the purposes of space and water heating. Reducing these emissions is critical to achieving local, regional, and state climate goals. Building electrification is a subject that has attracted a growing amount of attention by public agencies. Almost a dozen local jurisdictions in the state have adopted building energy reach codes that favor or require all-electric new development.

The Air District is working closely with local governments, organizations, and subject matter experts to support the movement toward building electrification. The Air District's 2018 Climate Protection Grant Program features a number of grants aimed at accelerating the switch from natural gas to electricity in commercial and residential buildings. City of Berkeley staff recently presented to this Committee on the City's adoption of an ordinance banning the use of natural gas in most new construction.

DISCUSSION

The Air District has recently partnered with the Building Decarbonization Coalition (BDC) to develop tools and resources to support local government efforts to phase out natural gas use in buildings. BDC is a collaborative of stakeholders and experts across the building and energy sector, acting to decarbonize the built environment through market transformation, consumer outreach, public policy, and research.

Panama Bartholomy, Director of the Building Decarbonization Coalition, will present to the Committee on the importance of building decarbonization in order to meet state and local climate goals, pathways to further reduce GHG emissions in the building sector, decarbonization strategies

led by the Coalition, and opportunities for the Air District and local governments to help accelerate building decarbonization across the Bay Area region.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Axum Teferra
Reviewed by: Henry Hilken

CLIMATE PROTECTION COMMITTEE
MEETING OF 12/02/2019

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Teresa Barrett and Members
of the Climate Protection Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 18, 2019

Re: Update on Air District's Building Decarbonization Program

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In 2017, the Board of Directors adopted the 2017 Clean Air Plan (2017 Plan), which sets a vision for reducing Bay Area greenhouse gas (GHG) emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. In the Bay Area, natural gas use from residential and commercial buildings represents approximately 11 percent of the region's GHG inventory. Switching this natural gas use to low-carbon electricity is a critical component of the Air District's climate protection strategy.

The 2017 Plan includes control measures to reduce GHG emissions from buildings by maximizing energy efficiency in both new and existing buildings; increasing production of on-site renewable energy such as rooftop solar; developing and deploying technologies for on-site energy storage; and switching from natural gas to clean electricity, or other renewable energy, for space and water heating, clothes drying, cooking, and other domestic uses. In 2018, the Air District provided funding for a number of local projects designed to reduce natural gas use in buildings through the Climate Protection Grant Program.

State and local policies have set aggressive renewable energy supply targets for the electric grid. In 2018, Senate Bill (SB) 100 established a new statewide target of zero carbon electricity by 2045, with an interim goal of 60 percent carbon-free power by 2030. The many community choice energy programs serving the Bay Area are also fast-tracking the elimination of fossil fuels from their electricity supply. Because of this greening of the electric grid, switching energy use in buildings from fossil fuels to electricity for space heating, water heating, cooking, and clothes drying, will similarly fast-track a decarbonization of the building stock.

DISCUSSION

The Air District has launched a region-wide Building Decarbonization Initiative to support achieving the goals of the 2017 Clean Air Plan. The focus of the initiative, which is a key component of the Air District's region-wide Carbon Dioxide (CO₂) Reduction Strategy, is to

provide policy support, tools, and resources to local governments to accelerate fuel-switching in buildings away from natural gas. Through collaborations with local governments, expert organizations, and our regional agency partners, the Air District is leading a region-wide effort to decarbonize the Bay Area's buildings.

Staff will present on the Building Decarbonization Initiative, including new collaborations, tools and resources under development, and next steps for rolling out assistance to local governments in support of local building decarbonization efforts.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for the contract with the Building Decarbonization Coalition was included in the Fiscal Year Ending (FYE) 2019 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Axum Teferra
Reviewed by: Henry Hilken

CLIMATE PROTECTION COMMITTEE
MEETING OF 12/02/2019

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 19, 2019

Re: Public Hearing to Consider Adoption of Proposed Amendments to Regulation 12:
Miscellaneous Standards of Performance, Rule 15: Petroleum Refining Emissions
Tracking; and Approval of Filing a Notice of Exemption from the California
Environmental Quality Act (CEQA)

RECOMMENDED ACTION

Staff recommends that the Board of Directors (Board):

- 1) Approve the filing of a California Environmental Quality Act (CEQA) Notice of Exemption for this regulatory action; and
- 2) Consider adoption of proposed amendments to Regulation 12: Miscellaneous Standards of Performance, Rule 15: Petroleum Refining Emissions Tracking that would become effective immediately.

BACKGROUND

Regulation 12, Rule 15 (Petroleum Refinery Emissions Tracking) currently requires Petroleum Refineries and Support facilities to report previous-calendar-year annual emissions inventories of criteria pollutants, Toxic Air Contaminants (TACs), and Greenhouse Gases (GHGs) to the Air District by June 30th of each year.

In December 2018, the California Air Resources Board (CARB) adopted the “Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants” (CTR Regulation), which established requirements and deadlines associated with reporting of criteria pollutant and TAC emissions. The CTR Regulation included deadlines for subject facilities to report information to the local air districts by May 1st of each year, and for the air districts to report information to CARB by August 1st of each year. The CTR regulation allows the districts to specify an earlier submittal date to supersede the May 1st due date.

In addition, CARB’s Mandatory Reporting Regulation for Greenhouse Gases (MRR) requires subject facilities to report GHG emission estimates to CARB by April 10th, and third-party verified GHG emissions to CARB by August 10th.

DISCUSSION

The proposed changes to Rule 12-15 revise the reporting deadline requirements to coordinate with the CTR Regulation and MRR deadlines, as shown in Table 1.

Table 1: Summary of Reporting Deadlines for Annual Emissions Inventories
(Deadlines refer to submissions due to the Air District, unless otherwise specified)

Pollutant	Existing 12-15	CTR Regulation	MRR	Proposed 12-15
Criteria	June 30	May 1 From Air District to CARB: August 1	N/A	April 15
TAC	June 30	May 1 From Air District to CARB: August 1	N/A	April 15
GHG	June 30	N/A	From Facility to CARB: April 10	April 15
Third-Party Verified GHG	N/A	N/A	From Facility to CARB August 10	August 15

The CTR Regulation requires the Air District to provide the criteria pollutant and TAC annual emissions inventories to CARB by August 1st of each year. To allow for sufficient time to review and approve the annual emissions inventory, the Air District proposes revising the reporting deadline to the Air District to April 15th of each year.

The MRR Regulation requires subject facilities to submit initial GHG emissions information to CARB on April 10th, and third-party verified GHG emissions information on August 10th. The proposed amendments to Rule 12-15 would require submission to the Air District of the GHG emissions information required with the annual emissions inventory on April 15th, five days after the GHG emissions information required by the MRR Regulation is due to CARB. Additionally, facilities would be required to submit the third-party verified GHG emissions information that is due to CARB on August 10th to the Air District on August 15th.

RULE DEVELOPMENT PROCESS

Staff published the draft amendments and a request for comments in June 2019. Following the request for comments, Air District staff met extensively with refineries and affected facilities regarding their concerns about the accelerated reporting deadlines. In consideration of these comments, staff revised the amendments and incorporated changes into this version of the proposed amendments to Rule 12-15.

On November 1, 2019, a Public Hearing Notice was published and distributed indicating that the Board of Directors is scheduled to conduct a public hearing on December 4, 2019. This notice

was issued in order to satisfy the notification requirements of the California Government Code 54950 et seq. (“Ralph M. Brown Act”).

Because the amendments to Rule 12-15 are administrative in nature and have no possibility of causing significant environmental effects, staff intends to file a CEQA Notice of Exemption.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The Air District currently receives and processes the annual emissions inventories for all subject facilities. As familiarity with the submissions increases and steps are taken by the subject facilities to shorten the time need for a proper Air District review, resource requirements are expected to decrease. Revising the submission deadline for the annual emissions inventories is not expected to appreciably impact staffing load provided electronic submittals and the facilities implement measures to reduce the time needed to review the annual emissions inventories.

While the proposed changes to Rule 12-15 are not expected to affect costs, overall implementation of CTR Regulation will require adjustments to the Air District’s operations that may require fee adjustments in the future.

Respectively submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Mark Gage
Reviewed by: Pamela Leong, Nicholas Maiden, and Damian Breen

- Attachment 14A: Board Resolution (Draft)
- Attachment 14B: Proposed Amendments to Regulation 12: Miscellaneous Standards of Performance, Rule 15: Petroleum Refining Emissions Tracking
- Attachment 14C: Final Staff Report - Proposed Amendments to Regulation 12, Rule 15: Petroleum Refining Emissions Tracking
- Attachment 14D: Final Staff Report Attachment 1: Staff Report for the Proposed Air District Regulation 12, Rule 15 Petroleum Refining Emissions Tracking, April 2016
- Attachment 14E: Final Staff Report Attachment 2. Socio Economic Analysis of Proposed Regulation 12, Rule 15: Petroleum Refining Emissions Tracking, April 2016
- Attachment 14F: Final Staff Report Attachment 3. Comments and Responses
- Attachment 14G: Notice of Exemption from the California Environmental Quality Act (CEQA)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. 2019-

**A Resolution of the Board of Directors of the
Bay Area Air Quality Management District
Amending District Regulation 12, Rule 15: Petroleum Refining Emissions Tracking**

WHEREAS, public hearings have been properly noticed in accordance with the provisions of Health & Safety Code § 40725;

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District (“Air District”) has determined that a need exists to amend District rules and regulations by adopting amendments to Regulation 12, Rule 15: Petroleum Refinery Emissions Tracking; as set forth in Attachment A hereto (“Proposed Amendments”);

WHEREAS, the Board of Directors of the Air District obtains its authority to adopt, amend or repeal rules and regulations from Sections 40000, 40001, 40702, and 40725 through 40728.5, of the California Health & Safety Code;

WHEREAS, the Board of Directors of the Air District has determined that the Proposed Amendments are written and displayed so that their meaning can be easily understood by the persons directly affected by the rule;

WHEREAS, the Board of Directors of the Air District has determined that the Proposed Amendments are in harmony with and not in conflict with or contradictory to existing statutes, court decisions, and state and federal regulations;

WHEREAS, the Board of Directors of the Air District has determined that the Proposed Amendments do not impose the same requirements as any existing state or federal regulation, and are necessary and proper to execute the power and duties granted to, and imposed upon, the Air District;

WHEREAS, the Board of Directors of the Air District, by adopting the Proposed Amendments, is implementing, interpreting or making specific the provisions of Health & Safety Code § 40001 (rules to achieve ambient air quality standards), and § 40702 (rulemaking actions that are necessary and proper to execute the powers and duties granted to it);

WHEREAS, the Board of Directors of the Air District adopted Regulation 12, Rule 15 on April 20, 2016;

WHEREAS, Air District staff has determined that Proposed Revisions are appropriate modifications that will better align the reporting requirements of Regulation 12, Rule 15 with similar reporting requirements recently adopted by the California Air Resources Board;

WHEREAS, the Air District prepared initial draft amendments and published them for comment on November 1, 2019;

WHEREAS, on November 4, 2019, the Air District transmitted the text of the Proposed Amendments to California Air Resources Board;

WHEREAS, on or before November 1, 2019, Air District staff published in newspapers and distributed and published on the District's website a notice of a public hearing to be held on December 4, 2019 to consider adoption of the draft amendments, and the notice included a request for public comments and input on the draft amendments;

WHEREAS, the Board of Directors of the Air District held a public hearing on December 4, 2019 to consider the Proposed Amendments in accordance with all provisions of law ("Public Hearing");

WHEREAS, at the Public Hearing, the subject matter of the Proposed Amendments was discussed with interested persons in accordance with all provisions of law;

WHEREAS, Air District staff has prepared and presented to the Board of Directors a detailed Staff Report regarding the Proposed Amendments, which Staff Report has been considered by this Board and is incorporated herein by reference;

WHEREAS, the Board of Directors finds and determines that the Proposed Amendments are exempt from the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 *et seq.*) consistent with Section 15061(b)(3) of the CEQA Guidelines;

WHEREAS, the Staff Report explains that the Proposed Amendments will have at most a negligible impact on costs, and therefore District staff recommends that no actions are appropriate to minimize socioeconomic impacts;

WHEREAS, the Board of Directors finds and determines pursuant to Health & Safety Code § 40728.5 that no actions are appropriate to minimize socioeconomic impacts to consider;

WHEREAS, the Board of Directors, pursuant to the requirements of Health & Safety Code § 40920.6, has actively considered the incremental cost-effectiveness of the Proposed Amendments in meeting emission reduction goals under the California Clean Air Act as set forth in the Staff Report, and finds and determines that there are no incrementally more cost-effective potential control options that would achieve the emission reduction objectives of the Proposed Amendments;

WHEREAS, the Air District has prepared, pursuant to the requirements of Health & Safety Code § 40727.2, a written analysis of federal, state, and District requirements applicable to this source category and has found that the Proposed Amendments would not be conflict with any federal, state, or other Air District rules, and the Board of Directors has agreed with these findings;

WHEREAS, the documents and other materials that constitute the record of proceedings on which this rulemaking project is based are located at the Bay Area Air Quality Management District, 375 Beale Street, San Francisco, 94105, and the custodian for these documents is Marcy Hiratzka, Clerk of the Boards;

WHEREAS, Air District staff recommends adoption of the Proposed Amendments for this rulemaking project;

WHEREAS, the Board of Directors concurs with Air District staff's recommendations and desires to adopt the Proposed Amendments;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District does hereby adopt the Proposed Amendments, pursuant to the authority granted by law, as set forth in Attachment A hereto, and discussed in the Staff Report (including Appendices) with instructions to Air District staff to correct any typographical or formatting errors before final publication of the Proposed Amendments.

BE IT FURTHER RESOLVED, that the Board of Directors of the Bay Area Air Quality Management District does hereby approve the filing of a Notice of Exemption pursuant to CEQA for the approval to proposed amendments to Regulation 12, Rule 15.

DRAFT

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 4th day of December, 2019 by the following vote of the Board:

AYES:

NOES:

ABSENT:

Katie Rice
Chairperson of the Board of Directors

ATTEST:

Cindy Chavez
Secretary of the Board of Directors

ATTACHMENT A

[PROPOSED AMENDMENTS]

**Amended Regulation 12, Rule 15: Petroleum Refining
Emissions Tracking**

DRAFT

**REGULATION 12
MISCELLANEOUS STANDARDS OF PERFORMANCE
RULE 15
PETROLEUM REFINING EMISSIONS TRACKING
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REGULATION 12
MISCELLANEOUS STANDARDS OF PERFORMANCE
RULE 15
PETROLEUM REFINING EMISSIONS TRACKING

(Adopted April 20, 2016)

12-15-100 GENERAL

12-15-101 Description: The purpose of this rule is to track air emissions and crude oil composition characteristics from Petroleum Refineries and Support Facilities over time and to establish air monitoring systems to provide air quality data along refinery boundaries.

12-15-200 DEFINITIONS

12-15-201 Accidental Air Release: An unanticipated emission of a criteria pollutant, toxic air contaminant, and/or greenhouse gas into the atmosphere required to be reported in a Risk Management Plan (RMP) under 40 CFR §68.168.

12-15-202 Ambient Air: The portion of the atmosphere external to buildings to which the general public has access.

12-15-203 Annual Emissions Inventory: An emissions inventory at a Petroleum Refinery covering a calendar year period.

12-15-204 Criteria Pollutant: An air pollutant for which an ambient air quality standard has been established, or that is an atmospheric precursor to such an air pollutant. For the purposes of this rule, criteria pollutants are carbon monoxide (CO), oxides of nitrogen (NO_x), particulate matter with an aerodynamic diameter of 10 micrometers or less (PM₁₀), particulate matter with an aerodynamic diameter of 2.5 micrometers or less (PM_{2.5}), precursor organic compounds (POC), and sulfur dioxide (SO₂).

12-15-205 Crude Oil / Crude Oil Blends: Unblended crude oil or blended crude oil at the first stage of processing at a Petroleum Refinery (typically at a crude distillation unit).

(Amended December 19, 2018)

12-15-206 Emissions Inventory: For purposes of this rule, an emissions inventory is a comprehensive and accurate accounting of the types and quantities of criteria pollutants, toxic air contaminants, and greenhouse gases that are released into the atmosphere based on current measurement technologies and estimation methodologies. It is intended to represent the actual emissions to the best precision possible based on those measurement technologies and estimation methodologies. For the purposes of this rule, emissions inventory data are data that are collected or calculated by the Petroleum Refinery for all continuous, intermittent, predictable, and accidental air releases resulting from Petroleum Refinery processes at stationary sources at a Petroleum Refinery.

(Amended December 19, 2018)

12-15-207 Fence-line Monitoring System: Equipment that measures and records air pollutant concentrations at or near the property boundary of a facility, and which may be useful for detecting and/or estimating the quantity of fugitive emissions, gas leaks, and other air emissions from the facility.

12-15-208 Greenhouse Gases (GHGs): The air pollutant that is defined in 40 CFR § 86.1818-12(a), which is a single air pollutant made up of a combination of the following six constituents: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. For the purposes of this rule, GHG emissions should be calculated in manner consistent with California Air Resources Board requirements as contained in §95113 of the Mandatory Greenhouse Gas Emissions Reporting Rule.

12-15-209 Monthly Crude Slate Report: Summaries of the volume and certain properties of crude oil / crude oil blends at the first stage of processing at a Petroleum Refinery (typically at a crude distillation unit). The summary shall consist of the total volume of crude oil / crude oil blends processed in the calendar month, and single average value for each of the properties of the

total volume of crude oil / crude oil blends processed for the calendar month, as listed in Section 12-15-408, Table 24.

