



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
BUDGET AND FINANCE COMMITTEE MEETING

COMMITTEE MEMBERS

CAROLE GROOM – CHAIR
MARGARET ABE-KOGA
CINDY CHAVEZ
DAVID HUDSON
KAREN MITCHOFF
BRAD WAGENKNECHT

JOHN BAUTERS – VICE CHAIR
DAVID CANEPA
PAULINE RUSSO CUTTER
TYRONE JUE
MARK ROSS

**THIS MEETING WILL BE CONDUCTED UNDER PROCEDURES AUTHORIZED BY
EXECUTIVE ORDER N-29-20 ISSUED BY
GOVERNOR GAVIN NEWSOM**

- **MEMBERS OF THE COMMITTEE MUST PARTICIPATE BY
TELECONFERENCE**
- **THE PUBLIC MAY PARTICIPATE AND OBSERVE THIS MEETING VIA ZOOM**

<https://zoom.us/j/96426122463>

- **PUBLIC COMMENTS WILL BE TAKEN DURING THE TELECONFERENCE.
INSTRUCTIONS WILL BE PROVIDED ON HOW TO COMMENT AT THE
START OF THE MEETING. COMMENTS MAY ALSO BE SUBMITTED AT**

Comments@baaqmd.gov

- **MEMBERS OF THE PUBLIC CAN ACCESS THE MEETING AGENDA BY
CLICKING THE LINK AVAILABLE ON THE AIR DISTRICT'S WEBPAGE
AVAILABLE AT**

www.baaqmd.gov/bodagendas

WEDNESDAY
APRIL 22, 2020
9:30 A.M.

AGENDA

1. **CALL TO ORDER - ROLL CALL**

PUBLIC MEETING PROCEDURE

The Committee Chair shall call the meeting to order and the Clerk of the Boards shall take roll of the Committee members.

***Comment on Agenda Items:** The public may comment on each item on the agenda. Email Comments for items on the agenda must be submitted to Comments@baaqmd.gov prior to the Committee taking up the particular item and indicate the agenda item to which the comment relates. Emailed comments will be considered as the agenda item is taken up by the Committee. Emailed comments containing 250 words or less will be read aloud by staff. Emailed comments exceeding 250 words may be summarized during the meeting, if feasible. Comments may also be made during the teleconference. Instructions will be provided at the start of the meeting.*

Staff/Phone (415) 749-

2. **APPROVAL OF THE MINUTES OF MARCH 25, 2020**

Clerk of the Boards/5073

The Committee will consider approving the draft minutes of the Budget and Finance Committee Meeting of March 25, 2020.

3. **THIRD QUARTER FINANCIAL REPORT – FISCAL YEAR ENDING (FYE) 2020**

J. McKay/4629

jmckay@baaqmd.gov

The Committee will receive an update on the Air District's financial results for the third quarter of the Fiscal Year Ending (FYE) 2020.

4. **PROPOSED AMENDMENTS TO AIR DISTRICT REGULATION 3: FEES**

J. McKay/4629

jmckay@baaqmd.gov

The Committee will consider recommending proposed amendments to Air District Regulation 3: Fees.

5. **CONTINUED DISCUSSION OF PROPOSED BUDGET FOR FISCAL YEAR ENDING (FYE) 2021 AND CONSIDERATION TO RECOMMEND ADOPTION**

J. McKay/4629

jmckay@baaqmd.gov

The Committee will consider the Air District's proposed budget for Fiscal Year Ending (FYE) 2021.

6. **PUBLIC COMMENT ON NON-AGENDA MATTERS**

Emailed comments indicating the comment pertains to non-agenda matters will be considered under this item. Emailed comments containing 250 words or less will be read aloud by staff. Emailed comments exceeding 250 words may be summarized during the meeting, if feasible. Comments may also be made during the teleconference. Instructions will be provided at the start of the meeting.

7. **COMMITTEE MEMBER COMMENTS / OTHER BUSINESS**

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)

8. **TIME AND PLACE OF NEXT MEETING**

Wednesday, June 24, 2020, at 9:30 a.m. via webcast, pursuant to procedures authorized by Executive Order N-29-20 issued by Governor Gavin Newsom.

9. **ADJOURNMENT**

The Committee meeting shall be adjourned by the Committee 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

- 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

APRIL 2020

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Budget & Finance Committee	Wednesday	22	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Legislative Committee	Wednesday	22	10:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Stationary Source Committee	Wednesday	22	12:00 p.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Mobile Source Committee	Wednesday	22	2:00 p.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Climate Protection Committee	Wednesday	22	3:00 p.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Mobile Source Committee - CANCELLED & RESCHEDULED TO WEDNESDAY, APRIL 22, 2020 AT 2:00 P.M.	Thursday	23	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20

MAY 2020

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Special Meeting Budget Hearing	Wednesday	6	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Special Meeting	Wednesday	6	10:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Community & Public Health Committee – CANCELLED & RESCHEDULED TO WEDNESDAY, MAY 27, 2020 AT 12:30 P.M.	Thursday	7	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Technology Implementation Office (TIO) Steering Committee	Friday	15	1:00 p.m.	Webcast only pursuant to Executive Order N-29-20

MAY 2020

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Budget & Finance Committee - CANCELLED	Wednesday	27	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Legislative Committee	Wednesday	27	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Mobile Source Committee	Wednesday	27	11:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Community & Public Health Committee	Wednesday	27	12:30 p.m.	Webcast only pursuant to Executive Order N-29-20

MV – 4/17/2020 – 11:16 AM

G/Board/Executive Office/Moncal

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: April 17, 2020

Re: Approval of the Minutes of March 25, 2020

RECOMMENDED ACTION

Approve the attached draft minutes of the Budget and Finance Committee (Committee) meeting of March 25, 2020.

DISCUSSION

Attached for your review and approval are the draft minutes of the Committee meeting of March 25, 2020.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson

Attachment 2A: Draft Minutes of the Committee Meeting of March 25, 2020

AGENDA: 2A – ATTACHMENT

Draft Minutes – Budget and Finance Committee Meeting of March 25, 2020

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

DRAFT MINUTES

Summary of Board of Directors
Budget and Finance Committee Meeting
Wednesday, March 25, 2020

This meeting was conducted under procedures authorized by executive order N-29-20 issued by Governor Gavin Newsom. Members of the committee participated by teleconference.

1. CALL TO ORDER – ROLL CALL

Budget and Finance Committee (Committee) Chairperson, Carole Groom, called the meeting to order at 1:37 p.m.

Present: Committee Chairperson Carole Groom; Vice Chair John Bauters; and Directors Margaret Abe-Koga, David Canepa, Cindy Chavez, Pauline Russo Cutter, David Hudson, Karen Mitchoff, Mark Ross, and Brad Wagenknecht.

Absent: Director Tyrone Jue.

Also Present: Board Chairperson Rod Sinks.

2. APPROVAL OF THE MINUTES OF FEBRUARY 26, 2020

Public Comments

No requests received.

Committee Comments

None.

Committee Action

Vice Chair Bauters made a motion, seconded by Director Chavez, to **approve** the Minutes of February 26, 2020; and the motion **carried** by the following vote of the Committee:

AYES: Abe-Koga, Bauters, Chavez, Cutter, Groom, Hudson, Mitchoff, Ross, Sinks.
NOES: None.
ABSTAIN: None.
ABSENT: Canepa, Jue, Wagenknecht.

3. PROPOSED GUIDING PRINCIPLES FOR AMENDMENTS TO AIR DISTRICT REGULATION 3: FEES (OUT OF ORDER, ITEM 4)

Dr. Jeff McKay, Chief Financial Officer, gave the staff presentation *Proposed Guiding Principles for Amendments to Air District Regulation 3: Fees*, including: outline; revenue sources; trends in annual costs and cost recovery; proposed guiding principles for fees and their implications; new fees recommended for postponement; Criteria Pollutant And Toxic Emissions Reporting (CTR) Regulation fee (draft proposal); Assembly Bill (AB) 617 Community Health Impact fee (draft proposal); and rule development schedule.

NOTED PRESENT: Director Canepa was noted present at 1:45 p.m.

Public Comments

Public comments, received via electronic mail, and read aloud by Vanessa Johnson, Manager of Executive Operations, were submitted by: Bill Whitney, Contra Costa Building and Construction Trades Council; Frances Keeler, California Council for Environmental and Economic Balance; and Bob Brown, Western States Petroleum Association.

Committee Comments

The Committee and staff discussed guiding principles developed by Air District staff to reduce the impact of originally contemplated fee increases, which will have been incorporated into the Proposed Budget by the Committee’s April 2020 meeting; an anticipated decrease in revenue, due to projected decreased economic activity; whether the Air District will make accommodations for late payments from businesses that will be financially impacted by the restricted economic activity, due to the COVID-19 outbreak; the acknowledgement that some Air District fee schedules apply to businesses that will remain fully-operational, and the request for status updates on major stationary pollution sources in the Bay Area; the request that the Committee receives quarterly status reports on the CTR Regulation and AB 617 Community Health Impact fees that were introduced in the staff presentation; and speculation regarding how CalPERS may react to the projected decrease in economic activity.

Committee Action

None; receive and file.

NOTED PRESENT: Director Wagenknecht was noted present at 1:57 p.m.

4. DISCUSSION OF PROPOSED BUDGET FOR FISCAL YEAR ENDING (FYE) 2021 (OUT OF ORDER, ITEM 3)

Dr. McKay gave the staff presentation *Discussion of Proposed Budget for Fiscal Year Ending 2021*, including: outline; comparison of possible offsets; current FYE 2020 projections; financial history: actions taken during downturn; actual reserves and policy; General Fund expenditure trends; staffing trend-filled positions; medical retirement Other Post-Employment Benefits (OPEB); California Public Employees' Retirement System (CalPERS) pension: historical Rate of Return and Funding Ratio; FYE 2021 Proposed Budget overview; General Fund revenue sources and expenditures; capital budget; cost recovery trend; fees and cost recovery overview; General Fund reserves; retirement liabilities; medical retirement plan; CalPERS pension plan; FYE 2021 Proposed Budget summary; and next steps.

Public Comments

No requests received.

Committee Comments

The Committee and staff discussed the suggestion of being intentionally conservative with Air District reserves; how soon the severity of COVID-19 and its economic impacts to the Air District will be made known; whether the Air District will make accommodations for late payments from businesses that will be financially impacted by the restricted economic activity, due to the COVID-19 outbreak; whether the cost of any of the Air District's activities are eligible for Federal Emergency Management Agency funding; whether other public agencies have requested specific assistance from the Air District; whether the Air District's Reserves Policy of 20% of the General Fund Budget has ever been violated during previous recessions, and how amendments to this policy could be achieved; whether Air District staffing configurations can be considered to minimize the need for grant-funded staff positions; the request for the number of Air District employees who are currently working remotely (whose jobs do not require work-related travel) in observance of shelter-in-place mandates; whether to keep the Air District's \$2 million-dollar pension liability policy (discretionary investment) in the bank or invest it; what will the Air District's expected increase in property tax revenue for the Proposed Budget over the current fiscal year will be if the Air District does not increase permit fee rates, nor impose new fees, and how often the Air District receives property tax revenue; what the Air District's economist is analyzing and reviewing to prepare for the anticipated economic impacts; and the suggestion that the Committee refrains from making any hasty decisions until it has more information.

Committee Action

None; receive and file.

5. PUBLIC COMMENT ON NON-AGENDA MATTERS

No requests received.

6. COMMITTEE MEMBER COMMENTS / OTHER BUSINESS

None.

7. TIME AND PLACE OF NEXT MEETING

Wednesday, April 22, 2020, Bay Area Air Quality Management District Office, 375 Beale Street, San Francisco, CA 94105 at 9:30 a.m.

8. ADJOURNMENT

The meeting adjourned at 2:51 p.m.

