



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

**AGENDA: 12**

# **Amendments to Regulation 3, Fees**

**Board of Directors Meeting  
May 3, 2023**

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# Presentation Outcome



Update Board of Directors Meeting on Proposed Regulation 3 (Fees) Amendments for Fiscal Year 2024.

# Presentation Outline



- Cost Recovery Background
- Proposed Fee Amendments
- Rule Development Schedule
- Summary of Public Comments
- Questions

# Presentation Requested Action



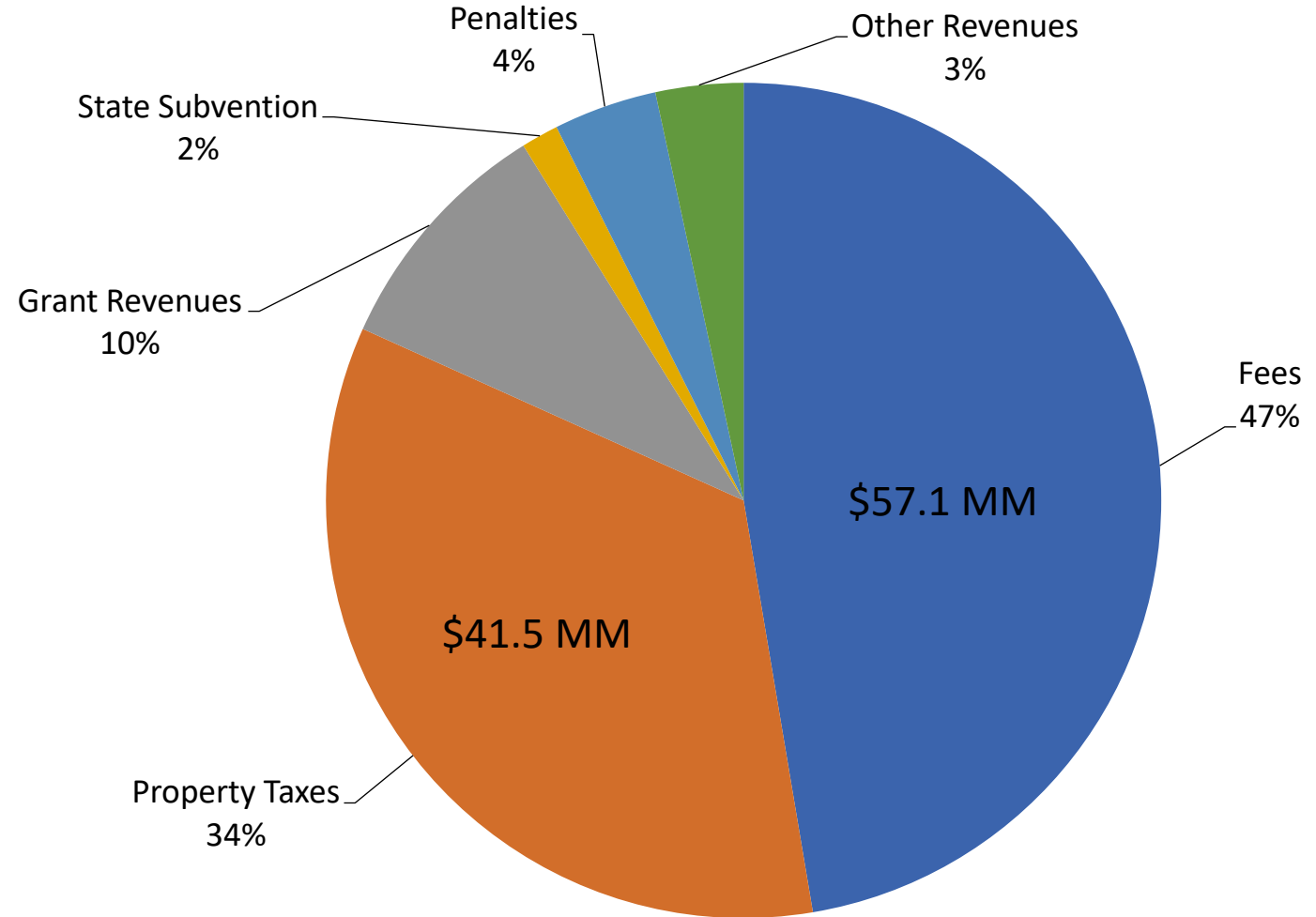
Receive Testimony

# Cost Recovery Background



Agency-wide  
Revenue Sources –  
Fiscal Year Ending  
(FYE) 2022

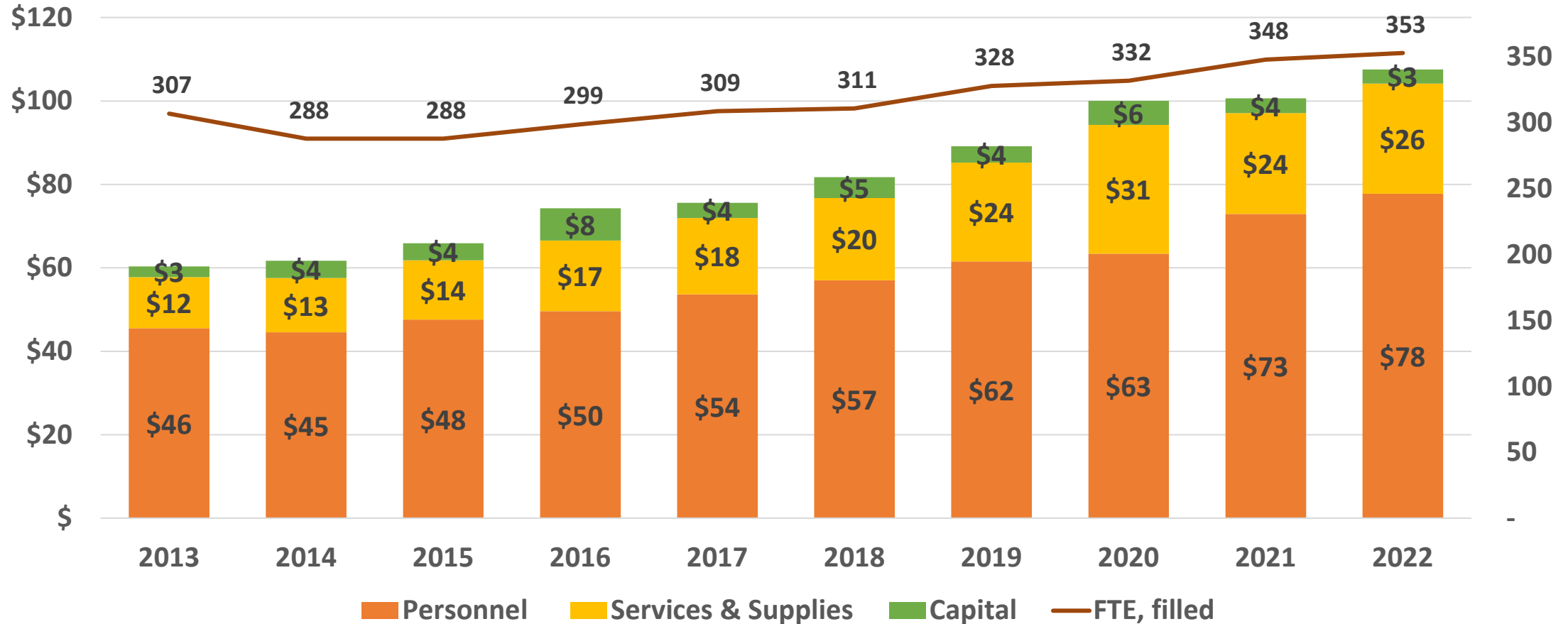
\$120.7 MM Total



# Cost Recovery Background



Audited General Fund Expenditures (Millions) and FTE by Year



# Cost Recovery Background



- Air District has authority to assess fees to recover the reasonable costs from fee-based programs.
- Board of Directors set goals to improve cost recovery levels.
- The overall 3-year average cost recovery trends are:
  - FYE 2011: 65.0%
  - FYE 2020: 84.5%
  - FYE 2021: 83.7%
  - FYE 2022: 84.3%
- Cost recovery is not a static target.

# Cost Recovery Background (cont.)



## Cost Recovery Impacts – Revenue

- New fees and fee changes
- Facilities, sources, emissions and operational changes
- Number of notifications and applications

## Cost Recovery Impacts – Expenses

- New and enhanced programs/rules
- Efficient use of resources
- Shifts in priorities
- Staffing levels



# Cost Recovery Background (cont.)



## Typical Work in Fee-Based Programs – Direct Costs

- Permitting and notification programs
- Compliance and Enforcement of permitted and registered facilities
- Compliance assistance to permitted and registered facilities
- Source Testing at permitted facilities
- Rule development for regulated industries
- Emissions inventory from permitted and registered facilities
- Other (e.g., Regulation 11-18 Health Risk Assessments)

# Cost Recovery Background (cont.)



## Cost Recovery vs. Work Backlog

- Cost recovery analyzes past revenue and cost data from existing staff.
- Cost recovery does not account for work backlog or level of service.
- Cost recovery does not account for required/future resource needs.
- A fee schedule's cost recovery rate does not reflect whether adequate resources exist or the effective use of those resources.