- 209.1 The non-crude oil feedstock summary shall consist of the total volume and certain properties of non-crude oil feedstock / non-crude oil feedstock blends that are non-gaseous at Standard Temperature and Pressure fed to a fluidized catalyst processing unit. On a calendar month basis, the Petroleum Refinery shall document the volume of all imported feedstocks to a fluidized catalyst process unit. The Petroleum Refinery will provide a single averaged representative value for the imported feedstock to a fluidized catalyst process unit for API, sulfur, iron, nickel, and vanadium if total imported feedstocks exceed one of the following conditions in the calendar month:
- 209.1.1 The volume of all imported feedstocks with an API equal to or greater than 15 is greater than 20 percent of the annualized daily limit listed within a Title V permit multiplied by 30; or
- 209.1.2 The volume of all imported feedstocks with an API less than 15 is greater than 50,000 bbls.
- 209.2 Based upon the five-year monitoring results, an owner or operator of a Petroleum Refinery may request that this provision terminate with respect to that Petroleum Refinery and, in the District's sole discretion, the provision will terminate as to the specific Petroleum Refinery. The owner or operator of the Petroleum refinery must submit the request in writing. The District must grant or deny the request within 30 days of receipt of the request. If the District fails to deny the request within 30 days, such failure will be deemed approval and the provision will sunset immediately with respect to that Petroleum Refinery.
- 209.3 By March 1, 2023, the District will evaluate the requirement for the non-crude oil feedstock summary based on the frequency of sampling, and will propose removing this requirement unless it finds that the frequency of sampled events justifies its continuation. The District will consult with affected Petroleum Refineries prior to reaching a decision.
- 209.4 Supporting data maintained by a Petroleum Refinery shall be made available for inspection and audit by the APCO at the Petroleum Refinery upon request in order to verify the summary data required in Section 12-15-408, Table 24. To ensure the protection of Confidential Information and prevent its inadvertent release, the District agrees to not remove the data described in this paragraph from the Petroleum Refinery or copy any source information or supporting data as described above. The District further agrees to use the supporting data only to verify the monthly cumulative statistical analysis of the summarized information found in Table 24. If the District creates its own notes based on review of the supporting data, it will ensure that its notes will not depict the supporting data in any form or manner such that a third party could deduce or reconstruct the supporting data (sometimes colloquially referred to as "reverse-engineering"). If the District finds a discrepancy between the monthly reports and supporting data, the District shall allow the Petroleum Refinery a reasonable opportunity to correct the discrepancy. If the discrepancy is not corrected, the District may use its notes (which are and shall be treated as confidential) and previous notification to correct the discrepancy as needed to document non-compliance with this Rule. The District will treat its notes as Confidential Information unless and until the source of the information affirmatively and in writing indicates to the District that the information contained in the notes is no longer Confidential Information (or a court of competent jurisdiction issues a final judgment ordering release of the information).

(Amended December 19, 2018)

12-15-210 Petroleum Refinery: An establishment that is located on one or more contiguous or adjacent properties that processes crude oil to produce more usable products such as gasoline, diesel fuel, aviation fuel, lubricating oils, asphalt or petrochemical feedstocks. Petroleum Refinery processes include separation processes (e.g., atmospheric or vacuum distillation, and light ends recovery), petroleum conversion processes (e.g., cracking, reforming, alkylation, polymerization, isomerization, coking, and visbreaking), petroleum treating processes (e.g., hydrodesulfurization, hydrotreating, chemical sweetening, acid gas removal, and

deasphalting), feedstock and product handling (e.g., storage, crude oil blending, non-crude oil feedstock blending, product blending, loading, and unloading), and auxiliary facilities (e.g., boilers, waste water treatment, hydrogen production, sulfur recovery plant, cooling towers, blowdown systems, compressor engines, and power plants).

12-15-211 Source: As defined in BAAQMD Regulation 2, Rule 1, Section 221.

12-15-212 Support Facility: For purposes of this rule, a hydrogen plant, sulfuric acid plant or electrical generation plant that is not owned or operated by a Petroleum Refinery, and that provides more than 50% of its production output to a Petroleum Refinery.

12-15-213 Toxic Air Contaminant (TAC): An air pollutant that may cause or contribute to an increase in mortality or in serious illness or that may pose a present or potential hazard to human health. For the purposes of this rule, TACs consist of the substances listed in the most recent health risk assessment guidelines adopted by OEHHA.

12-15-214 Third-Party Verified Greenhouse Gas Annual Emissions Inventory: For purposes of this rule, an Annual Emissions Inventory for Greenhouse Gases prepared pursuant to California Air Resources Board requirements as contained in Subarticle 4 of the Mandatory Greenhouse Gas Emissions Reporting Rule.

12-15-400 ADMINISTRATIVE REQUIREMENTS

12-15-401 Annual Emissions Inventory: A Petroleum Refinery or Support Facility owner/operator shall obtain and maintain APCO approval of an Annual Emissions Inventory. Timely submittal as described in Table 1 ~~the next sentence~~ shall constitute compliance with this requirement unless and until there is a determination of disapproval by the APCO pursuant to Section 12-15-402.

<u>Table 1 - Submission Deadlines to Air District for Previous Calendar Year Annual Emissions Inventories</u>	
<u>Pollutant</u>	<u>Effective January 1, 2020</u>
<u>Criteria</u>	<u>April 15</u>
<u>Toxic</u>	<u>April 15</u>
<u>Greenhouse Gas</u>	<u>April 15</u>
<u>Third-Party Verified Greenhouse Gas</u>	<u>August 15</u>

~~On or before June 30, 2017, and every subsequent June 30, a Petroleum Refinery or Support Facility owner/operator shall submit to the APCO an Annual Emissions Inventory covering the previous calendar year period in an APCO-approved format.~~ This report shall be submitted electronically in an APCO-approved format and include, at a minimum, the following:

401.1 Identification of the calendar year that the Annual Emissions Inventory covers.

401.2 A summary of the total quantity of each criteria pollutant, TAC, and GHG that was emitted from the Petroleum Refinery or Support Facility during the Annual Emission Inventory period, including a table for each source and each pollutant listing whether the pollutant was (a) continuously monitored, (b) monitored by direct measurement, (c) not monitored and estimated by some other method, or (d) not monitored and estimated to be zero. For those Petroleum Refineries using a "common pipe" calculation method for GHGs based on the fuel gas system configuration, the following approach shall be used in the calculation method:

- 2.1 Identify the total GHG emissions associated with the common pipe sources.
- 2.2 Identify in the summary all common pipe sources.
- 2.3 Prorate the total GHG emissions to each source based on that source's actual fuel consumed.
- 2.4 The calculation will conclude and be deemed sufficient when 95% or more of the total GHG emissions associated with the common pipe sources are allocated.

401.3 A detailed listing of the annual emissions of each criteria pollutant, TAC, and GHG emitted from each source at the Petroleum Refinery or Support Facility, and a complete

description of the methodology used for monitoring and determining these emissions, any changes made, and including documentation of the basis for any assumptions used. Any methodologies that are unchanged from a previously submitted Annual Emissions Inventory under this section may instead be noted as such. Emissions resulting from accidental releases and flaring events addressed in Regulation 12, Rules 11 and 12 shall be identified, included and quantified as such, along with the date(s) and time(s) that the release occurred.

- 401.4** Beginning with the Annual Emissions Inventory for the calendar year 2017 (due on or before June 30, 2018), and for every subsequent calendar year Annual Emissions Inventory, a table that shows, on a Petroleum Refinery-wide or Support Facility-wide basis for each applicable air pollutant, the change in emissions that occurred between the current and most recent previous Annual Emissions Inventory. Emission changes do not need to be shown for any newly-listed air pollutants in the current Annual Emissions Inventory.

(Amended December 19, 2018)

12-15-402 Review and Approval of Annual Emissions Inventory: The procedure for determining whether an Annual Emissions Inventory meets the requirements of this rule is as follows:

- 402.1 Preliminary Review:** Within 45 days of receipt of the report, the APCO will complete a preliminary review of the report to identify any deficiencies that need to be corrected. If the APCO determines that the submitted report does not meet the requirements of Rule 12-15, the APCO will notify the owner/operator in writing. The notification will specify the basis for this determination and the required corrective action. The APCO shall provide the owner/operator with the opportunity to meet and confer to discuss any objections to the APCO's preliminary determinations before they become final. If a notification containing specific deficiencies is not sent by the APCO to the owner/operator within 45 days after the APCO's receipt of the report, the Preliminary Review shall be deemed complete.

(Amended December 19, 2018)

- 402.2 Corrective Action:** Upon receipt of such notification, the owner/operator shall correct the identified deficiencies and resubmit the report within ~~2145~~ days. If the APCO determines that the owner/operator failed to correct any deficiency identified in the notification, the APCO will disapprove the report, or the APCO may make the necessary corrections to the emissions inventory report with a designation that the report includes Air District revisions.

- 402.3 APCO Action:** Within ~~2145~~ days of the completion of preliminary review, or of resubmittal of a corrected report, the APCO will approve the report if the APCO determines that the report meets the requirements of Rule 12-15, and shall provide written notification to the owner/operator. ~~This period may be extended by 45 days if necessary as determined by the APCO, and such extension will be communicated to the applicable refinery prior to the completion of the 45 day period. If the APCO determines that the report does not meet the requirements of Rule 12-15, the APCO will notify the owner/operator in writing. The notification will specify the basis for this determination. Upon receipt of such notification, the owner/operator shall correct the identified deficiencies and resubmit the report within 45 days.~~ If the APCO determines that the owner/operator failed to correct any deficiency identified in the notification, the APCO will determine that the owner/operator has failed to meet the requirements of this rule, and will disapprove the report, or the APCO may make the necessary corrections and approve the report with a designation that the report was approved with Air District revisions. If a notification ~~containing specific deficiencies~~ is not sent by the APCO to the owner/operator within ~~2145~~ days after the APCO's receipt of the corrected report, the Annual Emissions Inventory shall be deemed complete.

- 402.4 Public Inspection:** Within 15 days of the approval or disapproval of a report under Section 12-15-402.3, the APCO shall post the approved or disapproved report on the Air District's website. The Air District shall consider any written comments submitted by the public or regulated community regarding this report and will make any corrections needed to ensure accuracy and completeness of the report. The public

versions of these reports will not include detailed calculation methodologies for individual sources, but a short methodological description will be provided. In addition, the public versions of these reports will provide aggregated, rather than source specific emissions information for GHG.

(Amended December 19, 2018)

12-15-403 Air Monitoring Plans: A Petroleum Refinery owner/operator, but not a Support Facility owner/operator, shall obtain and maintain APCO approval of a plan for establishing and operating a fence-line monitoring system. Timely submittal as described in the next sentence shall constitute compliance with this requirement unless and until there is a determination of disapproval by the APCO pursuant to Section 404. On or before April 20, 2017, the owner/operator shall submit to the APCO a site-specific plan for establishing and operating a fence-line monitoring system to aid in determining specified pollutants that cross the refinery fence-line(s) in real-time. The plan shall include detailed information describing the equipment to be used to monitor, record, and report air pollutant levels, the siting, operation, and maintenance of this equipment, and procedures for implementing data quality assurance and quality control. The District will allow for a tailored implementation date for each Petroleum Refinery's initial site-specific plan. Tailored implementation dates may be affected by factors beyond the refinery's control, including timing considerations for the design, permitting, sourcing, installation, testing, and start-up of fence-line monitoring systems, and other potential delays that are explained and supported in the site-specific plan. Within one year of approval by the District Board of Directors of updated air monitoring guidelines published by the APCO under Section 12-15-406, the refinery owner/operator shall submit to the APCO an updated site-specific air monitoring plan. The District will allow for a tailored implementation date for each Petroleum Refinery's updated site-specific air monitoring plan.

(Amended December 19, 2018)

12-15-404 Review and Approval of Air Monitoring Plans: The procedure for determining whether an air monitoring plan submitted under Section 12-15-403 meets the applicable requirements of this rule is as follows:

404.1 Preliminary Review: Within 45 days of receipt of the air monitoring plan, the APCO will complete a preliminary review of the plan to identify any deficiencies that need to be corrected. If the APCO determines that the submitted plan is deficient, the APCO will notify the owner/operator in writing. The notification will specify the basis for this determination and the required corrective action. If a notification containing specific deficiencies is not sent by the APCO to the owner/operator within 45 days after the APCO's receipt of the air monitoring plan, the Preliminary Review shall be deemed complete.

404.2 Corrective Action: Upon receipt of such notification, the owner/operator shall correct the plan and resubmit the proposed plan within 45 days. If the APCO determines that the owner/operator failed to correct any deficiency identified in the notification, the APCO will disapprove the plan.

404.3 Public Comment: The plan, including any revisions made to correct deficiencies, will be made available for public review within 45 days (with the exception of information designated confidential). The APCO will consider any written comments received during this period prior to approving or disapproving the final plan.

404.4 Final Action: Within 45 days of the close of the public comment period under Section 12-15-404.3, the APCO will approve the air monitoring plan if the APCO determines that the plan meets the requirements of Section 12-15-403, and shall provide written notification to the owner/operator. This period may be extended by 45 days if necessary as determined by the APCO. If the APCO determines that the plan does not meet the requirements of Section 12-15-403, the APCO will notify the owner/operator in writing. The notification will specify the basis for this determination. Upon receipt of such notification, the owner/operator shall correct the identified deficiencies and resubmit the air monitoring plan within 45 days. If the APCO determines that the owner/operator failed to correct any deficiency identified in the notification, the APCO will determine that the owner/operator has failed to meet the requirements of Sections 12-15-403 and will disapprove the plan. If a notification containing specific deficiencies

is not sent by the APCO to the owner/operator within 45 days after the APCO's receipt of the corrected air monitoring plan, the air monitoring plan shall be deemed complete.

404.5 Public Inspection: Within 15 days of the approval or disapproval of an air monitoring plan under Section 12-15-404.4, the APCO shall post the plan on the Air District's website, and shall notify any member of the public who submitted comments under Section 12-15-404.3, or who otherwise has requested such notification of this action in writing. In making information available for public inspection, the confidentiality of trade secrets, as designated by the owner/operator, shall be handled in accordance with Section 6254.7 of the Government Code.

(Amended December 19, 2018)

12-15-405 Emissions Inventory Guidelines: The APCO shall publish, and periodically update, emissions inventory guidelines describing best practices to be used when calculating emissions required to be reported in accordance with Rule 12-15. Emission factors and emission estimation methodologies included in these guidelines may include, but are not limited to, continuous monitoring to measure emissions, applying the results of emissions source tests to known activity levels, combining published emission factors with known activity levels, material balances, or empirical formulae. The District shall request comments from affected facilities at least 60 days in advance of making changes to the Emissions Inventory Guidelines. The District shall respond to comments received. Affected facilities shall be allowed at least 90 days to implement the changes in the Emissions Inventory Guidelines. The District will use these guidelines as criteria to determine whether a Petroleum Refinery and Support Facility emissions inventory meets the requirements of Rule 12-15.

(Amended December 19, 2018)

12-15-406 Air Monitoring Guidelines: The APCO shall publish air monitoring guidelines for Petroleum Refineries that describe the factors that the District will apply in reviewing fence-line monitoring systems required under this rule. These guidelines may include, but are not limited to, specifications for pollutant coverage, siting, instrumentation, operation, maintenance, quality assurance, quality control, and data reporting. The guidelines shall be reviewed by the APCO within five years of initial issuance in consideration of advances in air monitoring technology, updated information regarding the health effects of air pollutants, and review of data collected by existing fence-line air monitoring systems established under this rule. The District shall request comments from affected facilities at least 60 days in advance of making changes to the Air Monitoring Guidelines. The District shall respond to comments received.

(Amended December 19, 2018)

12-15-407 Designation of Confidential Information: Except as stated in Sections 12-15-209 and 12-15-408, when providing any documents or records required by this rule to the District, the Petroleum Refinery or Support Facility owner/operator shall designate as confidential any information claimed to be exempt from public disclosure under the California Public Records Act, Government Code Section 6250 et seq.

(Amended December 19, 2018)

12-15-408 Availability of Monthly Crude Slate Reports: A Petroleum Refinery owner/operator, but not a Support Facility owner/operator, shall make available to the APCO, upon request, in an APCO-approved format, the following information:

408.1 Historical Monthly Crude Slate Reports: For each month of the years 2013, 2014, 2015 and 2016, summarized information as described in Table 24, to the extent such information is available based on the records maintained in the normal course of business. Detailed supporting data, based on records maintained by the Petroleum Refinery in the normal course of business, shall be made available at the Petroleum Refinery upon APCO request for verification of the monthly summaries described in Section 12-15-209, effective April 20, 2017. To ensure the protection of Confidential Information and prevent its inadvertent release, the District will not remove or make copies of the detailed supporting data. The District shall use the supporting data only to verify the monthly cumulative statistical analysis of the summarized information found in Table 24. Any notes the District creates based on review of the supporting data will not depict the supporting data in any form or manner such that a third party could deduce or reconstruct the supporting data (sometimes colloquially referred to as

"reverse-engineering"). If the District finds a discrepancy between the monthly reports and supporting data, the District shall allow the Petroleum Refinery a reasonable opportunity to correct the discrepancy. If the discrepancy is not corrected, the District may use its notes and previous notification to correct the discrepancy (which are and shall be treated as confidential) as needed to document non-compliance with this Rule. The District will treat its notes and information it generates as Confidential Information unless and until the source of the information affirmatively and in writing indicates to the District that the information contained in the notes is no longer Confidential Information (or a court of competent jurisdiction issues a final judgment ordering release of the information).

(Amended December 19, 2018)

408.2 Ongoing Monthly Crude Slate Reports: Beginning with January 2017, summarized information as described in Table 24. Detailed supporting data, based on records maintained by the Petroleum Refinery shall be made available at the Petroleum Refinery upon APCO request for verification of the monthly summaries, no later than 30 days after the end of each calendar month. To ensure the protection of Confidential Information, the District will not remove the data from the Refinery or make any type of copies of the source information. Any information the District generates and takes possession of during its review of this detailed supporting data will not depict the supporting data in any form or manner such that a third party could deduce or reconstruct the supporting data (sometimes colloquially referred to as "reverse-engineering"). The District will treat any such information that it generates as Confidential Information unless and until the source of the information indicates otherwise.

Table 24- Summarized Information Required in Monthly Crude Slate Report
<p>Processed Volume (thousand barrels)</p> <ul style="list-style-type: none"> a. Total volume of crude oils / crude oil blends as fed to all crude units. b. Total volume of non-crude oil feedstocks / feedstock blends fed to all other process units.
<p>API gravity (degrees)</p> <ul style="list-style-type: none"> a. Average API gravity of total volume of crude oils / crude oil blends as fed to all crude units. b. Average API gravity of total volume of non-crude oil feedstocks / feedstock blends fed to all other process units as defined in Section 12-15-209.
<p>Sulfur content (weight percent)</p> <ul style="list-style-type: none"> a. Average sulfur content of total volume of crude oils / crude oil blends as fed to all crude units. b. Average sulfur content of total volume of non-crude oil feedstocks / feedstock blends fed to all other process units as defined in Section 12-15-209.
<p>Vapor pressure (psia)</p> <ul style="list-style-type: none"> a. Average vapor pressure of total volume of crude oils / crude oil blends as fed to all crude units.
<p>Metals (iron, nickel and vanadium content in ppmw)</p> <ul style="list-style-type: none"> a. Average metals content of total volume of crude oils / crude oil blends as fed to all crude units.

b. Average metals content of total volume of non-crude oil feedstocks / feedstock blends fed to all other process units as defined in Section 12-15-209.

(Amended December 19, 2018)

12-15-500 MONITORING AND RECORDS

12-15-501 Fence-line Monitoring System: Once the fence-line monitoring system is installed and operational pursuant to Section 12-15-403, the Petroleum Refinery owner/operator will ensure that the fence-line monitoring system is operated in accordance with the approved air monitoring plan. Fence-line monitoring system data shall also be reported as specified in the approved plan.

(Amended December 19, 2018)

12-15-502 Recordkeeping: The Petroleum Refinery or Support Facility owner/operator shall maintain records of all information required under this rule. Such records shall be maintained for a period of five years after the date of the records, and shall be made available to the APCO upon request.

