



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

**BOARD OF DIRECTORS
SPECIAL MEETING
October 21, 2020**

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

- **THE PUBLIC MAY OBSERVE THIS MEETING THROUGH THE WEBCAST BY CLICKING THE LINK AVAILABLE ON THE AIR DISTRICT'S AGENDA WEBPAGE AT**

www.baaqmd.gov/bodagendas

- **THE PUBLIC MAY PARTICIPATE REMOTELY VIA ZOOM AT THE FOLLOWING LINK OR BY PHONE**

<https://bayareametro.zoom.us/j/89196976717>

(669) 900-6833 or (408) 638-0968

WEBINAR ID: 891 9697 6717

- **THOSE PARTICIPATING BY PHONE WHO WOULD LIKE TO MAKE A COMMENT CAN USE THE "RAISE HAND" FEATURE BY DIALING "*9". IN ORDER TO RECEIVE THE FULL ZOOM EXPERIENCE, PLEASE MAKE SURE YOUR APPLICATION IS UP TO DATE**
- **COMMENTS MAY ALSO BE SUBMITTED VIA EMAIL AT**

Comments@baaqmd.gov

BOARD OF DIRECTORS SPECIAL MEETING AGENDA

WEDNESDAY
OCTOBER 21, 2020
11:00 A.M.

Chairperson, Rod Sinks

1. CALL TO ORDER - ROLL CALL

PUBLIC MEETING PROCEDURE

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

This meeting will be webcast. To see the webcast, please visit www.baaqmd.gov/bodagendas at the time of the meeting. Closed captioning may contain errors and omissions and are not certified for their content or form.

***Email 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 Board 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 Board. 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.*

CONSENT CALENDAR (ITEM 2)

Staff/Phone (415) 749

2. Authorization to Amend Contract for Odor Attribution Study in the South Bay

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Board of Directors will consider authorizing the Executive Officer/APCO to amend a contract with Jacobs Engineering Group (Jacobs), to increase the contract amount by \$6,000 to account for increased costs due to delays from wildfires, for an amended contract amount of \$506,000.

PRESENTATION

3. OVERVIEW OF GOVERNOR'S EXECUTIVE ORDER N-79-20

The Board of Directors will receive an overview of Governor Newsom's September 23, 2020, Executive Order N-79-20 related to climate change.

PUBLIC COMMENT ON NON-AGENDA MATTERS

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

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.

BOARD MEMBERS' COMMENTS

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

OTHER BUSINESS

6. Report of the Executive Officer/APCO

7. Chairperson's Report

8. Time and Place of Next Meeting:

Wednesday, November 18, 2020, at 10:00 a.m., via webcast, pursuant to procedures authorized by Executive Order N-29-20 issued by Governor Gavin Newsom.

9. Adjournment

The Board meeting shall be adjourned by the Board Chair.

CONTACT:

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

(415) 749-4941
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov

- 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

OCTOBER 2020

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Mobile Source Committee	Monday	19	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Executive Committee	Wednesday	21	9:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Special Meeting	Wednesday	21	11:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Budget & Finance Committee – CANCELLED	Thursday	22	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Mobile Source Committee – CANCELLED AND RESCHEDULED TO MONDAY, OCTOBER 19, 2020 AT 9:30 A.M.	Thursday	22	11:30 a.m.	Webcast only pursuant to Executive Order N-29-20

NOVEMBER 2020

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Nominating Committee - CANCELLED AND RESCHEDULED TO WEDNESDAY, NOVEMBER 18, 2020 AT 9:00 A.M.	Wednesday	4	9:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Special Meeting - CANCELLED AND RESCHEDULED TO WEDNESDAY, NOVEMBER 18, 2020 AT 10:00 A.M.	Wednesday	4	10:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Community & Public Health Committee - CANCELLED	Thursday	5	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Ad Hoc Committee on Equity, Access, and Inclusion	Thursday	5	9:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Advisory Council Meeting	Monday	9	9:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Legislative Committee	Thursday	12	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20

NOVEMBER 2020

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	ROOM
Board of Directors Nominating Committee	Wednesday	18	9:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Special Meeting	Wednesday	18	10:00 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Mobile Source Committee	Thursday	19	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Climate Protection Committee	Thursday	19	11:30 a.m.	Webcast only pursuant to Executive Order N-29-20
Board of Directors Budget & Finance Committee	Monday	23	9:30 a.m.	Webcast only pursuant to Executive Order N-29-20

MV – 10/13/2020 – 11:04 AM

G/Board/Executive Office/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Rod Sinks and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 14, 2020

Re: Authorization to Amend Contract for Odor Attribution Study in the South Bay

RECOMMENDED ACTION

Recommend Board of Directors authorize the Executive Officer/APCO to amend a contract with Jacobs Engineering Group (Jacobs) to increase the contract amount by \$6,000 to account for increased costs due to delays from wildfires, for an amended contract amount of \$506,000.