Marcy Hirtzka
Clerk of the Boards

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: April 17, 2020

Re: Third 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 third quarter of 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	3rd QTR FYE 2019	3rd QTR FYE 2020	FYE 2020 - % of BUDGETED REVENUE
County Receipts	\$20,662,803	\$20,985,336	58%
Permit Fee Receipts	\$39,648,072	\$39,252,266	101%
Title V Permit Fees	\$6,170,877	\$5,771,882	96%
Asbestos Fees	\$3,261,343	\$3,598,133	111%
Toxic Inventory Fees	\$234,853	\$652,054	1003%
Penalties and Settlements	\$1,549,316	\$1,047,451	38%
Interest Income	\$1,137,305	\$1,072,889	110%
Misc. Revenue	\$291,405	\$291,743	292%
Total Revenue	\$72,955,973	\$72,671,753	82%

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

EXPENDITURE TYPE	3rd QTR FYE 2019	3rd QTR FYE 2020	FYE 2020 - % of BUDGETED EXPENDITURES
Personnel - Salaries*	\$30,429,451	\$33,080,618	67%
Personnel - Fringe Benefits*	\$15,137,976	\$17,283,538	82%
Operational Services / Supplies	\$14,491,634	\$23,720,755	87%
Capital Outlay	\$16,389,526	\$4,741,689	50%
Total Expenditures	\$76,448,587	\$78,826,599	74%

* Consolidated (includes Special Funds)

CASH INVESTMENTS IN COUNTY TREASURY – Account Balances as of 3rd Quarter

CASH/INVESTMENTS	3rd QTR FYE 2019	3rd QTR FYE 2020
General Fund	\$76,168,239	\$83,962,321
TFCA	\$102,067,763	\$114,830,852
MSIF	\$44,406,270	\$45,867,843
Carl Moyer	\$42,880,496	\$69,142,488
CA Goods Movement	\$15,148,526	\$20,813,933
AQ Projects	\$1,095,158	\$3,152,886
Vehicles Mitigation		\$2,536,765
Total	\$281,766,453	\$340,307,088

FUND BALANCES	6/30/2018	6/30/2019	6/30/2020
	Audited	Audited	Projected
DESIGNATED:*			
Building Improvement			\$4,000,000
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
Worker's Comp Self-Funding	\$1,000,000		
Total Designated Reserves	\$27,701,411	\$23,084,769	\$28,082,966
Undesignated Fund Balance	\$18,101,141	\$22,332,894	\$17,334,697
TOTAL DESIGNATED & UNDESIGNATED	\$45,802,552	\$45,417,663	\$45,417,663
Building Proceeds			
	\$4,668,200	\$209,489	\$209,489
TOTAL FUND BALANCE	\$50,470,752	\$45,627,152	\$45,627,152
* 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			27,130,400
TOTAL OUTSTANDING LIABILITIES			\$132,281,155

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 of the vendors receiving payments in excess of \$100,000 under contracts that have not been previously reviewed by the Board of Directors (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 third 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 - March 2020)	Explanation
1	Accountemps	\$133,626	Temporary Staffing Services
2	Acterra	\$107,500	Public Outreach & Other Services
3	Alliant Insurance Services	\$575,250	Various Business Insurance Policies
4	Bay Area Headquarters Authority	\$1,935,781	Shared Services & Common Areas
5	Benefits Coordinators Corp.	\$815,176	Life Insurance Plan & LTD Insurance
6	CA Public Employee Retirement System	\$5,542,831	Health Insurance Plan
7	CA Public Employee Retirement System	\$8,533,285	Retirement Benefits & 457 Supplemental Plan
8	CAPCOA	\$622,027	Pass through EPA grants
9	CDW Government	\$219,160	Computer equipment
10	Ceridian	\$131,344	Payroll Processing Services
11	Comcast Cable Communications	\$123,161	Ethernet Services
12	Cubic Transportation Systems	\$421,882	Clipper Transit Subsidy
13	Enterprise Fleet Services	\$468,172	Fleet Leasing and Maintenance services
14	E-N-G Mobile System	\$104,340	Field Sampling Vehicle Customization Services
15	EPLUS Technology	\$310,126	Cisco computer network equipment warranty
16	Hartford Life Ins Co.	\$600,748	457 Supplemental Insurance
17	Office Team	\$191,188	Temporary Staffing Services
18	P & A Administrative Services	\$183,802	Flexible Spending & Cobra Benefit Services
19	Preferred Benefit Insurance AD	\$607,853	Dental Insurance Plan
20	Precott-Joseph Center	\$101,000	Sponsorship
21	Pacific Gas & Electric	\$112,415	Utility services
22	Sloan Sakai Yeung & Wong LLP	\$205,769	Human Resources Consulting Services
23	TSI Incorporated	\$107,317	Ambient Monitoring Repair Services
24	Verizon Wireless	\$147,549	Cell phone services
25	Wright Express Universal	\$127,689	Fuel for fleet

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Stephanie Osaze
Reviewed by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

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

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 17, 2020

Re: Proposed Amendments to Air District Regulation 3: Fees

RECOMMENDED ACTIONS

Recommended the Board of Directors:

- Adopt a new fee for implementation of Assembly Bill (AB) 617 on Title V Facilities; and
- Revisit imposition of additional fees later in 2020, as the economic and facility activity level picture become clearer.

BACKGROUND

Annually, Staff develops recommended amendments to the Air District's fee regulation as part of the budget preparation process. Fee amendments are based on the March 7, 2012, Board of Directors (Board) adopted Cost Recovery Policy that established a goal of increasing fee revenue sufficient to achieve a minimum of 85 percent recovery of regulatory program costs. Progress towards this target is reported to the Board annually by staff and the methodology of implementation of fees to achieve this goal is periodically reviewed by outside consultants.

DISCUSSION

Consistent with the Cost Recovery Policy, draft amendments to specific fee schedules were made in consideration of recommendations made in the 2017-18 Matrix Consultant Group cost recovery and containment analysis. This work, conducted at the fee schedule-level, recommends larger increases being proposed for the schedules that have larger cost recovery gaps.

Based on the recommendations of that study and to remain in line with direction on cost recovery (see Attachment A – BAAQMD 2020 Cost Recovery Report), staff proposed the following changes to existing fee schedules (see Attachment B - Proposed Regulation 3: Fees) to the Board on April 15, 2020:

- 3.1 percent increase for fee schedules that are recovering 95 to 110 percent of costs.
- 7 percent increase for fee schedules that are recovering 85 to 94 percent of costs.
- 8 percent increase for fee schedules that are recovering 75 to 84 percent of costs.
- 9 percent increase for fee schedules that are recovering 50 to 74 percent of costs.
- 15 percent increase for fee schedules that are recovering less than 50 percent of costs.

Additionally, a number of fees that are administrative in nature; permit application filing fees, alternative compliance plan fees, permit to operate renewal processing fees, transfer fees, emissions banking filing and withdrawal fees, school toxic inventory maximum fees, and exemption fees. Staff had initially proposed that they be increased by 3.1 percent in line with annual Consumer Price Index for Bay Area Urban Wage Earners and Clerical Workers (CPI-W) from 2019 to 2020.

The following additional amendments were also initially proposed by staff to the Board at its April 15, 2020 meeting:

- A revision to Section 3-327, Permit to Operate, Renewal Fees as follows:
 - A new fee for each facility subject to California Air Resource Board's (CARB's) Criteria Pollutant and Toxics Emissions Reporting (CTR) Regulation would be charged during permit renewal.
 - As part of Assembly Bill 617 (AB 617), CARB recently adopted the CTR Regulation for the reporting of criteria air pollutants and toxic air contaminants for stationary sources.
 - The Air District is tasked with implementing the CTR Regulation in the Bay Area and estimate costs of \$1.5 million per year.

- Staff had proposed the tiered fees below based on the number of sources at each facility, since the costs are commensurate with the number of sources at each facility. The maximum fee per facility would be capped at \$50,000 per year.

Number of Permitted Sources per Facility	\$ per Permitted Source
1 to 4	25
5 to 9	75
10 to 14	150
15 to 19	200
20 to 24	250
25 and greater	300

- A new community health impact fee would be charged during permit renewal to each permitted facility.
 - This fee would help cover the Air District’s costs associated with CARB’s AB 617 “Community Air Protection Program”.
 - Air District staff is tasked with implementing AB 617 in the Bay Area and estimate costs of \$2.4 million per year in excess of direct funding from CARB.
 - Staff had proposed a fee equal to 5.7% of the annual total permit/registration renewal fees for each facility with a maximum cap of \$70,000 per year per facility.

- Adding references to Schedule W (Petroleum Refining Emissions Tracking Fees) and Schedule X (Major Stationary Source Community Air Monitoring Fees) since fees assessed during permit renewal are typically listed in this section.

- To recover costs from administrative activities for managing Authority to Construct (A/C) permits, staff had proposed revising Section 3-330 to add a minimum A/C renewal fee, Section 3-330.1 to add a fee for requesting A/C renewal after the A/C expiration date, and Section 3-405 to add a fee for late start-up notifications of a source under an A/C within a year from the start-up date.

- Other proposed Fee Schedule changes included:
 - Revising the language in Fee Schedule N (Toxic Inventory Fees) to clarify the methodology used by the Air District to calculate the facility's weighted toxic inventory and amend the language in Fee Schedule V (Open Burning) to reflect recent Regulation 5 amendments.
 - Increasing Fee Schedule D, Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals, by 3.1%, even though the matrix cost study would have recommended an 7% increase, since this would affect many gasoline dispensing facilities, which are small businesses.
 - Increasing Fee Schedule E, Solvent Evaporating Sources, by 3.1%, even though the matrix cost study would have recommended a 9% increase, since many auto body shops are small businesses.

The staff report for the initially proposed fee options is available in Attachment 1.

Based on feedback received from the Board of Directors on April 15, 2020, and the extraordinary circumstances surrounding the current pandemic and shelter in place, staff is now proposing to suspend all fees increases until later in 2020.

At that meeting, the Board also requested that staff analyze increases in select fee schedules to ensure that essential facilities that remain in production throughout the shelter in place, continue to be subject to cost recovery. However, staff believes that the adoption of an AB617 fee with a \$100,000 per facility cap achieves this intent. Staff will deliver the results of its analysis and fee options to the Budget and Finance Committee as part of its presentation.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The recommended AB 617 fees would increase fee revenues by approximately \$1.05 million. This will backfill the \$1 million deficit in the AB 617 allocation to the Air District in the California Air Resources Board budget proposal for the upcoming fiscal year.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Barry Young
Reviewed by: Pamela Leong
Damian Breen
Jeff McKay

Attachment 4A: BAAQMD 2020 Cost Recovery Report
Attachment 4B: Proposed Regulation 3: Fees



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

2020 COST RECOVERY STUDY

Prepared by the staff of the
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA

January 2020

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Executive Summary

The 2020 Cost Recovery Study includes the latest fee-related cost and revenue data gathered for FYE 2019 (i.e., July 1, 2018 - June 30, 2019). The results of this 2020 Cost Recovery Study will be used as a tool in the preparation of the FYE 2021 budget, and for evaluating potential amendments to the Air District's Regulation 3: Fees.

The completed cost recovery analysis indicates that in FYE 2019 there continued to be a revenue shortfall, as overall direct and indirect costs of regulatory programs exceeded fee revenue (see Figure 2). For FYE 2017 to 2019, the Air District is recovering approximately 84 percent of its fee-related activity costs (see Figure 3). The overall magnitude of this cost recovery gap was determined to be approximately \$8.4 million. This cost recovery gap was filled using General Fund revenue received by the Air District from the counties' property tax revenue.

The 2020 Cost Recovery Study also addressed fee-equity issues by analyzing whether there is a revenue shortfall at the individual Fee Schedule level. It was noted that of the twenty-three Fee Schedules for which cost recovery could be analyzed, seven of the component Fee Schedules had fee revenue contributions exceeding total cost.

Background

The Air District is responsible for protecting public health and the environment by achieving and maintaining health-based national and state ambient air quality standards, and reducing public exposure to toxic air contaminants, in the nine-county Bay Area region. Fulfilling this task involves reducing air pollutant emissions from sources of regulated air pollutants and maintaining these emission reductions over time. In accordance with State law, the Air District's primary regulatory focus is on stationary sources of air pollution.

The Air District has defined units for organizational purposes (known as "Programs") to encompass activities which are either dedicated to mission-critical "direct" functions, such as permitting, rule-making, compliance assurance, sampling and testing, grant distribution, etc., or are primarily dedicated to support and administrative "indirect" functions. The Air District has also defined revenue source categories (known as "Billing Codes") for the permit fee schedules, grant revenue sources, and general support activities.

The Air District's air quality regulatory activities are primarily funded by revenue from regulatory fees, government grants and subventions, and county property taxes. Between 1955 and 1970, the Air District was funded entirely through property taxes. In 1970, the California Air Resources Board (CARB) and U.S. Environmental Protection Agency began providing grant funding to the Air District. After the passage of Proposition 13, the Air District qualified as a "special district" and became eligible for AB-8 funds, which currently make up the county revenue portion of the budget.

State law authorizes the Air District to impose a schedule of fees to generate revenue to recover the costs of activities related to implementing and enforcing air quality programs.