PROPOSED



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

STAFF REPORT
Proposed Amendments to
Regulation 12, Rule 15: Petroleum Refining Emissions
Tracking



December 2019

Prepared By

Mark Gage
Air Quality Engineer

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ACKNOWLEDGEMENTS

District staff members who greatly contributed to the development of this report and proposal:

Adan Schwartz, Senior Assistant Counsel, Legal Division

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Nicholas Maiden, Engineering Manager

David Joe, Principal Air Quality Engineer, Rules and Strategic Policy Division

STAFF REPORT

Regulation 12, Rule 15: Petroleum Refining Emissions Tracking

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I. EXECUTIVE SUMMARY

Petroleum refineries in the Bay Area are among the largest stationary sources of air pollutants in the region. The nature of these facilities is such that there are a high number of individual sources that are often interconnected in a complex configuration. This complexity contributes to difficulty in ensuring accurate attribution of emissions to the corresponding source. Additionally, calculation of emissions from the sources requires a significant amount of supplemental data that is not readily available or inferable without substantiating documentation.

Regulation 12, Rule 15: Petroleum Refining Emissions Tracking (“Rule 12-15”) was developed to, in part, obligate petroleum refineries and their support facilities to provide an Annual Emissions Inventory (AEI) detailing source-level emissions and their supporting calculations. Each AEI was due to the Bay Area Air Quality Management District (“Air District”) on June 30 of each year and would contain emissions information for the previous calendar year. Rule 12-15 was adopted in 2016 and therefore AEIs have so far been submitted to the Air District for calendar years 2016, 2017, and 2018.

Upon receipt of the AEIs, the Air District reviews the submittal and identifies any deficiencies or items requiring clarification such as missing or incorrect data or incorrect emissions estimation methodologies, and notifies the appropriate facility for review, correction, and resubmittal. The intent of these review-and-response periods is to ensure data accuracy.

In December 2018, the California Air Resources Board (CARB) adopted the “Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants” (“CTR Regulation”), which established requirements and deadlines associated with reporting of criteria pollutant and air toxic emissions. The CTR Regulation included deadlines for subject facilities to report information to the local air districts by May 1 of each year, and for air districts to report information to CARB by August 1 of each year. The CTR Regulation states that the District rules “may specify an earlier submittal date which supersedes the May 1 submittal date.”

Petroleum refineries and their support facilities in the Bay Area are subject to the CTR Regulation reporting requirements. Although the reporting requirements of Rule 12-15 are more comprehensive than the CTR Regulation, portions of the Rule 12-15 AEI may be used to comply with the CTR Regulation. Therefore, it is practical to coordinate the reporting deadline required by Rule 12-15 with the deadlines required by CARB’s CTR Regulation. Specifically, advancing the Rule 12-15 reporting deadline to earlier in the calendar year will allow review of and, if needed, corrections to the inventory prior to submittal to CARB. This will allow subject facilities to submit one set of submittals for the Air District’s review of compliance with both Rule 12-15 and the CTR Regulation while meeting the Air District’s reporting deadline stipulated in the CTR Regulation.

In addition to the CTR Regulation, facilities subject to Rule 12-15 are also subject to CARB’s Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (“MRR Regulation”), which requires submission of emissions inventories for greenhouse gases directly to CARB. The MRR Regulation also requires that inventories be verified by third-parties. The current Rule 12-15 requires facilities to report greenhouse gas emissions for all stationary sources and that emissions should be calculated consistently with the MRR Regulation. However, the MRR Regulation does not apply to all stationary sources that may be at a Rule 12-15

facility and that may have reporting exemptions listed within the MRR Regulation. As such, the Rule 12-15 greenhouse gas AEI may be more comprehensive than the MRR Regulation.

The MRR Regulation lists two reporting deadlines for subject facilities: April 10 of each year for initial greenhouse gas inventories that have not been verified by a third-party and August 10 for final third-party verified emissions inventories. As CARB currently receives greenhouse gas emissions inventories per the MRR Regulation, the CTR Regulation does not apply to greenhouse gases and thus the CTR Regulation reporting deadline of August 1 is not impacted by the August 10 deadline.

Although the current Rule 12-15 deadline of June 30 is prior to the August 10 MRR Regulation deadline, facilities are required to amend their submittals if the third-party verified emissions inventories differ from what was submitted in the AEI.

In order to meet the August 1 deadline required by the CTR Regulation, the Air District should receive the AEI from subject facilities with sufficient time to review and correct the submission, as necessary. Previous Air District reviews of submitted AEIs have taken between 90 to 180 days owing to the complexity and volume of submitted materials as well as the responsiveness of the facilities to information requests. Until such time that the Air District can develop and implement automated tools for receiving and conducting quality assurance checks on Rule 12-15 submitted information, the Air District anticipates that future AEI reviews will continue to be complex, requiring either lengthy review periods or more resources.

Prior to the current proposed amendment, the Air District met with the Rule 12-15 subject facilities and their trade association to understand their concerns regarding an earlier deadline as well as steps that the facilities can take to aid the Air District's review and shorten the time necessary to ensure the desired accuracy of submitted emissions inventories. The Air District will continue to meet with the subject facilities and trade association to develop and implement measures for aiding Air District reviews of the AEIs. With implementation of these measures as well as requiring that all materials be electronically submitted, the Air District anticipates that the review period, required for accurate and defensible emissions inventories, may be shortened.

Accounting for the concerns of the subject facilities, the MRR Regulation deadline of April 10, and the measures that the facilities will take to aid Air District review of the AEIs, the Air District is proposing that Rule 12-15 AEIs be electronically submitted by April 15 of each year.

The proposed changes to Rule 12-15 include:

- Revising the Annual Emissions Inventory (AEI) submission deadline from June 30 to April 15,
- Making explicit the requirement for subject facilities to submit third-party verified greenhouse gas emissions inventories,
- Various administrative edits to accommodate the revisions identified above.

II. BACKGROUND

Background information for the rule development project for Rule 12-15 is available in the Background sections of the staff report prepared for the rule's adoption in 2016, attached as Attachment 1 (Rule 12-15 Adoption Staff Report).

III. REGULATORY FRAMEWORK

Information on the regulatory context and framework pertinent to sources and facilities subject to Rule 12-15 can be found in the Attachment 1 staff report.

IV. PROPOSED AMENDMENTS

A. Amendments to Definitions

Third Party Verified Greenhouse Gas Annual Emissions Inventory

CARB's MRR Regulation requires subject facilities to submit their greenhouse gas emissions inventory to CARB on April 10 of each year. The same facilities must then seek third-party verification of their greenhouse gas emissions inventory pursuant to the standards identified in the MRR Regulation. The third-party verified greenhouse gas annual emissions inventory is due to CARB on August 10 of each year.

Rule 12-15 does not currently explicitly outline submission requirements for these two inventories as they are submitted directly to CARB. However, the proposed changes to Rule 12-15 include requirements to submit these inventories to the Air District five days after they are due to CARB. For this reason, a definition of "third-party verified greenhouse gas annual emissions inventory" was added to ensure clarity with which report was due to the Air District.

B. Amendments to Administrative Requirements

Annual Emissions Inventory

The annual emissions inventory submission deadline is being revised from June 30 to April 15 for criteria air pollutants, toxic air contaminants, and greenhouse gases. An explicit requirement to submit a third-party verified greenhouse gas annual emissions inventory on August 15 is being added.

Additionally, electronic submission of the AEI is now required for expediency and ease of review.

Review and Approval of Annual Emissions Inventory

Upon receipt of the AEI, the Air District reviews the submittal for accuracy and issues a response to the subject facility indicating any deficiencies in need of correction. With the adoption of the CTR Regulation, the Air District must finalize the review and correction of the inventories by August 1 for submittal to CARB. Based on experience with the prior three years of inventory review, the concerns of subject facilities, and steps that subject facilities have agreed to implement to shorten the time necessary for the Air District's review, the Air District is

adjusting the timing of the review-and-response periods accordingly. This section is being updated to appropriately reflect the timing for the period between submission to the Air District (April 15) and subsequent submission to CARB (August 1).

Availability of Monthly Crude Slate Reports

Administrative corrections are being made to accommodate insertion of a new “Table 1” into Rule 12-15.

V. EMISSIONS and EMISSIONS REDUCTIONS

The proposed amendments to Rule 12-15 would have no impact on emissions. Rule 12-15 is an emissions reporting rule, so no controls are required and the amendments affect only emissions reporting.

VI. ECONOMIC IMPACTS

A. Cost Effectiveness and Incremental Cost Effectiveness

Section 40920.6 of the California Health and Safety Code requires an air district to perform an incremental cost analysis for a proposed rule, if the purpose of the rule is to meet the requirement for best available retrofit control technology or for a feasible measure. The proposed amendments are not best available retrofit control technology requirements, nor are they a feasible measure required under the California Clean Air Act; therefore, an incremental cost analysis is not required.

B. Socioeconomic Impacts

Section 40728.5 of the California Health and Safety Code requires an air district to assess the socioeconomic impacts of the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations. A socioeconomic analysis was completed by Applied Development Economics in April 2016 prior to the December 2016 adoption of Rule 12-15. At that time, Applied Development Economics determined that the socioeconomic impact of the implementation of Rule 12-15 was less than significant.

Applied Development Economics’ determination of socioeconomic impact considered the annual cost to subject facilities of preparation of the Annual Emissions Inventory. The analysis did not identify that the expected annual cost was affected by the timing of the report submission deadline.

The District recognizes that requiring the Annual Emissions Inventory earlier in the calendar year may impact the subject facilities resource allocation and expenditure. However, the proposed changes will not affect the amount or complexity of work required, only the timing of that work. Any impact is most likely to be experienced during the first year as personnel at refineries make adjustments to accommodate the new timing. The District believes any impacts should be minimal given that there is sufficient time to schedule work to meet the new inventory submittal deadline. Moreover, the proposed changes to Rule 12-15 also include a reduction to the number and length of review-and-response periods between the subject facilities and the

District. This reduction is expected to appreciably offset any potential increased costs incurred by requiring the submission at an earlier date.

The District does not expect that moving the date per the proposed changes to Rule 12-15 will significantly affect the annual cost to the subject facilities. There may be separate costs associated with the implementation of the CTR Regulation that will be considered outside of Rule 12-15. These separate costs will apply to permitted facilities subject to the CTR Regulation in future amendments to Regulation 3: Fees. Therefore, in satisfaction of the requirement of Section 40728.5 of the California Health and Safety Code to conduct a socioeconomic impact analysis, the District assesses that the socioeconomic impact of the proposed changes to Rule 12-15 is negligible. It follows that there are no recommended actions to consider that would minimize adverse socioeconomic impacts. For informational purposes, the April 2016 socioeconomic analysis is provided as an attachment to this report as Attachment 2.

C. District Impacts

The Air District currently receives and processes the AElS for all subject facilities. As familiarity with the submissions increases and steps are taken by the subject facilities to shorten the time need for a proper Air District review, resource requirements are expected to decrease. Revising the submission deadline for the AElS is not expected to appreciably impact staffing load provided electronic submittals and the facilities implement measures to reduce the time needed to review AElS.

VII. REGULATORY IMPACTS

Regulatory impact information on the facilities, sources, and emissions subject to Rule 12-15 can be found in the Attachment 1 staff report.

VIII. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The District has determined that these amendments to Rule 12 15 are exempt from provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) pursuant to State CEQA Guidelines, Section 15061, subd. (b)(3). The amendments are administrative in nature, do not affect air emissions from any sources, and have no possibility of causing significant environmental effects. The District intends to file a Notice of Exemption pursuant to State CEQA Guidelines, Section 15062.

IX. CONCLUSION / RECOMMENDATIONS

Pursuant to the California Health and Safety Code section 40727, before adopting, amending, or repealing a rule the Board of Directors must make findings of necessity, authority, clarity, consistency, non-duplication, and reference. This section addresses each of these findings.

A. Necessity

“‘Necessity’ means that a need exists for the regulation, or for its amendment or repeal, as demonstrated by the record of the rulemaking authority.” H&SC section 40727(b)(1)

The proposed amendments to Rule 12-15 are necessary to accommodate the recently adopted report submission deadlines by CARB's CTR Regulation.

B. Authority

“Authority’ means that a provision of law or of a state or federal regulation permits or requires the regional agency to adopt, amend, or repeal the regulation. H&SC section 40727(b)(2)

The Air District has the authority to adopt amendments to these rules under Sections 40000, 40001, 40702, and 40725 through 40728.5 of the California Health and Safety Code.

C. Clarity

“Clarity’ means that the regulation is written or displayed so that its meaning can be easily understood by the persons directly affected by it.” H&SC Section 40727(b)(3)

Proposed amendments to Rule 12-15 are written so that their meaning can be easily understood by the persons directly affected by them. Further details in the staff report clarify the specific amendments to Rule 12-15.

D. Consistency

“Consistency’ means that the regulation is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.” H&SC Section 40727(b)(4)

The proposed amendments to the existing rule are consistent with other Air District rules, and not in conflict with state or federal law.

E. Non-Duplication

“Nonduplication’ means that a regulation does not impose the same requirements as an existing state or federal regulation unless a district finds that the requirements are necessary or proper to execute the powers and duties granted to, and imposed upon, a district.” H&SC Section 40727(b)(5)

Proposed amendments to Rule 12-15 are non-duplicative of other statutes, rules or regulations. To the extent duplication exists, such duplication is appropriate for execution of powers and duties granted to and imposed upon the Air District.

F. Reference

“Reference’ means the statute, court decision, or other provision of law that the district implements, interprets, or makes specific by adopting, amending, or repealing a regulation. H&SC Section 40727(b)(6)

The proposed rules have met all legal noticing requirements, have been discussed with the regulated community and other interested parties, and reflect the input and comments of affected and interested stakeholders.

G. Recommendations

District staff recommends adoption of proposed Regulation 12, Rule 15: Petroleum Refining Emissions Tracking.

ATTACHMENTS

1. Staff Report for the Proposed Air District Regulation 12, Rule 15 Petroleum Refining Emissions Tracking, April 2016
2. Socio-Economic Analysis of Proposed Regulation 12, Rule 15: Petroleum Refining Emissions Tracking, April 2016
3. Comments and Responses



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

STAFF REPORT

PROPOSED
AIR DISTRICT REGULATION 12, RULE 15:
PETROLEUM REFINING EMISSIONS
TRACKING

Prepared by the staff of the
Bay Area Air Quality Management District
April 2016

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Appendices:

- Appendix A: Proposed Regulation 12, Rule 15
- Appendix B: Air Monitoring Guidelines for Petroleum Refineries
- Appendix C: Socio-Economic Analysis
- Appendix D: Regulatory Impacts Analysis
- Appendix E: CEQA Initial Study / Negative Declaration

Acknowledgements

EXECUTIVE SUMMARY

Bay Area refineries are among the largest stationary sources of air pollutants—criteria, toxic, and climate—in the region. Refineries process crude oil into various products, such as gasoline, diesel fuel, jet fuel, heating oil, and asphalt. Changes in the crude oil stock being processed in Bay Area refineries, along with other factors, can cause an increase in the air emissions of these pollutants. Also, refineries must be a key contributor to greenhouse gas (GHG) reductions necessary to successfully implement the state's climate change goals. As a result, the Bay Area Air Quality Management District ("Air District") has developed a new proposed rule: *Regulation 12, Rule 15: Petroleum Refining Emissions Tracking ("Rule 12-15")*.

Proposed Rule 12-15 would require that all refineries:

1. Submit consistent, enhanced periodic emissions inventory information, including information about cargo carriers;
2. Make available to the APCO historic and ongoing crude slate information, including volumes and composition data, for imported feedstocks as well as for crude oil; and
3. Install and operate new air monitoring facilities at refinery fence-lines.

These activities and the information they would provide would address the Air District goals to:

1. Accurately and fully characterize emissions of air pollutants (criteria, toxic, and climate) from all refinery-related emissions sources on an on-going basis to determine if additional rule development is required to further reduce emissions;
2. Track crude slate changes to assess whether those changes result in increased emissions
3. Improve real-time monitoring of emissions at refinery fence-lines to address public concerns about localized health impacts and to validate emissions inventories.

I. INTRODUCTION

This report was prepared to provide information about the development of a new rule by the Bay Area Air Quality Management District ("Air District") that would apply to petroleum refineries located in the San Francisco Bay Area: *Regulation 12, Rule 15: Petroleum Refining Emissions Tracking ("Rule 12-15")*. The development of this rule was included as Action Item 4 in the Air District's *Work Plan for Action Items Related to Accidental Releases from Industrial Facilities*, which was approved by the Air District's Board of Directors on October 17, 2012.

In the development of this proposed rule, the Air District held several workshops to discuss the draft rule and gather stakeholder input. An initial series of public workshops were held on an earlier draft Rule 12-15 in Martinez on April 22, 2014; Richmond on April 24, 2014; and at the Air District offices on April 26, 2014. The Air District held a second series of workshops in Benicia on March 16, 2015; Richmond on March 17, 2015; Martinez on March 18, 2015; and at the Air District offices on March 20, 2015. At these workshops, staff presented and discussed a revised draft Rule 12-15 as well as guidance documents for air monitoring and developing emissions inventories. During these workshops, draft Rule 12-15 was presented as a companion to draft *Regulation 12, Rule 16; Petroleum Refining and Emissions Limits and Risk Thresholds ("Rule 12-16")*, which included emission-mitigation actions triggered in various ways.

The Air District hosted three open house events in September 2015, in Martinez, Benicia and Richmond. Although these events were focused on four different draft refinery rules, draft Rule 12-15 and draft Rule 12-16 were discussed with members of the public and the regulated community.

The Air District posted an amended version of draft Rule 12-15 and the air monitoring guidance as well as an interim Staff Report on September 11, 2015. (Also, see Section IX, Rule Development and Public Consultation Process, below.)

At this time, draft Rule 12-16 is being reassessed, and the elements in draft Rule 12-15 that were designed to explicitly support provisions of draft Rule 12-16 have been removed from proposed Rule 12-15.

II. BACKGROUND

A. Bay Area Petroleum Refineries and Support Facilities

Currently, the five petroleum refineries located in the Bay Area within the jurisdiction of the Air District that would be affected by the proposed rule are:

1. Chevron Products Company, Richmond (BAAQMD Plant #10)
2. Phillips 66 Company—San Francisco Refinery, Rodeo (BAAQMD Plant #21359)
3. Shell Martinez Refinery, Martinez (BAAQMD Plant #11)
4. Tesoro Refining and Marketing Company, Martinez (BAAQMD Plant #14628)
5. Valero Refining Company—California, Benicia (BAAQMD Plant #12626)

The five affected, refinery-related facilities ("Support Facilities" in the proposed rule) are:

1. Chemtrade West sulfuric acid plant, Richmond (BAAQMD Plant #23)
2. Eco Services sulfuric acid plant, Martinez (BAAQMD Plant #22789)
3. Air Products and Chemicals hydrogen plant, Martinez (BAAQMD Plant #10295)
4. Air Liquide hydrogen plant, Rodeo (BAAQMD Plant #17419)
5. Phillips 66 coke calcining plant, Rodeo (BAAQMD Plant #21360)

These five support facilities are subject to some provisions of the rule because their operation is closely linked to the operations of the five refineries and because they are significant sources of air pollutants.