BACKGROUND

Communities in and around Milpitas near a cluster of waste handling facilities have experienced air quality and odor issues for many years. These facilities include the Newby Island Landfill and associated composting facility, operated by Republic Services; the San Jose-Santa Clara Regional Wastewater Facility, operated by the City of San Jose; and a dry anaerobic food waste digestion facility, operated by ZeroWaste Energy Development Company. There have been improvements to air quality in Milpitas due to Air District actions with assistance from the community. However, odors continue to be a concern.

In January 2019, the Air District committed to conduct an Odor Attribution Study to identify compounds from odor-producing facilities that are impacting Milpitas and nearby communities. The goal of the Odor Attribution Study is to determine the contribution and variability of odors from these facilities and measure how often and at what concentration these odors may be passing into the local community to inform future actions to reduce odors. The Air District released a Request for Proposal (RFP 2019-004 Odor Study) to identify contractors with the expertise to measure sources of odors from the landfill, transfer station, sewage treatment plant, compost and organic waste processing operations in Milpitas. The Board of Directors authorized the Executive Officer/APCO to execute a contract for up to \$500,000 for Jacobs Engineering Group, Inc (Jacobs) on November 20, 2019 to conduct an odor study in the South Bay.

DISCUSSION

The study was originally scheduled for September 2020 and the sampling teams mobilized to the area, procured sampling media, and rented equipment. The study had to be postponed due to the wildfires in the Bay Area and California. The wildfire smoke outlook had been optimistic the week sampling was scheduled. When the air quality took a turn for the worse, Air District staff made the call to cancel the sampling because the wildfire smoke would interfere with the study results. The sampling has been rescheduled for the week of October 19. Air District staff is closely monitoring the wildfire situation to avoid additional costs.

The proposed contract amendment would increase the total contract cost from \$500,000 to \$506,000 and would cover the sampling work that had to be canceled due to delays from wildfires.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for this contract will come from the General Fund Budget for Fiscal Year Ending 2021.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jerry Bovee
Reviewed by: Ranyee Chiang

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Rod Sinks and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 14, 2020

Re: Overview of Governor's Executive Order N-79-20

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On September 23, 2020, Governor Newsom signed a far-reaching Executive Order (see Attachment 15A) seeking to aggressively move the state further away from reliance on fossil fuels. The Executive Order specifically targets the State's transportation and fuels sector, as it is responsible for more than half of all of California's greenhouse gas emissions, 80 percent of smog-forming nitrogen oxide pollution and 95 percent of toxic diesel emissions.

The Executive Order tasks a number of State agencies with planning and rulemaking including the California Air Resources Board (CARB), which is charged with developing statewide standards for the operation and sale of cars, light, medium- and heavy-duty trucks and buses; drayage trucks and off-road vehicles and equipment. The Executive Order sets deliverables for State agencies relative to transit integration, workforce transition and oil extraction.

DISCUSSION

The Executive Order specifically contains the following goals:

Zero Emissions Vehicles (ZEV) and Infrastructure

- All in-state passenger car and light duty truck sales will be 100% zero-emission by 2035;
- All in-state Drayage trucks operations will be 100% zero-emission by 2035 where feasible;
- All Off-road vehicles and equipment will be equipment 100% zero-emission by 2035 where feasible;
- All in-state Medium- and Heavy-Duty truck and bus operations will be 100% zero-emission by 2045 where feasible;

- CARB will develop rules consistent with State and Federal law and in consultation with the United States Environmental Protection Agency (USEPA) and air districts to accomplish the latter, considering technological feasibility and cost effectiveness;
- The State Office of Business and Economic Development (CBED), CARB, Energy Commission (CEC), Public Utilities Commission (CPUC), Transportation Agency, Department of Finance (DOF), other state and local agencies and private entities shall develop a Zero-Emission Vehicle (ZEV) Market Development Strategy by January 31, 2021, to coordinate strategies and policies that allow the Executive Order to be implemented;
 - These entities are also tasked with ensuring new and used ZEVs are available to all Californians;
- CARB, CEC and CPUC are also charged with accelerated deployment of affordable fueling infrastructure, focusing on low-income and disadvantaged areas; and
- CARB, CEC and CPUC must also continue to perform biannual assessments of infrastructure to support ZEV adoption.