# Cost Recovery Background (cont.)



## Step 1

Determine the current cost recovery percentage by Fee Schedule:

3-Year average\*  
fee-related revenues



3-Year average \*  
fee-related expenses



**Cost Recovery  
Fee Percentages**

## Step 2

Using the **Cost Recovery Fee Percentages** (result in Step 1), determine the Proposed Fee Schedules:

Cost Recovery  
Fee Percentages



Fee Adjustments by Schedule:

Cost Recovery %:  
≥ 110%=0%  
100 to <110%=CPI-W\*  
<100%=15%



FYE 2023  
Current Fee  
Schedules



**FYE 2024  
Proposed  
Fee  
Schedules**

\* The annual Consumer Price Index for Bay Area Urban Wage Earners and Clerical Workers (CPI-W) increase.

# Draft Fee Amendments: Proposed Changes to Fee Schedules



Revenue from Fee Schedule	Change in Fees	Fee Schedules
100 to <110% of costs	6.3% increase*	I, M**, N, P
Less than 100% of costs	15% increase	A, B, E, F, G1, G2, G3, G4, G5, H, K, S, T, V, W

\* CPI-W increase.

\*\* Schedule M is not evaluated for cost recovery, but the proposed increase is based as a general fee.

# Proposed Changes to Fee Schedules – Cost Recovery



- Estimated budget increased by \$5.3 million compared to projected FYE2023 revenues
- This strategy has a weighted fee schedule increase of **7.7 percent.**

# Proposed Fee & Fee Schedule Changes



## Fee Schedules with 6.3% increase

- Schedule I: Dry Cleaners (not registered machines), also realigning the Risk Assessment Fee (RAF)
- Schedule M: Major Stationary Source Fees
- Schedule N: Toxic Inventory Fees
- Schedule P: Major Facility Review Fees

## Fee Schedules with 15% increase

- Schedule A: Hearing Board Fees
- Schedule B: Combustion of Fuels (E.g., permitted boilers, engines, heaters,)
- Schedule E: Solvent Evaporating Sources (E.g., permitted graphic arts, painting, wipe cleaning)

# Proposed Fee & Fee Schedule Changes (cont.)



## Fee Schedules with 15% increase

- Schedule F: Misc. Sources (storage silos, abrasive blasting)
- Schedule G-1: Misc. Sources (e.g., glass manufacturing, soil remediation)
- Schedule G-2: Misc. Sources (e.g., asphaltic concrete, furnaces)
- Schedule G-3: Misc. Sources (e.g., metal melting, cracking units)
- Schedule G-4: Misc. Sources (e.g., cement kilns, sulfur removal & coking units)
- Schedule G-5: Misc. Sources (Refinery flares)
- Schedule H: Semiconductor and Related Operations
- Schedule K: Solid Waste Disposal Sites (e.g., Landfills)
- Schedule S: Naturally Occurring Asbestos Operations
- Schedule T: Greenhouse Gas Fees
- Schedule V: Open Burning
- Schedule W: Petroleum Refining Emissions Tracking Fees

# Proposed Fee & Fee Schedule Changes (cont.)



**Specific fees in Regulation 3, Section 300 are proposed to be increased by 6.3% (CPI-W).**

- Section 3-302: New and modified source filing fees
- Section 3-311: Emission Banking Fees
- Section 3-312: Regulation 2, Rule 9 Alternative Compliance Plan fee
- Section 3-320: Toxic Inventory maximum fee
- Section 3-327: Permit to Operate renewal fees
- Section 3-337: Exemption Fee
- Section 3-341: Fee for Risk Reduction Plan
- Section 3-342: Fee for Facility-Wide Health Risk Assessment
- Section 3-343: Fees for Air Dispersion Modeling



# Schedules Not Being Increased



Fees and fee schedules that are not proposed for increase:

Section 3-307: Transfers of Permits

Schedule C: Stationary Storage Tanks of Organic Liquids Except the realignment of the RAF

Schedule D: Gasoline Transfer at Gas Dispensing Facilities (GDFs) & Bulk Plants and Bulk Terminals: Except RAF for existing GDFs (15% proposed increase)

Schedule L: Asbestos Operations

Schedule R: Equipment Registration Fees (e.g., Certain dry cleaning machines, small combustion, small graphic arts operations)

Schedule X: Major Stationary Source Community Air Monitoring Fees

# Other Proposed Amendments



## Section 3-311 (Emission Banking)

- Formalize fees to reevaluate existing ERCs for PM2.5 and condition changes.
- Filing fee plus hourly rate

## Section 3-345 (Evaluation of Plans, Regulation 6);

## Section 3-346 (Request for a Petition, Regulation 8); and

## Section 3-347 (Evaluation of Reports, Organic Waste Recovery Sites)

- New fees for work not previously charged.
- Filing fee plus hourly rate

# Other Proposed Amendments (cont.)



## Section 3-330.1 (Fee for Renewing an Authority to Construct)

- New fee if applicant does not notify the Air District with the intent to renew an expired Authority to Construct.