On a regular basis, the Air District has considered whether these fees result in the collection of a sufficient and appropriate amount of revenue in comparison to the cost of related program activities.

In 1999, a comprehensive review of the Air District's fee structure and revenue was completed by the firm KPMG Peat Marwick LLP (*Bay Area Air Quality Management District Cost Recovery Study, Final Report: Phase One – Evaluation of Fee Revenues and Activity Costs; February 16, 1999*). The Study recommended an activity-based costing model, which has been implemented. Also, as a result of that Study, the Air District implemented a time-keeping system. These changes improved the Air District's ability to track costs by program activities. The 1999 Cost Recovery Study indicated that fee revenue did not offset the full costs of program activities associated with sources subject to fees as authorized by State law. Property tax revenue (and in some years, fund balances) have been used to close this gap.

In 2004, the Air District's Board of Directors approved funding for an updated Cost Recovery Study that was conducted by the accounting/consulting firm Stonefield Josephson, Inc. (*Bay Area Air Quality Management District Cost Recovery Study, Final Report; March 30, 2005*). This Cost Recovery Study analyzed data collected during the three-year period FYE 2002 through FYE 2004. It compared the Air District's costs of program activities to the associated fee revenues and analyzed how these costs are apportioned amongst the fee-payers. The Study indicated that a significant cost recovery gap existed. The results of this 2005 report and subsequent internal cost recovery studies have been used by the Air District in its budgeting process, and to set various fee schedules.

In March 2011, another study was completed by the Matrix Consulting Group (*Cost Recovery and Containment Study, Bay Area Air Quality Management District, Final Report; March 9, 2011*). The purpose of this Cost Recovery and Containment Study was to provide the Air District with guidance and opportunities for improvement regarding its organization, operation, and cost recovery/allocation practices. A Cost Allocation Plan was developed and implemented utilizing FYE 2010 expenditures. This Study indicated that overall, the Air District continued to under-recover the costs associated with its fee-related services. In order to reduce the cost recovery gap, further fee increases were recommended for adoption over a period of time in accordance with a Cost Recovery Policy to be adopted by the Air District's Board of Directors. Also, Matrix Consulting Group reviewed and discussed the design and implementation of the new Production System which the Air District is developing in order to facilitate cost containment through increased efficiency and effectiveness.

Air District staff initiated a process to develop a Cost Recovery Policy in May 2011, and a Stakeholder Advisory Group was convened to provide input in this regard. A Cost Recovery Policy was adopted by the Air District's Board of Directors on March 7, 2012. This policy specifies that the Air District should amend its fee regulation, in conjunction with the adoption of budgets for Fiscal Year Ending (FYE) 2014 through FYE 2018, in a manner sufficient to increase overall recovery of regulatory program activity costs to 85%. The policy also indicates that amendments to specific fee schedules should continue to be made in consideration of cost recovery analyses conducted at the fee

schedule-level, with larger increases being adopted for the schedules that have the larger cost recovery gaps.

In February 2018, the Matrix Consulting Group completed an update of the 2011 cost recovery and containment study for the fiscal year that ended June 30, 2017. The primary purpose of this Study was to evaluate the indirect overhead costs associated with the Air District and the cost recovery associated with the fees charged, by the Air District. The project team evaluated the Air District's FYE 2017 Programs to assess their classification as "direct" or "indirect". In addition, they audited the time tracking data associated with each of the different fee schedules. The Study provided specific recommendations related to direct and indirect cost recovery for the Air District, as well as potential cost efficiencies.

This 2018 Cost Recovery Study incorporated the accounting methodologies developed by KPMG in 1999, Stonefield Josephson, Inc. in 2005 and Matrix Consulting Group in 2011. The Study included the latest cost and revenue data gathered for FYE 2017 (i.e., July 1, 2016 - June 30, 2017). The results of the 2018 Cost Recovery Study were used as a tool in the preparation of the budgets for FYE 2019 and FYE 2020, and for evaluating potential amendments to the Air District's Regulation 3: Fees.

Legal Authority

In the post-Prop 13 era, the State Legislature determined that the cost of programs to address air pollution should be borne by the individuals and businesses that cause air pollution through regulatory and service fees. The primary authority for recovering the cost of Air District programs and activities related to stationary sources is given in Section 42311 of the Health and Safety Code (HSC), under which the Air District is authorized to:

- Recover the costs of programs related to permitted stationary sources
- Recover the costs of programs related to area-wide and indirect sources of emissions which are regulated, but for which permits are not issued
- Recover the costs of certain hearing board proceedings
- Recover the costs related to programs that regulate toxic air contaminants

The measure of the revenue that may be recovered through stationary source fees is the full cost of all activities related to these sources, including all direct Program costs and a commensurate share of indirect Program costs. Such fees are valid so long as they do not exceed the reasonable cost of the service or regulatory program for which the fee is charged, and are apportioned amongst fee payers such that the costs allocated to each fee-payer bears a fair or reasonable relationship to its burden on, and benefits from, the regulatory system.

Air districts have restrictions in terms of the rate at which permit fees may be increased. Under HSC Section 41512.7, permit fees may not be increased by more than 15 percent on a facility in any calendar year.

Study Methodology

The methodology for determining regulatory program revenue and costs is summarized as follows:

Revenue

Revenue from all permit renewals and applications during the FYE 2019 was assigned to the appropriate Permit Fee Schedules. This is a continued improvement over prior years' process due to the more detailed data available in the New Production System.

Costs

Costs are expenditures that can be characterized as being either direct or indirect. Direct costs can be identified specifically with a particular program activity. Direct costs include wages and benefits, operating expenses, and capital expenditures used in direct support of the particular activities of the Air District (e.g., permit-related activities, grant distribution, etc.).

Indirect costs are those necessary for the general operation of the Air District as a whole. Often referred to as "overhead", these costs include accounting, finance, human resources, facility costs, information technology, executive management, etc. Indirect costs are allocated to other indirect Programs, using the reciprocal (double-step down) method, before being allocated to direct Programs.

Employee work time is tracked by the hour, or fraction thereof, using both Program and Billing Code detail. This time-keeping system allows for the capture of all costs allocatable to a revenue source on a level-of-effort basis.

Employee work time is allocated to activities within Programs by billing codes (BC1-BC99), only two of which indicate general support. One of these two general support codes (BC8) is identified with permitting activities of a general nature, not specifically related to a particular Fee Schedule.

Operating and capital expenses are charged through the year to each Program, as incurred. In cost recovery, these expenses, through the Program's Billing Code profile, are allocated on a pro-rata basis to each Program's revenue-related activity. For example, employees working in grant Programs (i.e., Smoking Vehicle, Mobile Source Incentive Fund, etc.) use specific billing codes (i.e., BC3, BC17, etc.), and all operating/capital expense charges are allocated pro-rata to those grant activities. Employees working in permit-related Programs (i.e., Air Toxics, Compliance Assurance, Source Testing, etc.) also use specific billing codes (i.e., BC8, BC21, BC29, etc.) and all operating/capital expense charges incurred by those Programs are allocated pro-rata to those Program's activity profiles as defined by the associated billing codes.

Direct costs for permit activities include personnel, operating and capital costs based on employee work time allocated to direct permit-related activities, and to general permit-related support and administrative activities (allocated on pro-rata basis). Indirect costs

for permit activities include that portion of general support personnel, operating and capital costs allocated pro-rata to permit fee revenue-related program activities.

Study Results

Figure 1 shows a summary of overall regulatory program costs and revenue for FYE 2019. Figure 2 shows the details of costs and revenue on a fee schedule basis for FYE 2019 by schedule. Figure 3 shows the details of average schedule costs and revenue for the three-year period FYE 2017 through FYE 2019 by schedule.

Discussion of Results

Figure 1 indicates that in FYE 2019 there continued to be a revenue shortfall, as the direct and indirect costs of regulatory programs exceeded fee revenue. The overall magnitude of the cost recovery gap was determined to be \$7.9 million for FYE 2019. This cost recovery gap was filled by General Fund revenue received by the Air District from the counties.

Figure 2 shows that in FYE 2019 there were revenue shortfalls for most of the twenty-three fee schedules for which cost recovery can be analyzed. For FYE 2019, the Air District is recovering approximately 86% of its fee-related activity costs. The revenue collected exceeded Program costs for seven fee schedules. These are Schedule B (Combustion of Fuels), Schedule C (Stationary Containers for the Storage of Organic Liquids), Schedule D (Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals), Schedule G-5 (Miscellaneous Sources), Schedule L (Asbestos Operations), Schedule R (Equipment Registration Fees), and Schedule X (Community Air Monitoring). The revenue collected was less than program costs for 16 fee schedules. These are Schedule A (Hearing Board), Schedule E (Solvent Evaporating Sources), Schedule F (Miscellaneous Sources), Schedule G-1 (Miscellaneous Sources), Schedule G-2 (Miscellaneous Sources), Schedule G-3 (Miscellaneous Sources), Schedule G-4 (Miscellaneous Sources), Schedule H (Semiconductor and Related Operations), Schedule I (Dry Cleaners), Schedule K (Solid Waste Disposal Sites), Schedule N (Toxic Inventory Fees), Schedule P (Major Facility Review Fees), Schedule S (Naturally Occurring Asbestos Operations), Schedule T (Greenhouse Gas Fees), Schedule V (Open Burning), and Schedule W (Refinery Emissions Tracking),.

Figure 3 shows that over a three-year period (FYE 2017 through FYE 2019) there were revenue shortfalls for most of the twenty-three fee schedules for which cost recovery can be analyzed. For this three-year period, the Air District is recovering approximately 84% of its fee-related activity costs. The revenue collected exceeded costs for five fee schedules. These are Schedule B (Combustion of Fuel), Schedule C (Stationary Containers for the Storage of Organic Liquids), Schedule G-5 (Miscellaneous Sources), Schedule L (Asbestos Operations), and Schedule X (Community Air Monitoring). The revenue collected was lower than costs for 18 fee schedules. These are Schedule A (Hearing Board), Schedule D (Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals), Schedule E (Solvent Evaporating Sources), Schedule F (Miscellaneous Sources), Schedule G-1 (Miscellaneous Sources), Schedule G-2 (Miscellaneous Sources), Schedule G-3 (Miscellaneous Sources), Schedule G-4 (Miscellaneous Sources), Schedule H (Semiconductor and Related Operations),

Schedule I (Dry Cleaners), Schedule K (Solid Waste Disposal Sites), Schedule N (Toxic Inventory Fees), Schedule P (Major Facility Review Fees), Schedule R (Equipment Registration Fees), Schedule S (Naturally Occurring Asbestos Operations), Schedule T (Greenhouse Gas Fees), Schedule V (Open Burning), and Schedule W (Refinery Emissions Tracking).

The Air District uses the three-year averages shown in Figure 3 in evaluating proposed amendments to Regulation 3, Fees at the fee schedule level because longer averaging periods are less sensitive to year-to-year variations in activity levels that occur due to economic or market variations and regulatory program changes affecting various source categories.

Conclusions

Air District staff has updated the analysis of cost recovery of its regulatory programs based on the methodology established by the accounting firms KPMG in 1999 and Stonefield Josephson, Inc. in 2005 and updated by Matrix Consulting Group in 2011 and in 2018. The analysis shows that fee revenue continues to fall short of recovering activity costs. For FYE 2017 to 2019, the Air District is recovering approximately 84% of its fee-related activity costs. The overall magnitude of this cost recovery gap was determined to be approximately \$8.4 million.

To reduce or stabilize expenditures, the Air District has implemented various types of cost containment strategies, including developing an online permitting system for high-volume source categories, maintaining unfilled positions when feasible, and reducing service and supply budgets. In order to reduce the cost recovery gap, further fee increases will need to be evaluated in accordance with the Cost Recovery Policy adopted by the Air District's Board of Directors.