1. Petroleum Crude Oil

Petroleum refineries convert crude oil into a wide variety of refined products, including gasoline, aviation fuel, diesel and other fuel oils, lubricating oils, and feed stocks for the petrochemical industry. Crude oil consists of a complex mixture of hydrocarbon compounds with smaller amounts of impurities, including sulfur, nitrogen, oxygen, a variety of toxic compounds, organic acids, and metals (e.g., iron, copper, nickel, and vanadium). Crude oil is most often characterized by the oil's density (light to heavy) and sulfur content (sweet to sour). A more detailed explanation of these terms and others used to describe crude oil follows below.

Also, each of the properties described below, with the exception of "crude oil fractions", "nitrogen content," "total reduced sulfur," and "total acid number" are required to be included in the periodic Crude Slate Report described in proposed Rule 12-15. The District may consider adding these or other properties to Rule 12-15 in a future

amendment, if the data indicates that these properties are essential to fully understanding the emissions impact of crude slate changes.

a. Crude oil fractions

Crude oil is not a single substance but rather is a mixture of substances (hydrocarbons, water, metals, mineral salts, and sediments). Hydrocarbons are organic compounds composed of carbon and hydrogen atoms. Crude assays characterize petroleum fractions by boiling point ranges.

b. API Gravity

The industry standard measure for crude oil density is American Petroleum Institute (API) gravity, which is expressed in units of degrees, and which is inversely related to density (i.e., a lower API gravity indicates higher density; a higher API gravity indicates lower density). Refineries convert crude oils to gaseous products (propane gas for sale and "fuel gas" that is consumed at the refinery), high-value transportation fuels (gasoline, diesel and jet fuel) and lower-value heavy oils (such as "bunker fuel" that is used by ocean-going vessels). Crude oils with higher API gravity can theoretically be converted to higher-value light products with less processing than crude oils with lower API gravity. Refinery operators have asserted that, although this may suggest that a refinery operator would prefer to use high API gravity crudes exclusively, this is not the case because each refinery is designed and equipped to process crude oil with API gravity in a certain range. Processing crude oil outside of the design range—even if it is "light" crude—will result in processing bottlenecks that reduce the overall efficiency of the refinery. One of the purposes of proposed Rule 12-15 is to gather information to attempt to determine if changes in crude oil composition result in emissions increases. "Light crude" generally refers to crude oil with API gravity of 38 degrees or more; "medium crude" has API gravity between 29 and 38 degrees; and "heavy crude" has API gravity of 29 degrees or less.

c. Sulfur Content ("Sweet" and "Sour" Crude)

Sulfur is an impurity that occurs in crude oil and arrives in various forms including: elemental sulfur (S), hydrogen sulfide (H₂S), carbonyl sulfide (COS), inorganic forms, and most importantly organic forms that include: mercaptans, sulfides, and polycyclic sulfides. "Sweet crude" is commonly defined as crude oil with sulfur content less than 0.5 percent, while "sour crude" has sulfur content greater than 0.5 percent. Sweet crude is more desirable because sulfur must be removed from the crude oil to produce more valuable refined products such as gasoline, diesel and aviation fuels.

d. Nitrogen Content

Nitrogen in the heavy gas oil component of crude oil is a contaminant that often requires additional processing. Nitrogen can poison catalysts used in hydrotreating and cracking processes; therefore, nitrogen removal often results in better gasoline and distillate product yields.

e. Vapor Pressure

Vapor pressure is a measure of crude oil volatility. Higher vapor pressure crude oil contains greater amounts of light Volatile Organic Carbon (VOC) compounds.

f. Total Reduced Sulfur (Hydrogen Sulfide and Mercaptans) Content

Total reduced sulfur (hydrogen sulfide and mercaptan content) is a measure of the highly odorous volatile components in crude oil.

g. BTEX (Benzene, Toluene, Ethylbenzene, Xylene) Content

BTEX content is a measure of the benzene, toluene, ethylbenzene, and xylene content in crude oil.

h. Total Acid Number

Total Acid Number is a measure of the quantity of organic acids in the crude oil.

i. Metals (Iron, Nickel and Vanadium) Content

The metals content of crude oil indicates both the solids contamination of crude oil and the potential for organic metals compounds in the heavy gas oil component of crude oil.

2. Petroleum Refining Processes

Refineries comprise the general processes and associated operations discussed below.

a. Separation Processes

Crude oil consists of a complex mixture of hydrocarbon compounds with small amounts of impurities such as sulfur, nitrogen, and metals. The first phase in petroleum refining is the separation of crude oil into its major constituents using distillation and "light ends" recovery (i.e., gas processing) that splits crude oil constituents into component parts known as "boiling-point fractions."

b. Conversion Processes

To meet the demands for high-octane gasoline, jet fuel, and diesel fuel, components such as residual oils, fuel oils, and light ends are converted to gasoline and other light fractions by various processes. These processes, such as cracking, coking, and visbreaking (a form of thermal cracking that breaks the viscosity), are used to break large petroleum molecules into smaller ones. Polymerization and alkylation processes are used to combine small petroleum molecules into larger ones. Isomerization and reforming processes are applied to rearrange the structure of petroleum molecules to produce higher-value molecules using the same atoms.

c. Treating Processes

Petroleum treating processes stabilize and upgrade petroleum products by separating them from less desirable products, and by removing other elements. Treating processes, employed primarily for the separation of petroleum products, include processes such as de-asphalting. Elements such as sulfur, nitrogen, and oxygen are removed by hydrodesulfurization, hydrotreating, chemical sweetening, and acid gas removal.

d. Feedstock and Product Handling

Refinery feedstock and product handling operations consist of unloading, storage, blending, and loading activities.

e. Auxiliary Facilities

A wide assortment of processes and equipment not directly involved in the processing of crude oil are used in functions vital to the operation of the refinery. Examples include boilers, wastewater treatment facilities, hydrogen plants, cooling towers, and sulfur recovery units. Products from auxiliary facilities (e.g., clean water, steam, and process heat) are required by most process units throughout a refinery. Note that as defined in proposed Rule 12-15, an operation such as a hydrogen plant that is not owned or under the operational control of the refinery would be deemed a “support facility.”

f. Cargo Carriers

While some crude oil is transported to refineries by pipeline, ships and trains also can be used to move large quantities of crude oil to refineries. Understanding these emissions provides a more complete picture of the environmental impact of the refinery operations.

g. Possible Changes in Emissions Due to Changes in Crude Oil

In the past several years, new sources of crude oil—including American shale oil and Canadian tar sands-derived oil—have become available to petroleum refineries in North

America, including the Bay Area refineries. The crude oil derived from shale, now accessible because of technological improvements in hydraulic fracturing ("fracking"), tends to be light and sweet. However, it also has higher VOC and H₂S content than some other crude oils. Crude oil from tar sands, currently under development in the Canadian province of Alberta, tends to be heavy and sour.

In order to maximize production, refineries are designed to process crude oils within a certain range in compositions. For example, a refinery that is designed to process more sour crude must have the capacity to remove large amounts of sulfur from the crude oil, while a refinery designed to process sweet crude does not require as much sulfur processing capacity. Bay Area refineries traditionally process heavier and more sour crude oils and would likely need to make changes to their facilities in order to accommodate different sources of crude oil with different compositions while maintaining current production levels.

It is anticipated that refineries will update and/or modify their equipment to meet stricter regulatory fuel requirements and potentially to process crude oil from different sources. Proposed Rule 12-15 provides a means to determine if overall changes in refinery emissions occur as both processes and equipment change, and to make emissions and new monitoring information available to the public.

3. Air Pollutants Emitted from Petroleum Refineries

Air pollutants are categorized and regulated based on their properties and there are three primary categories of regulated air pollutants: (1) criteria pollutants; (2) toxic pollutants (toxic air contaminants, which in federal programs are referred to as "hazardous air pollutants"); and (3) climate pollutants (e.g., greenhouse gases). Additional categories of air pollutants include odorous compounds and visible emissions, although these are most often also components of one or more of the three primary categories of regulated air pollutants listed above.

Criteria pollutants are emissions for which Ambient Air Quality Standards (AAQS) have been established, or they are atmospheric precursors to such air pollutants (i.e., they participate in photochemical reactions to form a criteria pollutant, such as ozone). The AAQS are air concentration-based standards that are established to protect public health and welfare. The U.S. Environmental Protection Agency (EPA) sets AAQS on a national basis (National Ambient Air Quality Standards, or NAAQS), and the California Air Resources Board (CARB) sets AAQS for the state of California (California Ambient Air Quality Standards, or CAAQS). Although there is some variation in the specific pollutants for which NAAQS and CAAQS have been set, the term "criteria pollutants" generally refers to the following:

- Carbon monoxide (CO);
- Nitrogen dioxide (NO₂) and oxides of nitrogen (NO_x);

- Particulate matter (PM) in two size ranges—diameter of 10 micrometers or less (PM₁₀), and diameter of 2.5 micrometers or less (PM_{2.5});
- Precursor organic compounds (POCs) for the formation of ozone and PM_{2.5}; and
- Sulfur dioxide (SO₂).

Each of these criteria pollutants is emitted by petroleum refineries.

Toxic pollutants, also known as toxic air contaminants (TACs), are emissions for which AAQS generally have not been established, but that nonetheless may result in human health risks. TACs generally are emitted in much lower quantities than criteria pollutants, and may vary markedly in their relative toxicity (e.g., some TACs cause health impacts at lower concentrations than other TACs). The state list of TACs currently includes approximately 190 separate chemical compounds and groups of compounds. TACs emitted from petroleum refineries include volatile organic TACs (e.g., acetaldehyde, benzene, 1,3-butadiene, formaldehyde, and xylenes); semi-volatile and non-volatile organic TACs (e.g., benzo(a)pyrene, chlorinated dioxin/furans, cresols, and naphthalene); metallic TACs (e.g., compounds containing arsenic, cadmium, chromium, mercury, and nickel); and inorganic TACs (e.g., chlorine, hydrogen sulfide, and hydrogen chloride).

Climate pollutants (greenhouse gases or GHGs) are emissions that contribute to climate change. Carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and three groups of fluorinated compounds (hydrofluorocarbons, or HFCs; perfluorocarbons, or PFCs; and sulfur hexafluoride, or SF₆) are the major anthropogenic GHGs, and are regulated under the federal Clean Air Act and the California Global Warming Solutions Act (AB32). The climate pollutants emitted from petroleum refineries include CO₂, CH₄, and N₂O.

B. Regulation of Air Pollutants from Petroleum Refineries

1. Criteria Pollutants

Bay Area refineries are subject to various air quality regulations that have been adopted by the Air District, CARB, and the EPA. These regulations contain standards that ensure emissions are effectively controlled, including:

- Requiring the use of specific emission control strategies or equipment (e.g., the use of floating roofs on tanks for VOC emissions);
- Requiring that emissions generated by a source be controlled by at least a specified percentage (e.g., 95 percent control of VOC emissions from pressure relief devices);
- Requiring that emissions from a source not exceed specific concentration levels (e.g., 100 parts per million [ppm] by volume of VOC for equipment leaks unless those leaks are repaired within a specific timeframe; 250 ppm by volume SO₂ in exhaust gases from sulfur recovery units; 1,000 ppm by volume SO₂ in exhaust

- gases from catalytic cracking units);
- Requiring that emissions not exceed certain quantities for a given amount of material processed or fuel used at a source (e.g., 0.033 pounds NO_x per million BTU of heat input, on a refinery-wide basis, for boilers, process heaters, and steam generators);
- Requiring that emissions be controlled sufficiently so that concentrations beyond the facility's property are below specified levels (e.g., 0.03 ppm by volume of hydrogen sulfide [H₂S] in the ambient air);
- Requiring that emissions from a source not exceed specified opacity levels based on visible emissions observations (e.g., no more than 3 minutes in any hour in which emissions are as dark or darker than No. 1 on the Ringelmann Smoke Chart); and
- Requiring that emissions be minimized by the use of all feasible prevention measures (e.g., flaring prohibited unless it is in accordance with an approved Flare Minimization Plan).

Air quality rules generally do not expressly limit mass emissions (e.g., pounds per year of any particular regulated air pollutant) from affected equipment unless that equipment was constructed or modified after March 7, 1979, and is subject to the Air District's New Source Review (NSR) rule. All Bay Area refineries have "grandfathered" emission sources that were not subject to NSR but are generally regulated by equipment-specific Air District regulations or operational conditions contained in Air District permits. As a result, none of the Bay Area refineries have overall mass emission limits that apply to the entire refinery. Nonetheless, mass emissions of regulated air pollutants from Bay Area refineries are tracked at the source level, and these mass emissions generally have been substantially reduced over the past several decades.

Air pollutant emissions from Bay Area petroleum refineries have been regulated for more than 50 years, with most of the rules and regulations adopted following enactment of the 1970 Clean Air Act amendments. The Air District has the primary responsibility to regulate "stationary sources" of air pollution in the Bay Area, and the Air District has adopted many rules and regulations that apply to petroleum refineries.

In December 2015, the Air District adopted two amended rules and one new rule that affect refinery operations and emissions:

- New Regulation 6, Rule 5: Particulate Emissions from Refinery Fluidized Catalytic Cracking Units (FCCUs);
- Amended Regulation 8, Rule 18: Equipment Leaks;
- Amended Regulation 11, Rule 10: Cooling Towers

The Air District is considering additional revisions to several rules and the development of new rules that may further affect refinery operations and emissions. Rule amendments under development include:

- Regulation 1: General Provisions & Definitions;
- Regulation 2, Rule 1: Permits, General Requirements;
- Regulation 2, Rule 2: New Source Review, including GHG evaluation;
- Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants;
- Regulation 6, Rule 1: Particulate Matter General Requirements;
- Regulation 9, Rule 1: Sulfur Dioxide; and
- Regulation 9, Rule 9: Nitrogen Oxides and Carbon Monoxide from Stationary Gas Turbines.

The Air District is also developing a new rule (Regulation 9, Rule 14) to address SO₂ emissions from petroleum coke calcining. Regulation 12, Rule 16 is being re-assessed. The Air District is considering alternative approaches to addressing the concern that refinery emissions may increase as the refineries adopt new sources of crude oil.

In addition, the Air District currently is developing an update to its Clean Air Plan that will investigate and evaluate further measures that could result in revised and/or new rules affecting refineries.

2. Toxic Pollutants

The Air District uses three approaches to reduce TAC emissions and to reduce the health impacts resulting from TAC emissions: (1) Specific rules and regulations; (2) Preconstruction review; and (3) the AB 2588 Air Toxics "Hot Spots" Program.

a. Rules and Regulations

Many of the TACs emitted by petroleum refineries also result in the formation of criteria pollutants. For example, benzene and formaldehyde are precursor organic compounds to the formation of ozone, while arsenic and cadmium can be found in particulate matter emissions. Thus, many regulations that reduce criteria pollutant emissions from refineries will also have a co-benefit of reducing toxic air contaminant emissions. In addition, the Air District implements EPA, CARB, and Air District rules that specifically target toxic air contaminant emissions from sources at petroleum refineries, for example, the EPA's National Emission Standards for Hazardous Air Pollutants (NESHAPS) and CARB's Reducing Toxic Air Pollutants in California Communities Act (AB1807) Rules. Additional rules dealing with TACs are listed below.

b. Preconstruction Review

The Air District's Regulation 2, Rule 5 is a preconstruction review requirement for new and modified sources of TACs implemented through the Air District's permitting process. Regulation 2, Rule 5 includes health impact thresholds, which require the use of the best available control technology for TAC emissions (TBACT) for new or modified equipment, and established health risk limits that cannot be exceeded for any proposed project.

c. Air Toxics "Hot Spots" Program

The Air Toxic "Hot Spots" program, or AB 2588 Program, was a statewide program implemented by each individual air district pursuant to the Air Toxic "Hot Spots" Act of 1987 (Health and Safety Code [H&SC] Section 44300 *et seq.*). The Air District used standardized procedures to identify health impacts resulting from industrial and commercial facilities. Health impacts were expressed in terms of cancer risk and non-cancer (acute and chronic) hazard index.

Under this program, the Air District used a prioritization process to identify facilities that warrant further review. This prioritization process used toxic emissions data, health effects values for TACs and Air District–approved calculation procedures to determine a cancer risk and non-cancer prioritization score for each site. Facilities that had a cancer risk prioritization score greater than 10 or a non-cancer prioritization greater than 1 were subject to further review. If emission inventory refinements and other screening procedures indicated that prioritization scores remain above these thresholds, the Air District required that the facility perform a comprehensive site-wide HRA. The Air District updates the prioritization scores annually, based on the most recent toxic emissions inventory data for the facility.

An HRA conducted in accordance with AB 2588 estimates the health impacts from a site due to stationary source TAC emissions. The HRA must be conducted in accordance with statewide HRA guidelines developed by the Office of Environmental Health Hazard Assessment (OEHHA) in the Guidance Manual for Preparation of Health Risk Assessments. This manual includes health effects values for each TAC and establishes the procedures to follow for modeling TAC transport, calculating public exposure, and estimating the resulting health impacts. OEHHA periodically reviews and updates the Guidance Manual through a Scientific Review Panel and public comment process. The HRA guidelines were approved in 2003, but OEHHA proposed major revisions to these HRA guidelines in June 2014. The proposed revisions to the Guidance Manual were adopted March 6, 2015.

In 1990, the Air District Board of Directors adopted the current risk management thresholds pursuant to the Air Toxic "Hot Spots" Act of 1987. These risk management thresholds; summarized in Table 1, below, set health impact levels that require sites to take further action, such as conducting periodic public notifications about the site's health impacts and implementing mandatory risk reduction measures. These thresholds as well as other methods to address and lower emissions or TACs are currently under review.

Table 1
Summary of Current Bay Area Air Toxics "Hot Spots" Program Risk Management Thresholds

	Site Wide Cancer Risk	Site Wide Non-Cancer Hazard Index
Public Notification	10 in a million	1.0
Mandatory Risk Reduction	100 in a million	10

3. Climate Pollutants

CARB recently adopted rules to reduce emissions of GHGs from mobile and stationary sources in California. All refineries in California are subject to CARB's Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms ("Cap-and-Trade Rule"). The Cap-and-Trade Rule will reduce GHG emissions collectively from all subject sources using a market-based approach, although there is no requirement that any specific source reduce its emissions. The Cap-and-Trade system will reduce emissions from subject sources to 1990 levels by 2020, a roughly 15 percent reduction.