## Delete Schedule U (Indirect Source Review Fees)

- Adopted in 2009
- Never implemented
- Allows Air District to develop a potential fee schedule when a program is developed.

# Other Proposed Amendments (cont.)



Move Metal Shredding Operations from Schedule F to a specific schedule

## Schedule G2

Sources with a maximum capacity less than or equal to 150 tons per hour

## Schedule G3

Sources with a maximum capacity greater than 150 tons per hour

# Other Proposed Amendments - Miscellaneous



## Section 3-302.8 (Fees for New and Modified Sources)

- Clarifying language for permit application fees when multiple sources and more than one fee schedule are applicable when determining the RAF.

## Section 3-307 (Transfers)

- Clarifying language that the new owner/operator is responsible for outstanding fees if a facility is transferred.

# Impact on Large Facilities: Power Plants



	Annual Permit Fee Increase/Decrease (Fiscal Year Ending)							
	2022, % fee change		2022 Renewal fee	2023, % fee change		2022 Renewal fee		2024, <i>Projected</i> % fee change
	Predicted	Actual		Predicted	Actual			Proposed budget
Crockett Cogen	9.1	6.6	\$289,100	15	21	\$349,200	7.3	
Delta Energy	9.2	21	\$608,800	15	16	\$704,100	12	
Gateway Station	9.3	31	\$517,600	13*	NA	Not yet invoiced in FYE2023	12	
Los Medanos	9.4	20	\$483,200	15*	NA	Not yet invoiced in FYE2023	12	

\* Based on projected 2022 permit renewal fees

# Impact on Large Facilities (cont.): Petroleum Refineries



Annual Permit Fee Increase/Decrease (Fiscal Year Ending)							
	2022, % fee change			2023, % fee change			2024, Projected % fee change
	Predicted	Actual	2022 Renewal fee	Predicted	Actual	2023 Renewal fee	Proposed budget
Chevron	6.1	-7.9	\$3.8 million	17.7	18	\$4.5 million	8.1
Martinez Refining Co.	6.9	0.8	\$4.0 million	17.8	37	\$5.5 million	8.9
Phillips 66	8.1	13	\$2.4 million	22.5	11	\$2.7 million	8.5
Tesoro	6.2	-12	\$2.6 million	21.2	-26	\$1.9 million	-1.0
Valero	6.9	3.4	\$2.7 million	12.9	8.1	\$2.9 million	9.4

# Impact on Small Businesses – Renewal Fees & Impact



Facility Type	Current fee: Not OBC	Current fee: OBC	Proposed: Not OBC	Proposed : OBC
Backup Engine* (Schedule B)	\$438	\$500	\$493 11%	\$563 11%
Gas Station** (Schedule Da)	\$2,729	\$3,121	\$2,737 0.3%	\$3,124 0.1%
Auto Body Shop (Schedule E)	\$938	\$1,073	\$1,067 12%	\$1,220 12%
Coffee Roaster (Schedule F)	\$739	\$845	\$839 12%	\$960 12%

OBC = Overburdened Community

\*Minimum fee – Permit fees are greater for larger engines.

\*\*Common configuration with 6 islands with 3-triple product nozzles



# Budget and Rule Development Schedule



Description	Date
Budget Advisory Group (BAG) meeting #1	February 3, 2023
Public workshop for Regulation 3 amendments	February 16, 2023
BAG meeting #2	March 13, 2023
Written workshop comments due	March 14, 2023
Finance and Administration Committee briefing	April 5, 2023
<b>First public hearing on Regulation 3 to receive testimony</b>	<b>May 3, 2023</b>
First public hearing on budget to receive testimony	May 17, 2023
Written Public Hearing comments on Regulation 3 due	May 27, 2023
Second public hearing on budget and Regulation 3 to consider adoption	June 7, 2023
Budget and fee amendments effective, if adopted	July 1, 2023

# Summary of Public Comments



- Request for more information and predictability to achieving 100% cost recovery.
- Request for better transparency for fees charged to level of service.
- Request estimated hours for the review of evaluations for petitions, plans and reports applicable to the new proposed fees.
- Commented that the Assembly Bill 617 Community Health Impact, the Criteria Pollutant and Toxic Emissions Reporting, and the Overburdened Community renewal fees, are potentially duplicative.
- Commented that cost recovery does not address program efficiencies and resource needs.
- Commented that increasing fees have not shown an increase in level of service.
- Request to separate open burn fees for residential and commercial customers.

# Feedback Requested/Prompt



Public testimony and Board comments