BAY AREA
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2020 Cost Recovery Study

FIGURES

Figure 1: Total Permit Fee Revenue, Costs and Gap for FYE 2019

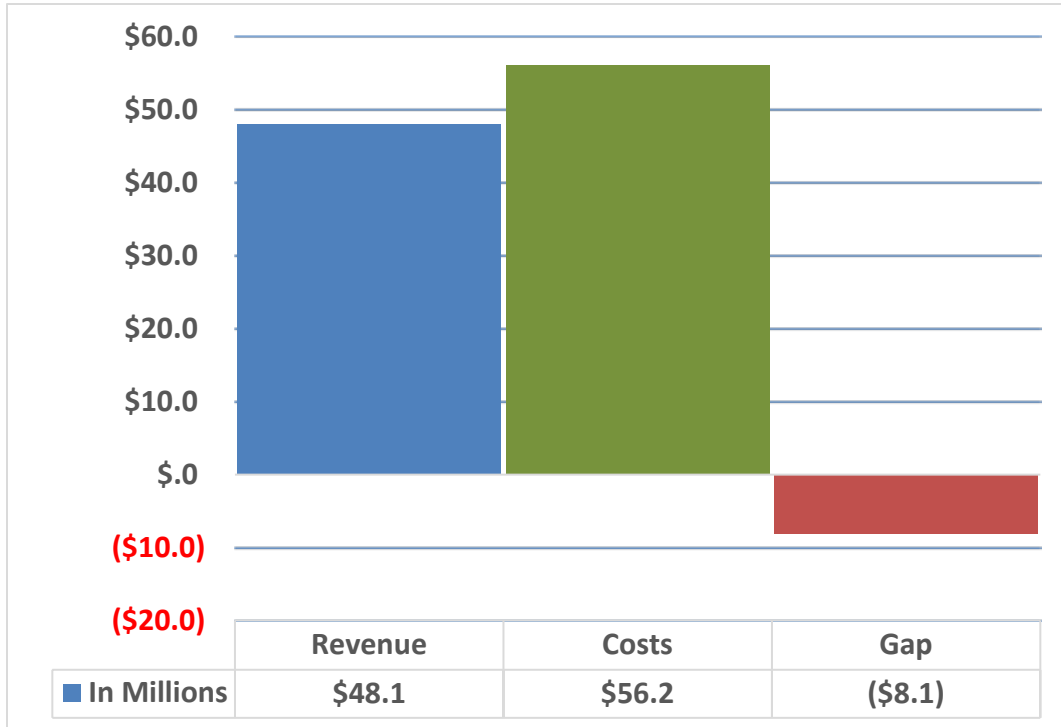


Figure 2: Fee Revenue and Program Costs by Fee Schedule, FYE 2019

	A-Hearing Board	B - Combustion of Fuel	C - Storage Organic Liquid	D - Gasoline Dispensing / Bulk Terminals	E - Solvent Evaporation	F - Miscellaneous	G1 - Miscellaneous	G2 - Miscellaneous	G3 - Miscellaneous	G4 - Miscellaneous	G5 - Miscellaneous	H - Semiconductor	I - Drycleaners	K - Waste Disposal	L - Asbestos	N - Toxic Inventory (AB2588)	P - Major Facility Review (Title V)	R-Registration	S - Naturally Occurring Asbestos	T - GreenHouse Gas	V - Open Burning	W - Refinery Emissions Tracking	X - Community Air Monitoring	Total	
Revenues	47,628	7,679,636	2,233,077	6,249,199	3,200,202	2,102,701	2,637,196	761,955	656,420	1,527,227	647,983	184,622	4,498	177,413	5,057,006	263,358	5,638,883	336,060	100,513	2,963,989	211,132	139,905	933,739	43,754,341	
Schedule M	-	880,691	109,905	12,636	39,061	267,090	60,344	17,111	6,668	755,273	14,796	-	-	123,213	-	-	-	592	-	-	-	-	-	-	2,287,380
Reg 3- 312 - Bubble	-	197,342	302,807	15,038	19,286	101,639	96,373	36,772	28,545	22,542	23,063	-	-	329	-	-	-	1,547	-	-	-	-	-	-	845,282
Reg 3- 327 - Renewal Processing	-	459,251	47,484	227,953	202,246	140,586	45,833	8,221	1,149	544	806	6,265	2,195	4,153	-	-	-	13,064	-	-	-	-	-	-	1,159,751
Reg 3- 311 - Banking	-	27,318	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	27,318
Total Revenue	47,628	9,244,239	2,693,273	6,504,826	3,460,795	2,612,016	2,839,747	824,058	692,782	2,305,587	686,648	190,887	6,693	305,109	5,057,006	263,358	5,638,883	351,262	100,513	2,963,989	211,132	139,905	933,739	48,074,073	
Direct Costs																									
Direct Labor	67,327	4,951,822	447,138	3,423,477	2,725,197	1,782,297	3,621,802	1,033,054	467,078	1,778,054	215,908	161,040	4,238	1,753,926	1,410,266	491,786	3,369,463	146,277	383,252	1,290,338	390,970	328,888	111,697	30,355,293	
Services and Supplies	3,848	379,147	28,953	279,042	182,076	120,927	293,144	92,450	38,213	183,018	14,853	10,362	275	127,296	58,859	26,394	284,528	4,805	28,943	1,272,092	18,527	27,000	21,914	3,496,666	
Capital Outlay	0	579,062	53,363	399,066	326,431	212,485	415,586	117,470	55,410	207,326	25,134	19,387	501	209,089	8,198	55,698	392,886	701	45,591	148,906	638	41,542	16,806	3,331,277	
Indirect Costs	36,534	3,029,925	275,540	2,061,635	1,707,535	1,072,870	2,218,968	638,292	296,327	1,105,686	138,277	100,276	1,949	1,114,653	964,944	270,820	1,989,325	98,405	251,662	752,107	272,501	201,766	72,791	18,672,787	
Total Costs	107,708	8,939,955	804,994	6,163,220	4,941,239	3,188,579	6,549,500	1,881,266	857,029	3,274,084	394,172	291,065	6,962	3,204,965	2,442,267	844,698	6,036,202	250,189	709,447	3,463,443	682,636	599,195	223,207	55,856,023	
Net Surplus/(Deficit)	(60,081)	304,283	1,888,278	341,606	(1,480,444)	(576,563)	(3,709,753)	(1,057,208)	(164,247)	(968,497)	292,477	(100,178)	(269)	(2,899,856)	2,614,739	(581,340)	(397,319)	101,073	(608,934)	(499,454)	(471,504)	(459,290)	710,532	(7,781,950)	
Cost Recovery	44.2%	103.4%	334.6%	105.5%	70.0%	81.9%	43.4%	43.8%	80.8%	70.4%	174.2%	65.6%	96.1%	9.5%	207.1%	31.2%	93.4%	140.4%	14.2%	85.6%	30.9%	23.3%	418.3%	86.07%	

Figure 3: Fee Revenue and Program Costs by Fee Schedule, FYE 2017-2019, 3-Year Average

	A - Hearing Board	B - Combustion of Fuel	C - Storage Organic Liquid	D - Gasoline Dispensing / Bulk Terminals	E - Solvent Evaporation	F - Miscellaneous	G1 - Miscellaneous	G2 - Miscellaneous	G3 - Miscellaneous	G4 - Miscellaneous	G5 - Miscellaneous	H - Semiconductor	I - Drycleaners	K - Waste Disposal	L - Asbestos	N - Toxic Inventory (AB2588)	P - Major Facility Review (Title V)	R - Registration	S - Naturally Occurring Asbestos	T - GreenHouse Gas	V - Open Burning	W - Refinery Emissions Tracking	X - Community Air Monitoring	Total	
Revenues	22,923	7,920,402	2,189,106	5,736,757	2,823,092	1,982,551	2,481,798	650,061	635,241	1,210,547	718,798	168,356	4,454	159,372	4,387,279	268,240	5,397,772	278,599	91,026	2,629,967	177,519	201,285	1,038,541	41,173,687	
Schedule M	0	676,296	205,639	32,594	31,872	753,812	84,019	13,837	4,129	258,966	120,150	0	0	112,147	0	0	0	1,441	0	0	0	0	0	0	2,294,901
Reg 3- 312 - Bubble	0	382,759	182,101	21,304	12,701	43,794	45,413	18,158	13,141	64,204	13,078	201	4,537	110	0	0	0	558	0	0	0	0	0	0	802,058
Reg 3- 327 - Renewal Processing	0	318,734	44,762	219,539	211,637	145,415	46,920	7,895	1,006	1,022	1,056	5,885	1,806	4,228	0	0	0	8,559	0	0	0	0	0	0	1,018,464
Reg 3- 311 - Banking	0	13,312	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	13,312
Total Revenue	22,923	9,311,503	2,621,608	6,010,195	3,079,302	2,925,573	2,658,149	689,950	653,516	1,534,739	853,082	174,442	10,798	275,857	4,387,279	268,240	5,397,772	289,158	91,026	2,629,967	177,519	201,285	1,038,541	45,302,422	
Direct Costs																									
Direct Labor	87,863	5,207,508	408,889	3,776,161	2,392,210	1,693,044	3,366,754	752,538	413,754	1,795,291	205,756	175,929	8,628	1,253,014	1,386,782	288,379	3,518,663	199,071	275,024	1,577,642	334,785	276,526	197,033	29,591,245	
Services and Supplies	3,222	394,927	22,228	332,682	149,335	145,450	262,324	65,327	29,638	216,275	12,012	8,826	394	88,231	109,172	17,486	340,749	10,928	20,491	582,878	32,483	23,761	24,181	2,893,001	
Capital Outlay	0	482,898	32,210	346,812	204,803	146,233	394,677	70,623	38,133	220,071	15,075	12,722	2,510	135,886	153,306	23,994	318,018	1,347	29,922	178,994	3,779	41,803	24,878	2,878,694	
Indirect Costs	52,344	3,161,086	258,496	2,296,770	1,513,246	998,097	2,057,059	450,666	267,299	1,056,336	134,506	110,872	5,265	802,166	1,098,563	164,659	2,072,453	163,066	180,016	924,193	279,575	165,118	121,449	18,333,302	
Total Costs	143,428	9,246,418	721,823	6,752,424	4,259,595	2,982,824	6,080,815	1,339,155	748,824	3,287,973	367,350	308,350	16,798	2,279,298	2,747,823	494,517	6,249,883	374,413	505,453	3,263,707	650,623	507,208	367,541	53,696,241	
Total Surplus/(Deficit)	(120,505)	65,084	1,899,786	(742,229)	(1,180,293)	(57,252)	(3,422,665)	(649,205)	(95,308)	(1,753,234)	485,732	(133,907)	(6,000)	(2,003,441)	1,639,456	(226,278)	(852,111)	(85,255)	(414,427)	(633,740)	(473,104)	(305,923)	671,001	(8,393,819)	
Cost Recovery	16%	101%	363%	89%	72%	98%	44%	52%	87%	47%	232%	57%	64%	12%	160%	54%	86%	77%	18%	81%	27%	40%	283%	84.37%	



BAY AREA
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DRAFT STAFF REPORT

PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES

April 17, 2020

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1. EXECUTIVE SUMMARY

Air District staff has prepared proposed amendments to Air District Regulation 3: Fees for Fiscal Year Ending (FYE) 2021 (i.e., July 1, 2020 to June 30, 2021) that would increase revenue to enable the Bay Area Air Quality Management District (Air District) to continue to effectively implement and enforce regulatory programs for stationary sources of air pollution. The proposed fee amendments for FYE 2021 are consistent with the Air District's Cost Recovery Policy, which was adopted on March 7, 2012 by the Air District's Board of Directors (see Appendix A). This policy stated that the Air District should amend its fee regulation in a manner sufficient to increase overall recovery of regulatory program activity costs to achieve a minimum of 85 percent. The policy also indicates that amendments to specific fee schedules should continue to be made in consideration of cost recovery analyses conducted at the fee schedule level, with larger increases being adopted for the schedules that have the larger cost recovery gaps.

A recently completed 2020 Cost Recovery Study (a copy of which is available on request) shows that for the most-recently completed fiscal year (FYE 2019), fee revenue recovered 86 percent of program activity costs. Cost recovery will decrease going forward as the Air District fills its vacancies.

Over the past several years, the Air District has continued to implement cost containment and efficiency-based strategies. Some of these strategies include: unfilled vacancies, timekeeping improvements, greater field capabilities, annual updates to cost recovery, improved public education, submittal of online permit applications, and availability of permit status online through the New Production System. Implementing these strategies have resulted in efficiencies as well as the ability to provide a higher service level. The Air District is actively transitioning to the New Production System, which currently includes an on-line portal for the regulated community for high-volume categories including gas stations, dry cleaners, auto body shops, other permit registrations, and asbestos notifications. This system is expanding to additional facility types. These tools will increase efficiency and accuracy by allowing customers to submit applications, report data for the emissions inventory, pay invoices and have access to permit documents. Future projections anticipate adequate revenue to meet projected expenditures with the assumption of continued attention to cost and permit fee analysis. The Air District continues to be fiscally prudent by maintaining its reserves. Reserves address future capital equipment and facility needs, uncertainties in State funding and external factors affecting the economy that could impact the Air District's ability to balance its budgets.