Transit and Infrastructure

- State Transportation agencies and DOF are required where feasible to build towards an integrated statewide rail and transit network to provide seamless and multimodal transportation for all, including: bicycle, pedestrian, and micro transit in disadvantaged communities;
 - They are also required to consider ZEV infrastructure as part of building projects where appropriate.

Workforce Transition

- The Labor and Workforce Development Agency Development, Office of Planning and Research (OPR) and DOF are required to develop a “Just Transition Roadmap” by July 15, 2021, which will focus on a transition away from fossil fuels to achieve carbon neutrality by 2045;

Transition Away from Fossil Fuels

- The California Environmental Protection Agency (CEPA) and California Natural Resources Agency (CNRA) are tasked with expediting regulations to repurpose and transition upstream and downstream oil production facilities;
 - They are to do this while taking into consideration community participation, labor participation, while protecting public health, safety and the environment as part of an action plan due by July 15, 2021.
- CARB is required to propose strategies to continue to reduce carbon intensity of fuels beyond 2030.
- CEPA, CNRA, OPR, DOF and CBED will develop strategies to remediate and expedite closure of oil extraction sites by July 15, 2021.

- The Department of Conservation’s Geologic Energy Management Division shall strictly enforce requirements, so oil extractors are responsible for sit clean up. This division shall also:
 - Propose strengthened health and safety rules that protect the public and workers from the impacts of oil extraction activities.

This broad and aggressive response to climate change meshes well with the Air District’s goals for Bay Area decarbonization and our AB 617, Climate, Grants, Spare the Air, Clean Cars for All, and Diesel Free by ‘33 initiatives. However, there are some significant challenges to implementing this vision from a legal (see Attachment 15B) and technological perspective.

As part of this agenda item, staff will update the Board on the Executive Order, how it meshes with Air District initiatives and some of the challenges related to its implementation.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Damian Breen & Alan Abbs
Reviewed by: Jack P. Broadbent

Attachment 3A: Governor’s Executive Order N-79-20
Attachment 3B: USEPA Administrator Wheeler’s Response to Executive Order N-79-20

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-79-20

WHEREAS the climate change crisis is happening now, impacting California in unprecedented ways, and affecting the health and safety of too many Californians; and

WHEREAS we must accelerate our actions to mitigate and adapt to climate change, and more quickly move toward our low-carbon, sustainable and resilient future; and

WHEREAS the COVID-19 pandemic has disrupted the entire transportation sector, bringing a sharp decline in demand for fuels and adversely impacting public transportation; and

WHEREAS as our economy recovers, we must accelerate the transition to a carbon neutral future that supports the retention and creation of high-road, high-quality jobs; and

WHEREAS California's long-term economic resilience requires bold action to eliminate emissions from transportation, which is the largest source of emissions in the State; and

WHEREAS the State must prioritize clean transportation solutions that are accessible to all Californians, particularly those who are low-income or experience a disproportionate share of pollution; and

WHEREAS zero emissions technologies, especially trucks and equipment, reduce both greenhouse gas emissions and toxic air pollutants that disproportionately burden our disadvantaged communities of color; and

WHEREAS California is a world leader in manufacturing and deploying zero-emission vehicles and chargers and fueling stations for cars, trucks, buses and freight-related equipment; and

WHEREAS passenger rail, transit, bicycle and pedestrian infrastructure, and micro-mobility options are critical components to the State achieving carbon neutrality and connecting communities, requiring coordination of investments and work with all levels of governments including rail and transit agencies to support these mobility options; and

WHEREAS California's policies have contributed to an on-going reduction in in-state oil extraction, which has declined by over 60 percent since 1985, but demand for oil has not correspondingly declined over the same period of time; and

WHEREAS California is already working to decarbonize the transportation fuel sector through the Low Carbon Fuel Standard, which recognizes the full life cycle of carbon in transportation emissions including transport into the State; and

WHEREAS clean renewable fuels play a role as California transitions to a decarbonized transportation sector; and

WHEREAS to protect the health and safety of our communities and workers the State must focus on the impacts of oil extraction as it transitions away from fossil fuel, by working to end the issuance of new hydraulic fracturing permits by 2024; and

WHEREAS a sustainable and inclusive economic future for California will require retaining and creating high-road, high-quality jobs through sustained engagement with communities, workers and industries in changing and growing industries.

NOW THEREFORE, I, GAVIN NEWSOM, Governor of the State of California by virtue of the power and authority vested in me by the Constitution and the statutes of the State of California, do hereby issue the following Order to pursue actions necessary to combat the climate crisis.