The Air District's recently adopted Ten Point Climate Action Work Program calls for enhanced GHG emissions inventory and forecasting, the implementation of GHG emissions monitoring and additional rule development specifically addressing GHG emissions; all of which will affect the five Bay Area refineries and support facilities.

4. Accidental Release Regulation

In addition to Air District regulations, petroleum refineries are also subject to regulatory programs that are intended to prevent accidental releases of regulated substances. Accidental release prevention programs in California are implemented and enforced by local administering agencies, which, in the case of the Bay Area refineries, are Solano County (for the Valero Refining Company) and Contra Costa County (for Chevron Products Company, Phillips 66 Company, Shell Martinez Refinery, and Tesoro Refining and Marketing Company).

The primary regulatory programs of this type are based on requirements in the amendments to the 1990 Clean Air Act as follows: (1) the Process Safety Management (PSM) program, which focuses on protecting workers, and is administered by the U.S. Occupational Safety & Health Administration (OSHA); and (2) the Accidental Release Prevention program (commonly referred to as the Risk Management Program, or RMP), which focuses on protecting the public and the environment, and is administered by EPA. Bay Area refineries are subject to Cal/OSHA's PSM program, which is very similar to the federal OSHA program focusing on worker safety, but with certain more stringent state provisions. Bay Area refineries are subject to the California Accidental Release

Prevention (CalARP) Program, which is very similar to EPA's RMP program to limit exposure of the public, but with certain more stringent State provisions. In addition, Contra Costa County and the City of Richmond have both adopted an Industrial Safety Ordinance (ISO). These ISOs are very similar to CalARP requirements, but with certain more stringent local provisions.

5. Air District Rules Affecting Refineries

The following is a partial list of the air pollution rules and regulations that the Air District implements and enforces at Bay Area refineries:

- Regulation 1: General Provisions and Definitions
- Regulation 2, Rule 1: Permits, General Requirements
- Regulation 2, Rule 2: New Source Review
- Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants
- Regulation 2, Rule 6: Major Facility Review (Title V)
- Regulation 6, Rule 1: Particulate Matter, General Requirements
- Regulation 6, Rule 5: Particulate Emissions from Refinery Fluidized Catalytic Cracking Units;
- Regulation 8, Rule 1: Organic Compounds, General Provisions
- Regulation 8, Rule 2: Organic Compounds, Miscellaneous Operations
- Regulation 8, Rule 5: Storage of Organic Liquids
- Regulation 8, Rule 6: Terminals and Bulk Plants
- Regulation 8, Rule 8: Wastewater (Oil-Water) Separators
- Regulation 8, Rule 9: Vacuum Producing Systems
- Regulation 8, Rule 10: Process Vessel Depressurization
- Regulation 8, Rule 18: Equipment Leaks
- Regulation 8, Rule 28: Episodic Releases from Pressure Relief Devices at Petroleum Refineries and Chemical Plants
- Regulation 8, Rule 33: Gasoline Bulk Terminals and Gasoline Delivery Vehicles
- Regulation 8, Rule 44: Marine Vessel Loading Terminals
- Regulation 9, Rule 1: Sulfur Dioxide
- Regulation 9, Rule 2: Hydrogen Sulfide
- Regulation 9, Rule 8: Nitrogen Oxides and Carbon Monoxide from Stationary Internal Combustion Engines
- Regulation 9, Rule 9: Nitrogen Oxides and Carbon Monoxide from Stationary Gas Turbines
- Regulation 9, Rule 10: Nitrogen Oxides and Carbon Monoxide from Boilers, Steam Generators and Process Heaters in Petroleum Refineries
- Regulation 11, Rule 10: Cooling Towers
- Regulation 12, Rule 11: Flare Monitoring at Petroleum Refineries
- Regulation 12, Rule 12: Flares at Petroleum Refineries
- 40 CFR Part 60, Subpart J: Standards of Performance for Petroleum Refineries

(NSPS)

- 40 CFR Part 61, Subpart FF: Benzene Waste Operations (NESHAP)
- 40 CFR Part 63, Subpart CC: Petroleum Refineries (NESHAP)
- 40 CFR Part 63, Subpart UUU: Petroleum Refineries: Catalytic Cracking, Catalytic Reforming, and Sulfur Plant Units (NESHAP)
- State Airborne Toxic Control Measure for Stationary Compression Ignition (Diesel) Engines (ATCM)

III. NEED FOR REGULATORY ACTION

Refineries are among the largest single sources of criteria pollutants, precursors to the formation of criteria pollutants and climate pollutants in the Bay Area. Further, the five Bay Area refineries rank among the top ten facilities in the Bay Area for risk-weighted emissions of TACs, based on an evaluation of emissions from stationary sources in 2012 and using risk factors for cancer and chronic hazard index. Bay Area refineries are also some of the largest individual sources of NO_x and SO₂ in the region. Bay Area refineries are also the largest industrial sources of greenhouse gas emissions. While historically, refinery emissions have tended to decrease overall over time; there are occasions when some emissions have increased despite the regulatory environment in which they operate. Some of the factors that can result in increased refinery emissions include higher production rates to meet increased demand or to compensate for loss of production in other regions, upset conditions and accidents, and changes in crude oil or product slates.

Table 2 includes the most recent criteria pollutant emissions data for the five affected refineries and five affected support facilities.

Table 2: Baseline Emissions from the Refineries and Associated Facilities

Facility Name	Average Annual Emissions (tons/year)				
	PM (filterable)	PM (cond.) ¹	TOG	NO _x	SO ₂
Chevron	173	255	2,187	910	339
Phillips 66	53	—	337	266	409
Shell	409	98	1,749	971	1,084
Tesoro	80	91	1,200	763	572
Valero	123	—	494	1,205	111
Chemtrade West	4	—	55	3	127
Eco Services	18	—	1	13	362
Air Products	10	—	9	3	2
Phillips 66 (Carbon Plant)	29	—	0	239	1,242
Air Liquide	16	—	29	2	2
Total Emissions	915	444	6,061	4,375	4,250

Given the significance of these facilities, it is important to have a wholistic and accurate understanding of their impact on the environment and surrounding communities. The improved emissions inventories required by the proposed Rule 12-15 will help accomplish this goal. These improved inventories would cover a broader set of sources

¹ Condensable PM emissions are estimated based on a very small number of non-standard tests on FCCUs. These numbers will change as more testing is completed at the refineries.

than have been traditionally reported and would ensure that consistent and state-of-the-art methods are used to estimate emissions.

Proposed Rule 12-15 would also require monitoring of emissions at the refinery fence-line. This monitoring is an important complement to the effort to improve emissions inventories because it will help “ground truth” the engineering estimates used in the emissions inventory, with the ultimate goal of ensuring that public health is protected.

In addition, proposed Rule 12-15 would require refineries to provide to the Air District crude slate and non-crude feedstock information. This will enable the Air District to determine whether there is a correlation between changes in crude slate and feedstock changes and increases in emissions. Determination of a correlation (or lack thereof) will help the Air District decide whether such changes should be addressed in future regulations. Apart from future rule development, any relationship between changes in feedstocks and increased emissions would also be relevant to implementation of the Air District’s current new source review program codified in Air District Regulation 2, Rule 1 and Rule 2. Under some circumstances, a change in process feed materials could be an “alteration” or “modification” as defined in Regulation 2, Rule 1, and thus require a permit.

A. Crude Slate and Emissions

As new sources of North American crude oil become available, the refining of these different crude oils may also lead to increased emissions. As mentioned above, heavy, sour crude from Canadian tar sands may increase GHG emissions due to the need for more intensive processing. The high sulfur content of crude oil from tar sands may also lead to higher SO₂ emissions and may potentially contain more toxic metals. Crude oil from shale has characteristics that may also lead to increases in other emissions. The crude from shale is lighter and, therefore, more easily converted to products, which may lead to lower GHG emissions. However, this crude has higher VOC and H₂S content, which may lead to increased emissions of these pollutants from storage and loading operations and from equipment leaks. Because of the potential for changes in the sources of crude oil, the Air District seeks to improve our understanding of the relationship between these changes and resulting changes in emissions. This section (III.A.) of the staff report discusses the theory underlying the relationship between crude oil composition and refinery air emissions.

For optimal performance, petroleum refineries are designed to process crude oil with a certain range of characteristics. A refinery may either directly purchase crude oil that has parameters within these ranges or purchase crude oils that do not and then blend these crude oils to create a blended crude oil that does. The crude oils and crude oil blends that a refinery may process is commonly referred to as a refinery’s “crude slate.”

Key crude oil parameters include:

- Crude oil fractions
- API Gravity (Density)
- Sulfur content
- Nitrogen content
- Vapor pressure
- Benzene, Toluene, Ethylene, and Xylene content
- Total Acid Number
- Metals content


These parameters are measured through tests on crude oil called "crude assays." Through the crude assay, refiners are able to determine the values of each of the parameters listed above.

Crude oil fractions

Crude oil is not a single substance but rather is a mixture of substances (hydrocarbons, water, metals, mineral salts, and sediments). Hydrocarbons are organic compounds composed of carbon and hydrogen atoms. Crude assays characterize petroleum fractions by boiling point ranges. Typical crude oil fraction boiling points are shown in Table 3.

**Table 3
Typical Boiling Point Ranges of Crude Oil Fractions**

Product	Boiling Point Range (° F)
Propane, Butanes, and Other Gases	< 85
Gasoline	85 – 185
Naphtha	185 – 350
Kerosene	350 – 450
Diesel	450 – 650
Gas Oil	650 – 1050
Residue (e.g. asphalt)	> 1050



The first step in crude oil refining (after cleaning the crude oil) is heating the crude oil to over 1000 °F to separate the crude oil fractions. Crude oils that have more diesel, gas oil, and residue fractions than gasoline, naphtha, and kerosene fractions require more heating and are, therefore, more energy intensive, resulting in more emissions of GHGs and other combustion products such as NOx and possibly SO₂.

API Gravity (Density)

Density is a ratio of how much something weighs relative to its volume (e.g., pounds per gallon). Because of the manner in which API gravities are determined, more dense ("heavier") crude oils will have lower API gravities while less dense ("lighter") crude oils will have higher API gravities as shown in Table 4.

**Table 4
Crude Oil Classification Based on API Gravity**

Category	API Gravity
Light Crudes	> 38
Medium Crudes	29 to 38
Heavy Crudes	8.5 to 29
Very Heavy Crudes	< 8.5

Lighter
↓
Heavier

Heavier crude oils will have greater amounts of heavier crude oil fractions. Because heavier crude oils and crude oil fractions are denser, they require more power to pump. Power at a refinery is typically supplied by refinery gas turbines. Therefore, an increase in required power directly increases the amount of emissions from gas turbines. Heavier crude oils also require more heating from refinery furnaces and process heaters, directly increasing emissions.

Sulfur Content

The total amount of sulfur (in all forms) is reported in crude assays as sulfur content in percentage by weight. Typically, crude oils with sulfur content greater than 0.5 percent by weight are called "sour" while crude oils with sulfur content less than 0.5 percent by weight are called "sweet." Sour crude oils require more treatment to remove the sulfur. This directly results in higher emissions from sulfur treatment plants.

Crude assays also include the concentration (in units of parts per million by weight) of a subset of sulfur compounds including H₂S and mercaptans. H₂S is considered a toxic air contaminant that has an odor similar to rotten eggs while mercaptans are organic compounds that have a particularly strong odor similar to rotting cabbages. Crude oils with more H₂S and mercaptans may result in more odors from storage tanks storing crude oil and recovered oil. Odors from such tanks have resulted in public nuisances in nearby communities.

Increased crude oil sulfur content will increase the:

- Amount of hydrogen needed in refinery hydrotreaters,
- Emissions from hydrogen plant furnaces and CO₂ vent,
- Sulfur content in refinery process gas,
- Sulfur content in refinery fuel gas,
- Emissions of SO₂, H₂S, and SAM from refinery fuel gas combustion, and
- Elemental sulfur produced and resulting number of trucks carrying sulfur offsite.

Nitrogen Content

Crude oils typically contain very low amounts of nitrogen compounds, but have a great significance in refinery operations. Nitrogen compounds can destroy or "poison" refinery

catalysts used in fluid catalytic crackers, hydrocrackers, and catalytic reformers. Poisoned catalyst will require more processing of the feedstock, which will increase emissions from those types of equipment.

Nitrogen compounds are also removed in refinery hydrotreaters; but are harder to remove than sulfur. Similar to sulfur, higher nitrogen content will require more hydrogen treatment resulting in more emissions from refinery hydrogen plant furnaces and vents. When treated with hydrogen, nitrogen compounds are transformed to ammonia (NH₃), a toxic air contaminant. Ammonia may then be carried over in refinery fuel gas and combusted at refinery equipment (boilers, furnaces, etc.) as well as be emitted in fluid catalytic crackers.

Vapor Pressure

Vapor pressure is an indication of a liquid's evaporation rate. Materials with higher vapor pressure are more volatile. For crude oils and crude oil products, vapor pressure is reported as Reid Vapor Pressure (RVP), which is the vapor pressure determined in a volume of air four times the liquid volume at 100 °F. Crude oils with higher RVP will evaporate more easily, leading to more emissions from storage tanks and as fugitive equipment leaks in refinery components (valves, pumps, flanges, etc.).

Benzene, Toluene, Ethylbenzene, and Xylene

Benzene, toluene, ethylbenzene, and xylenes are collectively called "BTEX" and each is considered a toxic air contaminant. BTEX are VOCs and toxic air contaminants lead to the formation of criteria pollutants. Crude oils and petroleum feedstocks with higher BTEX will result in increased BTEX and VOC emissions from storage tanks and fugitive equipment leaks from refinery equipment (valves, pumps, flanges, etc.).

Total Acid Number

Total acid number (TAN) is a measurement of the acidity of crude oil and is a measurement of potential corrosivity of a crude oil. Corrosive crude oils may result in deactivated catalysts, which will require more processing of materials to get the same amounts of product and will increase emissions. Corrosive crude oils may also result in the corrosion of crude unit internal components, piping and process vessels. Corrosion in crude unit components will reduce the efficiency of the crude unit and require more processing of the crude oil to get the same amount of products. More processing will require more heat from crude unit furnaces, directly increasing emissions. Corrosion of piping and process vessels may lead to fugitive equipment leaks and unexpected fires, explosions, and large quantities of emissions.

Metals Content (Iron, Nickel, and Vanadium)

Metallic compounds exist in all crude oils. Metals cause operational problems by poisoning catalysts used for hydroprocessing and cracking. All metals are considered a pollutant (particulate matter and possibly a toxic air contaminant) when emitted.

Solids contamination of crude can lead to air emissions when these metals settle in the heavy fuel oil or in the petroleum coke produced by the refinery. Air emissions of these metals can occur when the fuel oil or petroleum coke is burned. The organic metals in heavy gas oils are also a concern when the organic metals deposit on the coke formed in the fluid catalytic cracking (FCC) unit. This coke is burned in the FCC regenerator and these metals deposit on the catalyst. A portion of this catalyst is emitted from the FCC as particulates containing these metal compounds. In addition, metals in the feedstock can result in the deactivation of the catalyst in a FCC, which results in increased coke formation, which in turn, results in increased emissions.

Iron, nickel, and vanadium are especially problematic for a refinery. Iron can cause corrosive compounds such as iron oxide (rust) and iron sulfide. Also, high levels of iron may cause iron deposits in refinery pumps, resulting in more power to pump materials. Iron deposits in heat exchangers result in a decrease in the heat transfer efficiency, requiring more heat from boilers, furnaces, or process heaters directly increasing emissions from boilers, furnaces, or process heaters. Iron deposits in pumps, piping, and heat exchangers may also cause metal to corrode creating holes in the equipment and creating fugitive equipment leaks or cooling tower emission leaks.

Nickel can cause corrosion of crude distillation towers and gas turbines and catalytic poisoning. Nickel may be emitted when combusting refinery fuel gas. When directly emitted, nickel is considered a carcinogen and a toxic air contaminant.

For high temperature power generators (gas turbines), the presence of vanadium in refinery fuel gas may lead to ash deposits on the turbine blades, cause severe corrosion, and ultimately may cause a refinery power plant to fail. An unexpected shutdown of a refinery power plant leads to refinery imbalances in fuel gas, steam, and power resulting in unplanned flaring and flared emissions.

Vanadium in refinery fuel gas may also cause the deterioration of refractory furnace linings. A deteriorated refractory lining will result in less heat transfer in a boiler, furnace or process heater. To get the same amount of heat from a boiler, furnace, or process heater with a deteriorated refractory lining; a refinery will have to increase the amount of fuel burned, which directly increases emissions from the boiler, furnace, or process heater.

Refinery Configuration

As previously mentioned, refineries are designed and operated ("configured") to process crude oil and petroleum feedstocks within certain ranges of: API gravity, sulfur content, nitrogen content, TAN, and metals content. If crude oil and/or petroleum feedstocks with parameters outside of these ranges are processed, "routine" emissions could increase and catastrophic failures may occur resulting in refinery fires or explosions and unexpected shutdowns of refinery process units and excessive flaring. Unexpected shutdowns of refinery equipment generate large amounts of emissions. A summary of

refinery emissions impact by crude oil parameter and refinery equipment is listed in Table 5.

**Table 5
Summary of Refinery Emissions Impact by Crude Oil Parameter**

Parameter	Parameter Impact	
	Pollutants	Refinery Equipment/Activity
API Gravity	<ul style="list-style-type: none"> • NO_x • CO • SO₂ • VOC • PM₁₀/PM_{2.5} • GHGs • Toxics 	<ul style="list-style-type: none"> • Crude Unit furnaces • Fluid Catalytic Cracking Unit (FCCU) • Delayed Coker • Fluid Coker • Flexicoker • Solvent Deasphalting Unit • Process unit furnaces
Sulfur Content Total Reduced Sulfur	<ul style="list-style-type: none"> • SO₂ • H₂S • Odors 	<ul style="list-style-type: none"> • Sulfur Recovery Units (SRUs) • Fuel gas combustion (furnaces, boilers, turbines, etc.) • Flares • Wastewater treatment • Storage tanks
Nitrogen Content	<ul style="list-style-type: none"> • NH₃ (a toxic) • NO_x 	<ul style="list-style-type: none"> • FCCU • Fuel gas combustion • Hydrocrackers
Vapor Pressure	<ul style="list-style-type: none"> • VOC • GHGs • Toxics 	<ul style="list-style-type: none"> • Storage tanks • Fugitive equipment leaks • Loading operations • Pressure relief devices • Process vessels
BTEX	<ul style="list-style-type: none"> • Benzene • Toluene • Ethylene • Xylene 	<ul style="list-style-type: none"> • Storage tanks • Fugitive equipment leaks • Fuel gas combustion (furnaces, boilers, turbines, etc.)
Total Acid Number	<ul style="list-style-type: none"> • NO_x • CO • SO₂ • VOC • PM₁₀/PM_{2.5} • GHGs • Toxics 	<ul style="list-style-type: none"> • Heat Exchangers • Cooling Towers • Process upsets • Flares • FCCU • Delayed Coker • Fluid Coker • Flexicoker • Solvent Deasphalting Unit
Metals Content	<ul style="list-style-type: none"> • NO_x • CO • SO₂ • VOC • PM₁₀/PM_{2.5} • GHGs • Toxics 	<ul style="list-style-type: none"> • FCCU • Flares • Fuel gas combustion (furnaces, boilers, turbines, etc.) • Delayed Coker • Fluid Coker • Flexicoker • Gas Turbine • Hydrocracker • Solvent Deasphalting Unit

IV. PROPOSED RULE REQUIREMENTS

Proposed Rule 12-15 is included in Appendix A of this report. The air monitoring guidance document is included in Appendix B. Explanations of the various provisions of proposed Rule 12-15 are provided below.