The results of the 2020 Cost Recovery Study (including FYE 2017-2019 data) were used to establish proposed fee amendments for each existing fee schedule based on the degree to which existing fee revenue recovers the regulatory program activity costs associated with the schedule. Based on this approach, the fee rates in certain fee schedules would be raised by the annual increase in the Bay Area Consumer Price Index (3.1%), while other fee schedules would be increased by 7, 8, 9, or 15 percent. Several fees that are administrative in nature (e.g. permit application filing fees and permit renewal processing fees) would be increased by 3.1 percent.

The proposed fee amendments would not increase annual permit renewal fees for most small businesses that require Air District permits, with the exception of gas stations (e.g., a typical gas station would have an increase of \$48 in annual permit renewal fees), auto body shops, which would have an increase of \$91, and facilities with backup generators, which would have an increase of \$61 per engine. For larger facilities, increases in annual permit renewal fees would range between 8.5 and 13.1 percent due to differences in the facility's size, type of emission sources, pollutant emission rates and applicable fee schedules. In accordance with State law, the Air District's amendments to Regulation 3 cannot cause an increase in overall permit fees for any facility by more than 15 percent in any calendar year. The proposed fee amendments would increase overall Air District fee revenue in FYE 2021 by approximately \$2.74 million relative to fee revenue that would be expected without the amendments.

The Board of Directors received testimony on April 15, 2020 regarding the proposed amendments to Regulation 3: Fees. Air District staff recommends that the Board of Directors consider adoption of the proposed amendments to Regulation 3: Fees with an effective date of July 1, 2020, and approve the filing of a CEQA Notice of Exemption following the 2nd public hearing scheduled to consider this matter on June 3, 2020.

2. BACKGROUND

State law authorizes the Air District to assess fees to generate revenue to recover the reasonable costs of regulatory program activities for stationary sources of air pollution. The largest portion of Air District fees is collected under provisions that allow the Air District to impose permit fees sufficient to recover the costs of program activities related to permitted sources. The Air District is also authorized to assess fees for: (1) area-wide or indirect sources of emissions which are regulated, but for which permits are not issued by the Air District, (2) sources subject to the requirements of the State Air Toxics Hot Spots Program (Assembly Bill 2588), and (3) activities related to the Air District's Hearing Board involving variances or appeals from Air District decisions on the issuance of permits. The Air District has established, and regularly updates, a fee regulation (Air District Regulation 3: Fees) under these authorities.

The Air District has analyzed whether fees result in the collection of a sufficient and appropriate amount of revenue in comparison to the costs of related program activities. In 1999, a comprehensive review of the Air District's fee structure and revenue was completed by the firm KPMG Peat Marwick LLP (*Bay Area Air Quality Management District Cost Recovery Study, Final Report: Phase One – Evaluation of Fee Revenues and Activity Costs*, KPMG Peat Marwick LLP, February 16, 1999). This 1999 Cost Recovery Study indicated that fee revenue did not nearly offset the full costs of program activities associated with sources subject to fees as authorized by State law. Property tax revenue (and in some years, reserve funds) had been used to close this cost recovery gap.

The Air District Board of Directors adopted an across-the-board fee increase of 15 percent, the maximum allowed by State law for permit fees, for FYE 2000 as a step toward

more complete cost recovery. The Air District also implemented a detailed employee time accounting system to improve the ability to track costs by program activities moving forward. In each of the next five years, the Air District adjusted fees only to account for inflation (with the exception of FYE 2005, in which the Air District also approved further increases in Title V permit fees and a new permit renewal processing fee).

In 2004, the Air District funded an updated Cost Recovery Study. The accounting firm Stonefield Josephson, Inc. completed this study in March 2005 (*Bay Area Air Quality Management District Cost Recovery Study, Final Report*, Stonefield Josephson, Inc., March 30, 2005). This 2005 Cost Recovery Study indicated that a significant cost recovery gap continued to exist. The study also provided cost recovery results at the level of each individual fee schedule based on detailed time accounting data. Finally, the contractor provided a model that could be used by Air District staff to update the analysis of cost recovery on an annual basis using a consistent methodology.

For the five years following the completion of the 2005 Cost Recovery Study (i.e., FYE 2006 through 2010), the Air District adopted fee amendments that increased overall projected fee revenue by an average of 8.9 percent per year. To address fee equity issues, the various fees were not all increased in a uniform manner. Rather, individual fee schedules were amended based on the magnitude of the cost recovery gap for that schedule, with the schedules with the more significant cost recovery gaps receiving more significant fee increases. In FYE 2009, the Air District's fee amendments also included a new greenhouse gas (GHG) fee schedule. The GHG fee schedule recovers costs from stationary source activities related to the Air District's Climate Protection Program. In FYE 2011, the Air District adopted an across-the-board 5 percent fee increase, except for the Title V fee schedule (Schedule P) which was increased by 10 percent (the Air District's 2010 Cost Recovery Study indicated that Fee Schedule P recovered only 46 percent of program activity costs).

In September 2010, the Air District contracted with the firm Matrix Consulting Group to complete an updated analysis of cost recovery that could be used in developing fee amendments for FYE 2012 and beyond. This study also included a review of the Air District's current cost containment strategies and provided recommendations to improve the management of the Air District's costs and the quality of services provided to stakeholders. The study was completed in March 2011 (*Cost Recovery and Containment Study, Bay Area Air Quality Management District, Final Report*, Matrix Consulting Group, March 9, 2011). The 2011 Cost Recovery and Containment Study concluded that, for FYE 2010, overall fee revenue recovered 64 percent of related program activity costs. The study also provided cost recovery results at the level of each individual fee schedule based on detailed time accounting data and provided a methodology for Air District staff to update the analysis of cost recovery on an annual basis using a consistent methodology.

The results of the 2011 Cost Recovery and Containment Study were used to establish fee amendments for FYE 2012 that were designed to increase overall fee revenue by 10 percent (relative to fee revenue that would result without the fee amendments). To

address fee equity issues, the various fees were not all increased in a uniform manner. Rather, existing fee schedules were amended based on the magnitude of the cost recovery gap for that schedule, with the schedules with the more significant cost recovery gaps receiving more significant fee increases. Based on this approach, the fee rates in several fee schedules were not increased, while the fee rates in other fee schedules were increased by 10, 12, or 14 percent.

One of the recommendations made by Matrix Consulting Group in their 2011 Cost Recovery and Containment Study indicated that the Air District should consider the adoption of a Cost Recovery Policy to guide future fee amendments. Air District staff initiated a process to develop such a Policy in May 2011, and a Stakeholder Advisory Group was convened to provide input in this regard. A Cost Recovery Policy was adopted by the Air District's Board of Directors on March 7, 2012 (see Appendix A). This policy specified that the Air District should amend its fee regulation in a manner sufficient to increase overall recovery of regulatory program activity costs to a minimum of 85 percent. The policy also indicated that amendments to specific fee schedules should continue to be made in consideration of cost recovery analyses conducted at the fee schedule-level, with larger increases being adopted for the schedules that have the larger cost recovery gaps.

The Matrix Consulting Group was retained by the BAAQMD in September 2017 to provide a cost recovery and containment study for the fiscal year ended June 30, 2017 to update the study done in 2011. This assessment used multiple analytical tools to understand the current process for allocation of indirect costs, current cost recovery levels, and recommendations for cost recovery and savings. The primary purpose of this study was to evaluate the indirect overhead associated with the BAAQMD and the cost recovery associated with the fees charged by the BAAQMD. The project team evaluated the Air District's current programs to classify them as direct or indirect costs, as well as the time tracking data associated with each of the different fee schedules. The report also provides specific recommendations related to direct and indirect cost recovery for the BAAQMD, as well as, potential cost efficiencies.

Staff has updated the cost recovery analysis for the most recently completed fiscal year (FYE 2019) using the methodology established by Matrix Consulting Group. The 2020 Cost Recovery Study indicates that the overall cost recovery rate for FYE 2019 was 86 percent, although as the Air District tries to fill its vacancies, the cost recovery will go down. Progress towards the 85% minimum target is reported to the Board annually by staff and is periodically reviewed by outside consultants.

3. PROPOSED FEE AMENDMENTS FOR FYE 2020

3.1 OVERVIEW OF PROPOSED AMENDMENTS

A 2020 cost recovery study was used to establish proposed fee amendments for existing fee schedules based on the degree to which existing fee revenue recovers the activity costs associated with the schedule. Based on this approach, the fee rates in certain fee

schedules would be increased by 7, 8, 9, or 15 percent. Other fee schedules would be raised by 3.1%, the annual increase from 2018 to 2019 in the Bay Area Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) as reported by the United States Bureau of Labor Statistics. The specific basis for these proposed fee amendments is summarized in Table 1 as follows:

Table 1. Proposed Fee Changes Based on Cost Recovery by Fee Schedule

Revenue from Fee Schedule	Change in Fees	Fee Schedules
95 – 110% of costs	3.1% increase*	B, D, E, F, M
85 – 94% of costs	7% increase	G3, P
75-84% of costs	8% increase	T
50-74% of costs	9% increase	G2, H, I, N
Less than 50% of costs	15% increase*	A, G1, G4, K, S, W

*2018 Matrix Consulting Group Cost Recovery & Containment Study recommendations.

Note: For Schedules D and E, a 3.1% increase is proposed, although cost recovery would have allowed a 7 to 9% increase. Schedule D covers gas stations and Schedule E covers autobody shops, and many are small businesses. Schedule D had 89% cost recovery and Schedule E had 72% cost recovery from FYE 2017 to 2019.

In addition to the proposed amendments to fee schedules, Air District staff is proposing to increase several administrative fees that appear in the Standards section of Regulation 3 by 3.1 percent. This includes permit application filing fees and permit renewal processing fees. Existing permit fees are well below the point of full cost recovery, and these fee increases are proposed to help the Air District reduce its cost recovery gap.

3.2 PROPOSED RULE AMENDMENTS

The complete text of the proposed changes to Air District Regulation 3: Fees, has been prepared in strikethrough (deletion of existing text) and underline (new text) format, and is included in Appendix B. Proposed fee increases have been rounded to the nearest whole dollar.

- Section 3-302: Fees for New and Modified Sources

The proposed amendment to Section 3-302 is a 3.1 percent increase in the filing fee for permit applications for new/modified sources and abatement devices, from \$508 to \$524 based on the CPI-W.

- Section 3-302.3: Fees for Abatement Devices

The proposed amendment to Section 3-302.3 is a 3.1 percent increase (based on the CPI-W) in the filing fee, from \$508 to \$524, and the not to exceed value of \$10,588 was not increased.

- Section 3-311: Emission Banking Fees

The proposed amendment to Section 3-311 is a 3.1 percent increase (based on the CPI-W) in the filing fee for banking applications, from \$508 to \$524.

- Section 3-312: Emission Caps and Alternative Compliance Plans

The proposed amendment to Section 3-312.2 is a 3.1 percent increase (based on the CPI-W) in the annual fees for Alternative Compliance Plans (ACPs) from \$1,286 to \$1,326 for each source in the ACP, with the not-to-exceed amount increase from \$12,860 to \$13,259.

- Section 3-320: Toxic Inventory Fees

The proposed amendment to Section 3-320 is a 3.1 percent increase (based on the CPI-W) from \$10,056 to \$10,368, which specifies the maximum fee for small businesses in Schedule N.

Criteria Pollutant and Toxics Emissions Reporting Regulation Fees:

As part of Assembly Bill 617 (AB 617), the California Air Resources Board (CARB) recently adopted the Criteria and Toxics Reporting (CTR) Regulation for the reporting of criteria air pollutants and toxic air contaminants for stationary sources. To learn more about the CTR Regulation, visit <https://ww2.arb.ca.gov/our-work/programs/criteria-and-toxics-reporting>. In order to cover the implementation and on-going costs associated with these new requirements, the Air District is proposing a new fee for each facility subject to the CTR Regulation. CTR reporting fees would be charged during permit renewal.

The Air District is tasked with implementing the CTR Regulation in the Bay Area and estimates the following costs. Eight (8) full-time employees would be needed for this work: Six (6) in Engineering, one (1) in Information Technology, and one (1) in Compliance & Enforcement (C&E) to design, program, implement, and maintain the changes necessary to comply with the new CARB reporting requirements for permitted sources. Air District staff estimated this need considering both initial costs and on-going costs.

