



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

AGENDA: 18

Amendments to Regulation 3, Fees

**Board of Directors Meeting
June 7, 2023**

**Fred Tanaka
Manager, Engineering Division
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Presentation Outcome



Provide information for consideration of the adoption of 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



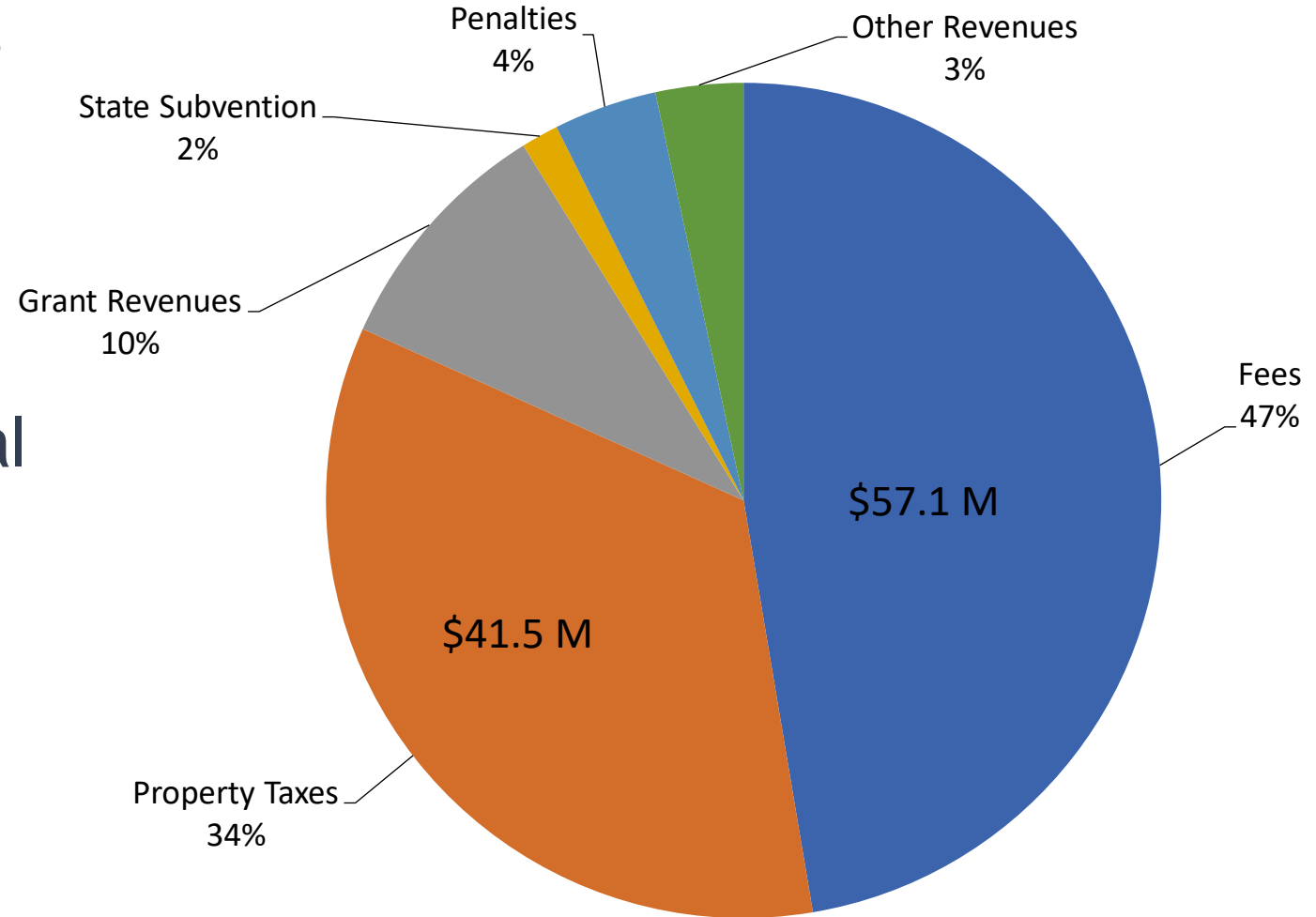
Consider adoption of proposed amendments to Regulation 3