IT IS HEREBY ORDERED THAT:

1. It shall be a goal of the State that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035. It shall be a further goal of the State that 100 percent of medium- and heavy-duty vehicles in the State be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. It shall be further a goal of the State to transition to 100 percent zero-emission off-road vehicles and equipment by 2035 where feasible.
2. The State Air Resources Board, to the extent consistent with State and federal law, shall develop and propose:
 - a) Passenger vehicle and truck regulations requiring increasing volumes of new zero-emission vehicles sold in the State towards the target of 100 percent of in-state sales by 2035.
 - b) Medium- and heavy-duty vehicle regulations requiring increasing volumes of new zero-emission trucks and buses sold and operated in the State towards the target of 100 percent of the fleet transitioning to zero-emission vehicles by 2045 everywhere feasible and for all drayage trucks to be zero-emission by 2035.
 - c) Strategies, in coordination with other State agencies, U.S. Environmental Protection Agency and local air districts, to achieve 100 percent zero-emission from off-road vehicles and equipment operations in the State by 2035.

In implementing this Paragraph, the State Air Resources Board shall act consistently with technological feasibility and cost-effectiveness.

3. The Governor's Office of Business and Economic Development, in consultation with the State Air Resources Board, Energy Commission, Public Utilities Commission, State Transportation Agency, the

Department of Finance and other State agencies, local agencies and the private sector, shall develop a Zero-Emissions Vehicle Market Development Strategy by January 31, 2021, and update every three years thereafter, that:

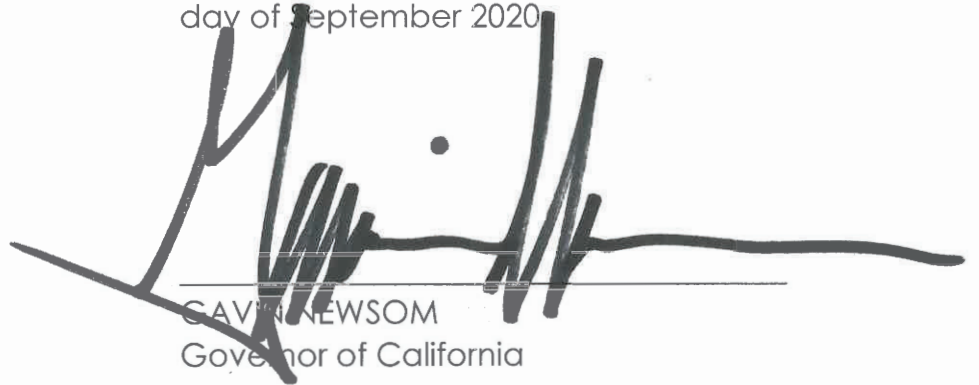
- a) Ensures coordinated and expeditious implementation of the system of policies, programs and regulations necessary to achieve the goals and orders established by this Order.
 - b) Outlines State agencies' actions to support new and used zero-emission vehicle markets for broad accessibility for all Californians.
4. The State Air Resources Board, the Energy Commission, Public Utilities Commission and other relevant State agencies, shall use existing authorities to accelerate deployment of affordable fueling and charging options for zero-emission vehicles, in ways that serve all communities and in particular low-income and disadvantaged communities, consistent with State and federal law.
 5. The Energy Commission, in consultation with the State Air Resources Board and the Public Utilities Commission, shall update the biennial statewide assessment of zero-emission vehicle infrastructure required by Assembly Bill 2127 (Chapter 365, Statutes of 2018) to support the levels of electric vehicle adoption required by this Order.
 6. The State Transportation Agency, the Department of Transportation and the California Transportation Commission, in consultation with the Department of Finance and other State agencies, shall by July 15, 2021 identify near term actions, and investment strategies, to improve clean transportation, sustainable freight and transit options, while continuing a "fix-it-first" approach to our transportation system, including where feasible:
 - a) Building towards an integrated, statewide rail and transit network, consistent with the California State Rail Plan, to provide seamless, affordable multimodal travel options for all.
 - b) Supporting bicycle, pedestrian, and micro-mobility options, particularly in low-income and disadvantaged communities in the State, by incorporating safe and accessible infrastructure into projects where appropriate.
 - c) Supporting light, medium, and heavy duty zero-emission vehicles and infrastructure as part of larger transportation projects, where appropriate.
 7. The Labor and Workforce Development Agency and the Office of Planning and Research, in consultation with the Department of Finance and other State agencies, shall develop by July 15, 2021 and expeditiously implement a Just Transition Roadmap, consistent with the recommendations in the "Putting California on the High Road: A Jobs and Climate Action Plan for 2030" report pursuant to Assembly Bill 398 (Chapter 135, Statutes of 2017).