The analysis concluded that for the first year, three (3) engineers and one (1) programmer would be required to design & redesign data systems, change data management practices, and modify current business processes in order to compress the work of

updating the inventory over a 12-month time period into a 5-month time period. The Air District will need to redesign and supplement the current annual data request process which is part of the current permit renewal process to obtain additional information required by the CTR Regulation. Air District staff also need to integrate new CTR reporting elements and format. Work to notify, train and assist facilities with these new requirements is factored into implementation.

Air District staff will also work with the other air districts, the California Air Pollution Control Officers Association, and industry to develop uniform emissions inventory guidelines to be used for reporting emissions to the state. Implementation of these guidelines may require extensive programming to add new or modify emission factors and or emission calculation methodologies into the data systems.

Total salary and benefits costs are estimated to be:

Four Air Quality Engineer II's at \$180/hour, $4 \times \$180/\text{hour} \times 2,080 \text{ hours} = \$1,497,600$

One Programmer Analyst II at \$160/hour, $\$160/\text{hour} \times 2,080 \text{ hours} = \$332,800$

One C&E Air Quality Specialist II at \$172/hour, $\$172/\text{hour} \times 2,080 \text{ hours} = \$357,760$

Total estimated costs = \$2,188,160

Starting year two, an additional staff of three (3) from Engineering and one (1) from C&E will be needed to conduct extensive outreach to help the smaller facilities and small businesses comply with the CTR Regulation. Long term, all of the staff we are basing the fee on will be required for quality control and assurance, inventory entry and to ensure compliance. The Air District expects all permitted facilities to be subject to the CTR Regulation after CARB amends the regulation by the end of calendar year 2020.

Air District staff is proposing the tiered fees in the table below.

Number of Permitted Sources per Facility	\$ per Permitted Source*
1 to 4	25
5 to 9	75
10 to 14	150
15 to 19	200
20 to 24	250
25 and greater	300

*The maximum CTR fee will be capped at \$50,000 per year.

Fees proposed are based on the number of sources at each facility, since the costs are commensurate with the number of sources at each facility. In general, the complexity of the facility and sources increases with an increasing number of sources at a facility. Complex sources require additional review and validation of emissions and emission trains for both criteria air pollutants and toxic air contaminants. Several complex facilities are required to install continuous emissions monitors (CEMs) to monitor pollutants and are required to perform annual source tests to determine emissions of different pollutants on many different sources. Thousands of data points from these CEMS must be verified and reviewed to verify emissions. Each source test must also be reviewed to determine source specific emission factors for the sources at the facility. These checks take additional time for both review and entry into the data system. Additional time is also required by our Planning department to prepare the larger facility inventories for submittal to CARB.

Smaller and less complex facilities are anticipated to only require validation and entry of activity levels of the facility. Many of these sources are currently in the Air District's new production system and have automated tools in place which ease both the effort required for data entry and the required review by Engineering Staff. Additionally, the Air District will or currently applies factors to determine emissions from these facilities speeding up the level of review and QA for the data reported to the California Air Resources Board. However, if smaller and/or less complex facilities provide emission estimates or other data in addition to activity that require both Air District review and validation and entry into Air District systems, additional costs will be incurred. If this occurs, these costs may be recuperated within future revisions of Regulation 3.

AB 617 Community Health Impact Fees:

In the implementation of AB 617 (C. Garcia, Chapter 136, Statutes of 2017), the Air District's Community Health Protection Program works with Bay Area communities to improve community health by reducing exposure to air pollutants in neighborhoods most impacted by air pollution. Air District staff are working closely with the California Air Resources Board (CARB), other local air districts, community groups, community members, environmental organizations, regulated industries, and other key stakeholders to reduce harmful air pollutants. A new community health impact fee is proposed to help recover costs of program implementation.

CARB provides funding to the air districts for the implementation of AB 617. Currently, the funds provided do not cover the entire cost of program implementation. Costs for the implementation of AB 617 may be split into three different types. The first of these are fee recoverable activities, such as rule development of stationary sources, CTR or inventory reporting of stationary sources, and compliance and enforcement of stationary sources. The second type of activities are not fee recoverable, such as community outreach and engagement, capacity building and mobile source modeling and inventory. Third, there are a number of tasks that are partially fee recoverable. Some examples of these partially fee-recoverable tasks include the following: conducting detailed, community-scale

modeling, managing community steering committees, and conducting community-scale source apportionment analyses.

The Air District expects its cost for implementation of the Community Health Protection Program to be \$10 million. The partially fee recoverable work is estimated at \$8 million. In order to separate the costs of program implementation directly associated with facility emissions in the partially recoverable fee segment, the Air District looked at health impacting pollutants emitted by mobile, stationary and area sources. Based on this analysis, permitted stationary sources contribute 26% of PM_{2.5}, which is a primary driver of the health risk that created the need for AB 617. Therefore, the amount of directly fee recoverable work related to permitted sources should be 26% of the partially fee recoverable program costs at a minimum – (\$8 million x 0.26 = \$2.1 million). As the Air District develops more detailed facility specific health impacts for local communities through the AB617 Community Emission Reduction Program process, fees will be increased or decreased proportionally.

Because all permitted facilities or stationary sources contribute to emissions that may impact public health in our communities, the proposed fee would be charged to all permitted and registered facilities during permit renewal. Based on the estimated cost of \$2.1 million, Air District staff is proposing a fee of 5.7% of each facility's total annual permit/registration renewal fees with a maximum cap of \$70,000 per year, which is projected to recover the estimated Air District costs in excess of direct funding from CARB for non-recoverable AB 617 activities.

Other changes to Section 3-327:

The proposed amendment will add references in Section 3-327 to Schedule W (Petroleum Refining Emissions Tracking Fees) and Schedule X (Major Stationary Source Community Air Monitoring Fees) since fees assessed during permit renewal are typically listed in this section. The processing fees for renewal of Permits to Operate specified in subsections 3-327.1 through 3-327.6 would be increased by 3.1 percent (based on the CPI-W).

- **Section 3-336: Open Burning Operation Fees**

Section 3-336 is revised to reflect recent changes to the Air District Regulation 5 Open Burning regarding prescribed burning.

- **Section 3-337: Exemption Fee**

The proposed amendment to Section 3-337 is a 3.1 percent increase (based on the CPI-W) in the filing fee for a certificate of exemption, from \$508 to \$524.

- **Section 3-341, Fee for Risk Reduction Plan**

Section 3-341 is revised to increase the Risk Reduction Plan submittal fees by 3.1 percent

(based on the CPI-W).

- Section 3-342, Fee for Facility-Wide Health Risk Assessment (HRA)

Section 3-342 is revised to increase the HRA review fees by 3.1 percent (based on the CPI-W).

- Section 3-343: Fees for Air Dispersion Modeling

Section 3-343 is revised to increase the hourly charges for air dispersion modeling by 3.1 percent (based on the CPI-W) from \$213 to \$220.

Fee Schedules:

Schedule A: Hearing Board Fees

Based on the cost recovery methodology listed in Table 1, the fees in Schedule A would be increased by 15 percent. The schedules of fees for excess emissions (Schedule A: Table I) and visible emissions (Schedule A: Table II) would also be increased by 15 percent.

Schedule B: Combustion of Fuel

Based on the cost recovery methodology listed in Table 1, the fees in Schedule B would be increased by 3.1 percent (based on the CPI-W).

Schedule C: Stationary Containers for the Storage of Organic Liquids

Based on the cost recovery methodology listed in Table 1, the fees in Schedule C would not be increased, except for the base fee for a health risk assessment for a source covered by Schedule C, which would be increased by 3.1 percent from \$508 to \$524.

Schedule D: Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals

A 3.1 percent increase is proposed, although the cost recovery methodology would have allowed a 7% increase, except for the base fee for a health risk assessment for a source covered by Schedule D, which would be increased by 3.1 percent from \$508 to \$524. Schedule D covers gasoline stations and many are considered small businesses.

Schedule E: Solvent Evaporating Sources

A 3.1 percent increase is proposed, although the cost recovery methodology would have allowed a 9% increase, except for the base fee for a health risk assessment for a source

covered by Schedule E, which would be increased by 3.1 percent from \$508 to \$524. Schedule E covers a wide range of coating operations, including auto body shops, which can be small businesses.

Schedule F: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule F would be increased by 3.1 percent. The base fee for a health risk screening analysis for a source covered by Schedule F would be increased by 3.1 percent, from \$508 to \$524. The base fee for a health risk screening analysis in Schedule F is included in the risk assessment fee (RAF) for the first toxic air contaminant (TAC) source in the application.

Schedule G-1: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule G-1 would be increased by 15 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule G-1, which would be increased by 3.1 percent from \$508 to \$524. The base fee for a health risk screening analysis in Schedule G-1 is included in the RAF for the first TAC source in the application.

Schedule G-2: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule G-2 would be increased by 9 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule G-2 which would be increased by 3.1 percent from \$508 to \$524. The base fee for a health risk screening analysis in Schedule G-2 is included in the RAF for the first TAC source in the application.

Schedule G-3: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule G-3 would be increased by 7 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule G-3, which would be increased by 3.1 percent from \$508 to \$524. The base fee for a health risk screening analysis in Schedule G-3 is included in the RAF for the first TAC source in the application.

Schedule G-4: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule G-4 would be increased by 15 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule G-4, which would be increased by 3.1 percent from \$508 to \$524. The base fee for a health risk screening analysis in Schedule G-4 is included in the RAF for the first TAC source in the application.

Schedule G-5: Miscellaneous Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule G-5 would not be increased.

Schedule H: Semiconductor and Related Sources

Based on the cost recovery methodology listed in Table 1, the fees in Schedule H would be increased by 9 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule H, which would be increased by 3.1 percent from \$508 to \$524.

Schedule I: Dry Cleaners

Based on the cost recovery methodology listed in Table 1, the fees in Schedule I would be increased by 9 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule I, which would be increased by 3.1 percent from \$508 to \$524.

Schedule K: Solid Waste Disposal Sites

Based on the cost recovery methodology listed in Table 1, the fees in Schedule K would be increased by 15 percent, except for the base fee for a health risk screening analysis for a source covered by Schedule K, which would be increased by 3.1 percent from \$508 to \$524.

Schedule L: Asbestos Operations

Based on the cost recovery methodology listed in Table 1, the fees in Schedule L would not be increased.

Schedule M: Major Stationary Source Fees

Schedule M is an emissions-based fee schedule that applies to various permitted facilities emitting 50 tons per year or more of organic compounds, sulfur oxides, nitrogen oxides, and/or PM₁₀. Air District staff is proposing a 3.1 percent increase in the Schedule M fee rate based on the annual increase in the Bay Area Consumer Price Index.

Schedule N: Toxic Inventory Fees

Schedule N is to cover the costs for the California Air Resources Board's (CARB's) AB 2588 program fees as well as the Engineering Division staff required to work on the AB 2588 toxics emissions inventories, Rule 11-18 implementation costs for facility emissions review, and health risk assessments (HRAs) for facilities that are exempt from Rule 11-18. The Air District's costs for conducting New Source Review HRAs for permit

applications are not fully covered by the HRA fees in the individual schedules. Schedule N covers this deficit between fee schedule HRA fees and actual costs.

Schedule N fees are spread out across all permitted facilities based on weighted emissions of toxic air contaminants. Facilities with higher emissions of toxic air contaminants are charged higher Schedule N fees. The language in Fee Schedule N (Toxic Inventory Fees) has been revised to clarify the methodology used by the Air District to calculate the facility's weighted toxic inventory.

Schedule P: Major Facility Review Fees

Based on the cost recovery methodology listed in Table 1, the fees in Schedule P would be increased by 7 percent.

Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks

The fees in Schedule Q would not be increased since the Air District does not currently assess this fee.

Schedule R: Equipment Registration Fees

The fees in Schedule R would not be increased. Many of these facilities subject to equipment registration requirements are small businesses.

Schedule S: Naturally Occurring Asbestos Operations

Based on the cost recovery methodology listed in Table 1, the fees in Schedule S would be increased by 15 percent.

Schedule T: Greenhouse Gas Fees

Based on the cost recovery methodology listed in Table 1, the fees in Schedule T would be increased by 8 percent.

Schedule U: Indirect Source Review Fees

The fees in Schedule U would not be increased since the Air District does not currently assess this fee.

Schedule V: Open Burning

Schedule V would not be increased, although the cost recovery methodology would have allowed a 15 percent. This will limit the burden on public agencies' and other entities conducting prescribed burns for wildfire prevention. The language in Schedule V was amended to reflect recent Regulation 5 amendments.