Cost Recovery Background



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

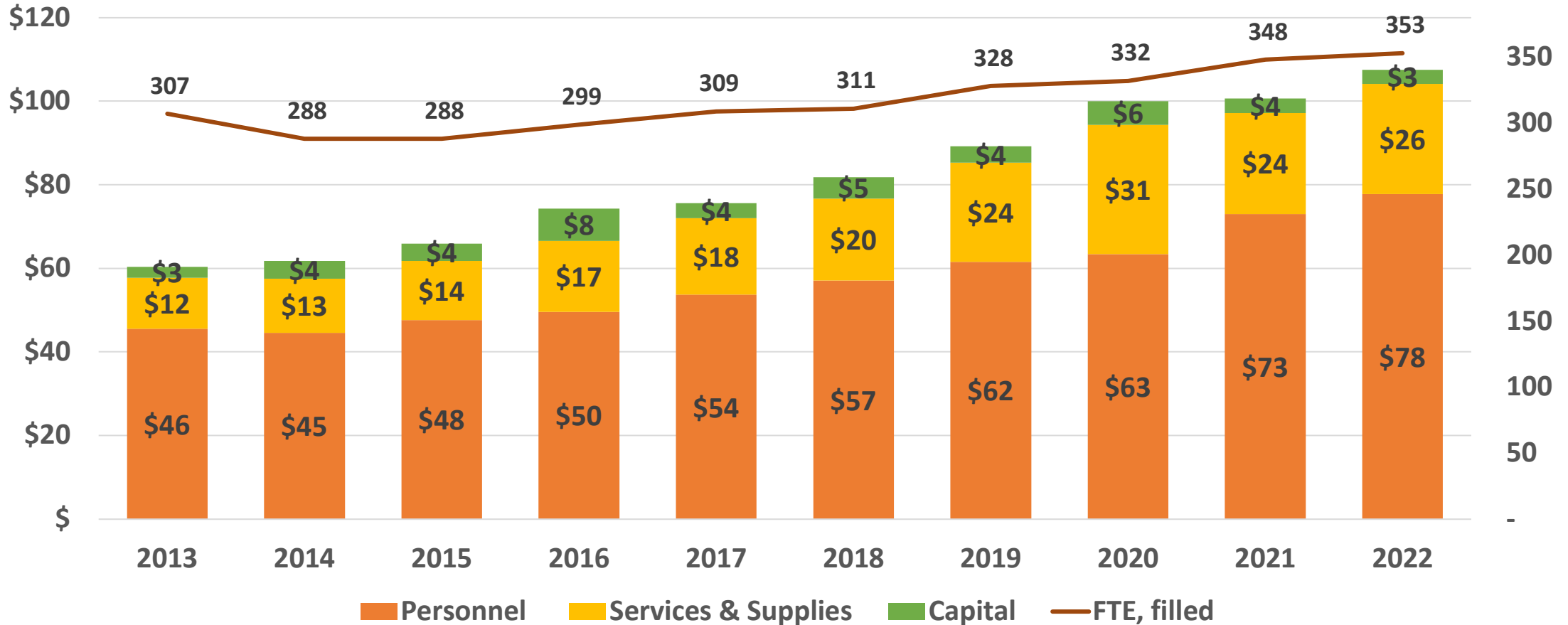
\$120.7 million (M) Total



Cost Recovery Background



Audited General Fund Expenditures (Millions) and FTE by Year: Agency-Wide



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.
- 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 \$5.3M 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 M	17.7	18	\$4.5 M	8.1
Martinez Refining Co.	6.9	0.8	\$4.0 M	17.8	37	\$5.5 M	8.9
Phillips 66	8.1	13	\$2.4 M	22.5	11	\$2.7 M	8.5
Tesoro	6.2	-12	\$2.6 M	21.2	-26	\$1.9 M	-1.0
Valero	6.9	3.4	\$2.7 M	12.9	8.1	\$2.9 M	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
First public hearing on Regulation 3 to receive testimony	May 3, 2023
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.
- Request to improve consistency and transparency of permitting practices.
- 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 consider a refund for Schedule X fees if facility closes.
- Request to separate open burn fees for residential and commercial customers.

Feedback Requested/Prompt



Recommend the Board of Directors adopt amendments to Air District Regulation 3: Fees, effective on July 1, 2023.