A. Administrative Procedures

Proposed Rule 12-15 would require refinery owners/operators to submit to the Air District emission inventories and air monitoring plans, subject to review by members of the public and other interested stakeholders. For air monitoring plans, comments received would be considered by Air District staff before taking final action to approve, require revisions, or disapprove the plans. Comments on emission inventories would be considered by Air District staff with no time limit, which is consistent with inventories being "living documents" that may change as best practices evolve. Emission inventories and air monitoring plans would be posted on the Air District's website.

The administrative procedures by which the Air District would review and take final action to approve or disapprove the inventories and plans are specified in Sections 12-15-402 and 404 of proposed Rule 12-15.

It should be noted that California law specifies that "trade secrets" are not public records. While air pollutant emissions data and air monitoring data may not be considered trade secrets, many other types of information may be (e.g., production data used to calculate emissions data). The definition of "trade secrets" provided in Section 6254.7 of the California Government Code follows:

"Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

Section 12-15-407 of proposed Rule 12-15 specifies that a refinery owner/operator may designate as confidential any information required to be submitted under the rule that is claimed to be exempt from public disclosure under the California Government Code. The owner/operator is required to provide a justification for this designation, and must submit a separate public copy of the document with the information that is designated "trade secret" redacted. These provisions are intended to facilitate processing of trade secret information by expediting release of related public information while helping ensure that trade secret portions are not inadvertently released. The purpose of Section 407 is purely administrative. Actual trade secret protections derive from the Government Code. The Air District's Administrative Code sets forth procedures for how the Air District will handle trade secret information that is responsive to Public Records Act requests.

B. Pollutant Coverage

Proposed Rule 12-15 would cover the three primary categories of regulated air pollutants: (1) criteria pollutants (and their precursors), (2) toxic pollutants, i.e., toxic air contaminants (TACs), and (3) climate pollutants, e.g., greenhouse gases. These terms are defined in the proposed rule.

The definition of TAC refers to the California State TAC list and includes those state-identified TACs that have a basis for the evaluation of health effects under guideline procedures adopted by OEHHA for the Air Toxics "Hot Spots" Program.

The Air District realizes the importance of reducing climate pollutants and staff has developed the *Regional Climate Protection Strategy, 10-Point Climate Action Work Program* and created a new department, the Climate Protection Section, to investigate and implement ways to reduce climate pollutants. Proposed Rule 12-15 requires that emissions inventories for climate pollutants be developed and submitted to the Air District. This information will help the Air District begin to address climate change issues. Air District staff will assess emissions of climate pollutants and the refineries' abilities to make feasible improvements in their operations to reduce climate pollutants. While the Statewide AB32 Cap-and-Trade system represents a major effort towards control of climate pollutants, the Air District intends to explore ways to further reduce these pollutants in a manner that complements, and does not conflict with, the Cap-and-Trade system.

C. Source Coverage

Proposed Rule 12-15 would apply to air emissions from "stationary sources" at petroleum refineries. Stationary sources, as opposed to mobile sources such as trucks and other vehicles, are the sources over which the Air District has regulatory jurisdiction. However, there are instances in which the Air District has a need to understand emissions from these mobile sources, in order to have a complete understanding of refinery emissions as sources of crude oil change. Thus emissions from these regulated operations are included in the requirements of the rule. This concept is addressed in the definition of "Emissions Inventory". Several other definitions in the proposed rule are intended to clarify source coverage.

Proposed Rule 12-15 would apply to petroleum refinery operations whether or not these operations are owned or operated by different entities. For example, some Bay Area refineries include co-located hydrogen plants that are owned or operated by separate companies, but that provide hydrogen for refinery operations. The definition of "Support Facility" in the proposed rule identifies these independently-controlled facilities that are subject to the rule.

D. Emissions Inventory Development

Emissions inventories are used in a variety of air quality programs, and methodologies for establishing these inventories are provided in various publications. Depending on the specific type of source, and the specific type of air pollutant emitted, "state-of-the-art" emissions inventory techniques may involve continuous emission monitors, source-specific emission tests, general emission factors (i.e., representative values that relate the quantity of a pollutant emitted with an activity associated with the release of that pollutant), material balances, or empirical formulae. The term "Emissions Inventory" is defined in the proposed rule.

Because of the diversity of emissions inventory methodologies that exist, and the need to update these methodologies on an on-going basis due to improvements in scientific understanding and available data, the Air District has decided not to include detailed emissions inventory methodologies in the rule itself. Doing so would make the rule language extremely cumbersome, and would necessitate frequent rule amendments as the state of the art progresses. As reflected in Section 12-15-405 of proposed Rule 12-15, the Air District staff will continue to publish, and periodically update, emissions inventory guidelines for petroleum refineries that set the most accurate available methodologies to be used for emissions inventories required by proposed Rule 12-15. Inventories submitted by refineries will be evaluated on a case-by-case basis. Any inconsistencies between the submitted inventories and Air District guidance will be judged based upon whether the refinery has provided an adequate justification for methodologies used.

The Air District previously published a refinery emissions inventory guidelines document ("*Refinery Emissions Inventory Guidelines: An Assessment of EPA Document Emission Estimation Protocol for Petroleum Refineries*") in 2013, and expects to publish updated guidelines prior to the public hearing for adoption of proposed Rule 12-15.

The Emissions Inventory described in proposed Rule 12-15 serves the same purpose as the "permit renewal questionnaire" that is currently sent to each refinery (and every other permitted facility) on an annual basis. This questionnaire is required to be completed by the refinery as a condition of permit renewal, and is the basis for the refinery's estimated emissions. The new Emissions Inventory will eventually replace the "permit renewal questionnaire," with possible duplication of these two documents necessary for 2016 calendar year data. The new Emissions Inventory, like the current "permit renewal questionnaire," is a necessary element of the Air District's permitting program (required by EPA) and also necessary for the Air District to meet its obligation to provide emissions data to CARB. The authority for both the current "permit renewal questionnaire" and the new Emissions Inventory is Healthy & Safety Code Sections 41511 and 42303.

E. Emissions Inventories and Crude Slate Report

1. Emissions Inventories Report

The establishment of annual emissions inventories would provide a basis for determining emissions variations that occur at each refinery from year to year.

Each refinery would be required to prepare and submit an annual refinery emissions inventory report. The public would be given an opportunity to provide input regarding emissions inventory reports, as described in Section 12-15-402 of proposed Rule 12-15.

2. Crude Slate Report

Each refinery, but not support facilities, would be required to provide information on the crude oil volume and composition, or "crude slate," processed at its crude units as described above, as well as the volume and composition of pre-processed feedstock processed at other process units. The combined information would be included in a "crude slate report." As explained below, the Air District would use this information to determine if significant crude slate changes lead to increased emissions.

The crude oil and pre-processed feedstock parameters required for the crude slate report are:

- Total volume (thousands of barrels)
- API gravity as it relates to higher crude density (degrees)
- Sulfur content (percentage by weight)
- Vapor pressure (psia)
- Benzene, toluene, ethylbenzene, and xylenes (BTEX) contents
- Selected metals (iron, nickel and vanadium) content as an indicator of potential heavy metals that may be released when coke is burned in the fluid catalytic cracking unit

The refinery operators must collect monthly values of each of these parameters and provide this information to the Air District.

Parameters such as nitrogen content, acid content, and total reduced sulfur may be required in future updates of this rule if the Air District deems that data to be necessary to determine the relationship between crude slate and emission rates.

The Authority for this requirement is Health & Safety Code Sections 41511 and 42303. Section 42303 gives the Air District broad authority to require the submittal of information that "will disclose the nature, extent, quantity, or degree of air contaminants which are, or may be, discharged" by a source. Section 41511 expressly allows this authority to be exercised through rulemaking, and gives the Air District authority to adopt rules requiring sources of air pollution to take actions deemed reasonable to determine the amount of air emissions.

These statutory authorities do not limit the Air District's authority to requesting only information about actual emissions. As explained above, crude slate composition can affect air emissions in a myriad of ways. Tracking changes in crude slate is thus reasonably calculated to "disclose the nature, extent, quantity, or degree of air contaminants."

The Air District acknowledges that there is uncertainty regarding the relationship between crude slate changes and refinery air emissions. Refinery representatives have contended throughout the development of this rule either that there is no relationship, or that any such relationship is obscured by intermediary variables. While the Air District does not entirely discount these arguments, the refineries' position is by no means self-evident. As explained above, it is apparent that the potential for changes in crude slate to affect air emissions is significant. The crude slate requirements of proposed Rule 12-15 establish a process to determine whether and to what extent air emissions vary according to changes in crude slate and other feedstocks.

The crude slate requirements of proposed Rule 12-15 will not be burdensome for the refineries. These requirements use information already in refineries' possession, without the need for additional testing or other procedures. The information is being required in a form that does not reveal data that a refinery might reasonable deem "trade secret."

In balancing the degree of uncertainty regarding the relationship of crude and feedstock changes to refinery air emissions, the high potential for an impact upon the breathing public if the relationship is positive, and the minimal burden on the refineries associated with complying with the provisions of this rule, the Air District believes it has struck an appropriate balance and that the crude slate report requirements of proposed Rule 12-15 are "reasonable" within the meaning of Health & Safety Code Section 41511.

F. Air Monitoring

Proposed Rule 12-15 would require the refinery owner/operator to prepare and submit to the Air District an air monitoring plan for establishing and operating a fence-line monitoring system. The term "fence-line monitoring system" is defined in the proposed rule. The Air District will publish guidelines describing the factors it will use in evaluating air monitoring plans (see Sections 12-15-406).

Monitoring plans submitted by refineries will be evaluated on a case-by-case basis. Any inconsistencies between plans and Air District guidance will be evaluated based upon whether the refinery has adequately explained why the plan meets the requirements of proposed Rule 12-15 notwithstanding the inconsistency with the guidance. The same standard of review will be applied to plan updates.

An air monitoring guideline document was developed concurrently with Rule 12-15. Much of the information gathering for the guideline document was completed under Action Item 3 of the Air District's *Work Plan for Action Items Related to Accidental*

Releases from Industrial Facilities. Under this Action Item, Air District staff retained a contractor to create a report that identifies equipment and methodological options for monitoring systems. A panel of monitoring experts was gathered from academia, industry, the community, and other government agencies to discuss and weigh the various options and the expert panel provided input to guide the Air District in developing the air monitoring guidelines.

Under proposed Rule 12-15, within one year of Air District approval of a refinery's air monitoring plan, the refinery owner/operator would be required to ensure that fence-line monitoring systems are operational. The systems would be installed, operated, and maintained, in accordance with the approved plan (see Section 12-15-501 of proposed Rule 12-15).

The Air District would review the initial air monitoring guideline document within a five-year period of the publication of the initial guideline document. The guidelines would be updated if necessary in consideration of advances in monitoring technology, updated information regarding the health effects of air pollutants, and review of data collected by existing monitoring systems required under the rule. Updated guidelines would be subject to Air District Board approval. The refinery owner/operator would be required to implement any needed modifications to existing monitoring systems within one year of publication of the updated guidelines.

The fence-line monitoring required by proposed Rule 12-15 is an important element in the effort to improve understanding of refinery emissions. Data in emissions inventories is based to a large extent on emissions factors, which can be described very broadly as multipliers applied to throughput data to yield estimates of actual emissions. Fence-line monitors, by contrast, measure actual emissions. While fence-line monitoring alone is not sufficient to assess total emissions from a refinery, it can provide vitally important reference points to help "ground truth" emissions inventories.

The Authority for this requirement is Health & Safety Code Sections 41511 and 42303.

V. ECONOMIC IMPACTS

The California Health and Safety Code generally requires two different economic analyses for proposed regulations by an air district. The first (H&S Code §40728.5) is a socioeconomic analysis of the adverse impacts of compliance with the proposed regulation on affected industries and business. The second analysis (H&S Code §40920.6) is an incremental cost effectiveness analysis when multiple compliance approaches have been identified by an air district. Table 6 in Section V.A of this report lists the estimated costs of compliance with each element of proposed Rule 12-15 that has a significant cost. Section V.B of this report discusses the required socioeconomic analysis that is based on the costs in Section V.A. Section V.C of this report discusses the incremental cost analysis, which is not applicable to this proposed rule because they do not require specific emission controls.

A. Cost of Compliance

Table 6 - Regulation 12, Rule 15 Costs		
Section	Requirement	Cost (per refinery)
12-15-401	Prepare Annual Petroleum Refinery Emissions Inventory (beginning with year 2016 data)	\$90,000 annual cost (annualized)
12-15-408.2	Prepare Monthly Crude Slate Report (beginning with year 2017 data)	
12-15-408.1	Prepare Historical Monthly Crude Slate Reports for 2013, 2014, 2015 and 2016	
12-15-403	Prepare Air Monitoring Plans (one time submittal)	\$250,000 (one-time)
12-15-501	Fence-line Air Monitoring System (construction and operation)	\$2,000,000 one-time capital cost (\$280,000 / year annualized basis) PLUS \$50,000 annual maintenance & operation cost

B. Socioeconomic Analysis

Section 40728.5 of the California Health and Safety Code requires an air district to assess the socioeconomic impacts of the adoption, amendment or repeal of a rule if the rule is one that "will significantly affect air quality or emissions limitations." Applied Development Economics of Walnut Creek, California has prepared a socioeconomic analysis of proposed Rule 12-15. This analysis is based on the costs of compliance with the proposed rule discussed in Section V.A, and is attached to this report as Appendix C. The analysis concludes that the socio-economic impacts of compliance with the requirements of these rules is less than significant.

C. Incremental Cost Effectiveness

Section 40920.6 of the California Health and § Code requires an air district to perform an incremental cost analysis for any proposed Best Available Retrofit Control Technology (BARCT) rule or for a rule that is part of an Alternative Emission Reduction Strategy as described in Section 40914 of the Health and Safety Code. This analysis is omitted here because the proposed rule does not include either of these elements.

VI. REGULATORY IMPACTS

Section 40727.2 of the California Health and Safety Code requires an air district, in adopting, amending, or repealing an air district regulation, to identify existing federal and air district air pollution control requirements for the equipment or source type affected by a proposed change in air district rules. The air district must then note any differences between these existing requirements and the requirements imposed by the proposed change. Appendix D of this report identifies the federal and air district control requirements that affect the sources potentially impacted by proposed Rule 12-15.

VII. ENVIRONMENTAL IMPACTS

Pursuant to the California Environmental Quality Act, the Air District has had an initial study for the proposed rule prepared by Environmental Audit, Inc. of Placentia, California. The initial study concludes that there are no potential significant adverse environmental impacts associated with the proposed rule. A negative declaration will be proposed for adoption by the Air District Board of Directors and is included as Appendix E of this report. The initial study and negative declaration were circulated for public comment prior to the public hearing for this rule.

VIII. AIR DISTRICT COST RECOVERY

The administrative procedures in proposed Rule 12-15 (described in Section IV.A of this report) represent a significant workload increase for the Air District. Although most of these procedures are one-time events and processes, they cannot be completed on the required schedule with existing staff.

The Air District has the authority to assess fees to regulated entities for the purpose of recovering the reasonable costs of implementing and enforcing applicable regulatory requirements. On March 7, 2012, the Air District's Board of Directors adopted a Cost Recovery Policy that specifies that newly adopted regulatory measures should include fees that are designed to recover increased regulatory program activity costs associated with the measure (unless the Board of Directors determines that a portion of those costs should be covered by tax revenue).

In accordance with the adopted Cost Recovery Policy, Air District staff is developing new fee schedules to be included in Regulation 3, Fees, through a separate rule development process.

IX. RULE DEVELOPMENT AND PUBLIC CONSULTATION PROCESS

Since July 2012, Air District staff has engaged in an extensive and comprehensive rule development process involving a wide range of stakeholders that has resulted in this proposed rule, Emissions Inventory Guidelines, Air Monitoring Guidelines, and staff report.

In October of 2012, a *Work Plan for Action Items Related to Accidental Releases from Industrial Facilities* was adopted by the Board of Directors that included development of a Petroleum Refinery Emissions Tracking Rule. In March of 2013 a workshop report and initial draft rule were issued and the rule development process began.

The following meetings and efforts to work with the interested public and affected industry then took place:

- Apr. 2013: Public workshops held (Martinez, Richmond, District office via webcast).
- May 2013: Stationary Source Committee briefing.
- Jul. 2013: Desert Research Institute (DRI) report on air monitoring finalized documenting air monitoring options and methodologies that might be utilized to measure air quality impacts in communities near refineries.
- Jul. 2013: Panel of national air monitoring experts convened that expanded on the air monitoring options and methodological information contained in the DRI report via webcast.
- Sep. 2013: Draft refinery emissions inventory guidelines issued.
- Sep. 2013: Stakeholder Technical Work Group meeting.
- Jan. 2014: Revised draft rule and preliminary responses to comments issued.
- Jan. 2014: Stakeholder Technical Work Group meeting.
- Feb. 2014: Stationary Source Committee briefing.
- May 2013–Apr. 2014: Additional meetings with stakeholders held.
- Apr. 2014: Stationary Source Committee briefing.
- Jun. 2014: Amended draft Rule 12-15 posted on the Air District website.
- Aug. 2014: Air monitoring guidance draft released and comments accepted.
- Aug.–Oct. 2014: Continued meetings with stakeholders.
- Jan. 2015: Comment period opened.
- Mar. 2015: Public workshops held (Martinez, Richmond, Benicia, Air District Office via webcast).
- Sep. 2015: Comments addressed; interim staff report and revised draft rules released.
Three open houses for four refinery emission reduction rules

- (Martinez, Richmond, Benicia).
- Jan. 2016: Draft Rule 12-15, staff report, and associated documents posted for public review.
 - Mar. 2016 Amended draft Rule 12-15 posted for public review.