Schedule W: Petroleum Refining Emissions Tracking Fees

Based on the cost recovery methodology listed in Table 1, the fees in Schedule W would be increased by 15 percent. Schedule W was based on estimated staff costs to review and approve the refinery emission inventories and crude slate information. However, the first sets of inventories received were significantly more complex than anticipated and the Air District spent additional time and effort verifying emissions from the sources with the largest emissions than what was originally estimated when Schedule W was adopted. With each successive set of inventories, staff has continued concentration and verification of additional source categories. In addition, engineering staff have been updating and revising the Refinery Emissions Inventory Guidelines and working on the heavy liquid fugitive components study. These efforts were not envisioned at the time of the fee's introduction.

Schedule X: Major Stationary Source Community Air Monitoring Fees

Based on the cost recovery methodology listed in Table 1, the fees in Schedule X would not be increased.

4. FEE REVENUE AND COSTS OF PROGRAM ACTIVITIES

On an overall basis, the 2020 Cost Recovery Study (a copy of which is available on request) concluded that, for FYE 2019, fee revenue recovered 86.1 percent of regulatory program activity costs, with revenue of \$48.1 million and costs of \$55.9 million. This resulted in a shortfall, or cost recovery gap, of \$7.8 million which was filled by county tax revenue. The proposed fee amendments for FYE 2021 are projected to increase overall Air District fee revenue by approximately \$2.52 million relative to fee revenue levels that would be expected without the amendments. Revenue in FYE 2021 is expected to remain below the Air District's regulatory program costs for both permitted and non-permitted sources.

For years, the Air District has implemented aggressive cost containment measures that included reducing capital expenditures and maintaining a hiring freeze that resulted in historically high staff vacancy rates.

In the FYE 2020 Budget, the Air District proposes to fill 410 Full Time Equivalent (FTE), with no increase in staffing level. Assembly Bill (AB) 617, passed by the Legislature and signed by the Governor in 2017, establishes new, comprehensive air quality planning requirements for the California Air Resources Board (CARB) and local air districts. The bill requires CARB and the Air District to engage with communities to analyze and reduce localized cumulative exposure to air pollution to improve health in the most disproportionately impacted communities. CARB and the Air District will: 1) identify impacted communities in the Bay Area; 2) develop and implement monitoring programs to better understand local air pollution sources and exposures, and; 3) develop and

implement community action plans to reduce local emissions and exposures. Air District AB 617 implementation activities will cut across all divisions and will represent a major focus for the agency in FYE 2021 and beyond. Additional Air District initiatives include work on Methane Strategies, Organics Recovery and Diesel Free by '33.

Over the past several years, the Air District has continued to implement cost containment and efficiency-based strategies. Some of these strategies include: unfilled vacancies, timekeeping improvements, greater field capabilities, annual updates to cost recovery, improved public education, submittal of online permit applications, and availability of permit status online through the New Production System. Implementing these strategies have resulted in efficiencies as well as the ability to provide a higher service level. The Air District is actively transitioning to the New Production System, which currently includes an on-line portal for the regulated community for high-volume categories including gas stations, dry cleaners, auto body shops, other permit registrations, and asbestos notifications. This system will be expanding to additional facility types. These tools will increase efficiency and accuracy by allowing customers to submit applications, report data for the emissions inventory, pay invoices and have access to permit documents.

The Air District continues to be fiscally prudent by maintaining its reserves. Reserves address future capital equipment and facility needs, uncertainties in State funding and external factors affecting the economy that could impact the Air District's ability to balance its budgets. While the increased pickup of pension costs by employees reduced the Air District's annual obligation, premiums in employee health benefit, pension costs and OPEB obligations continue to grow. Over the last few years, the Air District has made significant efforts in funding its obligations for OPEB by making additional contributions to fund its unfunded liability. Based on June 30, 2017 actuarial valuation study for OPEB, the Air District's plan is approximately 68% funded; leaving an unfunded liability of 32% or \$19.0 million. As a part of the FYE 2016 Budget, the Board adopted a minimum OPEB funding target policy of 90%. The FYE 2020 Budget includes the continuation of this funding with a \$4.0 million contribution.

The Air District's pension obligation is also growing; especially with recent changes in actuarial assumptions by CalPERS. As a result, CalPERS anticipates increased employer rates over the next 5 years. Based on the June 30, 2017 CalPERS actuarial valuation study, the Air District is currently funded at approximately 75%; leaving an unfunded liability of 25% or approximately \$75 million. Given these potential impacts, the FYE 2020 Budget includes continuation of \$1.0 million in discretionary contributions, which will be used for the sole purpose of reducing the unfunded liability to minimize the impact of future rate increases for the Air District.

5. STATUTORY AUTHORITY FOR PROPOSED FEE INCREASES

The Air District is a regional regulatory agency, and its fees are used to recover the costs of issuing permits, performing inspections, and other associated regulatory activities. The Air District's fees fall into the category specified in Section 1(e) of Article XIII C of the California Constitution which specifies that charges of this type assessed to regulated entities to recover regulatory program activity costs are not taxes. The amount of fee

revenue collected by the Air District has been clearly shown to be much less than the costs of the Air District's regulatory program activities both for permitted and non-permitted sources.

The Air District's fee regulation, with its various fee schedules, is used to allocate regulatory program costs to fee payers in a manner which bears a fair or reasonable relationship to the payer's burden on, or benefits received from, regulatory activities. Permit fees are based on the type and size of the source being regulated, with minimum and maximum fees being set in recognition of the practical limits to regulatory costs that exist based on source size. Add-on fees are used to allocate costs of specific regulatory requirements that apply to some sources but not others (e.g., health risk screening fees, public notification fees, alternative compliance plan fees). Emissions-based fees are used to allocate costs of regulatory activities not reasonably identifiable with specific fee payers.

Since 2006, the Air District has used annual analyses of cost recovery performed at the fee-schedule level, which is based on data collected from a labor-tracking system, to adjust fees. These adjustments are needed as the Air District's regulatory program activities change over time based on changes in statutes, rules and regulations, enforcement priorities, and other factors.

State law authorizes air districts to adopt fee schedules to cover the costs of various air pollution programs. California Health and Safety Code (H&S Code) section 42311(a) provides authority for an air district to collect permit fees to cover the costs of air district programs related to permitted stationary sources. H&S Code section 42311(f) further authorizes the Air District to assess additional permit fees to cover the costs of programs related to toxic air contaminants. H&S Code section 41512.7(b) limits the allowable percentage increase in fees for authorities to construct and permits to operate to 15 percent per year.

H&S Code section 44380(a) authorizes air districts to adopt a fee schedule that recovers the costs to the air district and State agencies of the Air Toxics Hot Spots Program (AB 2588). The section provides the authority for the Air District to collect toxic inventory fees under Schedule N.

H&S Code section 42311(h) authorizes air districts to adopt a schedule of fees to cover the reasonable costs of the Hearing Board incurred as a result of appeals from air district decisions on the issuance of permits. Section 42364(a) provides similar authority to collect fees for the filing of applications for variances or to revoke or modify variances. These sections provide the authority for the Air District to collect Hearing Board fees under Schedule A.

H&S Code section 42311(g) authorizes air districts to adopt a schedule of fees to be assessed on area-wide or indirect sources of emissions, which are regulated but for which permits are not issued by the air district, to recover the costs of air district programs related to these sources. This section provides the authority for the Air District to collect

asbestos fees (including fees for Naturally Occurring Asbestos operations), soil excavation reporting fees, registration fees for various types of regulated equipment, for Indirect Source Review, and fees for open burning.

The proposed fee amendments are in accordance with all applicable authorities. The Air District fees subject to this rulemaking are in amounts no more than necessary to cover the reasonable costs of the Air District's regulatory activities, and the manner in which the Air District fees allocate those costs to a payer bear a fair and reasonable relationship to the payer's burdens on the Air District regulatory activities and benefits received from those activities. Permit fee revenue (after adoption of the proposed amendments) would still be well below the Air District's regulatory program activity costs associated with permitted sources. Similarly, fee revenue for non-permitted area wide sources would be below the Air District's costs of regulatory programs related to these sources. Hearing Board fee revenue would be below the Air District's costs associated with Hearing Board activities related to variances and permit appeals. Fee increases for authorities to construct and permits to operate would be less than 15 percent per year.

6. ASSOCIATED IMPACTS AND OTHER RULE DEVELOPMENT REQUIREMENTS

6.1 EMISSIONS IMPACTS

There will be no direct change in air emissions as a result of the proposed amendments.

6.2 ECONOMIC IMPACTS

The Air District must, in some cases, consider the socioeconomic impacts and incremental costs of proposed rules or amendments. Section 40728.5(a) of the California H&S Code requires that socioeconomic impacts be analyzed whenever an air district proposes the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations. The proposed fee amendments will not significantly affect air quality or emissions limitations, and so a socioeconomic impact analysis is not required.

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

The financial impact of the proposed fee amendments on small businesses is expected to be minor. Many small businesses operate only one or two permitted sources, and generally pay only the minimum permit renewal fees. For the facilities shown in Table 4, increases in annual permit and registration renewal fees would be under \$100, except for a typical gasoline service station.

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Table 4. Changes in Annual Permit/Registration Renewal Fees for Typical Small Businesses

Facility Type	Current Fees (prior to change)	Proposed Fees (post change)	Proposed Fee Increase	Proposed % Increase
Gas Station ^{1,2}	\$239	\$287	\$48	20%
Dry Cleaner (registered) ¹	\$259	\$274	\$15	6%
Auto Body Shop ^{1,3}	\$729	\$820	\$91	13%
Back-up Generator ^{1,3}	\$382	\$442	\$61	16%

Notes:

1. Assuming facility has only one source.
2. Assuming source has one single-product gasoline nozzle.
3. Assuming source qualifies for minimum fee.

For larger facilities, such as refineries and power plants, increases in annual permit renewal fees would cover a considerable range due to differences in the facility's size, mix of emission sources, pollutant emission rates and applicable fee schedules. As shown in Table 5, the FYE 2020 annual permit fee increase for the five Bay Area refineries would range from approximately 8.5 to 12.8 percent. The annual permit fee increases for power generating facilities shown in Table 6 would range from approximately 11.8 to 13.1 percent. Projected FYE 2021 fee increases are based on FYE 2020 material throughput data. Table 5 and 6 also include current Permit to Operate fees paid and historical annual fee increases.

Table 5. Refinery Permit to Operate Fee Comparison

	Annual % Permit Fee Increase/Decrease (Fiscal Year Ending)					2020 Permit Fee
	2017	2018	2019*	2020	2021 Projected	
Chevron	14.7	1.2	-0.5	0.8	8.5	\$3.7 M
Shell	15.0	4.0	5.6	0.9	9.7	\$3.5 M
Phillips 66	14.6	2.3	4.2	13.6	12.8	\$1.9 M
Valero	15.0	2.4	-0.2	22.5	11.6	\$2.3 M
Tesoro	2.2	-8.5	15	21.5	10.1	\$2.9 M

*Permits to Operate extended from 8/1/18 to 12/1/2019 (16 months) to allow use of Rule 12-15 emission inventories to calculate emissions and permit renewal fees. Increase based on ratioed (12/16) amount.

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Table 6. Power Plant Permit to Operate Fee Comparison

	Annual % Permit Fee Increase/Decrease (Fiscal Year Ending)					2020 Permit Fee
	2017	2018	2019	2020	2021 <i>Projected</i>	
Delta Energy	-0.8	-7.0	-13.5	5.8	11.4	\$ 460,000
Los Medanos	-6.0	7.3	15.0	6.9	11.7	\$ 400,000
Gateway	8.5	-7.6	12.0	6.0	11.6	\$ 360,000
Crockett Cogen	0.8	2.5	0	5.8	13.1	\$ 270,000

6.3 ENVIRONMENTAL IMPACTS

The California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., and the CEQA Guidelines, 14 CCR 15000 et seq., require a government agency that undertakes or approves a discretionary project to prepare documentation addressing the potential impacts of that project on all environmental media. Certain types of agency actions are, however, exempt from CEQA requirements. The proposed fee amendments are exempt from the requirements of the CEQA under Section 15273 of the CEQA Guidelines, which state: "CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies...." (See also Public Resources Code Section 21080(b) (8)).

Section 40727.2 of the H&S Code imposes requirements on the adoption, amendment, or repeal of air district regulations. It requires an air district to identify existing federal and air district air pollution control requirements for the equipment or source type affected by the proposed change in air district rules. The air district must then note any differences between these existing requirements and the requirements imposed by the proposed change. This fee proposal does not impose a new standard, make an existing standard more stringent, or impose new or more stringent administrative requirements. Therefore, section 40727.2 of the H&S Code does not apply.