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AGENDA: 19

Conduct Second Public Hearing to Consider Adoption of the Proposed Budget for Fiscal Year 2023-2024

**Board of Directors Meeting
June 7, 2023**

Stephanie Osaze, Director of Finance
sosaze@baaqmd.gov

Presentation Outcome



Conduct second hearing of the Fiscal Year (FY) 2023-2024
Proposed Budget

Presentation Outline



- Summary of Proposed Budget for Fiscal Year 2023-2024
- Recommendation

Requested Action



Adopt resolution to approved Fiscal Year Ending 2023-2024
Air District Proposed Budget and various budget related
actions

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
First public hearing on Regulation 3 to receive testimony	May 3, 2023
Finance and Administration Committee refers budget to the Board	May 3, 2023
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

Fiscal Year 2023-2024 Proposed Budget Summary



- \$ 267 M Consolidated Budget
- \$138 M General Fund Budget
- Includes Use of Reserves \$5.3 M for one-time costs
- Continuation of Cost Recovery Policy (up to 15% where applicable)
- Staffing Level (no increase): 465 Full Time Equivalent (FTE)
- \$5 M to Prefund Retirement Liabilities consistent with funding policy
- 3.5% Cost of Living Increase
- 6.9% Vacancy Savings

Proposed Reserves Designations



General Fund Reserves (In Millions)	
Reserves Balance (June 30, 2022)	80.6
<u>Less Designations:</u>*	
AB617 Staffing Contingency	-7.7
Community Benefits	-3.0
Economic Contingency (20% of Budget)	-26.5
Incident Monitoring Program	-1.0
Limited Term Staffing Contingency	-1.0
Outside Counsel Litigation Support	-6.9
Pandemic Contingency	-2.0
Richmond Improvements (HQE)	-5.0
Technology Implementation Office	-3.4
Spare the Air Program	-2.0
Wildfire Mitigation	-1.0
Total Designations	-59.5
<u>Less Use of Reserves:</u>	
Use to Balance FY 2023 Budget	-4.7
FYE 2023 Transfers from Reserves	-7.3
Use to Balance FY 2024 Budget	-5.3
Total Use of Reserves	-17.3
AVAILABLE GENERAL FUND RESERVES	3.8
<i>*Designations subject to change at Board's Direction</i>	

Feedback Requested/Prompt



Recommend the Board of Directors:

Adopt Resolution to approve the Fiscal Year 2023-24 Proposed Budget and related budget actions



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AGENDA: 21

State Implementation Plan: Rules and Regulations

**Board of Directors Meeting
June 7, 2023**

**Mark Tang
Principal Environmental Planner
Planning and Climate Protection
mtang@baaqmd.gov**

Presentation Outcome



- Review particulate matter (PM) National Ambient Air Quality Standards (NAAQS)
- Inform on recently proposed amendments to the PM NAAQS
- Provide an overview of submitting Air District rules into the State Implementation Plan (SIP)

Presentation Outline



- PM NAAQS Background
- Proposed Amendments to PM NAAQS
- Elements of SIP
- Air District Rules and Submitting to the SIP
- Feedback and Questions

Requested Action



- None; informational item



CLEAN AIR ACT

- National Ambient Air Quality Standards (NAAQS)
 - Attainment and nonattainment for 6 criteria pollutants

Ozone, Particulate Matter (PM), Carbon Monoxide, Lead, Sulfur Dioxide and Nitrogen Dioxide

- Prescribed process for setting the standards, designations of attainment and nonattainment and implementation
- Nonattainment of NAAQS
 - State Implementation Plan (SIP)
 - Plan to attain and maintain the NAAQS
 - Attainment by the Attainment Date

Proposed Revised PM NAAQS (Primary)



EPA PROPOSES REVISIONS TO THE PM NAAQS

JANUARY 6, 2023

PM_{2.5}
ANNUAL

12.0 $\mu\text{g}/\text{m}^3$
↓
9.0 – 10.0 $\mu\text{g}/\text{m}^3$

PM₁₀
ANNUAL
PM_{2.5}
24-Hour

NO CHANGES
PROPOSED

Additional changes to the monitoring requirements and to the AQI breakpoints

What Happens After EPA Revises a NAAQS?