A number of substantive changes were made to the January 2016 version of draft Rule 12-15 in response to comments from stakeholders. This is why a draft rule was re-posted in March 2016. A summary of the changes and the reasoning behind them is listed below:

Community Air Monitoring

Several commenters expressed concerns about the refinery operators being responsible for siting and operating community air monitors. The Air District has decided to take the responsibility for siting and operating these monitors. The monitoring stations will be funded with a broad-based fee through the pending update to Regulation 3: Fees. This approach will offer the same level of information to the Air District and the public, while addressing concerns raised by both the refineries and community groups.

Crude Slate Reporting

The definitions and administrative requirements for crude slate reporting have been clarified and the data requirements have changed. The purpose of these changes is to focus on the data elements most relevant to emissions: volume, API gravity, sulfur content, vapor pressure, BTEX² content and certain metals. Other changes were made to address refinery operator concerns about confidential business information and to clarify how the data is to be summarized for use by the Air District.

Emissions Inventory

The process for public participation in the emissions inventory development has been modified to ensure that Air District-approved inventories are made available to the public as quickly as possible. The public will have the opportunity to review the emissions inventories and provide comments to the Air District after they are posted. The Air District will correct deficiencies identified to ensure a more accurate and complete emissions inventory.

In addition, refinery operators will not be responsible for providing data on the emissions of support facilities. Those facilities will provide emissions inventory data directly to the Air District.

² BTEX is an acronym for benzene, toluene, ethylbenzene and xylene. These are toxic organic compounds found in some crude oils.

Energy Utilization

The requirement to submit energy utilization reports has been removed. The Air District is continuing to evaluate various approaches for addressing greenhouse gas emissions from refineries. Some of these approaches require this information and some do not. If needed, this information will be required in future rulemaking actions.

The Air District received several comments on draft Rule 12-15. A full response to comments will be included in the package that is presented at the Board Hearing.

X. CONCLUSION

Pursuant to Section 40727 of the California Health and Safety Code, the proposed new rule must meet findings of necessity, authority, clarity, consistency, non-duplication, and reference. Proposed new Regulation 12, Rule 15 is:

- Necessary to ensure the maintenance of the NAAQS and ensure protection of the public from toxic air contaminants given the size and impact of the refineries and the possibility of changes to the properties of crude oil processed at these refineries;
- Authorized under Sections 40000, 40001, 40702, 40725 through 40728, and 44391 of the California Health and Safety Code;
- Written or displayed so that their meaning can be easily understood by the persons directly affected by them;
- Consistent with other Air District rules, and not in conflict with state or federal law;
- Non-duplicative of other statutes, rules or regulations. To the extent duplication exists, such duplication is appropriate for execution of powers and duties granted to, and imposed upon, the Air District; and
- Implementing, interpreting or making specific the provisions of the California Health and Safety Code Sections 40000, 40702, and 44391.

The proposed new rule has met all legal noticing requirements, has been discussed with the regulated community, and reflects consideration of the input and comments of many affected and interested parties. Air District staff recommends adoption of proposed new Regulation 12, Rule 15.

Appendices:

Appendix A: Proposed Regulation 12, Rule 15

Appendix B: Air Monitoring Guidelines for Petroleum Refineries

Appendix C: Socio-Economic Analysis

Appendix D: Regulatory Impacts Analysis

Appendix E: CEQA Initial Study / Negative Declaration

ACKNOWLEDGEMENTS

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APPLIED DEVELOPMENT ECONOMICS, INC.

**SOCIO-ECONOMIC ANALYSIS OF PROPOSED
REGULATION 12, RULE 15: PETROLEUM
REFINING EMISSIONS TRACKING**

Prepared for:

**Bay Area Air Quality
Management District**

April 2016

Prepared by:



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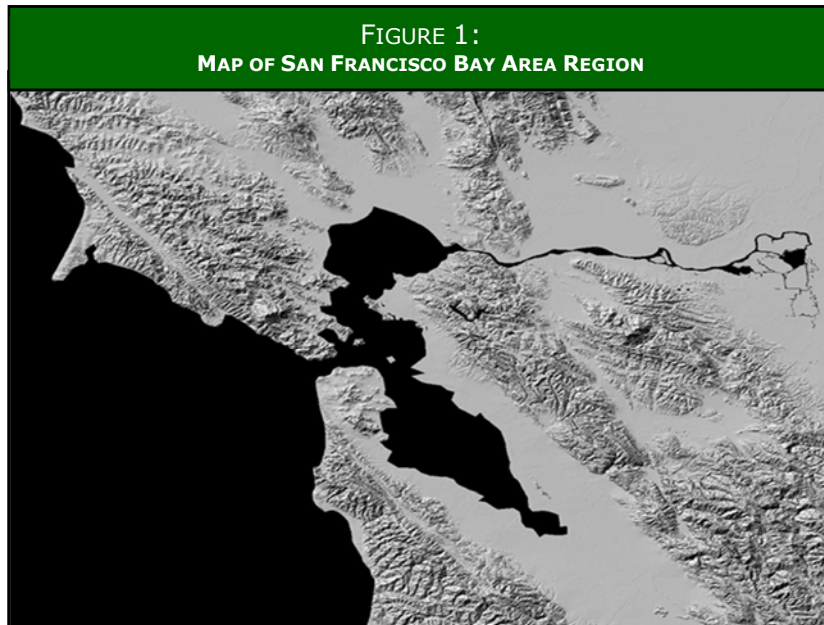
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1. INTRODUCTION

The Bay Area Air Quality Management District (“BAAQMD” or the “Air District”) seeks to adopt Regulation 12, Rule 15 (“Petroleum Refining Emissions Tracking” or “Regulation 12-15”). The purpose of Regulation 12-15 is to track air emissions and crude oil quality characteristics from petroleum refineries over time, and to establish monitoring systems to provide detailed air quality data along refinery boundaries. After this introduction, this report discusses in greater detail the elements of Regulation 12-15 with cost impacts to Bay Area refineries (Section Two). A complete discussion of all of the elements of this rule is included in the Final Staff Report. After the discussion of cost impacts, the report describes the socioeconomic impact analysis methodology and data sources (Section Three). The report describes population and economic trends in the nine-county San Francisco Bay Area (Section Four), which serves as a backdrop against which the Air District is contemplating adopting Regulation 12-15. Finally, the socioeconomic impacts stemming from the proposed regulation are discussed in Section Five.

The report is prepared pursuant to Section 40728.5 of the California Health and Safety Code, which requires an assessment of socioeconomic impacts of proposed air quality rules. The findings in this report can assist Air District staff in understanding the socioeconomic impacts of the proposed requirements, and can assist staff in preparing a refined version of the rule. Figure 1 is a map of the nine-county region that comprises the San Francisco Bay Area Air Basin.



2. BACKGROUND OF BAAQMD'S RULE 12-15

In general, the Air District regulates stationary sources of air pollution, which includes certain petroleum refineries that would be subject to proposed Regulation 12, Rule 15 ("Regulation 12-15"). Bay Area refineries are currently subject to over 20 separate air quality rules, many of which focus on specific equipment in place at refineries, as well as different kinds of pollutants emitted by refineries.

In an effort to further improve air quality, the Air District seeks to adopt Regulation 12, Rule 15. The purpose of Regulation 12-15 is to track air emissions and crude oil quality characteristics from petroleum refineries over time, and to establish monitoring systems to provide detailed air quality data along refinery boundaries. The rule covers three classes of regulated air pollutants, including "criteria pollutants", "toxic air contaminants" (TACs), and greenhouse gases (GHGs).¹

The Air District proposed Regulation 12-15 because of the possibility of changes to "crude oil slates" at the five petroleum refineries in the Bay Area, which could result in increases in emissions of criteria pollutants, TACs and GHGs. Crude oil slate refers to the characteristics of crude oil and other feedstocks processed at a refinery, including some composition elements and some physical characteristic elements.

Proposed Regulation 12, Rule 15 includes the following steps that will result in costs to the affected petroleum refineries:

- Submit consistent, **enhanced periodic emissions inventory information**, including information about cargo carriers;
- Make available **historic and periodic crude slate information, including volumes and composition data**, for imported pre-processed feedstocks as well as for crude oil;
- Install and operate new **air monitoring facilities at refinery fence lines**; and

The analysis of the socioeconomic impacts of new Regulation 12-15 in Section Five is based on the costs in Table 1. The basis for these costs is provided after the table.

¹Criteria pollutants are air pollutants for which there are ambient air quality standards that set levels of concentrations of pollutants designed to be protective of public health. Examples of criteria pollutants include ozone and particulate matter in the air. TACs refer to up to 200 air pollutant compounds that may have health impacts in terms of exposure though there are not yet any air quality standards. GHG refers to air pollutant compounds that affect global warming and climate change.

Table 1 - Regulation 12, Rule 15 Costs		
Section	Requirement	Cost (per refinery)
12-15-401	Prepare and Submit Annual Petroleum Refinery Emissions Inventory (beginning with year 2016 data)	\$90,000 / year (annualized)
12-15-408.2	Prepare Monthly Crude Slate Report (beginning with year 2016 data)	
12-15-408.1	Prepare Historical Monthly Crude Slate Reports for 2012, 2013, 2014 & 2015	
12-15-403	Prepare Air Monitoring Plans (one time submittal)	\$250,000 (one-time)
12-15-501	Fenceline Air Monitoring System (construction and operation)	\$2,000,000 (one-time construction) \$50,000 / year (maintenance & operation)

12-15-401 and 408

These sections require one-time submittals, or one-time document preparations, related to the refinery inventory and crude slate, as well as ongoing reports (monthly crude slate reports and annual inventories) are assumed to constitute one-half of a full-time employee (FTE) with a resulting annualized cost of \$90,000 at each of the refineries.

12-15-403

The one-time fenceline monitoring plans are expected to be prepared by an environmental consulting firm at a cost of no more than \$250,000 at each of the refineries. Air District staff is familiar with the required elements of this type of document and the resources required to complete them.

12-15-501

The Air Monitoring Guidelines prepared as a companion document to Rule 12-15 suggest that 2 permanent fenceline monitors (upwind and downwind of the refinery) will be required. District staff estimates that monitors will cost up to \$1,000,000 each to install. Therefore, total capital cost, including site development, infrastructure development (electricity and communications) and construction is not expected to exceed \$2,000,000 per refinery. Assuming \$25,000 per year for maintenance and operation at each monitor, and 2 monitors per refinery, the total annual cost is not expected to exceed \$50,000 per year per refinery. Air District staff have designed, constructed and operated similar monitoring facilities and are familiar with these costs.

All costs are summarized in Table 6 of Section 5, with costs shown above as occurring one-time converted to annualized costs by applying a capital recovery factor of 0.14 to the one-time cost, as discussed in Table 6.

3. METHODOLOGY

Applied Development Economics (ADE) began this analysis by preparing a statistical description of the industry groups of which the affected sources are a part, analyzing data on the number of establishments, jobs, and payroll. We also estimated sales generated by impacted industries, as well as net profits for each affected industry.

This report relies heavily on the most current data available from a variety of sources, particularly the State of California's Employment Development Department (EDD) Labor Market Information Division. In addition, this report relies on data from the State of California's Energy Commission (CEC), particularly with respect to measuring throughput capacity of the five refineries subject to these new requirements. From the CEC, we also obtained information on retail and wholesale prices of gasoline and other refinery products, as well as industry-specific profitability ratios.

With the above information, ADE was able to estimate net after tax profit ratios for sources affected by the proposed new regulation. ADE calculated ratios of profit per dollar of revenue for affected industries. The result of the socioeconomic analysis shows what proportion of profits the compliance costs represent. Based on assumed thresholds of significance, ADE discusses in the report whether the affected sources are likely to reduce jobs as a means of recouping the cost of compliance or as a result of reducing business operations. To the extent that such job losses appear likely, the indirect multiplier effects of the jobs losses are estimated using a regional IMPLAN input-output model. In some instances, particularly where consumers are the ultimately end-users of goods and services provided by the affected sources, we also analyzed whether costs could be passed to households in the region.

When analyzing the socioeconomic impacts of proposed new rules and amendments, ADE attempts to work closely within the parameters of accepted methodologies discussed in a 1995 California Air Resources Board (ARB) report called "Development of a Methodology to Assess the Economic Impact Required by SB513/AB969" (by Peter Berck, PhD, UC Berkeley Department of Agricultural and Resources Economics, Contract No. 93-314, August, 1995). The author of this report reviewed a methodology to assess the impact that California Environmental Protection Agency proposed regulations would have on the ability of California businesses to compete. The ARB has incorporated the methodologies described in this report in its own assessment of socioeconomic impacts of rules generated by the ARB. One methodology relates to determining a level above or below which a rule and its associated costs is deemed to have significant impacts. When analyzing the degree to which its rules are significant or insignificant, the ARB employs a threshold of significance that ADE follows. Berck reviewed the threshold in his analysis and wrote, "The Air Resources Board's (ARB) use of a 10 percent change in [Return on Equity] ROE (i.e. a change in ROE from 10 percent to a ROE of 9 percent) as a threshold for a finding of no significant, adverse impact on either competitiveness or jobs seems reasonable or even conservative."

4. REGIONAL DEMOGRAPHIC AND ECONOMIC TRENDS

This section of the report tracks economic and demographic contexts within which the Air District is contemplating new Regulation 12-15. Table 2 tracks population growth in the nine-county San Francisco Bay Area between 2003 and 2013, including data for the year 2008. Between 2003 and 2008, the region grew by approximately 1 percent a year. Between 2008 and 2013, the region grew annually at a much slower rate of 0.1 percent per year. Overall, there are 7,420,453 people in the region. At 1,868,558, Santa Clara County has the most people, while Napa has the least, at 139,255.

**TABLE 2:
REGIONAL DEMOGRAPHIC TRENDS: 2003-2013
POPULATION GROWTH: SAN FRANCISCO BAY AREA**

	Population			Annual Percent Change		
	2003	2008	2013	03 - 08	08 - 13	03 - 13
California	36,199,342	38,292,687	38,340,074	1.1%	0.0%	0.6%
Bay Area	7,025,575	7,375,678	7,420,453	1.0%	0.1%	0.5%
Alameda County	1,495,162	1,556,657	1,573,254	0.8%	0.2%	0.5%
Contra Costa County	1,005,590	1,060,435	1,087,008	1.1%	0.5%	0.8%
Marin County	250,793	258,618	255,846	0.6%	-0.2%	0.2%
Napa County	131,228	137,571	139,255	0.9%	0.2%	0.6%
San Francisco County	795,042	845,559	836,620	1.2%	-0.2%	0.5%
San Mateo County	717,921	745,858	745,193	0.8%	0.0%	0.4%
Santa Clara County	1,739,939	1,857,621	1,868,558	1.3%	0.1%	0.7%
Solano County	416,379	426,729	424,233	0.5%	-0.1%	0.2%
Sonoma County	473,521	486,630	490,486	0.5%	0.2%	0.4%

Source: Applied Development Economics, based on total population estimates from The California Department of Finance (E-5 Report)

Data in Table 3 describe the larger economic context within which officials are contemplating new Regulation 12-15. Businesses in the region employ over three million workers, or 3,376,819. The number of private and public sector jobs in the region grew annually by 0.5 percent between 2008 and 2013, after having grown somewhat slightly also between 2003 and 2008 by 0.8 percent a year. Of the 3,376,819 workers, 422,634, or 12.5 percent, are in the public sector, meaning 87.5 percent of all employment is in the private sector. In the state, almost 15 percent of all jobs are in the public sector, with 85 percent in the private sector. Relative to the state as a whole, manufacturing, professional/technical services, and education/health service sectors comprise a greater proportion of the regional employment base. In the region, these sectors comprise 9 percent (manufacturing), 11 percent (professional/technical services), and 15 percent (private education/health services) respectively of total employment. In the state, these sectors comprise 8 percent (manufacturing), 7

percent (professional/technical services), and 14.6 percent (private education/health services) of the statewide job base. In other words, as a percent of total workforce, the region employs more people in sectors with occupations that presumptively require more skills and are higher-paying. Conversely, typically lower-paying sectors such as agriculture and retail represent a higher share of the overall statewide employment base relative to the Bay Area. In the state, 2.7 percent of all jobs are in agriculture, whereas in the region, the figure is 0.4 percent. Almost 10.5 percent of all jobs in the state are in retail, while in the region, 9.8 percent of all jobs are in retail.

**TABLE 3
SAN FRANCISCO BAY AREA EMPLOYMENT TRENDS BY SECTOR: 2003-2013**

	Private and Public Sector Employment Trends			Employment Distribution		Ann. Percentage Chg: Bay Area	
	2003	2008	2013	Bay Area '13	State '13	03-08	08-13
Private and Public Sectors	3,158,570	3,285,661	3,376,819			0.8%	0.5%
Private Sector Only	2,713,025	2,837,090	2,954,185	87.5%	85.2%	0.9%	0.8%
11 Agriculture, Forestry, Fishing & Hunting	17,710	18,726	13,315	0.4%	2.7%	1.1%	-6.6%
21 Mining	1,744	982	1,876	0.1%	0.2%	-10.9%	13.8%
22 Utilities	4,639	5,497	5,591	0.2%	0.4%	3.5%	0.3%
23 Construction	177,987	178,171	151,847	4.5%	4.1%	0.0%	-3.1%
31-33 Manufacturing	361,948	343,551	308,961	9.1%	8.1%	-1.0%	-2.1%
42 Wholesale Trade	123,213	116,685	121,274	3.6%	4.5%	-1.1%	0.8%
44-45 Retail Trade	335,893	333,952	329,247	9.8%	10.4%	-0.1%	-0.3%
48-49 Transportation and Warehousing	51,995	54,050	68,846	2.0%	2.8%	0.8%	5.0%
51 Information	117,546	114,889	136,214	4.0%	2.9%	-0.5%	3.5%
52 Finance and Insurance	150,174	136,632	118,304	3.5%	3.4%	-1.9%	-2.8%
53 Real Estate and Rental and Leasing	61,693	58,089	55,222	1.6%	1.7%	-1.2%	-1.0%
54 Professional and Technical Services	277,412	344,560	378,755	11.2%	7.4%	4.4%	1.9%
55 Management of Companies and Enterprises	67,779	60,845	69,367	2.1%	1.4%	-2.1%	2.7%
56 Administrative and Waste Services	177,198	185,013	192,231	5.7%	6.4%	0.9%	0.8%
61 Educational Services	63,905	76,185	88,322	2.6%	2.0%	3.6%	3.0%
62 Health Care and Social Assistance	283,259	305,784	417,312	12.4%	12.6%	1.5%	6.4%
71 Arts, Entertainment, and Recreation	48,740	51,438	57,255	1.7%	1.7%	1.1%	2.2%
72 Accommodation and Food Services	252,693	283,578	314,978	9.3%	9.1%	2.3%	2.1%
81 Other Services, Ex. Public Admin	137,155	156,925	114,764	3.4%	3.1%	2.7%	-6.1%
99 UNCLASSIFIED ESTABLISHMENTS	342	11,538	10,504	0.3%	0.4%	102.1%	-1.9%
Public Sector Only (Federal, State and Local)	445,545	448,571	422,634	12.5%	14.8%	0.1%	-1.2%
Public Sector (excluding public educ.)	299,104	302,052	281,196	8.3%	8.2%	0.2%	-1.4%
6111 Public Education: Elementary and Secondary	112,275	105,053	104,467	3.1%	4.7%	-1.3%	-0.1%
6112 Public Education: Junior College	9,850	16,629	11,910	0.4%	0.6%	11.0%	-6.5%
6113 Public Education: Colleges and Universities	24,316	24,837	25,024	0.7%	1.2%	0.4%	0.2%
611z Public Education: Other			37	0.0%	0.0%		

Source: Applied Development Economics, based on California EDD LMID

Table 3 also shows the precipitous decline in employment in industries most-affected by the downturn in the economy that began in late 2007, namely housing. Construction employment declined by 3.1 percent per year between 2008 and 2013, with finance and insurance dropping by 2.8 percent per year, and real estate dropping by 1.0 percent. On a positive note, employment in health care increased annually by 6.4 percent annually between 2008 and 2013, and transportation-warehousing increased annually by five percent.