8. To support the transition away from fossil fuels consistent with the goals established in this Order and California's goal to achieve carbon neutrality by no later than 2045, the California Environmental Protection Agency and the California Natural Resources Agency, in consultation with other State, local and federal agencies, shall expedite regulatory processes to repurpose and transition upstream and downstream oil production facilities, while supporting community participation, labor standards, and protection of public health, safety and the environment. The agencies shall report on progress and provide an action plan, including necessary changes in regulations, laws or resources, by July 15, 2021.
9. The State Air Resources Board, in consultation with other State agencies, shall develop and propose strategies to continue the State's current efforts to reduce the carbon intensity of fuels beyond 2030 with consideration of the full life cycle of carbon.
10. The California Environmental Protection Agency and the California Natural Resources Agency, in consultation with the Office of Planning and Research, the Department of Finance, the Governor's Office of Business and Economic Development and other local and federal agencies, shall develop strategies, recommendations and actions by July 15, 2021 to manage and expedite the responsible closure and remediation of former oil extraction sites as the State transitions to a carbon-neutral economy.
11. The Department of Conservation's Geologic Energy Management Division and other relevant State agencies shall strictly enforce bonding requirements and other regulations to ensure oil extraction operators are responsible for the proper closure and remediation of their sites.
12. The Department of Conservation's Geologic Energy Management Division shall:
 - a) Propose a significantly strengthened, stringent, science-based health and safety draft rule that protects communities and workers from the impacts of oil extraction activities by December 31, 2020.
 - b) Post on its website for public review and consultation a draft rule at least 60 days before submitting to the Office of Administrative Law.

IT IS FURTHER ORDERED that as soon as hereafter possible, the Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 23rd day of September 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

September 28, 2020

THE ADMINISTRATOR

Governor Gavin Newsom
1303 10th Street, Suite 1173
Sacramento, CA 95814

Dear Governor Newsom,

Your recent Executive Order (EO) establishing a goal that 100 percent of new vehicle sales be zero emission by 2035 raises serious questions regarding its legality and practicality. As you are aware, the U.S. Environmental Protection Agency (EPA) in 2019 withdrew California's waiver of Clean Air Act preemption for the State's greenhouse gas standards for light duty vehicles and its zero-emissions vehicle program. While the EO seems to be mostly aspirational and on its own would accomplish very little, any attempt by the California Air Resources Board to implement sections of it may require California to request a waiver to U.S. EPA.

Beyond the significant questions of legality and the fact that consumer demand for the type of vehicle you would mandate has never met the aspirations of California's political leadership, your state is already struggling to maintain reliable electricity for today's demands. California's record of rolling blackouts – unprecedented in size and scope – coupled with recent requests to neighboring states for power begs the question of how you expect to run an electric car fleet that will come with significant increases in electricity demand, when you can't even keep the lights on today.

The truth is that if the state were driving 100 percent electric vehicles today, the state would be dealing with even worse power shortages than the ones that have already caused a series of otherwise preventable environmental and public health consequences. For example, in August, after the East Bay Municipal Utility District wastewater treatment plant experienced a power outage for nearly two hours, a pump station failure caused 50,000 gallons of raw sewage to be spilled into California's Oakland Estuary. Also, just this month, the inability to maintain a reliable energy system led the California Independent System Operator (CAISO) to seek an emergency exemption from federal air quality standards in an attempt to maintain power. This request was granted but comes at the cost of increased pollutants such as fine particulate matter and nitrogen oxide in California's air. As noted in CAISO's letter to the U.S. Secretary of Energy, "... in the CAISO's judgment, the loss of power to homes and local businesses in the areas affected by curtailments present a greater risk to public health and safety than the limited departures from those permit limits the CAISO requests here."

The goal of a modern, more efficient and environmentally friendly future is important and shared. At U.S. EPA we have employed a pragmatic and thoughtful approach to fulfilling our

mission. We have modernized regulations that reduce all manner of emissions from power plants, factories, aircraft, and vehicles while avoiding unnecessary consequences. This is why we as a nation lead the world in clean air and clean water progress, as well as overall greenhouse gas emissions reductions.

By setting realistic goals and maintaining a comprehensive awareness of impacts to the economy, we have achieved tangible environmental progress while improving the lives and livelihoods of our citizenry. I urge you to step away from commitments to singular technologies. While it is tempting for federal or state agencies to regulate with a particular technology in mind, it is far more productive to provide innovators the freedom to develop the technologies of tomorrow.

We stand ready to assist so the 40 million residents of California too can enjoy a better environmental future without enduring any unintended harm.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Wheeler", with a long horizontal flourish extending to the right.

Andrew R. Wheeler