6.4 STATUTORY FINDINGS

Pursuant to H&S Code section 40727, regulatory amendments must meet findings of

necessity, authority, clarity, consistency, non-duplication, and reference. The proposed amendments to Regulation 3:

- Are necessary to fund the Air District's efforts to attain and maintain federal and state air quality standards, and to reduce public exposure to toxic air contaminants;
- Are authorized by H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9;
- Are clear, in that the amendments are written so that the meaning can be understood by the affected parties;
- Are consistent with other Air District rules, and not in conflict with any state or federal law;
- Are not duplicative of other statutes, rules or regulations; and
- Reference H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9.

7. RULE DEVELOPMENT PROCESS

In response to comments received during the FYE 2020 Budget and Fee Regulation Amendments process, on September 20, 2019, the Air District established a Budget Advisory Group, which is made up of the following members: The Board of Directors' Budget and Finance Committee chair and co-chair, Air District Finance, Engineering, and Legal staff, and representatives from the California Council of Environmental and Economic Balance and the Western States Petroleum Association. The Budget Advisory Group was formed to promote greater participation and input in the annual Budget and Fee Regulation Amendments process. The Budget Advisory Group has met at the Air District offices on January 27, 2020 and March 16, 2020.

On February 3, 2020, the Air District issued a notice for a public workshop to discuss with interested parties an initial proposal to amend Regulation 3, Fees. Distribution of this notice included all Air District-permitted and registered facilities, asbestos contractors, and a number of other potentially interested stakeholders. The notice was also posted on the Air District website. A public workshop and simultaneous webcast were held on February 18, 2020 to discuss the initial Regulation 3 fee proposal.

On March 25, 2020 Air District staff provided a briefing on the proposed fee amendments to the Air District Board of Directors' Budget and Finance Committee.

Under H&S Code section 41512.5, the adoption or revision of fees for non-permitted sources requires two public hearings that are held at least 30 days apart from one another. This provision applies to Schedule L: Asbestos Operations, Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks, Schedule R: Equipment Registration Fees, Schedule S: Naturally Occurring Asbestos Operations, Schedule U: Indirect Source Fees, and Schedule V: Open Burning. A Public Hearing Notice for the proposed Regulation 3 was published on March 12, 2020 and posted on the Air District website. An initial public hearing to consider testimony on the proposed amendments was held on April 15, 2020. The proposed amendments will be further

discussed at the April 22, 2020, Budget & Finance Committee meeting. Written public hearing comments are due by May 8, 2020. A second public hearing, to consider adoption of the proposed fee amendments, has been scheduled for June 3, 2020, or as soon thereafter as the matter may be heard. If adopted, the amendments would be made effective on July 1, 2020.

8. PUBLIC COMMENTS

8.1 Public Workshop Comments – Regulation 3, Fees

The Air District held a public workshop on February 18, 2020 to discuss draft amendments to Regulation 3: Fees. There were four attendees plus the webcast audience. Written comments were received on the Regulation 3, Fees proposal as follows:

WSPA Comments dated March 20, 2020

Comments & Responses to be provided separately and posted.

CCEEB Comments dated March 20, 2020

Comments & Responses to be provided separately and posted.

8.2 Public Hearing Comments – Regulation 3, Fees

[Comments & Responses to be inserted. Comments due by May 8, 2020.]

9. CONCLUSIONS

Air District staff finds that the proposed fee amendments meet the findings of necessity, authority, clarity, consistency, non-duplication and reference specified in H&S Code section 40727. The proposed amendments:

- Are necessary to fund the Air District's efforts to attain and maintain federal and state air quality standards, and to reduce public exposure to toxic air contaminants;
- Are authorized by H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9;
- Are clear, in that the amendments are written so that the meaning can be understood by the affected parties;
- Are consistent with other Air District rules, and not in conflict with any state or federal law;
- Are not duplicative of other statutes, rules or regulations; and
- Reference H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9.

The proposed fee amendments will be used by the Air District to recover the costs of issuing permits, performing inspections, and other associated regulatory activities. The Air District fees subject to this rulemaking are in amounts no more than necessary to cover the reasonable costs of the Air District's regulatory activities, and the manner in which the Air District fees allocate those costs to a payer bear a fair and reasonable relationship to the payer's burdens on the Air District regulatory activities and benefits received from those activities. After adoption of the proposed amendments, permit fee revenue would still be below the Air District's regulatory program activity costs associated with permitted sources. Similarly, fee revenue for non-permitted sources would be below the Air District's costs of regulatory programs related to these sources. Fee increases for authorities to construct and permits to operate would not exceed 15 percent per year as required under H&S Code section 41512.7. The proposed amendments to Regulation 3 are exempt from the requirements of the CEQA under Section 15273 of the CEQA Guidelines.

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BAY AREA
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STAFF REPORT

PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES

**APPENDIX A
COST RECOVERY POLICY
(Adopted March 7, 2012)**

COST RECOVERY POLICY FOR BAY AREA AIR QUALITY MANAGEMENT DISTRICT REGULATORY PROGRAMS

PURPOSE

WHEREAS, the District has the primary authority for the control of air pollution from all sources of air emissions located in the San Francisco Bay Area, other than emissions from motor vehicles, in accordance with the provisions of Health & Safety Code sections 39002 and 40000.

WHEREAS, the District is responsible for implementing and enforcing various District, State, and federal air quality regulatory requirements that apply to non-vehicular sources.

WHEREAS, the District's regulatory programs involve issuing permits, performing inspections, and other associated activities.

WHEREAS, the District is authorized to assess fees to regulated entities for the purpose of recovering the reasonable costs of regulatory program activities, and these authorities include those provided for in California Health and Safety Code sections 42311, 42364, and 44380.

WHEREAS, the District's fees fall within the categories provided in Section 1(e) of Article XIII C of the California Constitution, which indicates that charges assessed to regulated entities to recover regulatory program activity costs, and charges assessed to cover the cost of conferring a privilege or providing a service, are not taxes.

WHEREAS, the District has adopted, and periodically amends, a fee regulation for the purpose of recovering regulatory program activity costs, and this regulation with its various fee schedules, is used to allocate costs to fee payers in a manner which bears a fair or reasonable relationship to the payer's burden on, or benefits received from, regulatory activities.

WHEREAS, the District analyzes whether assessed fees result in the collection of sufficient revenue to recover the costs of related program activities; these analyses have included contractor-conducted fee studies completed in 1999, 2005, and 2011, and annual District staff-conducted cost recovery updates completed in 2006 through 2010. Each fee study and cost recovery update completed revealed that District fee revenue falls significantly short of recovering the costs of related program activities.

WHEREAS, the District's most recently completed fee study (*Cost Recovery and Containment Study, Bay Area Air Quality Management District, Final Report, Matrix Consulting Group, March 9, 2011*) concluded that in Fiscal Year Ending (FYE) 2010, the District recovered approximately 62 percent of its fee-related activity costs, resulting in an under-recovery of costs (i.e., a cost recovery gap), and a subsidy to fee payers, of approximately \$16.8 million, and that this cost recovery gap resulted despite the

implementation of a number of strategies to contain costs.

WHEREAS, cost recovery analyses have indicated that the District's Fee Schedule P: Major Facility Review Fees, which establishes fees for program activities associated with the Title V permit program, has under-recovered costs by an average of \$3.4 million per year over the period FYE 2004 through FYE 2010.

WHEREAS, the District's Board of Directors has recognized since 1999 that the District's cost recovery gap has been an issue that needs to be addressed, and since that time has adopted annual fee amendments in order to increase fee revenue.

WHEREAS, in addition to fee revenue, the District receives revenue from Bay Area counties that is derived from property taxes, and a large portion of this tax revenue has historically been used on an annual basis to fill the cost recovery gap.

WHEREAS, the tax revenue that the District receives varies on a year-to-year basis, and cannot necessarily be relied on to fill the cost recovery gap and also cover other District expenses necessitating, in certain years, the use of reserve funds.

WHEREAS, tax revenue that the District receives, to the extent that it is not needed to fill the cost recovery gap, can be used to fund initiatives or programs that may further the District's mission but that lack a dedicated funding source.

WHEREAS, it may be appropriate as a matter of policy to establish specific fee discounts for small businesses, green businesses, or other regulated entities or members of the public, where tax revenue is used to cover a portion of regulatory program activity costs, and the District's existing fee regulation contains several fee discounts of this type.

POLICY

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Bay Area Air Quality Management District that:

(1) Cost Containment – In order to ensure that the costs of its regulatory programs remain reasonable, the District should continue to implement feasible cost containment measures, including the use of appropriate best management practices, without compromising the District's effective implementation and enforcement of applicable regulatory requirements. The District's annual budget documents should include a summary of cost containment measures that are being implemented.

(2) Analysis of Cost Recovery – The District should continue to analyze the extent to which fees recover regulatory program activity costs, both on an overall basis, and at the level of individual fee schedules. These cost recovery analyses should be periodically completed by a qualified District contractor, and should be updated on an annual basis by District staff using a consistent methodology.

(3) Cost Recovery Goals – It is the general policy of the District, except as otherwise noted below, that the costs of regulatory program activities be fully recovered by assessing fees to regulated entities. In order to move towards this goal, the District should amend its fee regulation over the next four years, in conjunction with the adoption of budgets for Fiscal Year Ending (FYE) 2013 through FYE 2016, in a manner sufficient to increase overall recovery of regulatory program activity costs to 85 percent. Amendments to specific fee schedules should also be made in consideration of cost recovery analyses conducted at the fee schedule-level, with larger increases being adopted for the schedules that have the larger cost recovery gaps. This includes Fee Schedule P: Major Facility Review Fees, which has been determined to under-recover costs by a significant amount. Newly adopted regulatory measures should include fees that are designed to recover increased regulatory program activity costs associated with the measure, unless the Board of Directors determines that a portion of those costs should be covered by tax revenue. Tax revenue should also continue to be used to subsidize existing fee discounts that the District provides (e.g., for small businesses, green businesses, and third-party permit appeals), and to cover the cost of the District’s wood smoke enforcement program.

BE IT FURTHER RESOLVED that this resolution is non-binding in the case of unforeseen financial circumstances, and may also be reconsidered or updated by the District’s Board of Directors.



BAY AREA
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DRAFT STAFF REPORT
PROPOSED AMENDMENTS TO
BAAQMD REGULATION 3: FEES

APPENDIX B
PROPOSED REGULATORY LANGUAGE
REGULATION 3: FEES

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: April 17, 2020

Re: Continued Discussion of Proposed Budget for Fiscal Year Ending (FYE) 2021 and
Consideration to Recommend Adoption

RECOMMENDED ACTIONS

The Executive Officer/APCO requests that the Budget and Finance Committee (Committee) continue discussion of the proposed budget for Fiscal Year Ending (FYE) 2021 and consider recommending that the Board of Directors (Board):

1. Conduct public hearings on the FYE 2021 Proposed Budget; and
2. Adopt the FYE 2021 Proposed Budget.

BACKGROUND

Staff develops recommended amendments to the Air District's fee regulation as part of the budget preparation process. On March 7, 2012, the Board adopted a Cost Recovery Policy that established a goal of increasing fee revenue sufficient to achieve a minimum of 85 percent recovery of regulatory program costs. Progress towards this target is reported to the Board annually by staff and is periodically reviewed by outside consultants.

In addition, staff intended to propose new fees associated with mandates, such as Assembly Bill (AB) 617. However, the impact of restricted economic activity, due to the COVID-19 outbreak, required modifications to this approach.

At the March 25, 2020 Committee meeting, staff presented the FYE 2021 Proposed Budget with a set of guiding principles to reduce the impact of originally contemplated fee increases. The Committee directed staff to revise the FYE 2021 Proposed Budget with suggested fee reduction and bring back a balanced budget to its next meeting for consideration.

DISCUSSION

At the April 22, 2020 Committee meeting, staff will present revisions to the FYE 2021 Proposed Budget for the Committee's consideration.

Staff requests that the Committee complete its review and recommend adoption of the proposed budget to the Board. This will allow staff the necessary time required to amend the budget for the first public hearing of the proposed budget to be held on May 6, 2020.

Staff will publish, prior to April 22, 2020, a public notice that the first of two public hearings on the budget will be conducted on May 6, 2020, and that the second hearing will be conducted on June 3, 2020.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The proposed consolidated budget for FYE 2021 is a balanced budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Stephanie Osaze
Reviewed by: Jeff McKay