Proposed Regulation 12-15 affects one particular industry in the Bay Area, namely refineries. While the California EDD LMID reports that there are 23 refineries in the nine-county region, more than likely, this state agency applied a broader definition for refinery operations in the region. Appendix A identifies a number of “refineries” included in the EDD LMID’s database; as this shows, many are not full scale refineries but rather are engaged in a variety of petroleum-related operations. Nonetheless, Table 4 shows refinery trends *per* the EDD-LMID. What is striking about Table 4 is the high average pay workers garner in this industry.

TABLE 4: SF BAY AREA EDD-LMID REFINERY TRENDS, 1999-2009					
	2003	2008	2013	03-08 CAGR	08-13 CAGR
Establishments	35	23	23	-8.05%	0.00%
Employment	6,738	7,816	5,323	3.01%	-7.39%
Payroll	\$768,112,469	\$1,326,728,738	\$986,117,494	11.55%	-5.76%
Average Pay	\$114,006	\$169,756	\$185,250	8.29%	1.76%

Source: Applied Development Economics, Inc., based on California EDD LMID

Table 5 identifies the businesses in the Bay Area that are full-scale refineries. The list comes from the CEC, which also included each refinery’s throughput capacity. Of the five operating refineries in the region, Chevron is the largest, with the capacity to refine 245,271 42-gallon barrels of crude oil per day. At 78,400, Phillips 66 has the lowest throughput capacity.

TABLE 5 BAY AREA REFINERIES (CALIFORNIA ENERGY COMMISSION) AND CRUDE OIL CAPACITY	
Refinery	Barrels Per Day
Chevron U.S.A. Inc., Richmond Refinery	245,271
Tesoro Refining & Marketing Company, Golden Eagle (Avon/Rodeo) Refinery	166,000
Shell Oil Products US, Martinez Refinery	156,400
Valero Benicia Refinery	132,000
Phillips 66, Rodeo San Francisco Refinery	78,400

Source: Applied Development Economics, Inc., based on California Energy Commission

5. SOCIOECONOMIC IMPACT ANALYSIS

This section of the report analyzes socioeconomic impacts stemming from new Regulation 12-15. If the proposed new regulation is adopted, the District estimates that the five impacted refineries would each incur total annualized costs of \$455,000 for ten years, the period over which costs associated with capital equipment and one-time air monitoring plans would be amortized. After the amortization period, ongoing costs of \$140,000 per year per refinery would continue for additional inventories, reports and operation and maintenance of air monitoring systems.

The five affected sources' combined throughput capacity is approximately 674,582 42-gallon barrels per day, which takes into consideration periods when refineries may be off-line. While the affected sources refine 674,582 barrels of crude oil per day, they generate an estimated 693,044 gallons of refined products a day. Assuming a 87 percent utilization rate, and further estimating the price of refined product at \$120 per barrel², we estimate the affected refineries generate \$30.3 billion in revenues a year, from which is generated \$2.1 billion in after-tax net profits. When comparing these figures with the annualized costs stemming from the proposed new regulation, we obtain cost-to-net profit ratio ranging from 0.2 percent to 0.5 percent. **As a result, impacts are less than significant.** Moreover, because this establishment is not a small business, small businesses are not disproportionately impacted by the proposed regulation.

² \$119.80 per barrel of gasoline =
 $((436,600 * \$124.26)_{\text{GASOLINE}} + (124,748 * \$112.35)_{\text{JET FUEL}} + (131,748 * \$112.35)_{\text{KEROSENE, OTHERS}}) / (693,044)_{\text{TOTAT REFINED PRODUCTS}}$

TABLE 6
SOCIOECONOMIC IMPACT ANALYSIS: PROPOSED NEW REGULATION 12, RULE 15

	All Sources	Chevron	Tesoro	Shell	Valero	Phillips 66
Effective Barrels of Crude Per Day	674,582	212,648	143,921	135,598	114,443	67,972
Estimated Revenues	\$30.3 billion	\$9.6 billion	\$6.5 billion	\$6.1 billion	\$5.1 billion	\$3.1 billion
Estimated Net Profits	\$2.1 billion	\$653 million	\$442 million	\$416 million	\$351 million	\$208 million
Annual Costs for Regulation 12-15 with one-time costs annualized by applying a capital recovery factor (CRF) factor of 0.14. This CRF is derived using BAAQMD's cost-effectiveness methodology in the BACT-TBACT Workbook and assuming an interest rate of 6% and "project horizon" of 10 years.						
Reg 12-15-401, 408: Inventories and Crude Reports (Initial & Annual - annualized)	\$450,000	\$90,000	\$90,000	\$90,000	\$90,000	\$90,000
Reg 12-15-403: Fenceline Air Monitoring Plans (annualized)	\$175,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000
Reg 12-15-501: Fenceline Monitoring Construction (annualized)	\$1,400,000	\$280,000	\$280,000	\$280,000	\$280,000	\$280,000
Reg 12-15-501: Air Monitoring Operation & Maintenance (Annual - annualized)	\$250,000	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
Total Annualized Costs	\$2,275,000	\$455,000	\$455,000	\$455,000	\$455,000	\$455,000
Cost to Net Profits	0.11%	0.07%	0.10%	0.11%	0.13%	0.22%
Significant?	No, in all cases	No, in all cases	No, in all cases	No, in all cases	No, in all cases	No, in all cases

6. APPENDIX A: LIST OF EDD-LMID BAY AREA "REFINERIES"

County	Name of Establishments	City	Number of Workers
Alameda	DASSEL'S PETROLEUM INC	FREMONT	1-4 employees
Alameda	RCA OIL RECOVERY	NEWARK	1-4 employees
Contra Costa	BAY AREA DIABLO PETROLEUM CO	CONCORD	1-4 employees
Contra Costa	CHEVRON CORP	RICHMOND	1-4 employees
Contra Costa	CHEVRON CORP	PACHECO	20-49 employees
Contra Costa	CHEVRON CORPORATION	SAN RAMON	5,000-9,999
Contra Costa	PHILLIPS 66 RODEO REFINERY	RODEO	500-999 employees
Contra Costa	GENERAL PETROLEUM	RICHMOND	10-19 employees
Contra Costa	GOLDEN GATE PETROLEUM	RICHMOND	1-4 employees
Contra Costa	GOLDEN GATE PETROLEUM	RICHMOND	1-4 employees
Contra Costa	GOLDEN GATE PETROLEUM	CONCORD	1-4 employees
Contra Costa	NU STAR	MARTINEZ	20-49 employees
Contra Costa	PITCOCK PETROLEUM INC	PLEASANT HILL	10-19 employees
Contra Costa	SHELL MARTINEZ REFINERY	MARTINEZ	500-999 employees
Contra Costa	TESORO GOLDEN EAGLE REFINERY	PACHECO	500-999 employees
Contra Costa	UOP	DANVILLE	1-4 employees
Marin	GRAND PETROLEUM	SAN RAFAEL	1-4 employees
Marin	GREENLINE INDUSTRIES LLC	LARKSPUR	20-49 employees
San Francisco	DOUBLE AA CORP	SAN FRANCISCO	1-4 employees
San Francisco	R B PETROLEUM SVC	SAN FRANCISCO	5-9 employees
San Francisco	SEAYU ENTERPRISES INC	SAN FRANCISCO	5-9 employees
San Mateo	DOUBLE AA CORP	SOUTH SAN FRANCISCO	5-9 employees
San Mateo	SABEK INC	SOUTH SAN FRANCISCO	5-9 employees
San Mateo	SEAPORT REFINING & ENVRNMNTL	REDWOOD CITY	5-9 employees
Santa Clara	COAST OIL CO LLC	SAN JOSE	20-49 employees
Santa Clara	SHELL OIL PRODUCTS US	SAN JOSE	1-4 employees
Solano	BAY AREA DIABLO PETROLEUM CO	BENICIA	1-4 employees
Solano	CAT TECH INC	DIXON	1-4 employees
Solano	DANVILLE PETROLEUM	VALLEJO	5-9 employees
Solano	GOLDEN GATE PETROLEUM	BENICIA	1-4 employees
Solano	RUBICON OIL	BENICIA	1-4 employees
Solano	TIMEC CO INC	VALLEJO	20-49 employees
Solano	VALERO BENICIA REFINERY	BENICIA	250-499 employees
Solano	VALERO REFINING CO	BENICIA	1-4 employees
Solano	VALERO REFINING CO	BENICIA	1-4 employees
Sonoma	BAY AREA DIABLO PETROLEUM CO	CLOVERDALE	1-4 employees
Sonoma	ROYAL PETROLEUM CO INC	PETALUMA	5-9 employees

Source: ADE, Inc., based on California EDD LMID "Employers By Industry" Database

Attachment 3: Comments and Responses

The Air District accepted comments on the proposed amendments to Regulation 12: Miscellaneous Standards of Performance, Rule 15: Petroleum Refining Emissions Tracking until 5:00 PM on November 22, 2019.

The Air District received the following comments during the public comment period:

Comment 1: *“The [Air Resources Board] ARB’s Final Regulation Order provides for a phase-in schedule (Section 93403(a)) for the 2019 reporting year that allows for “business as usual” reporting. ARB allows for the “local air district’s existing emissions reporting program and methods” for the 2019 reporting year. For the 2019 reporting year (submitted in 2020), BAAQMD is not required to revise the existing Regulation 12-15 Emission Inventory submittals and should not need the inventories prior to the current submittal date of June 30, 2020. Per ARB’s Final Regulation Order, ARB is not requiring any changes for the 2019 reporting year to the information BAAQMD has historically provided.*

In addition, significant changes are needed to ensure that internal and external logistical resources are in place to support the creation of the 12-15 Emissions inventory so that the refineries can meet the revised compliance date of April 15th. Given the potential Board adoption date of December 4, 2019, the proposed revisions to the rule would become final only four months prior to the proposed submission compliance deadline of April 15, 2020. This does not allow adequate time for preparation of the inventory.

WSPA requests the proposed regulation be modified to allow the 2019 inventory to be submitted by the current date (6/30/2020).”

Western States Petroleum Association (WSPA)

Response 1: The Air District had considered delaying implementation of the revised submission due date until 2021, but will instead retain implementation starting 2020 due to the following:

1. The Air District does not agree with WSPA’s interpretation of the phase-in schedule described in section 93403(a) of the Final Regulation Order of the CTR Regulation. CARB published the OAL-approved version of the CTR Regulation on November 22, 2019. This version makes explicit that subject facilities are required to submit the calendar year 2019 AEI on May 1, 2020. The “business as usual” element of the Final Regulation Order refers to the data to be submitted, not the submission due date. This item was clarified by phone conversation with CARB. Therefore, subject facilities are, at minimum, required to submit the calendar year 2019 AEI to the Air District by May 1, 2020. Subsequently, the Air District must review and submit the AEI to CARB by August 1, 2020. While the Air District has three years’ experience with AEI submissions, the proposed amendments to Rule 12-15 shorten the review-and-response periods from what is currently in effect. To ensure that the August 1 submission deadline can be met in subsequent years, the Air District desires to trial the timeline provided in the proposed amendments using the calendar year 2019 AEI.

2. In June 2019, the Air District issued a “Request for Comments” on draft amendments to Rule 12-15. At that time, the draft amendments specified a submission due date for the AEIs of January 15 of each year, with the calendar year 2019 AEI due January 15, 2020. During the public comment period for these draft amendments, WSPA advocated for the due date to be revised to May 1, 2020, consistent with the due date identified in the CTR Regulation.

After receipt of their comments, the Air District subsequently met with WSPA representatives and discussed the merit of the proposed submission due date. During these discussions, delay of implementation of this rule to 2021 was not identified. Instead, the Air District and WSPA deliberated on means to accomplish the necessary preparation (facility) and review (Air District) for this submittal in order to meet the August 1 submission deadline to CARB. The Air District agreed to revise the due date from the originally-proposed January 15 date to later in the year provided that the subject facilities would adequately coordinate with the Air District during the report preparation process.

Throughout development of amendments to Rule 12-15, the Air District intended on implementing the revised due date starting with the calendar year 2019 AEI. This was readily identified in the original version of proposed amendments to Rule 12-15 and communicated during in-person stakeholder discussions. Therefore, the Air District considers that subject facilities were properly apprised of the likelihood that the 2019 AEI could be required earlier in the year than June 30. That the suggestion to delay the change in submission date by a year is being made only in formal comments at the end of the rule development process suggests that any difficulties in making the transition to the earlier submission date in 2020 should be surmountable.

3. Rule 12-15 was adopted by the Air District in 2016 and therefore facilities subject to its reporting requirements have so far submitted Annual Emissions Inventories (AEIs) for calendar years 2016, 2017, and 2018. Therefore, there is established familiarity with the requirements of the submittal and the procedures required to adequately prepare the report. While the Air District recognizes difficulty in accelerating the timeline for this report, it is expected that the resource strain necessary to do so is not excessive as to prohibit successful and timely submission.
4. The Air District is aware of the challenges associated with annual preparation of the AEI and has historically accommodated unintended deficiencies with submitted reports. While the Air District expects the submissions to be completed in good faith, supplemented with the best available data, and submitted with as much substantiating documentation as practical, the review-and-response period outlined in Rule 12-15 allows for post-submission revision, as necessary, of the provided data. The Air District will accept the calendar year 2019 AEI submission on April 15, 2020 with the understanding that, where reasonable, some unintended errors may be present.

Comment 2: *“The August 15th deadline can fall on a weekend depending on the calendar year, and as such the due date for the Third-Party Verified Greenhouse Gas Emissions Inventory should be five days from the due date that these emissions are due to CARB. In the*

past CARB has recognized this issue and moved the due date for the Third-Party Verified Greenhouse Gas emissions report when the date fell on a weekend.”

Western States Petroleum Association (WSPA)

Response 2: The Third-Party Verified Greenhouse Gas Emissions Inventory required by August 15th is, by definition, identical to the report required by CARB. If the due date to CARB falls on a weekend, the minimum expected period between the CARB-revised due date and August 15th is three days. Similarly, if August 15th falls on a weekend, August 10th must fall on a weekday and therefore the minimum expected period between August 10th and the last business day before August 15th is also three days. The Air District considers three days' time sufficient to provide an identical copy of an already-prepared report to the Air District and will therefore retain the August 15th due date.

END OF COMMENTS

AGENDA 14G - ATTACHMENT

California Environmental Quality Act

NOTICE OF EXEMPTION

TO: **FROM: Bay Area Air Quality Management District**
375 Beale Street, Suite 600
San Francisco, CA 94105

Lead Agency: Bay Area Air Quality Management District
Contact: Mark H. Gage Phone: (415) 749-8705

SUBJECT: FILING OF NOTICE OF EXEMPTION PURSUANT TO SECTION 21152 OF THE PUBLIC RESOURCES CODE AND CEQA GUIDELINES SECTION 15061(b)(3)

Project Title: Amendments to Regulation 12: Miscellaneous Standards of Performance, Rule 15: Petroleum Refining Emissions Tracking

Project Location: The regulation affects facilities located in Contra Costa and Solano counties.

Project Description: This project consists of amendments to an existing BAAQMD regulation that obligates petroleum refineries and their support facilities to submit emissions information, on an annual basis, to the District. The amendments revise the due date of annual emissions reports to coordinate with state-level reporting regulations.

On December 4, 2019, the Board of Directors of the Bay Area Air Quality Management District conducted a public hearing in accordance with California Health and Safety Code Section 41512.5 and approved the project described above and determined that the project was exempt from CEQA.

Finding of Exemption: This project is found to be exempt pursuant to CEQA Guidelines Section 15061, subd. (b)(3).

Basis for Exemption: The regulatory amendments which constitute this project modify reporting deadlines for emissions reports due to the District. The amendments are administrative in nature, do not affect air emissions from any sources, and have no possibility of causing significant environmental effects. As such, they fall within the Guidelines exemptions cited above.

Date Received for Filing

Pamela Leong
Director of Engineering
Bay Area Air Quality Management District

Date

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Katie Rice and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 26, 2019

Re: Climate Protection Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In 2015, 196 nations signed the Paris Climate Agreement, making commitments to limit greenhouse gas (GHG) emissions to levels that would contain global warming to 1.5 – 2°C over pre-industrial levels. The Agreement calls on countries to work to achieve a leveling-off of global GHG emissions as soon as possible and to become carbon neutral no later than the second half of this century. Despite these commitments, recent studies by the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP) find that worldwide greenhouse gas emissions levels continue to rise.

In its annual Statement on the State of the Global Climate, the WMO asserts that levels of carbon dioxide concentrations continued to increase in 2018, with 2018 the fourth warmest year on record, after 2015, 2016 and 2017. In similar news, UNEP's 2019 Emission Gap Report finds that GHG emissions have risen at a rate of 1.5 per cent per year in the last decade. The Gap Report concludes that there is no sign of GHG emissions peaking in the next few years, and that every year of postponed peaking means that deeper and faster cuts in emissions will be required.

DISCUSSION

In the face of these challenging findings, the Bay Area and California continue to provide national leadership on the issue of climate change. According to the California Air Resources Board (CARB), California is on track to meet the 2020 GHG reduction target laid out in the Global Warming Solutions Act of 2006 (Assembly Bill 32) of reducing statewide emissions to 1990 levels by 2020. This is in large part due to regulatory activity that has taken place at the state level – through the Renewables Portfolio Standard for electricity, the Low Carbon Fuel Standard, the Clean Car Standards and the Cap and Trade program.

As focus turns to achieving the longer-term GHG reduction target under Senate Bill 32 – reducing emissions 40% below 1990 levels by 2030 – the role of local governments and regional air agencies becomes more important. Achieving deep emission reductions in the transportation sector, the building stock, waste management, highly potent GHGs and through land use changes will require policy adoption, behavior changes and technological advances best affected at the local and regional levels. Staff will provide an overview of key climate activities of the Air District moving into 2020.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Abby Young
Reviewed by: Henry Hilken