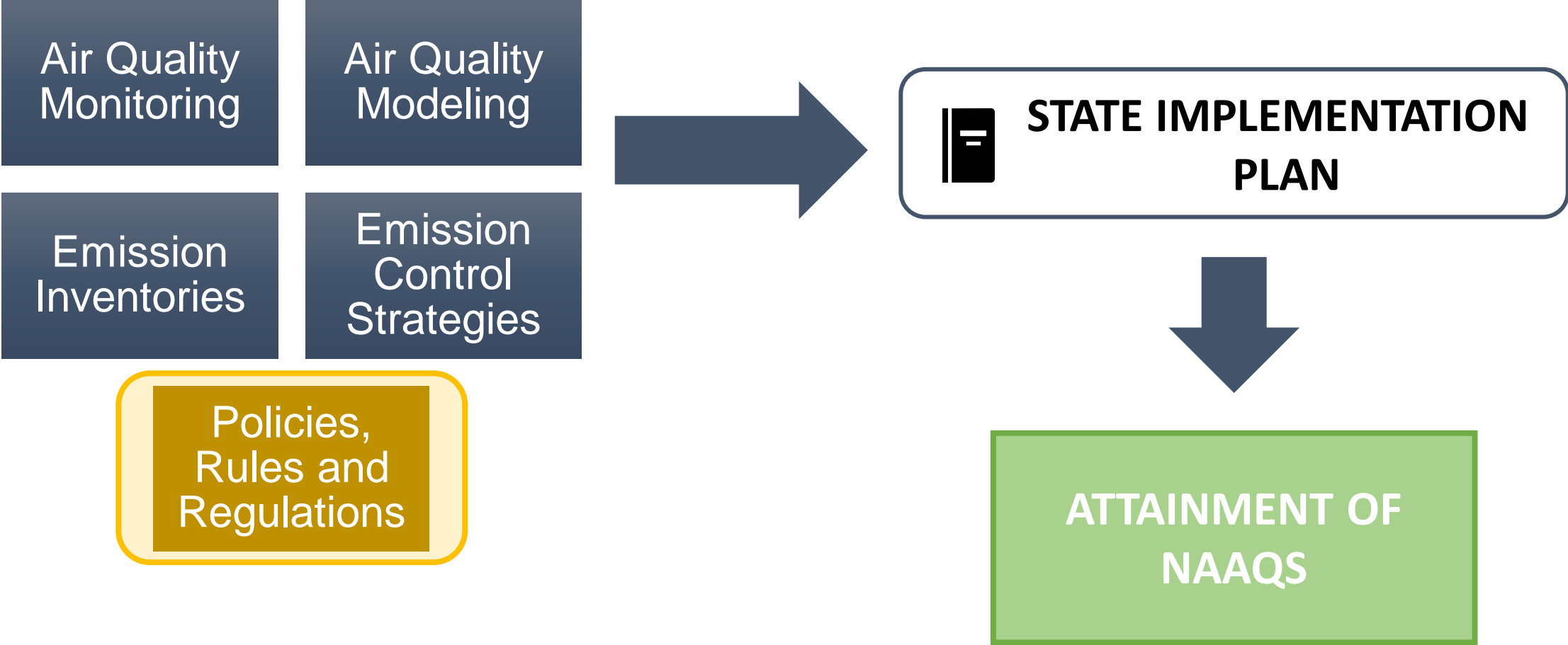


*State Implementation Plan (SIP)

Elements of a SIP



SIMPLIFIED ELEMENTS OF A SIP



Rule Submittal into the SIP



NOTES & IMPLICATIONS

- Existing suite of rules have already been submitted to the SIP (ozone & PM plans)
- Rules and regulations submitted to the SIP are federally enforceable
- Amendments or revisions to SIP-submitted rules and regulations require EPA coordination and approval

Rule Submittal into the SIP - Backsliding



- SIP's are federally enforceable
 - Collection of rules and measures to attain the NAAQS
- Amendments or changes to the SIP are reviewed and approved by EPA
 - Prevents interfering with any “applicable requirement concerning attainment and reasonable further progress”
 - Also called “backsliding”

Feedback Requested/Prompt



- Questions and Comments